

ALASKA CONSTITUTIONAL CONVENTION

University of Alaska
1955

DELEGATES AND OFFICERS
WILLIAM A. EGAN -- President
FRANK PERATROVICH -- First Vice President
RALPH J. RIVERS -- Second Vice President

MILDRED R. HERMANN - Temporary President
THOMAS B. STEWART -- Secretary
KATHERINE T. ALEXANDER -- Chief Clerk

Delegate	Home	Alaska Resident Since	Place of Birth	Date of Birth
Armstrong, R. Rolland	Juneau	1940	Pennsylvania	1910
Awes, Dorothy J.	Anchorage	1945	Minnesota	1918
Barr, Frank	Fairbanks	1932	Illinois	1903
Boswell, John C.	Fairbanks	1926	Oregon	1905
Buckalew, Seaborn J.	Anchorage	1950	Texas	1920
Coghill, John B.	Nenana	1925	Alaska	1925
Collins, E. B.	Fairbanks	1904	Indiana	1873
Cooper, George D.	Fairbanks	1949	Colorado	1923
Cross, John M.	Kotzebue	1934	Kansas	1895
Davis, Edward V.	Anchorage	1939	Idaho	1910
Doogan, James P.	Fairbanks	1914	Alaska	1914
Egan, William A.	Valdez	1914	Alaska	1914
Emberg, Truman C.	Dillingham	1935	Minnesota	1909
Fischer, Mrs. E.A. (Helen)	Anchorage	1905	Washington	1905

<u>Delegate</u>	<u>Home</u>	<u>Alaska Resident Since</u>	<u>Place of Birth</u>	<u>Date of Birth</u>
Fischer, Victor	Anchorage	1950	Germany	1924
Gray, Douglas	Douglas	1912	Montana	1908
Harris, Thomas C.	Valdez	1950	Oklahoma	1926
Hellenthal, John S.	Anchorage	1915	Alaska	1915
Hermann, Mildred R.	Juneau	1919	Indiana	1891
Hilscher, Herb	Anchorage	1906	Washington	1902
Hinckel, Jack	Kodiak	1922	Massachusetts	1901
Hurley, James	Palmer	1933	California	1915
Johnson, Maurice T.	Fairbanks	1937	Minnesota	1901
Kilcher, Yule F.	Homer	1936	Switzerland	1913
King, Leonard H.	Haines	1920	Michigan	1901
Knight, William W.	Sitka	1919	England	1889
Laws, W. W.	Nome	1935	Washington	1884
Lee, Eldor R.	Petersburg	1920	Alaska	1920
Londborg, Maynard D.	Unalakleet	1946	Nebraska	1921
McCutcheon, Steve	Anchorage	1911	Alaska	1911
McLaughlin, George W.	Anchorage	1949	New York	1914
McNealy, Robert J.	Fairbanks	1940	Nebraska	1907
McNees, John A.	Nome	1942	Idaho	1917
Marston, M. R.	Anchorage	1941	Washington	1900
Metcalf, Irwin L.	Seward	1927	Washington	1908
Nerland, Leslie	Fairbanks	1930	Yukon Territory	1902
Nolan, James	Wrangell	1920	Massachusetts	1901

<u>Delegate</u>	<u>Home</u>	<u>Alaska Resident Since</u>	<u>Place of Birth</u>	<u>Date of Birth</u>
Nordale, Katherine D.	Juneau	1925	Washington	1902
Peratrovich, Frank	Klawock	1895	Alaska	1895
Poulsen, Chris	Anchorage	1933	Denmark	1904
Reader, Peter L.	Nome	1934	North Dakota	1913
Riley, Burke	Haines	1938	Montana	1914
Rivers, Ralph J.	Fairbanks	1906	Washington	1903
Rivers, Victor C.	Anchorage	1906	Washington	1905
Robertson, R. E.	Juneau	1906	Iowa	1885
Rosswog, John H.	Cordova	1905	Washington	1904
Smith, W. O.	Ketchikan	1932	New Mexico	1907
Stewart, B. D.	Sitka	1910	Montana	1878
Sundborg, George	Juneau	1938	California	1913
Sweeney, Dora M.	Juneau	1907	Minnesota	1907
Taylor, Warren A.	Fairbanks	1909	Washington	1891
VanderLeest, H. R.	Juneau	1908	Michigan	1882
Walsh, M. J.	Nome	1905	Ireland	1882
White, Barrie M.	Anchorage	1947	New York	1923
Wien, Ada B.	Fairbanks	1907	Alaska	1907

ALASKA CONSTITUTIONAL CONVENTION

PART 1

Proceedings: November 8 -- December 12, 1955

ALASKA LEGISLATIVE COUNCIL

Box 2199 -- Juneau, Alaska

ALASKA CONSTITUTIONAL CONVENTION

November 8, 1955

FIRST DAY

Processional

Presentation of the Colors

GOVERNOR B. FRANK HEINTZLEMAN: The hour appointed by the Alaska Territorial Legislature having arrived for the convening of the Alaska Constitutional Convention, I do accordingly, as Governor of this Territory, call the Convention to order. It is appropriate that those to whom so much has been entrusted by our voters call upon God for the guidance at the outset of their task. It is my privilege at this time to present the Reverend Roy Ahmoagak of Wainwright, Alaska, who will offer an invocatory prayer.

THE REVEREND ROY AHMOAGAK: Let us unite in prayer. Almighty and Everlasting God, who by Thy providence didst lead our forefathers to this good land wherein they found liberty and freedom to worship Thee, we beseech Thee ever to guide our nation in the way of Thy truth and peace so that we may never fail in the blessing which Thou has promised to that people whose God is the Lord. Grant, we beseech Thee, unto our Governor, and to those men who sit with him in authority, Thy gracious presence and blessing. Enlighten them with wisdom from above and especially in establishing our Constitution. May we ever seek to comply with Thy requirements, and what does the Lord require of you but "to do justice, and to love kindness, and to walk humbly with Thy God." Deliver us, our Father from error, pride and prejudice, and so order all these doings here that Thy kingdom may be advanced. Hear this our prayer, O God, and may what is accomplished in these meetings be in accordance with Thy Holy will. For we ask these things in the name of our Lord and Saviour Jesus Christ.

MCNEALY: I move, "RESOLVED that the reading of the certificate of election of the respective delegates be dispensed with and that the certificate of the Secretary of Alaska as to their election be accepted in lieu thereof.

FURTHER RESOLVED, that each delegate who has answered the roll call and whose name appears on the certificate of the Secretary of Alaska take and subscribe an oath or affirmation of office to be administered by the Honorable Vernon D. Forbes, Judge of the United States District Court of Alaska, Fourth Division, and that each delegate so sworn shall be deemed to have been duly seated." I ask unanimous consent.

GOVERNOR HEINTZLEMAN: I thank you. Without objection it is so ordered. Pursuant to the authority invested to me as Governor of the Territory, I would now like to appoint Mr. John B. Hall, Clerk of the Court, Fourth Division, to act as the

temporary secretary until the delegates are sworn in and the officers can be elected for the Convention. It has just been said that we will dispense with the reading of the certificates that come out of the office of the Secretary of Alaska showing the Convention returns. Now we would like to have a roll call of the delegates to see which of those are present.

(Temporary Secretary Hall called the roll.)

HALL: Mr. Chairman, the roll has been called. There are fifty-three delegates present and two absent -- Frank Barr and Frank Peratrovich being absent.

GOVERNOR HEINTZLEMAN: Thank you, Mr. Hall. I declare a quorum of the elected delegates present. Will the delegates now stand and be sworn in by the Honorable Vernon D. Forbes, United States District Judge for the Fourth Division of Alaska. (Delegates stood.)

JUDGE VERNON D. FORBES: You and each of you do solemnly swear or affirm that you are not a member of the Communist party or any subversive parties or affiliated with such parties, that you do not believe in, are not a member of nor do you support any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional method, that you will defend and support the Constitution of the United States and perform all the duties of the office or position on which you are about to enter and therein do equal right and justice to all men, so help you God?

DELEGATES: I do.

GOVERNOR HEINTZLEMAN: Will each of the delegates now kindly sign the form of oath of office which you will find on your desk and give them to the temporary Secretary. Has each of the delegates signed his oath of office? If so, I think it would be appropriate at this time for the Governor of the Territory to make a few remarks to the delegates. After this short address we will have some addresses of welcome from people in this section of Alaska.

Address by Governor Heintzleman (This was a prepared address.)
(applause)

GOVERNOR HEINTZLEMAN: We are now to have the privilege of listening to addresses of welcome from a number of men here on the stage and I would like to call first on the President of our University, Dr. Ernest N. Patty. Dr. Patty. (applause)

DR. PATTY: Governor Heintzleman, honored guests, honored Delegates, ladies and gentlemen. We all say that this is a historic occasion, but we are probably too close to the drama to really appreciate how historic it is. Your University welcomes you

here, and while you are on the campus I hope our friendship will shine through and that our staff is successful in anticipating your needs. We are proud to have you here, and we are confident that when your final clause is written that your work will stand as one of the finest state constitutions ever shaped. Thank you. (applause)

GOVERNOR HEINTZLEMAN: Thank you very much, Dr. Patty. I would like to call on a young man who will speak on behalf of the associated students of the University of Alaska, Mr. Kenneth Carson, president of the Student Body.

KENNETH CARSON: Governor Heintzleman, Delegates and guests. Later today the distinguished delegates before us will be given a gift by my fellow students -- a college year book. It is hoped that with this glimpse into student and faculty life, the delegates may view both the progress and potential of our growing University. You can see the progress all about you. As you walk through the hall of new buildings you can see the potential, I think and when you talk to our faculty or our students who come from all parts of the world. On this campus you will find professors from India, Austria, Russia and Japan. You will find students from France, South America, Canada and from almost every State in the Union. This University is preparing these young men and women for work and study in Alaska and in other countries where they will be our representatives to the world. Alaska is rapidly taking its rightful place as a leader among northern states and countries. Every day while the world grows smaller and more crowded Alaska is becoming ever more important. It is an international crossroads for northern commerce and science. Therefore, we all should realize that now is the proper time for Alaska to become a state and for us to govern ourselves. Today we are students but tomorrow we hope to be citizens of the State of Alaska and with this thought in mind we sincerely welcome you, you who will build a solid foundation upon which a state government must stand. (applause)

GOVERNOR HEINTZLEMAN: Thank you, Mr. Carson. Now we have the privilege of listening to the Mayor of the city of Fairbanks, the Honorable Douglas G. Preston. (applause)

MAYOR PRESTON: Governor Heintzleman, Delegate Bartlett, distinguished Delegates, ladies and gentlemen. I consider it at this time a special privilege to be Mayor of Fairbanks. Many of you I know, all of you I hope to know. I could not help thinking back seeing this distinguished gathering here, to 1923 when the Alaska Agricultural College and School of Mines graduated one student. It has come a long way since then. It is not my purpose at this time to make a speech, but I have the privilege of conveying to you a warm welcome from the people of Fairbanks. Our hopes, our hearts and our prayers are with you in your important undertaking. (applause)

GOVERNOR HEINTZLEMAN: Thank you, Mayor Preston. Ladies and gentlemen of the Convention, under the procedure established by Section 13, Chapter 46, SLA 1955, the Governor of Alaska is to preside over the Constitutional Convention until temporary officers are elected. The time has now arrived for the election of temporary officers, and I now call for nominations for the office of Secretary Pro Tem of the Convention.

V. RIVERS: At this time it gives me great pleasure to place in nomination the name of a fellow delegate, one who has long been a stout advocate of statehood, one who has worked earnestly, not only for the efforts of all the people of Alaska, as a Territory but also worked towards the goal for final statehood. One whose name has stood out in the efforts in government and social life, civic life, it gives me pleasure to place in nomination, for Chairman Pro Tem, the name of Delegate Mildred Hermann.

GOVERNOR HEINTZLEMAN: Are there any other nominations?

ROSSWOG: Governor Heintzleman and fellow delegates I would like to place in nomination the name of a man from my Division who is known all over Alaska. He has served faithfully in the Legislature of the Territory, and I am sure that all of you who know him, know of his sincerity, his impartiality and his honesty. I would like to place the name of Senator William Egan of Valdez for the temporary chairmanship of this Convention.

GOVERNOR HEINTZLEMAN: Are we voting on temporary chairmanship or secretary?

ROSSWOG: We understood that we were placing in nomination names for temporary chairman.

GOVERNOR HEINTZLEMAN: Let's all be clear on what office and who we are nominating for.

HELLENTHAL: It was suggested by members of the Statehood Committee that the temporary president be chosen by a vote of at least twenty-six delegates by a call of the roll, each delegate rising in his place as his name is called and stating his choice, and I so move.

GOVERNOR HEINTZLEMAN: All right. Will you call the roll?

R. RIVERS: I have not heard any motion to close the nominations. I move the nominations be closed and ask unanimous consent

GOVERNOR HEINTZLEMAN: Are we talking about the secretary?

R. RIVERS: I'm talking about the temporary president.

SWEENEY: Mr. Chairman, will you clarify the nomination made by Delegate Rosswog in which he named Mr. Egan. I would like to hear to what position Mr. Rosswog has nominated Mr. Egan, that I might be clear.

ROSSWOG: I nominated him as temporary chairman.

GOVERNOR HEINTZLEMAN: The suggestion was that we call the roll? I would like to vote on the motion to close the nominations.

UNIDENTIFIED DELEGATE: Mr. Governor, before you call the roll on this balloting I would like to hear from the records the position that we are actually balloting upon. I understood that you said one thing, some members seem to feel you said something else. The secretary will have your original statement.

GOVERNOR HEINTZLEMAN: I thought I asked for nominations for secretary pro tem. That right or did I not?

UNIDENTIFIED DELEGATE: Mr. Governor, I did hear you and you did call for nominations for temporary secretary but I am sure the delegates who spoke immediately thereafter assumed that they were not for temporary chairman. I ask unanimous consent that we proceed on that basis and let the record be corrected to show that the nominations which have been made have been for the position of temporary chairman.

GOVERNOR HEINTZLEMAN: That will be all right with me. I thought I had said secretary. Now who is in nomination? Mrs. Hermann, Mr. Egan. Just those two? You've got that Mr. Hall? Will you call the roll?

(At this time Mr. John Hall called the roll with the following result:

HERMANN: 30 Armstrong, Awes, Boswell, Coghill, Collins, Cooper, Cross, Gray, Hilscher, Johnson, King, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nolan, Reader, Riley, Rivers, Robertson, Stewart, Smith, Sundborg, Taylor, White, Wien.

EGAN: 22 Buckalew, Davis, Doogan, Egan, Emberg, Helen Fischer, Victor Fischer, Harris, Hellenthal, Hinckel, Hurley, Kilcher, Knight, Laws, Metcalf, Nordale, Poulsen, Ralph Rivers, Rosswog, Sweeney, VanderLeest, Walsh.

Absent: 2 Barr, Peratrovich.

Not voting: 1 Hermann.)

MR. HALL: Mr. President, I find that Mildred Hermann received 30 votes, William Egan, 22, two delegates absent and one not voting, sir.

GOVERNOR HEINTZLEMAN: Thank you.

EGAN: Mr. Chairman, I would like to move and ask unanimous consent that the record show that a unanimous ballot was given for Mrs. Hermann.

GOVERNOR HEINTZLEMAN: If there is no objection, it will be so ordered. The time has come now, of course, to appoint a temporary secretary pro tem. I wonder if there would be any objection to our asking Mr. Hall to serve in that capacity to save time. Any objection to that Mr. Hall?

R. RIVERS: The temporary secretary might have to come back tomorrow.

GOVERNOR HEINTZLEMAN: We might find out from Mr. Hall if he wants to go along with us.

MR. HALL: I am pretty sure with Judge Forbes right here that he has no alternative but to say that it is okay with him. (applause and laughter)

KNIGHT: Mr. Governor, I move and ask unanimous consent that Mr. Hall continue to act as Secretary.

GOVERNOR HEINTZLEMAN: You have heard the motion that Mr. Hall continue to act as Secretary. If there is no objection it is so ordered. Mrs. Hermann has by the vote of this Convention been elected as temporary president. I will now appoint Mr. E. B. Collins, R. Rolland Armstrong and W. W. Laws to escort the temporary president to the Chair. (applause) (Mrs. Hermann was then escorted to the Chair.) Mrs. Hermann, I wish to congratulate you upon your election to the office of temporary president of the Convention. It gives me great pleasure to hand you this gavel and to turn over to you further conduct of the proceedings.

MRS. HERMANN: I suppose I should make a little "bang" to express the symbol of my authority and my appreciation of the honor, as well as my wonder if it is a concession to a minority group. At this time we have to hear from the Delegate of Alaska on the subject "Meeting the Challenge." Mr. Bartlett. (applause)

DELEGATE BARTLETT: Mrs. Hermann, Governor Heintzleman, President Patty, Chairman Attwood, distinguished guests, citizens of the great state to be...

(Delegate Bartlett delivered a prepared address.) (applause)

MRS. HERMANN: Thank you, Mr. Bartlett, for your very fine address. We will now hear the honorable Ernest Gruening, former governor of Alaska. (Applause and standing ovation)

ERNEST GRUENING: Madam Chairman, Governor Heintzleman, Delegate Bartlett, Delegates to the Constitutional Convention and friends, as I appear to be scheduled for a somewhat lengthy address in tomorrow's session, I am sensitive to the fact that there is a prohibition in our Constitution against exposing people to double jeopardy. I think, therefore, my remarks should be brief and informal. Many people will say, and it's obvious -- that this is an extremely important occasion. To me perhaps its greatest importance arises from the fact that it is the first occasion which is wholly of, for and, most important, by the people of Alaska. If there has been one important ingredient missing in our eighty-eight years as a district, as a territory, it is that little proposition "by." Many things have been done for us; even more things have been done to us, but very little have we been permitted to do by us. There are a number of inspired actions that accompanied the creation of this Convention. Perhaps the most was selecting the University of Alaska as a site for holding it. A University is really the keeper of the soul of a modern society and if this Convention does not have and will not have a high inspirational quality it will not succeed. But it has that inspirational quality, and it will succeed. I recall that that thought is voiced in the anthem of my own Alma Mater, our oldest university, and as the graduates leave to go into the world they sing that anthem, "Fair Harvard", and one of its verses says, "Thou were our mother, the nurse of our souls, we were moulded to manhood by thee; and freighted with treasures, with love and with hopes, thou did launch us on destiny's sea." I think the University will play a part in launching Alaska on destiny's sea as a state. When we consider what we are doing here this basic exercise in self-determination, we must always bear in mind that America, the land we love, is not just a geographic area. We are rather aware of that in Alaska. We sometimes question whether we are part of America. It is not a collection of physical features; it is not our great natural resources. It is the common adherence to a basic idea -- perhaps the greatest idea that was ever profounded on earth since the promulgation of the golden rule and democracy is nothing but an extension of the golden rule to the great society. True, democracy cannot depart far from the golden rule. It's its essence. Alaska has a great, great, destiny. We are here situated by geography and by history in our farthest north and our farthest west in a unique position to achieve that destiny. We were formerly part of a country which today under changed government represents the antithesis of everything that we believe in and of everything we hold dear. We have a geographic

juxtaposition to that area. We can see it from our mainland with the naked eye. What a challenge then to create in these far northern latitudes a shining and eternal example of what we want to call the American way of life, to make Alaska not merely a bulwark defense for the whole hemisphere, for the free world, but a spiritual citadel of the American idea. It can only be done by the application to Alaska of basic American principles, the most basic of which is government by consent of the government. So you have here a thrilling opportunity, and I know you will live up to it. May God bless this undertaking; may it prosper and may we move forward to become an integral part of the great American dream. I thank you. (applause)

MRS. HERMANN: It gives me particular pleasure to introduce the next speaker, since it has been my privilege for the past six years to work with him very closely on a Territorial agency that has had a great deal to do with taking the initial steps toward having this Convention get off to a good start. It gives me great pleasure at this time to introduce Mr. Robert B. Atwood, Chairman of the Alaska Statehood Committee. (applause)

MR. ATWOOD: Madam Chairman, Governor Heintzleman, distinguished guests and ladies and gentlemen of the Convention. You are about to write a document that will be much more than a framework for the state government of Alaska. The document you write will be, can and should be a compelling new argument for statehood itself. The first use your product will be put to will be in the nature of salesmanship. It must be presented to the people of Alaska, sort of as a list of specifications as a thing they have already decided they want to buy. They will scrutinize it as they would a warranty deed if they were purchasing a piece of property or a guarantee if it's a manufactured item. If they like it they will buy it. But remember, they don't have to buy it. They are not obligated that way. This is a custom job you have on your hands. It's to be built and it must please the customer. The second use for this document will also be of a nature of salesmanship. It will be presented to the highest federal officials of the land, including the members of Congress in connection with legislation to admit Alaska as a state. And again it will be scrutinized as a list of specifications or a warranty deed or a guarantee. This document, once it is backed with ratification of the people, must be real and indisputable proof that Alaskans are ready, able and willing to undertake all the responsibilities of self government. In looking toward the day when the duly elected representatives of the people of Alaska would gather to write a constitution, the legislature had foresight. In 1949, when they were creating the Alaska Statehood Committee, the members of that Legislature anticipated that there would be a need for certain information and materials to be available to the delegates, so that they would have a good chance for success. They gave the assignment to gather this information

and materials to the Alaska Statehood Committee and as Chairman I am pleased to report to you that the Committee has done well. The material is included principally in three volumes which will or have been presented to you. We hope the discussions in these volumes will be helpful as guides as you contemplate the technical problems, the fundamental principles that are involved in writing a basic document for state government. Throughout the years of effort and study that have gone into this statehood movement, it became current quite awhile ago that the best advice would be none too good. We found that the record of experiences of the forty-eight states is replete with failures as well as successes. Much of the greatness of the United States lies in the principles exemplified in the rights of states but also much of the confusion, many of the dismaying features of government in the states and within the states stem from the failure of the people to write a flexible document that will withstand the changes of time. Now, as the previous speakers have mentioned and as Alaskans have mentioned frequently and as many of you have mentioned, it is well known that Alaskans want all of the successes and all of the basic principles that have made this nation great, written into their constitution, perpetuated there and enlarged and expanded, and we all know they want none of the failures that have lead to clumsy, inefficient, costly and complicated government. They don't want duplications and unwise restrictions and all the other abhorrent developments that come from an inflexible constitution. Now the question before the Statehood Committee was how can we render the best service to Alaska and the delegates in gathering this information? We sought advice in many places. We came to the conclusion that it was necessary to have a careful study of the experiences of the forty-eight states, the failures as well as the successes. We found that many governmental units are making such studies, states, counties and cities looking toward the revision of their constitutions, their charters, their laws, their administrative procedures, and we have also found that these units quite commonly employ professional organizations to do the research work and gather their material. In studying that we found that one of these organizations was outstanding. It was outstanding in its record of achievement; it was outstanding in its experience throughout the nation and in other countries and it is outstanding in reputation. This was the Public Administration Service with headquarters in Chicago, a non-profit organization that works in close association with the Council of State Governments and the Governor's Conference. In 1955 the Legislature appropriated funds so that we could enter into a contract with Public Administration Service and these three volumes that I have mentioned are the result of their studies. They are presented to you not to tell you what to write into a constitution but to bring you a summary of these experiences of the forty-eight states and discussions of the principles that are found sound so that you may decide which ones you want to adapt to the Constitution of Alaska. Now in addition to these studies by Public

Administration Service, we have taken certain other steps. We have gathered information on the rules that have been used at other constitutional conventions and information on the organization that they have. We have gathered a portfolio on the Hawaiian Constitutional Convention, our sister territory, the most recent convention that has been held. We also have in it some rather intimate details of some of the weaknesses as well as the strong points of their systems. Now these things we thought you would like to have available in case you want to draw upon them in establishing your own rules, setting up your own organization, your system for operating, your committees and such. Now I have been using the pronoun plural "we" quite frequently, and I might point out that Mark Twain said there are two categories of people who can use the plural pronoun "we." One is the editorial writer and the other is a man with a tape worm. (laughter) I would like to add a third category and that is a chairman trying to report in behalf of a committee. Now, we have interviewed the nation's prominent authorities in the field of political science and have arranged to have them available for consultation here with you at the University of Alaska if you so desire and if you choose to invite them. We have other preparatory measures and files and documents. We are especially proud in all this work of the work of our executive officer -- Thomas B. Stewart who has performed his work so enthusiastically and so successfully. He has exceeded the fondest expectations of the Committee members. We have also arranged to have a Public Administration Service staff member here for consultation as you may wish, and other members who have been engaged in the Alaska study can be brought here if you so desire. Incidentally, we had a little difficulty with that. Dr. Joseph Molkup, whom many of you have met, suffered a broken leg in Juneau just before he was leaving for Fairbanks and couldn't come. We had John Corcoran, another key man in the Public Administration Service organization here to carry on and last week he was taken seriously ill and is now in the hospital. But Public Administration Service never lets us down. The headquarters in Chicago called upon Dr. Emile Sady, a member of their staff who was in Washington D. C., to be here and he is here with us and will remain at your service throughout the Convention barring broken legs and other things. Our last item in arranging was to have Alaska's greatest leader in the statehood movement come here to address you tomorrow with a keynote address. He will have a message that we hope will be heard around the world. We know it will be an enduring document in the statehood movement. We trust it will be inspiring and informative for you. Now, ladies and gentlemen, this ceremony is nearing a close. You have been duly convened. The roll has been called. The quorum is present. You have had warm receptions from the hosts. This is the kick-off. The ball is in the air, and it is about to fall in your hands, and you are the ones who are going to have to run with it. We all wish you Godspeed as you follow a course that certainly is no primrose path. Every good Alaskan stands

at your service ready to come up with any help they can and they want you to have to write a document that will survive the three most rigid tests imaginable. First, the test of the people who sent you here who must approve it by vote and ratification. Second, the approval of Congress who must accept it as a sound basic document upon which to build a state government and third, that everlasting test that comes when the document is placed into operation as the highest law of the land. Then we will see how the work of this Convention stands through the changes that we all want to come and try to bring faster in Alaska. Thank you. (applause)

MRS. HERMANN: Thank you, Mr. Atwood. Dean Hosley, do you have an announcement of any sort you want to make with regard to the luncheon?

DEAN HOSLEY: The only announcement is that luncheon will be available to anyone who wants to get it at the new cafeteria in the Student Union Building. We have not known until at least last night whether we would have it ready for you but I understand from Dr. Patty that it will be available. Thank you. (applause)

MRS. HERMANN: Mr. Davis?

DAVIS: Madam President, I offer the following resolution: "RESOLVED, that the temporary president appoint a temporary Committee on Rules of nine delegates, who shall promptly prepare and report to the Convention its recommendations for temporary rules for the Convention, including special rules for the election of permanent officers of the Convention."

TAYLOR: I second the motion.

MRS. HERMANN: It has been moved and seconded that the president appoint a Committee on Rules as provided by Mr. Davis's resolution. Is there discussion on the matter?

R. RIVERS: I ask unanimous consent.

MRS. HERMANN: Now we ask unanimous consent that the Committee be appointed. Without objection that will be done. Is it your idea, Mr. Davis, that we appoint this Committee right now or at a later time?
DAVIS: Madam Chairman, I would leave that up to the pleasure of the Chair.

HILSCHER: Madam President, I would like to offer a resolution that has some bearing on this particular question. "RESOLVED, that the Convention hereby express its appreciation of the facilities made available by the University of Alaska." Now if the Convention would like to hold this over until whether

we see if Dr. Patty is finished with his luncheon facilities over there. (laughter) I think for the time being we just might state to the University that the Convention hereby expresses its appreciation of the facilities made available by the University.

MRS. HERMANN: I really am a little startled at this request to appoint a Committee on Rules coming out of thin air. I'm even startled that I'm up here in front of you entertaining any requests and having that one come is a little bit surprising. I would like to appoint the Committee, but I would like to have a little more time to consider just who will be available for the committee and who will probably be best for the committee. If that is agreeable to the Convention that will be the position taken. Immediately following the luncheon there will be available for distribution to all delegates a handbook for delegates and study materials in the Convention Message Center on the top floor of the Student Union Building. The handbook, which Mr. Atwood mentioned in his talk, covers the procedure of operations in getting organized and getting started on your work and every member of the Convention should have it in his possession. I am to remind the delegates to return for pictures but it doesn't say when and perhaps it means immediately after that luncheon. Did you have some time? To remain then for pictures.

STEWART: Immediately after the recessional.

MRS. HERMANN: Yes, after the recessional. I would rather eat than recede. (laughter)

JOHNSON: Madam President, I have been requested to submit the following resolution: "RESOLVED, that in order to facilitate the recording of these proceedings, no Delegate speak unless he or she is recognized by name by the Chairman, and no Delegate speak unless he or she does so from a microphone." I move the adoption of the resolution.

MRS. HERMANN: You mean at this temporary meeting, not at the regular session? The motion has been made that the resolution be adopted. Is there a second?

KILCHER: I object. Madam Chairman, I would like to have the technical necessity of this resolution explained in more detail.

MRS. HERMANN: There has been no second to the resolution as yet, Mr. Kilcher. Without a second the resolution is not considered. I am a little bit uncertain how I am going to get the show on the road for the rest of the way. Do we have the benediction before we have a motion to adjourn or do we have a motion to adjourn before we have the benediction? In that respect I would like to have -- we still have some more music of course but I want to get organized so we do this right. We

have next the selection, "The Alaska Flag Song". We have Miss Lorraine Donoghue at the James E. Barrack Memorial Carillon. Now what do I do?

UNIDENTIFIED DELEGATE: She'll hear you over the microphone. She's listening over there.

MRS. HERMANN: We will now have the rendition of "The Alaska Flag Song". Miss Lorraine Donoghue at the James E. Barrack Memorial Carillon.

DR. PATTY: There has been a slight accident with the carillon, so we'll have to skip that this morning. I'm very sorry because we've used it before and it's very very effective and just as they started to play the carillon something happened, so we'll have to skip that. You'll have plenty of chance, particularly the delegates, to hear the carillon playing.

RILEY: Madam Chairman, I ask unanimous consent that following the benediction we stand at recess until 3 o'clock in order to give the Chair an opportunity to decide upon a temporary Rules Committee and to appoint that Committee at that time.

MRS. HERMANN: Unanimous consent is asked that following benediction, we adjourn until 3 o'clock this afternoon in order to give the chairman opportunity to appoint the Rules Committee in accordance with Mr. Davis' Resolution. Is there objection?

R. RIVERS: I object for the time being. Many of us would not be coming back for anything at 3 o'clock except to hear the announcement of that Committee. As I understand it we would then adjourn until tomorrow morning. Many of us would rather go to town instead of waiting here until 3 o'clock to hear you announce that Committee. I suppose it would take until about two though to have our luncheon and get acquainted so I would amend that to 2 o'clock instead of 3 o'clock.

RILEY: That suits me.

MRS. HERMANN: The request has been amended to make the hour 2 instead of 3. Without objection that will be the order, and the Convention will stand adjourned until 2 o'clock following the benediction. We will now have the benediction.

FATHER GEORGE BOILEAU, S.J.: Let us pray, May the wisdom of God guide you during these coming days. May the humility, the justice and the charity of Christ give you courage and patience to fulfil your work at hand. May the work of your hands and your mind and your hearts prove to be a salvation for each individual an honor to our statehood and a glory to God. May then the blessing of Almighty God descend upon you and remain now and forever. Amen.

MRS. HERMANN: The Assembly will stand at recess until 2 o'clock.

Recessional

RECESS (12:05 p.m.)

MRS. HERMANN: The meeting will please come to order (2 p.m.). The first business to be taken up at this time is the announcement of the Committee on Rules which has been selected by the Chair during the noon hour. The members of that Committee will be Chairman, Mr. Riley, Mr. George Sundborg, Mr. Walsh, Mr. McNees, Mr. McCutcheon, Mr. Davis, Mr. Nerland, Mr. Ralph Rivers, and Miss Dorothy Awes. Now is there any business other than this to come before the meeting at this time?

R. RIVERS: May those be read slowly so that we can write them down?

(Mrs. Hermann repeated the names of the Committee on Rules.)

MRS. HERMANN: Is there any further business to come before the meeting? If not, I am asked to announce that we must make arrangements for your transportation out here tomorrow. The bus service which was provided today was provided by the Alaska Statehood Committee in conformity with its duties to get the show on the road and getting everybody here on time. Now, further responsibility for bus transportation is the function of the Convention itself, and in the event that you want to have the bus ready to bring you out here again tomorrow, we should have some action on the part of the Convention body.

V. RIVERS: I will move and ask unanimous consent that we contact the bus service for similar service tomorrow until we get our permanent Rules Committee in an agreement with them. I ask unanimous consent.

MRS. HERMANN: Unanimous consent has been asked that the Convention make arrangements for the charter of the bus tomorrow under the same conditions that it was chartered today by the Statehood Committee.

TAYLOR: Mrs. Chairman, I believe at the Executive Committee of the Statehood Committee recently, a representative of the bus company was there, that is, he was representing the bus company. In connection with his duties, I think he was being employed by Mr. Stewart and he said that arrangements had been made for bus service every day from the Nordale Hotel to the Convention.

MRS. HERMANN: I think you're right Mr. Taylor, about us discussing it. The question that arises is, is it the Convention's responsibility or the Statehood Committee's responsibility from now on to pay for it.

TAYLOR: Well, that's not my statement. I mean Mr. Preston, who appeared there remember, he said that the bus service would be available.

MRS. HERMANN: The service will be available at the same hour at the same place tomorrow morning, but we do want it authorized by the Convention instead of leaving it in the hands of the Statehood Committee and Mr. Rivers has asked unanimous consent that that authorization by the Committee be given. Is there any objection?

TAYLOR: Mine were remarks and not an objection.

R. RIVERS: No objection but I want a clarification. Will they be operating with the delegates putting fifty cents in the slot or will we all get aboard and show them our identifications and riding at the expense of the Convention.

MRS. HERMANN: That is something the Convention itself must decide and that is why I'm bringing it up at this moment. The Statehood Committee has provided the initial bus transportation and now it's up to the Convention to get itself out here some way and that's what we want to know. Do you want it paid as Convention expense or do you want to pay it individually?

V. RIVERS: Mrs. Chairman, I made my motion or asked unanimous consent in that manner because this body is such that we have not yet elected permanent officers but it show in the minutes that this body authorized the duplication of that bus action and then when we are organized we should then discuss it.

MRS. HERMANN: If there is no objection to the unanimous consent as asked by Mr. Rivers, that will be the order and everybody be at the Nordale at 9 o'clock in the morning that wants transportation by bus to come out here, well at whatever time we agree to adjourn to. Now one more announcement that I have to make is that one delegate in picking up his supplies over at the other building only took one volume of the studies that have been made by the P.A.S. Committee and the other two volumes are still awaiting his pleasure. We aren't going to let anybody off with just trying to get along with just one volume after this voluminous work that we've done to give you all what you need. Did you have a statement Dixie?

MR. HALL: I understand that Governor Gruening will address this Convention tomorrow if you choose at 10 o'clock.

MRS. HERMANN: Governor Gruening will address the Convention tomorrow at 10 o'clock if that meets the pleasure of this body. Mr. Sundborg?

SUNDBORG: Madam Chairman, I move and ask unanimous consent that the Constitutional Convention invite former Governor Gruening

to address this body at 10 o'clock, Wednesday morning. UNIDENTIFIED DELEGATE: I second the motion.

MRS. HERMANN: Unanimous consent has been asked. Do I hear any objection? Without objection, that will be the order and former Governor Gruening will make the keynote address to the delegates of the Convention tomorrow at 10 o'clock. Incidentally, we will not be in this building tomorrow but in the other building where you had your luncheon today. So don't anybody come back over here expecting to find a setup for a meeting.

RILEY: Madam Chairman, there will be a meeting of the Rules Committee in the Student Union Building. I might suggest that the members go to the floor above that which houses the cafeteria where there is committee room space. That will be immediately after this meeting.

MRS. HERMANN: Members newly appointed on the Committee on Rules please take note of the announcement of the Chairman. The bus will be available here where we arrived this morning at 2:45 p.m. today to take you back to town, provided you adjourn before that time.

TAYLOR: Madam Chairman, I move that we adjourn until 10 o'clock Wednesday morning.

R. RIVERS: I second the motion.

MRS. HERMANN: It has been moved and seconded that the Convention adjourn until tomorrow morning at 10:00 o'clock. Do I hear any discussion? You can't debate a motion to adjourn. All in favor signify by saying "aye". We will stand adjourned until tomorrow morning at 10:00 o'clock. (2:30 p.m.)

ALASKA CONSTITUTIONAL CONVENTION

November 9, 1955

SECOND DAY

PRESIDENT PRO-TEM, MILDRED HERMANN: The second session of the Alaska Constitutional Convention will come to order. We will have the roll call by the Secretary.

(Mr. John Hall called the roll.)

MR. HALL: Madam President, all fifty-five delegates are present excepting Frank Peratrovich who did not answer to his name.

MRS. HERMANN: This is the time and place set for a special order of business to hear an address by the keynote speaker for the Convention. I would like to appoint Mr. Hellenthal, Mr. Sundborg and Mrs. Nordale who will escort the speaker to the rostrum.

(Dr. Gruening was escorted to the rostrum at this time. applause)

MRS. HERMANN: Before we proceed with the address, I shall ask the Reverend Londborg to give the invocation.

LONDBORG: Let us pray. Almighty God, for whom we move and have our being, we stand before you this moment with bowed heads and humble hearts, realizing the responsibility that is ours as citizens and servants of this great potential State of Alaska. As Delegates to this Constitutional Convention we are aware of the need for divine guidance and wisdom. It is our prayer that this document we have been delegated to prepare will be one that will provide for equal liberty and justice for all peoples of Alaska, one that will stand the test of time and posterity and above all one that will bring honor to Thy holy name. We pray for Thy guidance in all of our business, that it may be conducted in a true spirit of brotherly love as taught by Christ, in order that we may make the most of the opportunity and challenge that is ours. We would pray as Solomon of old, "O Lord God, give us now wisdom and knowledge to do the task we have been called to do, for who can do this task that is so great." In Thy Holy Name we pray. Amen.

MRS. HERMANN: Yesterday when I was elected to be your temporary president, I felt both proud and humble. I am a little bit afraid I might not know how to say the right thing at the right time, but very proud that the Convention itself had thought that I could. It was not until later in the afternoon that it penetrated my befuddled intelligence, which had been jolted into something of a coma by my unexpected election, that I had still another reason to be proud to be your temporary chairman. It gave me the opportunity to introduce the keynote

speaker of the Convention. I think it is particularly appropriate that we have this speaker for our keynoter today, for it is more largely

due to his vision and courage that we have advanced this far toward the goal of statehood than it is to any other person in or out of Alaska. We who have marched in the vanguard of the movement for statehood since its faint stirring some years ago to the time and place that has assembled us here today to write the Constitution for the future state of Alaska, know how much the movement has been speeded and the pace has been set by his unwavering courage, his unflagging zeal and his resolute faith. The greatness of any movement lies in the character of its leaders. I think it might better be said in the words of the poet, "Give us men to match our mountains, courage to fare boldly forth, and we'll build a mighty empire in this bastion of the North." My fellow Delegates and ladies and gentlemen here assembled, I give you a man to match our mountains, Ernest Gruening. (applause)

ERNEST GRUENING: Madam Chairman and Delegates to the Constitutional Convention of Alaska, the title of my address is, "Let us End American Colonialism."

(Dr. Gruening then delivered a prepared address. See Appendix.)

(There was a standing ovation at the close of Dr. Gruening's address.)

MRS. HERMANN: Without objection and for the benefit of those who are shivering, we will stand at recess for ten minutes.

(At this time the Convention recessed for ten minutes.)

MRS. HERMANN: The meeting will please come to order. We are now open for the regular transaction of business of the session.

HELLENTHAL: Madam Chairman, I move that for temporary rules that the Convention adopt Robert's Rules of Order, Revised, unless otherwise specifically provided by the Convention, and until permanent rules are drawn up and adopted. I ask unanimous consent to accomplish this purpose.

MRS. HERMANN: Unanimous consent has been asked that the Convention adopt Robert's Rules of Order, Revised, until permanent rules are drawn up and adopted.

JOHNSON: Madam Chairman, I object.

MRS. HERMANN: The Rules Committee will be heard from immediately. This is just to take care of any ordinary rules adopting parliamentary procedure.

JOHNSON: I withdraw my objection.

MRS. HERMANN: Without objection Robert's Rules of Order will stand as the rules for the Convention as specified by Mr. Hellenthal's resolution. We have not yet had the minutes of yesterday's meeting

read. Is it your desire that these be read or shall we dispense with it at this time?

MCNEALY: I move and ask unanimous consent that for expediency the reading of the minutes of the previous day's session be dispensed with.

MRS. HERMANN: Unanimous consent was asked, and without objection that will be the order, and the reading of the minutes of yesterday's meeting will be dispensed with. The next business to come before the Convention is the report of the Rules Committee, which I assume made its rules yesterday.

RILEY: Madam Chairman, your temporary committee on rules is prepared to report pursuant to yesterday's resolution.

MRS. HERMANN: You may proceed.

RILEY: With the pleasure of the body I shall just proceed and read the entire text of these rules so that they can be heard in their entirety. Thereafter perhaps you will wish to consider them individually for purposes for adoption.

(Mr. Riley read the entire text of the rules.)

RILEY: That concludes the Committee report, Madam Chairman.

V. RIVERS: Madam Chairman, I move and ask unanimous consent that the Rules Committee report be adopted with the exception of Rule # which we have already acted upon.

MARSTON: I wonder how much work it would be to receive a copy of the Rules before we vote on it.

MRS. HERMANN: These are just temporary rules covering the election. Do you feel you would like to have a copy before voting?

MCLAUGHLIN: Madam President, I understand from Delegate Riley's statement to Rule 1 that the officers of the Convention shall be a president and a vice president. Is that only temporary until the election of the permanent officers?

MRS. HERMANN: That is the permanent form, that the officers shall be a president, vice president and secretary. The rules provide that the permanent officers shall be those officers and that the secretary be not selected from the membership of the Convention.

TAYLOR: In view of that explanation I object to the unanimous consent.

MCLAUGHLIN: Would it be too much trouble for Mr. Riley to stand before one of the microphones and read the rules again slowly?

MRS. HERMANN: Mr. Riley, would you come up to the microphone.

RILEY: It wouldn't take more than half an hour to make sufficient copies if that be your wish.

MCLAUGHLIN: I have a point of order, and it is on a section in substance to proposed Rule #. "The Secretary of the Convention need not be a Delegate and shall serve under the direction of the President as the principal administrative officer of the Convention." I make it as a rule of order because I think it violates Chapter 4#, Section 3, as it reads pertaining to the Convention, it shall have the power by vote of a majority of the Delegates to which the body is entitled to choose a president and secretary and all other appropriate officers. The mandate is clear that if the president must come from the Convention, then also the secretary must come from the Convention. I think that possibly the interpretation that the secretary can be an appointive officer comes from the manual which was prepared by the Statehood Committee. That manual assumes that the act which created the Hawaiian Convention is an act identical to our own, and it also assumes that the interpretation of the Hawaiian Convention of necessity is compelling upon us. The Handbook for Delegates provides here that the Hawaiian Convention in 1#50 provided for the following officers: president, vice president and secretary and, subsequently, in the succeeding paragraph is a parenthetical remark that the secretary may or may not be a Delegate.

MRS. HERMANN: For your information, Mr. McLaughlin, the handbook is not intended as a textbook.

MCLAUGHLIN: Section"3 reads, the second sentence, "It," meaning the Convention, shall have the power by vote of a majority of the Delegates to which the body is entitled to choose a president and secretary and such other officers..." Apparently the mandate is specific that two persons should be elected. If we presume that the secretary can be any member of this Convention, then it is completely logical to suggest that the president need not be a member of the Convention.

DAVIS: The Committee, of course, will be guided by what the Convention wants, but we believe that the delegates would want to act as delegates and would not have the time to act as secretary. For that reason we have suggested, not as the Hawaiian Convention did, that the secretary not be a delegate. I personally cannot agree with Mr. McLaughlin that there is any mandate whatsoever that the secretary be a delegate. Of course, if that is what the Convention wants that is what we will have.

MCNEALY: There is nothing in the bill, it is my opinion,

referring to an agreement that would prevent the president from being a person outside of this delegation any more than the secretary. The bill is clear on that. However, it was felt that the president of this Convention was certainly an important and enough of an honorary position that the president...

MRS. HERMANN: Is there any further discussion?

NOLAN: I think it only goes to show that we should have a copy of the rules. I make that as a motion and ask unanimous consent.

MCLAUGHLIN: I shall, if you desire, withdraw my point of order.

TAYLOR: Madam Chairman, Mr. Riley made a motion and asked for unanimous consent but I objected.

MRS. HERMANN: Mr. Nolan has now moved that we defer further till copies are available to all delegates. If there is no objection, no consideration of the rules will be made until copies are available to all delegates.

WHITE: Madam Chairman, in view of the statement of the Rules Committee that the rules could be provided in half an hour and mindful that lunch time has been set for 12:15, I move that following announcements the Convention recess until 2:00 o'clock.

MRS. HERMANN: I have some announcements here, and I would like to read those to you. We have a memorandum from Dr. Patty as follows, "During the next few days lunch will be served in the old cafeteria in the basement of the Club Dormitory. This will give you an opportunity to see how the other half lives. We expect to move back to the new cafeteria on Thursday or Friday." There is another memorandum from Dr. Patty for delegates driving their own cars. "Temporary head-bolt heater facilities are available. For assignment please call the University Engineer's office, Room 200, Eielson Building." Now we may entertain the motion to recess. Is there a second to the motion?

SUNDBORG: Madam Chairman, I would like to offer to amend Mr. White's motion to provide that we recess until the hour of 1:30 p.m. instead of 2 o'clock.

WHITE: I am perfectly willing to accept the amendment. I made it because I understood that we eat in a different building and the procedure may be somewhat longer than usual.

KILCHER: I second the motion.

MRS. HERMANN: The motion has been made to adjourn until 1:30 this afternoon, during which time copies of the Temporary Rules will be prepared. Is there any objection?

(On voice vote the motion carried and the Convention recessed until 1:30 p.m.)

MRS. HERMANN: Time for the convening of the afternoon session of the Convention has now arrived, and will the meeting please come to order. Has everyone been provided with a copy of the Rules that were made? The Secretary will present them to you if you need a copy.

MCLAUGHLIN: Madam Chairman, I would like to withdraw my point of order as to Rule 2.

MRS. HERMANN: The point of order having been withdrawn, the matter of adopting the Rules will now be up for consideration. Incidentally, I am requested to announce that everybody, including myself, is talking too low for the stenotypist to hear. We are attempting to keep a permanent record of the proceedings of this meeting, and we want everybody to be heard regardless of what they have to say.

RILEY: Madam Chairman, the Rules Committee had suggested before the noon hour that we would present for adoption the several proposed rules in order. After that comment was made there was a request from the floor for their adoption in their entirety with unanimous consent, and just to try that for size on the chance that it may save time, I will move at this time that they be adopted and ask unanimous consent as they stand.

MRS. HERMANN: Unanimous consent has been asked for the adoption of the rules as they stand. Mr. Johnson.

JOHNSON: Madam President, I object to the unanimous consent and wish to propose an amendment.

MRS. HERMANN: An amendment to the rules? Objection has been raised to adopting by unanimous consent. Is there a motion to that effect?

SUNDBORG: Madam Chairman, I moved that the rules as proposed by the Temporary Rules Committee be adopted.

WHITE: I second the motion.

MRS. HERMANN: It has been moved and seconded that the rules proposed by the Temporary Rules Committee be adopted. The question is now open for discussion. Mr. Johnson.

JOHNSON: Madam President, I should like to propose an amendment to Rule 5 which appears on page 2. The amendment will be as follows: Strike the colon after the word "votes" in the third line and insert a period, and then strike the balance of the paragraph.

MRS. HERMANN: Do you so move?

JOHNSON: I so move.

MRS. HERMANN: Motion has been made that Rule 5 be amended by striking the colon after the word "votes" on the third line, substituting a period and that the balance of that paragraph be stricken.

RILEY: Point of order, Madam President, have you a motion on the floor now?

MRS. HERMANN: A motion for the adoption of the rules which opens it up for discussion does it not?

RILEY: Is this discussion only, Mr. Johnson or is this another motion?

JOHNSON: I understood that the main question was up for discussion and that the rules would be subject to amendment.

RILEY: My point of order was that we have a motion which was seconded on the floor. Perhaps that should be disposed of before entertaining another motion.

EGAN: Point of order is, Madam Chairman that Mr. Riley's suggestion would be out of order at this time. The moment the motion was made by Mr. Johnson to adopt these rules, then it becomes open for amendment and Mr. Johnson's amendment is in order.

MRS. HERMANN. The Chair so rules. The amendment has been offered. Does anybody wish it restated? Was it seconded?

ROBERTSON: I second the motion.

MRS. HERMANN: Motion has been made and seconded that Rule 5 be amended to strike the semicolon after the word "votes" and insert a period and all the rest of that paragraph covering Rule 5 be deleted. Now is there any discussion on the matter? It's open for discussion. Mr. Sundborg?

SUNDBORG: Madam Chairman, perhaps the Convention would appreciate having a little discussion here or explanation of what the Committee on Temporary Rules had in mind by providing the portion that Mr. Johnson has now moved to strike out and thus amend Rule 5. We felt that unless we provided something of this kind that would insure that the Convention would go ahead toward an early decision on an election of a chairman, that we might spend many hours or even many days before any one candidate would get a majority of the votes to which this house is entitled. We felt that by providing that the lowest man not on the first ballot but after the second ballot would be dropped off automatically and that the lowest man each

successive ballot would be dropped off automatically, would not jeopardize the chance of any one who was really in the running to be

President of this Convention but it would take out of the running somebody who would not have such a chance and would free his votes to go to other candidates and thus lead more speedily to a decision.

MRS. HERMANN: Any further discussion?

R. RIVERS: Madam Chairman, members. I think Mr. Johnson is perhaps wondering why we provided for a, oh, I didn't realize it had secret ballot right up here at the very beginning but point of information. Mr. Johnson were you questioning the elimination process or were you questioning this part about receiving twenty-eight votes because the Act itself requires 28 votes, or what were you questioning on that proviso?

JOHNSON: I was questioning the elimination process. It doesn't seem to me that is fair to the nominee. I think they should be entitled to as many votes as are taken. They ought to be on the ballot at all times. That is why they are put there to begin with. In this body which is certainly a democratic body and ascribing to democratic principles I would think that in order to be fair, the process of elimination should be taken out because that could not be fair. I think I only need call attention to the fact that in some of our national conventions the final nominee was arrived at after any number of ballots, and if you would use this type of process why a very serious situation could arise and a very unfair one, because there might be ten nominees, and the tenth man on the list could very well be eliminated on the first or second ballot. It does not seem to me a fair way of handling it at all, and I see no reason why it should tie up the Convention unduly. Even if it did, what of it? It is an orderly process and the orderly way of doing things.

R. RIVERS: I would like to follow through the Committee's thinking a little more. The matter of casting successive ballots indefinitely with all the candidates still in the running is usually carried out by a roll call and is not too cumbersome nor too time-consuming process. But several people spoke to members of the Rules Committee about making a secret ballot. Some of we old-timers with thick skins can stand the gaff, but actually it is a little bit tough when the tension is on to cast a ballot against somebody whom you have been very fond of, but perhaps you think because somebody else is better qualified and probably the free thought of the members would be better expressed through a series of secret ballots. When we get into the cumbersome business of passing out ballots and everybody marking them and having a tally committee assist the clerk to count the ballots and we keep all candidates in, why we've got a rather time-taking process on our hands. It was for the reason that we found ourselves going for the

secret ballot that to shorten the procedure we would put in this business about dropping candidates after the second ballot. That explains the Committee's thinking.

MRS. HERMANN: Correction, Mr. Rivers. The Clerk of the Court does not count them but the temporary secretary. Mr. Hinckel?

HINCKEL: Madam Chairman, possibly Mr. Johnson's objection could be removed to the extent of the number of ballots with all candidates on the ballot with more than perhaps two, say three or perhaps four. By that time possibly he would feel they would all have had sufficient opportunity and remove the objection that way. I feel personally as Mr. Rivers does, that the thing might go on forever unless we have some process of elimination.

MRS. HERMANN: Is there further discussion? Mr. Sundborg, you have spoken once. Is there anyone else who wishes to speak before Mr. Sundborg has his second turn? Very well Mr. Sundborg.

SUNDBORG: If I speak again on this and to point out a difference between what we are doing here and what the national conventions of the political parties are doing. It was a parallel that was made by Mr. Johnson. Their main business and the reason they meet is to choose a nominee for the presidency and other candidates for election. That is why they meet. We have so much else to do here. We can't afford to spend days trying to choose a president of this body because I really think it doesn't matter much who is president and I (and I think the rest of us who were on the Temporary Rules Committee was trying to find a way to speed up that process so that we would not be tied up here unduly. I don't think there is a thing unfair about this provision either. It is perfectly democratic and fair and it isn't dropping off anybody who has a substantial number of votes. It is only dropping off the tail-ender.

MRS. HERMANN: Is there further discussion on the matter? Mr. Buckalew?

BUCKALEW: Apparently they opened the discussion up and made a few remarks about this secret ballot. I don't see why we should have to have a secret ballot. If we are trying to expedite this I don't see anything wrong with a voice vote.

MRS. HERMANN: Mr. Buckalew, you are not speaking on the motion which has nothing to do with the first sentence in the Rule 5 at all.

BUCKALEW: The only reason I brought this up was Mr. Rivers talking about a secret ballot, and thick skins and that sort of thing and I just wanted to say that my skin wasn't thick, and I don't care how I vote or anybody else knows how I vote.

I want to offer an amendment but I'll wait until this other amendment is voted on.

MRS. HERMANN: Is there further discussion on the matter? Mr. Taylor? The question has been called.

UNIDENTIFIED DELEGATE: State the question.

MRS. HERMANN: The motion is that we amend the temporary rules, specifically Rule 5, by deleting the semicolon after the word votes, inserting a period and deleting the rest of Rule 5. All in favor say aye, contrary "no". The motion is lost and the amendment is lost and Rule 5 will not be amended as suggested.

BUCKALEW: Madam Chairman, I would like to offer an amendment to Rule 5. In the first line strike "secret ballot" and insert "voice vote" and in the second line strike successive ballots and insert "voice votes", and in the fourth line I would have to insert where it says "second balloting process" insert "second voting process."

MRS. HERMANN: I did not quite understand that last part Mr. Buckalew. Will you read it as you want it to read.

BUCKALEW: Shall I read it? "Voting shall be by voice vote and voting shall continue by successive votes until one candidate shall have received at least 28 votes: PROVIDED, however, that in the event no candidate receives as many as 28 votes in either the first or second voting process, the low man (I'll have to leave that and continue after the parenthesis) shall be removed from consideration on the third vote and succeeding votes and, following the third and succeeding votes wherein no nominee receives at least 28 votes," etc. I'm just striking out "secret ballot" that is all.

MRS. HERMANN: You have heard the amendment to Rule 5.

EGAN: Madam Chairman, just for the purpose of clarification, I am wondering if Mr. Buckalew wanted to have the wording proper in the hands of the secretary beginning on the first line in Rule 5, "Voting shall be by voice vote and balloting shall continue, on the next line, "by successive voice vote ballots". That is the way he worded it originally and was copied down that way. It's quite a jumble in my opinion. I think that is, what he meant to say.

MRS. HERMANN: You stand corrected Mr. Buckalew? The substance of the amendment is that it shall be by a "voice vote." Do you mean "roll call" or "voice"?

BUCKALEW: "Roll call."

MRS. HERMANN: A voice vote is not exactly the same as a roll call vote.

BUCKALEW: Roll call would be the proper terminology.

MRS. HERMANN: I think that is what is intended. Let's word it this for purposes of getting it before the Convention straight: "Voting shall be by roll call and shall continue by successive votes until one candidate shall have received at least 287 votes." Does that express your meaning?

BUCKALEW: That has got it.

MRS. HERMANN: Is there a second to Mr. Buckalew's motion? There being no second the motion is lost. Has the question been called for? Mr. McNealy?

MCNEALY: One of the delegate's wives said that she would prefer that someone else was allowed to talk beside the attorney delegates here, but not withstanding, I must make one motion -- first to clarify myself in regard to the point of order raised by Mr. McLaughlin concerning the rule in regard to the Secretary of the Convention. As I had stated previously, I believe that there is nothing, in the fact that the Conventional bill as such that the Secretary need not be legally elected as a member of this body. However, if there is going to be any chance whatsoever of this particular portion being attacked in the courts or by any of the enemies of statehood, then rather than subject ourselves to any attack, I think that it would be fitting and proper that the Secretary of this Convention be named from among the delegates of the Convention to hold the secretaryship in, I might say, title only and to serve under the direction of the President of this Convention, and then for the Secretary Delegate to, in turn, delegate his duties to an administrative official. It would bar any chance or opportunity of that particular portion being attacked. In other words, the Secretary would be a Delegate, but by being in a position to delegate his or her authority to an administrative official it would then operate in this way that the party who might be so unfortunate as to be elected Secretary still would have ample time to proceed with his duties and do his or her duties as Delegate. I therefore propose, Madam Chairman, an amendment to Rule 2, line 1, strike out the word "not" so that in reading "The Secretary of the Convention shall be a Delegate", etc.

MRS. HERMANN: You have heard the motion amending Rule 2.

COOPER: Madam Chairman with the consent of Mr. McNealy I would like to add an amendment to the amendment. Strike the word "shall" and put in "does. Leave the word "not" and insert "have to be a Delegate". I believe you will find authority for that in Section 13.

TAYLOR: Madam President, I believe that motion to amend is out of order until Mr. McNealy's motion is seconded.

MRS. HERMANN: Until Mr. McNealy's motion is seconded. TAYLOR: It has been seconded?

MRS. HERMANN: It hasn't, no.

TAYLOR: I'll second it then.

MRS. HERMANN: The motion to amend Rule 2, to read "The Secretary of the Convention shall be a Delegate and shall serve under the direction of the President as the principal administrative officer of the Convention" Did you want all of it kept in except the word "not"?

MCNEALY: Yes.

HERMANN: The substance of the amendment is to remove the word "not" before "shall" in the first line. Is there any second to that motion?

EGAN: Madam Chairman, I would like to ask unanimous consent that the Convention stand at recess for about two minutes.

MRS. HERMANN: Unanimous consent has been asked that we have a recess for two minutes. Without objection has there been an objection?

UNIDENTIFIED DELEGATE: There has been an objection. V. RIVERS: I object.

MRS. SWEENEY: I so move.

V. FISCHER: I second the motion.

MRS . HERMANN: It has been moved that we have a recess for two minutes, seconded by Mr. Fischer. Any discussion? We don't discuss that do we? All in favor signify by saying "aye", contrary "no". The "ayes" have it and we will have a recess for two minutes.

(The Convention at this time recessed for about two minutes.)

MRS. HERMANN: The meeting will please come to order and we will continue the discussion on the adoption of the Temporary Rules. Mr. McNealy?

MCNEALY: Madam President, I would like to withdraw the amendment that I had heretofore offered on the floor, the amendment to strike out the word "not".

MRS. HERMANN: If there is no objection the amendment can be withdrawn.

TAYLOR: I was the second. I will consent to the withdrawal.

MRS. HERMANN: With the consent of his second Mr. McNealy has withdrawn the motion to strike the word "not" from Rule 2. Is there further discussion with regard to Rule 2 or any of the other rules?

SMITH: Madam Chairman, is it in order to present an amendment to Rule 2 at this time?

MRS. HERMANN: It is in order to present an amendment Mr. Smith.

SMITH: I would like to propose that Rule 2 be amended to read "The Secretary of the Convention may be selected from the Delegates or may be someone other than a Delegate and shall serve under the direction of the President as the principal administrative officer of the Convention."

MRS. HERMANN: The motion made by Mr. Smith provides that the Secretary of the Convention may or may not be a Delegate, as the Convention may decide, and shall serve under the direction of the President. Is there a second?

NOLAN: I second the motion.

MRS. HERMANN: Seconded by Mr. Nolan.

TAYLOR: Madam President, I would like to offer an amendment to that amendment, and that is to amend Rule 2 to read as follows: "The Secretary of the Convention need not be a Delegate and shall serve under the direction of the President as the principal administrative officer of the Convention." That does the same thing as Mr. Smith's but it only needs the one word changed.

MRS. HERMANN: Do you accept the amendment, Mr. Smith?

SMITH: Yes with the consent of the second.

MRS. HERMANN: The amendment now reads: "The Secretary of the Convention need not be a Delegate and he shall serve under the direction of the President as the principal administrative officer of the Convention." Is there any discussion on the motion?

UNIDENTIFIED DELEGATE: Question.

MRS. HERMANN: All in favor signify by saying "aye", contrary "no". The "ayes" have it and Rule 2 has been amended by substituting the words "need not" for the word "shall" on the first line thereof.

TAYLOR: Madam President, I would like to offer an amendment to Rule 1, and that is to strike the article "a" at the end of the first line of Rule 1 and then insert the word "three" and make "Vice President" plural, so there would be three vice presidents.

MRS. HERMANN: The motion is that the Rule 1 be amended to provide that there shall be three vice presidents instead of one as appears in the original rule. Is there a second to the motion?

MCNEALY: I second the motion.

MRS. HERMANN: Motion has been made and seconded that Rule 1 of the Temporary Rules be amended to provide that there shall be three vice presidents as permanent officers of the Convention.

TAYLOR: Madam President, as the maker of that motion, the reason I did that is that we will be in session here for a long time, I believe, and during that time it may be that the president might be absent or vice president might be absent. We're all more or less in business and we don't know when we might be called away at a particular time and if such would be the case that there should be a vacancy I think we should have two other vice presidents so that in the event that there would be an occasion where the president and the vice president were not here that there be two other persons, the second and third vice president who would be in line to automatically assume the Chair and would not have to, during the Convention, have an election to see who was going to take the Chair just for the purpose of maybe sometime during the Convention it will expedite the business.

COLLINS: Madam President,

MRS. HERMANN: Mr. Collins.

COLLINS: I think it's a very good idea to have this number of vice presidents but they should be designated seniority in the event that the president should be disqualified, then the question would have to be raised before the delegation who would succeed him. There should be a first vice president, a second vice president and third vice president if you so see fit to have that many. That would eliminate the question that might arise when the president of the Convention is not present.

MRS. HERMANN: Would you like to make that in the form of a motion Mr. Collins?

COLLINS: I will make that in the form of a motion, that they should be designated: "First Vice President, Second Vice

President and Third Vice-President.

MRS. HERMANN: Do you accept the amendment, Mr. Taylor?

TAYLOR: Well, I think he meant it in the form of a motion. I would certainly accept it as an amendment to my motion. I think they should be designated as first, second and third vice presidents.

MRS. HERMANN: I understood Mr. Collins was making that as a motion to amend your motion.

TAYLOR: I accept it.

MRS. HERMANN: Who was your second? Mr. McNealy? MCNEALY: I agree.

MRS. HERMANN: Rule 1 as amended will then, as the motion to amend will then be as follows: "The officers of the Convention shall be a President, a First Vice President, a Second Vice President, a Third Vice President, and a Secretary; the President and Vice Presidents to be elected from the Delegates by the vote of at least 28 delegates." Mr. Fischer?

V. FISCHER: Madam Chairman, it seems to me that the election of a series of vice presidents seems unnecessary since if it is strictly a matter of succession in case of the inability of the president and vice presidents to serve, the Permanent Rules of the Convention provide for succession in one way or another, and we will be taking up hours of time electing a series of vice presidents.

MCNEALY: Madam Chairman, I would like to speak briefly in support of Mr. Taylor's motion on this ground and I hope that if the motion passes, there will be a ladies' and gentlemen's agreement of the delegation for example, if the president of this Convention is elected from one division that the three vice presidents be elected one from each division.

MRS. HERMANN: It has been my hope that we would avoid divisions and sectional discussions and all of us be citizens of Alaska at this historic meeting and I would like to hear from anyone else that has an idea on that subject. Mr. Smith?

SMITH: Madam Chairman, I want to say a word in favor of the original motion. It appears to me that there would be no method of succession to the office unless you do designate the first, second and third vice presidents. If we had a long list of officers to choose from then some succession could be set up, but we don't have that long list. I favor the original motion, designating first, second, and third vice president.

MRS. HERMANN: Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

MRS. HERMANN: The question has been called for. The motion is that we shall amend Rule 1 to read as follows: "The officers of the Convention shall be a President, a First Vice President, a Second Vice President, a Third Vice President, and a Secretary; the President and Vice Presidents to be elected from the Delegates by the vote of at least 28 delegates." All in favor signify by saying "aye", contrary "no".

SMITH: Roll call.

MRS. HERMANN: The roll call has been asked for. The Secretary will call the roll on the amendment.

(The roll was called with the following result:

Ayes: 25 - Armstrong, Barr, Coghill, Collins, Cooper Doogan, Egan, Emberg, H. Fischer, Hellenthal, Hermann, Hilscher, Johnson, Knight, Lee, Longborg, McNealy, Marston, Nolan, Robertson, Rosswog, Smith, Taylor, VanderLeest, Wien.

Nays: 29 - Awes, Boswell, Buckalew, Cross, Davis, V. Fischer, Gray, Harris, Hinckel, Hurley, Kilcher, King, Laws, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Stewart, Sundborg, Sweeney, Walsh, White.

Absent: 1 - Peratrovich.)

MR. JOHN HALL: The roll has been called, Madam President. The vote was 25 ayes, 29 nays and one absent.

MRS. HERMANN: The "nays" have it, and Rule 1 will not be amended as moved.

R. RIVERS: Madam President, I have a motion. My motion will be as follows: "The officers of the Convention shall be a President, two Vice Presidents and a Secretary,"

MRS. HERMANN: Two?

R. RIVERS: Two vice presidents and a secretary.

UNIDENTIFIED DELEGATE: Numbered or unnumbered?

R. RIVERS: A first and a second vice president I ask unanimous consent.

MRS. HERMANN: Unanimous consent has been made that we amend Rule 1 to read: "The officers of the Convention shall be a

President, a First Vice President and Second Vice President and a Secretary' etc. Without objection --

V. FISCHER: I object.

MRS. HERMANN: Who objected? Objection being heard, is there a motion?

R. RIVLRS: I will so move.

SUNDBORG: I'll second.

MRS. HERMANN: It has been moved and seconded that we amend Rule 1 to include a first and second vice president among the officers. Are you ready for the question?

UNIDENTIFIED DELEGATE: Question.

MRS. HERMANN: All in favor signify by saying "aye", contrary "no". The "ayes" have it and the rule will be amended to provide for a first and second vice president. Is there further discussion in connection with the temporary rules or motions?

MCCUTCHEON: I move the previous question.

MRS. HERMANN: The main motion has been called for, which is that we adopt the rules as amended.

SUNDBORG: I second the motion.

MRS. HERMANN: Did we have a motion to adopt the rules as amended? It has been moved and seconded that we adopt the rules as amended. Any discussion? All in favor signify by saying "aye", contrary "no". The "ayes" have it and the temporary rules will be adopted as amended.

RILEY: Madam Chairman.

MRS. HERMANN: Mr. Riley?

RILEY: I believe it was the rules alone and not the report which was adopted. The Temporary Committee on Rules had two recommendations which might be well to put into action for expediting permanent rules and they appear on the last page, page 3.

MRS. HERMANN: Turn to your page 3 of the mimeographed copy of the Temporary Rules which contain two recommendations as made by the Rules Committee. You have moved for their adoption Mr. Riley?

RILEY: I ask unanimous consent of those recommendations.

MRS. HERMANN: Unanimous consent has been asked for the adoption of the recommendations of the Rules Committee. Is there objection?.

TAYLOR: Does that mean the adoption of these rules?

RILEY: No. If I may, I will reply through the Chair. Mr. Taylor, actually the second paragraph will require a resolution on the part of the Convention that the Permanent Rules Committee be appointed to commence preparation of permanent rules. That may take a little while. We spent about 24 hours on this.

TAYLOR: I withdraw my objection.

MRS. HERMANN: There being no objection, the recommendations of the Rules Committee will be adopted. I am sure the appointment of the nine-member Rules Committee must be made by the permanent President. Is there further business to come before the meeting? The next business will be the election of officers: of a President, a First Vice President, a Second Vice President, and a Secretary. Nominations for the President are now in order.

ROBERTSON: Friends, I am happy to nominate for President a man who is a pioneer, a man who has been in Alaska for more than fifty years, a man who was Speaker of the House and the first Alaska Legislature of 1913 and of the second in 1915, a man who has had legislative experience in several other sessions of the Territorial Legislature, a man who served as Mayor of Fairbanks, a man who has engaged in and contributed to many civic and fraternal activities in our Territory, a man who for several years who has not only practiced in Alaska the profession in which you Madam President and I are engaged, a man who is respected by all, a man who is active and keen both mentally and physically, a man who can preside over us with impartiality, in fairness to all, interested only in obtaining a good Constitution for the State of Alaska. Madam President, I nominate Earnest B. Collins for President.

MCCUTCHEON: Madam Chairman, I would like to place in nomination the name of a man who came to Alaska and our northern country as a babe in arms, one whose name has been before the people of Alaska for a good number of years. He took his school in the mining camps and passed into a profession as an adult as a civil engineer. In the sessions of 1937 and 1939 he was the president of the All-Alaska Chamber of Commerce, and he served as a Senator from the Fourth Division. In 1947 and 1949 I had the pleasure of serving with him as a Senator from the Third Division. He made the great economic studies that lay behind the plans for our finance and revenue measures of the Legislature of 1949 which, I might say, has placed the future State of Alaska on a sound economic basis. That man whose integrity is above reproach and whose ability has been

recognized and honored throughout Alaska is Senator Victor Rivers. I would like to place his name in nomination.

MRS. HERMANN: The name of Victor Rivers has been placed in nomination.

ROSSWOG: Madam Chairman?

MRS. HERMANN: Mr. Rosswog will have the floor now.

ROSSWOG: Madam Chairman and fellow Delegates, I would like to nominate a young man whom I believe, by his residence in the Territory and his experience with Mason's to serve as our President of this Convention, Mr. William Egan of Valdez.

MRS. HERMANN: Mr. Egan has been nominated. Mr. Marston?

MARSTON: I have tread on ground that no human being has tread on before in climbing mountains, and I walk softly and with great expectation and I think we are travelling on new ground today in making this Constitution the thing we planned. I could address you as men of the tundra, and that is where my heart is in twenty thousand igloos among the Eskimos, the Indians and the Aleuts. One-third of the population of the area of Alaska is the tundra out beyond the timber line, the firmly frozen ground. I could address you as men from the timber or the plains. I elect to address you as people of Alaska. I guess after this morning's address I should say "fellow colonists". I have traveled the great width of Alaska, about a half million miles, and there are two bodies of water of this great piece of land, they run from the East to the West. The great Kuskokwim River and the great Yukon River.

MRS. HERMANN: Pardon me Mr. Marston, but are you going to nominate somebody?

MARSTON: I am coming to it. We have 75 days here if we have to use them, and I want to take the time to make this nomination. May I proceed, Madam Chairman?

MRS. HERMANN: You may proceed. I just wanted to be sure you were on the subject.

MARSTON: I am on the subject definitely. The reason I am coming to it this way is because of a former nomination. The man's name I wish to place in nomination is a man who lives on the Yukon, the great river, the Yukon, and I can say exactly as Senator McCutcheon said for his nominee, this man came only three years old to Alaska and has lived upwards of a half century in the snows of the Arctic or its part of Alaska. He has been a member of the Attorney General of this Territory of Alaska and has been mayor of Fairbanks two or three times. I wish to place these two great Rivers, are great Rivers. I know them both, I have traveled both of their courses, I am

proud of both of the two great mighty Rivers. The Yukon is a little deeper and a little older, and I wish to place in nomination the name of Ralph Rivers for president of this Convention. (applause)

MRS. HERMANN: The name of Ralph Rivers has been placed in nomination. Are there further nominations?

MARSTON: I move the nominations be closed. BARR: I object.

MRS. HERMANN: It has been moved that the nominations be closed. All in favor signify by saying "aye".

UNIDENTIFIED DELEGATE: There has been no second. MRS. HERMANN: Oh, we didn't get a second. Pardon me. BUCKALEW: I'll second it Madam Chairman.

MRS. HERMANN: It has been moved and seconded that the nominations be closed. All in favor signify by saying "aye", contrary, "no". The "ayes" have it and the nominations for President of the Constitutional Convention have been closed. I will ask, we did retain the ballot didn't we? I will ask two members of the group to act as talliers on the ballot and to work with the Secretary of the Convention in doing so. Now we don't want anybody who is too close a friend to any of the nominees, do we? On that I don't know. I will appoint Dorothy Awes and Leonard King to be talliers for this election. The ballots are now being distributed.

(Ballots were distributed at this time.)

You may be at ease until they are distributed. The ballots have been prepared. The Chair will ask the two talliers to check them and place them in the hands of the Clerk.

MR. JOHN HALL: Madam President, the vote is

Collins	--	11
Victor Rivers	-	17
William Egan	--	18
Ralph Rivers	--	8

MRS. HERMANN: There being no majority and 28 votes not being cast for any candidate, we will ballot again. Do we leave off the lowest one this time?

UNIDENTIFIED DELEGATE: No, next time.

MR. JOHN HALL: Does everyone have blank ballots?

UNIDENTIFIED DELEGATE: Nobody does.

MRS. HERMANN: The Chair will direct the Secretary to destroy the previous votes.

(Mr. John Hall destroyed the previous votes and took them out.) (The second ballot was cast at this time.)

MR. JOHN HALL: Did somebody not turn in their ballot or did somebody not vote? There are only 53 on the tally:

Collins	--	8
Victor Rivers	--	17
William Egan	--	24
Ralph Rivers	--	4

A total of 53, Madam President.

(Mr. John Hall destroyed the ballots for the second vote.)

KILCHER: Madam President, it seems to me I heard a mumbled "Egan" down there once and you didn't tally it.

UNIDENTIFIED DELEGATE: It doesn't matter anyway.

MRS. HERMANN: It's immaterial. The Chair rules that it's immaterial in that nobody has a majority vote of 28. We will cast a new ballot.

MR. JOHN HALL: Is there anybody who needs ballots for the next vote? Is there anyone else who needs a blank ballot?

MRS. HERMANN: According to the temporary rules that you have just adopted, low man is eliminated from this ballot, leaving only three candidates to be voted upon.

R. RIVERS: Madam Chairman, I would like to amend your last remarks. It is with pleasure that I withdraw as a candidate of this race. I certainly recognize what the poor old President is going to be up against and to clear the air and get around this Yukon-Kuskokwim struggle, it is my pleasure to withdraw.

MRS. HERMANN: Now that raises the question of whether the low man is eliminated. I think Mr. Collins --

R. RIVERS: No Ma'am. You said that the rules say that the low man is eliminated. Then they also say that anyone may withdraw.

MRS. HERMANN: That is correct but it doesn't necessarily make Mr. Collins withdraw, too. Or is he eliminated? I don't think he is.

R. RIVERS: Well I thought we were following a rule. The rules

say that after the second ballot and prior to the third ballot the low man is eliminated. It also says that anybody else who wants to may withdraw.

MRS. HERMANN: That's right.

R. RIVERS: Well, we're following a written rule so I invoke the rule Madam President.

MRS. HERMANN: I would like to hear further from the members on that particular point.

SWEENEY: The ballot as called by the Clerk showed Mr. Collins in fourth place. He is not placed in third place until the withdrawal of Ralph Rivers. I do not believe that Mr. Collins is in a position to be eliminated.

R. RIVERS: I apologize to Mr. Collins. I thought I had you beat by one, but you have me beat by one. Yes, I am eliminated two ways now.

MRS. HERMANN: The ballot will be cast for three candidates --

Mr. Egan, Mr. Victor Rivers, and Mr. Collins. The Secretary is instructed to destroy the last ballot.

MR. JOHN HALL: I have destroyed them, Madam Chairman.

(The third ballot was cast at this time.)

MR. JOHN HALL: Madam President, this last vote was

E. B. Collins -- 7

Victor Rivers -- 15

William Egan -- 28

(applause)

MRS. HERMANN: The Chair declares Mr. Egan elected permanent President of the Convention and will appoint a committee to escort Mr. Egan to the Chair. On that committee we will ask Douglas Gray, W. O. Smith, and Burke Riley.

(Mr. Egan was escorted to the Chair at this time.) (applause)

MRS. HERMANN: Mr. Egan, I congratulate you upon your election to be President of the Alaska Constitutional Convention, hand to you this gavel, symbol of your authority. I commend you to act with courage and humility.

PRESIDENT EGAN: Madam Chairman and Delegates, I feel deeply humbled and proud of this honor you have bestowed upon me, and I want you to know that you can rest assured that I will at all times strive to carry out the responsibilities that go with this office with the dignity and fairness, that your

Temporary Chairman, Mrs. Hermann, has done.

MRS. HERMANN: Thank you.

SMITH: Mr. Chairman, may we have the honor of escorting the Temporary Chairman to the floor?

(At this time Mrs. Hermann was escorted to the floor.)

DAVIS: Mr. President, I would like to offer the motion that the Convention give a vote of thanks to Mrs. Hermann for her fair and able handling of the office of Temporary President of this Convention.

JOHNSON: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent has been asked that the Convention give a unanimous vote of thanks to Mrs. Hermann for her able handling of the position of Temporary Chairman of this Convention. Hearing no objection Mr. Walsh?

WALSH: I move to amend Mr. Davis' motion to read "rising vote of thanks to Mrs. Hermann."

PRESIDENT EGAN: Mr. Walsh has moved to amend Mr. Davis' motion to give a rising vote of thanks to Mrs. Hermann.

DAVIS: I accept the amendment.

PRESIDENT EGAN: There being no objection it is so ordered.

(At this time the Convention gave Mrs. Hermann a rising vote of thanks.)

PRESIDENT EGAN: The Convention will come to order. Mr. Smith?

SMITH: I believe the act of establishing a Convention calls for the adoption of the Constitution of the United States, and if I am not out of order, I would like to propose that that be done at this time.

BARR: Mr. President?

PRESIDENT EGAN: Mr. Barr.

BARR: I believe that the Act states that that will be done after the organization of the convention and that has not been completed yet.

PRESIDENT EGAN: Mr. Smith, would it be in order to leave that order of business until we have the complete permanent organization? The Chair will order that that be held in abeyance. The next order of business to come before the Convention is the election of the First Vice President. Mrs. Sweeney?

SWEENEY: Mr. President, I wish to place in nomination for the position of First Vice President of this Convention the name of a man of long residence in Alaska, one who has on numerous occasions served us in the Legislature of the Territory of Alaska and served as President of the Senate during the 1955 session. He is a man highly esteemed not only in the First Division but throughout Alaska. He has a reputation for honesty and fair play, a man whose interest is territory-wide and a man who can be a source of great strength and help to the President of this Convention. It is my privilege and real pleasure to nominate James Nolan of Wrangell, Alaska.

PRESIDENT EGAN: Mr. Sundborg?

SUNDBORG: Mr. President, I would like to offer to this Convention as a nominee for the office of First Vice President, a man who also has had long residence in the Territory, in fact, he was born here. His ancestors have been born in Alaska as far back over as many generations as this land was populated by human beings. He, too, has been a member of the Territorial Legislature serving with distinction in both the House and the Senate, and he too has been the President of the Senate of the Alaska Territorial Legislature. I would particularly like to see this Convention honor the nominee who I am about to name, by giving him a position of high rank in the Convention, because he is a member of the aboriginal inhabitants of this Territory, a representative of the Indian people who lived here long before any of the rest of us came on the scene. And the man whose nomination I now urge upon you is Frank Peratrovich of Klawock.

PRESIDENT EGAN: So at this time we have the names of James Nolan of Wrangell and Frank Peratrovich of Klawock before us for the position of First Vice President of the Convention. Are there other nominations?

METCALF: Mr. Chairman, I would like to nominate Mrs. Mildred Hermann for this First Vice President. In case there is a vacancy, with her fairness and handling of this thing, I would like to nominate Mrs. Hermann.

PRESIDENT EGAN: Mr. Metcalf has placed in nomination the name of Mrs. Mildred Hermann for the position of First Vice President. Are there other nominations?

MCNEES: Mr. Chairman, I would like to put before the Convention the name of a man who I think has served the Territory for a number of years both Houses of the Legislature, a man who is on the Board of Regents of the University of Alaska, a man who has served the Territory ably and well for a period of nearly fifty years, Michael Walsh.

PRESIDENT EGAN: Mr. Michael J. Walsh of Nome has been proposed as the First Vice President. Are there other nominations for

the office of First Vice President. Mr. Taylor?

TAYLOR: I would like to place in nomination a man highly respected in the Territory of Alaska. He practiced law for a good many years. He comes from the Third Division and is on the Board of Governors, the Bar Association, and I think a man who can ably fill the office of First Vice President, and I place in nomination the name of Ed Davis of Anchorage.

PRESIDENT EGAN: The name of Mr. Ed Davis has been placed in nomination.

DAVIS: Mr. President, I would like to thank Mr. Taylor but would like to decline the nomination.

PRESIDENT EGAN: Mr. Davis declines the nomination. Are there other nominations for the office of First Vice President?

COGHILL: Mr. President, I move that the nominations be closed.

PRESIDENT EGAN: Mr. Coghill moves. Is there a second? BUCKALEW: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the nominations for the office of First Vice President be closed. We have the names of Mr. James Nolan, Mrs. Mildred Hermann, Mr. Michael Walsh and Frank Peratrovich before us as nominees for the office of the First Vice President of the Convention. Mr. Buckalew.

BUCKALEW: How do you spell "Peratrovich"?

(Ballots were passed at this time.)

PRESIDENT EGAN: The same people can collect the ballots who collected them before, if you will.

MR. JOHN HALL: The following is the result of the first ballot Mr. President:

Mrs. Hermann	-- 10
Mr. Walsh	-- 10
Mr. Peratrovich	-- 18
Mr. Nolan	-- 15

PRESIDENT EGAN: So on the first ballot no one has received a clear majority for the position of First Vice President. Mr. McNealy?

MCNEALY: Mr. President, point of order. I don't want to be technical and it may be a matter for the Rules Committee Mr. President, but the fact that Delegate Peratrovich was not

sworn in and the fact that he has not taken his oath of office and not present and that before proceeding, all of the officers must be elected, sworn in before the Convention can continue with the business. I just wondered what the rule might be on it.

PRESIDENT EGAN: Mr. McNealy, does the -- if the Chair may, was there anything in the law that said that. I mean that, Mr. Peratrovich, the way the Chair understands it, is detained, not of his own choosing but because of weather. Are you asking for a slight recess Mr. McNealy?

MCNEALY: I would ask for a two-minute recess.

PRESIDENT EGAN: Mr. McNealy asks unanimous consent for a twominute recess. Mr. Walsh?

WALSH: I don't find anything in the law that requires that a Delegate take an oath of office for election. I think Mr. Peratrovich is qualified.

RIVERS: Mr. President, Delegate Peratrovich has been certified for the office here and he cannot assume his duties until he is sworn in, well he is not going to start work until he gets here. I think he is still eligible at this point.

PRESIDENT EGAN: Mr. McNealy has asked unanimous consent that the Convention recess for two minutes. If there is no objection the Convention stands at recess for two minutes in order to possibly look into this question. Mr. Barr?

BARR: Before we recess I would like to point out that there is nothing in the Act that said that you could not elect a man if he isn't present but it does state: "The Convention shall be the judge of the qualifications of its members, their election or appointment." So it doesn't state whether or not--

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

(The Convention recessed for two minutes)

PRESIDENT EGAN: The Convention will come to order. Mr. McNealy?

MCNEALY: Mr. President I wish to withdraw my point of order. I believe there is nothing in the Act itself that requires taking the oath of office. It is merely a general Territorial law and I believe the point of order should be withdrawn.

PRESIDENT EGAN: The Convention will proceed with the second ballot on the nominations for permanent First Vice President. Mr. Walsh.

WALSH: I hope all the delegates understand clearly now that Mr. Peratrovich is qualified. The fact that he is not here does not disqualify him, and the fact that he has not taken the oath of office yet does not disqualify him. I hope all of you understand that Mr. Peratrovich is qualified.

PRESIDENT EGAN: Hearing no objection, the Chair will hold that Mr. Peratrovich is qualified to hold the office if elected. Does everyone have their ballots? You people may go around and collect the ballots then.

(At this time the ballots were collected.)

MR. JOHN HALL: Mr. President, the second ballot for First Vice President is:

Mr. Nolan	-- 17
Mr. Peratrovich	-- 22
Mrs. Hermann	-- 7
Mr. Walsh	-- 7

PRESIDENT EGAN: At the end of the second ballot no one has received a clear majority for the office of First Vice President. Under the Rule the two low candidates were eliminated. So now at the beginning of the third ballot you have Mr. Nolan and Mr. Peratrovich as candidates for the office of First Vice President. The Clerk can destroy the ballots of the last voting.

MR. JOHN HALL: Yes sir.

(At this time the third ballot was cast.)

MR. JOHN HALL: Mr. President, the third ballot for First Vice President was

Mr. Nolan	-- 26
Mr. Peratrovich	-- 28

PRESIDENT EGAN: So by vote of the Convention Delegates, Frank Peratrovich of Klawock has been named the First Vice President of the Convention. We will now proceed with nominations for Second Vice President of the Convention. Nominations are in order. Mr. Fischer?

V. FISCHER: Mr. President, we have heard many fine nominating speeches before and therefore I would just like to nominate Mr. Ralph Rivers of Fairbanks.

PRESIDENT EGAN: Mr. Fischer nominates Mr. Ralph Rivers of Fairbanks as Second Vice President of this Convention. Are there other nominations? Mrs. Sweeney?

SWEENEY: Mr. President, I would like to renew my nomination

for Second Vice President, Mr. James Nolan of Wrangell.

PRESIDENT EGAN: Mrs. Sweeney nominates for Second Vice President of the Convention, Mr. James Nolan of Wrangell. Mr. Barr?

BARR: Mr. President, the nominating speech has been already made for the man I would like to name. We have also been told that there are two great Rivers in this Territory. I would like to submit the name of Mr. Vic Rivers again.

V. RIVERS: I think once is enough in one day Frank. Thank you very much. I appreciate the nomination. I will do my best to work effectively on the floor and would prefer to be there at this particular stage of the proceedings. Thank you Frank.

PRESIDENT EGAN: Are there other nominations for the office of Second Vice President? Mr. Buckalew?

BUCKALEW: I don't want to be out of order but Colonel "Muktuk" Marston forgot his punch line. What he meant to say at the close of his speech that Ralph Rivers got more votes than anybody in the Territory and ran at large. I wanted to add that.

R. RIVERS: Thanks for making that speech.

PRESIDENT EGAN: Are there other nominations for the office of Second Vice President of the Convention? If not

MCCUTCHEON: I move and ask unanimous consent that the nominations for Second Vice President be closed.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent that nominations for Second Vice President be closed. Is there objection? Hearing no objection, nominations are closed and if the Clerks will distribute the ballots and papers, we will proceed with the election. There are two candidates -- Mr. Ralph Rivers and Mr. James Nolan for the office of Second Vice President.

(At this time the first ballot was cast.)

MR. JOHN HALL: Mr. Chairman, the votes for the office of Second Vice President on the first ballot was

Ralph Rivers	-- 32
James Nolan	-- 22

PRESIDENT EGAN: So by your vote you have elected Mr. Ralph Rivers Second Vice President of the Convention. (applause) The Chair will now declare nominations in order for the office of

Secretary of the Convention. Mr. Sundborg?

SUNDBORG: Mr. Chairman, I would like to move for a recess for ten minutes.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the Convention stand at recess for ten minutes. Is there objection? Hearing no objection the Convention is at recess.

(The Convention recessed at 3:35 p.m.)

PRESIDENT EGAN: The Convention will come to order. Nominations are now in order for the office of Permanent Secretary of the Convention. Mr. McNealy.

MCNEALY: Mr. President, I would like to place the name of Katherine Alexander, Secretary of the Senate and a very capable lady as Secretary of this Convention.

PRESIDENT EGAN: Mr. McNealy offers in nomination the name of Mrs. Katherine Alexander.

R. RIVERS: Mr. President, I want to nominate a man whom I think is extremely well qualified for the job of Secretary of this Convention. I visualize the job of Secretary as the man who has to know all the delegates, all the consultants, who will act as a liaison between the consulting staff and the delegates, liaison between the various committees, there will be eleven or twelve of them, an aid to the President. If there is difficulty with personnel in the clerical staff, the chief clerk would refer those problems to the Secretary and not bother the President with them. I visualize the Secretary as being the man who has to watch the press relations, the publicity for this Convention on a nationwide basis, who may have to have a press aide and a person on the very top side of this Convention. Now this is one of the positions provided for by the Alaska Legislature. It is not something to be treated lightly. I think the man who is to be the Secretary of this Convention, elected by this body, should be a man with the qualifications who could meet the duties I have just outlined to you. I am talking about Tom Stewart of Juneau, a man who is a graduate in both liberal arts and political science and also a graduate of the Yale Law School, a man who helped draft this initial bill, a man who visualized this thing in a big way, who consulted with various professors in political science departments and institutes back East when he was on a trip, prior to the last Legislature, a person who has worked his head off putting all these small points together, who has worried about the housing, about the consulting service, about the transportation and who has gotten to know all the delegates and knows all the consultants, a man who has had a lot to do with the press and with public relations, a man who has stubbed his toe and made a few mistakes, as any of us would have done, but a man on the over-all picture knows the thing right from

the ground up and is admirably qualified to be the Secretary of this Convention, so I nominate Tom Stewart.

PRESIDENT EGAN: Mr. Rivers has placed in nomination the name of Mr. Tom Stewart to be Secretary of the Convention. Mr. Sundborg?

SUNDBORG: A point of order, Mr. President. As I remember, Mr. Rivers said Mr. Stewart was a member of the Legislature which helped adopt this bill which calls for a Constitutional Convention and as he further said, the bill itself establishes the office of Secretary. My point of order is the Alaska Organic Act prohibits the serving by Mr. Stewart in the position of Secretary of this Constitutional Convention.

PRESIDENT EGAN: Mr. Sundborg, your point of order is one, to raise a point of order of that nature is one that the Chair would certainly not want to rule upon because you raise what might be in your mind a legal objection. We do not have, right at this time, a Rules Committee, a permanent Rules Committee, to refer any matter of that nature to unless the Convention wants to ask that the temporary Rules Committee that we had under the temporary set-up take up that question for consideration at this time. The Chair will entertain further discussion as to how we should proceed. Mr. Rivers?

V. RIVERS: I will make a motion to refer any further questions to the temporary Rules Committee as constituted which is still available for that use. I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent has been asked. Mr. Riley?

RILEY: Mr. Chairman, this is not in the nature of an objection but point of inquiry. Have you still a temporary Rules Committee with any injunction from the body? I believe we've performed our function as stated by yesterday's resolution.

PRESIDENT EGAN: That is true, Mr. Riley. You have raised a question that is good. At the present moment there is no Rules Committee. The Chair would probably have to with the aid of the members of the Convention appoint a temporary Rules Committee to take over in this permanent setup to be legal. What is the -- Mr. Buckalew?

BUCKALEW: I move that we have a ten-minute recess.

PRESIDENT EGAN: What does the Convention desire? Mrs. Sweeney?

SWEENEY: Mr. Chairman, I move that the Chair appoint the previous temporary Rules Committee to serve on this question and ask unanimous consent.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the

Chair be authorized to appoint the members who served on the previous rules committee take this matter under advisement and report back to the Convention after a recess. Is there objection? Hearing no objection, those members of the delegates who were on the previous temporary Rules Committee are appointed as a temporary Rules Committee now to take this matter under advisement and if there is no further objection, will the Chairman of the Rules Committee state how long that would take.

RILEY: Mr. Chairman, I don't expect to pick up that ball with any particular accuracy, but I think we could come out with a report of progress at least in ten or fifteen minutes.

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

(At this time the Convention recessed for 20 minutes.)

PRESIDENT EGAN: The Convention will come to order. Mr. Marston?

MARSTON: I don't know what the lawyers have gotten themselves into here. This audience and this body is strong enough and big enough to create a job of secretary general from our own organization and appoint Tom Stewart and proceed. Then we aren't involved with the laws down at Juneau or anywhere else.

PRESIDENT EGAN: Mr. Rivers?

V. RIVERS: We have a specific order of business which is a report of the Rules Committee at this time.

PRESIDENT EGAN: That is correct Mr. Rivers and the specific order of business is the report of the Rules Committee upon which they were deliberating. Mr. Riley?

RILEY: Your reconstituted temporary Committee on Rules has considered the problem put to it and has adopted two guides, namely Chapter 46 of the last session of the Legislature of which provided for this Convention and Section 11 of the Organic Act which states prohibition against the holding of office on the part of legislators. It is the feeling and the report of your Committee that Section 11 in this case does apply, that the office was constructively created by the last legislature and Mr. Stewart would be ineligible for nomination, due to ineligibility to hold the office. It may be that Colonel Marston has anticipated the Committee. The Committee will have other aspects of its report to present in the morning but meanwhile the recommendation of the Committee is that nominations remain open.

PRESIDENT EGAN: Is it the recommendation of the Committee that nominations remain open and that the completion of the committee report be reported to the Convention tomorrow

order that that will be the case. Mr. Rivers?

R. RIVERS: I move that we adjourn until the usual time tomorrow.

PRESIDENT EGAN: Mrs. Hermann you may come to the rostrum.

HERMANN: I want to give you some more information about traveling out here. The persons who want to come out on the bus are requested to be at the Nordale as usual but subject to the time of adjournment. If you are going to meet at 10 o'clock we think maybe it might be well not to come out till 9:30, but anybody that expects to ride on the bus should keep that in mind and be on hand. Now, Mr. Chairman, I have a request for a special privilege that I want at this time.

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

HERMANN: I have in my possession a little poem that was written for the delegates to the Constitutional Convention. It is called "A Prayer for Convention Delegates." I want to read it to you because I think it is something that all of you will be interested in:

"How many strive for immortality.
 How few achieve it!
 Yet in history's pages--those remembered
 Were merely doing every day
 The homely tasks with which they were confronted.
 So let those common people--
 Elected by their neighbors, friends and fellowmen,
 Remember to be humble, and retain
 The Common Touch, and Sense, that makes them great.
 And So write Alaska's Constitution--
 That children yet unborn may bless their memory!"

Mr. Chairman, I move that this poem be spread on the minutes of this day's proceedings. I ask unanimous consent.

PRESIDENT EGAN: Is there objection to this unanimous consent request? If there is none, --

UNIDENTIFIED DELEGATE: Who is the author?

HERMANN: The author is Sarah von Riesen, whom I do not know, Box 154, Mountain View.

PRESIDENT EGAN: If there is no objection, the prayer is ordered spread upon the minutes of the Convention.

HERMANN: Any time you don't have a Chaplain, you can take it out and read it.

PRESIDENT EGAN: Thank you Mrs. Hermann. Before we adjourn the Chair would like to Mr. White?

WHITE: Mr. President, if I recall correctly, in adopting the report of the temporary Rules Committee this morning we left undone the passing of a resolution calling for the appointment of a nine-member permanent rules committee by the Chairman. Having in mind that the Chairman may need some time to make these appointments, I offer a resolution to the Convention: "RESOLVED by the Convention that the Chairman appoint a nine-member permanent rules committee."

V. RIVERS: I second the motion and ask unanimous consent.

PRESIDENT EGAN: Mr. White, does your motion mean that the Chair will appoint the committee?

WHITE: That is correct.

PRESIDENT EGAN: As subject to the consent of the Convention. Now there is another subject upon which the President feels should be brought to your attention and that is that the Chair feels that every delegate tonight should think about what committees he would be most interested in and the type of subjects that he is interested in and probably attempt to bring a paper with him tomorrow, each of you, with the committees you would like to be on or the subjects that you are most interested in. It will certainly help when we get the Committee on Committees functioning to expedite the appointments of committees, if that information with your name on it is available for the Committee on Committees when it goes out. If there is no objection then each of you can attempt to bring your suggestions of the committees you would like to serve upon. Another subject that has come up is the question of permanent help. I don't believe we can appoint any Committee on Permanent Help until after we have had the permanent Rules Committee. I stand corrected on that, if there is correction. Mr. White?

WHITE: A point of clarification, Mr. President. On the resolution that I offered I should have asked for unanimous consent. Was unanimous consent granted.

PRESIDENT EGAN: If there is no objection, unanimous consent has been granted that the President appoint a nine-member permanent Rules Committee and report the names of those members to the Convention tomorrow morning. If there is no objection the President will do that. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the President be authorized also to appoint a Committee on Permanent Help without further reference to a Rules Committee or any other committee of this body.

PRESIDENT EGAN: That is permanent help other than the permanent Secretary? Then everything will be ready to go when we get completely organized.

SUNDBORG: Yes sir.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? Hearing none, then the President -- Mrs. Hermann?

HERMANN: Mr. Chairman, I do object temporarily because I think the matter of employment of permanent help is in the suggested rules that the temporary Rules Committee requested us to study, and until the permanent rules are adopted I don't think we ought to take a stand on anything that is covered by those suggested rules.

PRESIDENT EGAN: Mr. Davis?

DAVIS: I wonder if they are making any progress in getting those prepared rules out so that everybody can take them home tonight and study them.

PRESIDENT EGAN: Well, aren't those proposed rules already mimeographed? They're still being mimeographed? Is it possible they can be available for the members tonight?

MRS. ALEXANDER: They are being mimeographed. In about forty five minutes they will be ready.

PRESIDENT EGAN: Is it the Convention's desire that we stay here until the proposed rules are ready for distribution? Mr. Hellenthal.

HELLENTHAL: I'll throw out two things for discussion that might utilize some of the time. One is the possibility of a holiday on Friday. I think we might as well square off on that and determine whether or not we will be in session Friday. As I understand it, it is a Territorial holiday, Veteran's Day. Secondly, I see no reason for that bus picking us up at 9 o'clock and bringing us here at 9:20 when we have to wait until ten. I think we should either have the bus pick us up a little later or start a little earlier.

PRESIDENT EGAN: You are suggesting perhaps that the Convention convene at 9:30?

HELLENTHAL: I suggest we start at 9:30 and leave the bus scheduled at 9, as before.

PRESIDENT EGAN: Do you make that in the form of a motion Mr. Hellenthal?

HELLENTHAL: Yes, I would like to make that motion. I move

that the bus continue to pick us up at 9 o'clock at the Nordale and that we convene at 9:30.

KILCHER: I second that motion.

PRESIDENT EGAN: Mr. Hellenthal moves and it has been seconded by Mr. Kilcher that the Convention meet at 9:30 each morning and that the members get on the bus at 9 o'clock. Is there objection to the motion? Hearing none, that will be the order of --

WHITE: Mr. President, I would like to direct a question in connection with the motion. Does that imply that the Convention will continue to pay for the bus?

PRESIDENT EGAN: Mr. Hellenthal?

HELLENTHAL: That is my implication although that's my goal but I hadn't thought of it.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. Chairman, we voted the other day that the Convention continue to bear the bus service expense until we have a complete permanent organization and after that the Convention can decide whether it wants to pay for a permanent thing or not.

PRESIDENT EGAN: I believe that is correct. Mr. Sundborg?

SUNDBORG: I have a parliamentary inquiry. I asked unanimous consent a moment ago for the authority for the President to appoint a Committee on Permanent Help and Mrs. Hermann said she objected temporarily and we just sort of left it there. Was that adopted?

HERMANN: Well, I objected permanently I think. SUNDBORG: Well, I so move.

PRESIDENT EGAN: Mr. Sundborg moves that the Chairman appoint a Committee on Permanent Help other than a permanent Secretary.

COGHILL: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Committee on Permanent Help be appointed. The motion is open for discussion. Mr. Sundborg?

SUNDBORG: Mr. President, all that this committee is going to do is to make some recommendations to the Convention which the Convention can either adopt or reject. Here we are running along getting almost into our third day. We have asked a lot

of people to do mimeographing, stenographic work, typing and we have not made any provision at all for paying them and I think it is time, in fact it's past time for us to get started on this business of creating some kind of an organization here in the secretariat.

PRESIDENT EGAN: Mrs. Hermann?

HERMANN: Mr. Chairman, if I'm not mistaken, the Statehood Committee has authorized the employment of certain people during the initial days of the session when we anticipated the Convention would be organized, and provision was made, they have committed themselves to the payment of those people who were employed, subject we hope, to reimbursement by the Convention. but, in any event, it is a commitment, a continued liability that we have assumed in the interest of getting the Convention started off in an orderly manner. I don't think that angle of it needs to be too serious, and it seems to me that we will be ready to consider those rules tomorrow anyway, the permanent rules, and it would seem that nothing could be gained by appointing a committee, by passing a motion to appoint a committee, now. I will not object to it if we don't get off to a pretty good start on it tomorrow.

PRESIDENT EGAN: Is there further discussion on the motion; If not the question is, "Shall the President appoint a committee on permanent help?" Mrs. Hermann?

HERMANN: Point of order, Mr. President, I think it was a request for unanimous consent which I objected to.

PRESIDENT EGAN: Then Mr. Sundborg moved and it was seconded, Mrs. Hermann. All those in favor of having the President appoint a committee on permanent help at this time say "aye" all opposed say "no". The Secretary will call the roll.

(The roll was called with the following result:

Yeas: 30 - Armstrong, Barr, Buckalew, Coghill, Cooper, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hilscher, Hinckel, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Poulsen, Rosswog, Stewart, Smith, Sundborg, VanderLeest, Walsh.

Nays: 23 - Awes, Boswell, Collins, Cross, Davis, Doogan, H. Fischer, Hermann, Hurley, Johnson, McCutcheon, McNees, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Sweenoy, Taylor, White, Wion.

Absent: 1 - Peratrovich.

Not Voting: 1 - Mr. President.)

PRESIDENT EGAN: And so the Chair has been instructed to appoint a Committee on Permanent Help at this time. The Convention can be at ease for about a minute or two. The Chair will attempt to -- Mr. Taylor? The Convention is at ease.

PRESIDENT EGAN: The Convention will come to order. The President has wondered about this Committee on Permanent Help, and if there is no objection we would like to name three members at this time to form a nucleus of the Permanent Help Committee. Perhaps they could get together this evening and the rest of the members we could name in the morning. If Mr. Ralph Rivers, Mr. Kilcher and Mr. Coghill could more or less look into the situation this evening and in the morning the Chair will name the rest of the members of that Committee. We felt that the people in the Fourth Division would know considerably more about the persons who might be wanting a job here so if that is satisfactory we'll carry the Committee over until tomorrow morning. Mr. Rivers?

V. RIVERS: I am going to move for adjournment at this time till 10 o'clock tomorrow at the suggestion that the bus was set up at 9:30. My reason for that is this, out of consideration for the Chair and the help we have I think we should give them a chance, the Chairman to consider his people and the timber he has for his committees as the next order of business. Also, the permanent help are starting in new quarters, their supplies, see what they need in the way of help and so I suggest that we do not convene until 10 a.m. I move that we adjourn until 10 o'clock tomorrow morning.

COLLINS: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention adjourn until 10 o'clock tomorrow morning. Mrs. Hermann, your point of order?

HERMANN: Something will have to be done when we've already got it through that we were going to meet at 9:30.

PRESIDENT EGAN: Without objection, of course it would have the same tendency as a unanimous consent or two-thirds majority would and it could overrule the other motion for this particular session. Mr. Fischer?

V. FISCHER: Mr. Chairman, I realize that it might be a burden on some of the help, but maybe until we can get fully organized and start operating as committees, the committees themselves could meet earlier in the morning. We might stay by our previous action and meet at 9:30 tomorrow so that we can get organized that much sooner.

PRESIDENT EGAN: Is there objection to the 10 o'clock adjournment? If not, the Convention will stand adjourned until 10

o'clock tomorrow morning. The Convention is adjourned.

(The Convention adjourned at approximately 5 p.m.)

ALASKA CONSTITUTIONAL CONVENTION

November 10, 1955

THIRD DAY

PRESIDENT EGAN: The Convention will come to order and the Secretary will call the roll. (10 a.m.)

(Mr. John Hall called the roll at this time.)

MR. JOHN HALL: Mr. President, I find that all delegates are present excepting Frank Peratrovich who has not yet appeared, sir.

PRESIDENT EGAN: A quorum is present. The Convention will please stand while Reverend Armstrong comes forward to give the daily invocation.

ARMSTRONG: Let us bow in prayer. Almighty Father, who hath placed in our hands the lives of our fellow Alaskans, bring us to this Convention as delegates in their behalf. Continue to bring Thy spirit of wisdom upon us. Thou dost know that we will differ from one another as we search for true precepts for the great land. Thou dost know how our voices will rise as champions of ideals we hold eternal. Father, keep the good pace of brotherhood within us as we have started on this journey, and impose Thy will when we fail to surrender. Depose wrong when it is bred in selfishness, anger and sectionalism, and O God, our Father, we pray Thee of all to be our constant guide. In Jesus' holy name, amen.

PRESIDENT EGAN: The Secretary will read the minutes of yesterday's meeting. Mr. Johnson?

JOHNSON: Mr. President, in order to expedite the proceedings, I move the reading of minutes of yesterday's session be dispensed with. I ask unanimous consent.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the minutes of yesterday's meeting be dispensed with. Is there objection? Hearing no objection, it is so ordered. Mr. McNealy?

MCNEALY: In view of the developments since yesterday's nominations for Secretary of this Convention, and at the request of Mrs. Alexander, I wish to withdraw her name which was placed in nomination by me.

PRESIDENT EGAN: Do you put that in the form of a motion, Mr. McNealy?

MCNEALY: I so move Mr. President and ask unanimous consent of the body.

PRESIDENT EGAN: Mr. McNealy asks unanimous consent that his nomination of Mrs. Alexander for permanent Secretary be withdrawn. Is there objection? Hearing no objection, it is so ordered. Mr. Secretary, do you have any communications? Here's one if you would like to read it to the Convention.

MR. JOHN HALL: "To the President of the Constitutional Convention, The Fairbanks Board of Education extends a cordial invitation to each delegate to the Constitutional Convention to be present at the dedication of the Austin E. Lathrop High School on Sunday, the 13th of November, at 2:00 o'clock in the afternoon, Lathrop High School Gymnasium. James C. Ryan, Superintendent, November 9, 1955."

PRESIDENT EGAN: I believe at this time the Chair should announce the names of the proposed additional appointees to the Permanent Help Committee. Yesterday the Chair announced the names of Ralph Rivers, Mr. Yule Kilcher, Mr. John Coghill as members of the Committee. In addition to those names the names of Helen Fischer, Dora Sweeney, John Hellenthal, John A. McNees, Mr. William Laws and Mr. William Knight. If there is no objection those people will stand as the members of the Permanent Help Committee. The Chair at this time will read to you the names of the persons he has chosen as appointing to the Committee on Rules: Mr. Burke Riley, Mr. John Rosswog, Mr. M. J. Walsh, Mildred Hermann, Mr. Steve McCutcheon, E. B. Collins, George Sundborg, Mr. Ralph Rivers, and Mr. Edward B. Davis. If there is no objection those delegates will be named as the Permanent Committee on Rules. Hearing no objection it is so ordered. Mr. Taylor?

TAYLOR: Mr. President, it seems to me that the Convention should have a Committee on Committees appointed for the purpose of advising upon the selection of the various committees which are going to function during the Convention. Either we have to do that or it is going to be a matter of the President appointing all of the committees without reference to any advice from the body.

PRESIDENT EGAN: The Chair feels, Mr. Taylor, that the quicker the Convention can do something toward that end, the better it will be in expediting the real business that will confront the Convention, and just what do you propose, is there any proposal at this time?

TAYLOR: To get this under way, I would make a motion, Mr. President, that a committee of seven be appointed from the Body to act as a Committee on Committees and that they, after the selection, be instructed immediately to pursue their work in regard to the recommendation for members of the various committees.

PRESIDENT EGAN: Do you ask unanimous consent that the Chair appoint seven, Mr. Taylor?

TAYLOR: I ask unanimous consent.

JOHNSON: I rise to a point of information. It seems to me that the Convention is not yet duly organized since we have not elected a permanent Secretary. Until such time are you in a position to appoint a permanent committee?

PRESIDENT EGAN: Mr. Johnson, with relation to the Committee on Committees, it was the Chair's feeling when Mr. Taylor asked that, that the matter be held over until we get along a little further in our business this morning and then at that time it would be in order, although the Chair feels also it was in order to bring the urgency of the matter before the Convention. Mr. McLaughlin?

MCLAUGHLIN: Mr. President, I have a recommendation or suggestion to the Chairman for instructions to be issued to the Rules Committee. It is my understanding that the Rules Committee that you have constituted does contemplate reporting out on the subject of committees, and I would request or suggest to the Chair, I'm not making it a motion, that the Chair instruct the Rules Committee immediately after it goes into session to consider first those sections of the rules concerning the establishment of committees and those sections of the rules concerning the appointment of those committees and immediately thereafter, after the consideration of that portion, that it report back to the assembly. I believe that would properly expedite things so that we could get on the road.

PRESIDENT EGAN: That is a very pertinent idea Mr. McLaughlin. If there is other discussion from the Convention floor on the matter, it will be welcome. Mr. Sundborg?

SUNDBORG: I would like to incorporate the suggestion of Mr. McLaughlin's in the form of a motion and ask unanimous consent, because I do not feel that the Chair can instruct the committee, but maybe the Chair might have the authority to but probably would not want to do that while I feel that the Convention should ask the Chair to so instruct the Rules Committee, so I make that in the form of a motion and ask unanimous consent.

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

SMITH: Point of order, Mr. President; it appears to me that we are back to the same question that we are not yet organized. If I remember correctly, the nominations for a permanent secretary were left open from yesterday's meeting. Is that correct?

PRESIDENT EGAN: You are correct, Mr. Smith.

SMITH: It would appear to me that that would be the first order of business this morning.

PRESIDENT EGAN: Mr. Smith, the Chair feels that Mr. Johnson's question there was in order and that the Convention should proceed first, before having the Rules Committee go out at all as a permanent committee. We could proceed first with the completion of the election of the permanent secretary.

SMITH: With that thought in mind, and without any reference to the frozen tundra of the north or the sparkling streams or leaping salmon of Southeastern Alaska, I would like to place in nomination the name of George Sundborg as Secretary.

PRESIDENT EGAN: Mr. Smith has placed in nomination the name of Mr. George Sundborg as Secretary of the Convention. Mr. Riley.

RILEY: Since we have one nomination now, I would like to submit the supplemental report which was suggested would be forthcoming when your Committee on Rules last reported. That Committee has given more considered judgment to the question propounded yesterday afternoon than was possible in fifteen minutes then available to us, and we have concluded that because the Legislature left the option clearly with the Convention to create the offices of president and secretary, and such other offices that were deemed necessary, that Section 11 of the Organic Act does not apply in this situation, and if any member of the 1955 Legislature would be eligible to hold the office of Secretary, as well as the others indicated.

PRESIDENT EGAN: That is the report of your Committee, Mr. Riley?

RILEY: That is the report of the Committee, and I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the report. Is there objection? Hearing no objection it is so ordered. Are there other nominations for Permanent Secretary? Mr. Fischer?

V. FISCHER: I would like to direct a question to the Chairman of the temporary Rules Committee and that is whether the Committee had any recommendations as to whether the Secretary should be a member or should not be a member of the Convention.

RILEY: Mr. Fischer, I find Mr. Chairman, through the Chair, the Committee came forward with no recommendation but as proposed last evening we might have a resolution to submit but in view of this further consideration and the infallibility of human judgment, we reached a different result in our deliberations and have no resolution or recommendation beyond this report.

BARR: Mr. President...

PRESIDENT EGAN: Mr. Barr.

BARR: Is it the thought of the body that we should have an administrative officer also, or is this secretary going to be a working secretary? I don't believe that any member of the Convention would want to be a working secretary as that would take up too much of his time, and I would like to place a name in nomination for secretary if you also have an administrative officer.

PRESIDENT EGAN: Is there anyone who can answer that question?

RILEY: Mr. President, the rules under which we are operating at the moment don't provide for an administrative officer as such. The rules adopted yesterday to cover this situation I believe are still in effect.

PRESIDENT EGAN: Is there further discussion? Mrs. Sweeney.

SWEENEY: Mr. Chairman, the rule we adopted yesterday stated that the Secretary need not be a delegate.

PRESIDENT EGAN: That is correct, Mrs. Sweeney.

MCCUTCHEON: Mr. Chairman, I move and ask unanimous consent that the nominations be closed.

SWEENEY: I object.

MCCUTCHEON: I will so move that nominations be closed. METCALF: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon moves, seconded by Mr. Metcalf, that nominations be closed. The subject is open for discussion at this time. Mr. Sundborg?

SUNDBORG: Before nominations are closed or before that motion is put to a vote, I would like to have the privilege of the floor to decline the nomination for the position of Secretary. I feel that if the Secretary is to do what our rule sets forth he is to do, that is be the principal administrative officer of this Convention, it is not practical for a member of the Convention to be the Secretary or a Delegate to the Convention, so I would ask to decline nomination as Secretary of this Convention.

PRESIDENT EGAN: Mr. Sundborg asked unanimous consent that his name be withdrawn from permanent Secretary of the Convention. Is there objection? Hearing none it is so ordered. Mr. Sundborg's name will be withdrawn. Mrs. Sweeney?

SWEENEY: Mr. Chairman, I want to know if the name of Tom Stewart still remains as a nominee for this position?

PRESIDENT EGAN: The name of Tom Stewart has been presented to the Convention and it still is before us, Mrs. Sweeney.

SWEENEY: Then I withdraw my objection.

PRESIDENT EGAN: Are there other nominations for permanent Secretary of the Convention. What was the motion?

MRS. ALEXANDER: The motion was for closing nominations.

PRESIDENT EGAN: Pardon me, the Chair forgot about Mr. Stewart's nomination having been before us at the time the motion was made. The question is ___ Mr. McCutcheon?

MCCUTCHEON: Mr. Chairman, the objection to my request for unanimous consent has been withdrawn.

PRESIDENT EGAN: Mr. Sundborg.

HELLENTHAL: I object to the request for unanimous consent.

PRESIDENT EGAN: Objection is heard from Mr. Hellenenthal. Mr. Sundborg?

SUNDBORG: I would like to ask if the name of Katherine Alexander is still before the body.

PRESIDENT EGAN: It has been withdrawn, Mr. Sundborg. It has been moved and seconded that nominations be closed. All those in favor of closing the nominations say "aye". All opposed say "no".

PRESIDENT EGAN: The Secretary will call the roll.

(The roll was called with the following result:

Ayes: 30 - Coghill, Davis, Doogan, H. Fischer, V. Fischer, Hermann, Hilscher, Hurley, King, Knight, Laws, Londborg, McCutcheon, McNees, Marston, Metcalf, Nerland, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 22 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Emberg, Gray, Harris, Hellenenthal, Hinckel, Johnson, Kilcher, McNealy, Nolan, Nordale, Robertson, Smith, Sundborg, Mr. President.

Absent: 1 - Peratrovich.

HERMANN: Mr. Chairman, I would like the privilege of changing

my vote. I must have been asleep. I want to vote "yes" instead of "no".

PRESIDENT EGAN: Mrs. Hermann asked to change her vote to "yes". If there is no objection, it is so ordered.

MR. JOHN HALL: Mr. President, the "ayes" have 30 votes and the "nays" 24, and there is one absentee.

PRESIDENT EGAN: So the motion is carried and the nominations for permanent Secretary are closed. Mr. Rivers?

V. RIVERS: Is the only name in nomination the name of Mr. Stewart, is that correct?

PRESIDENT EGAN: That is correct Mr. Rivers.

MCCUTCHEON: In view of the one nomination, I ask unanimous consent that the body cast a unanimous ballot and the record show unanimous ballot for Tom Stewart for Secretary.

PRESIDENT EGAN: Unanimous consent has been asked that the Convention cast a unanimous ballot for Tom Stewart for permanent Secretary of the Convention. Is there objection? Hearing no objection Mr. Tom Stewart is now the permanent Secretary of the Convention. (applause)

(Mr. Stewart came forward and shook hands with Mr. Hall and with Mr. Egan.)

MR. JOHN HALL: Mr. President, I want to thank everybody here.

(Rising vote of thanks)

I will tell Judge Forbes what a rousing cheer we got when I got relieved.

PRESIDENT EGAN: Mr. Hall, on behalf of all the Delegates to the Convention, we wish to thank you for your services, the wonderful services you have rendered.

MR. JOHN HALL: I am glad I met all of you. I am not running for any office, but if I do don't you all forget me.

(Mr. Hall left Convention Hall at this time.)

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

COGHILL: I rise to a point of information on your Committee on Permanent Help. It was brought up in our meeting last night whether this committee would be eventually the third committee listed on the consideration of Convention committees prepared by the Alaska Statehood Committee, which is the Committee on

Convention Administration, or whether it would take in the full scope of this work, or whether it would just be the hiring of the permanent help for the beginning of the Convention.

PRESIDENT EGAN: The Chair would feel that when the Committee on Committees gets functioning and has its first meeting that perhaps that committee might consider that question. If there is no objection from the Convention floor, then the Committee on Rules will consider that question in their first meeting, if possible. We don't have anything on the floor before us at this time. Here is another announcement that the Secretary will read.

SECRETARY: From the University of Alaska to "President, Alaska Constitutional Convention, This is to remind you that tonight, between the hours of 8:00 and 11:00 P.M. at the President's Residence, Mrs. Patty and I are giving a reception in honor of the delegates, their wives and husbands. We hope that you can all be present because this will give you an excellent opportunity to meet the members of the Fairbanks Chamber of Commerce, the officers of the City government, some of the staff members of the air bases in this area, plus the deans and department heads of the University faculty. Mrs. Patty has suggested that the delegates all wear their name tags to facilitate introductions. Will you please announce this so the delegates will be reminded of the affair?"

PRESIDENT EGAN: Mr. Rivers?

R. RIVERS: Last night you appointed three members of a committee, the Permanent Help Committee. This morning you appointed several other members. Well, those three had a rump meeting last night and I wish to report that the Statehood Committee has provided us with seven people, five of whom were on duty yesterday, and two more typists who will be available from now on. That is only seven. We still need a sergeant at arms and a messenger and mail clerk, etc., but until the committee meets as a complete group and looks over some thirty-five applications which have been processed through the Employment Security Office here, we recommend that the body just simply approve, probably in the absence of objection, of our going ahead with the staff of people thus far provided by the Statehood Committee, and then we will render a complete report with a job line-up and specs and things, after consultation with the Secretary on what the personnel needs are going to be.

PRESIDENT EGAN: The Chair is wondering if it might be, inasmuch as the other six members of the Committee had not been announced last evening, if it might be possible during the first recess to have a private meeting with the new members and enlighten them on the help so far and then make that request after having had a complete full committee meeting. Would that be in order?

R. RIVERS: Quite all right. All I am asking now is that the group coincide with the idea of just going ahead with those who have been selected for us until your committee has a chance to render a full report.

PRESIDENT EGAN: Is there objection to Mr. Rivers' request? Mrs. Sweeney?

SWEENEY: I don't quite understand if Mr. Rivers intends that this group be considered as permanent and we add to it or what.

PRESIDENT EGAN: I don't think that's what he means Mrs. Sweeney. I think he means that until our full committee can have an opportunity to bring back a complete report, to go on with the help we have now until that time. Mr. Taylor?

TAYLOR: Just to validate what the committee has done in regard to this help they have at the present time.

PRESIDENT EGAN: That is true. Is there objection? Mr. Walsh?

WALSH: Mr. Chairman now that the Convention is organized I deem it appropriate at this time to bring to the attention of the delegates the great loss that this Convention has felt through the passing of Senator Howard Lyng of Nome who was duly elected from the Ninth District, Second Judicial Division, as a delegate to this Convention. Out of recognition to the service he has rendered this Territory by Senator Lyng I ask at this time unanimous consent that the members, with respect to the memory of Senator Lyng, rise and maintain silence for one minute.

PRESIDENT EGAN: The Convention will rise.

(The Convention stood and maintained silence for one minute.)

PRESIDENT EGAN: The Convention may be seated, and the record will show the manner in which the Convention honored Mr. Lyng. Mr. Walsh?

WALSH: I have prepared a brief resolution covering the passing of Senator Lyng which I would like to send to the desk to be read by the Clerk, after which I will ask unanimous consent for its passing.

PRESIDENT EGAN: The resolution will be brought forward and the Secretary will please read the resolution.

SECRETARY: "WHEREAS the grim hand of death has reached into our midst and suddenly removed from us Senator Howard Lyng, of Nome, duly elected delegate to Alaska Constitutional Convention from the 9th District, Second Judicial Division; and

"WHEREAS Senator Lyng rendered distinguished public

service to Alaska over the years, both in the House of Representatives and Senate of the Alaska Legislature; and

"WHEREAS Senator Lyng was an early and ardent advocate of statehood for Alaska and represented the Territory on one occasion before Congressional committees in Washington, D.C. pleading the cause of statehood; and

"WHEREAS in the passing of Senator Lyng, Alaska has lost one of its leading statesmen and this Convention has been deprived of his counsel, wisdom and experience.

"NOW, THEREFORE, BE IT RESOLVED that the members of Alaska Constitutional Convention in regular meeting assembled at College, Alaska, do hereby extend their profound sympathy to Senator Lyng's sister, Mrs. A. F. Bullard, the only surviving member of his family, whose address is Box #10, Porterville, California, together with a copy of this Resolution, and that this Resolution be made a part of the permanent record of this Convention."

PRESIDENT EGAN: You have heard the resolution. Mr. Walsh?

WALSH: I ask unanimous consent of the adoption of this resolution.

PRESIDENT EGAN: Mr. Walsh asks unanimous consent that the resolution be adopted by the Convention. Hearing no objection the resolution is ordered adopted by the Convention. The Secretary is instructed to have copies made and to particularly see that the sister receives a copy of this resolution. Mr. Sundborg.

SUNDBORG: Now that we are completely organized I would like to renew the motion which was made here earlier, and which died because objection was made to it and that is the motion that the Rules Committee when it convenes shall first take up the matter of committees and shall as soon as it reaches a proposed rule on that subject, report the same to this Convention. I move and ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer?

V. FISCHER: Point of order. Yesterday another motion was made and died because it was made too early and that was for the adoption of the Constitution which probably should precede this motion, and maybe the maker of that motion yesterday could renew it.

PRESIDENT EGAN: Mr. Smith?

SMITH: Mr. President, I was out of order yesterday and I do not believe that we have yet reached the point where that

action is indicated. After going through the handbook completely it would appear to me that the work of the organizing of the committees should come before that action is taken. That should be the first action of the Convention after the committees are set up and before it begins its work. That is the feeling I have at the present time.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: It seems appropriate to me in order to function smoothly and to get all of our Committees out that we should, and also to prepare an order of business, perhaps to get a personnel organization chart approved so we can have our staff including our Chief Clerk, assistant, etc., we should at this time take a recess. I am going to move and ask unanimous consent that we recess for a period of one-half hour for the purpose of these committees to bring in recommendations and at the same time an order of business be prepared. We are going ahead here now without any established order of business. I think it is highly appropriate to the assistance of the Chair for the orderly functioning of this body that we establish an agenda and order of business and I ask unanimous consent for a half-hour recess in order to do that.

PRESIDENT EGAN: Mr. Rivers so moves. Is there a second to the motion?

JOHNSON: I second it.

PRESIDENT EGAN: It's been moved and seconded that the Convention stand at recess for one-half hour. It is not debatable.

WHITE: Point of information?

PRESIDENT EGAN: For a point of information, the Chair will hear you Mr. White.

WHITE: Yesterday, it was moved that the draft of the proposed rules as suggested by the Alaska Statehood Committee and the PAS be mimeographed in order to provide each delegate with a copy. I would like to inquire if those copies are ready?

SECRETARY: They are ready. They are available upstairs if you wish.

PRESIDENT EGAN: If the Secretary would send for them now it would probably be in order that Mr. Harris?

HARRIS: I was wondering if Mr. Sundborg's motion on Committees was accepted without objection.

PRESIDENT EGAN: No, it's not. We have before us the motion to recess for one-half hour so that the Rules Committee

particularly can meet and bring back some sort of report. Mr. Barr.

BARR: Mr. President, although this motion is not debatable I have no way of knowing how to vote without information. I would like to hear the basis of the objection, before I vote.

PRESIDENT EGAN: The basis of the objection? Would there be objection allowing as a point of information for Mr. Sundborg to explain his objection? If there is no objection, Mr. Sundborg you may explain your objection.

SUNDBORG: My objection was only for the purpose of trying again to propose to the Convention that it adopt the motion, that before we take this recess it instruct its Rules Committee on ##'at it should do and that instruction specifically would be that the first thing it take up would be the matter of committees and the rest of the organization, and that as soon as it shall reach a proposal, a decision on a proposal to the Convention on the subject that it come in and make a report to the Convention. I ask unanimous consent.

PRESIDENT EGAN: Mr. Rivers do you object to that?

V. RIVERS: I understood that we already had unanimous consent on that point, is that correct?

PRESIDENT EGAN: That is what the Chair understood, that the Rules Committee was instructed to do.

V. RIVERS: I again ask unanimous consent for a one-half-hour recess.

PRESIDENT EGAN: Is there objection? Hearing none, the Convention is at recess for one-half hour.

(At this time the Convention recessed, 10:45 a.m.)

PRESIDENT EGAN: The Convention will come to order. Does the Chairman of the Rules Committee have a report to make to the Convention?

RILEY: Mr. Chairman, the Rules Committee regrets holding the Rules Committee so long. Perhaps I can spread this out. I think each of you has copies of the suggested rules which were prepared by PAS and the Statehood Committee. Referring to these Rules on Page 5, Chapter 5, as a part of the Committee report I shall suggest that we are not necessarily adopting the numbers in each case of these rules, but we are proposing a sequence because the earlier rules yet to be considered may affect the numbering. I will refer to them by number as shown here, however. Rule 12, as adopted by the Committee and recommended to the body is unchanged. It is adopted as written, "The President shall appoint the members of and shall name the

Chairmen of all Standing Committees unless the Convention shall otherwise order. The President may fill vacancies on Standing Committees in the same manner." What is your pleasure, Mr. Chairman?

PRESIDENT EGAN: Is it the pleasure of the Convention that as each rule is read that a move for adoption to be made in order to open the particular rule for debate or to adopt it? That is your wish then?

RILEY: I shall move and ask unanimous consent that Rule 12 as written be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Rule 12 be adopted. Mr. Hellenthal objects.

HELLENTHAL: I object. I object on the grounds that I feel the rule should be amended so that the members of the committee should pick the chairman of the committee which I think is more in keeping with the spirit of this group.

PRESIDENT EGAN: Mr. Hellenthal, just for a moment, did any one second, did you move?

RILEY: I asked unanimous consent, I so move. MCCUTCHEON: I'll second the motion.

PRESIDENT EGAN: Mr. McCutcheon seconds Mr. Riley's motion. Now the subject is open for discussion. Mr. Coghill.

COGHILL. I so move and ask unanimous consent that Rule 12 be changed to read that the President shall appoint the members of the standing committees and chairmen shall be appointed within the committees.

MCCUTCHEON: I rise to a point of order.

PRESIDENT EGAN: Your point of order Mr. McCutcheon.

MCCUTCHEON: Mr. Riley's motion to adopt has been seconded by myself. Mr. Coghill proposes another motion.

PRESIDENT EGAN: He moved to amend the amendment. MCCUTCHEON: I beg your pardon.

COGHILL: I ask unanimous consent.

PRESIDENT EGAN: Mr. Coghill moved and asked unanimous consent.

DAVIS: I object.

PRESIDENT EGAN: Unanimous consent has been objected to by

Mr. Davis.

COGHILL: I so move.

PRESIDENT EGAN: Is there a second to Mr. Coghill's proposal for the amendment to the amendment?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconded Mr. Coghill's motion on the amendment to the amendment so we now have before us the question of changing Rule 1# to read that the President shall appoint the members of and shall name the chairmen of all the standing committees, that the members of the committees shall name the chairmen of all standing committees. The amendment to the amendment is open for discussion. Mr. Hellenthal?

HELLENTHAL: Mr. Chairman, as I stated in brief, I support this amendment because I feel it is democratic. It leaves the power over the selection of the chairman with the members of the committee who will work with the chairman, and who presumably will wait a few days until they know the qualifications of the members and then finally pick their permanent chairman. I believe that the Rule 12 as proposed by the Rules Committee came from the standard method which is more applicable to a political convention or more applicable to a legislative body such as a house of representatives or senate, but in this body, which is a working body pledged to the one aim of writing the best constitution that we can have, I think it would be more democratic to let the members themselves pick the chairmen of the committees.

PRESIDENT EGAN: Is there further discussion on the amendment to the amendment? Mr. Sundborg?

SUNDBORG: I have no strong feelings on this subject, and I think probably the other members of the Rules Committee do not have strong feelings either. We felt, however, that here we have a group of fourteen committees, and in order to achieve balance between the committees and not have it occur that one member of this Convention for example might be the chairman of three separate committees, which conceivably could occur if we leave the organization to the committees or members thereof. We felt we should give our President, and it says here, "unless the Convention shall otherwise order on any specific matter the right to name the chairmen of the committees."

PRESIDENT EGAN: Is there further discussion on the amendment to the amendment? Or rather on the amendment to the proposed rule? Mr. Metcalf did you have something --

METCALF: Mr. Chairman, speaking from my own point of view, many of these folks I am unacquainted with, and serving on a committee I would not feel qualified to pick the best available

person for the chairmanship, and I would not feel qualified, and therefore feel that the chairman of the convention would be much better qualified to pick the chairmen of the committees.

HURLEY: Mr. President...

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I am speaking for the amendment. I too feel that it is more of a democratic process to elect the chairmen from the committee. I feel that the committees will be small enough so that in the matter of a small time we will become well acquainted with each other and the choice of a chairman will then be unanimous consent of the Committee.

BARR: Mr. President...

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. Metcalf has stated my views pretty well. There are quite a few of us who don't know each other and I am confident that the President does know most of us, and we have chosen a President with confidence that he is able to fill his job and run this Convention properly, and although it is more democratic for the members of each committee to choose their chairman, it is certainly the least efficient and if they wanted to put off choosing a chairman until towards the end of the Convention they would probably be pretty well acquainted with each other by that time. I think each committee should start out with a chairman and if they don't have a chairman to start with, there will be nobody running the show.

PRESIDENT EGAN: Is there further debate?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If not, the question is, "Shall the amendment to Rule 12 of the Proposed Standing Rules be adopted?" All in favor signify by saying "aye," all opposed "no." So the amendment to Rule 12 has failed.

UNIDENTIFIED DELEGATE: question.

PRESIDENT EGAN: Now the question is, "Shall Rule 12 be adopted?" Are there further amendments? Mr. Nolan.

NOLAN: Now does this preclude the possibility of this committee on committees that we were talking about? Does the part there in which the Convention shall take such action as they feel wise still prevail? I would contend that the Convention can still, if they so desire appoint a committee on committees.

PRESIDENT EGAN: That wording would give the Convention jurisdiction over anything they desired in the future. Mr. Davis?

DAVIS: I don't know if this is the proper time for this but we proposed a resolution as a Rules Committee that there be established a committee on committees, if that is what the body wants, to assist and advise the President in the appointment of members of the various committees of the Convention. We still believe that the President should do the appointing.

PRESIDENT EGAN: The Chair feels that that statement was in order and might clarify Mr. Nolan's question. If there is no further debate the question is, "Shall Rule 12 be adopted." All in favor signify by saying "aye", all opposed by saying, no."

So Rule 12 has been adopted by the Convention. Mr. Riley, you may proceed with the reading of Rule 13.

RILEY: Rule 13. The Standing Committee of the Convention and the number of members thereof, respectively shall be as follows:

1. Committee on Rules, nine members
2. Committee on Administration, nine members
3. Committee on Style and Drafting, nine members

In Subdivision 4 is the first change that the Committee has proposed and that change is that the word "resolutions" be stricken so it will read:

4. Committee on Ordinances, and Transitional Measures, nine members
5. Committee on Preamble and Bill of Rights, seven members
6. Committee on Suffrage, Elections, and Apportionment, seven members
7. Committee on Legislative Branch, seven members
8. Committee on Executive Branch, seven members
9. Committee on Judiciary Branch, seven members
10. Committee on Resources, seven members
11. Committee on Finance and Taxation, seven members Committee on Local Government, seven members
13. Committee on Direct Legislation, Amendment and Revision, seven members

and then the Rules Committee had proposed a fourteenth committee to be entitled:

14. Committee on Resolutions and Recommendations, seven members

You have all noted, just from an aside here that the duties of the several committees are spelled out later and we have added coverage for resolutions and recommendations. Now to put the matter on the floor I will ask unanimous consent that Rule 13 be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Rule 13 be adopted.

SMITH: I object.

PRESIDENT EGAN: Objection is heard.

MCCUTCHEON: I will second the motion to adopt.

PRESIDENT EGAN: Mr. McCutcheon seconds Mr. Riley's motion to adopt Rule No. 13. The motion is open for debate. Mr. Smith?

SMITH: I would like to make inquiry -- would the adoption of this rule prevent the establishment of other committees in case the need arises?

PRESIDENT EGAN: Will the Chairman of the Rules Committee perhaps might answer Mr. Smith.

RILEY: No. The Convention may always take such further action.

SMITH: If I just might say, I do have in mind at least three and possibly four more questions which will require committee action, and just as an illustration, I see no provision in here for a public welfare covering education and health, etc. It might be that matter could be referred to some of the committees, but I just wanted a clarification as to whether additional committees could be established.

RILEY: It was the consensus of the committee, Mr. Smith, that those matters you mentioned might properly fall under the Executive Branch for which a committee has been provided.

PRESIDENT EGAN: Is there other debate on the motion to adopt Rule No. 13?

UNIDENTIFIED DELEGATE: question.

PRESIDENT EGAN: If not, the question is, "Shall Rule No. 13 be adopted?" All those in favor of the adoption of Rule No. 13 say "aye," all opposed "no." So Rule No. 13 has been adopted. You may proceed with the reading of Rule 14.

RILEY: Rule No. 14 that was adopted as written in your suggested rules: "Each Delegate except the President shall be appointed to at least one but to no more than three Standing Committees." I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Rule 14 be adopted. Is there objection? Hearing no objection Rule No. 14 is ordered adopted. Proceed with reading No. 15.

RILEY: "The President shall be ex-officio member of all Standing Committees but shall not vote except to break a tie." I

move its adoption and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent has been asked by Mr. Riley for the adoption of Rule 15. Is there objection? Hearing no objection it is so ordered and Rule No. 15 is adopted. Proceed with the reading of Rule 16.

RILEY: "Rule 16. The respective Standing Committees shall have the following duties and functions and in addition shall consider and report upon any other matters referred to them:

1. The Committee on Rules shall consider and report upon such changes in the rules of the Convention and changes in organization"

the word "Convention" on the third line of Sub 1 has been stricken for clarity. I beg your pardon, the word "its" has been stricken. ## notes are not the best. "and changes in organization" is the way it will read.

"..as shall be referred to it. It shall consider and report on appeals from rulings of the Chair which may be referred to it. It shall determine appeals regarding the daily calendar of the Convention in accordance with these rules."

Now that is all one rule in some half dozen sections. Perhaps I should proceed to read the whole --

PRESIDENT EGAN: I believe you should read the whole rule Mr. Riley.

RILEY: 2. The Committee on Administration shall generally oversee the administrative or business affairs of the Convention, including finances, personnel, printing, physical arrangements for the Convention, and related matters.

3. The Committee on Style and Drafting shall examine and edit all proposals for inclusion in the Constitution which are referred to it for the purposes of avoiding inaccuracies, repetitions, inconsistencies, or poor drafting. The Committee shall have the authority to rephrase or to regroup proposed language or sections of the proposed Constitution but shall have no authority to change the sense or purpose of any proposal referred to it. The Committee shall also be empowered without reference back to the Convention to refer proposals submitted to it to other Committees which may have an interest in the proposal. Where a proposal referred to the Committee appears inconsistent or in conflict with a proposal already acted upon favorably by the Convention at second reading, the Committee shall undertake to resolve the inconsistency

or conflict by reference to the Committees concerned."

Now here is new language as proposed by the Rules Committee:

"If the Committee shall fail to resolve any such inconsistency or conflict it shall notify the Convention and await its instructions."

We don't feel that we have changed the sense of the matter, but we do think it has been clarified.

UNIDENTIFIED DELEGATE: Would you read it once more please.

RILEY: "If the Committee shall fail to resolve any such inconsistency or conflict .." and then we strike four words in your text, those four words being "failing to do so" -- "it shall notify the Convention and await its instructions." Subdivision 4, the word "resolutions" is stricken on line 1 to tie back with our earlier recommendation and it reads now: "The Committee on Ordinances, and Transitional Measures shall be responsible .." the next two words on that line, the third line and the first four words on the following line are all stricken. To back track, "shall be responsible for the consideration of ordinances specified by the Act creating the Constitutional Convention and for the consideration of transitional measures which the Convention enacts in anticipation of statehood." The rest of your text is stricken from this subdivision.

UNIDENTIFIED DELEGATE: Would you read that again please.

RILEY: Yes. As it is proposed by the Rules Committee, it reads:

"The Committee on Ordinances and Transitional Measures shall be responsible for the consideration of ordinances specified by the Act creating the Constitutional Convention and for the consideration of transitional measures which the Convention enacts in anticipation of statehood."

Now we have inserted an entirely new subdivision 5, which goes back to Committee No. 14, that on resolutions and recommendations and 5, as proposed just spells out the duties of that committee. It reads, the Committee on Resolutions and Recommendations shall consider resolutions and all other matters not germane to the work of other committees and shall make recommendations for action thereon." The paragraph numbered "5" on your text has been renumbered "5" and changes have been made which read as follows:

"The remaining standing committees shall consider such proposals as are indicated by the titles of the respective committees. Such committees shall draft and submit to the Convention for its consideration sections of the

proposed Constitution pertaining to the business of the Committee."

Mr. Chairman, I move and ask unanimous consent that Rule 16 as read be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Rule No. 1# as read be adopted. Is there objection? Mr. Robertson?

ROBERTSON: I have no objection but a question. Will that abolish the rules provisions for proposals by individual delegates later on in the rules?

RILEY: No, no coverage of any sort as I see it. That was not the intention of the Committee.

PRESIDENT EGAN: If there is no objection, Rule No. 1# is ordered adopted. Proceed with the reading of Rule No. 17.

RILEY: Rule No. 17. "Each Standing Committee shall submit to the Convention a report or reports, in writing, setting forth its recommendations on all matters referred to it. Any member or group of members of a Standing Committee may submit a minority report to the Convention. A petition signed by one fourth of the elected Delegates shall require any Standing Committee to report to the Convention within the number of days specified in the petition." In short, it is the text as it appears with changes on the last line "within the number of days specified in the petition." Mr. President, I move adoption and ask unanimous consent.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of Rule No. 17. Is there objection? Mr. Barr?

BARR: I object. I would like to, just a point of information, know if that would open up a way for somebody who just wants to heckle the committee to require them to report before they have time to report or maybe they think the committee is falling down on the job when they're actually not. I believe they should be given a certain amount of time before they are required to report.

PRESIDENT EGAN: Well Mr. Barr, the Chair feels that you should be allowed a question. Mr. McCutcheon?

MCCUTCHEON: Directing a comment to Delegate Barr through the Chair, I would like to point out that the petition will require fourteen signatures, and I think it would be difficult for anyone to be frivolous about drawing from a committee something that has not been given full consideration. It would be difficult to get fourteen names, I think, on a petition for a frivolous matter.

BARR: I withdraw my objection.

PRESIDENT EGAN: Mr. Barr withdraws his objection. Is there any further objection? If not, Rule No. 17 is ordered adopted by the Convention. Proceed with Rule 18.

RILEY: "No Standing Committee may hold meetings during the sessions of the Convention without permission of the Convention." I move its adoption Mr. President and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of Rule No. 18. Is there objection? Hearing no objection, Rule No. 18 is ordered adopted.

RILEY: Rule 1#. "The deliberations of the Standing Committees shall not be open to the public except upon invitation of the Committee. Each Standing Committee shall notify the Secretary of the time and place of meetings, and the Secretary shall make such notice public." I move its adoption Mr. President and ask unanimous consent.

PRESIDENT EGAN: Mr. Riley, would you read it again.

RILEY: The word "not" was inserted and that was qualified with the addition of the words "except upon invitation of the Committee." It does not propose public meetings but there must be an invitation.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of Rule No. 19 as read. Is there objection?

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard.

BARR: I'll second it.

PRESIDENT EGAN: Mr. Barr seconds Mr. Riley's motion for the adoption of Rule No. 19. The subject is open for debate. Mr. Rivers?

RIVERS: I rise in support of the motion. The committees have a lot of work to do and need freedom to express themselves to arrive at a consensus of their thinking and, accordingly, the committees in all fairness, could hear anybody who requested to be heard, and that is the reason for saying that the time of these committee meetings shall be posted or publicized by the Secretary. Everyone is supposed to know when we are meeting so that anyone can request to be heard, but we don't want to have them open to the public while we try to develop a consensus of our thinking during all of our exploratory work. We think the committees can do better work if the public is there on invitation or if particular persons who want to be heard, do so upon request, and that is the reason for the rule.

HELLENTHAL: Mr. Chairman...

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: This is an unusual rule. I doubt if any other body such as this has such a rule. I know the Congress of the United States does not have such a rule, and I think we would put ourselves open to the well-deserved criticism that we are meeting in secret session, which has an ugly connotation, but which criticism will be leveled at the group unless we adopt a more normal method. I would suggest the method of executive session, that by majority or two-thirds vote of the members of the committee, that the public be excluded to consider stated objects such as, the typical rule would be a matter involving personalities, a matter involving the decorum of the Convention, that is the typical rule. That is the rule of the United States Congress. I think this rule will involve us in great difficulties, and I see absolutely no need for it. Now if the occasion develops that crackpots or someone (I don't think there are many crackpots in Alaska) start plaguing us, then we can take a prophylactic rule such as the one recommended here, but in the absence of that demonstration I think that this rule has no place before our body. I have been through this before with city councils where they elected to meet secretly" is the word the newspapers always use, and I tell you that it does not work, and I see no need for it. If the need arises then let's handle the problem, but not now.

PRESIDENT EGAN: Mr. Sundborg?

SUNDBORG: Many another body --

NOLAN: Point of order, do we have a motion before us? PRESIDENT EGAN: A motion is before us and open for discussion.

SUNDBORG: Many another body and I think practically every deliberative body has a rule such as this. Committee meetings of the United States Congress are not open to the public except upon invitation of the committees. Hearings are but committee meetings, I've been excluded from them many times, in Congress. I might say our legislative committee meetings are not open to the public except upon invitation. I might mention to you that the Federal Constitutional Convention not only did not bar the public from its committee meetings, it barred the public from its plenary sessions and it placed a prohibition upon its members even reporting outside of the halls of the Constitutional Convention, and what had gone on, therein and they came out with a pretty good result. I feel we do have to have the freedom which we would have in committee only if we can speak without having a lot of people sitting around breathing down our necks. If a matt or comes before a committee which would require the presence of the public, or

where the presence of the public would help the committee reach a solution, I am sure any committee would be glad to invite the public in, or if any member of the public ever makes a reasonable request to be admitted I am sure that almost every committee would admit the public, but I just don't think that business can be conducted efficiently if the public is walking in and out wandering around through these committee rooms all the time we are trying to do serious business.

V. FISCHER: Mr. President...

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. Chairman, this Convention is being held in behalf of all of the people of Alaska. We hope that sometime or another many Alaskans will have an opportunity to come to College and listen in on some of these sessions. If they come here they may very well find that most of the time will be spent in committee sessions. If the standing rule is that the public is not admitted, these people may have to sit out in the lounge some place or being having coffee in the cafeteria. I think it is our responsibility to the public to give them an opportunity to watch this Convention at work. The provision in the rule should not be negative. It should be an open committee deliberation with provisions for executive sessions, and since Mr. Hellenthal did not make a motion, I move

PRESIDENT EGAN: There is a motion on the floor.

V. FISCHER I would like to move an amendment to Rule No. 19, in the second line, after the word "public", eliminate the period, substitute a comma, and insert the words "unless the Committee by two-thirds vote of all the members to which it is entitled votes to hold an executive session." And also in the first line remove the word "not."

PRESIDENT EGAN: Mr. Fischer then offers an amendment to Rule No. 19 removing the word "not" in the first line, inserting a comma after the word "public" in the second line and inserting "unless the Committee by two-thirds vote of all the members to which it is entitled votes to hold an executive session."

WHITE: I second it.

PRESIDENT EGAN: It has been moved and seconded that Mr. Fischer's amendment be adopted. Mrs. Hermann?

HERMANN: I think that probably the Convention should remember that no business conducted in the committee itself is even final. What we shall be doing in these committees is threshing out minor details, maybe some major ones too, but the point of the matter is that we have no power to translate that into action until it is brought before the Convention as a whole.

If the public meetings are open to the Convention, which they certainly will be at all times, any discussion on any matter pertinent to the Constitution will be open to the public. It is just a matter of operating a little more efficiently and not burdening the public ear with some of the trivia that often comes up in committee meetings that impelled us to put this in. I am sure that any committee would at any time have a public hearing on any issue that the public was interested enough in to ask for or which we felt they should be interested enough in to ask for. But we have got small committee rooms up there. They are just about big enough for the committees themselves, and when I got in one they're a little crowded. It is just the matter of efficiency and getting the lesser important details ironed out before presenting it here to the Convention. We cannot adopt any section of any important action without Convention approval, and that is the time when the public should come in and hear the arguments. I hope the amendment will fail and that we will have the rule adopted as the committee has written it because we have carefully considered this from all the angles, and I believe it is a good rule as written and recommended by the Rules Committee.

PRESIDENT EGAN: Would the Clerk read back the amendment as it appears in the record? Mr. McLaughlin?

MCLAUGHLIN: I rise about a parliamentary inquiry about the privileges of the whole body. Aren't we somewhat obligated to our host, the University of Alaska? Don't we have a definite meal hour that we're required to be there?

PRESIDENT EGAN: Mr. McLaughlin, that matter was brought to the attention of the President of the Convention some time this morning by some of the members present. It was suggested that we possibly recess at 12:30 instead of 1 o'clock, in order to give them a break over at the cafeteria during their big rush period. If that is the wish of the Convention why it would be the proper time to do so now and get over there and eat but I would like to have the Clerk read the proposed amendment as it appears in the record right now, if it is in order.

CHIEF CLERK: I don't think Mr. Fischer took into consideration the fact that the wording was changed by the Rules Committee and it was added that and unless he asks to have that stricken it is going to be real complicated. If it's not, can we strike the rest?

PRESIDENT EGAN: Perhaps the answer would be to wait until after the recess --

CHIEF CLERK: "except upon invitation of the Committee" goes in there after public" unless you --

V. FISCHER: Mr. President, may I submit --

PRESIDENT EGAN: Excuse me Mr. Fischer. Mr. Taylor has been attempting to get the floor here. Mr. Taylor you are recognized.

TAYLOR: I was going to speak upon the amendment to Mr. Fischer and is more to reiterate the matters that Mrs. Hermann brought forth. Now in my experience in the Legislature, quite a number of sessions since 1933, I have been on many committees, I have been chairman of a great many committees. I think it would not be for the best interest of the committees doing efficient work to allow the public to indiscriminately come into these little committee rooms, take up your time, distract your thoughts from matters of great importance. In the Legislature I never knew of any committee that ever refused to hear somebody; when they told us that they wanted to talk to us about we let them come in and have their say and we were glad to because many times we got worthwhile ideas which we maybe would incorporate in a bill. But just to let them come in to see what we are doing in a committee, it would be crowded, and I feel that it would defeat the purpose of what we are there for and when we are in committee and are studying and discussing these matters to try to bring onto this floor a concrete matter which then the entire public will always be welcome to be here, has a right to be here.

BARR: Mr. President...

PRESIDENT EGAN: Mr. Barr.

BARR: In working in committee, a committee which is drafting a law or some provision of the Constitution for the future, many times a past event is related, perhaps to illustrate a point, a past event which might possibly hurt someone of the public. Also, if the committee room is filled with lobbyists, the committee members may be subject to pressure from lobbyists. They may be considering a measure which they may have to consider for a series of days. Between meetings, of course, they are open to this pressure from lobbyists and I do not think that it is to the best interest of the people of Alaska to open these committee meetings to the public. Now I have been a member of a great many legislative committees and have never been on one that was open to the public, although many people have been invited in to testify or to observe and there is no intention of anyone, so far as I know, to have a secret meeting. It is only for the purpose of better efficiency and to the best interest of the public that the public is excluded.

PRESIDENT EGAN: Mr. McNealy?

MCNEALY: I move the previous question.

UNIDENTIFIED DELEGATE: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the previous question be ordered, but the Chair would like to announce that at the present moment the wording is not exactly in order, and the Chair would wonder Mr. McNealy if it might be in order, thinking of Mr. McLaughlin's request that we do have some obligation to use the facilities there.

MCNEALY: I withdraw the motion to move for the previous question.

PRESIDENT EGAN: Mr. McLaughlin?

MCLAUGHLIN: I move for a recess until 1:30 this afternoon. I ask unanimous consent.

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent --

UNIDENTIFIED DELEGATE: I object. I don't think three-quarters of an hour is long enough.

TAYLOR: I would like permission to bring up a special order of business. It is a motion having to do with the Convention. I move that the Secretary be authorized, subject to the approval of the Committee on Rules, to arrange for the tape recording of all plenary sessions of the Convention.

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Secretary have the authority to arrange for the tape recording of the Convention.

SUNDBORG: That is a pretty big subject which I don't think we should get into before lunch.

PRESIDENT EGAN: If there is no objection, the Chair will ask that that be held over until after the luncheon recess, as a special order of business. If there is no objection the Convention is recessed until 1:45 p.m. The Convention is at recess.

AFTER RECESS (1:45 p.m.)

PRESIDENT EGAN: The Convention will come to order. We have before us at this time a special order of business. The Chair would ask unanimous consent that we pass the special order of business until we have the completed action on Rule No. 19. Hearing no objection it is so ordered. We have before us Mr. Fischer's proposed amendment to Rule No. 19. Mr. Fischer? Mr. Riley?

RILEY: Mr. Chairman, the noon recess enabled us to discuss

this matter informally, and with the consent of my second I would like to withdraw the committee's motion for adoption of Rule 19 as voiced by the committee.

BARR: His second consents.

PRESIDENT EGAN: Mr. Riley, with the consent of his second, asks unanimous consent to withdraw his motion asking for the adoption of Rule No. 19. Is there objection? Hearing no objection, it is so ordered. Mr. Fischer?

V. FISCHER: That automatically removes the amendment previously offered by me, does it not?

PRESIDENT EGAN: That would, in effect, remove the amendment offered by you, Mr. Fischer.

V. FISCHER: Mr. President, I move that Rule 1# be amended to read as follows:

"The deliberations of the Standing Committees shall be open to the public at such times as may be designated by the respective committees. If a committee finds it to be in the public interest, upon application any citizen may attend committee sessions. Each Standing Committee shall notify the Secretary of time and place of meetings and the Secretary shall make such notice public."

I move for the adoption of this amendment. UNIDENTIFIED DELEGAT#: I second the motion.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that his amendment be adopted. Is there objection? Mr. Davis?

DAVIS: Mr. Chairman, that is not an amendment, that is the rule. It was moved that the rule be adopted.

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

DAVIS: Mr. Chairman, that is not an amendment; that is a rule.

PRESIDENT EGAN: The Chair stands corrected, that the rule as offered by Mr. Fischer be adopted. Will the Clerk read the proposed rule again as offered by Mr. Fischer.

(The Chief Clerk read the proposed rule.) PRESIDENT EGAN: Is there objection? Mr. Kilcher. KILCHER: Point of clarification -- that is, we assume that

the committees normally will be closed, that they only will be open on request?

V. FISCHER: Mr. Chairman, this language of the rule is that the committees be free to act as they feel will promote the work of their particular committee. In some cases they may feel that the committee sessions should be closed, but we certainly hope that in most cases unless they are just trying to work out ideas and talking very informally that the meetings will be open, but even if there is a closed meeting, under the second sentence, upon application the committee could still open their sessions up to specific individuals who may be from out of town, or a guest.

KILCHER: I agree with the spirit of the thing, but I don't think the wording is explanatory enough.

PRESIDENT EGAN: Do you offer an objection, Mr. Kilcher? Unanimous consent has been asked that the rule that is proposed by Mr. Fischer be adopted. Is there any objection?

KILCHER: No.

PRESIDENT EGAN: Hearing no objection Rule No. 19, as proposed by Mr. Fischer is ordered adopted. Mr. Riley, would you proceed with the reading of Rule No. 20.

RILEY: Mr. President, that concludes that portion of the committee report. We were given a limited assignment this morning, and we will proceed after adjournment today with consideration of other rules to offer. I might add, however, that the committee this morning authorized me to introduce a resolution which will correspond with the rules we have adopted and clarify one situation which concerns the Committee on Permanent help and that resolution is that, "RESOLVE#, the Committee on Permanent help be discharged after completion of its initial duties and that thereafter permanent help be the function of the Committee on Administration." To explain that in part, you will see on Page # of the draft that the Committee on Administration, among its other duties, is charged with that of personnel. I offer that resolution and ask unanimous consent that it be adopted.

PRESIDENT EGAN: That is that the committee that is at present known as the Committee on Permanent Help, be relieved under that title immediately following their report being presented to the Convention, and then a new committee be appointed to be known as a Committee on Administration. Do you all understand the resolution? Do you ask unanimous consent that the resolution be adopted? Hearing no objection, the resolution is ordered adopted. At this time we have the special order of business before us that was in the form of a motion by Mr. Taylor. Mr. Taylor is not here at the present time.

Perhaps it would be better to pass it again until Mr. Taylor arrives. It has to do with the authorization to the Secretary allowing him to arrange for permanently taping the proceedings of the Convention. Is it the wish of the Convention that we pass or discuss that matter at this time? Mr. Coghill.

COGHILL: In view of the fact that Mr. Taylor is absent, I would request the Chair to revert to the business of Committee Reports. I shall give the report on our first meeting of our Committee on Permanent Help.

PRESIDENT EGAN: Hearing no objection you may proceed with the report of the Committee on Permanent Help.

COGHILL: Mr. Chairman, your Committee met and organized by electing myself as Chairman of the Committee, and I in turn appointed Mrs. Fischer to act as Secretary for the Committee. Our first order of business was a resolution passed by the Committee as such. It was moved that, "No relations of Delegates shall be hired as Convention help, either clerical or administrative." This is a recommendation set by the Committee on Permanent Help to the Convention. It was also felt by the Committee that a nucleus of the more important members of the administrative staff be set up at this time with a chief clerk assigned, a sergeant at arms, a doorkeeper and a messenger. We were without the Rules Committee at the time and were shooting in the dark, so we in turn recommended to the Convention that Mrs. Alexander be appointed as Chief Clerk of the Convention, the salary to be determined later. It was decided that we will meet with Mr. Jack McKay and Tom Stewart for a salary schedule and positions to be filled as recommended by the Statehood Committee and the Rules Committee of this Convention with the salary scale coming from a survey of local wage schedules. The Committee shall meet later on in the day at the pleasure of the Chair. That is my report.

PRESIDENT EGAN: You have heard the report of the Committee on Permanent Help. What is your pleasure? Mr. Johnson?

JOHNSON: Mr. President, I move the adoption of the report and ask unanimous consent.

PRESIDENT EGAN: Mr. Rivers?

V. RIVERS: Question, Mr. President. We've heard a rule read there which would not allow the hiring by this body of any relatives. The question is, how would it effect the Secretary who is the son of one of the delegates whom we elected yesterday. It seems to me that the rule has a broad implication there, so the question comes to mind that we have a Secretary that is the son of one of the delegates. I think that --

PRESIDENT EGAN: Mr. Rivers, if you have no objection and the

Convention has no objection, the Chair will order a recess for two minutes. The Convention is at recess.

AFTER RECESS

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

COGHILL: With the consent of the other members of our Permanent Help Committee the word "hereafter" has been inserted in the resolution to read as follows: It was moved that no wives or relatives of delegates shall be hereafter hired as Convention help, either clerical or administrative."

JOHNSON: Mr. President, I accept the amendment and still ask unanimous consent.

PRESIDENT EGAN: Did you offer that as an amendment Mr. Coghill?

MCLAUGHLIN: Mr. President, may I inquire?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Merely for the information, has any other, since the word "hereafter" has applied, have any other relatives been hired?

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: The Convention will come to order. The record will show that Mr. Coghill has offered the amendment to his resolution and that Mr. Johnson accepted the amendment. The question before you is Mr. Johnson's unanimous consent request that the resolution as amended be adopted by the Convention, or rather the report be adopted by the Convention. Is there objection? Hearing no objection

V. RIVERS: I object.

PRESIDENT EGAN: Objection is heard. Is there a motion?

JOHNSON: I move.

PRESIDENT EGAN: Mr. Johnson moves for the adoption of the report. Mr. Hellenenthal?

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Mr. Hellenenthal seconds the motion to adopt the report of the Committee. The motion is open for discussion. Mr. Rivers.

V. RIVERS: I'll explain my objection Mr. President. This is

a motion which would adopt a rule for this body. As long as I've lived in the Territory at different levels, you are automatically creating a prohibition which might bar competent people from seeking employment with this group by the very reason of the fact that they are blood relation. This is the old anti-nepotism clause that has been argued in the Territory for 40 years that I know of and I feel that if we are going to start adopting prohibitions now that it would be a very poor thing to start. It doesn't seem to me logical that we should do otherwise but to base the employment of help upon their qualifications and ability. That should be the only measure, their qualifications, ability and honesty. I have every confidence that our Committee that is going to handle the personnel and the help can take care of that without setting up a prohibitory rule by this body and so for that reason I objected to the unanimous consent and object to the measure for passage.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. Chairman, I would like to agree with Mr. Rivers in major part. I think that the term "relatives" is awfully broad and has no definition at all, and possibly it might be limited to wives and husbands. I do not know if the Committee would agree to that, but the thing is that there may be qualified relations of some of these people here. Some of the local residents might be distant relatives who might qualify for particular positions which would in no way be injurious to the success of the Convention. I do not want to make a motion to amend. I would just suggest to the Committee that they might possibly consider amending their rule.

COGHILL: Mr. President...

PRESIDENT EGAN: Mr. Coghill, did you hear the suggestion?

COGHILL: I believe that this resolution was brought up in the Committee to allow assurance to the general public that there would not be any closed corporation in the permanent help of the Constitutional Convention and that preference would be shown to outsiders of the Convention and not solely to the wives or relations of the delegates here at the Convention. It was a precedent set up by the Committee only to be brought upon the floor as such, in that meeting.

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

R. RIVERS: The motion was to approve this report. In the report we said that we recommend to the body that we don't hire wives and relatives. Well, that isn't binding on us, I don't think. Accepting the report doesn't bind the Convention to the substance thereof. That is not a resolution, adopting such a fixed policy. We are just a temporary committee. We made a recommendation in connection with the report. You accept the report, you adopt the --

V. RIVERS: The motion was for the adoption of the report.

R. RIVERS: Was it for adoption?

PRESIDENT EGAN: The motion was for the adoption of the report, Mr. Rivers. The Committee was the Permanent Help Committee and the permanent committee of this Convention, so the motion is to adopt the report of the Committee on Permanent Help.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the report be adopted?" All those in favor of the adoption of the report say "aye". All opposed say "no". The "ayes" have it and the report is ordered adopted. Mr. Coghill.

COGHILL: Do you wish this Committee to continue in its work?

PRESIDENT EGAN: Mr. Coghill, the recommendation of the Committee on Rules, which was adopted, recommended that the Committee on Permanent Help be abolished immediately after submission of your present report and that a new Committee on Administration be appointed to take its place. Of course, that would have to come before the Convention. Someone would have to make such a motion to actually abolish your Committee. Then it would be probably in the providence of the Chair to appoint a new Committee on Administration. Mr. Davis.

DAVIS: The recommendation was at the time they completed their work on which they were engaged and they haven't completed their work yet. They've only made an interim report.

PRESIDENT EGAN: Mr. Coghill, is your report completed?

COGHILL: No it isn't Mr. President.

PRESIDENT EGAN: Well then, you are still a committee. Mr. McCutcheon.

MCCUTCHEON: I move and ask unanimous consent that the Chair be directed to appoint a Committee on Committees for the purpose of aiding him in selecting the names for the various committees.

PRESIDENT EGAN: Mr. McCutcheon moves and asks unanimous consent that the Chair appoint a Committee on Committees for the purpose of aiding him, is that solely in an advisory capacity, Mr. McCutcheon? For the purpose of expediting the selection of the membership of the committees, the Chair reserving at all times the right to make any changes the Chair might desire. That's my understanding of your motion. Is there

objection to the request? That the Chair appoint an advisory Committee on Committees to aid him in selecting the membership of the committees. Hearing no objection, then later today the Chair will announce the advisory Committee on Committees to aid him in selecting the membership of the committees. We still have Mr. Taylor's motion before us, which was carried over as a special order of business, not acted upon because Mr. Taylor has not arrived yet. Mrs. Hermann?

HERMANN: The motion that Mr. Taylor has made has to do with business that was transacted at a meeting of the Statehood Committee last week, the executive committee of the Statehood Committee, at which Mr. Taylor and I and Mr. Atwood only were present, and if there is any explanation needed in connection with this motion, I don't think Mr. Atwood is still here, but I can give it to you I am sure. Mr. Taylor informed me that he had a motion calendar to that he had to attend this afternoon in the Court, and I think he may be delayed for some time. He knew that was set up for a specific time and he discussed it before he left.

PRESIDENT EGAN: What is the wish of the Convention? Shall we pass over it again or consider it at this time? Do you feel it important that it be acted upon as quickly as possible Mrs. Hermann?

HERMANN: Mr. President, it must be acted upon today. HELLENTHAL: Mr. President...

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I move that this group, other than committees in which case the committees if appointed shall have discretion, that this group observe tomorrow Veteran's Day, which is a national and territorial holiday.

PRESIDENT EGAN: You move that the Convention stand, when it does adjourn today, agree to adjourn, stand adjourned until Saturday then Mr. Hellenthal?

HELLENTHAL: That would be agreeable.

PRESIDENT EGAN: Because tomorrow being Veteran's Day, a national holiday. Is there a second to that motion? Mr. Rivers.

R. RIVERS: Did Mr. Hellenthal ask unanimous consent or not? May I remark that when this Committee on Committees is announced to advise with the President on the filling out of the entire list of committees that is about a 2#-hour job, and tomorrow could well be observed as a holiday for the members in general, but it proves to be a pretty hard working

day for the President and the Committee on Committees. In New Jersey they adjourned for 24 hours while the President consulted and processed the creation or the filling of positions on the committees. By Saturday morning perhaps a complete slate of committees could be announced and we could go ahead and be organized. Tomorrow would not be wasted, even if we acted in that manner. I also think we should have a 10-minute recess sometime this afternoon for the members to write down and place on the Secretary's desk his preference for committee appointments. Now I observed the request the other day that we do that, but half of us haven't done it because there was nothing too definite about it and at that time we didn't even know what the duties of the committees were going to be. Now we all know, so that if we could all do that Mr. President, during a particular recess for that purpose we'd probably all attend to it and then you and the Committee on Committees could have a hard working day tomorrow.

PRESIDENT EGAN: Mr. Rivers, the Chair agrees with you. It believes that perhaps while many of the delegates have already turned in their list of preferences, they would do so again and give them to the Secretary now that we've gone through the rules and come to a general understanding of just what this committee functions are going to be. Perhaps it would be better if there might be those delegates who would like to change some of their preferences. Mr. Rivers?

V. RIVERS: Mr. President, I will second the motion of Mr. Hellenthal and ask unanimous consent that we observe tomorrow as Veteran's Day.

PRESIDENT EGAN: Unanimous consent has been asked that the Convention observe Veteran's Day and that when the Convention adjourns tonight that it adjourn until Saturday. Is there objection? Hearing no objection it is so ordered. Mr. Hellenthal.

HELLENTHAL: I believe Mr. Coghill may have neglected to mention that if any members have applications for clerical or administrative work in their pockets that they should turn them in to Mr. Coghill.

PRESIDENT EGAN: If anyone has applications for clerical or administrative work turn them into Mr. Coghill, Chairman of the Permanent Help Committee. Is there anything else to come before the Convention at this time? Mr. Rivers?

V. RIVERS: I think we should refer back to the motion of the special order of business by Mr. Taylor. I ask unanimous consent that we do so. As a member of the Statehood Committee I've gone into that with the other members of the Committee and we should, I believe, discuss it. Unless there is something more pressing that the other members want, I would

like to refer back to that order of business.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that we refer back to Mr. Taylor's motion which has to do with having the proceedings of the Convention taped. Hearing no objection we are now back on Mr. Taylor's motion. Mr. Victor Rivers.

V. RIVERS: This is not in the form of debate, it is merely suggestions and I think suggestions are in order without a motion on the floor, so I will proceed. As a member of the Statehood Committee, we investigated the matter of sound scribing certain parts of the proceedings of this Convention. I might say that it's not new. The precedents established in other bodies, it was particularly established in the instance of this kind in New Jersey convention. They kept the verbatim notes by the secretary and they sound scribed certain portions, the major portions of formal debate portions of the proceedings. In line with that thinking the Statehood Committee discussed the matter and we talked it over with various technically competent people in that field, and we came up with a proposal that certain portions of the proceedings be sound scribed in addition to the Secretary's notes. I don't know whether this is an appropriate time to discuss cost. The cost did not seem to be on the basis proposed, prohibitive but very much in line and it is my suggestion, it is my thought and the thought of the members of the Statehood Committee that this Convention should make a decision that certain formal parts of the proceedings of this body as a whole be sound scribed, and that was the motion which Mr. Taylor put today, and it was that we would place the handling of the arrangements for those subscribing in the hands of the Secretary and the President as I recall it. Is that correct?

PRESIDENT EGAN: That is the way I remember it.

V. RIVERS: I'll make a motion and ask unanimous consent that we adopt the motion authorizing the Secretary and the President to do that at this time.

PRESIDENT EGAN: Mr. Rivers, the motion as Mr. Taylor read it did not include that being in there, -- the President being in there -- however, in the discussion I#here you mentioned it as you --

RILEY: will you read the motion?

CHIEF CLERK: "I move that the Secretary be authorized, subject to the approval of the Committee on Rules, to arrange for the tape recording of all sessions of the Convention."

RILEY: The Committee on Rules rather than the President?

PRESIDENT EGAN: That's right.

V. RIVERS: I ask unanimous consent that the motion be adopted.

SUNDBORG: I second the motion.

PRESIDENT EGAN: It's been moved and seconded that the motion be adopted. Mr. Sundborg?

SUNDBORG: I think we should know quite a bit more about just how much more it's going to cost before we decide that we are going to do it. I talked a little bit this morning with Mr. Stewart, our Secretary, and it did not seem to me that it was a very minor charge at all. It seemed to me that it was quite substantial and I'm not convinced that it is worth what it is going to cost. Maybe we could have Mr. Stewart come before us and give us the figures on it, then we'd know what we were voting about.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: It seems to me the resolution as read is a little different from Mr. Rivers's. He said the major or more important parts as I understand it whereas the resolution would mean all proceedings. It would be quite a difference there.

V. RIVERS: The explanation I will give on that is that the resolution allows broad latitude in the hands of the Rules Committee to decide the amount they would spend and the amount they would want transcribed. It wasn't the intention to limit them but to allow their judgment some free exercise. As I understand the motion, that is what it would do.

MRS. HERMANN: Mr. Chairman?

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: At the time we discussed this matter in the Executive Committee of the Statehood Committee, we had a technical advisor from one of the radio stations there to give us a general estimate of the cost. He isn't able to give us complete until he saw what he had to do in the way of printing it but the idea was that all the proceedings of the Convention as a whole would be tape recorded as a permanent record for its historic value in the future and that it would be preserved for all time to come in that manner. Now the Statehood Committee was considerably impressed with the fact that it was not a costly venture and that it was of vast historical significance and importance. Therefore, we accepted a contingent liability for the transcribing of the proceedings for today and yesterday. The first day over at the gymnasium, the opening session, its a station contribution. They did not charge for that. It was a public service program that they meant to put on anyway and there was no charge for it. And in order to give this Convention time to effect a permanent

organization and decide for itself if it wanted to keep the permanent record available, we underwrote it for the first two days after the first day ourselves. Now our liability to the station ends today. If you want a permanent record continued you will have to take action today in order to be sure that you have the mechanical staff and others here to handle the recording on your next business day. Portions of the time that were to be covered were the sessions of the entire Convention and not of the committees in their separate sessions. And it was to be recorded exactly as it happened with all of our grammatical errors and wisecracks, which probably ought to be eliminated because of the seriousness of the situation, and we personally felt it was of vast importance that the Territory and perhaps historians of all times should have available for them this particular record. Now I have not talked to the station since we discussed the matter with them, but Mr. Taylor told me that the total cost would be \$8,000, and that certainly is terrifically light in view of the importance of the job that we would like to have them do. We will pay for the first two days if the Convention thinks we should, we will pay for them. We have obligated ourselves to that amount, but actually it is a Convention expense the whole thing is a Convention expense that should be borne, and for the sake of future students of history I hope that this Convention will decide to continue with the sound scribing until the end of the Convention, so far as the full plenary sessions are concerned.

WHITE: Mr. President.

PRESIDENT EGAN: Mr. White is trying to get the floor here.

WHITE: I can barely hear you but I rose to the same point of inquiry as Mr. Sundborg merely to say that I am entirely in sympathy with the desire to preserve this Convention for frozen posterity but I am not prepared to vote on anything without knowing the cost of it. Are my figures correct then that if the Convention ran for 75 days the cost would be approximately \$160 a day?

HERMANN: I have the figures only from Mr. Taylor. I have not talked to the station itself. That is what he told me.

MCCUTCHEON: Mr. Chairman, I might offer one other bit of information, that it is estimated that the recording charge is \$29.00 per hour.

SUNDBORG: And that I understand would be on top of an initial \$2500 flat charge for the installation. There would be a \$2500 charge, then \$29 an hour and that may be perfectly reasonable. It sounds like an awful lot of money to me and maybe the Committee has looked into it sufficiently that they know that is the cheapest and best way to transcribe these proceedings. I am not sure that they have, therefore I would not want to

vote in favor of this until I have quite a bit more information about it.

PRESIDENT EGAN: Is there further discussion? Mr. Victor Rivers.

V. RIVERS: I wanted to add one point that the sound scribing of the activities of the New Jersey Convention were used as a partial basis for the compiling of their journal. The journal covered a period of some ninety days and filled a thousand pages, to say nothing of the resolutions and extraneous matters. I feel that this will be of inestimable help in transcribing the journal and also for historical purposes. I feel it will be of help in the courts in determining if they seek intent behind the various clauses of the Constitution when they interpret it. I feel that the cost, again I point out, I feel that the cost as indicated to us was reasonable. I also want to point out that while it was intended to transcribe the plenary sessions, any of the sessions such as the Committee of the whole or any informal or special sessions not dealing with Constitutional business, it was not, I understood, the intent to transcribe that.

BUCKALEW: Mr. Chairman.

PRESIDENT EGAN: Mr. Buckalew?

BUCKALEW: Maybe I'm lost here but we apparently have a court reporter taking everything down. I don't understand then the necessity of the sound scribing. It seems like that would be sufficient. I've talked about \$5 worth and I'll sit down.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to know who would be the keeper or where the records will be kept providing the sound scribing is okayed.

PRESIDENT EGAN: Would that be the Territorial Museum? Mrs. Hermann?

HERMANN: At the time we discussed it, we felt it would be able to be kept in the museum or historical library, either in the University or in Juneau. They will be certainly in the public custody and not in private custody, and the point raised by Mr. Buckalew about the stenotypist's records is that we took that into consideration too, but we felt that perhaps it should be supplemented for checking purposes if anybody ever wanted to do it. We would have a record and she would have a record, and it would be possible to play that back at any time anybody wanted the information, and it was well worth the price that it was going to cost. I hope the Convention will agree to the sound scribing.

PRESIDENT EGAN: Does anyone else wish to discuss the subject. Mr. Marston?

MARSTON: Mr. President, I think it is very fine to have equipment here and men that can do this job and they are here and that is the modern way today to make a voice recording of your dealings and this is a modern Convention and probably the last one to be held. I can see in the foreseeable future no more constitutional conventions and I think maybe it should be done. I vote for this recording.

MCCUTCHEON: Mr. President...

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I would ask unanimous consent that the Chair be directed to have Mr. Stewart present himself and advise us of the information he discovered in Hawaii when he was down there visiting to get the information about the Constitutional Convention in the Hawaiian area.

PRESIDENT EGAN: Mr. McCutcheon, the Chair might inform you that Mr. Stewart asked leave to go to the plane to meet the wife of one of the advisors or research men who had been taken ill and his wife is coming in on the plane and he went out to meet her.

MCCUTCHEON: In lieu of your remarks, Mr. President, I withdraw my request.

R. RIVERS: Mr. President, I think it might clarify it if the resolution as submitted by Mr. Taylor were made more specific. Might I see it. (Now has in hand. This says "approval of the Committee on Rules to arrange for the tape recording of all sessions of the Convention." We could stick the words "plenary sessions" in front of the word "sessions". We would know then that only those hours when we were in plenary session would the tape recording expense go on. I move an amendment to the motion now before us by inserting the word "plenary" in front of the word "sessions".

PRESIDENT EGAN: Mr. Rivers offers an amendment to the motion to insert the word "plenary" before the word "sessions".

R. RIVERS: And I ask unanimous consent.

JOHNSON: Mr. President.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am not objecting. I simply rise to a point of information, would the word "plenary" include sessions of the body when sitting as a committee of the whole?

R. RIVERS: No.

PRESIDENT EGAN: Unanimous consent has been asked. Is there objection? Hearing no objection the motion has been amended to include the word "plenary". Mr. McNealy.

MCNEALY: I am inclined to agree with the statement made by Mr. Buckalew about having a reporter present. And in view of the fact that what I say may be recorded and in public hands for posterity, and in view of the fact that I gained no small number of votes to be elected as a delegate on grounds of getting the Convention over if possible in thirty days and in any event, an attempt to save the taxpayers money, I therefore am opposed to that and the record will so show for posterity.

V. RIVERS: Mr. Chairman, point of order.

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

V. RIVERS: It has been on my mind for a little while. We have two situations in this Convention. My brother and I, Ralph, both happen to bear the same name and these minutes are going to show a number of "Mr. Rivers's". Some of the things he says I might not entirely agree with and some of the things I say he might not subscribe to. So I wonder how the minutes would be kept in regard to the name, "Mr. Rivers". I also see the same situation at times arising in the case of Mr. B. D. Stewart and Mr. Tom Stewart. We also have the case of Mrs. Helen Fischer and Mr. Victor Fischer so as a point of order it seems to me that where we have duplication of names that we would necessarily with this transcribing method without the sound scribing. where you could identify the voices, it would seem to me very important that we have the prefix of the given name before each of the surnames every time that we are recognized by the Chair. The sound scribing. I think would help partially in clarifying it because there would be a voice distinction.

PRESIDENT EGAN: Mr. Rivers your point of order is well taken and the Chair shall remember that in the future. The Chair stands corrected. Mr. Hilscher?

HILSCHER: Mr. President, I think we have overlooked one basic part of our job in coming here to the University of Alaska to prepare this Constitution. According to law, one of our jobs is to secure ratification of this document if at all possible. Modern selling today is by ear and by eye and also by the written word. We are going to have to use all of them here in Alaska, and this certainly is a modern way of selling and imparting information. The press is fine, the radio is fine, by itself, every other medium is fine, but we have to get this across, and this will be the modern way of doing it, and we

might just as well comply with the law.

METCALF: Mr. President...

PRESIDENT EGAN: Mr. Metcalf.

METCALF: The price worries me somewhat. I wonder if we could hear from Mr. Stewart as to what this is going to cost for the plenary sessions.

HINCKEL: I would like the information as to whether or not a permanent recording could be made. I have known of recordings of various things having been made in the past and then inadvertently the recording would be erased from the tape while being in use. If this can be a permanent recording I would be in favor of it. If there is any chance of it being erased while being in use I would not be in favor of it.

PRESIDENT EGAN: Mr. Stewart can probably answer that. Mr. Stewart, we have had a discussion here on a motion by Mr. Taylor to authorize the Secretary, with the approval of the Rules Committee, to arrange for the tape recording of all plenary sessions of the Convention. (Secretary Stewart is now on the Convention floor.) The question of cost has arisen, other questions have arisen and the Convention is wondering if you could enlighten the members, give them a thorough enlightenment as to the purpose of the request.

SECRETARY: May I take the floor to do that?

PRESIDENT EGAN: If you would. If there is no objection, you may do so Mr. Stewart.

SECRETARY: I don't know whether Mr. Taylor has reported that the Statehood Committee investigated this matter and authorized me, as its executive officer, to meet with representatives of the radio station KFAR here which was making the recording for the first three days and to ask them to submit a statement as to what the arrangements would be and what the cost would be and they did that and I have a statement here signed by Mr. Vincent Carroza, Manager of KFAR Broadcasting System. If I may, I'll just read the letter.

PRESIDENT EGAN: You may proceed.

SECRETARY: "Dear Sir: This is in reply to the request of the Alaska Statehood Committee for an estimate of expenses from KFAR radio for the tape recording of the Plenary Sessions of the Alaska Constitutional Convention. This estimate, which was requested in two parts (installation charge and hourly rate), is hereby submitted:

1. Basic installation of Midnight Sun Broadcasting

Company equipment and use thereof for the length of the Alaska Constitutional Convention \$2,500.

2. Charge for each hour of recording the Plenary Sessions. This fee includes engineering labor, maintenance of equipment, cans for tape storage, recording tape, and labeling of tapes, storage, and transportation -- \$29.20."

Someone raised the question about the recording in Hawaii. In Hawaii they did record their full plenary sessions. They have since transcribed that tape which is still in existence there. I have in my files a full statement on the cost of their recording and the way it was handled. If you wish a further report on it, I don't recall in detail from memory what it was, but this figure, if you want it transposed into total cost, assume that you had an hour a day on the average or even as much as two hours a day on any plenary session, you could arrive quickly at what it might ultimately cost for 75 days. I think it is relevant to consider at this price that through your Committee on Permanent Help we are preparing a statement of the monies available in terms of how much it must necessarily be committed in terms of your per diem and your transportation and other things so that maybe later today we could give you a better statement on what is the total available.. I think at this moment there would be sufficient monies for this if you desire to do it.

PRESIDENT EGAN: Thank you Mr. Tom Stewart. Mr. Londborg.

LONDBORG: What I would like to find out is what the difference in equipment would be for the duration and the equipment we have right now recording these first two days.

HERMANN: Mr. President...

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: As I understand it, the equipment is sufficient. Maybe the radioman here can tell you that they installed it for the opening day themselves and they would have equipment I think sufficient to right now that is already installed. I don't think there is an additional installation charge.

LONDBORG: Then we are not being billed with \$2,500 installation charge?

HERMANN: I think that is being billed to the Alaska Statehood Committee.

PRESIDENT EGAN: Should the Chair ask Mr. Bullock that question? (President Egan spoke with Mr. Bullock.) I am informed that they could have the manager of the station out here in a few minutes and we could take this up with him in a Committee of

the Whole if it is so desired by the Convention. It would not be very long time until we could reconvene in a Committee of the Whole and take up this subject. Is there objection to doing that and requesting that the manager of the station be brought before us?

LEE: Mr. President, I come from a country where we can't go out and pick up gold nuggets off the ground. That seems like a considerable amount of money. I would like to direct a question to Mr. Stewart and ask him if there are any other agencies to do this type of work, other than this agency that is doing it at the present, and if is there any reason to believe that this is the best company to do the work?

PRESIDENT EGAN: Mr. McCutcheon?

MCCUTCHEON: Mr. President, I ask unanimous consent for about fifteen minutes recess while the Chair seeks to secure the station manager who may possibly give us further information and also while Mr. Stewart secures the actual cost of the Hawaiian delegation's taping of their recordings.

PRESIDENT EGAN: You ask unanimous consent that the Convention stand at recess until such time as the station manager can be requested to come here and also -- Mr. Lee?

LEE: Do I have permission to request that information from Mr. Stewart?

PRESIDENT EGAN: What was the question you asked, Mr. Lee? What is about the availability of other facilities?

LEE: I asked whether other agencies were available to do this kind of work.

SECRETARY: I don't know. Maybe I should give you a little more background. In anticipating this problem some months ago, the Statehood Committee wrote to about six of the national foundations the Ford Foundation and others and asked them if they might be interested in contributing funds to do this in the national interest and one of the foundations was interested and we had asked for \$50,000 to do it. We had got some indication from an engineer that it would run up to that much to do a good job of it. Ultimately we were turned down on it and nothing more was done about it until about .a week ago when at the direction of the Statehood Committee, I made this contact with KFAR. I don't know whether anybody else here has adequate facilities to do it.

PRESIDENT EGAN: Mr. Lee, perhaps if we could have Mr. Carroza out here we could get all that information. Does that answer your question as far as Mr. Stewart could answer it?

LEE: Yes, I am sure that will answer it. I am slightly

concerned with the proposition that we might be accused of showing favoritism to certain business and I would like to avoid that.

METCALF: Mr. Chairman?

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Does the engineering department of the University have any facilities to take care of the problem for us at a minimum cost?

PRESIDENT EGAN: Does anyone know if that has been investigated by the committee? Well, Mr. McCutcheon's motion was a unanimous consent request. Mr. Kilcher?

KILCHER: Mr. Chairman, I suggest that these fifteen minutes be equally used to investigate whether the University has any facilities or not.

PRESIDENT EGAN: Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, during this recess, where do you desire us to put these renewed requests for committee assignments?

PRESIDENT EGAN: That would be a good suggestion, Mr. McLaughlin and if everyone would, during this recess -- if we have a recess -- put their new requests on the Secretary's desk. Unanimous consent is asked, is there objection to recess? Hearing none, Mr. Hellenthal?

HELLENTHAL: Can't we appoint a committee with power to act in this matter? I think everyone is very generally agreed that we don't want to waste any money. We have men here that know a lot about electronics and recordings. I can think of Chris Poulsen. He's in the theatre business. He knows about it. I have faith in those men. Why don't we just appoint a committee to talk to the radio people, talk to the University authorities, see if other people are available and let them take care of it? It seems awful trivial for the entire body to take up.

MCCUTCHEON: Mr. President...

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I am heartily in sympathy with Delegate Hellenthal's remarks. However, it appears that there are many of the membership here concerned with some of the technicalities, especially the technicality of money; I think they should all be advised on that premise.

PRESIDENT EGAN: Mr. Carroza will be right out. If there is

no objection then the Convention will stand at recess. The Convention is at recess. (2:50 p.m.)

PRESIDENT EGAN: The Convention will come to order. The Chair has been informed that there is a green Dodge Coronet out front, license No. 4778. The doors are locked and the lights on. We have before us Mr. McCutcheon's motion which was to resolve ourselves into a Committee of the Whole for the purpose of hearing Mr. Carroza on this question of the cost of taping this Convention. Unanimous consent is asked that the Convention resolve itself into a Committee of the Whole. Is there objection? Hearing no objection the Convention is resolved into a Committee of the Whole.

(At this time the Committee of the Whole met.) The President appointed Mr. Sundborg to preside.

PRESIDENT EGAN: The Convention will come to order.

DELEGATE SUNDBORG: Mr. President, your Committee of the Whole met and report progress.

HELLENTHAL: Mr. President...

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I move to divide the question and first put the proposition to the Assembly as to whether the proceedings should be recorded by tape and then take the second question. I ask unanimous consent.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the question be divided. Is there any objection?

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard.

HELLENTHAL: I so move.

SMITH: I second the motion.

PRESIDENT EGAN: It's been moved and seconded that the question be divided. Mr. McCutcheon.

MCCUTCHEON: I would like to be advised what the division amounts to, what is the second portion that needs to be divided?

PRESIDENT EGAN: Mr. Hellenthal?

HELLENTHAL: The second portion would be that the matter be referred to the Committee on Administration or such other committee as the Chair thought proper to meet and secure

competitive bids, if available, for the installation or rental of the device.

PRESIDENT EGAN: Mr. Sundborg?

SUNDBORG: Mr. President, the Committee on Administration is not yet constituted, in fact we don't even have a Committee on Committees which was going to advise with the President on the selection of members to that and the other committees.

HELLENTHAL: The alternative was that it be left to the Chair.

PRESIDENT EGAN: The motion as it appears on the record will be read by the Clerk up until the time of Mr. Hellenenthal's suggestion. Mr. Riley?

RILEY: Is the matter open for discussion at this point?

PRESIDENT EGAN: Mr. Riley, it would be if you would allow the Clerk to read the original motion please.

CHIEF CLERK: Mr. Taylor moved that the Secretary be authorized subject to the approval of the Committee on Rules, to arrange for the tape recording of all plenary sessions of the Convention.

PRESIDENT EGAN: Mr. Hellenenthal, yours was more inclusive than that, your statement as to what would happen if the Convention decided to go ahead with taping the proceedings.

HELLENTHAL: I am a bit confused because there have been so many new thoughts injected. I thought if we divided the question first into the basic question, shall we make the tape. If that is decided in the negative then there is no further problem. Let's get that out of the way, then implement the Chair to take steps to set the machinery in motion if that is the wish of the body.

PRESIDENT EGAN: Mr. McCutcheon does that satisfy your question as to what the division of the question would be?

MCCUTCHEON: Yes.

PRESIDENT EGAN: Then the question is, "Shall the question be divided?" All those in favor of dividing the question will say "aye". All opposed say "no". The ayes have it and the question will be divided. Now we have before us the question,

Shall the Convention order the taping of the plenary sessions?" The question is open for debate.

V. FISCHER: I don't want to make a motion to table this particular motion, because that would close off debate, but it seems to me that we are not ready to discuss and vote upon this

motion until we have the answers that will be supplied by the second part of the divided motion. I would appreciate some comments on this particular point.

PRESIDENT EGAN: You are saying, Mr. Fischer, that it is your belief that perhaps the division should, in order to give everyone an opportunity to really decide in their minds, should be reversed?

V. FISCHER: That is more or less my opinion.

PRESIDENT EGAN: Or do an investigation and then allowing the information, is that your position?

HELLENTHAL: My thought was a little different than that. Frankly, I think we are all in favor of making a record of the proceedings. Let's get that out of the way, then let's decide or get a committee to tell us how much it's going to cost after they've investigated and then decide whether we're going to pay for it or not.

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

RILEY: I don't see the need of committing ourselves to have this service performed before we know what it is going to cost. I think that Mr. Nerland's approach as suggested during the Committee of the Whole is the proper one, and that is that it be assigned as an investigation to a committee. We have two or three days ahead of us. We might obligate ourselves for the one or two days involved. For my own part I would like to reserve judgment until we know what it will cost and for that reason I think Mr. Fischer's suggestion is right and that the question should be stated in reverse order. Perhaps the one first proposed by Mr. Helleenthal should be deferred until next week.

BUCKALEW: Mr. Chairman

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I move then that all of the motions I don't know how many there are all be tabled and that the Chair appoint a committee to consult with the gentlemen.

PRESIDENT EGAN: Mr. Buckalew, it is questionable in the mind of the Chair whether you can do a blanket tabling of all motions.

BUCKALEW: I make a motion then that the first one be tabled and then when that one is tabled, I'll move that the second one be tabled.

PRESIDENT EGAN: The question before us is, "Shall the Convention

order the go-ahead with the taping of the plenary sessions?" BUCKALEW: That is the one I wanted to move tabled. PRESIDENT EGAN: Will you state the motion, Mr. Buckalew?

BUCKALEW: The motion is that whether we contact these people and order a tape be tabled. I don't know the exact words of the motion.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Point of order is that the question is merely an expression of opinion, not whether we shall order, but we want an opinion of this body as to whether we desire to have the tape. The question of whether we can afford it as Mr. Hellenthal said, will come up after we have the figures. The question has already been divided and I think the main question is in order and I am going to call for the main question.

MCCUTCHEON: I second it.

BUCKALEW: I have a motion it be tabled.

PRESIDENT EGAN: It was never seconded Mr. Buckalew. Mr. Rivers offers a motion and it has been seconded. It has been moved by Mr. Victor Rivers, seconded by Mr. McCutcheon that the previous question be ordered. In effect you are voting on whether or not to close off debate on the main motion. All those in favor of ordering the previous question say "aye", all opposed say "no". The "ayes" have it and the previous question is ordered and the question is, how does that read? Will the Clerk read that please?

CHIEF CLERK: "Shall the Convention order the taping of the session?"

PRESIDENT EGAN: The intention then Mr. Hellenthal, wasn't to order the taping, it was to

HELLENTHAL: No, if I said that, I stand corrected. I merely ment, shall the Convention favor the principle of taping the plenary session.

PRESIDENT EGAN: The question is, "Shall the Convention favor the principle of taping the plenary sessions?" All those in favor of the motion say "aye", all opposed say "no". The question is carried. So the Convention is in favor of the principle of taping the plenary sessions. Mr. Davis.

DAVIS: I would move that the Chair appoint a committee of not to exceed five members to work with the radio stations or anybody else involved, to see what the cost of taping is going to

run and along with that we continue to tape the sessions at least through Saturday of this week until we can get that information.

MCCUTCHEON: Point of order. I believe the second half of the divided question remains to be voted on.

HELLENTHAL: I consent to Mr. Davis' amendment. I believe it incorporates what I had in mind.

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal would agree with a revision of the second half of the question. You have heard Mr. Davis's motion and unanimous consent was asked. Is there objection?

V. RIVERS: I object.

PRESIDENT EGAN: Objection is heard.

DAVIS: I so move.

METCALF: Second.

PRESIDENT EGAN: It has been moved and seconded -- Mr. Victor Rivers.

V. RIVERS: It seems to me we are in the process of appointing committees and this would normally fall under and the motion originally submitted falling under the Administrative and Rules Committee. It seems to be an unnecessary duplication of committees. Because I hope or see at least that maybe the Rules Committee we have constituted a Rules Committee at this time, which is a temporary one, or do we not?

PRESIDENT EGAN: It is a permanent one.

V. RIVERS: We have a permanent Rules Committee, then I would suggest then that we don't need another committee to enter into this picture.

PRESIDENT EGAN: Mr. Sundborg?

SUNDBORG: The Rules Committee however has an awful lot of work to do it appears to me. We have adopted only one very small portion of the rules that are going to be required by this body until we are really in position to proceed effectively here and as one member of the Rules Committee I would hate to have our Committee saddled with this problem of going into the rather technical matter of getting costs on recording equipment and deciding what we should do about taping the proceedings of this Convention. I would certainly hope that a special committee that is not involved in the deliberations of the Rules Committee could be appointed by the Chair and

go into that matter.

TAYLOR: Mr. President... ,

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I agree heartily with what Mr. Sundborg says about that. I feel that if we do as suggested by Mr. Davis we are making a negotiating and purchasing committee out of the Rules Committee. It is beyond their province. This is one little isolated thing that has come up before this body of whether we are going to tape the proceedings. We have negotiated with the broadcasting company, and he is going to be here Monday with some figures. This is a place where a select committee for that particular purpose should be appointed by the Chair to carry on the negotiations with Mr. Carroza. I feel that the Rules Committee, as constituted now is a little top heavy, it's not their province and I think a like committee should be appointed by the Chair.

PRESIDENT EGAN: That is the effect, Mr. Taylor, of Mr. Davis's proposal.

V. RIVERS: I withdraw my objection to the unanimous consent request.

PRESIDENT EGAN: Mr. Victor Rivers withdraws his objection to the unanimous consent request. Mr. McCutcheon?

MCCUTCHEON: It would appear to me that we are involving ourselves in discussion that is not necessary. The body has expressed a desire to develop figures on taping. The man here who is able to produce those figures understands that. By Saturday we will have a duly constituted Administrative Committee which would be a portion of their regular duties. Our man over here can't possibly develop the figures before Saturday. Consequently the committee would be organized and prepared for work by the time that any figures can be developed. It seems to me we're running around the hill here.

DAVIS: Mr. President,

PRESIDENT EGAN: Mr. Davis.

DAVIS: With the consent of my second I would amend my motion to say that the matter be referred to the Administration Committee when it is constituted. I ask unanimous consent.

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. Davis to amend his motion to say that the matter be referred to the Administration Committee when it is constituted. Mrs. Nordale.

NORDALE: I thought Mr. Carroza wanted some people to work with him between now and Saturday. That was my understanding. Maybe I misunderstood.

PRESIDENT EGAN: Mr. Carroza, would you like to answer that question?

MR. CARROZA: I should like to get to work on this project as quickly as possible. If it's possible to get together tonight, perhaps with several members for an hour or so, we might get these figures and get the answers as quickly as possible.

PRESIDENT EGAN: Mr. Davis, if the Chair may, Mr. Davis, I would like to call to the attention of the body that there is a Permanent Help Committee which more or less in the past in different organizations is in charge of that type of thing, and it still is a legally constituted committee of this Convention. It might be that immediately following adjournment tonight that that Committee could take this up with Mr. Carroza.

DAVIS: I have no objection.

HERMANN: Mr. Chairman, it seems to me that you need a special committee for this work, and it should be composed of people who understand figures and have an intelligent comprehension of business. I don't accuse the Permanent Help Committee of not having it, but it has its job to do also, but it seems to me that you could get yourselves some good business men, accountants or people of that type, that would make a better committee to confer with Mr. Carroza than just a committee appointed for an entirely different type of work.

V. FISCHER: Mr. President.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I was rising to make exactly the same point. There are probably people here who are highly qualified to work on such a specific question. This will not be a committee of long standing. There will be no general session tomorrow and that will be a good time for them to get together on this.

PRESIDENT EGAN: Mr. Davis, your motion is still before us. Mr. Smith?

SMITH: It appears to me that this is a special problem calling for immediate action, and actually the only way to solve it is by the appointment of a special committee. That committee would not have to stay in session after their job was finished and it appears to me to be the logical answer.

V. FISCHER: Mr. Chairman, since we have expressed the will to have this thing taped if financially possible, I am also in

favor of having a special committee of any kind appointed today because a large part, maybe one of the most important parts, the beginning of this Convention, are already substandard, and if we prolong it any further, a larger proportion of the Convention will be substandard recording so we'd better go ahead and have it done quickly.

PRESIDENT EGAN: Is there any objection to Mr. Davis's unanimous consent request that a special committee be appointed?

V. FISCHER: Mr. President, his last request was to refer it to the Administration Committee.

DAVIS: Mr. Chairman, may I restate the original motion, then, that a special committee of not more than five members be appointed by the Chair to work with the radio stations or other people involved to find out the cost of taping these sessions.

PRESIDENT EGAN: You have heard the motion. Mr. Davis asks unanimous consent. Is there objection? Hearing no objection it is so ordered. The Chair will appoint a committee as quickly as possible. The Chair, if there is no objection, will at this point declare a ten-minute recess. The Convention is at recess.

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce at this time the appointment of the following committee as the select committee to confer with Mr. Carroza: Hilscher, Chairman; Mr. Harris, Mr. Nerland, Mr. White and Mr. Cooper. If there is no objection that committee will stand as the select committee. Mr. Buckalew.

BUCKALEW: I understand that we got a wire from some place down in the Third Division. I would like permission to have the wire read by the Clerk and put into the records of this Convention. I ask unanimous consent.

PRESIDENT EGAN: If there is no objection the wire can be read.

(The Secretary read the following wire.)

"Bill Egan, President

Constitutional Convention

The People in Valdez are very proud of you. Our best wishes and prayers are with you.

Judy Johnson, Secy.

Valdez Chamber of Commerce."

(Applause)

HINCKEL: Mr. President,

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to move and ask unanimous consent that the hour be established for the convening of the Convention at 9 o'clock in the morning on future days and that the arrangement for transportation be made prior to that so we can convene at 9 a.m.

PRESIDENT EGAN: Mr. Hinckel asks then that it be the policy of the Convention to convene at 9 a.m. on every future working day and that the transportation be arranged to fit in with that time, which would mean leaving the Nordale then at 8:30 in the morning rather than 9 o'clock. Mrs. Hermann.

HERMANN: We ran across a little difficulty in arranging the original schedule because of the conflict with the school bus operations. I think 8:30 might be difficult with the bus.

PRESIDENT EGAN: Mr. Barr?

BARR: I object to that and I wonder if Mr. Hinckel realizes that later on when these committees really get down to work that he'll be on a committee and he'll be working some evenings as late as 10:30 or 11 o'clock at night and then if he has to be here by # o'clock plus of course your transportation is earlier, he's going to be a little bit over-worked.

COLLINS: Mr. President,

PRESIDENT EGAN: Mr. Collins.

COLLINS: I agree wholeheartedly with Senator Barr. In past experience his words cover the situation, for we are going to be loaded with committee work. The work is not all done right here. It will be in night sessions, and I for one have been tied up in a committee meeting until midnight or later, and to get up that early in the morning is out of the question. I think the old rule should be 10 o'clock.

PRESIDENT EGAN: Actually, we don't have anything before us then if these statements are in the form of objections. Mr. Hinckel?

HINCKEL: I make it in the form of a motion.

PRESIDENT EGAN: Mr. Hinckel moves that it be the policy of the Convention to convene at 9 o'clock in the mornings of every working day. Is there a second to the motion?

POULSEN: I second the motion.

PRESIDENT EGAN: Mr. Poulsen seconds the motion. Mr. Sundborg.

SUNDBBORG: I move to amend the motion of Mr. Hinckel to provide that the hour shall be 9:30 o'clock rather than 9 o'clock.

PRESIDENT EGAN: Mr. Sundborg moved an amendment to the motion that the motion be amended to read 9:30 o'clock instead of 9 o'clock.

ROBERTSON: I second it.

PRESIDENT EGAN: The motion was seconded by Mr. Robertson. The question now is on the amendment to the motion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: All those in favor of the amendment to the motion, making it 9:30 o'clock in the morning, say "aye", all opposed "no". And so the motion has been amended, and the question before you now is "Shall the Convention meet at 9:30 daily on every future working day?" Mr. Johnson?

JOHNSON: No. President, it occurs to me that some people here don't realize that this time of the year we very frequently get extremely cold weather. If they have to get up that early, even at 9:30, it is going to be a considerable difficulty, and it seems to me that once the committees are appointed and functioning that major work of this Convention will be done by the committees and they should be given more time to operate during the day. I would think that rather than meeting at 9:30 the plenary sessions could well begin at 11 o'clock because otherwise the committees are not going to have any time to work unless they do it all night.

V. RIVERS: Mr. President,

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: It seems to me that we are setting ourselves a time certain to adjourn here, and it does not seem entirely fitting and it doesn't seem entirely necessary. We, in the early stages of the session, I am inclined to agree with what Maurice Johnson said a moment ago, that it is entirely possible that due to committee work we may desire to adjourn to 10 or 11 o'clock, but I can see possibly how we could want to start work before 10 o'clock in the early parts of the session. I can readily see how we might want to reduce that time to 9:30 or 9:00 o'clock a little later or when we have some special work load or some special order of business. To tie ourselves down to a time certain for adjournment at this time does not seem to me to be the ideal thing to do. I think we

should possibly establish a precedent and as the work load increases, change it and increase the hour to meet.

SUNDBORG: Mr. President, we of course can change this time at any time in the future that the Constitutional Convention desires to do so. I believe the way the motion was put, that it shall be the policy of the Convention to meet at #:30 o'clock in the morning. For the time being that seems to me to be a good policy. When there is a different situation, if the weather is cold or if our work load changes from what it is at present, that is the time in which to change this, which we can do by a simple motion just as we are doing here. So I would ask support of the motion.

PRESIDENT EGAN: Is there further discussion on the motion? If there is no further discussion, then the question is "Shall it be the policy of the Convention to convene at 9:30 o'clock in the morning of every future working day?" All those in favor of the motion say "aye". All opposed say "no".

PRESIDENT EGAN: The Clerk will call the roll, please.

(The roll was called with the following result:

Ayes: 36 - Armstrong, Awes, Boswell, Coghill, Collins, Cooper, Cross, Doogan, E#nberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McLaughlin, McNees, Nerland, Nordale, Poulsen, Riley, R. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, Mr. President.

Nays: 18 - Barr, Buckalew, Davis, H. Fischer, Harris, Johnson, Laws, McCutcheon, McNealy, Marston, Metcalf, Nolan, Reader, V. Rivers, Robertson, Taylor, White, Wien.

Absent: 1 - Peratrovich.

PRESIDENT EGAN: And so it will be the policy of the Convention to meet at 9:30 a.m. each morning. Mr. Coghill.

COGHILL: I would like to move and ask unanimous consent that we stand at recess for 20 minutes for the purpose of the Committee on Permanent Help meeting.

PRESIDENT EGAN: If there is no objection the Chair will declare a 20 minute recess in order that the Committee on Permanent Help may have its meeting. The Convention is at recess.

(The Convention recessed at this time.)

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce that the Fairbanks Chamber of Commerce is anxious to supply a name card to any delegate who does not have one. If all delegates who do not have their cards will report their names to the Secretary those cards will be made for you. The Chair would like to announce at this time the advisory Committee on Committees it has chosen to work with the President on the selection of the different committee assignments: Mr. White, Mr. Victor Rivers, Mr. Nolan, Mrs. Nordale, Mr. Londborg, Mr. McLaughlin, Mrs. Wien, Mr. Barr, and Mr. Gray.

HERMANN: May we have those again so that we can write them down?

(The Chief Clerk read the names.)

PRESIDENT EGAN: The Secretary states that he has recommendations for committee assignments from everyone except Mr. Laws. I note that Mr. Laws is not in the delegation right at present. Someone should tell him to turn in his slip. What is the pleasure of the Convention at this time? Is there any business to come before the Convention right at this moment? Mr. Riley.

RILEY: I would like to make an announcement of a Rules Committee meeting tomorrow morning at 10 o'clock in 1013 in the Polaris Building. I note that our rules indicate public notice will be given, and this is in line with that.

PRESIDENT EGAN: Mr. Riley announces a meeting of the Committee on Rules at 10 o'clock tomorrow morning in Apartment 1013 of the Polaris Building.

MCLAUGHLIN: Mr. President, where do you desire the advisory Committee on Committees to meet.

PRESIDENT EGAN: The Chair was going to announce that before we adjourned Mr. McLaughlin. Mr. Davis.

DAVIS: I wonder if busses might be available to the members for attending the reception at the Patty house tonight.

PRESIDENT EGAN: Is there anyone here who has information on that? Are there busses that run out here in the evening or is it possible to get a bus?

HERMANN: It might be advisable to find out how many want bus transportation. I think we can get our own. I don't think that should be a Convention --

DAVIS: Oh, I don't think it should either, I thought we might charter one.

PRESIDENT EGAN: I don't think Mr. Davis meant that the Convention was having anything to do with it.

HERMANN: Well, I think we ought to find out how many would want busses.

PRESIDENT EGAN: Mr. Gray?

GRAY: Here is a bus schedule. A bus leaves the depot every hour on the half hour - 2:30, 4:30, 6:30, 7:30 and 9:30 and the fare is 50 cents.

UNIDENTIFIED DELEGATE: Where is the depot?

GRAY: Across the street from the Northward, I think.

PRESIDENT EGAN: This reception is at 8 o'clock out here tonight, is that right?

UNIDENTIFIED DELEGATE: 8:00 until 11:00. When does the last bus run, Mr. Gray?

GRAY: The bus schedule that I have at the present time, they leave from down town at 7:30, 9:30 and 11:30, and they leave from the University at 7:50, 9:50 and 11:50 p.m.

PRESIDENT EGAN: Then if, I suppose it is just up to the members and the delegates to get together beforehand and see how many want bus service and try to be at some place at some appointed time to get ready to come out here. Mr. Hilscher?

HILSCER: As a former resident of the Fourth Division and knowing how gosh darn cold it can get, I doubt if very many people are going to want to walk from the bus depot down here up to the Patty residence and taxi fare is, I guess, around \$3.00 or \$3.50, something like that. Everybody just as well had better figure on getting together and going in cabs.

PRESIDENT EGAN: Mr. Barr?

BARR: I wonder if there will be a reception line. If so, we should all be there on time.

UNIDENTIFIED DELEGATE: There will be.

PRESIDENT EGAN: Mrs. Hermann?

HERMANN: I don't see why we can't arrange for a special bus to go out and come and get us on the same basis as in the morning, just as they do for the delegates.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: When I met with the committee of the Chamber of Commerce, Victor Hart who was with the bus service, he said he was going to do everything he could to make it pleasant for the people here and he has given efficient service and I am quite sure if he was contacted immediately after adjournment that he would be glad to run a bus for those members of the Convention and their wives or husbands who want to come out to the Patty's.

PRESIDENT EGAN: Mr. Taylor would you be willing to contact Mr. Hart immediately upon adjournment and then before, or everyone stay here and you could phone from upstairs

UNIDENTIFIED DELEGATE: How many want the bus?

PRESIDENT EGAN: Perhaps right now, it wouldn't be out of order to find out how many want to come out on the bus. (Delegates raised their hands). About 20 or 21 and probably close to 30.

TAYLOR: Say 30? I will contact him immediately.

PRESIDENT EGAN: Mr. Nerland?

NERLAND: The reason I believe that they set this reception from 8:00 until 11:00 that we would come in groups or at least would not all arrive at one time. Certainly if 35 of us arrive with our wives and all arrive at one time and the local Chamber of Commerce people should be there, we would be standing in a line from the Patty residence down to the bottom of the hill.

PRESIDENT EGAN: That is something to be kept in mind. Mr. Nolan?

NOLAN: Mr. President, I think that was Mr. Barr's question. Is there going to be a reception line?

PRESIDENT EGAN: Evidently there isn't going to be a reception line where all the delegates stand, Mr. Barr.

NERLAND: The local people are going to be in the line I believe.

MARSTON: Mr. President, I happen to know that there is going to be a reception committee and we are to be received. There will be a line to receive us there.

PRESIDENT EGAN: The Chair would like to ask at this time that the members of the advisory Committee on Committees remain here after adjournment for a time and we will attempt to find out when we can get together and go over these committee assignments. Is there anything else to come before the Convention now?

Mr. McCutcheon.

MCCUTCHEON: I request a temporary recess until we ascertain whether the committee that is now out, will have something to report to us so we can decide whether or not we can adjourn or wait their pleasure.

PRESIDENT EGAN: Mr. McCutcheon that is a good suggestion. If there is no objection the Convention will stand at recess for a few minutes. The Convention is at recess.

(Convention recessed at this time.)

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

COGHILL: Mr. President, we have a report from the Committee on Permanent Help. We wish not to submit it as a report for adoption but for a report as information to the Convention. It seems that your Committee on Permanent Help is somewhat tied to the permanent Committee on Administration, and we find we cannot devise a permanent help schedule until a budget is formulated to run the Convention. So therefore your Committee on Permanent Help has only submitted as a suggestion to the Committee on Administration the following: a 15% raise over the last legislature's pay scale for the Chief Clerk, sergeant-at-arms, four stenographers, a clerk typist, mimeograph operator, receptionist, messenger, doorkeeper and recording clerk. I can read the figures on that if you wish, but we feel that this is a recommendation from our Committee to the Chair, that we cannot operate successfully in the capacity in which we are endowed.

PRESIDENT EGAN: What is the pleasure of the Convention? Mr. Ralph Rivers.

R. RIVERS: I would like to supplement by saying that we agreed in the committee room that we have done all we could now in the way of exploratory work and preliminary processing. With the assistance from Mr. McKay and the Secretary we have quite a bit of the budget information available and are prepared, then if we are dissolved, to turn all our material over to the Committee on Administration as soon as it is organized.

V. RIVERS: Mr. President, I move and ask unanimous consent that the Committee report be accepted and that the Committee be discharged from its duties.

PRESIDENT EGA#: Mr. Victor Rivers moves and asks unanimous consent that the Committee report be accepted and that the Committee be discharged from its duties. Mrs. Hermann.

HERMANN: I don't want to make an objection but I want to

question one point in that report. Was there a chaplain named?

COGHILL: Mr. President, we were only acting in an exploratory measure. We have not set down the full scale as yet because we have not been able to go into the full budget of the clerical and administrative help. So it is left undone to the Administrative Committee.

PRESIDENT EGAN: Mr. Coghill, didn't you state at the beginning that this was not a complete report?

COGHILL: This is not a complete report this is only as information to the Convention.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would object then to a unanimous motion for vote to discharge this Committee if they have only submitted a partial report. We should hear the rest of the report before we discharge them.

PRESIDENT EGAN: Mr. Taylor, Mr. Coghill stated, as I understand, that the reason it is only a partial report that they worked on this and they found that they, with the authority that would be vested in them, didn't have the authority to go ahead with the partial report because they are not the Committee on Administration. Mr. Coghill?

COGHILL: Mr. Chairman, if you wish I could form it in a form of report that our exploratory measures of our Committee have been formulated and are ready to turn over to the permanent Committee on Administration -- if that will answer the question of Mr. Taylor.

PRESIDENT EGAN: Mr. Victor Rivers had already asked unanimous consent that the committee be discharged from its duties. There was no objection. The Chair is of the mind that unanimous consent request was adopted. Is that right Madam Secretary?

CHIEF CLERK: The motion was to accept the report, but there was no report because Mr. Coghill said it was just for information.

PRESIDENT EGAN: Mr. Rivers's motion, his unanimous consent request stated the acceptance of the report, you could amend that to say the acceptance of the statement of the Committee on Permanent Help. Mr. Armstrong.

ARMSTRONG: Is it possible that this Committee might be working until the permanent Committee is appointed? Is the research that they can follow through on to even bring more complete report in to the Committee? If so then I think the thought of

the language used is preliminary and they should be continued until the other committee is formulated and then turn over their files.

PRESIDENT EGAN: What is the pleasure of the Convention as regards to Mr. Armstrong's suggestion? Mr. Coghill?

COGHILL: Having worked on this Committee, I would urge the Convention and the Chair to do away with the Committee on Permanent Help and to constitute the Committee on Administration so as to expedite the working gears of the Convention and get it rolling for our Saturday morning session.

PRESIDENT EGAN: The Chairman had been thinking of this change that was going to be necessary and except for one addition to the Committee, the name of Mr. Hilscher, the Chair at this time would constitute the Committee on Administration with the same membership that the Permanent Help Committee had with the addition of Mr. Herb Hilscher's name to that list of committee members. If there is no objection

V. RIVERS: Mr. President, I still have a unanimous consent request, which has not been accepted.

PRESIDENT EGAN: I thought that was accepted. What is the status, Madam Secretary?

CHIEF CLERK: There was objection.

TAYLOR: I withdraw my objection.

PRESIDENT EGAN: Objection has been withdrawn.

R. RIVERS: I would ask that the Chair name the chairman of that committee, Mr. Coghill has been doing a good job...

PRESIDENT EGAN: That is the way the Chair feels.

HERMANN: Mr. Chairman, in adding Mr. Hilscher to that committee do you now have eight members?

PRESIDENT EGAN: I think we have nine members the way the Chair has it is: Mr. Ralph Rivers, Mr. Kilcher, Mr. Coghill as Chairman, Mr. Fischer, Mrs. Sweeney, Mr. McNees, Mr. Laws, Mr. William Knight, and Herb Hilscher.

HERMANN: That makes nine members.

PRESIDENT EGAN: That makes it nine members. Yes Ma'am. Mr.

Nolan.

NOLAN: I think that somewhere in the rules that it states

that a member shall only serve on so many committees, and I wonder if all the members of the committees know that they would be tied to that one. I was thinking that Mr. Ralph Rivers --

R. RIVERS: Two more would be enough for me. Three is the limit.

H. FISCHER: Mr. Chairman, Mr. Hellenthal has also been serving on that committee and I don't think you mentioned him.

PRESIDENT EGAN: Mrs. Fischer, it was probably the Chairman's fault for not mentioning that. Mr. Coghill?

COGHILL: Mr. President, you had nine members on that committee before you made the other appointment.

BARR: Did I not hear you name Mr. Hilscher twice?

PRESIDENT EGAN: The Chair has for some reason neglected on his list to put Mr. Hellenthal's name although the Chair had appointed Mr. Hellenthal. Mr. Hellenthal has been serving all day on that committee. If there isn't any objection to having that committee as a ten-member committee Mr. Rivers?

R. RIVERS: Might I withdraw from the Committee on Permanent Help then so that Mr. Hellenthal, whose name was omitted, may be put on there, because I am more interested in the matter of the legal phases of the committee work.

PRESIDENT EGAN: Mr. Ralph Rivers is on the Rules Committee which is continually having a lot of work to do and he asks that his name be withdrawn from the Committee on Administration. If there is no objection it is so ordered and, with the addition of Mr. Herb Hilscher's name to the Committee it will leave the Committee with nine members. Is there objection? Mr. Taylor.

TAYLOR: The special Committee on Transportation is reporting. The bus company is very glad to furnish busses to leave the Nordale Hotel at 8 o'clock tonight, and the arrangements can be made as to the coming back as the group wishes. Also, they would like to know a little bit in advance before we adjourn so they can get the bus on the way out here.

PRESIDENT EGAN: The Convention thanks the Committee for your report. It might be well right now to have the messenger phone the bus company and tell them the bus can leave town at this time. That would give a half hour before we're ready to go back if there's no objection from the Convention delegates. Mr. Buckalew?

BUCKALEW: Just a point of order. I don't think Mr. President,

you ever acted on the motion to abolish that Committee. Did the .Chair ever rule on it? Do you have to rule on it?

PRESIDENT EGAN: That was unanimous consent. The Chair thinks the unanimous consent request was accepted. The Chair will state that the unanimous consent request was adopted by the Convention and the Committee was abolished.

BUCKALEW: I just didn't want the Chair to have to appoint a committee to find out what committees weren't abolished that should have been abolished.

PRESIDENT EGAN: Well, the Chair will state that the unanimous consent request was adopted by the Convention and the Committee was abolished. Is there anything further to come before the Convention?

TAYLOR: Has the messenger phoned in?

PRESIDENT EGAN: The messenger went to call the bus company. Mr. Johnson?

JOHNSON: Mr. President, subject to the announcement of any meeting, I move that the Convention stand adjourned until 9:30 Saturday morning.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand adjourned until 9:30 Saturday morning. Mr. Coghill.

COGHILL: I will second that motion that is on the floor but I would like to ask Mr. Stewart what time he would be available for our Committee to meet tomorrow?

SECRETARY: At your pleasure; anytime you desire, Mr. Chairman.

PRESIDENT EGAN: Is there anything further to come before the Convention. Mr. Davis?

DAVIS: I think we should arrange as to whether or not a bus will be available Saturday morning and if so where and how.

PRESIDENT EGAN: At 9:00 o'clock. Now there is no bus schedule at 9 o'clock, regular bus schedule. It is 8:30 and 9:30 on the regular schedule. As of now, unless there was a special bus called for at 9 o'clock -- Mr. Rivers?

R. RIVERS: The bus picked us up this morning at 9 o'clock at the Nordale and that fits in with our policy so we should arrange to have a bus Saturday morning at 9 o'clock.

PRESIDENT EGAN: Mr. Stewart said that he would take care of that chore. The question before the Convention is adjournment until 9:30 a.m. on Saturday.

COGHILL: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent has been asked. Is there objection?
Mr. Coghill.

COGHILL: I would like to announce the committee meeting of the
Administration Committee at 11 o'clock tomorrow morning at the Nordale
Hotel, in the lobby.

PRESIDENT EGAN: Are there any other committee announcements? If not,
is there objection to adjournment? Hearing no objection the Convention
stands adjourned until 9:30 o'clock Saturday morning.

(The Convention adjourned at 5:15 p.m.)

ALASKA CONSTITUTIONAL CONVENTION

November 12, 1955

FIFTH DAY

PRESIDENT EGAN: The Convention will come to order (9:30 a.m.) The Secretary will call the roll. (Secretary Stewart called the roll.)

SECRETARY: Two absent.

PRESIDENT EGAN: A quorum is present. Will Reverend Londborg please come forward and give the daily invocation.

(Mr. Londborg goes forward and Convention stands.)

LONDBORG: Let us pray. Our gracious Heavenly Father, again we come before you as citizens of this great country, realizing the important task that is laid before us, and again we seek Thy wisdom and Thy guidance. We pray that our deliberations may truly be as you would have them to be, that this land may go on in the freedom that we have enjoyed in the past. Bless us throughout this day with Thy wisdom in all deliberations. We pray in Thy Name. Amen.

PRESIDENT EGAN: The Secretary will proceed with the reading of any communications that might be before us.

SECRETARY: You have a communication from the Farthest North Fairbanks Lodge No. 1551, Benevolent and Protective Order of Elks. (The Secretary read the communication from E. P. McCarron extending the privileges of the club rooms to the delegates during their stay in Fairbanks.)

JOHNSON: Mr. President,

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I move and ask unanimous consent that the minutes of the previous plenary session be considered read and approved.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the minutes of the previous plenary session be considered read and approved. Is there objection? If there is no objection it is so ordered. Now we are ready for the presentation of committee reports. Does the Rules Committee have a report to make to the Convention?

RILEY: Mr. President, the Rules Committee met all day yesterday and will have a formal report to submit once it is in shape for reading by all the delegates. That may not be till Monday. While I am on my feet I would like to announce to the Rules Committee however that we will meet again this morning at the

First recess.

PRESIDENT EGAN: Mr. Coghill, does your Committee have a report to make to the Convention?

COGHILL: Mr. President, your Committee on Administration met yesterday, and the report is in the making. As soon as it has been passed by the Committee at our first recess we will submit it to the Convention.

PRESIDENT EGAN: The Chair would like to report to the Convention that the advisory Committee on Committees worked hard for a good number of hours into the night. They completed their work, but the Chairman has not quite completed his work on that important assignment, and the Chair will say that it will not be too long before the report will be in the hands of the Secretary for proper mimeographing for each delegate. It will, however, take a recess, and the Chair stands ready now for any other business that is proper to come before the Convention. Mr. Secretary, you might read that communication that you have in your hands.

SECRETARY: There are two announcements -- the tea given by the wife of the President of the University this afternoon for wives of delegates for which there will be transportation. Cabs will leave at 2:30 from the Nordale Hotel, at 3 o'clock from the Northward Building, at 3:30 from the Polaris Building. The Hospitality Committee of the Chamber of Commerce, which has planned numbers of social engagements in these succeeding days, wishes very much to have a complete list of the wives or other family members of each delegate who may be here in addition to delegates, and would appreciate it if you could perhaps give the name of your wife or husband, if he or she is here or coming soon, so that the record may be complete on that. They do have some further apartment space available, that is knowledge of it, at the Hospitality Committee, if anyone is still looking for apartment space.

PRESIDENT EGAN: Each member could during the recess inform the Chief Clerk as to whether or not his wife is here with him. Is there any other business to come before the Convention at this time? Mr. White?

WHITE: Mr. President, the advisory Committee on Committees has a recommended amendment to the rules that might be well to pass on at this time so that the President can be sure of this feature in making his decision on committees.

PRESIDENT EGAN: Mr. White, the Chair feels that it would be proper at this time to bring that before the Convention for the reason that the Rules Committee does not yet have its report mimeographed, and if it were adopted by the Convention the suggestion could go right along with the suggestion on the report of the Rules Committee.

already passed I believe by the Convention. It is presented with the approval of your President and with the recommendation of the Committee on Committees that it passed. The explanation of the motion that we wish to make, first of all, is that the membership of the Committee on Resources be increased from 7 to 9. I might explain that the reason for it is partly that the greatest interest in it by the delegates was shown in that Committee. Also by so doing it creates a total of 108 permanent positions to be filled by 54 delegates, which works out very nicely mathematically. I therefore so move and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the suggestion of the advisory Committee on Committees be adopted by the Convention to increase the membership of the Committee on Resources from 7 to 9. Is there objection? Hearing no objection it is so ordered. Reverend Armstrong?

ARMSTRONG: Mr. President, I believe all of us want to show our appreciation to Dr. and Mrs. Patty for the wonderful reception that was shown in our behalf the other evening, and I would ask unanimous consent that the Secretary be instructed to write a letter of thanks to these wonderful people for the hospitality shown to us. That would be my suggestion, sir.

PRESIDENT EGAN: Reverend Armstrong asks unanimous consent that a vote of thanks be sent to Dr. and Mrs. Patty for the wonderful reception for the delegates the other evening. Is there objection? Hearing no objection it is so ordered.

HILSCHER: Mr. President, I rise to a point of personal privilege and I would like this not to be on the record.

PRESIDENT EGAN: The Chair wonders if, is in doubt as to whether we can go off the record as far as you insist it be off the record. If there is no objection, the Chair will declare a two-minute recess. Will that be objectionable to you Mr. Hilscher?

HILSCHER: No that is quite all right.

(The Convention recessed for a few minutes.)

PRESIDENT EGAN: The Convention will come to order. If there is no objection Mr. Hilscher may proceed under a question of personal privilege. Mr. Hilscher.

(At this time Delegate Hilscher spoke under a question of personal privilege.)

PRESIDENT EGAN: The Chair at this time would like to

Introduce to the delegates of the Constitutional Convention their first Vice President, Mr. Frank Peratrovich of Klawock. (applause) Is there further business? Mr. Coghill.

COGHILL: I would like to rise to a point of order. I would like to have the Convention send a letter of sympathy to my brother and mother because this morning I just got an emergency telephone call that again vandalism has struck at Nenana, and our store has been robbed.

PRESIDENT EGAN: If there is no objection, it is so ordered. Mr. Sundborg?

SUNDBORG: Mr. President, I would move and ask unanimous consent that our Secretary be instructed to write a letter of thanks and appreciation to the Fairbanks Lodge of Elks for extending its hospitality to the Convention.

PRESIDENT EGAN: You've heard Mr. Sundborg's request. If there is no objection it is so ordered.

HILSCHER: Mr. President, your Committee on Tape Recording will have a detailed report for you a little later on in the day after we get the figures from the other radio stations.

PRESIDENT EGAN: Thank you Mr. Hilscher. Is there other business to come before the Convention at this time?

DOOGAN: Mr. Chairman, I would ask unanimous consent that the roll call record be changed to show that Mr. McLaughlin and myself are present.

PRESIDENT EGAN: If there is no objection, the roll call be changed to show that Mr. Doogan and Mr. McLaughlin are present. Hearing no objection it is so ordered. If there is no further business to come before the Convention at this time the Chair will entertain a motion for a recess.

TAYLOR: I move that we recess until a call of the Chair.

PRESIDENT EGAN: Mr. Taylor moves and asks unanimous consent that the Convention stand at recess subject to the call of the Chair. Is there objection? If there is no objection it is so ordered. The Convention is at recess.

(The Convention recessed at 9:55 a.m.)

PRESIDENT EGAN: The Convention will come to order. (10:30 a.m.) The Chair feels that inasmuch as it is going to be some time before the Committees are through meeting and the reports are in, that it would probably be wise to recess until a said time, say 2 o'clock this afternoon or some such time that would be acceptable to the Convention. That subject is open

For discussion. Mr. Johnson?

JOHNSON: Mr. Chairman, I move that the Convention stand at recess until 2 o'clock this afternoon and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

TAYLOR: I would like to amend that to 9:30 on Monday morning.

PRESIDENT EGAN: Unanimous consent is asked that the Convention stand at recess until 2 o'clock this afternoon. Did you object, Mr. Taylor?

TAYLOR: I moved for an amendment.

PRESIDENT EGAN: There is no motion on the floor, Mr. Taylor. It isn't seconded.

JOHNSON: I so move.

COOPER: I second the motion.

PRESIDENT EGAN: It has been moved and seconded then that the Convention stand at recess until 2 o'clock, and Mr. Taylor moves to amend the motion so that the Convention will be adjourned until 9:30 Monday morning. Is there a second to the proposed amendment?

JOHNSON: A point of order -- is a motion to recess subject to amendment -- that would change it to a motion to adjourn?

PRESIDENT EGAN: Your point of order is well taken, Mr. Johnson. The question before us is "Shall the Convention recess until 2 o'clock this afternoon?" All those in favor -- Mr. Coghill?

COGHILL: Mr. President, I would like to announce that your Committee on Convention Administration will meet immediately after recess.

PRESIDENT EGAN: Mr. Coghill announces that the Committee on Administration will meet immediately upon recess. Are there other committee announcements? Mr. Riley?

RILEY: Mr. President, the Rules Committee will resume its session immediately during recess.

PRESIDENT EGAN: Mr. Riley announces that the Rules Committee will resume its session immediately upon recess. The question is, "Shall the Convention recess until 2 o'clock this afternoon?" All in favor say "aye". All opposed say "no". The "ayes" have it. The Convention is in recess until 2 o'clock this afternoon.

(The Convention recessed at 10:30 a.m.)

PRESIDENT EGAN: The Convention will come to order (2:15 p.m.) Mr. Hellenthal, did you have a motion you would like to place on the floor, or a request?

HELLENTAL: Mr. Chairman, I request that unanimous consent be granted so that my name can be taken from the Committee on Administration and the name of Senator Jim Nolan substituted.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that his name be withdrawn from the Committee on Administration. Is there objection?

COGHILL: I object, Mr. President until I find out what Mr. Hellenthal's motive is. He is a good man on that Committee and I hate to lose him.

PRESIDENT EGAN: Mr. Coghill, the reason is that in the makeup of the committees, as they will be presented to you, Mr. Hellenthal will be on other committees, and Mr. Nolan has consented to be on the Committee of Administration.

COGHILL: I withdraw my objection.

PRESIDENT EGAN: Hearing no objection, it is so ordered. At this time the Chairman will hand the Clerk the list of committees and if the messenger can distribute a copy of this list at the present time it will be appreciated. First named on the committee is the chairman of the particular committee. Mrs. Wien?

WIEN: While the papers are being distributed, I would like to state that Mr. Corcoran, who was Field Supervisor for the PAS, has worked closely with the Statehood Committee since July 9, and was taken ill and is in the hospital. His wife from the States came to join him. He will be here for several days but will be unable to work further for the Convention or the Public Administration Service. I would like at this time to move that the President instruct the Secretary to write a letter to Mr. Corcoran expressing our regrets, our sympathy and our wishes for his speedy and complete recovery. I move and ask unanimous consent.

PRESIDENT EGAN: Mrs. Wien asks unanimous consent that the Secretary be instructed to send a message to Mr. Corcoran expressing the Convention's regret at his not being here and our wishes for his speedy recovery. Is there objection? Hearing no objection -- Mr. Rivers?

R. RIVERS: Mr. President, may we add "and our appreciation for the services Mr. Corcoran has rendered"?

PRESIDENT EGAN: If there is no object the words "and appreciation for the services that Mr. Corcoran has rendered" will be added to the request of Mrs. Wien. Hearing no objection it is so ordered. It might be well to announce that the Committee on Rules and the Committee on Administration do not appear on this list for the reason that they as permanent committees were appointed earlier. However, later those committees will be added to appear with these on another sheet. The Chair wishes to state that your advisory Committee on Committees worked many hours in advising the President as to the makeup of committees. The President then took the advice under consideration. Some changes were made and the President feels that this is the best that he could come up with. He realizes that each and every member of this Constitutional Convention is well qualified on any committee or as chairman of the committees. It was a terrific job. At this time the Chair will announce that he is appointing the committees, as listed on the desk of each and every delegate, as the permanent committees and their chairmen, of the Convention. The Chair would like to request that all committee chairmen meet with the President immediately following recess time this afternoon. Is there a report of any other committee? Mr. Coghill.

COGHILL: Your Committee on Convention Administration respectfully submits the following report: For purposes of planning the balanced and co-ordinated use of the Convention appropriations so as to carry out the intent of Chapter 46, SLA 1955, your committee has prepared a tentative allocation of the funds available to the Convention. This allocation is predicated on the possibility of the Convention's lasting the full period of 75 days and therefore indicates the maximum liabilities which might be incurred. The budget is not intended to restrict the later adjustment of particular items, should necessities demand changes, and does not by this allocation authorize any expenditure of funds, without the approval of the Convention. The tentative allocation is as follows:

TENTATIVE ESTIMATE OF COSTS

APPROPRIATION FOR CONVENTION	\$300,000.
<u>Less: Estimated election expenses</u>	38,000.

	\$262,000.

ESTIMATED CONVENTION COSTS

A. DELEGATES

1. Salary @ \$15.00 per day for 79 days	65,175.
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3. Travel of Delegates (1 round trip)	6,000.
4. Social Security contribution	1,247.

Estimated Total Expenses of Delegates \$159,379.

B. SECRETARIAT (computed on 80 days)

1. Personal Service of Administrative Staff	
1 Chief Clerk @ \$30.00 per day	2,400.
1 Assistant Chief Clerk @\$ 24.00 per day	1,920.
1 Sergeant-at-Arms @ \$21.00 per day	1,680.
4 Stenographers @ \$22.00 per day	7,040.
3 Clerk-Typist @ \$21.00 per day	3,360.
1 Mimeograph Operator @ \$21.00 per day	1,680.
1 Doorkeeper @ \$18.00 per day	1,440.
1 Messenger @ \$18.00 per day	1,440.
1 Message Center Chief @ \$21.00 per day	1,680.
1 Recording Clerk @ \$25.00 per day	2,000.
1 Librarian - Research Assistant @\$25.00 per day	2,000.
2. Salary of Secretary @\$31.66 per day plus \$12.00 per diem	3,493.

Total Personal Services \$ 30,133.

3. Other Staff Expenses, including Travel and Social Security	\$ 3,500.
4. Technical and Consulting Services	25,000.
5. Equipment	1,500.
6. Supplies and Postage	3,500.
7. Recording	8,000.
8. Postage for Delegates	1,375.

Total Secretariat Expenses \$ 73,008.

C. OTHER CONVENTION COSTS

1. Printing of Constitution	6,000.
2. Miscellaneous	24,613

GRAND TOTAL:

Estimated Convention Costs: \$262,000.

EXPLANATION OF ALLOCATIONS

APPROPRIATIONS FOR CONVENTION: The appropriation of \$300,000 was initially diminished approximately \$38,000 by the expenses of the election of Delegates, and there is now available to the Convention \$262,000.

ESTIMATED CONVENTION COSTS:

A. DELEGATES: The costs indicated in this item are fixed by the terms of Chapter 46, SLA 1955. 79 days are shown to include four extra days for travel to and from the Convention.

B. SECRETARIAT:

1. This item is recommended as the table of organization of permanently assigned staff personnel with salary figures as shown. The salary scale is based on the schedule used by the 1955 Alaska Legislature for similar positions, plus a 15% increase. This increased scale is recommended because of the temporary and specialized nature of the work, and the increase is commensurate with that allowed to teachers in the Second and Fourth Divisions as compared to teachers in the First Division. The Committee recommends that the employment and discharge of staff employees be placed in the discretion of the Secretary. It is contemplated that some of the positions indicated may not be filled until the work load increases, and recommendations for additional part-time personnel may be later made. The salaries indicated would be paid for each calendar day during the full session of the Convention except for any recess called pursuant to Section 1 of Chapter 46, SLA 1955. No overtime salaries will be paid, but the personnel will be engaged with the understanding that overtime work necessary is compensated for by the regular salary.

2. Salary of the Secretary: The Committee recommends that the salary of the Secretary, as stated in the estimate of costs, which is the same amount received in his capacity as Executive Officer of the Alaska Statehood Committee be continued together with the regular Territorial per diem of \$12.00; and it further recommends that this salary be paid by reimbursing the Statehood Committee for such salary and per diem for the period commencing November 8, 1955, to the time of final adjournment of the Convention.

3. The item for other staff expenses is intended to cover any contingent expenses that may arise and be authorized for payment by the Committee on Administration.

4. The item tentatively allocated for technical and

consulting services is shown in the same amount as was budgeted in the report of the Statehood and Federal Relations Committees of the 1955 Legislature to the full Legislature in recommending the appropriation of \$300,000. When technical and consulting services may be requested by the Convention, this amount will be available.

5. The item tentatively allocated for equipment is to cover the obtaining of typewriters, mimeograph machines and such other equipment and furniture as may be necessary.

6. The item tentatively allocated for supplies and postage is to cover the purchase of stationery supplies of all kinds, including letterhead stationery for the Convention for the use of Delegates bearing the names of all Delegates on a margin, postage for official mail of the Convention, and other necessary supplies.

7. The recording item is allocated for the possibility of the making of a tape recording of the plenary sessions.

8. The item for postage is allocated as an allowance of \$25.00 for each Delegate.

C. OTHER CONVENTION COSTS:

1. The item for printing of the Constitution is intended to provide for the printing of copies of the Constitution as finally adopted.

2. The item for miscellaneous expenses is the otherwise unallocated balance of available convention funds.

OTHER MATTERS

It was further determined to recommend as follows:

1. Weekly pay: That all employees and Delegates be paid weekly.

2. Committee Rooms: That the recommendations of the Secretary as to committee room locations be accepted and the Secretary asked to report said room locations to committee chairmen.

3. Lockers for Delegates: That lockers be provided for each Delegate without cost to the body except for drayage.

4. Bus Transportation: That the Secretary make recommendations to the committee as to daily bus transportation for Delegates and for administrative and

Technical staff, at the expense of the Delegates and staff.

5. Privacy of Convention Floor: That the floor of the Convention Hall be appropriately designated by ropes across posts.

6. Expenditure of Funds: That the Secretary be authorized to incur obligations for purposes budgeted for the period November 8, 1955, to date of final adjournment, provided that approval of the Committee on Administration is first obtained as to any one item exceeding one hundred dollars in cost.

7. Reports and Records: That the Secretary maintain such records and render such reports on financial matters as may be requested by the Committee.

8. Flags: That suitable Alaskan and American flags be procured for the Convention Hall.

9. Desks and Chairs: That the matter of desks and larger chairs for Delegates be explored.

10. Daily Prayers: That henceforth prayers imploring the assistance of Almighty God and His blessings on our deliberations be held in the Assembly every morning before undertaking the daily business of the body, and that one or more of the clergy of the area be invited to officiate in that service and that the Secretary be requested to make the necessary arrangements.

Mr. President, this is our report, and I move and ask unanimous consent for its adoption.

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard Mr. Coghill.

COGHILL: I so move.

JOHNSON: I second it.

PRESIDENT EGAN: It has been moved and seconded that the report of the Committee on Administration be adopted. The motion is open for discussion. Mr. Sundborg?

SUNDBORG: Mr. President, if we would vote now to adopt this report, would it mean that we are in effect establishing this budget and authorizing expenditures?

PRESIDENT EGAN: If you accept the report, I believe would be the better word.

COGHILL: No, it does not. It is so stated in that, and in preparing the report we carefully stated in our report that this is a tentative allocation of funds so as to have the Committee give an overall report. The only part of the report that will be held is the Secretariat or personal services and administrative staff, that will be the only part held to.

SUNDBORG: That would be carried into effect if we now vote "yes" on the motion to accept the report?

PRESIDENT EGAN: Mr. Sundborg I don't mean to interrupt you but is the motion to accept or to adopt the report?

COGHILL: To adopt.

PRESIDENT EGAN: That's the motion then to adopt the report. Mr. Sundborg?

SUNDBORG: If the motion before us is to adopt this report I am against it. I don't mind accepting the report as being an expression of the view of that Committee, but to go ahead here and decide how we are going to spend \$262,000, when the delegates don't even have any knowledge of what that is except what they've heard read very rapidly here by the Chairman, I just don't think we should conduct the business of Alaska in that way. I certainly want to see before me in written form the breakdown of how this Committee would propose to spend the money available to us before I vote yes on it.

HELLENTHAL: Mr. President?

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Sundborg is incorrect in his statement. The report expressly states that approval or acceptance of the report will not constitute authorization for the expenditures involved and that the Committee will have to come back to the floor to get that approval. That is very clear in the report, and the Chairman could read that portion and I think it should be read very clearly. The only approval that the Committee asks is the approval of the salary scale of the employees. That the Committee felt should be approved now, not later, but as for every other item in that report we ask for no endorsement whatsoever. It is merely a tentative estimate. I don't know what clearer words could be used to indicate that it is not a mandate, not an authority for an expenditure but merely a possible expenditure if this body later directs that it be made.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. Chairman, I would like to point out that in one point in the report you are in direct violation with Territory

and federal law, in that no overtime shall be paid. Your law clearly states any time over 40 hours and I notice we'll run up against that a little later on in the Convention.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears to me as a matter of order that the authority to appoint the committee has stemmed from the body through the President. The President has directed the appointment of the Committee and consequently has requested them to make a report. The President may accept this report on behalf of this body without going through a formal motion. Action for adoption may come at a later date.

PRESIDENT EGAN: Mr. McCutcheon, if the Chair may, I believe what the Chairman of the Administration Committee is worried about is that they want some type of authority to allow them to pay and hire the necessary help at this time. It might be in the best order of the Convention to stand at recess for two or three minutes. Mr. Coghill?

COGHILL: Mr. President, if it is the wish of the body I would withdraw my motion and replace it to just have Section B, the first of subsection 1 and 2 of Section B, adopted at this time which would give us our working group, our stenographer group, and then we will go ahead and have the report mimeographed in full for Monday and then go over it again then, if that is agreeable with the objections on the floor.

PRESIDENT EGAN: Mr. Collins.

COLLINS: Mr. President, I think the suggestion of Mr. Coghill covers this. Why not adopt those sections that are deemed necessary at the present time and accept the balance of it later. That will meet the objection.

RILEY: Mr. President, I ask unanimous consent for a five minute recess.

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

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order (3:10 p.m.). Mr. Coghill?

COGHILL: Mr. President, I move and ask unanimous consent that the Convention receive the report, report No. 1

PRESIDENT EGAN: Mr. Coghill, before you continue has your previous motion been withdrawn? Would you ask unanimous consent

first that your previous motion be withdrawn, with the consent of your second?

COGHILL: I so ask consent that my previous motion be withdrawn.

PRESIDENT EGAN: Mr. Coghill, with consent of the second, asks unanimous consent that the previous motion be withdrawn. You are now in order Mr. Coghill.

COGHILL: Mr. President, I move and ask unanimous consent that the Committee report on Administration for the Convention, Report No. 1 be received by the Convention, and that sections B1 and B2 of the report be adopted insofar as they specify the positions stated therein and the daily rate of pay.

BUCKALEW: Objection.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Buckalew, do you object?

BUCKALEW: I do.

PRESIDENT EGAN: Mr. Johnson seconds Mr. Coghill's motion. The motion is now open for discussion. Mr. Buckalew?

BUCKALEW: Mr. President, the first point I would like to bring to the body's attention is that I don't believe there is any necessity for an Assistant Chief Clerk, and I think if the need ever arises the body can then authorize the position. I don't think anyone would argue at this time we need an Assistant Chief Clerk and I think this body ought to retain the authority to itself as to whether the Assistant Chief Clerk will be hired. At \$24.00 a day I don't think it's proper to leave that authority --

COGHILL: Point of order, Mr. President. In our Committee report it was spelled out that as far as the secretariat was concerned, the positions would be filled as necessary and not immediately.

BUCKALEW: My point is, Mr. President, that this body should retain the authority themselves. This body itself should decide when we are going to hire an Assistant Chief Clerk.

PRESIDENT EGAN: Mr. Buckalew, the Chair will hold that Mr. Coghill's point of order is well taken. That is the function of that Committee, the Committee on Administration as far as recommending to the body.

BUCKALEW: Mr. President, I don't think you get my point. My point is that if we accept the report the secretariat has

that position authorized at this time and I move to strike it from the report and ask unanimous consent.

UNIDENTIFIED DELEGATE: Object.

TAYLOR: Point of order, Mr. President.

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

TAYLOR: There is already a motion before us.

PRESIDENT EGAN: The point of order is well taken at this time. At this time the motion is out of order because there is another motion before us on the floor, and the question is, "Shall the report of Mr. Coghill be adopted, or portions of the report as he suggested? Mr. Sundborg?

SUNDBORG: Mr. President, may we have it read again, rather slowly, the portions of the report we would be adopting if this motion prevails.

PRESIDENT EGAN: Mr. Coghill, would you do that?

COGHILL: Section B pertains to the secretariat, with an estimated 80 days, we are going on the assumption that --

UNIDENTIFIED DELEGATE: Mr. Coghill, would you come up to the microphone please?

COGHILL: We are under the presumption that the Convention is going to run its full time in making these estimates.

(Mr. Coghill reread Sections 1 and 2 under B.)

PRESIDENT EGAN: What is the pleasure of the Convention? The motion is still before us as to whether or not to adopt those portions of the report that Mr. Coghill has brought before us. Mr. Taylor?

TAYLOR: Mr. President, for the purpose of getting this before the Convention I will move that Sections B1 and B2 --

PRESIDENT EGAN: Mr. Taylor, it has already been moved and seconded that those portions be adopted. Mr. Buckalew?

BUCKALEW: Mr. President, I want to address myself on one other subject on this report and do it with extreme reluctance. It seems to me that I don't see why the permanent Secretary should get more than the presiding officer. I was led to believe earlier during the session that the permanent Secretary's salary was coming from the Statehood Committee. Now I see it is coming right out of the money that the Legislature appropriated

For this Convention. I will admit that the permanent Secretary is a capable young lawyer, but I see no reason for paying him \$43.00 a day, and I object to it strenuously. I see no reason why the permanent Secretary should get more than the presiding officer. I don't think it is reasonable.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, this matter was given careful thought by the Committee. Mr. Stewart was engaged by the Statehood Committee, and his salary was fixed by them. He has worked at that salary as I understand it, for some considerable period of time, far longer than we have been in session, many months. I have no recollection whatsoever of anyone telling this body that Mr. Stewart's wages would be \$35.00 at all, and I differ with Mr. Buckalew in that respect. I want to point out that Mr. Stewart is serving as a technical person. He is not a delegate. His job is as complex as that of a delegate's and much more so. I believe that the Statehood Committee made a wise move in fixing his salary in the manner that Mr. Coghill's Committee now seeks approval for. His work is much more difficult now than it has been in the past, and to now reduce his salary would seem to me to be pretty small. His work has increased. His salary should be held the way it was. If it was good and just three months ago it is far, he is far more deserving of it at this time and throughout the duration of our session, and I see no reason why my salary should serve as a ceiling for that of every person employed by the Convention. I think that distinction is without logic.

WHITE: A point of order, Mr. Chairman.

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

WHITE: Did I understand the ruling of the Chair to be that amendments to this motion in the nature of striking or revising certain items are out of order at this time?

PRESIDENT EGAN: No, Mr. White, that would be in order, but Mr. Buckalew moved, he didn't move to amend, he just moved, that it be stricken. He should have moved to amend the motion for a specific purpose. His motion was not stated properly.

BUCKALEW: Mr. President, I will state the motion. I move to delete that section which refers to the salary of the permanent Secretary. I would like to state one more time that I was informed and lead to believe that his salary was coming out of another fund than which we are now taking it out of.

PRESIDENT EGAN: Mr. Buckalew moves that that portion relating to the Secretary's salary be deleted from this consideration.

TAYLOR: Mr. President?

PRESIDENT EGAN: Mr. Taylor. There is nothing before us at this time Mr. Taylor. Mr. Sundborg?

SUNDBORG: I second the motion.

PPRESIDENT EGAN: Mr. Sundborg seconds the motion.

SUNDBORG: I wondered if Mr. Buckalew's motion includes the portion dealing with the \$12 per diem for the Secretary.

BUCKALEW: It pertains to the whole section.

SUNDBORG: The whole section? Then you are moving to strike it?

BUCKALEW: I am moving to strike it.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I would like to speak on the amendment here. I don't think there was anyone except Ken Johnson that worked any harder on the Ways and Means to try and save money for the Territory, and I feel the same way in this Convention. I feel that money can be saved by endeavoring to shorten the time of the Convention and at least get out of here with a well-written Constitution before Christmas, but knowing Tom Stewart, our Secretary, and knowing the way he does work and knowing the way he will work, I believe this amendment should be defeated, and he will earn every cent of his \$43.66 a day.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think Mr. President, it would be false economy to quibble over some money for the Secretary when we have one with the capabilities of Mr. Stewart. Now Mr. Buckalew says he has been led to believe. Now has there been one word on the floor of this Convention that would lead Mr. Buckalew to say that the Statehood Committee was going to pay Mr. Stewart's salary? If he wants to listen to some idle gossip by somebody else as to whether or not Mr. Stewart is going to get paid by the Statehood Committee, he should verify these statements before he comes here and says he has been led to believe by somebody, and I will say, as a member of the Statehood Committee, he has not been led to believe by what any member of the Statehood Committee has said regarding that. Nothing has come up here. I think it is a case of wishful thinking on his part to cut the salary of Mr. Stewart.

BUCKALEW: Mr. President?

PRESIDENT EGAN: Mr. Buckalew. Is there anyone else who desires to speak first? Mr. Barr has been attempting to get the floor,

Mr. Buckalew. Mr. Barr has the floor now. You can have the last say on the discussion Mr. Buckalew.

BARR: I see no reason for comparing Mr. Stewart's salary with that of the delegate. Mr. Stewart was handpicked for this job because of his abilities and his experience. There is actually no one in the Territory today, I believe, who has the same experience he has in these statehood matters. He has done a tremendous amount of research work on it. Here we may of course receive a little less money, but we were not handpicked the way he was. We are here because the people decided to vote for us. I would rather compare Mr. Stewart's salary with that of a truck driver. There are truck drivers operating out of Fairbanks who are receiving more than this proposed figure. Their only responsibility is to truck and a great deal is going to depend on Mr. Stewart's action here, the whole success of the Convention in fact and I believe he is entitled to, if not a truck driver's salary, at least very little less.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I don't know, I have no idea of the total amount of Mr. Stewart's compensation but I question the propriety of paying him a per diem. The reason he was receiving a per diem from the Statehood Committee was that the Statehood Committee sent him from Juneau to perform a service up here and so he was entitled to per diem. We engaged his services when he was here on the grounds. It seems to me there is a question whether it is proper to pay him a per diem in addition to salary, anymore than we would any other of the staff who do not live in Fairbanks.

PRESIDENT EGAN: Mr. Marston.

MARSTON: We lost money the other day in talking about this taping of the question, about a thousand dollars in time, and we're getting in the same position now. We've lost more than the additional money we're paying him by this time right here. Let's bring this to the question and get it over with.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Is there anyone else who desires to speak before the question?

Mr. Rivers.

V. RIVERS: I feel as Mr. Marston does. I will move for the previous question.

TAYLOR: I second it.

PRESIDENT EGAN Mr. Rivers moves the previous question. The motion has been seconded. The effect of this motion is to stop

Debate, and if this motion carries we will then vote on the original motion. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will say "aye", all opposed "no". The "ayes" have it and the previous question is ordered. Will the Chief Clerk please read the motion again, the one we are voting on.

CHIEF CLERK: That the Committee report on Administration, Report No. 1 be received by the Convention and that Section B1 and B2 be adopted so far as they specify the positions therein and the daily rate of pay.

PRESIDENT EGAN: No, it is the amendment by Mr. Buckalew we are voting on.

CHIEF CLERK: Move to delete that section pertaining to the permanent Secretary.

UNIDENTIFIED DELEGATE: Was there a second to that motion? I didn't hear one.

BUCKALEW: George Sundborg.

PRESIDENT EGAN: All those in favor say "aye", all opposed "no". The "nays" have it and the amendment is lost. Mr. Sundborg?

SUNDBORG: Mr. President, I would like to move an amendment to strike the item one doorkeeper at \$18.00 per day. We don't even have a door here. I don't see why we need a doorkeeper, and it seems to me this is just one of those sort of pension or honorarium things which has crept into usage for legislative sessions and there is no reason to perpetuate it in this Constitutional Convention because that person would not serve any useful function.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves to strike the salary of the doorkeeper. He is in effect amending the motion that is not pending before us. It is an amendment. Mr. McCutcheon? Was that motion seconded?

BUCKALEW: I seconded it.

MCCUTCHEON: Mr. President, I move to lay the matter on the table concerning the receiving and adoption of this report until the report has been placed in the hands of all of the group here, because to work on a relatively technical matter such as this without everyone having the full benefit of the knowledge of the full contents of the report places us all at a disadvantage. I so move that it be laid on the table pending reproduction of this report and placing it in the hands of

the committee.

COGHILL: I object.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon moves that the original motion be laid on the table. It's been moved and seconded that the original motion be laid on the table. All those in favor of laying the original motion on the table pending receipt of these portions of the report say "aye". All opposed say "no". The nays have it. The motion to table is lost. Mr. Coghill.

COGHILL: Mr. President, is this open for debate on the amendment?

PRESIDENT EGAN: The amendment that is by Mr. Sundborg relative to the doorkeeper? That is correct, Mr. Coghill, it is open for debate.

COGHILL: Mr. President, in the Committee on Administration we have been working two days on this report and we have tried to round out a complete and desirable secretariat and a personnel services staff, and in doing so we feel that a sergeant-at-arms is not enough to keep order on the floor of the Convention when things start rolling. Now most of us have been down to Juneau at some time or other during the legislative session. You know how stormy the lobbyists, visitors and the confusion can get. With having two people at our service to serve us at our desks or to keep people quiet or to have somebody brought in at the call of the Convention or to adhere to the rules and regulations set down for the Convention by the Rules Committee. We must have at least two people. We in the Committee are not desirous of spending \$262,000. That is not our intent. The economy of this Convention is going to come on how long it is going to take us and not on our professional or secretarial services. We have weighed this matter carefully. We have submitted it to you earnestly. We would like to have you consider it as such.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, this is the last time I am going to get up today. I've had the cure. But I see no necessity for, I too served in the Legislature and supposedly in the noisiest and most raucous house they ever had, and I can assure you that a sergeant-at-arms can handle the door and the business on the floor. I'll use the same words -- I think it is ridiculous, I think if you're looking after the taxpayer's money, we hope we can get through with this Convention in 30 days and when it is \$2,000 I think it is a waste of money and

Should be cut off. I see no necessity for blowing it.

COGHILL: Point of information, Mr. President. It is not \$2,000 at all. That estimate is taken on the full 80 days or the full time of the Convention -- 75 days plus mopping-up procedures after the Convention.

PRESIDENT EGAN: Is there any further discussion on the motion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the salary of the doorkeeper be stricken from this report?" All in favor of the motion signify by saying "aye", all opposed "no". The "noes" have it and the motion is lost. Is there further discussion on the main motion?

DAVIS: I move the main motion.

MCCUTCHEON: I second the motion.

SUNDBORG: Mr. President, point of information.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to know if the motion, not the previous question, but the main motion to which we seem to be proceeding to a vote, authorizes any particular person to hire these people, or is it only authorizing a salary scale and that these positions be established.

COGHILL: I can answer that. By not accepting and adopting our full report these positions will be on hand but we have no authority to hire anybody for them. In the report it was brought out by the Committee and it is desirous of the Committee to have the Secretary hire--as to keep pressures from any one particular part of this body, but that would be left out now, not accepted.

PRESIDENT EGAN: Mr. Davis moved the obvious question, seconded by Mr. McCutcheon. The question is, shall the previous question be ordered?" All those in favor say "aye", all opposed say "no". The "ayes" have it and the previous question is ordered. We are about to vote on the original motion, and the question is, shall those portions of the report as presented by Mr. Coghill be adopted by the Convention?" All those in favor of adopting the report say "aye", all opposed "no". The "ayes" have it, and those portions of the report are adopted. Mr. Johnson?

JOHNSON: Mr. President, I believe at the beginning of the session today we inadvertently overlooked acting upon the minutes of the previous plenary session. Therefore, I ask

Unanimous consent that the minutes of the previous plenary sessions be considered read and approved and that this notation be inserted in its proper place in today's record.

PRESIDENT EGAN: You have heard Mr. Johnson's unanimous consent request. If there is no objection it is so ordered. Mr. Hellenthal?

HELLENTHAL: Mr. President, I am fresh at this sort of thing. I just wonder though if that means that we will go for many days without knowing what kind of minutes are being kept. We all seem to agree that a record of this Convention is of great, great importance and it will be for many years to come so I merely suggest that some day soon we take a look at the minutes to see if we are getting good minutes.

PRESIDENT EGAN: Your suggestion is probably well taken, Mr. Hellenthal. It probably will not be too great a time now. Before we'll have that, we will have to have the staff first. Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the Committee on Committees be discharged.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the advisory Committee on Committees be discharged. Is there objection? Hearing no objection it is so ordered. Mrs. Hermann?

HERMANN: Mr. President, I move that the Secretary be directed to procure a gavel for the use of the Constitutional Convention, a nice gavel, and that at the conclusion of the Convention that it be presented to the University Museum. I might say in passing that the one you have been using is mine.

JOHNSON: I ask unanimous consent to the motion.

PRESIDENT EGAN: Unanimous consent has been asked that Mrs. Hermann's request be adopted. Is there objection?

BUCKALEW: Objection.

PRESIDENT EGAN: Objection is heard. Mr. Buckalew.

JOHNSON: I second the motion.

PRESIDENT EGAN: It has been moved and seconded by Mr. Johnson that the Convention purchase a gavel for the use of the President during this Convention and at the conclusion of the Convention the gavel be given to the Museum of the University of Alaska.

BUCKALEW: Mr. President, I would like to know how much this

Body is going to spend for this gavel. You can spend as much as \$500 for a gavel. I think we are going to run out of money, that is all. I will move that they don't spend over \$2000 for that.

PRESIDENT EGAN: The President would like at this time to appoint a committee to purchase that gavel. I would like to appoint Mr. Buckalew Chairman and Mr. Johnson as the Committee to purchase the gavel that was ordered by the Convention. Did the motion say that the Secretary do it? The President is out of order and will withdraw the Committee. The Secretary may do the purchasing.

CHIEF CLERK: We haven't adopted the motion yet.

SUNDBORG: We have not adopted the motion yet.

PRESIDENT EGAN: Mr. Buckalew objected to that? The question is "Shall the request of Mrs. Hermann be adopted?" Mr. McNealy?

MCNEALY: Mr. President, I would like, with Delegate Hermann's consent, to move an amendment that rather than the Secretary purchasing this that the Chair appoint a committee to purchase the gavel.

HERMANN: I will accept the amendment.

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

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that the motion as amended be adopted. Is there objection? Hearing no objection, then Mr. Johnson and Mr. Buckalew may purchase the gavel. Mr. Coghill?

COGHILL: Mr. President, I move and ask unanimous consent that the Convention stand at ease for one minute.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent that the Convention stand at ease for one minute. Hearing no objection, the Convention will be at ease.

AFTER RECESS

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

COGHILL: Mr. President, I move and ask unanimous consent that the Secretary be authorized to fill the staff positions, authorized to the extent that they may be necessarily needed, subject to the approval of the Committee on Administration.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Coghill, that the Secretary be authorized to fill the staff positions as much

as will be necessary to carry on the business of the Convention. Is that your intention, Mr. Coghill? The Chief Clerk will read the motion exactly as Mr. Coghill read it.

CHIEF CLERK: "That the Secretary be authorized to fill the staff positions, authorized to the extent that he may determine necessary,"subject to the approval of the Committee on Administration.

PRESIDENT EGAN: You have heard the unanimous consent request. Is there objection? Mr. Sundborg?

SUNDBORG: Mr. President, I object only temporarily and for the purpose of determining whether that might be in conflict with a rule which the Rules Committee has drawn up on that subject. I wonder if we could ask Mr. Riley to straighten that out.

PRESIDENT EGAN: Mr. Riley. Could you answer that question?

RILEY: I think not, Mr. President. I think it amplifies it a little but does not conflict at all. We expect to propose to the body Monday morning. I might add that the Rules Committee has virtually concluded its deliberations but we have nothing yet to put before the full Convention.

SUNDBORG: Mr. President, the one thing that occurs to me is that in the proposed rule which will be presented to you, there is a provision that the hiring of the staff, while it may be done by the Secretary, will always be under the direction of the President, which would not have been covered by Mr. Coghill's motion.

RILEY: Mr. President, to touch on that very briefly - the proposed rule will state that under the direction of the President the Secretary shall assign and supervise the work of all administrative, clerical, and custodial employees. Now there is no coverage on employment.

COGHILL: In the rules that we adopted for committee, that the definition for your Committee on Administration includes finances, personnel -- it is page two of the mimeographed form, Section 2.

(Mr. Coghill read from this.)

SUNBORG: Mr. President, that is correct that is the province where you are to bring forth recommendations to the Convention but that does not necessarily mean that the Committee will do the hiring unless the Convention so directs. What you would not direct is that the Secretary would do the hiring subject to the approval of your Committee. For the record I withdraw my objection.

PRESIDENT EGAN: Is there any further objection? If not, the motion by Mr. Coghill has been adopted, and the Secretary is instructed to hire the particular personnel that are needed. Is there any further business to come before the Convention at this time? Mr. Hilscher?

HILSCHER: Mr. President, your Committee on Tape Recording, would you like to have that report?

PRESIDENT EGAN: Yes, that is the special Committee on Tape Recording.

HILSCHER: Your Committee, consisted of Mr. Barry White, Mr. Nerland, Mr. Harris, George Cooper, and Hilscher. We met with KFAR. We also talked with KFRB. We also talked with Colonel Sawtelle of the Air Force at Ladd Field to see what we could get from them or what assistance we could get. KFRB in a letter advises in essence that this station feels it should not submit a bid for recording the proceedings of the Constitutional Convention due to the fact that a set-up is here already, too short notice, purchase of equipment from the states, time of arrival, set-up, etc., would practically preclude them from being of any direct value to us. The Air Force advised us that such equipment as they have at the present time is somewhat old, is inadequate, they do not have enough and probably could not put it together in a theater, and furthermore, if a civilian concern or a civilian operator who could do this, very obviously, the Air Force would be stopped from offering this service to us, because it would then be in competition with civilian service. KFAR has proposed two bases which we requested specifically at your instruction: one, if we were to buy the equipment and then attempt to sell it later on, what such equipment would cost and the cost of handling the deal. The other would be to carry on as they are at the present time with new equipment which they would probably string across here and carry through. KFAR has offered us what your Committee believes to be a satisfactory proposition as follows: KFAR would assume the cost of the equipment and would retain ownership of the equipment for a guarantee of 150 recording hours, at \$31.20 per hour, in addition to \$6.00 rental charge per hour, or \$37.20 per hour. Total cost to the Convention for the minimum period, 150 hours of plenary session would be \$5,580. That is the base cost. In Mr. Coghill's report there has been an allowable sum of \$8,000 for tape recording. Duplicates would cost at the rate of \$18.00 per hour. Now there is no possible way for your Committee to come up and tell you that you are going to have to spend \$6,000 or \$4,000 or \$8,000 to cover this Convention. It is just as impossible to tell you that as it is if you are going to the hospital for a serious operation how long you are going to be there and how much it will cost. We submit this as a base figure, \$5,580, we have as good a proposition as we can possibly get. Mr. President, a bearing on this question of whether we tape it or

whether we do not continue, I should like you to call on Mr. Peratrovich to give us his reaction to the first day's broadcasting and on making this information available to the public, as he heard it in Ketchikan.

PRESIDENT EGAN: If there is no objection, Mr. Peratrovich, would you be kind enough to tell us your reaction.

PERATROVICH: The reception, as I told some of you delegates, was very well received. Fortunately, the reception was good, and in my area of the woods practically everyone in the little communities was commenting on the ceremonies here. It was well received. It was clear. The speeches were all taken in pretty well, and after arriving at Ketchikan I talked to at least five or six individuals there that have homes in Ketchikan, and their comment was in the same manner. And I attended the Chamber of Commerce gathering there, and I noticed the interest is being shown a little more than at the start which leads me to believe perhaps this broadcasting did some good --at least the public has taken an interest. I am sure that if you keep them informed in this matter by the time you present a constitution you will have wonderful cooperation. I know it was well received. I heard part of it, and I enjoyed it myself. I hope you folks will see fit to continue it.

PRESIDENT EGAN: Mr. Smith?

SMITH: Mr. President, at the risk of exposing my lack of knowledge, I would just like to ask anyone who is capable of answering the question, just how long it would take to reproduce duplicates -- say that we run the 150 hours. I would judge they could be run at the rate in excess of what they will be recorded, and I just wonder if there is any information on that.

SUNDBORG: Mr. President, point of order. I don't think we have anything before us.

PRESIDENT EGAN: That is right. Mr. Smith stated he was rising to a point of information. The Chair feels that under the circumstances that might be a good question for Mr. Hilscher to answer.

HILSCHER: Mr. Harris is an electronic engineer and he is on our Committee and could possibly answer the question.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, we were discussing this same thing yesterday. You can only make duplicates at the same rate of speed as the originals are made. In other words, when the Convention winds up we have 150 hours of tape then it will take

150 hours to duplicate that tape.

HELLENTHAL: That is \$2700.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, here is one point I cannot understand here. The Committee Chairman says that the duplicates would cost \$18.00 per hour. The tapes, if I am correct, cost somewhere in the neighborhood of \$4.00 an hour for recording plus the storage, I can't see that it would cost over \$10.00 per hour and I wonder why its \$18.00

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. Barr, on that situation, we feel that if these tapes are made they should be made the best that is possible and to do that we changed the original estimate of KFAR to record at 3 and 3/4 speed. We specifically asked that it be recorded at 7 1/2 due to the fidelity and the chance to use it later on broadcasting work. That means two rolls of tape for every hour's recording.

HILSCHER: Mr. President, we don't want to get into a technical argument on a highly technical subject. We would like to offer this thought. It will be necessary to tape, first of all, all of the plenary sessions, then we can cut out such trivia as we will have plenty of, and then make duplicates on the essential material which will be of value and interest to the public. I presume when we get through that we will have a far less quantity of hours than we have in the original. It is going to require considerable editing to get it down to that point. I should like to make a motion in order to get this on the floor, that the Convention go on record in favor of soundscribing the plenary sessions to the extent of 150 hours.

TAYLOR: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention go on record as favoring the soundscribing of the plenary sessions to the extent of 150 hours. The motion has been oved and seconded and is open for discussion. Mr. Kilcher?

KILCHER: Mr. President, I don't see how we can restrict the tape to 150 hours. Are we going to cut off at 150 hours?

HILSCHER: A guarantee of 150 hours.

KILCHER: I would like to have that incorporated in your wording.

HILSCHER: A guarantee of 150 hours.

TAYLOR: I would accept the change.

PRESIDENT EGAN: Mr. Hilscher with the consent of his second, desires to have the motion changed to read that the Convention will "guarantee a 150 hours of recording." Mr. Buckalew?

BUCKALEW: If it is relevant I would like to ask a question of Mr. Coghill through the Chair.

PRESIDENT EGAN: If it is relevant to this question you may if Mr. Coghill desires to answer it.

SWEENEY: Would you ask Mr. Buckalew to speak a little louder please.

PRESIDENT EGAN: Would you speak a little louder please, Mr. Buckalew? Mr. Coghill if there is no objection you may answer the question through the Chair.

BUCKALEW: Mr. Coghill, did you make arrangements or set money aside for printing the journal for the proceedings of this body?

COGHILL: We did not specifically set aside money for printing the journal. We thought the journal could be mimeographed and therefore it would come under the supplies -- the postage, the \$3500. That would be under Section 6, supplies and postage of which was not adopted. Does that answer your question?

BUCKALEW: Then may I have the floor, Mr. President? PRESIDENT EGAN: Yes, you may have the floor Mr. Buckalew.

BUCKALEW: It seems to me that the most positive record of the proceedings of this body would be a printed journal. It seems to me we should make provisions for printing a journal before we start spending \$5,000 for a tape recording which I understand is going to be censored by somebody I don't know.

V. RIVERS: I noticed on the Committee report which we received Mr. President, there is a miscellaneous item set up for some \$23,500. I feel confident that the printing of the journal could be included under that.

KILCHER: Mr. President?

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: In reply to Mr. Buckalew, I might state that there was no implication in Mr. Hilscher's motion that it would be edited later on. That remark was not connected with the motion.

PRESIDENT EGAN: Is there any further discussion. Mr. Poulsen.

POULSON: Is it possible that we vote on this question and it by roll call?

PRESIDENT EGAN: If you request a roll call Mr. Poulsen, the Chair will ask for a roll call vote. Mr. Sundborg?

SUNDBORG: Does the motion before us include the matter of duplicates or is it only the original recording?

PRESIDENT EGAN: The motion before us would only include the original recording. Is there further discussion on the motion?

V. RIVERS: Question.

PRESIDENT EGAN: The question is, "Shall the plenary sessions of the Convention be transcribed with a guarantee of 150 hours being given to the people transcribing the sessions of the Convention?" The Chief Clerk can call the roll.

V. RIVERS: Point of order Mr. Chairman. I think the word "transcribed" is improperly used. I think "soundscribing" is correct.

PRESIDENT EGAN: "Soundscribing" is correct, Mr. Rivers. Mr. Sundborg?

SUNDBORG: I wonder if this has been developed. After this complete soundscribing record is made, all we have is the tape. Is that what I understand? If it is to be transcribed into written words that would be an additional duty of somebody and an additional expense we have not yet authorized.

PRESIDENT EGAN: That is correct. Mr. Taylor?

TAYLOR: Mr. President, I believe that the making duplicates of those records can certainly be left to the future. I think it would be within the province of the Legislature if they saw fit to have as many duplicates of that tape made as they needed. We know that there should be at least three or four made. They will go on into the permanent archives of the Territory, it should go to the Congress, the Library of Congress, and then have the original put away in some safe place where it would not be used again unless it be necessary.

PRESIDENT EGAN: Mr. Taylor, this particular motion only takes care of the original soundscribing.

TAYLOR: The only reason I spoke on that matter, Mr. President, was the fact that they did inject into it about these duplicates they were going to have but I think that should be left for the Legislature.

PRESIDENT EGAN: Mr. Longborg

LONDBORG: As I understand it, one of the original reasons presented for soundscribing is to have a record through which the stenotypist can check for accuracy. As we have it KFAR will be through at the end of the recording. We will have no equipment for her to play it back on and will be of no value to her unless some provision is made for an engineer, tape recording equipment, etc., to have at her disposal.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I might mention this, in speaking to KFAR yesterday the recording machines will be set up here and they will tape the plenary sessions and naturally, if they are taped here, if the Secretary or anyone else would like to request that portion of the tape, the engineer will be here, the recording machine will be here and they could do so at that time. Those records could be checked. I might also point out the fact that personally I feel we are quibbling over something that actually is invaluable. I wonder how many of us here, how much we would pay, if it was possible to go back and listen to the original Constitution of the United States played back to us now.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I am going to be through after this, but it seems to me this body is premature. From the report of Mr. Coghill I can't see there has been any definite money set aside for a printed journal. A printed journal is the most important portion of any proceedings. That is like a book that you could use in court, the legislature and there has been no adequate provision made for a printed journal. It seems to me that would be the most important thing to take care of first. This business of buying this tape and putting it in a waterproof can and putting a brass knob on it or something and burying it in Juneau is not going to be of any earthly use to anybody. The printed journal is what this body should have. There has been no adequate provision made for it and it is premature at this time I think to order tapes and cans to put it in.

MCCUTCHEON: Mr. President?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The thought has just occurred to me that in the event this particular constitution is turned down by the people there would not be much need for a printed journal. In the event that our constitution is accepted by the people, certainly from the records we will have from the daily journal as it goes along, the Territorial Legislature will be able to appropriate

the session monies to have it printed.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, there are two points I would like to bring up. First of all, one of the arguments that has been used for taping is that it could be used for informing the people of Alaska of what is going on on the Convention floor through use of duplicate tapes. That point is not substantiated at all in the authorization of the expenditure of \$5,580. In other words, unless we make an additional appropriation, the people of Alaska will have no use of this tape. Another argument that has been raised has been that it may help the stenotypist in keeping a good record. Now, it might very well be much cheaper and a more efficient way to get another stenotypist and have two good-looking young ladies in front of us transcribing all of this, because in many ways a written record is so much more valuable, even a word-for-word record, than would be a sound recording. A sound recording would be very difficult to use for reference purposes, for the simple reason that there would be no easy way of finding particular portions that you may be interested in if you could. In a written record where you can index and cross index, certain pages skip over it as rapidly as you desire.

HELLENTHAL: Question.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Chairman, I move that the motion on the floor be tabled and made the first order of business Monday morning and ask unanimous consent.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Is there a second to your motion?

BUCKALEW: I second it.

PRESIDENT EGAN: Mr. Coghill moves and Mr. Buckalew seconded a motion that the question before us be tabled until Monday morning.

HERMANN: Mr. President?

PRESIDENT EGAN: The motion is undebatable, Mrs. Hermann.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the question be tabled?" All those in favor of tabling this question of soundscribing the plenary session say aye, all opposed say "no". The "noes" have it and the motion has failed. Mr. McNealy?

MCNEALY: Mr. President, I now move the previous question.

PRESIDENT EGAN: Mr. McNealy moves the previous question.

JOHNSON: I second it.

PRESIDENT EGAN: Mr. Johnson seconds the motion. All those in favor of ordering the previous question say "aye", all opposed "no". The ayes have it and the previous question is ordered, and the question is, "Shall the Convention order the soundscribing of the plenary sessions with a guarantee of 150 hours?" The Chief Clerk will call the roll.

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

Ayes: 46 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Taylor, Vanderleest, Walsh, White, Wien, Mr. President.

Nays: 9 - Buckalew, Coghill, V. Fischer, Gray, Knight, Londborg, Poulsen, Reader, Sundborg.)

PRESIDENT EGAN: So the motion has carried and the Convention has gone on record as ordering the soundscribing of the plenary sessions with a guarantee of 150 hours. Mr. White?

WHITE: Mr. President, I move and ask unanimous consent that the Secretary be empowered to proceed according to the recommendations made by the Committee and make the necessary arrangements for the soundscribing.

PRESIDENT EGAN: Mr. White asks unanimous consent that the Secretary be empowered to proceed with the necessary arrangements. Is there objection? Hearing none, the Secretary is so ordered. Mr. Barr?

BARR: I move that the Secretary also be empowered to authorize transcriptions of each day's soundscribing to be made as soon as practical after the end of that day's transcribing so that it may become available to radio stations.

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Barr moves and Mr. Kilcher seconds the motion asking that the --

KILSCHER: As a point of information, Mr. President, on Mr. Barr's motion, I just wonder whether or not Mr. Barr intends that the entire day's proceedings such as we have been running along now, I just wonder how successful we would be in presenting our best foot forward if a lot of this trivia that's been going on now is made directly available to the radio stations. It is our thought at the present time that the more important speeches and discussions would be made available to the radio stations in a program form when the time arrives.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, on that point either you are going to authorize full transcription or you are not going to authorize anything. Who is going to be the censor on what is important and what is not. The only censor, if you desire it, should be the public. If we look bad then we deserve it and if we look good we should be flattered and amazed. Frankly, I don't think you can separate the good from the bad. We have no censors. If we are going to provide it to the public, we should provide the public with the whole proceedings. Possibly it might help to cut down some of the trivia that has been suggested.

BARR: I would like to answer Mr. Hilscher and also check to see if I stated my motion properly. I meant to say that each day a transcription could be made of what had been soundscribed. In other words, the transcription has to be the same as what has been soundscribed, so the question here is to decide what we should put on here in the first place. It has no bearing on my motion.

KILCHER: As far as I understand this technically, is that original soundscribing should be available to the Chief Clerk for correction of minutes and such matter and for that purpose the copy of transcription should be used. The original should be used as little as possible. In order to transcribe and even in order to censor later on, which I hope will not happen, we would have to have a complete transcription and that transcription itself should be a copy. Correct me if I'm wrong.

HINCKEL: I would like some information also. Would it be possible to make two soundscribings simultaneously cheaper than to make a copy. Anybody know that?

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, if I may answer Mr. Hinckel's question. In order that these tapes be taken so that not a word of the Convention is missed, (whether that is good or bad we will not debate) but it is necessary to have two recording machines. KFAR is having to purchase those machines and in return is leasing them to the Convention. In order to take two tapes

and I don't think that would be economically feasible for KFAR or the Convention.

PRESIDENT EGAN: That should answer the question. Mr. Barr, the original intent of your motion then was to have the Secretary each night or the Chief Clerk transcribe everything off of the soundscribed tape?

BARR: No that is not it. I said that as soon as practical after these proceedings had been soundscribed, a transcription should be made, a duplicate, so that we would not have to use the original tape. The duplicate which was transcribed, could be used for both checking on our proceedings here ourselves, or for the radio station, or for any purpose whatsoever. We would not have to touch the original after the transcription was once made. It would be safe.

PRESIDENT EGAN: Who would make that duplicate, Mr. Barr?

BARR: According to the Committee here there would be a man hired to do that. They figure on buying the tape and hiring a man at so much per hour.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. Chairman, might I interject a thought. I am convinced in my own mind that with a modern, true and accurate tape representing every word that is uttered at the Convention that the necessity for a journal will be totally eliminated. Journals came from the past when tape recording machines were not invented, and so I feel that we should not think that superimposed on the cost involved here would be the additional cost of an archaic and totally useless printed journal.

PRESIDENT EGAN: Mr. Rivers.

R. RIVERS: Mr. President, I think we are talking about two different things, and I was interested in Mr. Buckalew's remarks about a printed record. A daily working journal would show official action taken and roll calls performed as we do in the Senate and House of Representatives. The Chief Clerk is taking that kind of minutes of these meetings now for a purpose of a daily working journal. Mr. Coghill had in mind that that kind of a daily working journal could be mimeographed and we would each get a copy every day. The Clerk would keep a record of those mimeographed journals. We could refer back during the course of the session as to what happened on the eighth day or the twentieth day. Now then we would have a tape of a verbatim record of the proceedings. We would also have the record of the stenotypist here as a verbatim record. Well, we are certainly not going to type up a verbatim record of all these conversations for journal purposes. We are going to rely upon

A daily working journal showing official action taken. I don't think that that daily working journal which can be rather condensed, just like the minutes of any meeting would be archaic or of no use. I think we need that kind of a record for the continuity of our proceedings.

HELLENTHAL: My objections were to the printed archaic record. The printing I think is totally uncalled for.

R. RIVERS: Well, we don't have to decide that now. So I say we should have an understanding that as soon as clerical assistance is made available, the Clerk will provide us with a daily working journal in mimeographed form along the lines I have suggested. Somewhere along the line we are going to have to make a decision as to whether to transcribe the word-by-word proceedings of the plenary sessions. The young lady who operates the stenotype I am sure could read her notes back a month from now or six months from now. At that time, either this body or the Legislature might say "get busy on those stenotype notes and that tape transcription and let us go ahead now and print a printed record of the entire proceedings." So with that distinction Mr. Chairman, I will sit down. I think we have before us the need for having a daily working journal and we can postpone the decision as of what to do with the tape and stenotype records.

PRESIDENT EGAN: Mr. Rivers, the lady who runs the stenotype here has agreed to transcribe her records as I understand it. The Chair understands it anyway.

R. RIVERS: Fine.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. Chairman, I think we have been using some terms here rather loosely and that has added to the confusion of the body. I wonder if Mr. Barr might grant permission, and if the body would, to change his motion from "transcriptions" to "duplicate tape". I believe that was his intention that a "duplicate" tape be prepared nightly rather than a "transcription".

PRESIDENT EGAN: If there is no objection the original motion will show that change. Instead of the word "transcriptions" being used the words duplicate tape".

MCNEALY: Point of inquiry, Mr. President?

PRESIDENT EGAN: Mr. McNealy, your point of inquiry?

MCNEALY: Then does that motion embody the \$18.00 an hour to pay for the duplicate tape?

PRESIDENT EGAN: It would embody that, Mr. McNealy. Is there further discussion of the question?

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Chairman, my impression at the beginning of this discussion concerning the soundscribing was that we were to make an effort to see that we have a continual soundscribed record, one record at least. I think we have decided upon that, and it seems to me that that settles the question temporarily.

SWEENEY: I was under the impression also at the beginning of the session that if we took a tape recording of the plenary session the duplicate would not be made until the session was over, that that was the arrangement the transcribers were to be working under. Will this make a difference in the price if we insist on a duplicate tape being made after the day's business?

PRESIDENT EGAN: You mean right at this time, you mean each day Mrs. Sweeney?

SWEENEY: Are they going to have to set up and make a duplicate right away? Will it make a difference in the cost? Do they prefer to do it at the end of the session? That was the point I am bringing up.

PRESIDENT EGAN: Mr. Hilscher, could you answer that?

HILSCHER: In our discussion with KFAR, if my memory serves me correctly, we could have the duplicates made at any time. In other words, we could finish up our session at 5 o'clock that evening and probably by 7:30 or 8:00 o'clock that evening, providing they had a couple of hours, we could have our duplicate tape. We could have it that same day, by 9 o'clock the next morning, our duplicate tape.

PRESIDENT EGAN: Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If not, the question is, "Shall the Convention have the duplicate tapes be made each day?" All in favor of the motion say "aye", all opposed "no". The Chief Clerk will call the roll.

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

Ayes: 38 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Hilschor, Hinckel, Hurley, Johnson, Kilcher,

King, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Robertson, Stewart, Sweeney, Taylor, VanderLeest, Walsh, White.

Nays: 17 - Buckalew, Coghill, Cooper, Gray, Knight, Laws, Lee, Londborg, Nerland, Poulsen, Reader, Riley, Rosswog, Smith, Sundborg, Wien, Mr. President.)

PRESIDENT EGAN: So the motion has carried and the Convention will have a duplicate tape transcribed each evening. Mr. Coghill?

COGHILL: Mr. President, request to the Chairman on Convention Administration that you instruct your Committee to give us a complete cost of this operation as soon as possible.

PRESIDENT EGAN: The special Committee has already come forward with that report, Mr. Coghill. You can get it from Mr. Hilscher, probably as soon as we recess. Is there anything further to come before the Convention? Mr. Riley?

RILEY: There will be a meeting of the Committee on Rules following the recess.

PRESIDENT EGAN: Mr. Riley announces a meeting of the Committee on Rules immediately after recess. Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the Convention adopt the portion of the report of the Committee on Administration which dealt with the salary and per diem of delegates with the exception that where it is provided that delegates would be for 79 days, that it be changed to 75 days.

PRESIDENT EGAN: Mr. Sundborg moves that the Convention adopt the portion of the Committee on Administration report Mr. Hellenthal?

HELLENTHAL? Point of order. I think the motion is out of order in that that matter has already been determined by the Territorial Legislature.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, Section 19 of the Act I think covers that.

COGHILL: Mr. President, the reason why that was in the report was just to allocate out the funds. It is the same as trying to pass an approval on the \$38,000 which has already been spent

for election out of the \$300,000 allocated for the Convention.

SUNDBORG: Mr. President, may I address a question to the Chairman of the Committee?

PRESIDENT EGAN: Did someone second that motion Mr. Sundborg?

BUCKALEW: I'll second it.

PRESIDENT EGAN: Mr. Buckalew seconds it. Your question is in order Mr. Sundborg.

SUNDBORG: Mr. President may I address a question to the Chairman of that Committee through the Chair?

PRESIDENT EGAN: You may, Mr. Sundborg.

SUNDBORG: Do we understand then that the figure "79" which appeared in the description of the salary was a mistake and that actually the members will be paid salary for only 75 days?

COGHILL: That was a mistake, Mr. President. It was meant that the "79" was to be on per diem for travel.

PRESIDENT EGAN: We have Mr. Sundborg's motion before us. Is there further discussion? Mr. Sundborg?

SUNDBORG: Parliamentary inquiry. Do I understand this motion is unnecessary, that it has already been taken care of by the 1955 Territorial Legislature?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, for the information of the Chair, Mr. Stewart, of the Statehood Committee, prior to the opening of this Convention, asked me as a courtesy to write an opinion of the Attorney General as to how often the delegates would be paid. I did write that opinion and the Attorney General accepted it. I think under the circumstances I must confess sorrowfully that my opinion was rather vague but it satisfied the Attorney General. I think as a point order, Mr. Hellenthal's objection is well taken. That is, the determination as a matter of law as to how often and when we are going to be paid and how long has already been determined in fact and in theory by the Act of the Legislature and we cannot in substance ratify or change the intent of the Legislature when it prescribes the rules. If I may suggest Mr. Sundborg, I would recommend that you withdraw your motion.

SUNDBORG: With the consent of my second and the consent of the Convention I would like to withdraw my motion.

PRESIDENT EGAN: Mr. Sundborg asks for the consent of the second and asks unanimous consent to withdraw his motion. If there is no objection, it is so ordered. The motion is withdrawn. Mr. McNealy?

MCNEALY: Mr. President, once I was absent and this is a point of inquiry. Has the Convention formally adopted the Constitution of the United States? Are we organized to a point now so it can be adopted as the law requires?

PRESIDENT EGAN: The Chair would feel that the time has arrived when the adoption of the Constitution of the United States would be in order, Mr. McNealy.

MCNEALY: Mr. President, I would move that the Convention declare on behalf of the people of the proposed State of Alaska that the Constitution of the United States is hereby adopted.

BUCKALEW: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Constitution, on behalf of the people of the proposed State of Alaska, that the Constitution of the United States be adopted.

JOHNSON: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked and it is so ordered. The Secretary has a communication. Without objection you may proceed to read it.

SECRETARY: Mr. President, the Assistant Postmaster in Fairbanks asks that this announcement be read.

(Mr. Stewart read the communication from the Post Office Department stating that all mail addressed to delegates had been forwarded to College.)

PRESIDENT EGAN: It further states that Delegate Rosswog has mail at the post office? What is the pleasure of the delegates as to bus service this evening. What time should the bus come and pick us up?

SUNDBORG: Mr. President, I move and ask unanimous consent that the bus be summoned now to be here one-half hour hence.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the bus be summoned now to arrive here approximately five minutes after five. Is there objection? Hearing none it is so ordered. If someone would notify the bus company that we desire the bus here in half an hour, it would be appreciated. Mr. Johnson?

JOHNSON: Mr. President, I move that the Convention stand

adjourned until Monday morning at 10 o'clock.

PRESIDENT EGAN: Just prior to the adjournment the Chair would like to announce again, he would like a brief meeting with the chairmen of the various committees immediately after adjournment. Mr. Sundborg?

SUNDBORG: I opposed that. The other day we adopted as policy that we should meet at 9:30 daily instead of 10 o'clock. We set up a bus arrangement based on that. I think we ought to stick to the 9:30 hour.

JOHNSON: I will accept the amendment to the motion to adjourn.

PRESIDENT EGAN: So the motion before us is that the Convention stand adjourned until 9:30 a.m. on Monday morning. Is there objection? Hearing no objection it is so ordered and the Convention is adjourned until Monday morning at 9:30 a.m.

(The Convention adjourned at 4:30 p.m.)

ALASKA CONSTITUTIONAL CONVENTION

November 14, 1955

SEVENTH DAY

PRESIDENT EGAN: The Convention will come to order (9:30 a.m.). Reverend Griffin, would you come forward and give us our daily invocation.

(Convention rises as Mr. Griffin comes forward.)

THE REVEREND FELTON GRIFFIN: Our Father in Heaven, we pray that this group of delegates here may see and seize the opportunity that is theirs and come forth with the very best in thinking, the very best in character that they have ever been. We pray, Lord, that they may be divinely led as they frame for Alaska the constitution, and may they present to the people a constitution that we shall happily ratify, that our nation shall approve, and may it forever be an instrument of good for the people, for our happiness and our prosperity. In the name of Christ our Redeemer we pray, amen.

PRESIDENT EGAN: Thank you, Mr. Griffin. That is Felton Griffin of the First Baptist Church in Anchorage. The Chief Clerk may call the roll. (The Clerk at this time called the roll.)

CHIEF CLERK: All present.

PRESIDENT EGAN: The Secretary may proceed with any petitions, memorials or communications that are here before us.

SECRETARY: Mr. President, there are communications addressed to the Governor of Alaska in connection with the opening of the Convention which have just been transmitted from the office of the Governor. Do you wish them read?

PRESIDENT EGAN: You may proceed and read them, Mr. Secretary.

(Communications from Governor Arthur B. Langlie, Governor of the State of Washington, and Honorable Douglas McKay, Secretary of the Interior, to Governor Heintzleman, expressing regret at not being able to be present at the opening ceremonies of the Constitutional Convention and extending best wishes for a successful Convention, were read by the Secretary.)

PRESIDENT EGAN: An outline of the contents of the Communications that were read will become a part of the permanent record.

SECRETARY: Communication from the National Congress of American Indians.

COLLINS: Mr. President, it is absolutely impossible to hear a word being said.

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

COLLINS: We can't hear anything. The loudspeaker isn't working.

PRESIDENT EGAN: This particular speaker only affects the gallery in the other room, as I understand it. It's the noise from the pounding. If there is no objection we will hold the reading of this document over until a later time so we won't be disturbed by outside noises. The Secretary may proceed with the reading of communications.

(An invitation from the Home Economics Club inviting the delegates to an open house and tea, Thursday, November 17, from 2 to 4:30, was read by the Secretary.)

SECRETARY: That is all the communications, Mr. President.

PRESIDENT EGAN: If there are no other communications, then we are ready for reports of standing committees. Mr. Riley?

RILEY: Mr. President, if we may have a recess for about one minute the drafted report of proposed rules is here and we should distribute these before undertaking the whole report. I ask unanimous consent for a one-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a brief time. The Convention is at recess.

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order. Does everyone have a copy of the proposed rules on their desk? Do you have a copy for the press, Mr. Chairman? The Convention will be at ease until the copies of the report arrive. The Convention will come to order. Mr. Riley?

RILEY: Mr. President, at the risk of presuming on the entire body, it was the wish of the Rules Committee that these rules, as now proposed, be read in their entirety. That will take a little time. As you all know, we have adopted portions in the past, piece-meal. I would ask unanimous consent that time be given for the reading of these from the start through Rule 60 and at that time, if they have been adopted as we have gone along, I would ask that they then be adopted in their entirety to supersede anything adopted previously. In that way I think we have a fairly clean operation and we will know exactly what our permanent rules will be. At this time I will ask unanimous consent that the Convention indulge a rather lengthy report from the Rules Committee.

PRESIDENT EGAN: If there is no objection it is so ordered and

the convention will receive the reading of the report of the Rules Committee.

V. RIVERS: Question, Mr. President. Is the intention that they shall be read and acted upon chapter by chapter as we finish each chapter?

PRESIDENT EGAN: That is the feeling of the Chair. Mr. Riley you may proceed if there is no objection.

(Mr. Riley came to the front of the hall)

RILEY: These are all proposed rules adopted by the Rules Committee submitted for your consideration and action. Chapter I -- you will note as we go through that some of these have been adopted in the past.

"Officers and Administrative Staff

Rule 1. The officers of the Convention shall be a President, a First Vice President, a Second Vice President, and a Secretary; the President and Vice Presidents to be elected from the Delegates by the vote of at least 28 delegates.

Rule 2. The Secretary of the Convention need not be a Delegate, and shall serve under the direction of the President as the principal administrative officer of the Convention.

Rule 3. The Secretary with the approval of the President and the Committee on Administration shall determine the administrative, clerical and custodial staff required by the Convention, and shall appoint and determine the compensation of such employees.

Rule 4.

a. The President pro-tem shall first entertain nominations for President of the Convention, shall recognize in order all who seek the floor, shall receive and state all nominations made, and shall allow ample time for all who seek recognition to be recognized and heard before entertaining a motion to close nominations.

b. A nominee may decline nomination only while nominations are open, but may withdraw from consideration for election at any time after the first ballot is taken.

c. Voting shall be by secret ballot and balloting shall continue by successive ballots until one candidate shall have received at least 28 votes: PROVIDED, However, that in the event no candidate receives as many as 28 votes in either the first or second balloting process, the low man (or, if there be a tie in low position as to votes received, those so

tied) shall be removed from consideration on the third ballot and succeeding ballots; and, following the third and succeeding ballots wherein no nominee receives at least 28 votes, the low man or those so tied shall each time be eliminated from further consideration.

d. The first person who receives at least 28 votes on any one ballot shall be elected President of the Convention.

e. Nomination and election of other elective officers shall be conducted in the same manner as provided for the office of President."

Mr. President, I ask unanimous consent that Chapter 1 of the proposed rules as read be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Chapter 1 of the proposed rules be adopted.

DAVIS: Mr. Chairman, there are at least two typographical errors in the draft as made.

RILEY: May I amend that request to indicate correction of those. I spotted them too, and there may be others.

DAVIS: Rule 4 subsection "a", it has "recognition" instead of "recognized".

PRESIDENT EGAN: On those typographical errors, the Chair would entertain a unanimous consent that they be included in the motion by Mr. Riley. Mr. Coghill?

COGHILL: Mr. Chairman, I rise to a point of information. On Rule 3 does that rescind our action of Saturday to the request and adoption of the Committee on Administration report?

RILEY: Point of inquiry, Mr. Coghill. I was wondering about that myself, if this were in line with your Committee report of Saturday. With the approval of the President and the Committee on Administration, I know we touched on that point here in discussion Saturday. I have not your exact language.

COGHILL: Well, we did not adopt the report in entirety -- just that one section on the staff of our working organization. The point of inquiry was, is this rule's adoption at this time, going to rescind our action of Saturday as to the adoption of those portions of our Committee report?

RILEY: The Secretary just advised me that there is no conflict between your proposed coverage and this rule. Is that your impression?

COGHILL: That is my impression, but if those rules are adopted

Now we would have to go through that procedure again to have it permanently on the record to have it conform with our new rules.

RILEY: I think not.

PRESIDENT EGAN: The Chair feels that would be up to the Convention. It would not nullify that action we had taken previously as had been adopted by the Convention. Is there objection to adopting the rules under Chapter 1 as read by Mr. Riley with the instruction that the typographical errors be corrected? Hearing no objection then, the rules under Chapter 1 are ordered adopted. Mr. Taylor.

TAYLOR: Mr. President, I think instead of having to make a motion for correction of typographical errors, where a typographical error is obvious, that it be called to the attention of the body as they are noted so we can make those corrections without having to make the motion.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I am still not clear on this subject, if I may address the Chairman of the Rules Committee. In your motion for adoption, Mr. Riley, you asked that these rules supersede all other rules and action.

RILEY: I suggested that I would do that after we adopt them.

COGHILL: In effect, then, if we adopt Chapter 1 that will make all of our action of our Committee on Saturday, null.

RILEY: I think it would simply establish the rule from this point forward.

PRESIDENT EGAN: It would not nullify the action in the opinion of the Chair, Saturday because those rules at that time were permanent. We just superseded them.

COGHILL: That answers my question.

PRESIDENT EGAN: You may proceed, Mr. Riley.

RILEY: "Chapter II,

Duties of President and Vice Presidents

Rule 5. The President shall take the chair each day at the hour to which the Convention shall have adjourned. He shall call the Convention to order, and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules.

Rule 6. The President shall possess the powers and perform the duties herein prescribed:

(a) He shall preserve order and decorum, and, in debate, shall prevent personal reflections, and confine members to the question under discussion. When two or more members arise at the same time, he shall name the one entitled to the floor.

(b) He shall decide all questions of order, subject to appeal to the Rules Committee and thereafter to the Convention. On every appeal he shall have the right, in his place, to assign his reason for his decision. In case of such appeal no member shall speak more than once.

(c) He may substitute any member to perform the duties of the chair while he is present, but for no longer period than that day, except by special consent of the Convention.

(d) When the Convention shall be ready to go into Committee of the Whole, he shall name a chairman to preside.

(e) When necessary or required, he shall certify all official acts and all vouchers for payment of expenditures of the Convention.

(f) He shall designate and assign to seats or authorize the designation and seating of the persons who shall act as reporters for the public press and radio within the Convention Hall.

(g) He shall not engage in any debate, or propose his opinion on any question, except the assigning of his reasons for his decision on appeal therefrom, without first designating another Delegate to occupy the chair.

(h) He shall be entitled to vote on all questions in the same manner as other delegates except that he shall vote last.

(i) He shall declare the vote and announce the result according to the fact on all questions and divisions.

Rule 7. In the temporary absence of the President, or in event of his temporary inability to preside, his duties shall be performed by the First Vice President, or if he also be absent by the Second Vice President.

Rule 8. In the event of a vacancy in the office of the President or of either or both Vice Presidents or of the Secretary through death, resignation, or otherwise, or in the event of absence from the Convention of any of these officers for more than 5 consecutive Convention days without the approval of the Convention, the Convention shall by majority vote of the

elected Delegates elect another to fill such vacancy." Mr. President, I ask unanimous consent for the adoption of the proposed Chapter II of the Rules.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed Chapter II of the Rules. Is there any objection? Mrs. Sweeney?

SWEENEY: Just a question, Mr. President, did you leave out the portion where the President would not vote in case of a tie?

RILEY: That is changed, Mrs. Sweeney. In the first draft which was proposed, the draft which we received from the PAS through the Statehood Committee, that said that the President would vote only to break a tie, the recommendation of the Rules Committee was that he be entitled to vote on every vote. That is a change.

PRESIDENT EGAN: Is there objection? Mr. Peratrovich?

PERATROVICH: As a point of information, under "b", does this mean that instead of appealing to the floor you first have to appeal to the Rules Committee?

PRESIDENT EGAN: It is subject to the appeal of the Rules Committee.

RILEY: Ordinarily, as I recall procedure, it goes to a vote of the body as to whether an appeal shall be taken from the ruling of the Chair. At that point it goes to the Rules Committee. If, for example, an appeal is asked from a ruling, a vote is taken at that point, shall the Chair be sustained or shall the Chair be appealed from.

PERATROVICH: That is appealed to the floor instead of the committee?

RILEY: The first reference is to the floor but it goes from there to the committee. The first reference is to the floor by vote as to whether an appeal shall be taken.

PERATROVICH: Thank you.

PRESIDENT EGAN: At that point, Mr. Riley, the Chair would have the opportunity to rule or pass the matter to the Rules Committee.

RILEY: The Chair would have ruled already.

PRESIDENT EGAN: Yes, that is right. Is there objection to the request of Mr. Riley? If not, Chapter II is ordered adopted. Mr. Riley, you may proceed.

RILEY: "Chapter III,

Duties of the Secretary

Rule 9. Under the direction of the President the Secretary shall have the following powers and perform the following duties:

(a) He shall be the official custodian of and shall provide for the ultimate disposition of all roll calls, proposals, reports, records, books, documents and papers of the Convention.

(b) He shall arrange to keep a journal of the proceedings of the Convention.

(c) He shall prepare each day a calendar of the business of the Convention as provided by these rules.

(d) He shall number consecutively each proposal of subject matter to be incorporated into the Constitution and, in other series, shall number each resolution, ordinance, or other action introduced for Convention consideration.

(e) When necessary or required the Secretary with the President shall certify all official acts of the Convention.

(f) He shall assign and supervise the work of all administrative, clerical, and custodial employees and shall be responsible for the printing or other reproduction of all proposals and other documents as required.

(g) He shall arrange for the utilization of the services of such technical consultants as may be desired by the Convention and provide liaison between such consultants and the Convention.

(h) He shall perform such other duties as are required of him by the President, these rules, or the Convention."

Mr. President, I ask unanimous consent that Chapter III of the proposed rules be adopted as a permanent part of the rules.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Chapter III of the proposed rules be adopted as part of the permanent rules. Is there objection?

DOOGAN: Point of information, Mr. President?

PRESIDENT EGAN: Your point of information Mr. Doogan.

DOOGAN: Under "b" is that a daily Journal for the whole session or is it a printed journal?

RILEY: It is not spelled out what the ultimate form will be, but I think by general agreement in terms of the other day, we are talking in terms of a mimeographed journal. This does not limit the Convention to what type as long as there is a journal.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I think we should note that there is a misspelled word in the third line of "g", page 5, "liaison".

PRESIDENT EGAN: It has been noted. The Convention will come to order. Is there objection to the adoption? Mr. Coghill?

COGHILL: I rise to a point of information from the Chairman of the Rules Committee. Should it not be spelled out in the assignment of the Secretary's work with regard to printing, the reproductions, etc., in his work? Should it not be spelled out through our Committee some way or another, the Administrative Committee, so that we can have a working agreement with him or a form to watch the budget so that

RILEY: Mr. Coghill, while the original proposed draft made reference to several points to reproduction of documents, we felt that was an administrative detail and need not clutter the rules. If he were charged with doing a job, there were certain methods which would be employed whether we spelled them out or not. Is that satisfactory?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I think as far as Mr. Coghill is concerned, if he will look on page 7 under "b", the Committee on Administration, I think his query will be answered.

HERMANN: Point of information, Mr. President.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Several times during the course of considering this in the Rules Committee we made mention of the fact that the Secretary should have some responsibility toward publicity. I don't see anything in there about it. I don't know whether it got lost in the shuffle or did we abandon it? I would like an explanation from Mr. Riley.

RILEY: I don't recall, Mrs. Hermann, that it was deliberately abandoned. I do recall that we discussed it but no explicit coverage was ever arrived at. It is my information as an aside that we may hear more today about publicity, apart from this report. Am I correct on that, Mr. President?

PRESIDENT EGAN: That is true, Mr. Riley. Mr. Rivers?

R. RIVERS: This general grant to perform such other duties as the Convention assigns could be handled by separate action.

PRESIDENT EGAN: Is there further objection to the adoption of Chapter III of the proposed rules as becoming a part of the permanent rules? Hearing none it is so ordered, and Chapter III is adopted as a part of the permanent rules. Mr. Riley, you may proceed with Chapter IV.

RILEY: Chapter IV,

Quorum and Majority

Rule 10. The presence of at least twenty-eight delegates shall be necessary to constitute a quorum of the Convention, but a lesser number may meet and adjourn the Convention from day to day when necessary.

Rule 11. There being a quorum, a majority of delegates present shall be sufficient for the adoption of any motion or resolution or the taking of any action except where the affirmative vote of a greater number shall be required by these rules."

Mr. President, I ask unanimous consent for the adoption of Chapter IV as read.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of Chapter IV as read. Is there objection? Hearing no objection, it is so ordered. Mr. Riley, you may proceed with the reading of Chapter V.

RILEY: "Standing Committees

Rule 12. The President shall appoint the members of and shall name the Chairmen of all Standing Committees unless the Convention shall otherwise order. The President may fill vacancies on Standing Committees in the same manner.

Rule 13. The Standing Committees of the Convention and the number of members thereof, respectively, shall be as follows:"

RILEY: Now at this point, for an aside, I have been asked by the staff, the secretariat, to designate the committees by Roman numeral on copies before you. The reason for that request is that it ties in with their reference system in other respects concerning their work. I would read these as Roman numeral designations from I to XIV.

- "I Committee on Rules, nine members
- II Committee on Administration, nine members
- III Committee on Style and Drafting. nine members
- IV Committee on Ordinances and Transitional Measures, nine members

- V Committee on Preamble and Bill of Rights, seven members
- VI Committee on Suffrage, Elections, and Apportionment, seven members
- VII Committee on Legislative Branch, seven members
- VIII Committee on Executive Branch, seven members
- IX Committee on Finance and Taxation, seven members
- X Committee on Resources, nine members
- XI Committee on Finance and Taxation, seven members
- XII Committee on Local Government, seven members
- XIII Committee on Direct Legislation, Amendment, and Revision, seven members
- XIV Committee on Resolutions and Recommendations, seven members

Rule 14. Each Delegate except the President shall be appointed to at least one but to no more than three Standing Committees.

Rule 15. The President shall be ex-officio member of all Standing Committees but shall not vote except to break a tie.

Rule 16. The respective Standing Committees shall have the following duties and functions and in addition shall consider and report upon any other matters referred to them:

(a) The Committee on Rules shall consider and report upon such changes in the rules of the Convention and changes in organization as shall be referred to it. It shall consider and report on appeals from rulings of the chair which may be referred to it. It shall determine appeals regarding the daily calendar of the Convention in accordance with these rules.

(b) The Committee on Administration shall generally oversee the administrative or business affairs of the Convention, including finances, personnel, printing, physical arrangements for the Convention, and related matters.

(c) The Committee on Style and Drafting shall examine and edit all proposals for inclusion in the Constitution which are referred to it for the purposes of avoiding inaccuracies, repetitions, inconsistencies, or poor drafting. The Committee shall have the authority to rephrase or to regroup proposed language or sections of the proposed Constitution but shall have no authority to change the sense or purpose of any proposal referred to it. The Committee shall also be empowered without reference back to the Convention to refer proposals submitted to it to other Committees which may have an interest in the proposal. Where a proposal referred to the Committee appears inconsistent or in conflict with a proposal already acted upon favorably by the Convention at second reading, the Committee shall undertake to resolve the inconsistency or conflict by reference to the Committees concerned. If the Committee shall fail to resolve any such inconsistency or conflict it shall notify the Convention and

await its instructions.

(d) The Committee on Ordinances and Transitional Measures shall be responsible for the consideration of ordinances, specified by the Act creating the Constitutional Convention, and for the consideration of transitional measures which the Convention enacts in anticipation of statehood.

(e) The Committee on Resolutions and Recommendations shall consider resolutions and all other matters not germane to the work of other committees and shall make recommendations for action thereon.

(f) The remaining Standing Committees shall consider such proposals as are indicated by the titles of the respective committees. Such Committees shall draft and submit to the Convention for its consideration sections of the proposed Constitution pertaining to the business of the Committee.

Rule 17. Each Standing Committee shall submit to the Convention a report or reports, in writing, setting forth its recommendations on all matters referred to it. Any member or group of members of a Standing Committee may submit a minority report to the Convention. A petition signed by one-fourth of the elected Delegates shall require any Standing Committee to report to the Convention within the number of days specified in the petition.

Rule 18. No Standing Committee may hold meetings during the sessions of the Convention without permission of the Convention.

Rule 19. Each Standing Committee shall notify the Secretary of the time and place of meetings, and the Secretary shall make such notice public. All Committee hearings shall be public."

Mr. Chairman, I ask unanimous consent for the adoption of Chapter V as read.

HERMANN: Point of information, Mr. Chairman.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: The Committee on Ordinances, subdivision "d", "shall be responsible for the consideration of ordinances specified by the Act" -- is that the only ordinances it shall be responsible| for? Can there be other ordinances besides those specified in the Act itself that the Committee may consider?

PRESIDENT EGAN: Mr. Riley, can you answer that?

RILEY: I am not sure I can answer that, Mrs. Hermann, unless it would be in able to consider other ordinances under this

broad language, consideration of transitional measures. We might refer this question to one more familiar than I with the background of the Act, namely the Secretary of the Convention.

PRESIDENT EGAN: If there is no objection, Mr. Secretary, would you attempt to answer that question?

SECRETARY: It is unlimited ordinance power and such other ordinances as may be deemed necessary.

HERMANN: That was my impression but I think at present it is limited to ones that are specified in the Act.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, to clarify the point, any ordinance conceivable can be considered by that Committee because the Act specifically proposes, authorizes, and for this purpose the Convention shall have power to make ordinances. It is not qualified so apparently it is any ordinance they desire to consider.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in order to clarify Mrs. Hermann's objection, I wonder if we might not add a couple of words to read: "the consideration of ordinances including those specified by the Act." Do you think that would take care of it?

PRESIDENT EGAN: We have nothing before us at this time. Mr. Riley asked unanimous consent. Possibly it might be best to act on the unanimous consent request and then ask for an amendment, if necessary after that is done. Mr. Londborg?

LONDBORG: I believe there is a correction on Page 6. One committee was named twice. Perhaps we should get the proper one in order.

HERMANN: I object to the unanimous consent Mr. Chairman, until we have ironed this matter out.

PRESIDENT EGAN: Unanimous consent request is objected to.

RILEY: I withdraw my request.

JOHNSON: I move then that the report be accepted.

BARR: I second it.

PRESIDENT EGAN: Mr. Johnson moves that the report be accepted, seconded by Mr. Barr, that that portion in Chapter V be adopted by the Convention.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, the portion as read by Mr. McLaughlin a moment ago seems to me would be covered exactly by the language as it is now contained in the Act because, as he points out, the enabling Act makes no limitation on ordinances that the Convention may adopt. The language here is that, "The Committee on Ordinances, and Transitional Measures shall be responsible for the consideration of ordinances specified by the Act." Well, there is no limitation, so the ordinance as specified by the Act wouldn't mean anything. I don't believe it requires any change.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, in view of what has been said about this paragraph there, I think it is mainly a question of grammar. I would suggest that that probably should have to be amended. There are no specified ordinances in the Act, but if we read it to read "of ordinances as specified by the Act" it would solve this grammatical uncertainty. The Act specifies that ordinances be enacted but the ordinances themselves are not specified.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, it seems to me that to add the preposition "as" simply would make it redundant.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I think what Delegate Kilcher is getting at is "as authorized by the Act."

KILCHER: That's what I mean.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I feel an important point has been raised here. It may or may not be covered in the Act but in order to cover any eventuality I move that Section "d" of this Chapter be amended as follows: following the word "ordinances" insert a comma and substitute the words, "including those." I ask unanimous consent.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that in subsection "d" the second line after word "ordinances", a comma be inserted and the words "including those" be added. Is there objection?

KILCHER: I object.

PRESIDENT EGAN: Objection is heard. As now we have nothing

then before us.

V. FISCHER: I second Mr. White's motion.

PRESIDENT EGAN: Mr. White's motion has been seconded by Mr. Fischer. Now, Mr. Kilcher you are in order.

KILCHER: As mentioned before, I am of the opinion that there are no specified ordinances in the Act, so I don't see where the amendment would clarify the situation in any respect. "For the consideration of ordinances, including those specified" in other words, you have ordinances and more ordinances. According to the Act or as authorized by the Act, as Mr. Rivers said awhile ago. It is a matter of wording. We don't have to specify any ordinances at all. Leave the word "specified" out in any case or in any form and shape.

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

HURLEY: I see in Section 16 of the Act that it does provide for a definite ordinance. I think that even if it provides for one, that is enough. I am in favor of the amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Is there further discussion? Hearing no further discussion, the question is, "Shall Mr. White's proposed amendment be adopted?" All those in favor of adopting the amendment say "aye", all opposed "no". The "ayes" have it and the amendment is ordered adopted.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, on Page 6, under "i", I believe that should read "Committee on Judiciary Branch, seven members", as in "k" it duplicates the "Committee on Finance and Taxation, seven members".

PRESIDENT EGAN: Are you asking unanimous consent, Mr. McNees?

MCNEES: I ask unanimous consent.

PRESIDENT EGAN: As it appears, it wouldn't just be a typographical error. How does your original copy read, Mr. Riley?

RILEY: Your point is well taken.

TAYLOR: Strike one and renumber.

MCNEES: Judiciary is omitted. No. 9 -- Judiciary Branch.

PRESIDENT EGAN: Mr. McNees asks unanimous consent that the words under litte "i" on Page 6, "Finance and Taxation", be

stricken and the words "Judiciary Branch" be inserted in their place. Is there objection? Mr. Emberg.

EMBERG: Mr. President, is the number of committee members the same in both cases?

PRESIDENT EGAN: The number of committee members, as the Chair understands it, remains at seven members. Hearing no objection, Mr. McNees's unanimous consent request is ordered adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent that on Page 6, Roman numeral IV, which appears on the draft as "d", that we strike the comma after "ordinances". I might explain that in the original draft there was another word in there, "Resolutions" and we struck out the word "resolutions". We don't want the comma, and strike it also on Page 8, "d", where the duties of that committee are specified.

PRESIDENT EGAN: Mr. Sundborg, it might be best then where you go to other pages to ask unanimous consent for adoption of that amendment, page by page.

SUNDBORG: I first ask unanimous consent then for elimination of the comma in "Committee on Ordinances, and Transitional Measures." That is Roman numeral IV on Page 6, the first comma.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? Hearing no objection, it is so ordered.

SUNDBORG: I now ask unanimous consent for the elimination of the comma on Page 8, subsection "d", the comma following the word "Ordinances".

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent to eliminate the comma after the word "Ordinances" on the first line. Is there objection to Mr. Sundborg's request? Mr. Robertson.

ROBERTSON: Mr. President, does the word "Resolutions" include "proposals" on page 8, under "e"? "The Committee on Resolutions and Recommendations shall consider resolutions . . .?"

RILEY: "Resolutions" does not include "proposals" in the sense used in these rules.

PRESIDENT EGAN: Now we are back to Mr. Sundborg's unanimous consent request. Is there objection? Hearing no objection it is so ordered.

SUNDBORG: Mr. President, I wonder if we could hear from the Secretary or Chief Clerk the text of the amendment of Mr. White's that was adopted.

CHIEF CLERK: Add a comma on the second line after "ordinances"

and add the words "including those".

SUNDBORG: In view of that, Mr. President, I ask unanimous consent that on Page 8 "d", the fourth line, after "Convention", insert a comma. I might explain that. If we are starting that off by putting a comma after "ordinances" in the second line, the phrase following is in apposition and should be set off by a comma at the end of it. We can either have no commas or if we have one after "ordinances" we should have one after "Convention" too.

PRESIDENT EGAN: You have heard Mr. Sundborg's unanimous consent request.

MCNEALY: Point of order, Mr. President.

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

MCNEALY: I was wondering what disposition was made of Mr. Johnson's motion to adopt paragraph "d" on Page 8 which was amended, as I understood, by Mr. White.

PRESIDENT EGAN: The proposed amendment by Mr. White was adopted, Mr. McNealy.

MCNEALY: Was that an amendment to Mr. Johnson's motion?

JOHNSON: Mr. President, my motion was to adopt the entire chapter since the unanimous consent had been objected to.

PRESIDENT EGAN: These amendments we are making now are just amendments to that motion. Are there other proposed amendments? The Chair thought that the last unanimous consent request by Mr. Sundborg was adopted. Mr. Taylor?

TAYLOR: I move that the following words be added to the last sentence in Rule 19 --

PRESIDENT EGAN: Mr. Taylor, before proceeding, the Chair was of the opinion that Mr. Sundborg's last unanimous consent request was adopted. Does the Clerk's record show that it was? If not, then, is there objection to Mr. Sundborg's request for the insertion of the comma after the word "Convention" in the fourth line in little section "d"? Hearing no objection, it is ordered adopted. Mr. Taylor, you have the floor.

TAYLOR: Mr. President, I was going to move that the last sentence in Chapter 5, Rule 19, be amended by the addition of the words "except when in executive session."

PRESIDENT EGAN: Mr. Taylor, we're not on that. Your point of order, Mr. Barr?

BARR: Point of order, we are still on Rule 16, are we not?

PRESIDENT EGAN: Mr. Taylor is not in order because there is a motion on the floor for the adoption of the whole section. Was there not a motion to make Roman numerals in Rule 13? Mr. Taylor, you may proceed. Mr. Barr's point of order is not well taken at this time.

TAYLOR: I move to amend the last sentence in Chapter 5 by the addition of the words "except when in executive session".

SUNDBORG: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to that motion?

BUCKALEW: I second it.

PRESIDENT EGAN: It has been moved and seconded that the words "except when in executive session" be added to the last sentence in Rule 19. Mr. Ralph Rivers?

R. RIVERS: Mr. President, that last sentence in Rule 19 says "All committee hearings shall be public." You don't have hearings in executive sessions. This does not say "all committee meetings" but "all committee hearings" shall be public. With that thought, Mr. Taylor, I think the matter should be left the way it is.

BUCKALEW: Mr. Taylor, would you give me permission to withdraw my second in view of that new intelligence?

TAYLOR: If that is the explanation of it I will withdraw it.

PRESIDENT EGAN: You ask unanimous consent for the withdrawal of your motion, Mr. Taylor? With the consent of your second, it is so ordered.

DAVIS: Mr. President I would like to call for the question on Mr. Johnson's motion to adopt the chapter.

PRESIDENT EGAN: Mr. Davis, before that is done, did the body adopt the Roman numeral change that was suggested? The Chair does not believe that that was ever adopted by the Convention.

RILEY: Mr. President, I suggested in reading it that reference would be by Roman numerals. I did not actually read the Roman numerals but it would be in Mr. Johnson's main motion I believe.

PRESIDENT EGAN: You meant that as you were reading it, that that change was made?

RILEY: Yes.

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

BARR: Mr. President, I have been trying to get the floor several times, I've practically worn my knees out.

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

BARR: Rule 16, I believe it is, section "c", Committee on Style and Drafting, there are two things I would like to have cleared up for me -- perhaps by the Chairman of the Committee. It says the Committee on Style may "rephrase" or "regroup" proposed language of sections of the proposed constitution, but I think it is important that the whole constitution, once it is completed, should be edited and everything arranged properly, and I don't see that spelled out here.

HERMANN: It is later on.

RILEY: It will be, if I may advise, later in these rules, clarified. I believe it is implicit in the language that you refer to here, that power exists. That is the concept the Rules Committee has of the function of Style and Drafting. They are, in a sense, a coordinating committee from the standpoint of draftsmanship. Check with Rule 50, Mr. Barr, as to a complete recital of that function.

BARR: Well, I'll take your word for it if you say it spells it out somewhere.

RILEY: I will read that if it will help.

"After the Constitution has been framed and before final agreement thereon, the Convention shall refer the proposed Constitution to the Committee on Style and Drafting for final arrangement in proper order and form."

BARR: My second question, at the bottom of that page it says, "Where a proposal referred to the Committee appears inconsistent", etc., . . . the Committee shall undertake to resolve the inconsistency or conflict by reference to the committees concerned." I would like to see a close liaison between the originating committee and the Committee on Styling. Now there never was a reporter that didn't feel that the editor cut the heart right out of his copy and there was never an editor who didn't think that the reporter was too verbose and I believe that when the proposal is in this Committee on Styling that any member of the originating committee, especially the chairman, should be able to work with them so there will be no conflict, that the originating committee will not think that they have changed the meaning. There should be something spelled out there. The way this reads, when it comes out of the Styling Committee and goes on to the floor -- of course it can be debated there -- but then that is where the conflict

may arise.

RILEY: I wonder if there is not a misunderstanding there. "Where a proposal referred to the Committee appears inconsistent or in conflict with a proposal already acted upon favorably by the Convention at second reading, the Committee shall undertake to resolve the inconsistency or conflict by reference to the Committees concerned." Well, that in itself widens then to take the initiative on effective liaison between the committees concerned and in getting the committees concerned, you get to the source of the proposal, as I read it.

BARR: In the previous sentence it says: "The Committee shall also be empowered without reference back to the Convention to refer proposals submitted to it to other Committees which may have an interest in the proposal." If that word "other" was changed to "any" then it would read that it could be referred back to any committee including the originating committee and that could provide for closer cooperation.

RILEY: Is "any" broader than "other" in that usage?

BARR: Yes, you might interpret that "other" to mean any other committee than one which had already considered it. On Page 7, third from the bottom.

PRESIDENT EGAN: Mr. Barr would it be objectionable to you if the Chair declared a recess so you and Mr. Riley could get together. If there is no objection the Convention will stand at recess for about five minutes. The Convention is at recess.

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr?

BARR: Mr. President, I am going to make a motion which makes a slight change only for the purpose of clarity and to obviate the chance of misinterpretation. It really doesn't change the meaning very much. I move and ask unanimous consent that in Rule 16, section (c), page 7, third line from the bottom of the page, change "other" to "any" and that the following word, "Committees be changed to the singular, "Committee", so that the sentence will now read, "The Committee shall also be empowered without reference back to the Convention to refer proposals submitted to it to any Committee which may have an interest in the proposal."

PRESIDENT EGAN: Mr. Barr moves and asks unanimous consent that on the third line from the bottom the word "other" be deleted and that the word "any" be inserted and that the "s" be stricken on the word "Committees", leaving the word as "Committee." Is there objection to Mr. Barr's request? Hearing no objection it is so ordered and the amendment is adopted. Are there any

other amendments to Chapter 5 of the proposed Rules?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Chapter V of the proposed Rules be adopted as part of the permanent rules of the Convention?" All in favor say "aye", all opposed "no". The "ayes" have it, and Chapter V of the proposed rules is adopted as part of the permanent rules of the Convention. Mr. Riley, you may proceed with the reading of Chapter VI.

RILEY: Chapter VI,

Committee of the Whole

Rule 20. The Convention may upon motion resolve itself into a Committee of the Whole for the consideration of any matter. In forming the Committee of the Whole, the President shall appoint another Delegate as chairman to preside. A quorum of the Convention shall constitute a quorum for the Committee of the Whole.

Rule 21. All proposals, amendments, reports, resolutions, and other matters may be debated in the Committee of the Whole section by section, and recommendations with respect thereto shall be reported to the Convention.

Rule 22. The rules of the Convention shall be observed in the Committee of the Whole so far as they are applicable. Where there are no provisions, the proceedings shall be in accordance with Robert's Rules of Order, Revised.

Rule 23. A motion for the rising of the Committee of the Whole shall always be in order unless a member of the Committee is speaking or a vote is being taken, and shall be decided without debate."

Mr. President, I ask unanimous consent that Chapter VI as read be adopted as a permanent part of the rules of this Convention.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Chapter VI as read be adopted as a permanent part of the rules. Is there objection? Mr. Ralph Rivers?

R. RIVERS: Mr. President, on a typographical error, I would say that on the second line of Rule 21 there should be a comma after the word "Whole".

PRESIDENT EGAN: Do you ask unanimous consent that be adopted?

R. RIVERS: Yes I do, unless it would come under the head of "typographical". I think I will ask unanimous consent that a

comma be added after the word "Whole" in the second line.

RILEY: I so move that Chapter VI be adopted.

MCCUTCHEON: I second it.

PRESIDENT EGAN: Mr. Riley moves that Chapter VI be adopted, seconded by Mr. McCutcheon. Mr. Rivers asks that in the second line of Rule 21 a comma be inserted after the word "Whole". Is there objection to Mr. Rivers' request? If there is no objection it is so ordered.

MCCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall Chapter VI of the proposed rules be adopted? All those in favor say "aye", all opposed "no". The ayes" have it and Chapter VI is adopted as a permanent part of the rules. Mr. Riley, you may proceed with Chapter VII.

RILEY: "Chapter VII,

Order of Business, and Roll Call

Rule 24. At meetings of the Convention the order of business shall be as follows (except at times set apart for the consideration of special orders)

1. Calling Convention to order
2. Prayer
3. Roll Call"

At this point we noted an omission. There was no provision made in the text for reading the journal of the preceding day. I shall insert that as "4" in your text.

- "4. Reading Journal of preceding day
5. Presentation of petitions, memorials and communications from outside the Convention
6. Reports of Standing Committees
7. Reports of Select Committees
8. Introduction and first reading of proposals
9. Reference of proposals
10. Motions and resolutions
11. Unfinished business
12. Special orders of the day
13. General orders of the day

Rule 25. The Secretary shall prepare for each Convention day a calendar of the general orders, setting forth the title of each matter for consideration. Consideration of the general orders of the day shall be in the following order:

1. Consideration by Committee of the Whole
2. Reports of the Committee of the Whole
3. Committee reports
4. Second reading and referral to the Committee on Style and Drafting
5. Action on reports of the Committee on Style and Drafting
6. Third reading and agreement.

Rule 26. If a matter is not considered in its order it shall lose its precedence for the day, but it shall appear on the calendar on the following Convention day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of the delegates present. Any matter having been made a special order for a particular day, and not having been reached on that day, shall be on the order of "Unfinished Business" on the next succeeding Convention day.

Rule 27. Except that the President's name shall always be called last on roll call votes, the names of Delegates shall be arranged alphabetically. At the first roll call of the Convention following adoption of this rule the roll shall be called starting with the first of such alphabetically arranged names. On each succeeding roll call the name next in order alphabetically shall be first called so as to rotate the order of voting through the entire list of Delegates.

Rule 28. In case of the absence of Delegates, the Delegates present shall take such measures as they shall deem necessary to secure the presence of absentees.

Rule 29. After a question has been stated by the President and the calling of the roll has begun, the President shall not recognize a Delegate for any purpose whatever until the call is completed; but nothing in this rule shall abridge the right of any Delegate to change or record his vote on any question previous to the announcement of the vote.

Rule 30. No member shall be entitled to abstain from voting on any roll call unless he shall have stated his intention to abstain before the voting starts. Upon any announcement of intention to abstain the Delegate making such announcement upon request of five Delegates may be required to state his reasons.

Mr. President, I ask unanimous consent for the adoption of Chapter VII as read.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of Chapter VII as read as a part of the permanent rules of the Convention.

JOHNSON: Point of information, Mr. President?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Is there any particular reason why the roll call should be rotated? It seems to me that it is just a cumbersome procedure and has no particular purpose.

RILEY: Well, in reply, I don't believe it would be cumbersome in the first place. The Secretary may merely note, or the Chief Clerk, on each succeeding roll call where to start the next time. The purpose of rotation is the same purpose served by rotating names on a ballot -- namely, in this case, that there be no crystallized form of voting. Everyone will have the same opportunity to be first on the list, as it were. That was the Committee's view, in response to your question.

JOHNSON: It seems to me this rotation of voting is all right in a secret ballot, but here we stand up and be counted, or we are supposed to be counted. I don't see that it makes any difference.

PRESIDENT EGAN: Mr. Hellenenthal?

HELLENTHAL: Along the same general lines Mr. Johnson mentioned, -- where we stand up and be counted -- I see no particular reason for the qualifying language in Rule 30. It would appear to me that it would be a very adequate move if it just read: "no member shall be entitled to abstain from voting on any roll call". The rest is unusual. The last sentence I think is not only unusual, it is impractical. The mechanics of it are kind of silly, so I throw this out I think everyone should vote, and I can't think of any sound reason why someone should abstain from voting on anything. If they don't want to vote they can go out in the hall and hide. Why should we go through that falderal?

RILEY: I think your suggestion, Mr. Hellenenthal, that there be a period after the word "voting" and the rest stricken makes it altogether too rigid. Conceivably there will be circumstances when personal interests will virtually oblige members to abstain from voting and your Committee felt that that should be recognized, by making it a little less rigid than you suggest.

PRESIDENT EGAN: Is there further discussion?

MCCUTCHEON: Question.

SWEENEY: Mr. President?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Point of information. Rule 26 says "If a matter is not considered in its order it shall lose its precedence for the day, but it shall appear on the calendar on the following Convention day in its regular order." According to the next sentence a majority vote could still put it on the calendar for say, today. Is that right?

PRESIDENT EGAN: That is correct, Mrs. Sweeney. Mr. Victor Rivers?

V. RIVERS: Question, Mr. President. Under general orders of the day -- does it entitle announcements of committee meetings shall fall under that particular item of order or should there be a special announcement of committee meetings item on the calendar?

PRESIDENT EGAN: Mr. Riley, would you care to answer that question?

RILEY: Well I would say it is up to the body. . It could be either way. Normally of course they are made before recess or adjournment. An amendment could go in.

ARMSTRONG: Mr. President, that could come under your "Committee Reports." That may be all you would have for the order of the day, a report of your meeting time.

HELLENTHAL: Mr. Riley, what personal reason would prevent one of us from voting on a question properly before this body?

RILEY: Do I hear a reply coming from a member of the Committee?

PRESIDENT EGAN: Mr. Sundborg?

SUNDBORG: Mr. Riley, I will say what Mildred said in our Committee meeting. In our Committee meeting Mrs. Hermann pointed out for example, she felt it would have been embarrassing perhaps for her to have voted on the first day of the Convention on the election of the President pro tem. She asked to abstain and that permission was granted because she was one of the candidates.

HELLENTHAL: Can you think of anything other than preliminary organization?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President. I might be a big oil man and we might be voting on a subject in regard to oil resources and how they were to be controlled. It might be very controversial so I might decide it would be nice if I did not vote.

HELLENTHAL: I do not think that is a valid reason. I think we

should stand up and be counted. We were elected for that purpose. We were not elected to win a popularity contest.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, just to give another example of where I might want to abstain from voting. If for instance, the issue of waiving the rule adopted the other day, I came before the Convention to say, hire my grandmother or someone related to me, I should certainly abstain from voting on that issue. So I think there are lots of things that might come up, so I think the rule that states it is proper.

HELLENTHAL: If you want your grandmother hired, say so.

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon has been trying to get the floor.

MCCUTCHEON: Mr. Chairman, in the Committee on Rules it was my opinion that every member should be forced to vote because we were sent here by the people who elected us for a specific purpose and that our vote should be recorded. However, after hearing the arguments of the various other committee members I deferred to this type of a rule. In the second place, it appears to me that we would be unable to force a person to vote if they did not wish to. The only action that we could take that might force them to vote would be to suspend or expel them from this group. I am not clear whether we could or not. So if a person chose not to vote, how could we force them to vote? We felt, however, on the other hand, that if five members of the Convention desired to hear the reasons for a person's desire to abstain from voting, that five members should be sufficient cross section, and that the person desiring not to vote should give some sort of reasonable answer. And in the view of that answer I am sure this body would permit a person to abstain from voting.

PRESIDENT EGAN: Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Chapter VII of the proposed rules be adopted as a portion of the standing rules of the Convention?" All in favor say "aye", all opposed "no". The "ayes" have it and Chapter VII is adopted as a part of the permanent rules of the Convention. Mr. Riley, you may proceed with Chapter VIII.

RILEY: Chapter VIII,

Motions

Rule 31. When a motion is made it shall be stated by the

President, or, if in writing, it shall be read aloud before debate.

Rule 32. A motion may be withdrawn by the maker with consent of the second at any time before amendment or decision.

Rule 33. When a question is under consideration by the Convention only the following motions shall be received, which motions shall have precedence in the order stated:

Motion to, or for:

- | | | |
|--|---|------------------------------|
| (a) Adjourn |) | |
| (b) Recess |) | Not amendable or |
| (c) Call of the Convention |) | debatable except |
| (d) Lay on the table |) | as hereinafter |
| (e) Previous question |) | provided. |
| (f) Postpone indefinitely. |) | Not amendable, but debatable |
| (g) Postpone to a certain time. |) | Amendable and debatable |
| (h) Go into Committee of the Whole. |) | " " " |
| (i) Commit (or recommit) to
Committee of the Whole |) | " " " |
| (j) Commit (or recommit) to a
Standing Committee, or to a
Select Committee |) | Amendable and debatable |
| (k) Close debate at a specified
time |) | Amendable but not debatable |
| (l) Amend |) | Amendable and debatable. |

Motions "g" through "k" inclusive, preclude debate on the main question. A motion to adjourn, to take a recess, and to adjourn for a longer period than one Convention day shall always be in order. A motion to adjourn for a longer period than one Convention day shall be amendable and debatable. Calls for information, for division of a divisible question, for the yeas and nays, for a standing vote, for a vote by a show of hands, and a motion for reconsideration shall always be in order, but shall not be amendable or debatable.

Rule 34. An appeal from the decision of the chair must be taken at the time the ruling is made.

Rule 35. The previous question shall be put by the President in this form, "Shall the main question be now put?" It shall be admitted when demanded by a majority of the Delegates present, and its effect shall be, if decided affirmatively, to end debate and bring the Convention to a vote upon pending amendments, if any, to the main question, and then upon the main question. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

Rule 36. Notice of intention to move reconsideration of any vote must be stated on the day such vote is taken. A motion to reconsider must be made before the end of the first Convention day after the day on which such vote was taken and by a Delegate who voted in the majority. The same majority shall be required to adopt a motion to reconsider as was required to take the original action. When a motion for reconsideration is decided, that decision shall not be reconsidered. No question shall be twice reconsidered. No vote shall be reconsidered upon any of the following motions:

- (a) To adjourn;
- (b) To lay on the table;
- (c) To take from the table; or
- (d) For the previous question.

Rule 37. Any Delegate may call for the division of a question which is in its nature divisible. A motion to strike out and insert shall be deemed indivisible. A motion to strike having been lost, motion to amend or a motion to strike out and insert shall not be precluded.

Rule 38. No Delegate shall speak more than twice on one question, or longer than fifteen minutes the first, or longer than five minutes the second time, or more than once until other Delegates who have not spoken shall speak if they so desire, without first obtaining leave of the Convention. The mover of the proposition shall have the right to close the debate, provided that the person in charge of a proposal on third reading and final agreement shall have the right, if he desires, to close the debate and he may announce such desire at any time before the commencement of the vote on the question."

Mr. President, I ask unanimous consent that Chapter VIII be adopted as read.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of Chapter VIII. Mrs. Hermann?

HERMANN: I am going to object temporarily.

EGAN: Mrs. Hermann's objection is heard.

HERMANN: I think at the time these rules were considered in Committee we had added to Rule 36 a statement that we consider a motion to reconsider could not be considered during the last three days of the Convention. And I do not see that in there and think it is very highly important that it appear. I think it is an oversight in getting the copy organized but until that is added or until we have taken some decision so that whether or not it is added I am going to object.

PRESIDENT EGAN: Do you so move then Mr. Riley, to get this

question on the floor? Do you move for the adoption of Chapter VIII?

RILEY: I so move.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Riley moves that the Chapter be adopted and Mr. Sundborg seconds the motion. Mr. Johnson?

JOHNSON: In reference to Mrs. Hermann's inquiry it occurs to me that it would be rather difficult to include that type of provision in our rules since we do not know when we will adjourn other than the 75th day. It is conceivable that we could adjourn any time less than that and without knowing definitely, how could you have such a rule that would be effective?

PRESIDENT EGAN: Is there further discussion on the motion? Mr. Barr?

BARR: On Page 14, the fourth line from the bottom, it says: "The mover of a proposition shall have the right to close the debate, provided that the person in charge of a proposal . ." Just what does that mean, the person in charge of a proposal"? Does that mean the chairman of the committee?

RILEY: In that case it would be. "Proposal" is used in the sense employed here of being a constitutional proposal. The . person in charge would be the chairman or the spokesman for the committee.

BARR: I see on Page 13 where a comma should go in. I am not going to make a motion. Perhaps the original motion could be amended to include it, Page 13, A motion to adjourn, "Calls for 6information for division of a divisible question, for the yeas and nays," after the word "information" there should be a comma.

PRESIDENT EGAN: Is there objection to Mr. Barr's request?

HERMANN: Mr. Chairman, I could argue its grammatical significance. I don't think a comma belongs there. That is a series of statements there and "Calls for information for division of a divisible question" is one. Then we have a comma for the "yeas and nays" and then a comma for "for a standing vote" down to we get to "and a motion for reconsideration". That is a grammatical series and I do not think a comma is indicated.

PRESIDENT EGAN: Mrs. Hermann, the Chair would feel that suppose you rise from the floor on a question of Information, well, you are in order when you state that. If you left the comma out then it does not say that. It would not have that meaning.

It would say calls for information for the division of a divisible question would be the only thing you could rise on. The Chair would hold that the comma would be in order. Is there further objection to Mr. Barr's unanimous consent request to insert a comma after the word "information"? Hearing no objection it is so ordered. Mr. White?

WHITE: Mr. President. I should like to ask a question of Mr.

Riley. In this same section I am not sure whether the Committee intends that one delegate may call for the "yeas" and "nays", or whether it will require a majority vote. I am on Page 13, Section 33, in the sentence that starts "Calls for information, for division of a divisible question, for the yeas and nays," etc.

RILEY: It certainly is silent on the point. I would feel whereas in other deliberative bodies the percentage is often stated for requiring a roll call vote, it would appear to me that one member could here do so.

PRESIDENT EGAN: The reading of the rule would allow any one member to make those calls. Is there further discussion? Mr. Hellenenthal?

HELLENTHAL: I don't understand the last sentence of Rule 38.

PRESIDENT EGAN: Rule 38, the last sentence. Mr. Riley, could you attempt to explain that sentence?

RILEY: Well, I think that Mr. Hellenenthal has the same question in mind as Mr. Barr raised a moment ago. Am I right?

HELLENTHAL: No, I have another. The words, "The mover of the proposition", I don't know who that means. Who is that?

RILEY: The maker of the motion perhaps.

HELLENTHAL: What motion?

RILEY: Any motion.

PRESIDENT EGAN: Mr. Riley, it appears to the Chair that the question in Mr. Hellenenthal's mind is that who other than the mover would be in charge of the proposition?

RILEY: I would say that in approaching the matter with reference to both the mover of the proposition and the person in charge of the proposal you have covered every conceivable handler of a given proposition. It may be a little superfluous to add this passage about the person in charge of the proposal, but by the same token, a committee spokesman who might be charged with the conduct of that proposal on the floor need not always be the mover of a proposition, in this

respect. There might be other intermediate actions taken. Now, if it is desired to recess on that point I think we can get together with Mr. Hellenthal.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Before we go into recess, I would like to make one point clear. The rules as we probably will adopt them provide that the mover of a proposition in other terminology it is the person who submits a resolution to a body. The resolution is then referred to its appropriate committee. It may lose its identity in that committee, but the person who originally submitted that resolution may have under these rules, the opportunity to close the debate on it. He may argue that the text of his resolution has been so changed that it precludes his original thought. Then it would be the decision of the house as to whether or not the man or woman who originally introduced the resolution would have the opportunity to close the debate or whether the person in charge of the resolution, which would be the chairman of the committee who returned it to the house for consideration, would close the debate on the matter.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I also have an inquiry with reference to this rule which might be considered during the recess. It appears in the first part of Rule 38 that the debate is limited to any one member to 20 minutes -- not longer than 15 minutes on the first occasion on which he speaks and not longer than five minutes on the last occasion. Now, if a person were in the position of being the mover and would want to close the debate, it would seem to me that he might very well wish to reserve the longer portion of his debate time in rebuttal after everyone else had been given an opportunity to speak. He might not be able to answer in five minutes, and I would think that that first part could be changed perhaps to permit anyone to use the time allotted as they saw fit, either in the beginning or on the end of their argument. I don't know whether that is feasible or not.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, that is a subject I would like to talk on a bit. I can well conceive that 15 minutes of time won't be enough sometime for a man to present a program properly to this body -- not that he should do it more than once in the Convention, but I think he should have an opportunity to do that. I don't like that 15-minute limitation there. I think some men who use a lot of time here maybe should be scotched on that, but I think men who save their time up should have more time than 15 minutes on one occasion in this Convention at least.

NORDALE: Mr. President.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: It seems to me that the last phrase takes care of any possible contingency. It says: ". . . without first obtaining leave of the Convention." and the Convention might be so disposed to let someone talk a half an hour if he had an important enough contribution.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I do believe that 15 or 20 minutes is sufficient. I am sure I could tell all I know in 15 minutes, but I agree with Mr. Johnson that a man may present a proposition to the floor and then so many people talk on it and bring up additional questions or arguments against that he can't answer those arguments in five minutes. It seems to me he could talk longer in closing the debate.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I feel the same way about this. This rule automatically establishes a standing rule closing or limiting debate. I feel that on many subjects, this body may desire to adopt a limit of debate motion, but I'm not in favor of making it a standing rule limiting the time. I feel that if a limiting of debate would be desired by this body that was getting too lengthy, we could well adopt it at the time we are going to act on it, and that is the procedure followed, I believe, in your national Congress and many other state legislatures. Limitation of debate should not be a standing rule in my opinion.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, I think I support Mr. Rivers in his views on this. There is no question in my mind as to sometime in the future some of these propositions will be received on the floor and be very controversial, and I don't think it is a good policy to set a limit on debate. There will be other times when we will have minor problems when we won't need so much time. We have provisions in Robert's Rules of Order to take care of all this, and if it comes to a time where we feel that a debate should be limited, there are provisions for that also. We can do it by a two-thirds vote. I don't think we should tie our hands because some of it is going to require more time than the other. We should allow all the time that we possibly can to arrive at something that will be acceptable to the people that we are going to submit this proposition to in the end.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I make the point of order that there is nothing before us, and I ask unanimous consent for a five-minute recess.

SWEENEY: I object for just one moment.

PRESIDENT EGAN: Objection is heard. Was the motion first made to adopt Chapter VIII by Mr. Riley? That motion is before us. Mrs. Sweeney has the floor.

SWEENEY: I want to bring up one thing that bothers me a little. Rule 36 -- under the first two sentences the way it is constructed now, it appears that if I were in the minority I would have a right to give notice of reconsideration of my vote, provided I could get somebody from the majority to move it the next day and I don't think that is the intent at all. I think in order to give notice of intention to move reconsideration, you also have to be on the majority. Is that right?

PRESIDENT EGAN: It says that Mrs. Sweeney.

SWEENEY: Well it says that on the motion but not for the notice of reconsideration.

PRESIDENT EGAN: You are probably right. Perhaps that could be taken up during the recess. Mr. Riley, how long a recess did you call for? Mr. Sundborg?

SUNDBORG: I would like to renew my request for unanimous consent for a five-minute recess.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the Convention stand at recess for five minutes. Mr. Smith?

SMITH: Mr. President, I would like to object for just a moment to perhaps get a little more clarification on Rule 38. I think there has been some misunderstanding of the meaning where it says that the mover of the proposition shall have the right to close the debate. Some people have understood that to mean that the mover of the proposition shall have the right to shut off debate or preclude further debate. If it were clarified that the mover of the proposition shall have the right to present the last argument, you might say, I think that might clear up some of the misunderstanding and I would like to ask Mr. Riley to possibly clarify that.

RILEY: I think that is a proper matter to consider during recess, Mr. Smith. I might ask if we recess that the Rules Committee reassemble at the customary spot in the rear of the hall.

HERMANN: I would like to amend the motion to take at least ten minutes.

PRESIDENT EGAN: Is there objection to Mrs. Hermann's request?

SUNDBORG: I will accept your amendment, Mrs. Hermann.

PRESIDENT EGAN: Unanimous consent is asked. Mr. Londborg?

LONDBORG: I would like to get some information from the Rules Committee as to why Rule 36 has been changed from the original draft of Rule 34, "A motion to reconsider must be made before the end of the first Convention day after the day on which such vote was taken . ." and as I understand it the other draft is on the same day. Is that correct?

RILEY: That is correct. The change was suggested Mr. Londborg, by the Rules Committee simply to make each day current, shall we say. Otherwise, every action taken would be in a sense tentative until the period had passed for reconsideration a day or two later.

PRESIDENT EGAN: It might be well at this time before we recess that the Chair inform all delegates that they are free to attend committee meetings at any time and they are free to request the chairman of any committee to be heard on any subject at any time. If anyone has any questions, that is the answer to your question. If there is no objection the Convention will be at recess for ten minutes. The Convention is at recess.

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order. It seems to be the consensus among many of the delegates that inasmuch as the Rules Committee still has these questions under advisement and haven't completed their work, it might be wise and proper to recess for lunch at this time. If there is discussion of that proposition -- Mr. Victor Rivers?

V. RIVERS: I move and ask unanimous consent that we recess until 1:30.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the Convention stand at recess until 1:30. Mr. Coghill, your point of information?

COGHILL: Point of information, Mr. President, I would like to announce a committee meeting of the Committee on Administration to meet at 1 o'clock.

PRESIDENT EGAN: Mr. Coghill announces a meeting of the Committee on Administration to meet at 1 o'clock. Where, Mr. Coghill?

COGHILL: In the same committee room as we have been meeting in

Before.

PRESIDENT EGAN: The Chair would like to announce that there are post office boxes upstairs in the message center and that there is evidently some mail for some of the delegates that has been there for a few days. That is on the third floor and everyone might take a look up there and see whether or not they have any mail. It will always be delivered to the message center. The question is "Shall the Convention stand at recess until 1:30?" Is there objection? If there is no objection the Convention will stand at recess until 1:30. The Convention is at recess. (12:06 p.m.)

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order (1:40 p.m.). Mr. Riley?

RILEY: Mr. President, during the recess the Rules Committee has had the benefit of the views of a good many of the members and accordingly would like to submit Chapter VIII again in its entirety, and to pave the way for that, I wish to withdraw my earlier motion that Chapter VIII as read be accepted.

PRESIDENT EGAN: Is there objection to Mr. Riley's unanimous consent request that his motion to withdraw the earlier motion relative to Chapter VIII that his earlier motion be withdrawn? Is there objection? Hearing none it is so ordered. Mr. Riley, you may proceed and read Chapter VIII of the Rules.

RILEY: I won't burden the Convention with the preliminary portion which appears on Page 12 but will start on Page 13 with the word "Motions", which I note is misspelled about one-third of the way down the page.

"Motions "g" through "k" inclusive, preclude debate on the main question. A motion to adjourn, to take a recess, and to adjourn for a longer period than one Convention day shall always be in order;" Now here is new material: provided, however, that before a motion to adjourn is put to a vote, opportunity shall be given for announcements of notice of intention to move reconsideration as hereafter provided. A motion to adjourn for a longer period than one Convention day shall be amendable and debatable. Calls for information, for division of a divisible question, for the yeas and nays, for a standing vote, for a vote by a show of hands, and a motion for reconsideration shall always be in order, but shall not be amendable or debatable."

Now, there has been no further change proposed by the Rules Committee for Rule 34 or 35 which we will submit as read earlier. Rule 36, it comes to mind that we had a preliminary statement there.

DAVIS: "A motion for reconsideration may be made only by a delegate who voted on the prevailing side."

RILEY: Thank you. "Notice of intention to move reconsideration of any vote must be stated on the day such vote is taken. A motion to reconsider must be made before the end of the first Plenary Session day after the day on which such vote was taken. The same majority shall be required to adopt a motion to reconsider as was required to take the original action. When a motion for reconsideration is decided, that decision shall not be reconsidered. No question shall be twice reconsidered. No motion for reconsideration shall be in order after the 72nd Convention day. No vote shall be reconsidered upon any of the following motions:

- (a) To adjourn;
- (b) To lay on the table;
- (c) To take from the table; or
- (d) For the previous question."

SWEENEY: Will you repeat the reading of the first line?

RILEY: "A motion for reconsideration may be made only by a delegate who voted on the prevailing side." That was responsive to your suggestion, Mrs. Sweeney.

SWEENEY: Well the motion to reconsider is stated on the second line there is perfectly all right. It is the question regarding the notice of reconsideration which you can make today. For instance, you give notice of reconsideration today and you might make the motion tomorrow and if I'm not on the prevailing side, according to the way that it is written, I could still make it and have a motion made by somebody on the majority side.

RILEY: You don't feel that this clarifies that point?

SWEENEY: I think it should read ". . notice of reconsideration may be made by . ." -- not a motion but a notice. The motion is made after the notice.

RILEY: I see your point -- either notice or the succeeding motion.

PRESIDENT EGAN: Mrs. Sweeney, the first sentence though says, "Notice of intention to move reconsideration of any vote must be stated on the day such vote is taken." Doesn't that take care of it? That is in line with the accepted procedure.

SWEENEY: That is right, Mr. President. My point this morning was that it does not state that the one giving notice must be on the prevailing side. The motion which is made tomorrow must be by one on the prevailing side.

HERMANN: Mr. Chairman, does the motion have to be made by the one who gives the notice?

RILEY: It would seem implicit even though it doesn't state it. That is your point isn't it?

SWEENEY: I understand how it is supposed to be done but I am just wondering if we got into a hassle here some day and if I were on the minority side, I could move reconsideration today and hope that I could get somebody on the majority side to make the motion tomorrow.

RILEY: Would you accept "neither notice of intention nor motion of reconsideration"?

DAVIS: It should have to be "either" rather than "neither".

SWEENEY: Yes.

PRESIDENT EGAN: Mr. Riley, do you have that?

RILEY: Without objection from the Rules Committee or any of its members, "Notice of intention for reconsideration and motion for reconsideration may be made only by a delegate who voted on the prevailing side."

DAVIS: Would you repeat that please?

RILEY: "Notice of intention for reconsideration and motion for reconsideration may be made only by a delegate who voted on the prevailing side." Now to review that -- the next change in that rule was a substitution of "plenary session" for the word "Convention" in the third line of the printed text and to strike in that same sentence everything after the word "taken" and then to insert just before the last sentence in the rule "No motion for reconsideration shall be in order after the 72nd Convention day." Rule 37 will be submitted by the Committee as earlier read as appears in your text.

STEWART: Mr. Riley, I would suggest that you reread Rule 36.

RILEY: Yes, indeed. "Rule 36. Notice of intention for reconsideration and a motion for reconsideration, may be made only by a delegate who voted on the prevailing side. Notice of intention to move reconsideration of any vote must be stated on the day such vote is taken. A motion to reconsider must be made before the end of the first plenary session day after the day on which such vote was taken. The same majority shall be required to adopt a motion to reconsider as was required to take the original action. When a motion for reconsideration is decided, that decision shall not be reconsidered. No question shall be twice reconsidered. No motion for reconsideration shall be in order after the 72nd Convention day."

No vote shall be reconsidered upon any of the following motions:

- (a) To adjourn;
- (b) To lay on the table;
- (c) To take from the table; or
- (d) For the previous question"

Rule 37 is unchanged from its former reading from your text.

"Rule 38. No Delegate shall speak more than twice on one motion, or more than once until other Delegates who have not spoken shall speak if they so desire, without first obtaining leave of the Convention. The mover of the proposition shall have the right to speak last, provided that the person in charge of a proposal on third reading and final agreement shall have the right, if he desires to speak last and he may announce such desire at any time before the commencement of the vote on the question."

Mr. President, I ask unanimous consent that Chapter VIII of the proposed rules be adopted as Chapter VIII of the permanent rules.

PRESIDENT EGAN: Mr. Sundborg?

SUNDBORG: I don't wish to object to unanimous consent, but I wonder, Mr. Riley, if I might have your consent to change very slightly some of the language which we've just inserted here. I would like to propose that at the beginning of Rule 36 instead of saying "Notice of intention for reconsideration and a motion for reconsideration", etc., which seems to me to be a little awkward, I would propose to say "A motion for reconsideration, as well as the preliminary notice thereof, may be made only by a delegate who voted on the prevailing side."

RILEY: I will accept that without any objection from members of the Rules Committee.

PRESIDENT EGAN: If there is no objection we will assume that was the manner in which the rule was read in the first place. We have before us Mr. Riley's unanimous consent request that Chapter V III of the proposed rules be adopted as Chapter VIII of the permanent rules of the Convention. Is there objection? Mr. Hellenthal?

HELLENTHAL: Mr. President, as a point of order, could all of those changes be dictated to us so that we could make our copies conform? I missed completely, as I know others did, the change in Rule 33, and I think this new suggestion of Mr. Sundborg's should likewise be dictated, as well as the changes in Rule 38.

PRESIDENT EGAN: If there is no objection we will hold up the unanimous consent request and, Mr. Riley, would you dictate very slowly again each and every proposed changes in Chapter VIII?

RILEY: On Rule 33 the first change occurs after the word "order" on Page 13, on the left margin, the first word in line 4 of the solid text, semicolon follows "order" and here is new matter: "provided. however, that before a motion to adjourn is put to a vote opportunity shall be given for announcements of notice of intention to move reconsideration as hereinafter provided." I will ask Mr. Sundborg to dictate his change.

SUNDBORG: Page 14, first line after "Rule 36.", a new sentence, "A motion for reconsideration, as well as the preliminary notice thereof, may be made only by a delegate who voted on the prevailing side."

JOHNSON: Gentlemen, is the word "preliminary" necessary?

SUNDBORG: I am willing to dispense with it if Mr. Riley is.

RILEY: Yes.

SUNDBORG: Strike the word "preliminary" then it will read, starting again, "Rule 36. A motion for reconsideration, as well as notice thereof, may be made only by a delegate who voted on the prevailing side." That is all inserted ahead of the first sentence in your mimeographed text which begins "Notice of intention", and the next sentence remains just as it was in the mimeographed text.

RILEY: Barring one substitution -- the next change occurs in the second sentence of the mimeographed text, line 3, strike the word "Convention" and substitute the words "Plenary Session", so it reads "first Plenary Session day." On the next line a period goes after the word "taken" and the rest of the sentence as originally written is omitted. The words "and by a Delegate who voted in the majority" are stricken, and then the printed text continues down to the last line. As an insert before the last sentence, this sentence is proposed, "No motion for reconsideration shall be in order after the 72nd Convention day." The last sentence of Rule 36 remains the same as shown on your draft copies. There is no change in Rule 37. Rule 38 reads as follows: "No delegate shall speak more than twice on one motion or more than once until other delegates who have not spoken shall speak if they so desire, without first obtaining leave of the Convention."

UNIDENTIFIED DELEGATE: Will you go a little slower on that new matter?

RILEY: That is not new matter. We have stricken all of line 2 of Rule 38, is out, and the first four words on line 3 of Rule 38 are now stricken. The next sentence reads as follows: "The mover of the proposition shall have the right to speak last." The words "close the debate" have been stricken -- provided the person in charge of the proposal on third reading and final agreement shall have the right, if he desires, to speak last" -- same change.

PRESIDENT EGAN: So we have before us Mr. Riley's unanimous consent request that Chapter VIII of the proposed rules become Chapter VIII of the permanent rules of the Convention. Is there further objection?

KILCHER: Point of clarification. Rule 38, line 2 and 3, that is stricken or proposed to be stricken? It looks on the surface as if we are getting five minutes there to speak on any matter. Actually, we are curtailing our time by striking these two lines.

PRESIDENT EGAN: Mr. Kilcher, it is the Chair's feeling that Robert's Rules of Order does not limit debate. Robert's Rules of Order I believe leaves it up to the particular assembly that question. There is no restriction as the Chair understands it or remembers it on debate in Robert's Rules of Order.

KILCHER: I accept the information as such.

PRESIDENT EGAN: Is there further question on this request of Mr. Riley's to adopt the proposed rules, proposed chapter No. VIII of the rules as the Chapter No. VIII of the permanent rules of the Convention? If there is no further discussion or objection the question is, "Shall Mr. Riley's request be adopted? All those in favor of adopting Chapter VIII as the permanent Chapter VIII of the Convention Rules say "aye"; all opposed say no". The motion has carried and Chapter VIII has become Chapter VIII of the permanent rules of the Convention. Mr. Riley, you may proceed with Chapter IX.

RILEY: "Chapter IX.

Procedure for Drafting Constitution

Rule 39. Any subject matter to be incorporated in the Constitution shall be by proposal. A proposal shall be introduced only by one or more delegates or by a Standing Committee.

Rule 40. Each proposal shall be typewritten on white paper which is 8 1/2" wide and 11" long with one original copy and five carbon copies thereof, and shall be dated and signed by the introducer(s) or by the Chairman of the Committee

introducing it.

RULE 41. The caption of each proposal shall be:

'Constitutional Convention of Alaska

PROPOSAL

Introduced by

(Name of Delegates(s) or

Name of Committee)'"

Now, at this point, it was called to my attention to make this caption consistent with the text immediately above we should insert in parenthesis "date" in the upper right corner so that the files show the chronology of proposal introduction. "Each proposal shall contain a short title stating concisely the general nature of its subject matter. Thereafter the proposal shall state:

"RESOLVED, that the following be agreed upon as part of the Alaska State Constitution."

Rule 42. Each proposal upon introduction shall be delivered to the Secretary, who shall number all proposals as presented. At each session of the Convention the Secretary shall read the number and title of each new proposal, which shall constitute the first reading of the proposal.

Rule 43. Each proposal shall receive three separate readings in the Convention previous to being agreed upon, but no proposal shall be read twice on the same day. Except on the first reading all proposals shall be read in their entirety. Amendment of any proposal may be made only in second reading.

Rule 44. The regular order to be taken by proposals shall be as follows:

1. Introduction and first reading.
2. Reference to a Standing Committee by the President.
3. Report by Standing Committee.
4. Placed on the general orders on the following day.
5. Second reading and action on proposed amendments.
6. Reference to Committee on Style and Drafting.
7. Report by Committee on Style and Drafting.
8. Action on report of Committee on Style and Drafting, and action on amendments as to phraseology only.
9. Third reading and agreement.
10. Reference to the Committee on Style and Drafting for arrangement and numbering of sections and articles and for form.

Rule 45. The President shall refer each proposal introduced

to the appropriate Standing Committee. Where a proposal embraces subject matter which falls within the proper consideration of two or more Standing Committees, the President may divide the proposal or he may refer it to one Standing Committee with instructions to consult with other Standing Committees.

Rule 46. The Convention may set a date after which no proposal shall be introduced, except by a Committee.

Rule 47. Each Standing Committee report recommending any matter for incorporation in the Constitution shall be accompanied by a Committee proposal containing a complete article or other appropriate subdivision or group of articles or subdivisions of the Constitution.

Rule 48. A report shall be made by the Standing Committee as to each proposal referred to it. Such report shall state whether the proposal has been:

- (a) adopted in whole or in part in a Committee proposal;
- (b) disapproved;
- (c) disposed of otherwise.

Rule 49. On the question of the agreement upon any proposal on third reading, the vote shall be taken by roll call and entered on the journal of the Convention. No proposal shall be declared adopted unless at least twenty-eight Delegates shall have voted in favor of its adoption.

Rule 50. After the Constitution has been framed and before final agreement thereon, the Convention shall refer the proposed Constitution to the Committee on Style and Drafting for final arrangement in proper order and form. After the report of said Committee, the Convention shall by the affirmative vote of at least twenty-eight Delegates agree upon the final form of the Constitution.

Rule 51. When the Convention shall have agreed upon the final form of the Constitution, the original and at least four copies thereof shall be signed by the President and by the Delegates and attested by the Secretary. Facsimile copies shall then be prepared and certified by the President and delivered to each Delegate."

Mr. President, I ask unanimous consent that Chapter IX of the proposed rules as read be adopted.

V. RIVERS: Question, Mr. President.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I would like to ask the Chairman of the Rules

Committee, if he -- as a proposal is submitted and receives a number, is the identity of the introducer then dropped? If so, does it say so in the rules?

RILEY: It receives a number -- and I am wondering where that coverage is. Mr. Rivers, there again I will correct myself. It was the feeling of the Committee that the numbering need not be spelled out. We had it in the original draft. I may have to look to some of the Committee members for correction on this. We had a Rule 44 touching on numbering which was stricken altogether. I believe that to retain some mention of the Secretary's numbering documents as they come in -- I would like to hear from any of the Committee members that have a clearer recollection than I.

JOHNSON: It is in Rule 42.

RILEY: Oh yes, Rule 42. Each proposal and I think we will find the same thing about resolutions later, but Rule 44 on your original draft, if you were referring to that, has been stricken in its entirety as being just an administrative process.

V. RIVERS: Do I understand that under the rule now the name of the committee introducing or individuals introducing, will carry along with the number all the way through the handling of the proposal?

RILEY: The identity is lost on a matter introduced by an individual.

V. RIVERS: As long as the records show that, I am satisfied.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that proposed Chapter IX become Chapter IX of the permanent rules of the Convention. Is there objection? Mr. Stewart?

STEWART: No objection, just a suggestion. On Rule 45, the rule that the President shall refer each proposal introduced to the appropriate standing committee-- I think it would be clearer if stated this way: "The President shall refer to the appropriate standing committee each proposal introduced." Otherwise it might read that you are introducing a proposal through the standing committee.

RILEY: Without objection on the part of the Committee I shall accept that suggestion.

PRESIDENT EGAN: Mr. Riley states that he is agreeable to accepting that suggestion of Mr. Stewart's with the consent of the Committee. It is just a grammatical rephrasing.

SMITH: Mr. President and Mr. Riley, referring to the last

Sentence of Rule 50 I would like to ask if in your opinion this would allow amendment in substance of the provisions of the constitution up to that point?

RILEY: It is open to amendment in second reading. That would be Point 5 under Rule 44, and then it goes back under your succeeding steps to Style and Drafting for action on amendments as to phrasing only. I would say that no substitute amendment could be made at the point described in Rule 50.

SMITH: Well, Mr. President, I will then enter an objection to unanimous consent.

PRESIDENT EGAN: Mr. Smith objects to the unanimous consent request.

RILEY: Let me say this in further reply. You will see that the Committee on Style and Drafting must report back to the body, and acts on amendments as to phraseology only. Rule 50 is descriptive of that process as I read it.

PRESIDENT EGAN: There is nothing before us then.

RILEY: I move adoption.

SUNDBORG: I second it.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed Chapter IX to become the permanent rules of the Convention, seconded by Mr. Sundborg. The motion is open for discussion.

SMITH: Mr. President, I would like to offer an amendment to Rule 50 and the amendment is in the form of an addition and will read as follows: "Every provision of the Constitution shall be open to amendment in substance until such time as the Convention shall have agreed upon the final form of the Constitution. Provided that any amendment provision shall be referred to the Committee on Style and Drafting for proper wording."

PRESIDENT EGAN: Do you so move the adoption of that amendment, Mr. Smith?

SMITH: I do move the adoption.

KILCHER: I second it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, Rule No. 50 does not preclude at any time the referral of the complete constitution back into second reading for the purpose of specific amendment. It never precludes that possibility. So until the time the final vote is taken after approval in final form it can always be referred

to the committee for the purpose of putting in the amendments. Consequently, it would appear to me that your additions there are already taken care of in the formal procedure of the rule.

SUNDBORG: Our Rule 43 says in its final sentence, Page 16, "Amendment of any proposal may be made only in second reading." If we adopt Mr. Smith's amendment we would be permitting amendment in third reading. I believe it is a most orderly process to return a portion of the constitution to second reading which may be done by the body at any time if it appears an amendment is in order and that we should not permit amendment of portions of the constitution in third reading.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, it occurs to me that that is correct procedure, and I certainly believe that if we adopt this amendment we never will get a constitution. We will be amending it all the time.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, if Mr. Smith also desires to, I should like to have a couple minutes of recess to discuss the matter with him.

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

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Smith, did you have the floor?

SMITH: Mr. President, I still am not convinced that the amendment does not have merit, unless someone can show me where the action explained by Mr. McCutcheon can be taken by a simple majority vote.

PRESIDENT EGAN: Mr. Smith, you are raising a question there to return to second reading for specific amendment would take a two-third majority vote of the Convention? That is the question that is in your mind? Mr. Nolan?

NOLAN: Mr. President, we have been following the majority rule all the way through here and that was my intention. I think it would be a good time to clear it up and move it be referred to the Rules Committee.

PRESIDENT EGAN: Mr. Nolan asks unanimous consent that this question be referred to the Rules Committee. Is there objection? Hearing no objection, the Convention stands at recess while the Rules Committee considers this question. The

Convention is at recess.

AFTER RECESS

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

RILEY: Mr. President, the Rules Committee, or the Chairman speaking for the Rules Committee, renews its request that Chapter IX as read be adopted by unanimous consent as a part of the permanent rules.

PRESIDENT EGAN: We still have before us Mr. Smith's motion, Mr. Riley, to amend Rule No. 50, adding a new sentence at the end of that rule. Is that not correct?

RILEY: You are right.

PRESIDENT EGAN: Mr. Smith's motion is the matter of business before us at this time. Is there further discussion of the motion by Mr. Smith? Mr. Smith.

SMITH: Mr. President, I would like to ask first that the proposed amendment be read. I handed my copy to the Secretary I believe.

PRESIDENT EGAN: The Secretary will read the proposed amendment as submitted by Mr. Smith.

CHIEF CLERK: Is this sentence to be added at the end of the paragraph? "Every provision of the Constitution shall be open to amendment in substance until such time as the Convention shall have agreed upon the final form of the Constitution. Provided that any amendment provision shall be referred to the Committee on Style and Drafting for proper wording."

PRESIDENT EGAN: You have heard the reading of the motion. Is there discussion of the motion? Mr. Smith?

SMITH: Mr. President, to be frank with all of you, I am not nearly so sure as I was before of the necessity of this amendment, although there is still a strong doubt in my mind whether it is proper to leave Rule 50 as it now stands. I have tried to explain my feelings here several times, and I don't know whether I have at any time succeeded in making my thoughts clear. But my thoughts again are this: We are going to have to consider the provisions of this constitution in a piecemeal or haphazard manner. In other words, the provisions will come in as individual provisions and they will be considered as such, and my thought is that after the provision has been adopted, that under Rule 50, it is no longer subject to change. That means that if this provision is not in conflict with another provision, but if it is such that a change in a later provision might be to the advantage, might strengthen the

Constitution, that change would not be possible under Rule 50. And I think to give the Convention a chance to decide this question on its merits that I will ask that the amendment be adopted.

PRESIDENT EGAN: That motion has already been made by yourself, Mr. Smith. Mr. Ralph Rivers?

R. RIVERS: For the members who were not sitting in on the Rules Committee the issue might be obscure. The way Rule 50 is written, it does not provide that the entire document when it is finally put together by the Committee on Style and Drafting shall be put through a second reading. It simply says that all portions of the constitution which have been adopted and which have been debated and thereafter put together are brought back to us in a final form as one final document. Now the Rules Committee is confronted with this. If someone wants to offer an amendment to any part of this final document, then a motion would be in order to put that particular portion back into second reading for specific amendment. That takes a two-third majority vote. The author of this proposed amendment here thinks that that should be done by a plain majority vote. In other words, in effect Mr. Smith, supported by Mr. Kilcher, would favor putting the whole document through a second reading at which time the amendatory process could be invoked as a matter of right. Now the Committee then discussed this, we have controversial points as we go along section by section, article by article. We debate those We resolve them. If you will throw the entire document open to the amendatory process by putting the entire document through a second reading, those same arguments can be debated step by step all over again and you begin to wonder whether we will ever get a constitution written or not. The only other alternative is, if the people who want to amend the final document without putting it through a second reading can get the support necessary they will move to suspend the rules to put the particular portion back into second reading for specific amendment and that will take a two-thirds vote. That is the issue before us. I personally subscribe, after thinking it over, although I recognize the points that Mr. Smith has, I think that it would not be advisable to put the whole document through a second reading and fight the whole battle all over again. If there is real merit to a desire for a change of a particular provision or a specific point, then there will be no trouble getting a two-thirds majority to suspend the rule to put that particular point back into the second reading.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. President, I subscribe to Mr. Smith's amendment at this time. I feel that until the need for the more stringent rule is manifest that we should at this time resolve the doubts in favor of easy amendments, amendments that can be

Made quickly and expeditiously. The argument of those who take the opposite side seems to me that it might be predicated upon the assumption that some in this body are going to use obstructionist or dilatory tactics, and that we should take out insurance at this time to avoid that. I see no indication of such an eventuality or possibility, so at this time let us take the more liberal approach, the easy approach. Then if the necessity develops for a more limited rule then I have enough faith in this body to think that we will adopt it without any trouble at all, but not now.

PRESIDENT EGAN: Is there further discussion on the motion? Mr. Barr?

BARR: Mr. President, I believe that any proposal should be amended at any time that it can be improved. However, I am in favor of the two-thirds vote because under that rule it will not be returned to second reading unless it is necessary, and if it is necessary it can be returned to second reading. If it is returned to second reading by a simple majority vote we actually won't have any rule. Practically anyone can do as he pleases. It is like sitting in on a poker game and making your own rules as you go along or doing things when you want to, not when they are supposed to. I believe we should have a rule like that to expedite business and to keep too many people from wanting to make unnecessary amendments. If an amendment is necessary I am sure we can get a two-thirds vote to return to second reading.

PRESIDENT EGAN: Is there further discussion on the proposed amendment? Mr. Kilcher?

KILCHER: Mr. President, I think it is fair to present my and Mr. Smith's point of view further on the floor. We all assume the element of good faith present. It has existed so far and we hope to see it in the future and the remarks that were made with regard to having to hash the whole thing over again item for item, I think was not really meant the way it sounded because we are not hashing things through now I think. We are working through them as best as we can. I for one will be more than glad if 95 percent, 98 percent of all the committee work done will stay done. However, the possible two or three percent that it may be desirable to change may not be desirable to a two-thirds majority necessarily. It may be desirable to a 51 percent majority. It may be desirable to change a matter of substance in the final draft as much as a same item may be desirable to change when it goes through committee but as it goes through committee we have not got all the facts available in certain matters. As Mr. Smith said, we are forced by circumstances, we have adopted committee suggestions on these matters, we are forced to treat them to some extent haphazard. Even if we establish an order as much as we can foresee, consecutive order, delays and so forth will come out, like a

horse race -- one horse will go ahead of the other one. We can't foresee that, so we will necessarily have a certain amount of disorder in our subject matter. I can very well see that a subject will come up and with the very best of intentions, I will vote with the possible 51 percent majority for a certain proposal pertaining to the powers of the executive. It will go through all the committee readings, will be accepted as final, as far as 50 percent voting it is final. However, three weeks later, when local government or apportionment or some other committee comes with another part of the picture that we have not foreseen -- we are not prophets that will throw a new light on the whole situation. I maybe have given my consent to the executive having more power than I feel now is good in view of the fact that local government is not given enough power, or vice versa, so I receive the same 50 percent majority right to change in substance that which I was not able to decide properly three weeks ago. And I consider that in essence committee reports should be tentative, although we hope and I am confident that 90 some percent of their reports will be final. The matter is one of philosophy in that respect. Shall we have a final document the last two days and assume that the committees are infallible or shall the committees, all of us, do the best work in the committees and then reconsider in the light of the final report possible adjustments in substance. I adhere to this latter school of thought, and I owe it to my constituents to give this matter some thought.

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

MARSTON: For information, following the line of Delegate Hellenthal here, can we at a later date, if we want to keep this open on only a majority vote now for discussion, tighten up on these rules and put this rule in effect without too much difficulty?

PRESIDENT EGAN: Mr. Marston, you are asking if this rule is adopted now, can we at a later date with a majority vote change that rule?

MARSTON: No. If it is not adopted now and becomes necessary to make a provision which this rule calls for a two-thirds vote, can we then invoke that two-thirds vote?

PRESIDENT EGAN: It would mean that you would be changing the rules and it would take a two-thirds majority vote at that time.

MARSTON: But it could be done?

PRESIDENT EGAN: With a two-thirds majority vote, yes. Mr. Kilcher?

KILCHER: Commenting on Mr. Marston's remarks, I would further state that in case undue advantage should be taken of the proposed amendment, then I do not doubt at all that a two-thirds vote to change the rule to throw it back on the two-thirds majority would easily be obtained for undue taking advantage. I would agree myself, I would vote for it myself, to tighten the rules up then after I had been shown on the floor that undue advantage had been taken.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, writing this constitution is going to be a very slow and a very painful process which is going to be safeguarded every step of the way by these rules which I think are just right the way they are now written. There will be many subjects come up which will be controversial in nature. They will be considered not only by the committees but on the floor of this Convention and they will be resolved by a simple majority vote. I believe that after they have been resolved they should not again later be opened up to jeopardy when there may have been some log-rolling in the interval -- you vote to change this provision and I will vote to change that one", where there may have been some lobbying in the interval, with people coming down here and exerting pressure in cases where it would take only one or two changes of votes in order to completely change the earlier decision of the Convention on any subject. I believe that once we have decided a question before this Convention substantively, that should be it and that later, if there is a good reason for changing it, when we see the final document all in order before us, we could then very easily muster a two-thirds vote to put back in second reading the portions of the proposed constitution which the delegates would like to change, but I would not like at that point to be able to do so by a simple majority vote because I don't think we would ever finish with the constitution under those circumstances.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I move the previous question.

PRESIDENT EGAN: Mr. Johnson moves the previous question.

MCCUTCHEON: Second the motion.

PRESIDENT EGAN: It has been moved and seconded that the previous question be ordered. All those in favor of ordering the previous question say "aye", all opposed "no". The "ayes" have it and the previous question is ordered. The question is, "Shall Mr. Smith's motion amending Rule 50 be adopted by the Convention?" All those in favor of Mr. Smith's motion signify by saying "aye", all opposed by saying "no". The "noes" have it and Mr. Smith's motion has failed. The question now

is Mr. Riley's motion to adopt the proposed Chapter IX as the permanent Chapter IX of the standing rules of the Convention. Is there further discussion on that motion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further discussion, the question is to adopt Chapter IX which is Rule 39 through Rule 51.

KILCHER: I object.

PRESIDENT EGAN: Objection is heard from Mr. Kilcher. It is open for discussion.

DAVIS: Has there been a second to Mr. Riley's motion?

PRESIDENT EGAN: It was moved and seconded previously Mr. Davis, but it is still open for discussion until we call for the vote, Mr. Kilcher. You may discuss it.

KILCHER: If I make another amendment?

PRESIDENT EGAN: It is still open for amendment.

KILCHER: Well, I move to amend -- let's see, it's not an amendment -- I would like to have this particular motion on this particular rule tabled until later, tomorrow for further consideration and thought and study.

PRESIDENT EGAN: That is your wish, Mr. Kilcher? You should move then that Mr. Riley's motion be laid on the table and the Chair will help you in stating the motion if that seems to be your desire to make that motion, that is the way you do it.

KILCHER: Can I state the reasons for it?

PRESIDENT EGAN: No, the motion is undebatable. If you want to make the motion that is up to you.

KILCHER: Well, I herewith make that motion to table that decision on this rule and the first order tomorrow.

PRESIDENT EGAN: Mr. Kilcher moves that Mr. Riley's motion be laid on the table until tomorrow. Is there a second to the motion? Hearing no second, the motion of Mr. Kilcher dies for lack of a second.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further discussion the question is on whether or not the Convention will adopt the proposed Chapter IX as the permanent Chapter IX of the Convention rules.

All in favor of the motion will signify by saying "aye", all opposed by saying "no". Mr. Riley's motion has carried and Chapter IX of the proposed rules has now become Chapter IX of the standing rules of the Convention. Mr. Riley you may proceed with Chapter X.

RILEY: "Chapter X,

Resolutions and Ordinances

Rule 52. Consideration of ordinances required by the Act establishing the Constitutional Convention or otherwise as introduced by Delegates or Standing Committees shall follow the same procedure as is provided by these rules for proposals.

Rule 53. Resolutions relating to the business of the Convention may be introduced as provided by these rules and their consideration shall follow the same procedure as is provided by these rules for motions."

Mr. President, I ask unanimous consent that Chapter X as read be adopted and incorporated in the permanent rules.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the proposed Chapter X of the rules become Chapter X of the permanent rules of the Convention. Is there objection or discussion? Hearing no objection, Mr. Riley's request has carried and Chapter X has become the permanent Chapter X of the permanent rules of the Convention. Mr. Riley, you may proceed with Chapter XI.

RILEY: "Chapter XI,

General Provisions

Rule 54. When a motion to adjourn, or for recess, shall be carried, no delegate or officer shall leave his place until the adjournment or recess shall be declared by the President.

Rule 55. Any delegate may at any time rise and speak to a question of personal privilege.

Rule 56. No delegate rising to speak shall proceed until he shall have addressed the President and been recognized by him as entitled to the floor.

Rule 57. While the President is putting a question or a count is being had, no delegate shall speak or leave his place. While a member is speaking no delegate shall engage in any private discourse or pass between the speaker and the chair.

Rule 58. Only Delegates and Officers of the Convention shall be admitted to the floor of the Convention, except that the

President shall designate, by name, representatives of the press, staff assistants, or others that may be admitted. Privileges of the floor may be extended by unanimous consent to other persons.

Rule 59. Any rule of the Convention may be suspended, repealed or amended, by a vote of at least two-thirds of the membership to which the Convention is entitled.

Rule 60. The rules of parliamentary practice set forth in Robert's Rules of Order, Revised shall apply in all cases which are not covered by or are not inconsistent with the rules of the Convention."

Mr. President, I ask unanimous consent that Chapter XI as read be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Chapter XI as read of the proposed rules be adopted as Chapter XI of the permanent rules of the Convention. Is there objection?

SUNDBORG: I have no objection, Mr. President, but I would like to point out what is an obvious punctuation error on Page 19, Rule 59. In the second line there should be no apostrophe in the word "thirds". That should be eliminated. I ask unanimous consent to include that in Mr. Riley's unanimous consent request.

PRESIDENT EGAN: If there is no objection Mr. Riley, that will be included in your unanimous consent request. Mr. Stewart?

STEWART: In Rule 54, as I understood the reading, ". . no delegate or officer shall leave his place until the adjournment or recess . ." My copy reads "be declared" and I understood the reading to have been, "or recess shall have been declared".

RILEY: "shall be declared" is how it appears in the text.

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. Riley. Mr. Robertson?

ROBERTSON: I would like to ask a question of Mr. Riley.

PRESIDENT EGAN: You may ask the question.

ROBERTSON: Why is it considered necessary in Rule 58 that ". .privileges of the floor may be extended by unanimous consent.. ." Wouldn't the two-thirds rule protect the Convention?

RILEY: I know of no reason Mr. Robertson, why unanimous consent is necessary but that was the position taken by the

Committee. It has been my observation in the past that unanimous consent is ordinarily the procedure adopted for granting the privilege of the floor.

ROBERTSON: I am content with the explanation.

PRESIDENT EGAN: Is there any objection to the unanimous consent request of Mr. Riley for the adoption of the proposed Chapter XI as the permanent Chapter XI of the Convention rules? Hearing no objection Chapter XI of the proposed rules is ordered adopted as Chapter XI of the permanent rules of the Convention.

RILEY: Mr. President, I would like to refer back to Page 3 of this particular draft of the rules to another matter which has been discussed in one of the Rules Committee recesses today. It has to do with paragraph "b" on Page 3 concerning appeals from the Chair. Now this particular rule was adopted this morning. This rule as adopted is identical to the draft which was submitted by the PAS through the Statehood Committee. However, it is more stringent and perhaps more time consuming than any previous rule adopted by deliberative bodies in Alaska on this particular point, and the Rules Committee would like to supplement its earlier report on this particular subdivision in order to propose it to the body in the following form: "He", (meaning the President), shall decide all questions of order, subject to appeal to the Convention". In short, that intermediate appeal to the Rules Committee is removed. The rest of the subparagraph remains the same. I should like to ask unanimous consent at this time that this particular paragraph be adopted superseding that adopted this morning as paragraph "b" under that particular rule.

PRESIDENT EGAN: Mr. Riley, if the Chair may, now in that proposed amendment that you offered, did you strike the words on the second line in little subsection u , the words "and thereafter to the Convention" also?

RILEY: No. I struck "to the Rules Committee and thereafter". "He shall decide all questions of order, subject to appeal to the Convention."

PRESIDENT EGAN: And then you strike all words after that? If you didn't how would it read then?

RILEY: "On every appeal he shall have the right, in his place, to assign his reason for his decision. In the case of such appeal no member shall speak more than once."

PRESIDENT EGAN: The reason the Chair is asking that, it would seem to the Chair that it will now read, "He shall decide all questions of order subject to appeal to the Convention and thereafter to the Convention."

RILEY: No, that was not my purpose. It may not have been clear but it was just taking out the intermediate step.

PRESIDENT EGAN: You ask unanimous consent that the amendment to subsection "b" of Rule No. 6 be adopted?

RILEY: Rule 6, subdivision "b", yes.

PRESIDENT EGAN: Is there objection to Mr. Riley's unanimous consent request? Hearing no objection it is so ordered and the amendment is adopted.

RILEY: In line with our remarks this morning I should like now to ask, Mr. President, for unanimous consent to the adoption of this body of rules as adopted rule by rule throughout the day to be the permanent rules of this Convention, and to supercede all previous action taken.

PRESIDENT EGAN: Mr. Hellenthal?

HELLENTHAL: As long as we are being quite particular about commas and wording, I should like to propose that on Page 7, subsection "c", in the second line, that the word, and I shall spell it, "w-o-r-d" be substituted for the word "edit", the reason being that the word "edit" has an accepted definition which is change in substance, and I am sure that that is not the intent of the rule because the qualifying language so indicates, but if we are going to be precise I think we should avoid the use of that word in the most important rule.

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

HELLENTHAL: I ask unanimous consent.

PRESIDENT EGAN: Is there objection?

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard. We have nothing before us. Is there a motion?

HELLENTHAL: I so move, Mr. President.

PRESIDENT EGAN: Mr. Hellenthal so moves.

SMITH: I second the motion.

PRESIDENT EGAN: Mr. Smith seconds the motion. The subject is open for discussion. Mr. Johnson?

JOHNSON: Mr. President, it occurs to me that if you change that word "edit" for the word, "word" you change the intent

and meaning of the section, because by using the word "word" you have given to the Committee on Style and Drafting the power to add or take away the substance of the proposal, whereas their job is to "edit" it, and it seems to me that the word is correctly used.

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

SMITH: I am of the opinion that Mr. Johnson has it backwards. Maybe I have it backwards, but the word "edit" to me would connote to me the right to change in substance, and that the Committee on Style and Drafting is precluded from doing by the rules, so I think the word, "word" is correct.

HERMANN: I would rather use the word "phrase".

HELLENTHAL: I have no objection to the word "phrase" as Mrs. Hermann suggests, and I amend my motion accordingly with the consent of my second.

PRESIDENT EGAN: Mr. Hellenthal then with the consent of his second, asks unanimous consent that on the second line of subsection "c" on Page 7, the word "edit" be deleted and the word "phrase" be inserted in its place. Is there objection?

BARR: I object.

PRESIDENT EGAN: Mr. Barr objects.

HELLENTHAL: I so move.

PRESIDENT EGAN: Mr. Hellenthal so moves.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. Mr. Barr?

BARR: Mr. President, we seem to disagree on what the word "edit" means. I agree if you "edit" something you can't change the meaning but also it means more than that. It means changing the punctuation and a lot of minor things. Now if we leave the word "edit" in there, it means they can do all that, but down here in the next sentence it specifically prohibits them from changing the meaning. Therefore, you can edit it completely with the exception of changing the meaning. If you put the word "word" there, that prohibits them from doing anything except changing the word, so I think we should leave it the way it is. Under this rule they cannot change the meaning.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. Ralph Rivers?

R. RIVERS: Mr. President, Delegate Barr's statement sounds rather clear and convincing to me.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further discussion the question is, "Shall Mr. Hellenthal's amendment be adopted?" All those in favor of the adoption of the amendment say "aye", all opposed say "no". The noes have it and the amendment has failed. Are there other amendments to the proposed standing rules of the Convention?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Riley, your motion was a unanimous consent request, was it?

RILEY: The motion now I believe was that the rules as of now adopted individually or by chapter be in their entirety adopted, and supersede earlier adopted temporary rules, any earlier adopted rules as the permanent rules of this Convention.

PRESIDENT EGAN: Mr. Riley, you ask unanimous consent, is that right?

RILEY: I do.

PRESIDENT EGAN: You have heard Mr. Riley's request. Is there objection? Hearing no objection then the rules as they have been adopted here have become the standing rules of the Convention and supersede any previous rules that have been adopted. Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the Secretary be instructed to prepare a complete copy of the rules as adopted and furnish one copy to each delegate.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Secretary be instructed to have a copy of the rules as adopted available for each delegate. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the Secretary be instructed to write a letter to the Fairbanks Chamber of Commerce expressing the appreciation of the Convention for the souvenir booklet, which were prepared under its direction, for the work it has done in helping to house the delegates, for the invitation it has extended to us to attend a social function Wednesday evening and for the work of its hospitality committee generally.

PRESIDENT EGAN: You have heard Mr. Sundborg's unanimous consent request. Is there objection? Hearing no objection it is

so ordered and the letter will be written by the Chief Clerk to the Fairbanks Chamber of Commerce. Mr. Robertson?

ROBERTSON: Mr. President, I move that it is the policy and intent of this Convention that the constitution should be a document of fundamental principles of basic law, and contain only the framework for state government, with all the details to be ordained in the discretion of future legislatures, and I ask unanimous consent.

PRESIDENT EGAN: You have heard Mr. Robertson's request. He asks unanimous consent that the resolution be adopted as a policy of the Convention. Is there objection?

SMITH: Mr. President, I would like to object to the use of the word "all". It might be construed to prevent "any".

ROBERTSON: I so move.

PRESIDENT EGAN: Mr. Robertson so moves.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds the motion. The matter is open for discussion.

SUNDBORG: Mr. President, I move to amend the motion to provide that Mr. Robertson's proposal be referred to the Rules Committee for report.

HERMANN: I second that.

PRESIDENT EGAN: Mr. Sundborg moves and Mrs. Hermann seconds that the proposal by Mr. Robertson be amended so that the proposal will be sent to the Rules Committee for its consideration and report. The subject of the amendment to Mr. Robertson's motion is open for discussion. Mr. Robertson?

ROBERTSON: Mr. President. I don't think my motion is anything more than a simple motion. It is not a proposal within the terms of a defined proposal as just set out in the rules that we just recently adopted, and my thought is that that is the sentiment, generally of the members of the Convention and I thought it appropriate to put something on record just before the committees go out to commence their work so they might know that we are going to try to keep it fundamental and basic law instead of trying to get statutes, that is, having people bring in statutes, and that is the reason for my motion.

PRESIDENT EGAN: Is there any discussion on the amendment to the motion? Mr. Sundborg?

SUNDBORG: Mr. President, I certainly don't oppose the sentiment

expressed by Mr. Robertson's statement but I feel it would be an orderly process on anything as fundamental as this which purports to express the policy of this Convention, that it should go through a committee for study before it comes before this body for action on the floor and that was the purpose of my motion.

JOHNSON: Point of order, Mr. President. We have just adopted a rule on resolutions which says that they shall be treated in the same manner as motions. It would appear then that it is not necessary for any committee reference.

PRESIDENT EGAN: Ordinarily it would not be, Mr. Johnson, but it would be up to the wish of the Convention so long as someone asks that it be done.

JOHNSON: I did not understand that Mr. Sundborg's motion was a suspension of the rules. If it is, that is different.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I want to comment on this resolution in view of the possibility it may not be referred to committee. If it is going to be referred to committee I will comment on it after it comes out. Now what is the thought on that? What is your ruling on that?

PRESIDENT EGAN: Under those circumstances Mr. Rivers, the Chair believes it should possibly wait until after the vote on this proposed amendment as has been consummated by the delegates.

V. RIVERS: I would like to speak on it if the floor is open for discussion. I feel that the intent of this resolution is a good one, the idea being that I think practically all of us have expressed the intention that we shall try to confine the constitution to fundamentals. However, for us to start circumscribing the authority that lies within this body, as a final body by a resolution establishing policy now, to my way of thinking, could be at least, very limiting in our final action. It is something that could enter into every debate. It is something that could enter into every expression of opinion or proposal brought on to this floor and it could extend to a great degree the debate that might occur on this floor during the discussion of any proposal and that of course would all rest around the concept of what was fundamental law and what was legislative or constitutional law. So I feel that I would, for one, have to oppose this blanket expression of policy by this group, that would have a tendency to limit the power and circumscribe the action of this group in anyway whatsoever.

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

ROBERTSON: Mr. President, with the consent of my second I will withdraw the words "policy" and just leave it as the "intent".

JOHNSON: I will consent to the amendment.

PRESIDENT EGAN: Mr. Johnson consents to the amendment. Is there objection to Mr. Robertson's request? The Chair realizes an amendment to the particular motion is also before us. Do you object, Mr. Sundborg, to changing it?

SUNDBORG: I would like to make an inquiry of the Chair -- whether he intends to treat Mr. Robertson's in the manner specified by our rules for the handling of resolutions? In other words, it has to be introduced on a certain size piece of paper, it has to carry a particular heading, it has to be handed to the Secretary who shall give it a number, it shall then be referred to certain committees and to the Committee on Style and Drafting, all before it is adopted, If that is going to happen I have no objection to Mr. Robertson bringing in his resolution, but if we are going to vote on it here and now I certainly do object.

PRESIDENT EGAN: Under Rule 53, Mr. Sundborg, it states resolutions relating to the business of the Convention may be introduced as provided by these rules and their consideration shall follow the same procedure as provided by these rules for motions, which, unless there is another rule, is possibly contradictory to other provisions that are contained previously in the rules. Mr. Sundborg?

SUNDBORG: I wonder if someone would then read to us what is the procedure as outlined in these rules for motions? What rule covers that?

RILEY: Rule 31.

PRESIDENT EGAN: "When a motion is made it shall be stated by the President or, if in writing, it shall be read aloud before debate."

SUNDBORG: Mr. President, I would then like to move to amend Mr. Robertson's motion to provide that his resolution shall be referred to the Committee on Rules for a report.

PRESIDENT EGAN: Mr. Sundborg, your motion is already pending on that particular question.

SUNDBORG: He changed his original motion didn't he, which I thought carried my amendment?

PRESIDENT EGAN: No. It hasn't been changed yet, Mr. Sundborg. If no one objects to Mr. Robertson changing the word "policy"

to read "intent" in the original motion, if you as the maker of the proposed amendment do not object and the second does not object, then the Chair will declare that in the original resolution that the motion has relation to, will carry the word "intent" instead of "policy". Mr. Robertson?

ROBERTSON: Mr. President, I might say that I have no objection to my simple motion being referred to the Committee on Rules if that is what Mr. Sundborg desires, that is entirely agreeable to me.

PRESIDENT EGAN: Is there any objection to the resolution, to the motion relating to the resolution by Mr. Robertson being referred to the Committee on Rules? Is there objection? Mr. Victor Rivers?

V. RIVERS: Mr. President, I am wondering why the resolution should be referred to the Committee on Rules when we have a Committee on Ordinances and Resolutions.

PRESIDENT EGAN: Mr. Rivers, your point is pretty well taken.

SUNDBORG: With the consent of my second I will amend my motion, amending Mr. Robertson's motion, to provide that it shall be referred to the Committee on Resolutions and Recommendations.

PRESIDENT EGAN: You have heard the unanimous consent request. Your point of order, Mr. McCutcheon.

MCCUTCHEON: Point of order. As I understood it, the matter was a motion rather than a resolution. Is that true?

PRESIDENT EGAN: Mr. McCutcheon, the position the Chair is in, is this. Mr. Robertson read, as the Chair understands it, read the particular matter in question as if it were a resolution.

ROBERTSON: I beg to differ with you. I just moved.

PRESIDENT EGAN: Then the Chair stands corrected. Then it is just a motion.

MCCUTCHEON: My point of order, Mr. President is, if it is just a motion then we have no right to try to refer it to a committee. It should be acted upon on the floor. If it is a resolution, then it properly goes to a committee.

PRESIDENT EGAN: That was the position the Chair was holding on. If it is not a resolution then it is a matter to be acted upon on the floor. You are correct, Mr. McCutcheon. Mr. Victor Rivers?

V. RIVERS: Mr. President, I dislike taking up more time on

this, but as I recall it, it said, "Be it resolved" is that not the first word? May I have the motion read?

PRESIDENT EGAN: Will the Chief Clerk read the particular subject to us.

CHIEF CLERK: "I move that it is the policy and intent of this Convention that the constitution should be a document of fundamental principles of basic law, and contain only the framework for state government, with all the details to be ordained in the discretion of future legislatures."

HERMANN: I don't think the fact that that begins with the words "I move" changes it from being a resolution. You don't move a policy, you move to do something.

PRESIDENT EGAN: Mr. Hellenenthal has the floor.

HELLENTHAL: My point is along Mrs. Hermann's lines. The label does not determine whether a matter is a motion or a resolution but it is the content that determines it. Matters of a permanent important nature of lasting duration are commonly referred to as resolutions. Matters of a transitory nature are handled by motions. The label is unimportant the substance is what counts. Now I could move that the senate of the state of Alaska be composed of 77 members. I would certainly feel that my motion should be referred to the Legislative Committee.

PRESIDENT EGAN: Then, if there is no objection, the Chair the motion as amended will be referred to the Committee on Resolutions. Mr. Coghill?

COGHILL: Mr. President, are you still on the order of committee reports?

PRESIDENT EGAN: That is the position we are in right now Mr. Coghill.

COGHILL: Does the Chair wish to recognize the Committee on Administration for Report No. 1?

PRESIDENT EGAN: If you have Report No. 1, you are recognized.

COGHILL: I would like to request a two-minute "at ease" for the Convention in order to distribute mimeographed copies of the reports to all the Convention delegates.

PRESIDENT EGAN: If there is no objection the Convention will be at ease for two minutes. The Convention is at ease. The Convention will come to order. Mr. Coghill, you can proceed with the reading of the Committee report.

COGHILL: Mr. President, your Committee on Convention Administration respectfully submits the following report, Report No. 1 which was read to you yesterday, and you all have a copy. I might interject here, Mr. President, do you wish to have these adopted as subsections or do you wish to have the whole report read?

PRESIDENT EGAN: The Chair feels you should go through at least to Page 3.

COGHILL: "For purposes of planning the balanced and coordinated use of the Convention appropriations so as to carry out the intent of Chapter 46, SLA 1955, your committee has prepared a tentative allocation of the funds available to the Convention. This allocation is predicated on the possibility of the Convention's lasting the full period of 75 days and therefore indicates the maximum liabilities which might be incurred. The budget is not intended to restrict the later adjustment of particular items, should necessities demand changes, and does not by this allocation authorize any expenditure of funds, without the approval of the Convention. The tentative allocation is as follows:

TENTATIVE ESTIMATE OF COSTS

<u>APPROPRIATION FOR CONVENTION</u>	\$300,000.
Less: Estimated election expenses	<u>38,000.</u>
	\$262,000.

ESTIMATED CONVENTION COSTS

A. DELEGATES

1. Salary @ \$15.00 per day for 75 days	\$ 61,325.
2. Per Diem @ \$20.00 per day for 79 days	86,900.
3. Travel of Delegates (1 round trip)	6,000.
4. Social Security contribution	1,247.
Estimated Total Expenses of Delegates	\$155,472.

B. SECRETARIAT

1. Personal Service of Administrative Staff	
1 Chief Clerk @ \$30.00 per day	2,400.
1 Assistant Chief Clerk @ \$24.00 per day	1,920.
1 Sergeant-at-Arms @ \$21.00 per day	1,680.
4 Stenographers @ \$22.00 per day	7,040.
3 Clerk-Typists @ \$21.00 per day	3,360.
1 Mimeograph Operator @ \$21.00 per day	1,680.
1 Doorkeeper @ \$18.00 per day	1,440.
1 Messenger @ \$18.00 per day	1,440.

1 Message Center Chief @ \$21.00 per day	\$ 1,680.
1 Recording Clerk @ \$25.00 per day	2,000.
1 Librarian - Research Assistant @ \$25.00 per day	2,000.
2. Salary of Secretary @ \$31.66 per day plus \$12.00 per diem	3,493.
Total Personal Services	\$ 30,133.
3. Other Staff Expenses, including Travel and Social Security	3,500.
4. Technical and Consulting Services	25,000.
5. Equipment	1,500.
6. Supplies and Postage	3,500.
7. Recording	8,000.
8. Postage for Delegates	<u>1,375.</u>
Total Secretariat Expenses	\$ 73,008.

C. OTHER CONVENTION COSTS

1. Printing of Constitution	6,000.
Miscellaneous	<u>27,520.</u>

GRANT TOTAL:

Estimated Convention Costs: \$262,000."

I might interject here, Mr. President, there was an error made on that and it should be \$27,000 instead of \$28,000. This is on item 2 under C so will you correct that on your copy?

PRESIDENT EGAN: Mr. Coghill, the Chair feels that at this point that before we go on to the explanation of allocations that anyone who desires to bring up any question on the sections that have been previously read, it would be in order. Mrs. Hermann?

HERMANN: I would like to ask Mr. Coghill if that correction he made has to do with the salaries of the three clerk-typists at \$21.00 a day, which I get to be \$5,040 instead of \$3,360.

COGHILL: There is a \$1,000 error if I remember correctly, in the addition of it. That would raise it and diminish that other.

PRESIDENT EGAN: If there is no objection, the Convention may be at ease for a few moments. The Convention is at ease. The Convention will come to order. Mr. Coghill.

COGHILL: It was probably an oversight in getting the draft worked up here. The clerk-typists would read \$5,040. The total personnel services would be \$31,813. Your miscellaneous item would then be reduced to \$25,840. Your miscellaneous is actually a balancing fund of what we have left in our \$262,000. It is the total amount of money that your Committee is endowed with.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I address a question to Mr. Coghill? Is it not possible that rather than the monetary figure being incorrect, your number of clerk-typists is incorrect? If that had been two instead of three your sum of \$3,360 would have been correct.

PRESIDENT EGAN: It is supposed to be three, Mr. White. Mr. Stewart said three is correct. Is there other discussion on the salaries or other expenses so far? Mr. Fischer?

V. FISCHER: I would like to ask a question. Has any estimate been made on the cost of the approval of the constitution, on the referendum?

COGHILL: On the election itself -- no we have not. The ratification election will be incorporated into that \$25,840, one of the items that we have considered, but we haven't come out with an allocation yet because it will take a little study to figure just what proportion we will have to pay if it is put on the primary election basis.

PRESIDENT EGAN: Is there further questioning? If there are no further questions, Mr. Coghill, you may proceed with the "Explanation of Allocations.

COGHILL: "EXPLANATION OF ALLOCATIONS

APPROPRIATIONS FOR CONVENTION: The appropriation of \$300,000 was initially diminished approximately \$38,000 by the expenses of the election of Delegates, and there is now available to the Convention \$262,000.

ESTIMATED CONVENTION COSTS:

A. DELEGATES: The costs indicated in this item are fixed by the terms of Chapter 46, SLA 1955. 79 days are shown to include four extra days for travel to and from the Convention."

You will notice that is on the per diem only as amended on my report on Saturday. This is at the end of "Convention" at the end of "A " under "Estimated Convention Costs".

"B. SECRETARIAT:

1. This item is recommended as the table of organization of permanently assigned staff personnel with salary figures as shown. The salary scale is based on the schedule used by the 1955 Alaska Legislature for similar positions, plus a 15% increase. This increased scale is recommended because of the temporary and specialized nature of the work, and the increase is commensurate with that allowed to teachers in the Second and Fourth Divisions as compared to teachers in the First Division. The Committee recommends that the employment and discharge of staff employees be placed in the discretion of the Secretary. It is contemplated that some of the positions indicated may not be filled until the work load increases, and recommendations for additional part-time personnel may be later made. The salaries indicated would be paid for each calendar day during the full session of the Convention except for any recess called pursuant to Section 1 of Chapter 46, SLA 1955. No overtime salaries will be paid, but the personnel will be engaged with the understanding that overtime work necessary is compensated for by the regular salary.

2. Salary of the Secretary: The Committee recommends that the salary of the Secretary, as stated in the estimate of costs, which is the same amount received in his capacity as Executive Officer of the Alaska Statehood Committee be continued together with the regular Territorial per diem of \$12.00; and it further recommends that this salary be paid by reimbursing the Statehood Committee for such salary and per diem for the period commencing November 8, 1955, to the time of final adjournment of the Convention.

3. The item for other staff expenses is intended to cover any contingent expenses that may arise and be authorized for payment by the Committee on Administration.

4. The item tentatively allocated for technical and consulting services is shown in the same amount as was budgeted in the report of the Statehood and Federal Relations Committees of the 1955 Legislature to the full Legislature in recommending the appropriation of \$300,000. When technical and consulting services may be requested by the Convention, this

amount will be available.

5. The item tentatively allocated for equipment is to cover the obtaining of typewriters, mimeograph machines and such other equipment and furniture as may be necessary.

6. The item tentatively allocated for supplies and postage is to cover the purchase of stationary supplies of all kinds, including letterhead stationary for the Convention for the use of Delegates bearing the names of all Delegates on a margin, postage for official mail of the Convention, and other necessary supplies.

7. The recording item is allocated for the possibility of the making of a tape recording of the plenary sessions.

8. The item for postage is allocated as an allowance of \$25.00 for each Delegate.

C. OTHER CONVENTION COSTS:

1. The item for printing of the Constitution is intended to provide for the printing of copies of the Constitution as finally drafted.

2. The item for miscellaneous expenses is the otherwise unallocated balance of available convention funds.

OTHER MATTERS

It was further determined to recommend as follows:

1. Weekly pay: That all employees and Delegates be paid weekly.

2. Committee Rooms: That the recommendations of the Secretary as to committee room locations be accepted and the Secretary asked to report said room locations to committee chairmen.

3. Lockers for Delegates: That lockers be provided for each Delegate without cost to the body except for drayage.

4. Bus Transportation: That the Secretary make recommendations to the committee as to daily bus transportation for Delegates and for administrative and technical staff, at the expense of Delegates and staff.

5. Privacy of Convention Floor: That the floor of the Convention Hall be appropriately designated by ropes across posts.

6. Expenditure of Funds: That the Secretary be authorized to incur obligations for the purposes budgeted for the period November 8, 1955 to date of final adjournment, provided that approval of the Committee of Administration is first obtained as to any one item exceeding one hundred dollars in cost.

7. Reports and Records: That the secretary maintain such records and render such reports on financial matters as may be requested by the Committee.

8. Flags: That suitable Alaskan and American flags be procured for the Convention Hall.

9. Desks and Chairs: That the matter of desks and chairs for Delegates be explored.

10. Daily Prayers: That henceforth prayers imporing the assistance of Almighty God and His blessings upon our deliberations be held in the Assembly every morning before undertaking the daily business of the body, and that one or more of the clergy of the area be invited to officiate in that service and that the Secretary be requested to make the necessary arrangements."

PRESIDENT DEGAN: Is there discussion of this report?

COGHILL: I move and ask unanimous consent that the report be adopted as read.

BUCKALEW: Object.

NOLAN: I raise a question on Page 7.

COGHILL: I so move.

BARR: I second it.

PRESIDENT EGAN: It has been moved by Mr. Coghill and seconded by Mr. Barr that the report of the Committee on Administration be adopted.

NOLAN: I would like to raise a question on Page 7, subsection 6. That looks to me like he is kcut off from I curring any indebtedness after that date, and it will be necessary in the clostig up of the work of the Convention for him to incure certain expenses in order to wind it all up, and I think it should be reworted there. There will be obligations coming

up, Mr. Sundborg?

SUNDBORG: Mr. President, I would move then to amend item 6,

Page 7, in its third line by striking after "1955j" the words "to date of final adjournment" and inserting in lieu thereof "until the work of the Convention and its secretariat may be completed," and I ask unanimous consent.

HERMANN: Mr. President..

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent for the adoption of that amendment. Mrs. Hermann?

HERMANN: On Page 4, section 2, that same statement appears -- "to the time of final adjournment of the Convention," and I think the amendment might cover both of those.

PRESIDENT EGAN: Would you accede to that suggestion, Mr. Sundborg?

SUNDBORG: Is that in the section dealing with the salary of the Secretary? I think that we should probably tie down somehow, how long after the adjournment of the Convention the secretariat could continue to work. I think it is a little different problem than the one brought up on Page 7. Conceivably the Secretary could continue to work on matters of this Convention for the next ten years.

HERMANN: I think that might be true.

SUNDBORG: I will just confine my unanimous consent request to the language outlined on Page 7 for this time.

PRESIDENT EGAN: Mr. Sundborg offers an amendment on Page 7, section 6, line 3, striking the words "to date of final adjournment" and inserting in lieu thereof the words "until the work of the Convention and its secretariat may be completed." Is there objection? Mr. Londborg?

LONDBORG: Mr. President, as I read it here the day of the final adjournment will be somewhat simultaneous with the discharge of the administration. If he works beyond the Convention who will he appeal to if he wants to spend over one hundred dollars for any one item?

NOLAN: The President will probably have to stay here for a while and he is authorized, I think, to sign the vouchers.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I was wondering if there was any conflict, I was thinking about the election after the Convention. Of course, that is the big duty of the President of

the Convention to certify the vouchers there. I believe under the Act -- I raise this point for discussion, of course. The money that is expended by the Secretary will first have to be disbursed to him by the President in order to comply with the terms of the law.

PRESIDENT EGAN: This is only to incur the obligation, Mr. McNealy.

COGHILL: I might add that the thought of the Committee was there to allow the Secretary leeway on a working fund so that the President of the Convention and the Committee on Administration would not be bothered with signing the voucher for a box of thumb tacks or such other items, and that is why the allowance was made there. That was the intent of the Committee.

PRESIDENT EGAN: You have before you then the unanimous consent request of Mr. Sundborg to make that change on line 3 of Page 7, lines 3 and 4. Is there objection? Is there objection to adopting the unanimous consent request of Mr. Sundborg? If not, the request is adopted by the Convention and so ordered.

SUNDBORG: Mr. President, I would like to move further to amend the motion of the Chairman of the Committee on Administration. On Page 4, the last sentence in Subsection 1, strike the entire sentence. It now reads as follows: "No overtime salaries will be paid, but the personnel will be engaged with the understanding that overtime work necessary is compensated for by the regular salary." I believe we are bound by Territorial law on this subject. We cannot legislate in that. We would be in conformity with the law if we strike that out and in violation of the law if we leave it in. So I ask unanimous consent.

HELLENTHAL: I object.

SUNDBORG: I so move.

COOPER: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Sundborg, seconded by Mr. Cooper, that the amendment be adopted. Mr. Hellenthal?

HELLENTHAL: Mr. President, I was a member of the Committee when this was adopted and careful consideration was given to it, and the Committee was of the opinion that Territorial law did not preclude the recommendation as it is made. This is merely what the Territorial Legislature does with its employees and it was felt that the same rules that applied to the employees of the Legislature applied to the employees of this body. It is not practical otherwise to pay overtime, and I would not recommend the base pay contained in this report if I thought overtime would be superimposed upon that base pay.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I am not arguing that we should pay overtime. I think I agree with Mr. Hellenthal, but we are bound by the Territorial law in the matter in any event. Since we are, why state here what we should do? These people are all Territorial employees and they are going to be covered by the general provisions of Territorial law. I think that we should not state here something which is gratuitous and meaningless and that what would probably be offensive to some people in the politics of Alaska.

PRESIDENT EGAN: Is there further discussion on the motion? Mr. Ralph Rivers?

R. RIVERS: Mr. President, I am not clear what Territorial law Delegate Sundborg is referring to. In the last session the legislature passed an act providing wages and hours for people comparable to interstate wages, but it did not bind the Territory to be bound by any wages and hours law; with a 40-hour week and time and one-half and double time, we are not bound by that. The Territory was legislating for society not for the Territory. So, therefore, I think as a matter of clear statement of our purpose it is a good idea to tell these people and for us all to know that you are not going to be paying overtime and that you don't have a base week of 40 hours. Now what it amounts to is this, ladies and gentlemen. „ As it happens in the legislature, the first few weeks the going is not too tough; the staff people have their Sundays off along with us. They are paid seven days a week just like we are. When the pressure mounts we work Saturdays, Sundays, and some nights. Now they don't get docked for Sundays the first part of the session and they don't get paid double time for Sundays the latter days of the session. It all balances out. Tell them all they are not going to get overtime.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I would like to point out that this could go on. However, you state to no end on this overtime business. You state in here that no overtime salaries will be paid. You commit yourself to overtime work and that every person is entitled theoretically by federal law. Apparently Territorial employees are an exception. However, every person is entitled to an overtime rate after performing duties of a certain number of hours per week. That is your 40-hour work week, I would suggest that some advice be sought In this case and hire on a contract labor basis, that you hire for a total lump sum for so many days or a daily rate so that when they are hired, they may be working one day for \$22 or one hour for \$22, or the work may entail 20 hours. You are going to run into overtime difficulties in working over 40 hours in one week.

SUNDBORG: The Territorial law to which I refer is not one to which Delegate Rivers referred. That one sets up a 40-hour week generally for industry within the Territory, except Territorial employees. There is a separate Territorial law which provides that no overtime will be paid if the employees work a greater number of hours than that. It goes on to say that Territorial employees will, insofar as it may be possible, be granted compensatory time over another period. I believe that is the provision which is going to govern here because it is the Territorial law,

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this Constitutional Convention is vested with inherent powers to spend this \$300,000 to accomplish our purpose. We are no more bound by that 40-hour week than the Alaska legislature is.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further discussion we have before us the amendment by Mr. Sundborg. Does everyone understand the amendment striking that portion that says "No overtime salaries will be paid but the personnel will be compensated for by the regular salary." All in favor of the amendment signify by saying "aye", all opposed by saying "no". The "noe's" have it, and the amendment has failed. Mrs. Hermann?

HERMANN: Mr. President, I still think we should do something

about the tenure of office for the Secretary as shown on page 4, Section 2, when we take it to the time of final adjournment, because he certainly cannot walk out of here at the same time, and I would like to propose an amendment, "until such time as the Convention may determine" to replace "to the time of final adjournment".

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I have written a line here which might fulfill the need. That was instead of saying "to the time of final adjournment of the Convention" say "to the time of completion of his duties as determined by the President." The President will be here and can sign the vouchers for the release of funds. I will ask unanimous consent to amend page 4, Section 2, the last line strike "final adjournment of the Convention" and insert "completion of his duties as determined by the President." I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Victor

Rivers for the adoption of the proposed amendment. Is there objection? If there is no objection it is so ordered and the amendment is adopted. Mr. Fischer?

V. FISCHER: Mr. President, I would like to have an explanation of two statements, one of them being on Page 7 In subsection 6. Under the expenditure of funds it provides that the Secretary is authorized to incur obligations, etc., "provided that approval of the Committee on Administration is first obtained as to any one item exceeding one hundred dollars in cost." On the first page of the report in the latter part of the main paragraph we have a sentence, "The budget is not intended to restrict the later adjustment of particular items, should necessities demand changes, and does not by this allocation authorize any expenditure of funds, without the approval of the Convention." There is some question in my mind as to exactly what we will be doing when we approve this report. Are we approving a budget and authorizing the Secretary to go ahead or are we approving the first part and all of us would have to approve the expenditure of money?

COGHILL: The only part of this report that is binding to the Convention or to the Committee is that of the Secretariat that you adopted the other day. The rest of it is all tentative allocations, and it is spelled out in the explanation of allocations as being tentative. We had to form a basis where the money might have to be spent, such as the \$25,000 for technical consultant services. We don't know whether we will even tap any of that. It is just a matter of having that set up on an estimated figure.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, my question still remains. Can the Secretary go ahead on the basis of this tentative budget and make the expenditures specified in subsection 6 on Page 7?

PRESIDENT EGAN: Mr. Coghill, what Mr. Fischer means is that that sentence on Page 1 states In effect that the Convention, that the approval of the Convention would infer that the Convention itself would have to approve all those expenditures of funds, a contradiction there.

HELLENTHAL: I think It is poorly worded and perhaps Mr.

Fischer's good objection could be handled by Inserting the words "except for any one item under \$100" on the first page.

PRESIDENT EGAN: Mr. Hellenthal, that would not cure the parti-

cular defect that Mr. Fischer states because it probably should not have the words "of the approval of the Convention" inasmuch as the other parts of the report gives that authority to the President and the Committee on Administration. Mr. Victor Rivers?

V. RIVERS: Mr. President, the suggestion was that we put a period after the words, "should necessity demand changes" and strike the balance of that line. That would then set this

up as a budget which could then later be adjusted should there be a demand. It would also take out this fact that it could not be expended without the approval of the Convention. Strike the balance of the sentence down to the colon, rather to the period. I would ask unanimous consent that that part be stricken. That puts us in position of not being contradictory.

SWEENEY: I object. Without the approval of the Convention on the first page it simply means that none of this money can be spent. For instance, we can't tape record, we can't authorize the printing of the Constitution, we can't go on with the hiring of technical consultants without the approval of this body. Then Mr. Stewart cannot spend any of that money without the approval of the Committee if it is over \$100, so I think it is poor, that it should stay as it is. If you delete "without the approval of the Convention" here, this Convention could go ahead and spend all the money it wants on machinery and a few other things.

PRESIDENT EGAN: Mr. Knight.

KNIGHT: Mr. President, I think it should read on the last line of that paragraph instead of, "of the Convention" it should be "of the Committee." I so move and ask unanimous consent.

PRESIDENT EGAN: Now we have a unanimous consent request before us at the present time. Objection was made by Mrs. Sweeney.

V. RIVERS: I will so move.

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

JOHNSON: I second it.

PRESIDENT EGAN: Seconded by Mr. Johnson. The motion is open for discussion at this time. The motion was that a period be inserted on Page 1 on the third line next to the bottom of the first paragraph, insert a period, and delete the rest of the sentence down through the word "Convention" including the period - starting with the word "and" - "and does not by this allocation authorize any expenditure of funds, without the approval of the Convention." Mr. Victor Fischer?

V. FISCHER: Mr. President, I don't want to make an issue of this. It seems rather minor, but we still don't free the Committee to go ahead with the expenditure of funds even removing that because this is only a tentative estimate, and actually what I meant to bring up originally is that at one point we have a budget upon which the Administration Committee can

spend funds -

PRESIDENT EGAN: Under other provisions in this report it gives that authority.

MCCUTCHEON: Point of information, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: It would appear to me under Rule 16 we have already adopted, subsection B, Page 7, "The Committee on Administration shall generally oversee the administrative or business affairs of the Convention, including finances, personnel, printing, physical arrangements for the Convention, and related matters." It would appear to me that under Mr. Rivers' proposed amendment subsection B would fully apply.

PRESIDENT EGAN: It would appear that way to the Chair. Is there any further discussion on the motion for the adoption of Mr. Rivers' amendment? If not, the question is, "Shall the amendment offered by Mr. Victor Rivers be adopted?" All those in favor of adopting the amendment signify by saying "aye", all opposed "no". The "ayes" have it and the amendment is ordered adopted. Are there other proposed amendments to the report on Administration? Mr. Buckalew?

BUCKALEW: Mr. President, I am looking at Page 2 of the report, the section that deals with the secretariat. Now I am assuming that all of the personnel listed under there are permanent employees of this body, and I renew my objection as I don't see the wisdom of paying the Secretary a per diem when he is a permanent employee of this body just like Mrs. Alexander.

Now if we are going to be consistent we ought to pay Mrs. Alexander a per diem too, and I doubt very much if the Secretary of the Territory of Alaska will honor that. I offer this amendment that the salary of the Secretary be \$37.00 per day and strike "\$12.00 per diem."

JOHNSON: Mr. President, is that motion in order when the matter was already voted on yesterday?

PRESIDENT EGAN: It would be in order for the reason it is a different motion than was before us before. It involves a different sum of money. Mr. Johnson, the Chair would declare it in order,

SUNDBORG: I second the motion for the purpose of making an inquiry. I wonder if the point of order on this should not be we had already adopted all of this yesterday.

PRESIDENT EGAN: This is the portion, if the point of order is on that ground...

SUNDBORG: Mr. Buckalew should move that he wants to rescind what we did yesterday, to the extent of deleting the Item of \$12 per day and raising the salary to \$37 a day.

PRESIDENT EGAN: You are right, Mr. Sundborg. This particular portion of the report is not before us at this time because it was permanently adopted yesterday. You are out of order,

Mr. Buckalew. There is a motion on the floor of Mr. Coghill's.

A motion to rescind the action would be out of order at this time because we have a motion on the floor to adopt the portions of this report which have not yet been adopted. So at the present time the objection raised by Mr. Johnson will have to be sustained by the Chair, and we will proceed with the motion on the floor.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Chairman, I feel that first of all I am not sure what we are being asked to do by Mr. Coghill. But in any event I feel that a number of these sums set out here are still subject to question and so subject to change. I feel that the matter of ratification and election was crossed over rather quickly when if this Convention does not adjourn at an early date it will not be possible to hold the ratification on the same date as the primary election. I feel it may very well be a good use to which to put some of the money saved out of this Convention, and for those reasons move that further debate on this section be postponed until tomorrow morning.

PRESIDENT EGAN: Mr. White moves that further debate and consideration of this motion at this time be postponed until tomorrow.

RILEY: I second it.

PRESIDENT EGAN: The question is, "Shall the motion of Mr. Coghill for the adoption of this tentative report be laid over until tomorrow?" Mr. Victor Fischer?

V. FISCHER: Mr. Chairman, I would like to suggest to the mover of the postponement that he incorporate a request that estimates on the election for ratification be obtained.

WHITE: I am willing to so amend the motion with the consent of my second.

PRESIDENT EGAN: The motion is ordered amended to read that way.

COGHILL: Mr. Chairman, by tomorrow morning?

PRESIDENT EGAN: By tomorrow morning if possible, evidently.

WHITE: That was a request for an attempt only.

PRESIDENT EGAN: The question is, "Shall the motion that was made by Mr. Coghill for the report to be held over until tomorrow be adopted?" Mr. Harris?

HARRIS: Mr. President, I rise to a point of information. We are now postponing again. Was not this adopted?

PRESIDENT EGAN: Mr. Harris, the section we are postponing is only the sections that were not adopted yesterday. We can't postpone anything we have already adopted. The question is, 'Shall the motion be held over until tomorrow? Shall the Convention hold over this question of approval of this report until tomorrow?' All in favor of the motion say "aye", all opposed say "no." The Chief Clerk will call the roll.

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

Ayes: 18 - Awes, Buckalew, Collins, Cross, Emberg, V. Fischer, Gray, Hinckel, Laws, Marston, Nordale, Riley, R. Rivers, Rosswog, Sundborg, Walsh, White, Mr. President.

Nays: 36 - Armstrong, Barr, Boswell, Coghill, Cooper, Davis, Doogan, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, V. Rivers, Robertson, Smith, Stewart, Sweeney, VanderLeest, Wien.

Absent: 1 - Taylor.)

PRESIDENT EGAN: So the motion has failed and Mr. Coghill's motion is now before us. Will the Chief Clerk read that motion again as stated by Mr. Coghill?

CHIEF CLERK: Mr. Coghill moved and asked unanimous consent for the adoption of the report.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I understand that this is a tentative report, in other words there is nothing definite about the figures, and the motion is to adopt it. Can't we resolve the situation by accepting it and adopting a definite report later on?

PRESIDENT EGAN: You may have a point there, Mr. Barr.

COGHILL: Mr. President, on our report we also have other matters which relate to pay of the delegates and the assignment of the committee rooms, the lockers for delegates, bus transportation, privacy of the Convention floor, expenditure of funds for recording records, flags, desk and chairs and other matters that if we don't have the acceptance of this report by the Convention, our Committee can't go ahead with its work.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would just like to make an inquiry. If we now adopt the motion before us, is not the Committee and the Secretary, are they not empowered to go ahead and spend this money?

PRESIDENT EGAN: That would certainly be the feeling of the Chair.

SUNDBORG: That would be the last chance that this Convention would have to vote upon any item here unless it should again be brought up under the provision saying that should necessity demand changes, later adjustment of particular items might be made.

PRESIDENT EGAN: Or if at a later date someone desires to move to rescind some particular action, and it would be the wish of the Convention to do so.

SUNDBORG: What vote is needed on a motion to rescind?

PRESIDENT EGAN: A simple majority. Mr. McCutcheon?

MCCUTCHEON: Mr. President, could not the matter be reopened on an amendment, the original action, which would require only a majority?

PRESIDENT EGAN: That could be done, Mr. McCutcheon. Mr. Coghill?

COGHILL: I don't believe it is the Committee's intent at all to set itself up as an agency to spend these \$262,000, and if it is the wish of the Chair we shall bring that out in our next report, if that is sufficient to speed things on the floor.

PRESIDENT EGAN: The Chair feels you have brought it all out here, Mr. Coghill. Mr. Hurley?

HURLEY: I would like a point of information. I would like to ask a question as to whether this item concerned with salary schedules has or has not been adopted by this Convention.

PRESIDENT EGAN: It is the Chair's understanding that that was one of the portions that was adopted yesterday, Mr. Hurley.

HURLEY: Why are we discussing it today?

PRESIDENT EGAN: We did not have all of it on there, I don't believe yesterday.

HURLEY: It is different than what we adopted yesterday?

PRESIDENT EGAN: That is right, Mr. Hurley, there are additions on there,

DAVIS: Might I inquire, Mr. President, as to what portions we did adopt. Unless I am mistaken it was B1 and B2, that was all we adopted.

COGHILL: The Committee report Mr. Chairman, has not been changed in that portion, if it has it has just been changed on that error of \$5,040.

PRESIDENT EGAN: The Chair thought that you added another stenographer.

COGHILL: No, because the report I read off was the report which went up to the mimeograph room. The objection was on the floor yesterday was that it was a lengthy report and should be in the hands of each delegate before they acted on the full report and our Committee requested that the secretariat part be accepted so as to get our working staff in order.

PRESIDENT EGAN: Mr. Hurley, then we would just be adopting those portions of the report other than B1 and B2.

HURLEY: Mr. President, I would like to make a statement. I think there is a motion on the floor and it's under discussion. I think the very nature of the material we are considering here is something that a final result could never be brought to the floor of the Convention. I think it is a type of thing in which this Convention must place its trust within the limits as prescribed in the Committee which you have appointed. With the amendments that have been proposed which have clarified the item, that we can do well to accept it now and still not be bound by a committee of highbinders who might run off with all our money.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I gathered from what the Chairman said there that I would like to ask are we or are we not voting on the matter under "Other Matters"? The heading under "Other Matters" seems to have one item authorizing funds and the rest are of a more or less different nature. I am perfectly willing to vote on Item 6. The rest of them might bear some future discussion.

PRESIDENT EGAN: Mr. Rivers., it is the Chair's understanding that Mr. Coghill's motion incorporated all that part of this report that was not adopted by this Convention yesterday. Mr. Hellenthal?

HELLENTHAL: Mr. President, practically speaking, perhaps the only item that might worry some of the delegates is Item 4, technical and consulting services, which is considerable, \$25,000, and I call the body's attention to the fact that paragraph 4 on page 5 says 'when technical and consulting services may be requested by the Convention this amount will be available.' So that \$25,000 item is still under the control of the Convention, and as to the other items of possible expenditure, none of them are of any significance.

PRESIDENT EGAN: Mr. White?

WHITE: Mr. Chairman, I don't wish to hold this up forever or be an obstructionist. I like to be conservative with expenditures but my purpose is not too quibble over every penny. If I understand the motion correctly, in approving this report we are allocating certain sums to certain classifications. We are authorizing the expenditures of those sums. I have every confidence in the Committee and the Secretary. I know how difficult it is when sums for expenditures have been authorized, how difficult it is to withstand pressures to spend those sums, and I feel by approving allocation of money to certain classifications in this report we are precluding their expenditures on what may be other classifications. Without going too far afield, though I could, I will merely repeat an example of the possible necessity of holding a ratification of this constitution at some time other than in conjunction with another election and they had to pay for it. You have here under "miscellaneous", \$25,840. Perhaps that could be allotted for that purpose, perhaps it couldn't be. In any event, I doubt very much it is sufficient. How, if you adopt this sum, you can spend close to \$25,000 for technical and consulting services for a matter of conducting elections, I'm sure I don't know. I was merely in my previous motion trying to avoid what I know is going to happen if this is not gone over in some more detail and that is, objecting to items 3, 4, 5, 6, 7 and 8 and some others - perhaps, one motion after another asking to rescind action taken yesterday. There is one on the floor already - I'm quite sure there will be more. For that reason I will have to vote against it.

KILCHER: Mr. Chairman?

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think I could put Mr. White at rest with the possible item that might come up with election for ratification of the constitution. That would only happen in the event that

the Convention will come to a close very early and that will save more money than the possible cost of ratification will amount to so that will take care of itself.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, it seems to me that if we as a group have placed confidence in you to appoint a committee, as Mr. Hurley has stated, we certainly feel they will bring to us as their committee reports repeated statements on finances. If at any time we want to call them and question them we have the power through rules to call them out on to the floor and give us an adequate statement of these expenditures. I for one feel we should give a vote of confidence for a committee in saying this is the best that can be done. They have done a good job. Let's tell them to get to work. I will vote in favor of this proposition.

PRESIDENT EGAN: Mr. McLaughlin has been trying to get the floor.

MCLAUGHLIN: Mr. President, I move the previous question.

JOHNSON: I second it.

MCLAUGHLIN: I request the President adhere to Rule 35.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor -

MCLAUGHLIN: Point of order, Mr. President.

PRESIDENT EGAN: State your point of order, Mr. McLaughlin.

MCLAUGHLIN: I requested the President to adhere to Rule 35.

PRESIDENT EGAN: Mr. McLaughlin, will you give the President time to look it up? "Shall the main question be now put?" All those in favor of having the main question now put say "aye". All those opposed to having the main question now put say "no". The main question will now be put. The question is, "Shall the Convention adopt this report of the Committee on Administration?" All those in favor of adopting the report say "aye", all those opposed say "no". The motion has carried and the report has been adopted.

WHITE: Mr. Chairman, I voted with the affirmative..

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

JOHNSON: Point of order. Is a notice of reconsideration good on anything but a roll call vote?

PRESIDENT EGAN: Your point of order is well taken. A notice of reconsideration can only be given on a roll call vote, Mr. Barr?

BARR: Mr. President, I move that subject to committee announcements we now adjourn until 9:30 tomorrow morning.

STEWART: I second it.

EMBERG: Mr. President, have we taken any action today regarding yesterday's journal?

PRESIDENT EGAN: Would someone wish at this time to make a motion regarding the reading of yesterday's minutes,

JOHNSON: I don't know whether it is in order when there's a motion to adjourn on the floor.

BARR: I momentarily withdraw my motion.

JOHNSON: Mr. President, I move that the journal of the last plenary session of this Convention be considered read and approved.

DOOGAN: I second the motion.

PRESIDENT EGAN: Is there objection? Hearing no objection, the journal of the previous session has been considered read and approved. Mr. Barr?

BARR: Mr. President, I renew my motion to adjourn until 9:30 a.m. tomorrow morning and ask unanimous consent.

PRESIDENT EGAN: Mr. Barr renews his motion. Are there committee announcements? Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting will meet at the committee table at the rear of the audience chamber immediately following adjournment for a brief committee session.

AWES: Has the bus been called to come out tonight?

PRESIDENT EGAN: The bus was just called. The Chair would like to have a meeting of all committee chairmen as soon after adjournment as possible. The Chair would also like to announce before adjournment that it has been brought to the attention of the Chair that the Rotarians meet on Thursday, the Lions on Wednesday, the Kiwanis on Monday, so if there are any members in this group of delegates they can remember that and remember the days when they might have an opportunity to attend those meetings. Are there other committee announcements? If not, the question is, "Shall the Convention

stand adjourned until 9:30 tomorrow morning?" Is there objection?
Hearing no objection it is so ordered and the Convention is adjourned
until 9:30 tomorrow morning.

ALASKA CONSTITUTIONAL CONVENTION

November 15, 1955

EIGHTH DAY

PRESIDENT EGAN: The Convention will come to order. Now Reverend Armstrong will come forward and we will have our daily invocation. (Delegates standing as Armstrong comes forward)

ARMSTRONG: Our Heavenly Father, we are mindful of the blessings that we have, of the freedom of our country, for the building of our communities, for the raising of our families. Thou hast made us protectors of the faith of democracy. Lord, give us wisdom in the development of this constitution for the State of Alaska to proceed with Thy wisdom, Thy power and charity. In Christ's name, amen.

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

CHIEF CLERK: I would like to be clear on the point. Does the change in the rule apply to attendance roll call also?

PRESIDENT EGAN: No, I would say it that rule does not apply to attendance roll call.

(The Chief Clerk called the roll.)

CHIEF CLERK: Two absent.

PRESIDENT EGAN: We will proceed with the reading of yesterday's journal. Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the reading of yesterday's journal be dispensed with at this time and that the journal be approved as written.

LONDBORG: Objection.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent. Mr. Londborg objects.

SUNDBORG: I so move.

PRESIDENT EGAN: Mr. Sundborg moves.

JOHNSON: I second it.

PRESIDENT EGAN: Mr. Johnson seconds the motion that we dispense with the reading of yesterday's journal and that the journal be approved. Mr. Londborg?

LONDBORG: I would like to just find out how many days we go on this way. We should at least have some assurance that the

journal will be on our desk. We did some very important business yesterday. It would be nice to know just exactly what the business was.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I am sure we are going to have a journal shortly. We are still in the early stages of organizing the secretariat, and it has just been physically impossible as I understand it for a completed journal to be on our desks each morning while the staff is so limited. It has not been filled out yet with all the employees that we are going to have here a bit later, and during this time I would like to ask that the delegates show a little consideration for the secretarial staff by not requiring it to produce a daily journal by the early hour in the morning.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I am not opposed to dispensing with the reading of it, but I think we should reserve the privilege of approving it when it is on our desk.

PRESIDENT EGAN: If there is no objection, the Chair will hold that when the journals do appear that any delegates will have the right to bring to the attention any possible errors in the journal of any date prior to the time that it finally shows. Mr. Kilcher?

KILCHER: Before I know how to vote on this motion, I would like to know if the Secretary can give us an estimated time when we will have yesterday's journal available.

PRESIDENT EGAN: Could the Secretary answer this question?

CHIEF CLERK: It's ready. It just has to be reproduced. We have to get some typists. All the journals are all written. I have one copy of it but last night's was not completed, but as soon as we get some typists all that has to be done is the stencils cut and run off. If anyone wants to look at the journal, they are available.

SECRETARY: Mr. President, a typist is now available, it can be reproduced this morning, I am sure.

PRESIDENT EGAN: Do you mean today sometime we will have a copy of yesterday's journal?

CHIEF CLERK: If we adjourn and I can get out of this seat.

NOLAN: It takes quite a few hours on a day like yesterday with the amount of business that went through, it takes quite a few hours afterward so the help would have had to work up to

Probably midnight last night to have it on your desks this morning, so you would have to actually wait until later in the day.

PRESIDENT EGAN: Thank you, Mr. Nolan. Is there any other discussion on this motion before us of Mr. Sundborg's? The motion was that the reading of yesterday's journal be dispensed with at this time. Is that your intention, Mr. Sundborg?

UNIDENTIFIED DELEGATE: Did he also ask that it be approved?

SUNDBORG: I will drop that from the unanimous consent request.

LONDBORG: I will withdraw my objection in realizing the impossibility of reading it now considering he drops that part of his motion.

PRESIDENT EGAN: We will consider that part of any motion previously adopted on any other day was also dropped as far as the Chair was concerned. If there is no objection the reading of yesterday's journal is ordered dispensed with at this time. Mr. Secretary, here is a communication.

SECRETARY: Operation Statehood, Anchorage Chapter, Anchorage. Alaska.

"Honorable William Egan, President

Alaska Constitutional Convention

College, Alaska

Dear Mr. President:

"Operation Statehood presents to the Alaska Constitutional Convention, this, the Alaska Flag.

"To members of Operation Statehood, the Constitutional Convention is an historic and solemn occasion, and it is our objective to, through this presentation, take a small and humble part in your deliberations.

"We rest in the knowledge that yours will be a job well done, and we have abiding faith that your labor will assist measurably in bringing to a happy conclusion our long struggle for full citizenship as the 49th State of the United States of America.

Respectfully,

/s/Ancil H. Payne

Ancil H. Payne

President

Operation Statehood"

PRESIDENT EGAN: Mr. White, as the former president of Operation Statehood, I believe you have the flag. If the Sergeant at Arms could come forward and attach the flag to the standard it would be appreciated at this time.

WHITE: On behalf of Operation Statehood it gives me great pleasure to present this Alaska flag to the Alaska Constitutional Convention.

(The Sergeant at Arms came forward.)

PRESIDENT EGAN: The Convention may stand at ease. The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the Secretary be instructed to write a letter of appreciation of the Convention to Operation Statehood for the gift of the Alaska flag.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent. You have heard his request. Is there objection? Mr. Johnson?

JOHNSON: No objection. I would like to add to that motion that if Mr. Sundborg has no objection, the communication which we received be spread upon the journal of today's proceedings in its entirety.

SUNDBORG: I accept that amendment.

PRESIDENT EGAN: The request of Mr. Johnson has been added to Mr. Sundborg's unanimous consent request. If there is no objection it is so ordered. Are there reports of standing committees? Mr. Secretary, you may read the communications.

(The Secretary read communications from the President of the University of Alaska calling attention to the fact that the facilities of the infirmary were available to delegates and to the American Association of University Women meeting to be held November 21 at which the women delegates and wives of delegates are to be honored guests, were read. Reminder of the Home Economics Department open house, Thursday, was read.)

PRESIDENT EGAN: The Chair would like to at this time bring to the attention of all delegates that the Fairbanks Chamber of Commerce is having its no-host dinner tomorrow evening at 7:30 at the Rendezvous. In as much as the Fairbanks Chamber of Commerce has put so much effort in attempting to make the hospitality part of our stay here very pleasant, the Chair hopes that every delegate can be there. Mr. Secretary, you might read the communication that was interrupted yesterday.

"Alaska Office
644 12th & D
Juneau, Alaska
November 3, 1955

The Constitutional Convention
Territory of Alaska
P. O. Box 4003
College, Alaska

Gentlemen:

Some years ago the Indians throughout the United States found it necessary to organize in an effort to protect their rights as established by law and treaty. They realized that freedom, even in these United States had to be protected, nurtured and defended against the common enemy of human selfishness.

Thus the National Congress of American Indians came into being and a proclamation was issued by the organization to the People of the United States to further establish a common bond of understanding.

It seems appropriate at this time, on the eve of Alaska's historical moment, to present the same message to the Constitutional Convention assembled at College, Alaska with the thought that it may influence the members of the convention to a greater responsibility in protecting the lives and liberties of all the citizens of the new state of Alaska and any rights that have been established from time immemorial in the relationship between the people who have settled here in Alaska and the aborigines.

We offer you our unconditional friendship and faith in accomplishment to establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty for all.

Sincerely yours,
/s/ Elizabeth Peratrovich
ELIZABETH PERATROVICH
Alaska Representative
and Member of Executive
Council
National Congress of Am-
erican Indians

SECRETARY: The letter includes a copy of the original proclamation.

PRESIDENT EGAN: Is it the wish of the Convention that it will

be made a part of the record and that the scroll be filed?

MARSTON: Mr. President, I move that this communication be made a part of the record.

PRESIDENT EGAN: Mr. Marston asks unanimous consent that this communication be made a part of the record. Hearing no objection it is so ordered. Are there reports of standing or select committees? Mr. Barr?

BARR: Mr. President, before we make reports I would like to make the motion that the Secretary be instructed to provide a small bulletin board on which we can post these communications on meetings. We have no way of remembering that phone number for instance or any other information that might be desirable. This is not a part of that motion but as a suggestion, it is kind of hard to put anything on these concrete walls, but I notice there is a wooden frame around that switchboard over there (pointing to fuse box) and if it were hung on that it serves a double purpose and save the delegates from electrocution before this Convention is over. I ask unanimous consent that the Secretary provide a bulletin board.

PRESIDENT EGAN: Mr. Barr asks unanimous consent that the Secretary be instructed to provide some sort of bulletin board. Mr. Secretary, had you already made arrangements?

SECRETARY: There is one, placed by the mailbox in the Convention information headquarters. It could easily be arranged to have one here if that is the desire of the Convention.

PRESIDENT EGAN: The desire evidently of the Convention is to have one also established here in Convention Hall. We are down to introduction and first reading of proposals. Are there any proposals to be introduced for first reading at this time? Mr. McLaughlin?

MCLAUGHLIN: Mr. President, I request a three-minute recess.

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

AFTER RECESS

PRESIDENT EGAN: The Convention will come to order. The Convention will revert to the introduction of committee reports. Mr. Johnson?

JOHNSON: Mr. President, in the absence of the chairman of the committee on gavels, I should like to report that we have acquired a gavel which I believe is symbolic of Alaska and certainly as fine a piece of ivory carving that I have ever

old, maybe a little more than that and it was carved about five years ago and is absolutely without flaw. It is an unusual thing in the ordinary mammoth ivory that's found around Alaska so outside of the fact that we have to get a plate and put it on here, I do believe your committee has performed its function and I will now turn over the gavel to you. These were thrown in by the man from whom I obtained it. I bought the gavel however, but he put in these two letter openers which the President may use as he sees fit.

PRESIDENT EGAN: We certainly appreciate your efforts Mr. Johnson.

JOHNSON: Incidentally, it was Mr. Al Retzlaf of U. S. Smelting Refining and Mining Company who carved the gavel. That is a hobby with him. He does not do it as a commercial proposition at all. This particular gavel had been his own and rather a prized possession, and he did finally agree to sell it to the Convention.

PRESIDENT EGAN: If there is no objection the Chair will instruct the Secretary to write a letter to Mr. Retzlaf expressing the appreciation to Mr. Retzlaf for being able to obtain a gavel of this nature.

JOHNSON: Incidentally, we also will, as quickly as possible, procure a working gavel which will probably be a wooden mallet.

PRESIDENT EGAN: Thank you, Mr. Johnson, and the Chair would like to inform Mrs. Hermann it will possibly be two or three days before we can release her gavel but it will be held under lock and key until that time.

HERMANN: Thank you, Mr. President.

PRESIDENT EGAN: Now we have before us the introduction and first reading of proposals. Mr. Robertson?

ROBERTSON: I would like to introduce a proposal entitled, "Courts, Judicial, Tenure, and Juries."

PRESIDENT EGAN: Mr. Robertson desires to introduce a proposal entitled, "Courts, Judicial, Tenure, and Juries." The proposal will be referred to the Committee on Judiciary. The Secretary may read the proposal for the first time.

SECRETARY: "Constitutional Convention of Alaska. Delegate Proposal No. 1. Introduced by R. E. Robertson. COURTS, JUDICIAL, TENURE, AND JURIES."

PRESIDENT EGAN: The proposal is referred to the Committee on Judiciary. Are there other proposals to be submitted at this

time? If there are no further proposals are there any motions or resolutions to be presented? Mr. Sundborg.

SUNDBORG: I would like to move and ask unanimous consent that we amend our rules, Page 13, Rule 35, the second line, strike the words "main question be now put and substitute in lieu thereof the words "previous question be ordered" so that the whole sentence will read "The previous question shall be put by the President in this form, shall the previous question be ordered?"

PRESIDENT EGAN: Mr. Sundborg"asks unanimous consent that the amendment changing the words Shall the main question be now put?" to read "Shall the previous question be ordered?"

MCLAUGHLIN: Objection.

PRESIDENT EGAN: Objection is heard.

JOHNSON: I second the motion.

PRESIDENT EGAN: A second to Mr. Sundborg's motion is heard and the question is before us for discussion. Mrs. Sweeney.

SWEENEY: Mr. President, I was wondering if the first motion would not be to rescind our action on this taken yesterday. We have adopted the rules as a whole and then section by section.

PRESIDENT EGAN: Mrs. Sweeney, a proposed amendment to the standing rules takes a two-thirds vote of the assembly. It would not necessarily come that we would have to rescind the action but would take a two-thirds vote to amend any of the rules. The matter is before us for discussion. Is there further discussion? Mr. McLaughlin?

MCLAUGHLIN: Mr. President, my only concern on the matter now is, it appears to be good English, and I am sure the Rules Committee would not confess the whole thing was unnecessary in the first place. If I may inquire -- does the President find it awkward?

PRESIDENT EGAN: The President will have to take that question under advisement.

MCLAUGHLIN: Mr. President, I withdraw my objection under the circumstances.

PRESIDENT EGAN: Mr. McLaughlin withdraws his objection.

V. RIVERS: I object.

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

proposed amendment be adopted?" All those in favore of the adoption of the amendment signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there any motions or resolutions to come before the body at this time? Is there any unfinished business? If there is no objection, the Chair at this time would like to ask Mr. Emil Sady to come forward to give a brief explanation as briefly as possible on this proposed chart relative to committee meetings and on various other matters that might aid the delegates in their functions at committee meetings, and to give any other pertinent information that Mr. Sady might think helpful and necessary before the committees start to function. If there is no objection the Chair would ask Mr. Sady --

V. FISCHER: Mr. President,

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Do we not go into the Committee of the Whole?

PRESIDENT EGAN: That would be the proper procedure, Mr. Fischer.

V. FISCHER: I so move and ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that the Convention resolve itself into a Committee of the Whole for the purpose of hearing Mr. Emil Sady. Is there objection? Mr. Barr, would you come forward and take the Chair please? (Mr. Barr came forward and took the Chair.)

COMMITTEE OF THE WHOLE

(At this time the Committee of the Whole met.
The President appointed Mr. Barr to preside.)

PRESIDENT EGAN: The Convention will come to order.

JOHNSON: Mr. President, I ask for a ten-minute recess.

PRESIDENT EGAN: If there is no objection, Mr. Johnson asks unanimous consent that the Convention stand at recess for ten minutes. If there is no objection the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce the telephone number upstairs in the information center at which you might have messages left is 5830, and the Chief Clerk has just informed the Chair that she spoke to the person in charge of the cafeteria upstairs and that about 12:30 would be the best time for the Convention

delegates to try to get in there to have their lunch, and if there is no objection the Chair would like to request that the records show that Mr. Buckalew was present this morning. And on that, Mr. Buckalew, we had a report of one-half of the select committee to purchase a gavel and wonder if you had the other half of the report. The Convention will come to order. Is there any other unfinished business to come before the Convention now? Mr. Johnson?

JOHNSON: Mr. President, regarding the last half of that report, if we may refer back to the committee reports, I have just learned that the working gavel should be here tomorrow and will be furnished by the Fairbanks School District. It will be ready tomorrow.

PRESIDENT EGAN: Thank you for that information. Mr. White?

WHITE: Mr. President, yesterday I gave notice of intention to reconsider a motion but got tied up in intricacies of parliamentary procedure. I object to the back row being roped off. I wonder if it is the intention of that committee to go ahead and rope us off. If so, I would like to move that they cease and desist.

PRESIDENT EGAN: Mr. White has raised the question as to the propriety of roping off the delegates to the Convention. Is there any other discussion? The Chair will open the discussion. Mr. Victor Rivers?

V. RIVERS: I would just like for the record to show at this time to avoid further controversy, that the price of the gavel was satisfactory to the minority half of the committee, Mr. Buckalew.

PRESIDENT EGAN: Thank you for that information. If there is no objection, Mr. White, you might confer with the Chairman of the Committee on Administration as to the roping procedure. Is there any other unfinished business?

COOPER: Mr. President, I would like to inquire -- just immediately after recess I asked the engineer on the recording system if any duplicate tapes had been made yet. He advised me that they had not been. They were awaiting the arrival of equipment coming from the States in which to accomplish the duplication. Now as I recall, the motion was made that the duplicate tapes would be edited. Now am I correct in that?

PRESIDENT EGAN: No.

COOPER: All right then, the duplicates are merely going to be a duplicate of the entire proceedings of the plenary session, is that right?

PRESIDENT EGAN: That is the way in which the motion was adopted.

V. RIVERS: Mr. Chairman, may I say a word on that?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: It is going to be my recommendation to the Statehood Committee that from those duplicate tapes we tape certain parts in to certain length programs which will then be furnished to the various radio stations, the parts which may prove interesting to the electorate. So the duplicate tapes, I anticipate will later be used for that purpose so that any of the proceedings that will be of an informative nature and will be adaptable to use on the radio stations and television, may be made available that way. I don't say the Statehood Committee is going to do that but I'm going to recommend and see if we can't do that in our program for advertising and publicizing the Convention and the Constitution.

PRESIDENT EGAN: Mr. Collins.

COLLINS: Mr. President, it is a matter of small importance but it seems that each night our different chairs have been scrambled and it is a hard matter in the morning to find your location. I hesitate to take my jackknife and cut my initials on these chairs. I think something might be done to prohibit changing of the seats.

PRESIDENT EGAN: Is it the desire of the delegates that they maintain as their desks the particular desks they are sitting at at the present moment? Then, if there is no objection, the Chair would like to request the Secretary at this time to have the Sergeant at Arms and the messenger working together, identify in some manner, each chair so the seats will be identified in the regular meeting of the Convention. Mr. Coghill?

COGHILL: Mr. President, it was felt it was the intention of the Convention that the Committee on Administration acquire tables and chairs. We have some but we do not have all the tables yet so we felt that we would have to leave the armchair type desk until we acquired the full amount of tables necessary, and then at that time a procedure of assignment would be made.

PRESIDENT EGAN: Then is it your observation, Mr. Coghill, that it might be, so long as you intend to change the seating here, it might not be necessary to go to the trouble of identifying these desks at this time?

COGHILL: Yes.

JOHNSON: I shall object to any change in the seating so far as I am concerned. I like it where I am.

PRESIDENT EGAN: Perhaps anyone with objection could arrange to meet with the Committee on Administration and talk the matter over with that Committee at some time. Mr. Nolan?

NOLAN: Mr. President, all it would take would be a typewritten slip and some Scotch tape to the desk right now.

PRESIDENT EGAN: If there is no serious objection, the seats will be identified until such time as the Convention insists there will be a change made. At this time under unfinished business the Chair would like to state that at this dinner that is to be a no-host dinner to be held under the auspices of the Chamber of Commerce tomorrow night, it is necessary that reservations be made. The Chair would like to request that before leaving here today, immediately after a recess, that each delegate who plans to be present tomorrow night at the dinner, leave his or her name with the Chief Clerk so that she might make the proper reservations as quickly as possible. Is there any other unfinished business? Special orders of the day? Any general order of the day? Mr. Victor Fischer?

V. FISCHER: Mr. President, I have a question. What is a special order of the day?

PRESIDENT EGAN: Well, something that may have been held over as a special order of the day by request or if you have something real special that you thought might not be in the category of unfinished business it would be considered as a special order of the day. If there is nothing else to come before the Convention at this time the Chair would entertain a motion for a recess, but the Chair would like to announce that immediately following the next recess we would like to have a meeting of the chairmen of all of the committees of the Convention. Mr. King?

KING: Mr. President, last Saturday we had a paper left here, a newspaper on our desk. That of course was the Colonel Eielsen Memorial edition of the Eielsen Friendly News. It was timely and very well put together, and I am sure a great number of us here appreciated it very much, and I think it would be a nice gesture of the Convention to write a letter to the Commander of the Eielsen Air Force Base in appreciation, and I so move.

PRESIDENT EGAN: Mr. King moves and asks unanimous consent that a letter of appreciation be written to the Commander of the Eielsen Air Force Base commending him on the particular edition of the Eielsen Friendly Times of November 11, 1955. Mr. Barr?

BARR: Mr. President, might I amend that so that a copy of the letter also will be addressed to the editor of the paper?

PRESIDENT EGAN: Mr. Barr asks unanimous consent that the particular motion be amended to have a copy of that letter sent to the editor of the paper at Eielsen Air Force Base. Is there objection? Hearing no objection it is so ordered. Do we have anything else to present to the Convention at this time? Mr. Robertson?

ROBERTSON: Mr. President, may I ask if the wives of delegates are invited to attend the dinner at the Chamber of Commerce?

PRESIDENT EGAN: The wives are invited. If there is nothing else to come before the Convention the Chair will accept a motion for a recess.

V. RIVERS: Mr. President, I move and ask unanimous consent for a recess until 4 o'clock this afternoon.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the Convention stand at recess until 4 o'clock this afternoon. Is there objection? Mr. Hellenthal?

HELLENTHAL: I had hoped that following the meeting of the committee heads that some schedule of committee meetings could be arranged, and I can't see any reason for the lateness. Is there maybe a good reason I am not aware of?

V. RIVERS: I will amend that time to any time the body sees fit but I thought it might be a very good time for us previous to recess, to announce committee meetings at this time. I can visualize the first committee meeting of all committees will take about approximately one hour in getting their organization set up. I thought that would allow them enough time to start off.

PRESIDENT EGAN: If we are going to have a general discussion, will someone second Mr. Rivers's motion.

GRAY: I second the motion.

PRESIDENT EGAN: It has been seconded by Mr. Gray, that the Convention stand at recess at 4 o'clock this afternoon and while ordinarily such a motion is not debatable, for a point of information, the Chair will allow it in this case.

HELLENTHAL: We may be putting the cart before the horse, because following this committee meeting I think we will be able to call meetings without conflict and in an organized manner rather than in uncoordinated manner. I would suggest that we meet here again at 1:30 and then make the announcements.

V. RIVERS: I will accept that amendment.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that his

motion be amended to read that the Convention stand at recess until 1:30 p.m. Is there objection? Mr. Barr?

BARR: I have no objection. I wonder if it has been announced that the best time for going to lunch is 12:30. Is everybody aware of that?

PRESIDENT EGAN: That was announced from the Chair, Mr. Barr, that 12:30 would generally be the best time for the Convention delegates to eat lunch. If there is no objection then, the Convention is at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson?

JOHNSON: Mr. President, may I refer to the order of business of introduction of proposals?

PRESIDENT EGAN: If there is no objection, Mr. Johnson will refer to introduction of proposals at this time. The Secretary will read the proposal in its first reading.

SECRETARY: "Constitutional Convention of Alaska. Delegate Proposal No. 2, introduced by Maurice T. Johnson, TO BE INTRODUCED IN BILL OF RIGHTS".

PRESIDENT EGAN: The proposal will be referred to the Committee on Preamble and Bill of Rights.

JOHNSON: Mr. President, I have a resolution which I would like to offer and ask the Clerk to read.

PRESIDENT EGAN: The Secretary will proceed with the first reading of the resolution.

SECRETARY: Constitutional Convention of Alaska, November 15,

1955. Resolution: "RESOLVED, that the Alaska Constitutional Convention formally invite the Honorable William Knowland, U. S. Senator from California, to address the Convention sometime during his stay at the University of Alaska.

RESOLVED further, that the invitation of the Convention be issued to Senator Knowland through the President of the Convention."

JOHNSON: Mr. President, I move and ask unanimous consent that the rules be suspended, and that this motion be acted upon immediately without committee reference.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that this motion be acted upon immediately without committee

reference. Is there any objection?

R. RIVERS: I will object just for a point of information. What is it going to cost the Convention?

JOHNSON: I would not think it would cost anything since Senator Knowland is to appear at the University on November 29 at the convocation at which he is to receive an honorary degree, and it just occurred to me, since he is a national figure, that it would be fine for this Convention to have him appear briefly.

R. RIVERS: He is coming anyway? We are just inviting him to address the Convention? I withdraw my objection.

PRESIDENT EGAN: Mr. Rivers withdraws his objection. If there is no further objection it is so ordered and the Convention will extend an invitation to Senator William Knowland to address the Convention at some appropriate time during his stay here in Fairbanks.

JOHNSON: Under the suspension of the rules I was simply asking that the matter be acted upon immediately. If that motion was carried then, I now move that the resolution be adopted in order that the record might complete.

PRESIDENT EGAN: The Chair misunderstood your request, Mr. Johnson. The Chair understood that you meant that in your original request. The Chair has ruled that your original request has been adopted and that an invitation will be extended to Senator William Knowland to address this Convention at some appropriate time during his stay. Mr. Robertson?

ROBERTSON: Mr. President, I want to refer back to introduction of proposals again. I would like to introduce a proposal if I may.

PRESIDENT EGAN: If there is no objection. Hearing no objection, Mr. Robertson, you may present your proposal. The Secretary may read the proposal.

SECRETARY: "Constitutional Convention of Alaska. Proposal No. 3, introduced by R. E. Robertson, TAXATION.

PRESIDENT EGAN: The proposal is ordered referred to the Committee on Finance. Mr. Sundborg.

SUNDBORG: I would just like to make an inquiry here whether these proposals that have come in have been in conformity with our rules as to the matter of brief title. I don't know who can answer that question. Our rules say that each proposal shall carry a brief title. I would assume that as in the case of a bill before the legislature that the title would

in some way describe what is in the proposal. It wouldn't just be a word like taxation. It should say something about what treatment it would give to the subject of taxation.

PRESIDENT EGAN: The Chair would hold your point is well taken, Mr. Sundborg and all proposals should have some sort of brief title in order that in its first reading some idea can be obtained to the nature of the proposal. Mr. McCutcheon?

MCCUTCHEON: It would appear to me that the title, "TAXATION" is a relatively short instrument, the title of "TAXATION" is sufficient. If you were to go into the title, why you would give the whole body of the text or material. I would be inclined to agree with Mr. Robertson's proposal in this particular instance.

PRESIDENT EGAN: In this particular instance, Mr. McCutcheon, but you go along on the premise that each proposal should have something that would adequately describe briefly, the body of the text? The Chair didn't realize that that was such a brief title. Are there other proposals to be introduced at this time? If not, the Convention will proceed with its business. At this time again, the Chairman would like to remind all delegates that in order to attend t[[paragraph]],e dinner to be given by the Fairbanks Chamber of Commerce at the Rendezvous tomorrow night it will be necessary that you secure reservations, and it will be necessary that you secure reservations, and that you notify the Chief Clerk as quickly as possible as to your intentions of attending that dinner so she can make the proper reservations in time. At this time the Chair would like to announce that a committee of committee chairmen during the noon hour have arranged a tentative Convention schedule during the sessions of Monday through Saturday. This is the tentative schedule they have set up for presentation to you:

9:00 a.m. to 9:20 a.m. Plenary Session

9:30 a.m. to 10:50 a.m.

- I Rules
- II Administration
- V Rights
- VIII Executive Branch
- XIV Resolutions

Now, those five committees are set up to meet on Monday through Saturday, 9:30 - 10:50 a.m. You will note that included in those five committees are two or three committees that at this time won't have too much to do, so your committee of chairmen felt there would be ample time, at least for the time being, to set them up from 9:30 - 10:50. The second group of committee meetings are set up from

11:00 a.m. to 12:20 p.m.
 III Style
 VI Elections
 X Resources

and the next group of committees are set up tentatively to meet from

2:00 p.m. to 3:20 p.m.
 VII Legislative Branch
 IX Judiciary
 XI Finance

and the fourth group of committees are set up to meet from

3:30 p.m. to 4:50 p.m.
 IV Ordinance
 XII Local Government
 XIII Amendment

Now all these committees are set up in such a manner, these groups, that the attendance of any member of those committees at a committee meeting during those times will not interfere with his membership on any other committee that might be meeting, and so while this is a tentative suggestion and possibly won't hold through the entire Convention, the Chair feels that it is so important to get the committee meetings under way that if there is no objection the Chair for the time being, at least, will declare that these will be the official times for those particular committees to meet until further notice. Mr. Victor Rivers.

V. RIVERS: Mr. President, I have no objection except I want to discuss it briefly and to say if we are going to start meeting in plenary session at 9:00 o'clock, and have Committee meetings through the day that that will then foreclose any evening committee meetings because if you are going to work from 9 in the day until 5:00 or 5:30 I don't believe there will be many of us fresh enough to do much after dinner. I thought that one of the work sessions should possibly fall in the evening for some of the committees that will be at certain periods, heavily burdened.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, first of all, on the explanation, this runs Monday through Saturday, it is tentative. There is nothing in here that is a mandate to Mr. Rivers if he is a chairman, to prohibit Mr. Rivers. from having a meeting either at any time after 4:50 on any week day or having one all day Sunday. These rules were essential to prevent the conflict which was inevitable. It is almost as Dr. Sady said, a mathematical miracle that we can provide that every day of the

Session that there will be an opportunity for a chairman to say, "We will have a meeting at such and such a time." This is not compelling, it is understandable, upon the Convention but it is compelling upon all other committee chairmen, in a sense that if the chairman of any committee desires, or exercises his right to use the specific hour for the meeting of his committee, it will not be interfered in by any other committee. To me it is obvious, it is not intended to be prohibitive, it is merely prohibitive if Mr. Rivers shall be prevented in the future.

V. RIVERS: Point of order. I object to having my name used and put it in the record. I made a point of discussion only, and I want to say this does not preclude us from meeting at 9 a.m. That was the point I made. After meeting at 9:00 a.m. you might not want an evening meeting.

MCLAUGHLIN: Forgive me. It is merely explanatory, sir. That is not compelling upon the committees, but that is reserved time for each committee.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I have an inquiry as to how rigid this schedule is, would it be possible for instance for a committee to meet at a time other than that which is assigned to the committee, even if all members may not be present at that time if the committee chairman feels that otherwise insufficient time is available? For instance, the committee in Group IV might possibly want to meet in the morning, and at that time say they meet during the time assigned to Group II.

PRESIDENT EGAN: Mr. Fischer, it would be the Chair's opinion that in a case of that nature, it would then become the committee chairman's duty to attempt to arrange such a thing by finding out just what other committees were meeting at that time and whether there would be a conflict. The Chair can see no reason why as Mr. McLaughlin stated, there is no compelling reason, even then, if there is no conflict, against having a meeting at a different time if necessary so long as it does not conflict with any of the memberships on other committees.

V. FISCHER: Mr. President, my point was that in some cases a committee might possibly want to meet even if there is a conflict, with one or two members maybe absent. Would there be any basic objection to that?

PRESIDENT EGAN: The Chair does not feel if the majority of the committee members want to meet that there could be any objection to it if they decided that. Mrs. Hermann?

HERMANN: Mr. Chairman, I would like to ask the Secretary for a point of information in connection with the bus schedule.

It seems to me at one time he informed us that the bus was not free to bring delegates out at 8:30 since it conflicted with the school bus schedule, and I think we ought to take that into consideration before deciding on that 9 o'clock hour.

PRESIDENT EGAN: Mrs. Hermann, that is what the Chairman pointed out to the members of this committee, and then on the other hand the Chairman remembered that he has been coming out on that 8:30 bus every morning and there are usually only three or four people on the entire bus the bus that leaves for the University at 8:30 in the morning is practically empty every morning.

HERMANN: It is a small bus, however, Mr. President. Does it come all the way to this building or stop further down?

PRESIDENT EGAN: It stops in front of the old cafeteria. It probably would not take too much effort to get them to come over here, but that is a point on which we will have to be clear. The Chief Clerk has suggested that perhaps we have overlooked one thing here on the Convention schedule -- that is that between 1:30 and 2 o'clock it might be wise to call an afternoon session in the event there might be resolutions to present or proposals to present or other business to come before the Convention. If there is no objection, then in between the second and third schedules on your sheet we will assume there will be a brief plenary session to begin at 1:30 p.m. each day. Hearing no objection it is so ordered. Is there further business to come before the Convention at this time? Mrs. Sweeney?

SWEENEY: Mr. Chairman, I would like to ask one point. These proposals that have been introduced now and assigned to committee -- as I understand it, copies will be distributed among the delegates -- is that right?

PRESIDENT EGAN: The Chair does not recall what the rule says but copies of all proposals it would be assumed, would be available to all the delegates of the Convention.

SWEENEY: Will they be mimeographed so we will have copies?

PRESIDENT EGAN: That is the Chair's understanding. Is that correct, Mr. Secretary? Is there any other business.

GRAY: What is the effective time of this schedule as of now or as of tomorrow?

PRESIDENT EGAN: As of now.

GRAY: I think arrangements should be made, if they run a small bus out at 8:30, make arrangements to use the largest bus.

PRESIDENT EGAN: The Committee on Administration would do so immediately upon recess, if possible, if they could find out the answer to that question.

COGHILL: Mr. President, could we have a two-minute recess and I ask unanimous consent, to confer with the Secretary on assignment of committee rooms?

PRESIDENT EGAN: Mr. Hellenthal?

HELLENTHAL: A point of information. Mr. Stewart informed me a few minutes ago that there are six rooms upstairs available for the six committees that will meet this afternoon, and when the committees get up there he will show them their rooms.

PRESIDENT EGAN: It will also be possible that every committee can have its committee room in this building if some of those rooms are used by two different committees at different times. In that way the membership of the committees will not have to run around to some other building. That is a matter that will have to be resolved between the committee chairmen as to what committees will use a particular room. Mr. Coghill, you asked unanimous consent that the Convention stand at recess for two minutes so you consult about this bus schedule. If there is no objection the Convention will be at recess for two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there any other business to come before the Convention at this time? Mr. McNealy?

MCNEALY: I find that committee meetings scheduled here for 2 o'clock there is no conflict; there is no member of the Ordinances Committee on either the Legislative, Judiciary or Finance, at least for this day I would like to announce a meeting of the Ordinances and Transitional Measures after any recess.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Pursuant to the established periods, the Legislative Committee will meet immediately upon adjournment or recess as the case may be.

PRESIDENT EGAN: Mr. McNealy and Mr. McCutcheon announce meetings of the Committee on Ordinances and Transitional Measures and the Legislative Committee immediately upon recess. Mr. McLaughlin?

MCLAUGHLIN: The Judiciary Committee will meet upstairs in the

Judiciary Committee room immediately after this session.

PRESIDENT EGAN: Mr. McLaughlin announces a meeting of his Judiciary Committee upstairs immediately after recess or adjournment. Mr. Nerland?

NERLAND: Mr. President, the Finance Committee will also meet immediately after adjournment upstairs.

PRESIDENT EGAN: Mr. Nerland announces a meeting of the Finance Committee immediately upon adjournment. Mr. Coghill.

COGHILL: Mr. President, in accordance with the Convention schedule there will be arrangements for a large bus to leave the Nordale at 8:30 in the morning and to come to the front of the Convention Hall.

PRESIDENT EGAN: You have heard the announcement by Mr. Coghill. Are there any other committee announcements at this time? Mr. Rosswog?

ROSSWOG: A meeting of Local Government Committee at 3:30.

PRESIDENT EGAN: Mr. Rosswog announces a meeting of the Local Government Committee at 3:30. Mr. Collins?

COLLINS: The Committee on Amendment will not meet this afternoon. One of our members is absent and we will try to find time sometime tomorrow for organization. If that is agreeable with the majority of the members here we will postpone until tomorrow.

PRESIDENT EGAN: Mr. Collins announces there will be no meeting of the Committee on Amendment this afternoon. Is there any other business to come before the Convention? If not, the Chair will entertain a motion. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until tomorrow morning at 9:00 o'clock and ask unanimous consent.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand adjourned until tomorrow at 9 a.m. Is there objection? Hearing no objection the Convention is adjourned until tomorrow at 9 a.m.

ALASKA CONSTITUTIONAL CONVENTION

November 16, 1955

NINTH DAY

PRESIDENT EGAN: The Convention will come to order. The Chair would like to introduce to the delegates the Reverend Mr. B. P. Wilson of the Assembly of God Church in Fairbanks. The Reverend Wilson will now give the daily invocation.

THE REVEREND B. P. WILSON: Our Heavenly Father, we thank Thee that Thou art a God of grace and mercy and truth. We thank Thee for Thy interest in the affairs of men, in that Thou didst send Thy only begotten Son who gave Himself for us, that whosoever believeth in Him should not perish, but have everlasting life. We humbly ask Thy blessing upon this Convention and the framing of this Constitution. We pray, our Lord, that Thou wilt give wisdom and direction, for Thou hast said in Thy word that "if any of you lack wisdom, let him ask of God, that giveth to all men liberally, and upbraideth not; and it shall be given him." May this be just and equal, and when it is finished may it be that which pleases God. We ask in Jesus' name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Fifty-four present, one absent.

PRESIDENT EGAN: A quorum is present. Now we have the reading of yesterday's journal.

SUNDBORG: Mr. President, I suggest in view of the time schedule for the daily sessions, which was agreed upon yesterday, that it would be more practical to have the reading of the journal at each afternoon plenary session instead of the morning session. That would give the staff a chance to mimeograph the journal during regular working hours instead of having to stay up all night to do so. So I would like to suggest as a regular way of doing business that the journal be considered in its order at the afternoon plenary session.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's request? If there is no objection then the reading of the journal will be considered at the afternoon plenary session. Are there presentations, petitions, memorials, or communications from outside of Convention to be read at this time?

SECRETARY: The Fairbanks Chamber of Commerce wishes to announce that all delegates would be the guests of the Chamber at the party this evening, that is, this is not a no-host affair insofar as delegates are concerned. Some few delegates who were to be sponsored by particular members of the Chamber will still

receive calls from those Chamber members who will transport them to the Chamber dinner.

PRESIDENT EGAN: In other words, it is free.

SECRETARY: Yes.

PRESIDENT EGAN: Are there reports of any standing committees? The Secretary has an announcement to make.

SECRETARY: So the delegates wondered about punching the proposals and including them in covers. We had ordered covers in which to keep proposals and other materials, the minutes and the journal for example, and they were delayed in the order. We expect 35 covers today and the balance by the end of the week, so that your materials will all be collected at least by that time under a separate cover where they will be tabulated and kept by the staff in the proper order.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Cooper?

COOPER: Mr. Chairman, I would like to know if the special committee on wire recording was released?

PRESIDENT EGAN: Mr. Cooper, the special committee on wire recording was not released as yet because it seemed it might possibly be necessary for some more technical information they could report to us later. Are there reports of standing committees then? Mr. Rosswog?

ROSSWOG: Mr. Chairman, I can report for the Local Government Committee which met yesterday and organized. The Committee elected Delegate Londborg as Vice Chairman, and Victor Fischer as our Secretary.

PRESIDENT EGAN: Delegate Rosswog reports that the Local Government Committee yesterday met and organized, and the Committee elected Delegate Londborg as Vice Chairman and Victor Fischer as Secretary.

SUNDBORG: Mr. President, the Committee on Style and Drafting can report it has organized by electing Ed Davis as Vice Chairman and appointing Mrs. Katherine Nordale as Secretary.

PRESIDENT EGAN: The Committee on Style and Drafting has organized and elected Ed Davis as Vice Chairman and appointed Mrs. Nordale as Secretary. Mr. Nerland?

NERLAND: Mr. President, Committee No. XI, the Committee on Finance and Taxation, organized yesterday and appointed Frank Barr as Vice Chairman and Delegate Barrie White as Secretary.

PRESIDENT EGAN: The Committee on Finance and Taxation elected Mr. Frank Barr as Vice Chairman and Mr. Barrie White as Secretary. Mr. Smith?

SMITH: Mr. President, so there will be no question, the Committee on Resources will meet at 11 a.m.

PRESIDENT EGAN: The Committee on Resources will meet at 11 a.m.

MCNEALY: Mr. President, the Committee on Ordinances and Transitional Measures met and organized yesterday. Delegate James Hurley was elected as Vice Chairman and Delegate Herb Hilscher as Secretary.

PRESIDENT EGAN: The Committee on Ordinances and Transitional Measures met and organized with James Hurley elected as Vice Chairman and Delegate Herb Hilscher as Secretary. Delegate Collins?

COLLINS: Mr. President, the Committee on Direct Legislation failed to organize yesterday because of the absence of one of its members, Mr. Taylor. He is not here this morning. The Committee will meet at its regular time.

PRESIDENT EGAN: The Committee on Direct Legislation will meet this afternoon at the regular time. Miss Awes.

AWES: The Committee on Preamble and Bill of Rights will meet at the regular time, 9:30 this morning.

PRESIDENT EGAN: The Committee on Preamble and Bill of Rights will meet at the regular time. Mr. Victor Rivers.

RIVERS: Mr. President, Committee No. VIII on the Executive will meet immediately after adjournment of this plenary session, 9:30.

PRESIDENT EGAN: Mr. Victor Rivers announces a meeting of Committee No. VIII, the Executive, immediately after adjournment of this plenary session. Mr. Hellenthal?

HELLENTHAL: Mr. Chairman, the Committee on Suffrage, Elections and Apportionment will likewise meet on schedule.

PRESIDENT EGAN: The Committee on Suffrage, Elections and Apportionment will meet as scheduled.

SUNDBORG: Mr. President, Committee No. III, Style and Drafting, will meet at 11 O'clock, according to schedule.

PRESIDENT EGAN: Committee No. III, Style and Drafting, will meet at 11 o'clock. Mr. Coghill?

COGHILL: Mr. Chairman, the Committee on Administration will meet on adjournment of this morning's plenary session.

PRESIDENT EGAN: The Committee on Administration will meet on adjournment of this morning's session. Mr. Cross?

CROSS: Committee No. XIV will meet immediately after the session, the Committee on Resolutions and Recommendations.

PRESIDENT EGAN: Delegate Cross reports there will be a meeting of the Committee on Resolutions and Recommendations immediately following this session.

MCLAUGHLIN: Mr. President, the Committee on Judiciary Branch met yesterday and elected Mr. Robertson as Vice Chairman, and Mr. Johnson was designated as Secretary. There was such a state of concord in that committee that it was not deemed necessary to meet again until Friday at the regular time.

PRESIDENT EGAN: The Committee on Judiciary Branch has named Mr. Robertson as Vice Chairman and Mr. Johnson as Secretary. Mrs. Nordale?

NORDALE: Mr. President, I would like to make a suggestion for the sake of the journal. Would it not be better if the committees announce only when they are not going to meet or whether they're going to meet at sometime not mentioned in the schedule? Otherwise, the journal every day will carry a long list of committee meetings which are already scheduled and in our hands.

PRESIDENT EGAN: The Chair would feel that a proper suggestion, Mrs. Nordale.

V. RIVERS: Mr. Chairman, I think there should be a positive record of each committee regular meeting announcement shown in the journal each day. I think it should be as I mentioned once before, an order of business announcement of committee meetings it should show under that as a positive record, not by omission but by actually a statement for inclusion in the journal.

PRESIDENT EGAN: Mr. Rivers, do you think that subject would be a proper one to be brought before the meeting of the Committee Chairmen, so then later in the day we will have such a meeting.

V. RIVERS: Yes, Mr. President.

PRESIDENT EGAN: Are there any other reports?

MCCUTCHEON: Mr. Chairman, Committee VII on Legislative Branch has organized. Delegate Sweeney is Vice Chairman, and Mr. McNeas is Secretary, and we will meet at our regular time today.

PRESIDENT EGAN: Mr. McCutcheon announces that Committee No. VII has organized with Mrs. Sweeney as Vice Chairman and Mr. John McNees as Secretary. Committee No. VII will meet at the regular time today. Are there other committee announcements? Are there reports of select committees? Are there any proposals to be introduced? Any motions or resolutions? Mr. Sundborg?

SUNDBORG: Mr. President, I would like to be recognized at this time on a matter of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, you are recognized as a matter of personal privilege.

SUNDBORG: Two days ago when we were considering the rules and adopting them, there was a difference of opinion with respect to one of the rules, and I think that though the Convention arrived at a decision in the matter that some of the delegates were perhaps convinced against their will, and some not convinced at all. Since that time I have heard from at least one delegate that there is a feeling that we were moving a little too fast and may have run roughshod over a minority which had a different opinion. In view of that, I think that it might be appropriate for us to consider again at this time the rule that was then under discussion. It was Rule No. 50. There had been a proposal by Mr. Smith that when the constitution is put in what is practically final order, any section of it could be sent back to second reading for specific amendment. We debated that at some length here. We discussed it also in the Rules Committee, and the majority decision was that it would not be wise to open up the whole constitution again at that time without a two-thirds vote of the members. In view of some comment which I have heard off the floor since that time, however, and the feeling by at least one delegate that the majority may be trying to have its way over a minority without due consideration of their ideas, I think it would be appropriate for us to open up the subject again. I don't feel that we should spend a whole lot of time on our rules, and I don't feel once having adopted them that we should in very many cases open them up again and try to amend them. Even less, however, do I feel that there should be any feeling that the Convention as a whole or the majority of members were trying to move too fast for even one member who has a different idea. So at this time I would like to present a motion. The motion would be, in Rule 50 which on the preliminary draft from which we were working --

MCCUTCHEON: I rise to a point of personal privilege.

PRESIDENT EGAN: First the Chair, Mr. McCutcheon, the motion would be out of order while Mr. Sundborg was speaking on his question of personal privilege. Mr. McCutcheon you may have the floor.

MCCUTCHEON: Under the Chair's ruling then, of course, I can say nothing until motion has been presented, but I rose to the point of the matter that he was introducing an amendment offering an amendment or a motion under point of personal privilege.

PRESIDENT EGAN: That is right. Mr. Sundborg?

SUNDBORG: Mr. President, may I be recognized under the order of business at this time, which is the introduction of motions?

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

SUNDBORG: I would like to move, and I suggest that perhaps the Convention would want to refer it to the Rules Committee and not take action on it at this time, I would like to move that the rules be amended by providing in Rule 50, line 2, after the word "thereon," insert the following: any article, other appropriate subdivision or group of articles or subdivisions may be returned to second reading for specific amendment by a vote of at least 28 members. After final action on all portions of the Constitution separately,". That is the end of the insertion, so the rule would read as proposed: "After the Constitution has been framed and before final agreement thereon, any article, other appropriate subdivision or group of articles or subdivisions may be returned to second reading for specific amendment by a vote of at least 28 members. After final action on all portions of the Constitution separately, the Convention shall refer the proposed Constitution to the Committee on Style and Drafting for final arrangement in proper order and form. After the report of said Committee, the Convention shall by the affirmative vote of at least 28 delegates agree upon the final form of the Constitution." I move that the proposed amendment to the rules be referred to the Rules Committee which thereafter shall bring a report to the Convention on the subject.

PRESIDENT EGAN: First, Mr. Sundborg, it would be necessary to move the adoption of the amendment to get it before us.

SUNDBORG: I so move then.

WHITE: I second it.

PRESIDENT EGAN: Another suggestion the Chair has is that whenever there are more than two or three words in the proposed amendment that the delegate should write out the proposed amendment and hand it to the Chief Clerk. In that manner we will expedite the proceedings. and we won't get twisted -- your point of order, Mrs. Hermann.

HERMANN: Point of order, Mr. President. Shouldn't that motion,

the content being as it is, properly be a motion to rescind action that has already been taken?

PRESIDENT EGAN: Mrs. Hermann, that would not be necessary. A motion to amend the rules would take a two-thirds majority vote and would be in order, but the motion is that the proposed amendment by Mr. Sundborg be adopted by the Convention. Then, if it would still be Mr. Sundborg's intent to request that it be referred to the Rules Committee, he could move that the matter not be taken up at this time but be referred to the Rules Committee for consideration. Was there a second to the motion?

WHITE: I seconded it.

V. RIVERS: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order Mr. Victor Rivers.

V. RIVERS: In as much as we have acted upon this identical item once, it now has to be received and acted upon again, it is my impression, should we suspend the rules to receive this particular motion at this time? I ask for a ruling from the Chair on that point.

PRESIDENT EGAN: Mr. Rivers, the Chair would feel that this is a different approach to the matter. The wording and the manner in which this would be brought about is different than the suggestion or proposed amendment that Mr. Smith offered the other day. The Chair would rule that the proposed amendment by Mr. Sundborg would be in order at this time for that reason. It is a different amendment that was proposed originally.

SUNDBORG: Mr. President, I would like to move and ask unanimous consent that the proposed amendment be referred to the Rules Committee.

PRESIDENT EGAN: Mr. Sundborg's motion was seconded to adopt it, but now he asks that rather than act on that motion at this time that the question contained in the motion be referred to the Rules Committee for its consideration. Is there objection to Mr. Sundborg's request?

BARR: I object.

PRESIDENT EGAN: Mr. Barr objects.

SUNDBORG: I so move.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves and Mr. White seconds

Mr. Sundborg's motion to refer the question contained in the original motion to the Rules Committee for its consideration. The question is open for discussion, the question of referring the matter to the Rules Committee. Mr. Barr.

BARR: Mr. President, that would serve no good purpose except to open everything up to unimportant amendments. Anybody who had any kind of amendment could probably get it referred back to second reading. Under the present rule, of course, you can get it referred back by two-thirds vote, and any important amendment, I am sure --

SUNDBORG: Point of order, Mr. President, Mr. Barr is not talking on the subject which is before us, which is a motion to refer this matter to the Rules Committee.

PRESIDENT EGAN: The Chair will hold, Mr. Sundborg, that Mr. Barr is probably getting around to the point of referring it back to the Rules Committee. Mr. Barr, you may continue.

BARR: Since this is already practically the same motion which was referred to the Committee, and I remember we had a recess of over half an hour while we considered it, it may not have been the same motion but it was the same subject matter, it seems to me they have already taken it under consideration. I don't believe they should do it again. It is holding up our progress here. The rule that we have now has worked in many cases before. I don't know about other Conventions but I know in legislatures it has worked, and it tends to speed up the work by sidetracking any unimportant amendments. I believe that we might be here several more days if we worked under such a rule.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, I think to save time, it appears to me now since this motion is opened up for discussion, it would only be fair to the Convention if the mover of the motion explain the object of referring this question to the Rules Committee. His amendment states clearly just what is to be corrected, and it seems to me that. as Mr. Barr states, it will be just a waste of time to refer this to the Committee. Perhaps you can act on it on the floor unless he has a reason we don't know about.

SUNDBORG: Mr. President, as I recall yesterday, after another motion was made to amend our rules, several members came to me after we had acted upon that and suggested that any motion to amend the rules should be referred to the Rules Committee for its consideration before being acted upon on the floor, and it was for that purpose that I felt this rule should be referred to the Committee. The Committee has a meeting

Scheduled for immediately upon adjournment of this plenary session, and it would not take the time of the Convention which it would not be spending on other matters anyway, for the rule to have the consideration of the Rules Committee which could bring in a report at our afternoon session when we could act upon the main motion.

PRESIDENT EGAN: Is there further discussion of Mr. Sundborg's motion? The question has been called. All those in favor of referring the question contained in Mr. Sundborg's original motion, of referring that subject to the Rules Committee for its consideration, signify by saying "aye". All opposed "no". The ayes have it and the question will be referred to the Rules Committee for its consideration. Mr. Riley?

RILEY: Mr. President, to refer back to committee announcements, the Rules Committee will meet immediately upon recess.

PRESIDENT EGAN: The Rules Committee will meet immediately upon recess. Mr. White?

WHITE: Mr. President, I note the presence on our desk this morning of a certain newspaper, The Juneau Independent and also the addition of a column entitled "Sauerkraut and Queens". I have not read it yet, but I don't know whether that's a special edition for the Convention or not but in any event I move and ask unanimous consent that the publisher of The Juneau Independent be thanked for his courtesy.

JOHNSON: I don't have a copy.

PRESIDENT EGAN: Is there any unfinished business at this time? If not, the Chair will entertain a motion for recess.

GRAY: Mr. President, I move that we adjourn until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Gray asks unanimous consent that the Convention stand at recess until 1:30 this afternoon. If there is no objection the Convention is at recess until 1:30.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Walsh?

WALSH: Mr. Chairman, I have just observed that we have in the gallery a very distinguished citizen of Alaska, a man who was a member of the first Territorial legislature and helped to organize that body and who has served at different periods of time subsequent to that legislature and in the Senate of this Territory, and he is now a member of the Senate of the Alaska Legislature, Senator Charles D. Jones of Nome.

Mr. Charles Jones has devoted the greater part of his adult life to the promotion of the best interests of this Territory, and at this time I ask unanimous consent that he be given the privilege of the floor.

COLLINS: Just a moment. I wish the body would bear with me just a moment. In carrying out the remarks of Mr. Walsh, I wish to say that it was a very happy moment for me personally to see Senator Jones here today. Senator Jones was a member of the first Alaska legislature. In 1913 when we organized the House of Representatives, Mr. Jones was a member of that body. He and I are the only survivors of that body, in 1913, the House of Representatives. It was very unfortunate that the Honorable Henry Roden, the only other survivor of the Senate of 1913 is not here with us. The legislature consisted of 24 members at that time. Twenty-one have answered the last roll call, but there are two of us here today. We can answer the roll call here, and I am glad to see Senator Jones here with us.

PRESIDENT EGAN: If there is no objection -- Mr. Johnson?

JOHNSON: Mr. President, I certainly have no objection. I was thinking, however, that we could enlarge on Mr. Walsh's unanimous request by including "that he be given the privilege of the floor for the duration of the session."

PRESIDENT EGAN: If there is no objection, Senator Charles Jones of Nome is granted the privileges of the floor for the balance of the sessions of the Constitutional Convention. (applause)

(Senator Jones came in from the gallery at this time.)

SENATOR JONES: Mr. President and members of the Constitutional Convention. Now when Mr. Collins, ex-speaker of the House of the first legislature and many subsequent legislatures, why he dated me like that I don't know. Now when he said that I was a member of that first legislature, that is a good many years ago, and I am 81 and I have no apologies for any years, so you are listening to maybe a garrulous old man when I am talking. I want to say I am very pleased to be here and to see the earnestness with which this Constitutional Convention is being conducted. I will say without any apology that I have always questioned the necessity of statehood at this time because I could not see where it was going to be paid for, but I'm a little bit "Scotch" that way. But I say I belong to the years, and the younger people are going to have to carry on anyway. My son and I have had very serious arguments about statehood. He is for it and I am opposed to it. I am glad to see it is being carried on but you are the ones who will have to carry it. My doctor told me I had 20 more years to live and he thought I was ornery enough to live it. Maybe

I will be around to see how it does work out.

PRESIDENT EGAN: Thank you, Senator Jones. (applause) Is there other business to come before the Convention at this time? Mr. Victor Rivers?

V. RIVERS: I ask for the floor on a matter of personal privilege of interest to the whole body.

PRESIDENT EGAN: Mr. Victor Rivers asks the personal privilege of the floor under a question on personal privilege.

V. RIVERS: Now that we are organized and have some matters of moment coming up in a short time, it seems to me that we should discuss and have an opinion in our records on the matter of whether or not the delegates of the Convention have and enjoy legislative immunity. There are things we are going to want to talk about that will involve possibly libelous questions if we do not enjoy such immunity. It seems to me that we should spread on the minutes of this body an opinion. While I realize it would only be an opinion and while I realize there are 13 lawyers here, most of whom will all have an opinion on it, I would like to have spread on the minutes of this record an opinion so I am going to ask unanimous consent that the question, "Are the delegates to this Constitutional Convention entitled to full or limited legislative immunity?" and I ask that it be referred to the Judiciary Committee for a written report, indicating their opinion on the question, that their opinion be spread upon the journal of this Convention when submitted. I ask unanimous consent that that be done.

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. Victor Rivers Mr. Hellenthal?

HELLENTHAL: Mr. President, for information only, would it not perhaps be better to submit such a question to the Attorney General rather than burden the membership of this body with passing on such a delicate question involving the membership of this body?

V. RIVERS: I have discussed the matter with the Attorney General and have a verbal opinion from him. However, his opinion, I don't think in any final court of law action would have any more bearing on the matter than would the opinion of our legal members here. At least the opinion on the minutes of our daily actions would give the members here confidence to open their mouths and say what they have to say, and I feel the matter should be handled through our Judiciary Committee rather than through the Attorney General.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I feel that we do not have a Judiciary Committee. We have a committee on the Judiciary Branch, and I think it is a committee that is studying what should be contained in the constitution with respect to the judiciary branch of the State of Alaska. It is not a committee that is properly constituted to rule and even give an opinion on a subject of this kind.

MCLAUGHLIN: Mr. President?

PRESIDENT EGAN: Mr. McLaughlin, there really is nothing before us, it is a unanimous consent request.

MCLAUGHLIN: I object for the purpose of discussion.

PRESIDENT EGAN: Objection is heard. Mr. Rivers, do you so move?

V. RIVERS: I so move.

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the motion offered by Mr. Rivers be carried by the Convention. Mr. McLaughlin?

MCLAUGHLIN: Mr. President, as Chairman of the Judiciary Branch and as a member of the bar who is quite willing to give an opinion with or without request, my suggestion to the Chair is that if Mr. Rivers or any member of the body desires to libel, or the occasion may arise when the Delegate from the 18th District is prepared or any other member is prepared to libel, I think at that time if they approached any one of the numerous lawyers in the body that they would be able to give an opinion which I am sure would vary from that of twelve others on the subject. I don't feel it is the function of the Convention to determine at this time when the problem hasn't arisen, whether or not it enjoys a limited or a complete immunity on the subject.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers?

R. RIVERS: Mr. President, I think that it is proper to have a common understanding as to the position of the delegates in this regard. Now if it were referred to a special or select committee of lawyers here to just report back to the Convention and that report was spread upon the record, it would accomplish that purpose. Mr. McLaughlin would have to go and do a little research, I am sure, to find whether we have a complete immunity or limited legislative immunity. Rather than wait until someone begins to get into hot water, let's have a common understanding in advance. I support the

motion but don't care what committee it is referred to.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. President, may I ask the Secretary to read the motion?

PRESIDENT EGAN: The Secretary will please read Mr. V. Rivers' motion.

CHIEF CLERK: "I ask unanimous consent that the question, 'Are the delegates to this Constitutional Convention entitled to full or limited legislative immunity' be referred to the Judiciary Committee for a written report indicating their opinion on the question and that their opinion be spread upon the Journal of this Convention when submitted."

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

MCCUTCHEON: Mr. President, it is not my intention at any time on this floor to make libelous statements as such about any organization or firm or person. It may be, however, that in arguing some of the principles we hope to include in the constitution with respect to say natural resources, that the information we put forth here on the floor will be misinterpreted by outside interests or by the newspapers or perhaps deliberately by some attorney for a corporation or firm or person. Consequently, it appears to me that such a decision spread upon the minutes of our Convention would at least make some of the people here a little freer to go more fully into the ramifications of the natural resources that we may desire to control where we may touch upon some very sensitive points. I think, however, that rather than making a committee here responsible for the decision, that it would be properly the office of the Attorney General's authority to issue us such a decision.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, if this body passes on the question, it will give us no immunity. It will not change the status that we now occupy one whit. I just can't see what can be gained by having this body, or for that matter, the American Legion pass on the question. What good does it do? Our legal status will remain the same afterwards as it does now. The Attorney General's opinion would have some sanctity, it might serve as a guide to conduct, but there is always insurance against libel available for a premium -- a bullet-proof vest.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think I am in favor of this motion as put that this

Body of lawyers here, who are as good as any we have, should pass on this decision and forward it to the Attorney General for his comment. That is my position on it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to move to amend Mr. Rivers' motion by providing that instead of the question being referred to our Committee on the Judiciary Branch, that it be referred to the Attorney General of Alaska.

RILEY: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that Mr. Victor Rivers' motion be amended

V. RIVERS: No objection. I'll accept the amendment. I'd like to see the opinion on the minutes, that's all.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that the proposed amendment be incorporated in the original motion. Is there objection? Hearing no objection, the proposed amendment is ordered incorporated in the original motion. Before the question is put the Chair would like to let every member of the Convention know that this question does not involve any member of the Convention as being able to libel any other member of the Convention because the Chair would instantly step on that but it involves in the course of debate whether or not a libelous charge could be entertained upon the Convention from outside the Convention. You have heard the motion. The Chief Clerk may read the motion as amended again.

CHIEF CLERK: "That the question, 'are the delegates to this Constitutional Convention entitled to full or limited legislative immunity', be referred to the Attorney General for a written report indicating his opinion on the question, that his opinion be spread upon the journal of this Convention when submitted."

PRESIDENT EGAN: You have heard the question. If there is no further discussion -- Mr. Riley?

RILEY: As a point of information, Mr. President, I think we should clearly state the Attorney General of Alaska. I believe that was Mr. Sundborg's reference.

PRESIDENT EGAN: If there is no objection, those words will be included in the original motion. The question is, "Shall the motion offered by Mr. Victor Rivers and as has been amended by Mr. Sundborg be adopted by the Convention?" All in favor of the motion will indicate by saying "aye". All opposed by saying "no". The "ayes" have it and the motion is adopted.

Is there other business to come before the Convnetion at this time?
Mr. Coghill?

COGHILL: Mr. President, in view of administrative technicalities, I would move and ask unanimous consent that we revert to the order of business of the resolutions.

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business that includes the presentation of resolutions.

COGHILL: Before presenting the resolution, I might add that in our Report No. 1 on the Committee on Administration, under the item of technical consultant service, it was requested by the Administrative Committee and passed by the Convention, Section 4, Page 5, that "when technical and consulting services may be requested by the Convention, this amount will be available." There has been a request for technical services, so therefore, Mr. President, I, as Chairman of the Committee on Administration, report to you as follows: Report of the Committee on Administration, recommended resolution, services of technical consultant. The Committee on Administration recommends adoption of the following resolution:

"WHEREAS the Convention may have need for the services of technical consultants on various subjects during its deliberations; and

"WHEREAS the Legislature of Alaska anticipated the possible need for such services and included provision therefore in the total appropriation for the Convention;

"NOW, THEREFORE, BE IT RESOLVED:

1. That the Convention hereby authorize the obtaining of the services of technical consultants upon request for such services being made by a Committee Chairman and approved by the President of the Convention.
2. That the President of the Convention shall have authority to select the consultants after consultation with the Committee Chairmen.
3. That the administrative arrangements for employment of any consultant shall be approved by the Committee on Administration and be executed by the Secretary of the Convention."

I move and ask unanimous consent for the adoption.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent for the adoption of the resolution. Mr. Smith?

SMITH: I am willing to object.

COGHILL: I so move.

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: Mr. Coghill moves and Mr. McCutcheon seconds the motion for adoption of the resolution. Mr. Smith?

SMITH: Mr. Chairman, my objection is based on the first paragraph of the resolution, and the objection is to the word "Chairman" which appears after "Committee". I think that word should be omitted. In other words, the decision should be left to the committee rather than to the chairman, and if it is in order to do so, I will propose that the word "Chairman" be stricken from this paragraph.

PRESIDENT EGAN: Mr. Smith, then you are asking that an amendment be made to the original motion by Mr. Coghill, that the motion be adopted, but the word "Chairman" be deleted?

SMITH: That is correct.

MCCUTCHEON: Point of order, Mr. President. How can the committee ask for technical help? The chairman is the authorized agent of the committee. It seems amazing to me that the chairman would ask for technical assistance if the committee objected to it.

PRESIDENT EGAN: Mr. McCutcheon, do you think that it might be entirely clarified by the words, committee through its chairman"?

SMITH: Mr. President, I would like to withdraw my proposed amendment. I think it's fair enough.

PRESIDENT EGAN: Mr. Smith asks unanimous consent that his proposed amendment to the motion be withdrawn. Mr. Fischer?

V. FISCHER: I just have a question as to form. The resolution itself, nowhere in its body refers to the Convention as the Constitutional Convention or otherwise identifies it, and it seems to me for proper form it should at least once in the resolved specify the Constitutional Convention of Alaska.

PRESIDENT EGAN: Mr. Fischer, would you mind holding that until this particular motion is acted upon? It would then be in order. The original motion hasn't been voted upon yet.

R. RIVERS: Mr. Chairman, what is the motion before the Convention?

PRESIDENT EGAN: The motion before the house is the motion of

Mr. Coghill, seconded by Mr. McCutcheon, for the adoption of this resolution by the Constitutional Convention.

R. RIVERS: Wouldn't an amendment by Delegate Fischer to change the language be in order before we act on the motion?

PRESIDENT EGAN: It could be in order. The only thing the Chair thought that possibly it might be simpler to --

R. RIVERS: Well, I don't like to adopt something until the corrections are made. As a point of information, what does "Convention/4" mean up on the second line? Does that mean Resolution 4? "Convention" is not a Convention report.

PRESIDENT EGAN: If the Secretary might explain that to Mr. Ralph Rivers.

SECRETARY: If you will recall the recommendation on documentation, this is the fourth report by the Committee on Administration and that documentation series number is applied that way on committee reports.

R. RIVERS: Aren't we numbering resolutions separately from proposals for instance? Why don't we call it Resolution/4 then?

SECRETARY: Resolutions on substantive matters, not on the general management of the Convention.

PRESIDENT EGAN: The Chair doesn't have any number on his copy. Mr. White?

WHITE: As a point of order, or rather information, I suspect that these experts from the States come at rather a high price, and I have been given to understand their time is limited. I don't see any provision in here for coordination between two or more committees who may have need of the same expert or consultant. It occurs to me that Committee "A" might be ready for Consultant Jones today. Committee "B" might not be ready for him until two weeks hence. Consultant Jones conceivably might only be able to come to Alaska for a period of one week. I don't know quite how to cover this. I would like to ask of the Committee on Administration if this point had been discussed and if the resolving of it can be worked out.

COGHILL: That subject has been brought up and has been discussed to some length in our Committee. This resolution is in effect an authorization for the administrative staff to obtain upon the request of the committee chairman. It is not an authorization immediately ordering them. I think that can follow in an administrative memorandum instead of by resolution, coordination of technical services.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: It would seem too that that would be taken care of due to the fact that you meet with your committee chairmen, and it has to be approved by you.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I think it is specifically covered here in No. 2 of the Resolution, "That the President of the Convention shall have the authority . ." The authority does not lie with the individual committee chairman. It must be cleared through the Chair and the Secretary.

WHITE: Mr. President, I don't read No. 2 that way. I read that to mean that the President of the Convention shall have the authority to decide which consultant is best suited to the need that has arisen. I don't read that to mean that the President shall have the authority to coordinate between committees as to the needs for consultants. This point has come up again and again. I get confused between authority to proceed and --

PRESIDENT EGAN: Mr. White, as a point of information, if the Secretary could tell you of another memorandum that is available.

SECRETARY: There is a draft memorandum on this subject of the organization of the services to insure their coordinated use which has been prepared for the use of the committee chairmen for their consideration, criticism and evaluation. The memorandum was not distributed because, if I state the desires of the President correctly, he wished to put it to them at their next meeting.

PRESIDENT EGAN: That is correct, Mr. Secretary.

WHITE: Mr. President, apparently the matter has been given due consideration between two or three individuals, bodies or committees and I will withdraw my objection.

PRESIDENT EGAN: The Chair would like to state that Mr. Ralph Rivers' point was well taken. The Chair was a little confused. It had Mr. Smith's amendment to the motion in mind. Mr. Victor Fischer, your proposed amendment is in order before we vote on the original motion.

V. FISCHER: I would like to move and ask unanimous consent that the first line in Resolve No. 1 be amended by inserting before the word "Convention" the word "Constitutional" and inserting after the word "Convention" the words "of Alaska."

PRESIDENT EGAN: Is there objection to the request of Mr.

Victor Fischer? If there is no objection it is so ordered and the amendment is ordered adopted.

MCCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall the Resolution be adopted by the Convention?" All in favor of the adoption of the resolution signify by "aye", all opposed "no". The "ayes" have it, and the resolution is ordered adopted. Is there further business to come before the Convention? Mr. Johnson?

JOHNSON: Mr. President, I was informed that Mr. Taylor has been absent due to illness. Therefore I move and ask unanimous consent that since Mr. Taylor's absence was due to illness that he be paid salary and per diem for the past two days.

PRESIDENT EGAN: You have heard the request of Mr. Johnson.

MCLAUGHLIN: May I, through the Chair, suggest to Mr. Johnson that the words "per diem" and "salary" be stricken and that Mr. Taylor's name be included on the roll call as present.

JOHNSON: Anyway is satisfactory to me. I have no objection.

PRESIDENT EGAN: Would you consent to amending the request, Mr. Johnson to say that Mr. Taylor's name be included on the roll call?

JOHNSON: Yes.

PRESIDENT EGAN: Is there objection, there being no objection it is so ordered. Mr. Kilcher?

KILCHER: Mr. President, I am not quite certain whether we have or have not a motion on the floor from this morning.

PRESIDENT EGAN: You are correct, Mr. Kilcher. There was a motion on the floor this morning that sent the Rules Committee out for a meeting. That is right. Is the Rules Committee ready to report?

RILEY: Mr. President, I should like to defer for the moment to Mr. Kilcher.

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

KILCHER: After discussing the difference of opinion expressed by that motion this morning with the Committee on Rules, I have come to the following position. I am satisfied that the Committee on Rules has recognized a basic difference of opinion and am therefore willing to postpone any action on the matter until the Committee on Rules has had time to further consider

the situation.

PRESIDENT EGAN: That motion, as the Chair remembers it, was made by Mr. Sundborg. The Committee on Rules went out to consider the motion, as the Chair recalls.

RILEY: Mr. President, I had had in mind that Mr. Kilcher had intended to ask postponement of that matter to a time stated and perhaps that is his wish, and if so I should like at this time to defer a committee report from Rules. The Rules Committee did not wish to be in position of foreclosing or discouraging discussion or debate from any source. With Mr. Kilcher's consent I should like to suggest and I so move and ask unanimous consent that the matter referred this morning to the Committee on Rules be put off until Monday morning, first order of business.

PRESIDENT EGAN: Is there objection to the request of Mr. Riley's? Mr. Sundborg?

SUNDBORG: Mr. President, I do not object but I do want to say it was my motion under discussion and I do assent to this procedure.

PRESIDENT EGAN: Thank you, Mr. Sundborg. Then, if there is no objection this matter will be held in abeyance until Monday morning. Hearing no objection it is so ordered. Is there any other business to come before the Convention? Mr. Sundborg.

SUNDBORG: I would like to inquire whether it is going to be our procedure here to go through the call of the order of business at the afternoon as well as the morning session, or what does the Chair feel?

PRESIDENT EGAN: That is not usually done, Mr. Sundborg. Whatever the wish of the Convention is -- the Chair will adhere to that wish. Whether or not it might be more expeditious to go down through the regular order of business is a matter for the Convention to decide and the Chair will hold that the subject is open for discussion.

SUNDBORG: Mr. President, for instance we deferred the reading of the journal for today, and I believe for each day, until the afternoon session. I wonder if that should not be called for as a regular order of business instead of just left to happenstance as to whether the journal will be called for.

PRESIDENT EGAN: It might be well because of that to just start down the regular order of business when we convene in the afternoon session, Mr. Sundborg. If there is no objection, that is the position the Chair will take. From now on the Chair will call for the regular order of business in the afternoon sessions except that the roll will not be called. Mr. Nolan?

NOLAN: Was it not your suggestion, Mr. Sundborg, that it come up the first thing in the afternoon? It seems to me that if we start the regular order of business and get tangled up with propositions, etc., we are liable to run over our scheduled meeting times, and I would suggest, as Mr. Sundborg stated, it be the first order of business in the afternoon session.

PRESIDENT EGAN: That the reading of the journal and dispense with any other going down through the regular order of business?

NOLAN: Yes, if its already been deferred, then bring it back as first order of business, because otherwise we are liable to lose track of it again.

PRESIDENT EGAN: That is right, but the Chair just felt that like what is taking place this afternoon, it has extended into a considerable length of time. Perhaps it would have been more advantageous to start down the regular order than to have gone on as we are. Mr. Sundborg?

SUNDBORG: I just think for the purpose of having an orderly journal it would be well to have some order of business at each session, the morning session and afternoon sessions. For example, I think that every afternoon there is going to be at least one committee report and probably several because some of our committees will have been meeting during the morning and will have reports to bring in. There should be a stated place in the order of business for those reports to be made so that our journal won't be a jumping from one subject to another and back again.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I feel that at 1 o'clock we should have the reading and the approval of the journal and then go on with whatever business we have not finished at 9:30. I believe the committee meetings should start promptly at 2 o'clock and then go on until 4:50. If we have other business that should be taken care of, then we should take care of it at 5 o'clock and not adjourn until those things have been taken care of. But I do not think we should start with the first order of business in the morning. We will never get to the end of a day's calendar that way. At this time we should have the approval of yesterday's journal. We are already past the time for committee meetings.

PRESIDENT EGAN: Is the journal before us at this time?

SWEENEY: I will call for the reading and the approval of the journal.

PRESIDENT EGAN: Mrs. Sweeney is asking for the reading and

approval of the journal.

SWEENEY: I believe I am in order to make a correction in the journal, Mr. President?

PRESIDENT EGAN: Mrs. Sweeney wishes to make a correction in the journal.

SWEENEY: On the first page --

UNIDENTIFIED DELEGATE: I don't have a copy.

PRESIDENT EGAN: Have those copies been distributed?

UNIDENTIFIED DELEGATE: The first row was missed I guess.

SWEENEY: On the first page, beginning with the words "Mr. Sundborg moved and asked unanimous consent that the reading of the journal of the previous day be dispensed with and that the journal be approved. Mr. Londborg objected. Mr. Johnson seconded. Mr. Sundborg asked unanimous consent to amend his motion to delete the reference to approving the journal. There being no objection, it was so ordered. Mr. Londborg withdrew his objection to the original motion so it was ordered adopted." What actually happened was that we did not dispense with the reading and the approval of the journal. We held it off until later in the day. Mr. Sundborg deleted the approval of the journal and the approval of all previous journals was also deleted. So we still have the opportunity to approve the journals of each business day. So that should be corrected that it would not dispense with or postpone to a later time in the day.

PRESIDENT EGAN: Mrs. Sweeney, that is covered on the next page. It says, "The President stated that in line with this motion when the journals for the previous days' sessions are available, any delegate will have the right to bring to the attention of the Convention any possible errors."

SWEENEY: We could go on for two weeks, Mr. President, with no reference to the effect that the journal for the 9th, 10th or 11th day had been approved. We could only assume that by the lack of any reference, any objections or corrections. But I believe that each day our journal should show that the journal for the previous day had been approved. If there are no corrections then it would be a simple motion.

PRESIDENT EGAN: Of course the idea was, Mrs. Sweeney, that it would be impossible to actually approve until the members could see the journal. Was that not the original intent?

SWEENEY: Then the journal should be placed on our desks earlier than before 1 o'clock or 1:30.

PRESIDENT EGAN: Up to today that was not possible because of the help shortage. From now on it will be placed there at an earlier time.

SWEENEY: I still maintain, Mr. President, that each day at a certain time there should be a motion stating that the journal of the previous day has been approved or is approved.

PRESIDENT EGAN: You ask unanimous consent that the journal of the eighth day be approved by the Convention -- is that your motion, Mrs. Sweeney?

SWEENEY: Yes, I would ask that with the correction that we make the change in the word "dispense" because we did not dispense with it. We actually asked that it be postponed until later in the day. We did not get it later in the day.

PRESIDENT EGAN: Is there objection to Mrs. Sweeney's request? Hearing no objection it is so ordered. Mr. Sundborg?

SUNDBORG: Mr. President, I would like to suggest that the first full paragraph on page 2 which deals with this matter of the journal is out of order and it should appear ahead of the subsection on communications on the first page, instead of following the letter.

PRESIDENT EGAN: If there is no objection that correction will be made. Are there other proposed corrections to the journal of the eighth day?

HELLENTHAL: On Page 7 I think the time of the adjournment should be stated, Page 7 in the closing paragraph, the way I read it and I read it only hastily, it does not indicate what time, the time at which the adjournment took place, I think should be stated.

SWEENEY: I would object to that because we would have to show we adjourned at 1:30 and actually we did not because there were committee meetings all afternoon. It might not look right, while we know that we are in session some days, someone might pick this up and it would look like we are adjourning pretty early in the afternoon.

HELLENTHAL: I defer to Mrs. Sweeney.

PRESIDENT EGAN: If there is no objection. Mr. Armstrong?

ARMSTRONG: Just a matter of correction for the sake of the permanent record the matter of the titles under the "invocation". It should read "Mr." If the title is to be used, it should be "Reverend Mr." or Reverent R. R. I make this suggestion not because of my name here but because of a technique in reporting that should appear in reference to other men as

it goes into the permanent records.

PRESIDENT EGAN: Which would be more preferable, Mr. Armstrong?

ARMSTRONG: I would prefer it to be "Mr."

PRESIDENT EGAN: Then if there is no objection the invocation was given by "Reverend Mr. Armstrong" and will appear in the journal. Hearing no objection, it is so ordered. Mrs. Hermann?

HERMANN: On Page 2, I was just wondering why the name of Ancil Payne is signed twice.

PRESIDENT EGAN: It appeared twice on the original letter. Are there other corrections? Mr. Sundborg?

SUNDBORG: Mr. President, it occurs to me that we are going to spend an awfully lot of time of all 55 members of this Convention looking over the journal each day and suggesting minor corrections. I wonder if we should not do what is the practice in the Legislature in Alaska and designate a committee of several members to look over the journal very carefully, perhaps while it is still in draft form, and before it has been mimeographed. Most of these little errors could be picked up at that time instead of on the floor of the Convention.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. Chairman, that is going to delay the works. It would mean someone would have to come here before 8:30 in the morning, go over the Chief Clerk's draft before it can be mimeographed. I think the committee idea is good, and I believe that if Mr. Sundborg would consent to having the mimeographed journal read by this committee they could report to the chamber here that the journal has been approved with a few minor corrections or some such thing.

PRESIDENT EGAN: If there is no objection the Chair would name the Committee on Administration to do that. Now they will probably have a meeting almost every morning. Mrs. Sweeney?

SWEENEY: I don't believe that is the business of the Administration Committee. I am sincere in that, Mr. President. I think we are going to take care of all the nails and door knobs and things like that, but I am not sure this belongs in the Committee.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I might for a moment appeal to the Chair that the Rules Committee might be the best committee for that.

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the Chair will name a committee to accomplish that matter of going over the journal and attempting to find any errors and report them to the Convention. The Chair would appoint Mr. Knight, Mr. White, and Mr. Doogan as a committee of three to take that responsibility of the prior inspection of the journal. Mr. Johnson?

JOHNSON: On Page 1 of the journal, after the item on roll call, it occurs to me that in order to perfect the record, there should be a statement that a quorum is present, and while it is obvious that a quorum is present from the fact that only one or two are absent, it still should be a matter of record.

PRESIDENT EGAN: If there is no objection it is so ordered and hereafter the Chair will announce that a quorum is present at that time. Are there other proposed corrections? Mr. Cooper?

COOPER: Mr. President, I don't have a proposed correction. I was wondering now that the entire secretariat staff is hired, at what time does the journal reach the form it is now in -- mimeographed and ready for disbursing to the delegates?

CHIEF CLERK: Today it was ready at 1:15, mimeographed.

COOPER: What I was going to bring up was that I personally have faith in the committee but I would also like to have the journal, if I could have it sometime early in the morning at a predetermined time ahead of the actual reading and accepting of the journal for the previous day then a lot of the minor mistakes that have been noted at this time could be presented in an orderly fashion.

PRESIDENT EGAN: Will the Chief Clerk explain that?

CHIEF CLERK: I believe you can have the journal tomorrow morning possibly by 9 o'clock because it is already half drafted. It is just the business of this afternoon that needs to be finished, and the stencils can probably be cut tonight and run off and maybe it will be ready at 9:00. I would not promise that for every day. It depends on the length of your plenary session.

COOPER: What I was going to point out -- there are 51 individuals here excluding the Chairman and the committee that will be reporting on this, and each and every one might find some minor infraction in the journal after the committee has ruled it be accepted.

PRESIDENT EGAN: The committee will ask that it be accepted.

COOPER: You will go through this discussion and time-consuming

process every day?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would suggest simply that the mimeographed copies of the journal be distributed each day to all members at as early an hour as possible upon the mimeographed copies being ready and that no matter what hour that is that the journal always be considered for reading, correction, adoption at the beginning of the afternoon session.

PRESIDENT EGAN: That suggestion will be considered as the policy of the Convention relative to the journal. Is there further discussion? If there is no further amendment to the journal it is ordered approved. The journal of the eighth day is ordered approved.

HELLENTHAL: I move, Mr. President, we adjourn until 9 o'clock tomorrow morning, unless there is a prior motion before the House.

MCNEALY: Before acting on that motion, I would like to announce Committee No. IV, Committee on Ordinance will meet directly after recess.

PRESIDENT EGAN: Committee No. IV, Committee on Ordinance will meet directly after recess. Mr. Rosswog?

ROSSWOG: The Committee on Local Government will meet at 3:30 this afternoon.

PRESIDENT EGAN: The Committee on Local Government, Committee No. XII will meet at 3:30. Mr. Sundborg?

SUNDBORG: Committee No. III, Style and Drafting, met this morning and wishes to report to the Convention that it decided to prepare a manual on style which will contain suggestions on format, arrangement --

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

HELLENTHAL: I rise to a point of order. I believe the committee report should be submitted in writing according to the rules.

SUNDBORG: No, the only committee reports which should be submitted in writing according to our rules are reports on matters referred to a committee by the Convention. Is that correct?

HELLENTHAL: I stand corrected.

PRESIDENT EGAN: For purposes of making it easier for the Clerk,

it might be well if reports were in writing after this insofar as it would be possible to do so.

SUNDBORG: All committee reports?

PRESIDENT EGAN: The Chair would feel that should be in order.

SUNDBORG: Shall I proceed with this one?

PRESIDENT EGAN: Yes you may, Mr. Sundborg.

SUNDBORG: The Committee decided to prepare a manual on style which will contain suggestions on format, arrangement, titling, numbering and phrasing of articles and sections of the constitution, which manual will be distributed to all the committees dealing with proposals for the constitution. The Committee decided also to investigate the feasibility of preparing a wall chart which would keep account of progress being made in building the constitution. A subcommittee was appointed to take charge of each of these matters, with Mr. Armstrong being the Chairman of the Subcommittee on the Style Manual and Mr. Davis the Chairman of the Subcommittee on the Wall Chart.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. Chairman, I suggest that Mr. Sundborg forgot to name the elected officers of his committee.

SUNDBORG: They were named yesterday, Mrs. Hermann, reported to the committee.

HERMANN: We did not elect them until this morning -- pardon me, I meant Rules, Mr. Sundborg.

PRESIDENT EGAN: The Rules Committee, Mr. Riley.

RILEY: The Rules Committee today organized itself with the election of Mrs. Hermann as Vice Chairman and Mr. Rosswog as Secretary.

PRESIDENT EGAN: You have heard the report of the Chairman of the Rules Committee. Mr. Cross?

CROSS: Committee No. XIV, the Committee on Resolutions and Recommendations, met and organized. All members were present. Mr. Gray was elected Vice Chairman and Mr. Robertson was appointed Secretary. One item of business came before the Committee and a report is being prepared for the consideration of the Convention. This Committee will meet at the scheduled time but only on call of the Chairman or the Vice Chairman.

PRESIDENT EGAN: Thank you Mr. Cross. Mr. Victor Rivers?

V. RIVERS: Committee No. VIII, on the Executive, the Committee met this morning and organized and held the initial meeting. All members were present. We elected Mr. John Boswell Vice Chairman and Mr. Harris was appointed Secretary. We will meet again at the regular time tomorrow morning.

PRESIDENT EGAN: You have heard the report of the Chairman of the Executive Committee. Mr. Collins?

COLLINS: Committee XIII will meet on schedule for purposes of organization.

SMITH: Mr. President, Committee No. X on Resources met and organized. Mr. Riley was named as Secretary and Mr. Boswell was elected Vice President. The Committee began the review of the subjects to come before the Committee and will continue that review at its next regularly scheduled meeting.

PRESIDENT EGAN: You have heard the report of the Resources Committee. Mrs. Awes?

AWES: The Committee on the Bill of Rights and Preamble met at the scheduled time. Ada Wien was elected as Vice Chairman and Mr. Armstrong was named Secretary. We began discussion of the subjects to be considered and will meet tomorrow at the schedule time.

PRESIDENT EGAN: You have heard the report of the Committee on Preamble and Bill of Rights. Mr. Robertson, your question?

ROBERTSON: Do I understand that now the order of business will be called at the plenary session in the morning and then in the afternoon will be continued on -- that part that is not finished after first reading and approving the minutes of the previous day?

PRESIDENT EGAN: That is correct, Mr. Robertson. That is the wish of the Convention. Mr. Johnson your point of information.

JOHNSON: Point of information. Will it be possible in the afternoon sessions to refer to matters in the order of business that have taken place in the morning, or would it require unanimous consent?

PRESIDENT EGAN: It would depend on how the matter came up, Mr. Johnson.

JOHNSON: I was thinking particularly of the matter of introduction of proposals.

PRESIDENT EGAN: By two-thirds vote you could revert back to the introduction of proposals in the afternoon. Yes. Is there anything else to come before the Convention? The Chair

would like to state that we had hoped to have a meeting of the committee chairmen this afternoon. However, inasmuch as it is such a late hour, that meeting will be deferred until tomorrow afternoon immediately following the recess. Is there anything further to come before the Convention at this time? If not, the Chair will entertain a motion to adjourn.

CHIEF CLERK: Mr. Hellenthal has made such a motion already.

PRESIDENT EGAN: You already made your motion, Mr. Hellenthal?

HELLENTHAL: Yes.

PRESIDENT EGAN: Mr. Hellenthal moved and asked unanimous consent that the Convention stand adjourned until 9 o'clock tomorrow morning. Is there objection? Hearing no objection the Convention is adjourned until 9 o'clock tomorrow morning.

ALASKA CONSTITUTIONAL CONVENTION

November 17, 1955

TENTH DAY

PRESIDENT EGAN: The Convention will come to order. I would like to introduce to the delegates the Reverend Mr. A. E. Purviance, minister of the First Methodist Church of Fairbanks. Reverend Purviance will give us our invocation.

THE REVEREND MR. PURVIANCE: O God our Heavenly Father, we thank Thee for the night of rest and sleep that we may gather together here this morning. We recognize in Thee that for which we hunger. We do not trust ourselves and our own wisdom and judgment, and so we begin the day's meetings turning to Thee, asking that Thou wilt give us a portion of Thy wisdom and Thy strength. We thank Thee, Our Father, for this very momentous occasion. We thank Thee for these delegates and for the way in which they have been chosen, for this country of ours and for the principles for which it stands, for this method which we choose in elections. We pray now that Thou would so bless each delegate and each worker here that great good may come from the sessions of this day and when it is over that we may look back upon it and find that the Hand of God has helped us in writing these laws and statutes which shall lift our people in days to come to a greater height in their daily living. Wilt Thou hear us now. Bless us and guide us with Thy presence and we shall praise Thy name forever more. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

CHIEF CLERK: Fifty-four present, one absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its business, the presentation of petitions, memorials and communications from outside of the Convention.

(Telegram from C. E. Peck, Grand Secretary, Alaska Native Brotherhood sending greetings to the delegates from the delegates seated in the Forty-third annual convention of the Alaska Native Brotherhood and Sisterhood at Petersburg, was read.)

PRESIDENT EGAN: The communication can become a part of the record.

(A communication from the President of the University of Alaska calling the delegates' attention to a special lecture series at the University Gymnasium Thursday evening November 17 -- the speaker to be Dr. Thomas R. Davis of the Arctic Aeromedical Laboratory was read by Secretary Stewart.)

(Announcement of the Music Department's fall concert at the University Sunday, November 20, at 3 p.m. was read by

Secretary Stewart.)

PRESIDENT EGAN: The communications can be filed.

(Resolution from the League of Alaskan Cities extending greetings to the Constitutional Convention, stating its interest in a good and equitable solution to the local government needs of Alaska and offering its help in every possible way, was read by Secretary Stewart.)

PRESIDENT EGAN: The communication can be filed. Are there any petitions or memorials? If there are none, are there reports of standing committees? Mr. Cross.

CROSS: This is a report of the Committee on Resolutions:

"WHEREAS the Convention on November 14, 1955, referred to this Committee for action the following motion which was made by R. E. Robertson and seconded by Maurice T. Johnson, namely:

'I move that it is the intent of this Convention that the Constitution should be a document of fundamental principles of basic law, and contain only the framework for state government, with all the details to be ordained in the discretion of future legislatures.'

"Now, upon consideration of said motion,

IT IS RECOMMENDED THAT it be adopted and enacted by the Convention in the following amended form, viz.:

'I move that it is the intent of this convention that the Constitution should be a document of fundamental principles of basic government, and contain the framework for state government.'"

PRESIDENT EGAN: You have heard the report of the Committee on Resolutions. What is the pleasure of the Convention? Mr. Robertson?

ROBERTSON: Mr. Chairman, I move the report be adopted.

PRESIDENT EGAN: Mr. Robertson moves for the adoption of the report.

JOHNSON: I second the motion and ask unanimous consent.

PRESIDENT EGAN: Mr. Johnson seconds the motion and asks unanimous consent. Is there objection? Mr. Marston?

MARSTON: It says "...document of fundamental principles of basic government, and contain only the framework for state

government,". It appears to me that is a little bit strong. We limit ourselves only to the framework of state government. I, in principle, am for this but I think we are pinning ourselves down for the time being.

JOHNSON: Mr. President, I believe in the recommended version as set forth by the Committee the word "only" is removed. Is that correct?

PRESIDENT EGAN: The word "only" does not appear. Mr. Johnson, you are correct. Is there further discussion on the motion. Is there objection? Hearing no objection the motion is ordered adopted.

ROBERTSON: Question, Mr. President.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Is it now necessary to move to renew the motion or will the motion now be called up itself? Does the adoption of the report carry the motion?

PRESIDENT EGAN: That would carry the motion, Mr. Robertson. The effect of that report would carry the original motion. Are there other reports of standing committees? Mr. Collins?

COLLINS: Mr. President, the Committee on Direct Legislation, No. XIII, wish to report that the Committee met yesterday on schedule, and Mr. Taylor was elected as Vice Chairman, Mr. Metcalf as Secretary. We are organized and report progress.

PRESIDENT EGAN: You have heard the report of Committee No. XIII. Mr. Taylor was elected Vice Chairman and Mr. Metcalf, Secretary. Mr. Hellenthal?

HELLENTHAL: Mr. President, Committee No. VI met yesterday. Douglas Gray was elected Secretary and George Cooper elected Vice President. The Committee will meet again as scheduled.

PRESIDENT EGAN: You have heard the report of the Committee on Suffrage, Elections and Apportionment. Mr. George Cooper was elected Vice President and Mr. Douglas Gray was elected Secretary. Are there reports of other standing committees? If not, are there reports of select committees? Introduction and first reading of proposals. Does anyone have a proposal. Mr. Robertson?

ROBERTSON: Mr. Chairman, I have two proposals I would like to introduce. One is already on the Secretary's desk and here is the other one (brought forward by Sergeant at Arms).

SECRETARY: "Delegate Proposal No. 4, introduced by R. E. Robertson,
FINANCE: TO LIMIT THE AMOUNT OF CURRENT, BONDED,

SCHOOL DISTRICTS, PUBLIC UTILITY DISTRICTS, AND OTHER TAXING AUTHORITY DISTRICTS SHALL BE SUBJECTED OR WHICH THEY MAY INCUR."

PRESIDENT EGAN: The proposal is referred to the Committee on Finance and Taxation, Committee No. XI. It might be well before the Secretary reads any more proposals that the messenger collect all proposals that might be available. Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I would like to ask in regard to the previous proposal, is that a fundamental principle of basic government that you limit debt, in accordance with the resolution we just adopted?

PRESIDENT EGAN: Mr. Victor Rivers, of course it says "it will be the intent". What the outcome of any such proposal might be will be left to the judgment of the membership of the Convention.

V. RIVERS: I just wanted an interpretation in the minutes.

PRESIDENT EGAN: Are there other proposals? If you have proposals, have them ready when the messenger comes around to your desk and he will bring them to the Secretary.

SECRETARY: "Delegate Proposal No. 5, introduced by R. E. Robertson, DEFINITION OF NATURAL RESOURCES AND THEIR CONTROL."

PRESIDENT EGAN: Proposal No. 5 -- that would be Committee No. X, the Committee on Resources. The Proposal is referred to the Committee on Resources.

SECRETARY: "Delegate Proposal No. 5, introduced by Maurice T. Johnson and John B. Coghill, EDUCATION."

PRESIDENT EGAN: Is that the only title?'

SECRETARY: It is the only title that appears. Do you wish a brief statement of content?

PRESIDENT EGAN: If the Secretary would, would he read the brief statement.

SECRETARY: Section 1 relates to providing the rights of education; Section 2, the State's responsibility for education; Section 3, Legislature to establish the school, etc.

PRESIDENT EGAN: Committee No. XIII, Committee on Direct Legislation, Amendment and Revision. The Chair would ask an opinion of the maker of the proposal what committee you would rather have it go?

JOHNSON: It occurs to me that either the committee you have suggested, Mr. President, or else the Executive Committee.

PRESIDENT EGAN: If there is no objection, the Proposal will be referred to the Committee on Direct Legislation. If that Committee would make another recommendation later, another disposition could be made. Are there other proposals?

SECRETARY: No further proposals.

PRESIDENT EGAN: Are there any motions or resolutions to come before the Convention at this time?

SECRETARY: No resolutions.

PRESIDENT EGAN: We have with us this morning Colonel Sawtelle from Ladd Air Force Base. Colonel Sawtelle, you may come forward.

(Colonel Sawtelle came forward and shook hands with President Egan.)

PRESIDENT EGAN: Colonel Sawtelle would like to be granted the privilege of the floor to make a statement. If there is no objection, Colonel Sawtelle, you may proceed.

COLONEL SAWTELLE: Mr. President, ladies and gentlemen, thank you for the opportunity to speak to you this morning concerning the activities which we have planned for you at Ladd Air Force Base this coming Saturday, pending the decision of the Convention to adjourn for the purpose of touring Ladd's facilities this coming Saturday. We have prepared an agenda which I feel all of you now have at hand. The necessity for having the tour in the morning is necessarily predicated on the fact that you can best see when it is daylight, and another factor came to mind, and that was the luncheon and I think fashion show which is being planned for the ladies of the delegates present. Another item which we have caused to be passed among you is a small slip which I would appreciate your indulgence and have you fill out while I am here in order that we may more adequately plan our activities in relation to transportation and the evening entertainment. Mr. Stewart has the invitations from the Commander in chief, Alaska, Lt. General Joseph H. Atkinson, who will be your host for the evening. On the invitations it is noted that the activities commence at 6:00. However, there has been a change, and we would again ask your indulgence to be available for the bus pick-up at the Nordale Hotel at 4:30 in the afternoon in order that we could have you at the club at 5:00. We are going to have a radio broadcast in which there will be several speakers, among them, your President, we hope Mr. Bartlett and General Atkinson. That will continue for approximately 30 minutes, following which time there will be a reception by General and Mrs. Atkinson, and

then the evening activities commence. I bring you the good wishes of our Commander in chief and the good wishes of my Commander, General Bennett, Commander of the 11th Air Division at Ladd. Thank you very much.

PRESIDENT EGAN: Thank you, Colonel Sawtelle. Mr. Hellenenthal?

HELLENTHAL: Subject to the question of whether or not the motion is in order at this time, I should like to move that this Convention adjourn Saturday for the purpose of attending the planned reception at Ladd Air Force Base.

PRESIDENT EGAN: Mr. Hellenenthal, would the purpose of your motion be just for the afternoon session or the whole day?

HELLENTHAL: The whole day. I think it is unnecessary to give the pressing reasons why we as delegates should take advantage of this very kind invitation.

PRESIDENT EGAN: Then you are asking, Mr. Hellenenthal, in your motion that on Friday the Convention adjourn?

HELLENTHAL: Until Saturday morning, at I would suggest, 9 o'clock, and I so move, or rather Monday morning at 9 o'clock.

PRESIDENT EGAN: You are asking the general consent of the Convention? The Chair was wondering if it might be better to delay that action until later in the day when the delegates have had ample opportunity to think the question over.

HELLENTHAL: My point on that is that I know a vast amount of preparatory work goes into a matter of this kind, and it certainly would accommodate our hosts if we would make up our minds as soon as possible.

PRESIDENT EGAN: Is there a second to the motion?

BUCKALEW: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention agree to adjourn on Friday until 9 o'clock a.m. on Monday in order that the Saturday activities at Ladd Air Force Base might be enjoyed by the delegates to the Convention. The question is, shall the Convention agree to adjourn on Friday until 9 a.m. on Monday?" All those in favor of the motion will signify by saying "aye". All opposed by saying "no". The "ayes have it and it will be the general agreement of the Convention that the Convention will adjourn on Friday until 9 o'clock in the morning of Monday. Is there other business to come before the Convention at this time?

JOHNSON: Mr. Chairman, may I ask for a two-minute recess

while these slips are filled out?

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Knight?

KNIGHT: Mr. President, I move and ask unanimous consent that the Secretary be instructed to write a letter to the Fairbanks Chamber of Commerce thanking them for the wonderful party, dinner, and reception they gave in honor of the delegates last night.

PRESIDENT EGAN: Mr. Knight moves and asks unanimous consent that the Secretary be instructed to write a letter of thanks to the Fairbanks Chamber of Commerce for the wonderful party given in honor of the delegates last night. Hearing no objection it is so ordered. Mr. Cooper?

COOPER: Mr. President, I move and ask unanimous consent that the rules be suspended and that reconsideration be given to the vote for adjournment of a full day on Saturday.

PRESIDENT EGAN: The Chair would like to state that the maker of the original motion plans to offer an amended motion at the afternoon session.

COOPER: I withdraw my motion.

SECRETARY: Mr. President,

PRESIDENT EGAN: Mr. Secretary.

SECRETARY: Colonel Sawtelle asks that one or two amendments be stated concerning this invitation. The Ladd Air Force hosts prefer that in the morning visit all the delegates ride on the buses because it will be a sort of guided tour, and if they were all together there the information given during the tour would be more easily handled. In the afternoon, however, those delegates who desire to bring their cars, it would be appreciated. They can be identified at the gate by the delegates' coat lapel tag or by the Convention courtesy parking ticket that was issued for the cars, and they should assemble at that time at the officers' club at Ladd. And the last item on the schedule -- buses leaving Ladd Officers' Club at midnight -- that has been amended, there will be a bus leaving there at 10 p.m.

PRESIDENT EGAN: Is there anything else to come before the Convention at this time?

SECRETARY: There is one other matter. The delegates may bring their cameras if they so desire.

PRESIDENT EGAN: Is there any unfinished business to come before the Convention? If not, the Chair would entertain a motion for a recess.

DAVIS: Mr. President, before recessing, the two subcommittees on Style and Drafting will meet at the usual time and in the usual place.

PRESIDENT EGAN: You have heard Mr. Davis's announcement. Are there other announcements? Mr. Gray.

GRAY: I move that the Convention recess until 1:30.

PRESIDENT EGAN: Mr. Gray moves and asks unanimous consent that the Convention recess until 1:30. The President would like to meet again with the committee chairmen at 1 p.m. in the regular meeting place on the third floor. Mr. Coghill?

COGHILL: The Committee on Convention Administration will meet at the usual place and the usual time.

PRESIDENT EGAN: The Committee on Administration announcement has been made. If there is no objection the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order (1:40 p.m.) We will have the reading of the journal of the ninth day. Mr. Doogan?

DOOGAN: The Committee has read the journal and made the corrections as they see them. I am only going to read the corrections since everybody has a copy of the journal. Mr. White, I believe will have a report of some recommendations after I am through." On Page 2, the last paragraph where it starts "Mr. Rivers , that should be "Mr. R. or Mr. Ralph Rivers". All other references in the journal to Mr. Rivers should be "Mr. V." or "Mr. Victor Rivers . On Page 5, the fifth paragraph, starting "Mr. Johnson moved and asked unanimous consent," strike the words "paid salary and per diem" and insert "shown present on the roll call." On Page 6, paragraph 10, after 9 o'clock insert "the following morning. Those are the corrections in the report as your Committee sees them.

PRESIDENT EGAN: Do you ask unanimous consent of your proposal?

DOOGAN: Yes, I ask unanimous consent that the journal be approved.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the changes as proposed by the special committee to read the journal be approved. Is there objection? Hearing no objection -- Mr. Doogan?

DOOGAN: Just a moment. The Secretary just picked up a matter that I think should be straightened out. Also on the fifth

page, in paragraph 4, starting in the middle of the paragraph, Mr. McLaughlin asked Mr. Johnson to amend his motion to read that the roll call show Mr. Taylor as present." That whole sentence should be stricken. The reason for that -- I might explain -- when Mr. Johnson made the original motion and Mr. McLaughlin asked him to change his original motion there was not an amendment, so the motion in effect reads, "Mr. Johnson moved and asked unanimous consent that since Mr. Taylor's absence was due to illness, that he be shown present on the roll call. There being no objection it was so ordered."

PRESIDENT EGAN: Mr. Doogan, do you include that in your original unanimous consent request? Mr. Kilcher?

KILCHER: In that case, to erase any mention of the amendment in there, "Mr. Johnson accepted the change" should also be stricken.

HERMANN: It seems to me there are too many "thats" in the first sentence of that paragraph.

PRESIDENT EGAN: Do you accept that, Mr. Doogan?

DOOGAN: Yes.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent then that the proposed changes as contained in his unanimous consent request be adopted by the Convention and that the journal be approved as per that request. Is there objection? Hearing no objection it is so ordered. Miss Awes?

AWES: Mr. President, I just noticed that in the reports of the various committees it usually says that the committee elected a secretary. Technically that is not right. A vice chairman was elected and a secretary was appointed.

PRESIDENT EGAN: The Chair would instruct that wherever it might say a "secretary was elected" that it show that the secretary of the standing committee was appointed by the chairman of that committee. The vice president of each of those standing committees was elected by the committee. Mr. White?

WHITE: Am I right in thinking that has been disposed of, the reading of the journal?

PRESIDENT EGAN: Unless there are further objections or corrections found. Mr. White.

WHITE: I ask unanimous consent to return to the business of committee reports for the purpose of a report of the committee on reading and correcting the journal.

PRESIDENT EGAN: Is there objection to returning to reports of special committees? If not, Mr. White, you may proceed with your reading of the committee report on the reading of the journal.

WHITE: Mr. Chairman, the report of the Committee on reading and correcting the journal is entitled "CONVENTION POLICY AS TO READING AND CORRECTING THE JOURNAL.

1. That copies of the journal be placed on delegates' desks as soon as possible.
2. That the journal be read for approval at the opening session of the second day following the date of the journal.
3. That delegates be responsible for reporting errors and changes to Chief Clerk's office prior to one-half hour before the convening of the opening session of the second day following the date of the journal.
4. The report of the committee on reading the journal be accepted as final subject to ruling by the Chair.
5. That it shall be the policy of the committee to dispense with the reading of the journal except for changes, except when otherwise requested. That two copies only -- one in possession of the Secretary of the Convention and one in possession of the committee -- be corrected, except in cases of important changes, when such changes will be remimeographed.

Mr. Chairman, I move the adoption of the report.

HELLENTHAL: I object.

PRESIDENT EGAN: Is there a second?

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Doogan seconds Mr. White's motion. Mr. Marston?

MARSTON: I may not know how parliamentary rules are practiced here, but in that Page 5 "Mr. Johnson moved and asked unanimous

consent that since Mr. Taylor's absence was due to illness that he be reported present. I do not like to be a party to a thing that is not true. I don't object to paying his per diem but it seems to water down this body, and I don't understand that.

SWEENEY: Mr. President, point of order.

PRESIDENT EGAN: Mrs. Sweeney, your point of order.

SWEENEY: The Delegate is not speaking on the business at hand.

PRESIDENT EGAN: Your point of order is well taken. Mr. Marston, could you hold that? The question is on the adoption of the report of the Special Committee to read the journal and report corrections to the Convention. Mrs. Sweeney?

SWEENEY: Mr. Chairman, I objected to the unanimous consent request on that, and I would like to hear the second point read again.

WHITE: The second point was, "That the journal be read for approval at the opening session of the second day following the date of the journal." May I elaborate on that? In other words, that yesterday's journal rather than being read for approval at this session today, it will be read for the approval of the opening session of tomorrow morning. The theory behind it is this, that you have on your desk now copies of yesterday's journal which would serve most purposes for the time being. It is conceivable that the boiler room upstairs could get so jammed up that these copies would not have been available to you until just now. There would have been no chance for the delegates to read them and suggest changes prior to approval at this session.

SWEENEY: I object to that, Mr. Chairman. We have a 20-minute plenary session in the morning and about 20 minutes in the afternoon, and yesterday the Chief Clerk advised us that she had her journal practically up to time, and I see no reason why the journal cannot be on our desks fairly early in the morning and taken up the first thing in the afternoon. I think it is important that we have the journal and have it approved for the reason that those who wish to reconsider their votes I believe they can still do that on the next day whereas the day following would be too late. I think if we make a practice of putting this off until the second day we are going to have it the second day and perhaps even later than that. I believe we can have it on the following morning, and I will certainly vote to defeat the motion.

PRESIDENT EGAN: Is there further discussion on the motion? If there is no other discussion then the question is -- Mr. Taylor?

TAYLOR: I think before we can intelligently pass upon this matter as to whether Mrs. Sweeney is right or whether Mr. White is right, we should ascertain from the boiler room when those journals can be put out each day.

PRESIDENT EGAN: Mr. Taylor, do you think it would be proper at this time to ask the Chief Clerk to make a statement on that? Perhaps she could enlighten us.

TAYLOR: If the Chief Clerk can give us that information, I would certainly like to know.

PRESIDENT EGAN: If there is no objection the Chief Clerk might straighten out this matter.

CHIEF CLERK: The journal was ready this morning. The stencils were cut but they had to be run. We had the rules to run last night, we had committee reports to run last night, there are going to be more things being run every night as your committees get going, and I have told them that the journal is the most important thing in the morning, but that does not mean that there would not be a committee report that would be more important, and I certainly intend to see that you have the journal on your desk as soon as possible in the morning, but it is a physical impossibility due to the fact that we are out here and the people live in town and there isn't any transportation late in the evening for people to get back to work, and they come to work at 8:30. When Mr. White asked me about that I thought that it would simplify the facts for the members to have a chance to read the journal. You would have it on your desk to consult any references to action of the previous day, but for the actual corrections, you would have all day long to read it to check any changes that would be made. That was why I accepted his idea. It was not to delay your getting the copy of the journal -- it was to delay the approval of it.

PRESIDENT EGAN: Is there further discussion? The question is, "Shall the report of the Committee to read and correct the journal be approved by the Convention?" All those in favor of approval of the report will signify by saying "aye", all opposed by saying no. The "ayes" have it and the report is ordered approved. Mr. Hellenthal.

HELLENTHAL: Mr. President, after conferring with the administrative people of our staff and the experts on the various fields of Convention activity, and in relation to the problem this morning of the visit to Ladd Field, I asked that it be noted on the record that it is in the interest of the business of this Convention and of the matters properly before this Convention that the delegates visit Ladd Air Force Base on next Saturday, November 19. Now my reasons and the reasons given me for this notation are, that we have many problems involving

the military that will come before our body, virtually every committee of our body. For example, the Committee on Bill of Rights will have to determine whether or not there should be a right to suspend the writ of habeas corpus in the state of Alaska because of the imminence of attack or of invasion. It would seem to me that those of us who have not lived close to the military would want to know what steps the military have taken for the protection of the state of Alaska. Again, the problem of the quartering of troops in our homes will present itself to our body and no matter how you look at the analysis of the economy of Alaska today and Alaska as a state, the military must be considered. It must be considered in every projection of estimates or growth, population, everything, so for that reason it would appear that the notation on the record is in order, that it is the proper business of the group to visit this military installation and again, I have been assured that this matter will take care of all of the administrative details that seem to bother our technical staff.

PRESIDENT EGAN: Mr. Hellenthal, are you asking unanimous consent that the summary of your remarks be included as a part of the journal?

HELLENTHAL: I do, Mr. President. I so move.

BUCKALEW: Objection.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent. Objection is heard. Is there a second? Do you so move?

HELLENTHAL: I so move.

BARR: I'll second it.

PRESIDENT EGAN: Mr. Hellenthal moves and Mr. Barr seconded the motion. The question is open for discussion. Mr. Cooper?

COOPER: I can see no reason for a tour of Ladd Field which takes up approximately three hours. I can see no reason to take that time. I don't think any questions or issues could be settled in three hours by merely touring the facilities available on one particular military base. Personally, I would rather see the Convention in plenary session until such time and then adjourn a little earlier in the afternoon possibly and take in the formalities -- they begin at 4:30. For a particular reason that each and every delegate here has the authority within himself to attend this morning session if he so chooses, but I don't like the motion made whereby it would be the will of the entire body to be present at Ladd Field during the morning tour.

PRESIDENT EGAN: Is there further discussion on Mr. Hellenthal's motion? Mr. Barr?

BARR: Mr. President, it seems a question of whether or not this tour is important enough to this Convention to suspend operations here for awhile. I certainly feel that it is. Mr. Hellenthal mentioned several things that we should learn about the military because we are concerned with them but he could go on further than he did -- there is a long list of them we are all concerned about the withdrawal of lands by the military, and people who are not closely connected with the military I am sure only see one side of it. We should learn a little more about their needs for land. Now, the events in the evening are mostly entertainment with the exception of an address by General Atkinson, but what they put on for us out there in the morning is for instruction, and I understand that General Bennett is going to give us a briefing on the operation of air defense they'll put on a practice scramble for us and that sort of thing and I think it is important that we know how the military works as well as their needs. That is a part of our business.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I would like to add to Mr. Barr's statement and Mr. Hellenthal's. I have had the privilege on four different occasions in the past few years of going on this particular tour and particularly listening to the briefing by General Bennett which will be given the delegates of this Convention, and in addition to the things that they have mentioned, I think it is of importance to the members of this Convention to find out where we are spending a million and one-half dollars for one of these jet planes and the kind of building that it takes to keep that plane in operation, and the money that is spent for taxes in connection with the military in addition to other items that have been mentioned here. This briefing will be beneficial to the members of this group who have not had the opportunity before of getting the firsthand information. I think it will play very possibly an important part in writing some parts of this constitution.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, none of the speakers has brought up the question of common courtesy and also advantageous public relations with the Army. As a state we are going to be living with them for quite a long time, and when the Commanding General of a department of the Army puts himself out to put out a program for the members of this Convention, want to show what their problems are and what they are up against, I think the hours can be very well spent on Saturday morning for those members of the Convention who want to go out there and see what they have to offer. It might be well to hear what General Atkinson has to say. He is a pretty big man in the Army. I feel that the loss of those few hours on Saturday morning will not make or break this Convention, and it might be a means of

achieving a good public relations between the Army and the state. They know that this is a Convention that is going to enact a constitution for the state of Alaska, and if we act in a boorish mood, take a boorish attitude toward them that we don't care to go out there, we might as a state suffer a little bit from the actions of the Convention delegates.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, obviously I am in the minority. I agree with Mr. Cooper. I feel that these things are important that have been spoken about. I also feel that in peace time there should be some semblance of supremacy over the military. I don't know whether or not the matter was taken up with our Secretary. or President before, but I think it is somewhat presumptuous to present us a schedule from morning to night and say this is it -- come if you want and stay away if you want. I think those things are all important, but I think it is more important we get this session over with as soon as we can do so by writing an excellent constitution. I am against adjourning for the day.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, in that regard I have no objection either way, but if we approve this adjournment for all day Saturday we are in effect setting a precedent. Now in the brochures you have from the Fairbanks Chamber of Commerce, you will notice particular for the wives and women delegates, there is approximately ten teas, most of them I believe are scheduled on a Saturday afternoon, and what I mean by setting a precedent is should you accede to the wishes of the military without acceding to the wishes of the various community and service clubs for these teas and again for the tea this afternoon that is being held in the Home Economics Room for the benefit of the delegates. I would just like to throw that in.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I would like to know whether I can find my application blank. I said I was going out in the afternoon. I would like to go out in the morning now.

HERMANN: I just want to ask a question about this, Mr. President.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: If we adopt this motion as it was made by Mr. Hellenthal that this will be a part of our official duties, are we required to go on the tour of the Base?

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

HELLENTHAL: Point of order. The motion did not say that it would be a part of your official duties in so many words.

PRESIDENT EGAN: The Chair would hold there is no way that a delegate could be forced to do much of anything off the Convention floor.

HERMANN: I still want to know if I have to go.

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

GRAY: To be a politician you have to satisfy both sides of the question. I believe that we can have our cake and eat it too if everybody will just give a little. What I see about this is that we have an entertainment in the morning and in the evening, and we have a plenary session in the morning and afternoon. I believe fully that we should use this day as a constitutional day and I believe fully that we should have a plenary session at 1:30 in our regular schedule, and I believe in adopting Mr. Hellenthal's notice and at this time I wish to rescind the motion of Mr. Hellenthal and introduce another motion that we adjourn until 1:30 tomorrow afternoon.

MCCUTCHEON: Point of order. I may be misinformed on this matter, but it appears to me we took the action for adjournment this morning and we are merely concerned now with the adoption of the summary of the intent of substantiating our reason for adjournment. We have already decided to adjourn over Saturday. This is merely a matter to put this intent in the journal.

PRESIDENT EGAN: That is right but Mr. Gray was saying that while he is for the statement of Mr. Hellenthal, he wants to let it be known that he is going to make another motion later. Your point of order, Mr. Hurley?

HURLEY: Point of order. I question the propriety of a motion to adjourn at a future time. I don't see how you can possibly put such a motion when you don't know what the situation will be before that.

PRESIDENT EGAN: The Chair would hold that if the Convention set a time for another day at which they were going to adjourn, that it would be in order, for the majority of the Convention can decide to do almost anything they want to relative to this Convention. If they want to say now that on Thanksgiving day they are going to adjourn and not work, then they can do that. They could overturn that action later. Mr. Coghill?

COGHILL: Would you have the Chief Clerk read the motion as it

was stated this morning on adjournment?

PRESIDENT EGAN: Mr. Coghill, that would not have anything -- would the Chief Clerk read the particular motion that related to adjournment?

CHIEF CLERK: "Moved that the Convention adjourn Friday until Monday morning at 9 o'clock for the purpose of attending the activities planned at Ladd Air Force Base.

NOLAN: Mr. President, did that pass this morning?

PRESIDENT EGAN: Yes, it passed this morning, Mr. Nolan.

NOLAN: In getting a little off the subject and following Mr. Gray's thoughts, I have thought along the same lines. I thought maybe the morning part of it could have been pushed up and the buses leave from here immediately after our plenary session rather than to come back here at 1:30 in the afternoon -- meet, have the roll call and then go through the 20 minute business and board the buses here and finish for the day, rather than come back at 1:30.

PRESIDENT EGAN: Mr. Nolan, then that could follow after action is taken on Mr. Hellenthal's motion, any motion along the line you are suggesting. Mr. Coghill?

COGHILL: Point of order. If there was a motion made to adjourn until 9 o'clock Monday morning we have nothing before us.

PRESIDENT EGAN: The motion was to adjourn from Friday until Monday morning at 9:00 is before us. We have Mr. Hellenthal's motion before us, Mr. Coghill. At the present time we are discussing the motion that is before us that was made by Mr. Hellenthal.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I might have started all this. I objected to what Mr. Hellenthal said. The only reason I objected was it seems to me that the purpose of the trip is sort of a tenuous extension of what we are going to accomplish by it. Mr. Hellenthal would apparently have people believe that 20 years from now that by going out to Ladd Air Force Base tomorrow we would get some enlightenment on suspension of writ of habeas corpus and billeting troops in our homes, which as my grandmother would say, is hogwash .

PRESIDENT EGAN: Mr. McCutcheon?

MCCUTCHEON: Contrary to Mr. Buckalew, I would say that the Commanding General of Alaska had a great deal to tell us about

the military plans of the future, perhaps with respect to land withdrawals, and it might be pretty important as far as the state was concerned.

PRESIDENT EGAN: Was there further discussion on Mr. Hellenthal's motion? Mr. Walsh?

WALSH: I believe that we ought to appreciate the invitation of the military to visit Ladd Air Force Base, but if we could arrange so we could go in the morning and visit the bases, then it could be possible that we have an afternoon session at 2 o'clock or 1:30. I think we should appreciate the invitation.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I move the previous question.

MCCUTCHEON: I second it.

PRESIDENT EGAN: Mr. Davis moves the previous question, Mr. McCutcheon seconded the motion. All those in favor of ordering the previous question say "aye", all opposed say "no". The "ayes" have it and the previous question is ordered. The question is on the proposed motion by Mr. Hellenthal. All those in favor of Mr. Hellenthal's motion say "aye", all opposed say "no". The "ayes" have it and Mr. Hellenthal's motion will become a part of the journal. Mr. Gray.

GRAY: Mr. President, I would like to move that the motion as made by Mr. Hellenthal this morning be rescinded.

PRESIDENT EGAN: Mr. Gray moves that the Convention rescind the action on the motion to adjourn that was made and carried by Mr. Hellenthal this morning. Is there a second to the motion?

COOPER: I second it.

GRAY: I might tell you at this time the purpose for rescinding is merely for introducing the same motion again and changing the time. After the motion is rescinded, if it is, then we will introduce another motion, set another time for the plenary session.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, following Mr. Gray's remarks here, talking to the Colonel this morning, I would see no reason why the buses on their return from Ladd Air Force Base couldn't and wouldn't deliver the delegates right back to the Convention Hall where we could have lunch together and go into plenary session at 1:30 in the afternoon. I am making this just as a

suggestion. I do feel we ought to meet in regular business session sometime tomorrow afternoon.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We have accomplished something here. We have set up a time certain for adjournment on Friday to Monday, and we have also set up a special order of business for this Convention tomorrow. Now if we were to come here, if we had a big journal full of work, if we had some reason to come here besides the roll call and reading of the minutes, but merely as a gesture to satisfy possible criticism of somebody 15 or 20 years from now, I see no reason for it. There are a number of those I noticed, who feel we should convene here and who do not want to go to Ladd Air Force Base who live in this general area. But there are a number of others who are not acquainted with circumstances. We have set up a special order of business. For those who want to observe it, it is a full day's activity. I see no reason to rescind this motion. I point out the motion to rescind takes a two-third's majority.

PRESIDENT EGAN: That is correct. Is there further discussion on the motion to rescind the action on the adjournment from Friday to Monday?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If not, the question is, "Shall the adjournment action be rescinded?"

MCCUTCHEON: Roll call. There has to be a two-thirds count.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Ayes: 18 - Coghill, Cooper, Doogan, V. Fischer, Gray, Harris, Hinckel, Hurley, Johnson, King, Laws, Lee, McNees, Peratrovich, Poulsen, Smith, Sweeney, Mr. President.

Nays: 33 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cross, Davis, Emberg, H. Fischer, Hellenthal, Hermann, Kilcher, Knight, Londborg, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Reader, Riley, V. Rivers, Rosswog, Stewart, Taylor, VanderLeest, Walsh, White, Wien.

Absent: 4 - Hilscher, R. Rivers, Robertson, Sundborg.)

CHIEF CLERK: Eighteen ayes, 33 nays and 4 absent.

PRESIDENT EGAN: So the motion to rescind the action has failed. Mr. Davis?

DAVIS: Mr. President, in calling the roll I noticed that we started again with "Armstrong." I think this particular roll should have started somewhere down the line.

PRESIDENT EGAN: We are happy you called that to the attention of the Chair and the Chief Clerk, Mr. Davis. Mr. Coghill?

COGHILL: Mr. President, I rise to a point of information. Through the Chair possibly the Chairman of the Rules Committee could help me out on this. I am a bit confused on when you make a motion to adjourn, it is a privileged motion and cannot be amended and in effect, you amended the motion by the previous adoption of Mr. Hellenthal's other motion to take action.

PRESIDENT EGAN: That we did not, Mr. Coghill.

COGHILL: We adjourned then from Friday evening until Monday morning and there is nothing held on the delegates of this Convention as to attend any part of the doings at Ladd Field?

PRESIDENT EGAN: Mr. Coghill, there was no way you could force a delegate to attend that visit at Ladd Field. It just is that the motion would give them ample time to attend it if they thought it would be their duty or if they wished to attend.

COGHILL: The way I understood the motion was that the motion carried the intent that it would be official business and it would give the Convention a shield to work under for critics.

PRESIDENT EGAN: Is there other business to come before the Convention at this time? If there is no other business, the President will entertain a motion for adjournment. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until tomorrow morning at 9:30 o'clock -- excuse me, I guess the adjournment time is 9 o'clock.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand adjourned until tomorrow morning at 9 a.m. Is there objection? Hearing no objection the Convention is adjourned until 9 o'clock a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

November 18, 1955

ELEVENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Robert Sheppard of the First Church of the Nazarene of Fairbanks who will deliver the daily invocation (9:00 a.m.). (Delegates stood.)

REV. SHEPPARD: Shall we pray. Almighty God and Heavenly Father, we thank Thee for this moment of worship at the beginning of this day's activities. We thank Thee for that precious knowledge that comes to us through Thy word that "the fear of the Lord is the beginning of wisdom", and that as we pray for Thy blessing upon the assembled delegates today and their tremendous responsibilities we ask that there shall be an acknowledgment of Thee, a turning to Thee for Thou art the fountainhead of all knowledge and understanding and blessing. Guide, we pray, and make this a good day in the formulation of our state constitution. In Christ's name we pray. Amen.

PRESIDENT EGAN: Thank you, Mr. Sheppard. The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Fifty-four present, one absent.

PRESIDENT EGAN: A quorum is present. Presentation of petitions, memorials, communications from outside the Convention.

SECRETARY: Communication from outside of the Convention. The manager of the Co-op Drug Store says he will open the lunch room daily at 7:55 a.m. for those who want morning snacks there.

PRESIDENT EGAN: The communication may be filed. Are there other communications?

SECRETARY: There are none.

PRESIDENT EGAN: Are their reports of standing committees? Reports of select committees? Are there proposals to be introduced at this time? Mr. Johnson?

JOHNSON: Mr. President, I have a proposal.

PRESIDENT EGAN: The messenger might pick up the proposal. Are there other proposals? If not, the Secretary may read, may proceed with the first reading of the proposal by Mr. Johnson.

SECRETARY: "Delegate Proposal No. 7, introduced by Maurice T.

Johnson, DEALING WITH WILD LIFE CONSERVTION."

PRESIDENT EGAN: The proposal is referred to the Committee on Resources. Are there any motions or resolutions to come before the Convention at this time? Is there any unfinished business? Any special orders of the day? Any general orders of the day? If there is nothing else to present to the Convention at this time -- Mr. Davis?

DAVIS: Mr. President, I would like to announce that the Committee on Style and Drafting will meet at the usual place at 11 o'clock. The Committee will meet a few minutes as a Committee before breaking into subcommittees.

PRESIDENT EGAN: You have heard the announcement by Mr. Davis. Mr. Cross?

CROSS: Committee No. XIV will meet immediately after the special recess.

PRESIDENT EGAN: Committee No. XIV, the Committee on Resolutions and Recommendations, will meet immediately upon recess. Miss Awes?

AWES: Committee on Preamble and Bill of Rights will meet immediately after recess.

PRESIDENT EGAN: The Committee on Preamble and Bill of Rights will meet immediately upon recess. Are there any other announcements? Mr. McLaughlin?

MCLAUGHLIN: The Committee on the Judiciary Branch will meet today at the established time.

PRESIDENT EGAN: The Committee on the Judiciary Branch will meet today at the established time. Mr. McNealy?

MCNEALY: Committee No. IV on Ordinances will not meet until Monday.

PRESIDENT EGAN: Committee No. IV on Ordinances as announced by the Chairman, Mr. McNealy, will not meet until Monday. Mr. Victor Rivers.

V. RIVERS: The Committee on the Executive will meet immediately after this meeting adjourns.

PRESIDENT EGAN: Mr. Victor Rivers announces that the Committee on Executive will meet immediately upon recess. Mr. Smith?

SMITH: The Committee on Resources will meet at the scheduled time.

PRESIDENT EGAN: Committee No. X, the Committee on Resources will meet at the scheduled time. Mr. Rosswog?

ROSSWOG: Committee No. XII, Local Government, will meet at our regular time at 3:30 this afternoon. At our yesterday's meeting we continued our study of the staff papers, and we agreed to join in on the TV program and we have asked for a consultant, Mr. Weldon Cooper, of the University of Virginia to help us at a later date.

PRESIDENT EGAN: You have heard the report of the Chairman of Committee No. XII. Are there other committee reports? Collins? Mr.

COLLINS: Committee No. XIII, Direct Legislation, Amendment and Revision, will meet Monday on schedule.

PRESIDENT EGAN: Mr. Collins announces Committee No. XIII the Committee on Amendment and Revision will meet Monday on schedule. Mr. Buckalew?

BUCKALEW: Mr. President, I move we adjourn then until 9 o'clock on Monday morning.

PRESIDENT EGAN: Unanimous consent is asked that the Convention adjourn at this time.

MCLAUGHLIN: I object. May I inquire, is it Mr. Buckalew's intention we not hold an afternoon session?

BUCKALEW: That is sure what it sounds like, Mr. Chairman.

PRESIDENT EGAN: Objection is heard. You will have to put your proposal in the form of a motion, Mr. Buckalew. There is nothing before us at this time.

BUCKALEW: Mr. Chairman, I move we adjourn until 9 o'clock Monday morning.

PRESIDENT EGAN: Mr. Buckalew moves that the Convention stand adjourned until 9 o'clock Monday morning.

V. RIVERS: Second the motion.

PRESIDENT EGAN: Mr. Victor Rivers seconds the motion. The motion is undebatable. The question is, "Shall the Convention stand adjourned until 9 o'clock Monday morning?" All those in favor of the motion will signify by saying "aye". All opposed to the motion will signify by saying "no". The "noes" have it and the motion is lost and the Convention is still in session. Mr. Barr?

BARR: I ask unanimous consent that we recess until 1:30 this

PRESIDENT EGAN: Mr. Barr asks unanimous consent that we recess until 1:30 this afternoon.

TAYLOR: I object for the purpose of a point of information. Is it not a fact that we acted upon this motion the other day and agreed to recess until 9 o'clock Monday morning?

PRESIDENT EGAN: That was the agreement as of the time the Convention might deem it to be proper, Mr. Taylor.

TAYLOR: I believe it would be in order would it not to rescind that former action of the Convention?

PRESIDENT EGAN: No, it would not, because the Convention has not signified its intention of not adjourning at this time, until later in the day evidently.

TAYLOR: I withdraw my objection.

PRESIDENT EGAN: Mr. Barr asks unanimous consent that the Convention stand at recess until 1:30 p.m. Hearing no objection the Convention is at recess until 1:30 this afternoon.

RECESS

PRESIDENT EGAN: The meeting will come to order. Is there anything to come before the Convention at this time? Mr. Robertson?

ROBERTSON: Mr. President, I ask unanimous consent to revert back to the introduction of proposals. I would like to introduce a proposal that I had on my desk this morning and mislaid.

PRESIDENT EGAN: Mr. Robertson asks unanimous consent to revert back to introduction of proposals at this time. Is there objection? There being no objection, Mr. Robertson's proposal is received.

SECRETARY: "Delegate Proposal No. 8, introduced by R. E.

Robertson. LEGISLATURE: TO CREATE A LEGISLATURE WITH QUALIFICATIONS OF ITS MEMBERS, AND TO ESTABLISH LEGISLATIVE AND SUBLEGISLATIVE DISTRICTS, AND REPRESENTATION THEREFROM, AND TO REQUIRE DECENNIAL REAPPORTIONMENT."

PRESIDENT EGAN: The Committee on Legislative. Is there anything else to come before the Convention at this time? Mr. Hellenthal?

HELLENTHAL: Point of order. Perhaps the resolution should be jointly referred to two committees, because apparently it

deals with two topics. I am sure Mr. McCutcheon and I can work this out among ourselves but apparently it deals with composition of the legislature and secondly with a method of apportionment, which would be under the jurisdiction of committee VI.

PRESIDENT EGAN: Mr. Hellenthal, your point of order is well taken, and perhaps Mr. McCutcheon's committee, No. VII on the Legislative Branch, could take the proposal first and refer it later to the Committee on Suffrage, Elections and Apportionment. It is so ordered. We have before the delegates a very important item of business -- the receipt of the first paychecks to Convention delegates. Five days of your salary is covered in that. Perhaps the Chief Clerk could explain that situation so there will be no question in anyone's mind as to what this is.

CHIEF CLERK: This is for the first five days, starting with last Tuesday through Saturday, and from now on you will get a weekly check for salary which has all the withholding tax taken out, and then you will get a per diem check. The first per diem check should be here Monday I think if the planes fly, according to how long it took to get the voucher down and back with the checks -- it was about five days. I think you will get a per diem check on Monday and then next week you will get another salary check and another per diem check. So next week will really pay off.

MCNEES: May I ask the Chief Clerk if this check is large enough to hold us over until Monday.

CHIEF CLERK: I hope. (laughter)

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

COGHILL: Mr. President, I ask unanimous consent to revert to the order of committee reports.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent to revert to the order of committee reports. Is there objection? Hearing no objection, Mr. Coghill, you may proceed with your report.

COGHILL: Administrative Committee Report No. 3. Mr. President, your Committee on Administration respectfully submits the following report for the week of November 14 - 18, 1955: The officers of the Administrative Committee consist of Herb Hilscher, Vice president and Dora Sweeney, Secretary. The Committee felt that it would be advisable to dress up the Constitution Hall -- the Convention Hall -- and therefore, has ordered additional American flags and Alaska flags. The Administrative Committee will make weekly reports to the

Convention on finance, personnel, etc. The Committee wishes to report that the secretariat is completely organized. Job descriptions have been cared for by the Committee and Tom Stewart is in charge of the mechanics and operation of the secretariat. Memorandums have been distributed to the delegates concerning the use of the library and securing the use of consultants. The Administrative Committee wishes to advise the delegates that a clip file of items of Territorial newspapers is being kept at the library. The Administrative Committee has worked out with the Secretary a method of supervision of official business long distance calls and telegrams and memorandums to that effect are forthcoming.

PRESIDENT EGAN: What is your pleasure with regard to this report, Mr. Coghill?

COGHILL: I will move and ask unanimous consent that it be accepted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the report of the Committee on Administration be accepted by the Convention. Is there objection? Hearing no objection it is so ordered and the report is ordered accepted by the Convention. Is it the desire that reports of this nature go in the minutes in their entirety? If it is not the desire of the Convention that reports of this nature go in their entirety the Chair will instruct that a summary of the report be placed in the minutes of today's proceedings. Is there objection to that?

MCNEES: I would like to suggest that the report be filed, however.

PRESIDENT EGAN: The report will be filed, Mr. McNees, but a summary of the report will go in the journal. Is there anything else to come before the Convention? Mr. Rosswog?

ROSSWOG: I would like to make a committee announcement at this time.

PRESIDENT EGAN: Mr. Rosswog requests permission to make a committee announcement at this time. Hearing no objection, Mr. Rosswog.

ROSSWOG: Committee No. XII, Local Government Committee, will hold our regular meeting at 3:30 and will have an extra meeting tomorrow afternoon at 1 o'clock in Apartment 6 of the Alaskan Inn.

PRESIDENT EGAN: You have heard the report of Mr. Rosswog. He plans to hold a special meeting of the Committee on Local Government at 1 o'clock tomorrow afternoon in Apartment 6 of the Alaskan Inn.

ROSSWOG: We wish to finish our consideration of the staff reports at that time.

PRESIDENT EGAN: Mr. Victor Rivers?

V. RIVERS: Mr. Chairman, this doesn't have to appear in the journal but I did want to ask, in connection with the payment of salaries, the salary checks show the deductions withheld, Social Security and other deductions from the total, so we will have a record. In other words, we have to have that in keeping, at least we do in our office, to keep books in that manner. We then know what parts have been distributed to each part of the monies paid in full and what has been deducted for what purpose.

PRESIDENT EGAN: Will the Chief Clerk answer that question?

CHIEF CLERK: That cannot be done under the Territorial setup. But at the end of this period of your service you will get a statement which will cover that. You mean you want it weekly?

V. RIVERS: That will be sufficient. A summary will be sufficient. If we get it in a file at the end, that will be all right for our purposes.

PRESIDENT EGAN: That answers the question for Mr. Victor Rivers. Mr. Hurley?

HURLEY: Mr. Chairman, a minor point, but we will need it before the first of the year.

CHIEF CLERK: You will get it.

PRESIDENT EGAN: The Secretary has some communications. You may proceed.

SECRETARY: The hosts at Ladd Field wish that the request be placed as to whether any other persons might be going on the morning tour than had yesterday indicated their intention. If anyone who did not so indicate, could notify the Chief Clerk at the end of the meeting, please.

PRESIDENT EGAN: You have heard the request of the Secretary. If anyone else who did not originally signify to go to Ladd Field in the morning wishes to do so, please notify the Secretary at the end of this meeting. Did you have another announcement Mr. Secretary?

SECRETARY: The room at the end of the hall, the far end of the building upstairs has been set aside as a typing room for delegates. There are now two typewriters and tables and we can provide more there if you wish to use them. The doorkeeper has been designated to act as a sort of clearing house on

transportation, so if any person going to town and has available transportation would notify him, and vice versa, if you need individual transportation, he may have the information for you as to who is going and when and where. I wanted to say that on the newspapers, the newspapers that were being received by the Statehood Committee in Juneau, are going to be sent here three times a week. They include all the daily newspapers of the Territory plus the principal weekly newspapers. We intended to put them in the library for the delegates' use but after a few days to use them for the maintenance of a clip file, so they need to be kept there in order for that to be performed.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, there will be a brief meeting of the Rules Committee in the rear of the gallery space following adjournment.

PRESIDENT EGAN: There will be a brief meeting of the Rules Committee following adjournment. Mr. Johnson.

JOHNSON: Mr. President, it occurs to me that we have done nothing about the minutes of the meeting for yesterday.

PRESIDENT EGAN: Mr. Johnson, in accordance with the action taken yesterday, it was decided that the journal would be approved every other day, which in this case with the adjournment decided upon, will not be until Monday. On Monday we will have yesterday's journal and the journal of today to approve. Mr. Knight.

KNIGHT: Mr. President, I ask unanimous consent to speak to a personal privilege. I ask unanimous consent today to say a very, a day which is a very auspicious one for one of our delegates. However, he has one failing, that of not wanting to reveal when he first saw the light of day, and today after only 39 summers, so at this time I would like this Convention to extend hearty congratulations to our beloved Maurice T. Johnson because it is his birthday.

(Mrs. Sweeney brought Mr. Johnson to front of hall.) (Cake brought in at this time.)

JOHNSON: Holy smoke.

SWEENEY: You know, Mr. Johnson, it is quite an achievement for a man to reach 39 and not get beyond that so this is a plain white carnation, consider it a Legion of Honor or decoration of some kind.

PRESIDENT EGAN: If there is no objection, let the record show

that it was Mr. Johnson's birthday, and immediately following adjournment, the delegates partook of a delicious birthday cake in honor of Mr. Johnson's birthday. Mr. Gray.

GRAY: Mr. Chairman, it seems to me in order to move that the Convention adjourn until Monday morning at 9 o'clock.

PRESIDENT EGAN: If there is no objection the Convention is adjourned until Monday at 9 a.m. The Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

November 21, 1955

FOURTEENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend John C. Stokes, pastor of the University Community Presbyterian Church. Reverend Stokes will give us our daily invocation.

REV. STOKES: Let us pray. Almighty and gracious God, we beseech in earnestness Thy blessing upon this Convention and this day, that all things that are said and done here may be done not only with the knowledge that we are making laws for men by which to live, but that we are living the lives that Thou has given to each of us. We ask Thy blessing upon those who are members of the committees, upon those who rule the sessions and upon those who formulate the ideas. Now grant peace, understanding, love, justice and mercy in all that is done in the formation of the constitution. In the name of our Lord and Master, Jesus Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: All present.

PRESIDENT EGAN: A quorum is present. Proceed with the reading of the journal -- that is for this afternoon's session. Dispense with the reading of the journal at this time. Are there any petitions, memorials, or communications from outside the Convention? Reports of standing committees? Mr. Riley?

RILEY: Mr. President, last Thursday or Friday it was asked that the report from the Rules Committee be made a first order of business this morning. Your Rules Committee asks now that that be made a special order of business this afternoon.

PRESIDENT EGAN: Mr. Riley asks that the matter be held over as a special order of business this afternoon. Are there any other reports? First reading of proposals? Are there any proposals that the delegates would like to submit at this time?

PRESIDENT EGAN: Are there other proposals for the Sergeant at Arms to bring forward at this time? If not, the Secretary may proceed with the first reading of proposals.

SECRETARY: "Delegate Proposal No. 9, introduced by Victor Fischer, AN ARTICLE ON EDUCATION, HEALTH AND WELFARE."

PRESIDENT EGAN: Committee on Education.

CHIEF CLERK: There is not a Committee on Education.

PRESIDENT EGAN: Committee on Preamble and Bill of Rights. The proposal is referred to that committee.

SECRETARY: "Delegate Proposal No. 10 introduced by Victor Fischer, INTERGOVERNMENTAL RELATIONS".

PRESIDENT EGAN: That proposal will be referred to Committee No. XIV, the Committee on Resolutions and Recommendations.

SECRETARY: "Delegate Proposal No. 11, introduced by Thomas Harris, LOCATION OF THE STATE CAPITAL."

PRESIDENT EGAN: That proposal will be referred to the Committee, Committee No. VII, Committee on the Legislative Branch.

SECRETARY: "Delegate Proposal No. 12, introduced by Edward V. Davis, PERTAINING TO THAT SECTION OF THE CONSTITUTION RELATIVE TO THE ESTABLISHMENT OF THE JUDICIAL BRANCH OF THE GOVERNMENT OF THE STATE OF ALASKA."

PRESIDENT EGAN: That proposal is referred to Committee No. IX, the Committee on the Judiciary Branch.

SECRETARY: No further proposals, Mr. President.

PRESIDENT EGAN: Those are all the proposals. We are now down to motions and resolutions. Are there any motions and resolutions to come before us at this time?

SECRETARY: "Resolution introduced by Chris Poulsen, LOCATION OF THE STATE CAPITAL."

PRESIDENT EGAN: That resolution will be referred to Committee No. VII, the Committee on Legislative Branch. Are there other resolutions?

SECRETARY: No further resolutions, Mr. President.

PRESIDENT EGAN: Other unfinished business? Are there any special orders of the day? General orders of the day? If not, the Chair would entertain a motion for recess.

V. RIVERS: I move a recess until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Victor Rivers moves that the Convention stand at recess until 1:30 this afternoon. Is there objection? Hearing no objection it is so ordered and the Convention is at recess until 1:30 this afternoon.

RECESS

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

KNIGHT: Reporting for the Committee on the reading of the journal, this covers the reading of the journal for the tenth day.

PRESIDENT EGAN: We are now proceeding with the reading of the journal of the tenth day.

KNIGHT: We recommend the following changes:

PRESIDENT EGAN: The Committee to read the journal recommends the following changes for the tenth day:

KNIGHT: On Page 2, line 12, after the word "and" insert the word "appointed". In line 15, after the word "and" also put in the word "appointed". On line 15 delete the word "proposal" and place in the word "principle". On Page 3, line 14, delete the word "of". In place thereof put the word "at". On Page 4, the sixth line from the bottom of the page there is a typographical error in the word "remarks".

PRESIDENT EGAN: The Convention will come to order.

METCALF: I don't know what he is talking about.

PRESIDENT EGAN: It is the journal of the tenth day of the Convention, November 17. The Chair does not have a copy. (Received copy at this time.) Mr. Knight, the Chair is sorry to interrupt you but some of them did not have their copies. You may proceed with the reading of the proposed changes.

KNIGHT: Page 4, sixth line from the bottom, typographical error in the word "remarks". That is all the changes. We ask unanimous consent they be adopted.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the corrections brought to the attention of the Convention relative to the journal of the tenth day be adopted by the Convention. Is there objection? Hearing no objection it is so ordered and the journal of the tenth day will be corrected as the Chairman of the Committee to read the journal has requested. Is there anything else to come before the Convention at this time? Mr. Johnson?

JOHNSON: Mr. President, I ask unanimous consent that we revert to the order of business of the Introduction of Proposals.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent to return to the order of business of introduction of proposals. Is there objection? Hearing no objection, you may introduce your proposal, Mr. Johnson. The Secretary may read the proposal.

SECRETARY: "Delegate Proposal No. 13 introduced by Maurice T. Johnson, DEFINING INHERENT RIGHTS.

PRESIDENT EGAN: Defining Inherent Rights -- Committee No. V. The proposal is referred to Committee No. V on Preamble and Bill of Rights. Are there other proposals?

SECRETARY: "Delegate Proposal No. 14, introduced by Maurice T. Johnson, THE EXECUTIVE.

PRESIDENT EGAN: "The Executive?" The proposal is referred to the Committee on the Executive Branch.

SECRETARY: "Delegate Proposal No. 15, introduced by W. O. Smith, TO MAKE PROVISIONS OF CONSTITUTION MANDATORY."

PRESIDENT EGAN: "To make provisions of the Constitution mandatory" would that be, Mr. Smith -- The Committee on Preamble and Bill of Rights? Would that come under that? To what committee would you like to refer that?

SMITH: Mr. President, my sole purpose in introducing this proposal before the Convention was to lay that burden on the President's shoulders.

PRESIDENT EGAN: The proposal will be referred to the Committee on the Executive. Are there other proposals?

SECRETARY: No further proposals.

PRESIDENT EGAN: If there are no further proposals, is there anything else to come before the Convention? Mr. Riley.

RILEY: Mr. President, as a special order of business last Wednesday Mr. Sundborg proposed a motion that would operate to modify Rule 50 as adopted earlier in the session, and that motion was in turn referred for a recommendation to the Rules Committee. Now properly this report should be in two parts, but I will ask the indulgence of the Convention to state the whole proposition in view of the fact that the latter part of our report may bear on the Convention action. The motion which was referred to the Committee for recommendation has received an adverse recommendation. The Committee does not endorse it for adoption. On the other hand, the Committee has determined that Rule 50 could be clarified, its language could be improved, and it does submit for the consideration and adoption of the Convention a redraft of Rule 50. That redraft, it should be clearly stated, does not reflect the terms of Mr. Sundborg's motion which was specifically referred to us. On each desk is a copy of the proposed redraft and any action of course on that would have to await action on the motion which was referred to us.

PRESIDENT EGAN: The question before us at this time is on the motion that was previously made by Mr. Sundborg. Will the Chief Clerk read the motion please?

CHIEF CLERK: "That the rules be amended as follows: In Rule 50, line 2. after the word 'thereon' insert the following: 'any article, other appropriate subdivision or group of articles or subdivisions may be returned to second reading for specific amendment by a vote of at least 28 members. After final action on all portions of the constitution separately.'"

PRESIDENT EGAN: What is the wish of the Convention as regards Mr. Sundborg's original motion? The question is, "Shall Mr. Sundborg's motion be adopted?"

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: All those in favor say "aye" -- Mr. Davis?

DAVIS: Mr. President, I think it will take a two-thirds vote since it is a change in the rules. I think it will have to be a roll call vote.

PRESIDENT EGAN: That is right. The Chief Clerk will call the roll.

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

Ayes: 4 - Buckalew, Collins, Kilcher, Sundborg.

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

Absent: 1 - Doogan.)

BUCKALEW: Mr. President, can I change my vote from "no" to "yes".

PRESIDENT EGAN: You Mr. Buckalew. Your vote will be changed from "no" to "yes". Mr. Smith?

SMITH: Mr. President, I move --

PRESIDENT EGAN: The roll has not been announced.

CHIEF CLERK: Four ayes and 50 nays and one absent.

PRESIDENT EGAN: And so the motion as proposed by Mr. Sundborg

has failed and the rules have not been amended. Mr. Smith?

SMITH: Mr. President, does that leave us in position where the rules stand as they were before this motion was made?

PRESIDENT EGAN: That is right.

SMITH: Then this suggested redraft would be an additional amendment? I will make a motion that the suggested redraft be adopted, although I believe that possibly it would have to call for suspension of the rules again, is that correct?

PRESIDENT EGAN: Mr. Smith moves that the suggested redraft of the Rules Committee as relating to Rule 50 be adopted by the Convention. Is there a second?

TAYLOR: I second it.

PRESIDENT EGAN: Mr. Taylor seconds the motion. The subject is open for debate.

R. RIVERS: Mr. President, I think the Secretary should just read it even though we have it before us and then I will ask for unanimous consent.

PRESIDENT EGAN: Will the Chief Clerk read the proposed redraft?

CHIEF CLERK: "Rule 50. After all proposals which are to be included in the Constitution have been agreed upon the Convention shall refer them to the Committee on Style and Drafting for final arrangement in proper order and form.

When the Committee submits the Constitution in proposed final form for adoption, any part of the document may, by an affirmative vote of at least 37 delegates, be opened for specific amendment by reversion to second reading. Should the proposed document be amended it shall again be referred to the Committee on Style and Drafting. After the report of the Committee, the Constitution in final form shall be adopted by the Convention by the affirmative vote of at least 28 delegates."

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, so that our record may be clear on this, I wonder if I may have the indulgence of those who have put the motion, to rephrase it in this way. I move that we strike Rule 50 as it now appears in the rules and in lieu thereof insert the following, and then the text of what has been read by the Chief Clerk.

PRESIDENT EGAN: Mr. Smith, would you. object?

SMITH: No objection.

HERMANN: I would like to ask unanimous consent to put a comma after the word "upon" in the second sentence.

PRESIDENT EGAN: If there is no objection then Mr. Smith's original motion will be worded to state that Rule 50 as it now appears in the permanent rules be deleted and that the suggested redraft as proposed by the Rules Committee of Rule 50 be inserted to take its place. Unanimous consent has been asked that the suggested redraft contain a comma after the word "upon" in the second sentence. The question is open for discussion. If there is no discussion, the Chief Clerk -- Mr. Kilcher?

KILCHER: I think the point of clarification on this subject and for the record some remarks pertaining to the change would be in place. I would like my fellow delegates to observe that in essence Rule 50 has not been changed. The wording in some respects is clearer now, as the first sentence indicates, we don't deal in the first sentence any more with a framed constitution but with an amount of separate proposals. But the 37 votes, the majority of 37 votes required, to amend any of the separate proposals is in essence the same thing as we had before. Here it is spelled more explicitly, but actually this 37-vote majority is the normal majority required to suspend rules, so in essence the situation is the same as it was a week ago. Actually, I do not see why we should go through the motions of adopting this new redraft of Rule 50 unless we also go into a further matter for the record's sake as to the essence of Rule 50, which I last week have tried to change. If I am correct, my objective last week in bringing up this matter was mainly to have the separate proposals considered separate, to make them subject to a straight majority amendability if the need arises, if there should be a substantive conflict, etc. Now there seems to be a possibility to reach the very same objective in another manner through the act of rescinding. Now, if I am wrong, I would like to be corrected. If I understand correctly, any change in a proposal at any time could be effected by reverting to rescinding, and rescinding with given notice would only require a straight majority vote, so actually the objective that I was trying to reach last week can be reached within the rules themselves as they were all along.

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

MCLAUGHLIN: I move the previous question.

PRESIDENT EGAN: Mr. McLaughlin moves the previous question. Is there a second?

BUCKALEW: I second it.

PRESIDENT EGAN: It has been moved and seconded that the previous question be ordered.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that the previous question be ordered.

SUNDBORG: I object.

PRESIDENT EGAN: Objection is heard. All in favor of moving the previous question will say "aye", all opposed, "no". The ayes have it. The previous question is ordered. The question is, "Shall the suggested redraft of Rule 50 take its place in the permanent rules in lieu of the present Rule 50 of our permanent rules?" The Chief Clerk will call the roll.

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

Ayes: 47 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Hellenthal, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, Marston, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 7 - V. Fischer, Harris, Hermann, McCutcheon, McNealy, McNees, Metcalf.

Absent: 1 - Doogan.

CHIEF CLERK: Forty-seven ayes, seven nays, and one absent.

PRESIDENT EGAN: And so the suggested redraft of Rule No. 50 as proposed by the Rules Committee has become a permanent part of the rules. Mr. Sundborg?

SUNDBORG: I move and ask unanimous consent that purely in the interest of uniform form that the new Rule 50, when it is typed into our rules, be typed all in one paragraph and not be broken down into two as it is in the draft which is before us. That would be uniform with the rules which we already have. There are no two-paragraph rules any place else.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? If there is no objection the Secretary is ordered to draft Rule 50 as if it were one paragraph. Is there further business to come before the Convention? Mr. Smith?

SMITH: Mr. President, I would like to ask unanimous consent to revert to committee reports.

PRESIDENT EGAN: Mr. Smith asks unanimous consent to revert to committee reports. If there is no objection you may proceed, Mr. Smith.

SMITH: The Committee on Resources would like to request the services of Ernest R. Bartley and Vincent Ostrom, and I think it would be pertinent to ask the Secretary to make a statement on the qualifications of these men at the appropriate time.

PRESIDENT EGAN: Then you have heard the request of the Chairman of the Committee on Resources. He requests the services of Ernest R. Bartley and Vincent Ostrom for aid in the research work that is necessary in the Committee on Resources. The request will be taken under advisement by the President and the Secretary of the Convention, if that is the wish of the Convention. Mr. Hellenthal.

HELLENTHAL: Mr. President, Committee No. VI on the Elections, Suffrage and Apportionment will hold what may be the first of a series of public hearings at 11 o'clock Saturday morning, next Saturday, and we ask that the delegates take note of that and that appropriate publicity be given of the fact through the office of the Secretary.

PRESIDENT EGAN: You have heard the announcement of the Chairman of Committee No. VI. The hearing will be in Convention Hall in this room. The public hearing that Mr. Hellenthal is speaking of.

HELLENTHAL: No, Mr. President, it was our intention that the Committee hearing be held in the regular meeting place, and should sufficient people appear there it will be recessed to a larger meeting place if the need develops.

TAYLOR: Just for a point of information, I would like to ask what particular matter would be brought up at this time?

HELLENTHAL: Any matters pertinent to the jurisdiction of the committee.

PRESIDENT EGAN: Public notice will be given. Miss Awes?

AWES: Committee No. V, the Committee on Bill of Rights will also hold a public hearing on Saturday and it is scheduled for 9:30 in the regular committee room. Also, the Committee will not meet tomorrow but again Wednesday at the regular time.

PRESIDENT EGAN: You have heard the announcement of Miss Awes. Mr. Sundborg?

SUNDBORG: Committee No. III on Style and Drafting would like to request that the services of Mr. Jack McKay be requested for the duration of the Convention and specifically that the Legislative Council be asked to assign Mr. McKay here with the Legislative Council to bear his salary but the Convention to pay his per diem.

PRESIDENT EGAN: You have heard the request of Mr. Sundborg. If there is no objection the President and the Secretary will ask that Mr. McKay be assigned here for the duration of the Convention. Mr. McNees?

MCNEES: May I ask if that was for the use of the Convention at large?

SUNDBORG: Yes. We know we will want him to some extent for the Committee on Style and Drafting, but our thought was that we don't need him just yet and do not know just yet and we don't know yet until the substantive committees begin to get further along with their proposals, when we will need him, but we think the whole Convention should have the advantage and use of his services.

PRESIDENT EGAN: If there is no objection the Legislative Council will be notified at the request of the Convention to have Mr. McKay here. Mr. Robertson?

ROBERTSON: Mr. President, I have a question to ask along the subject I was discussing with you this noon. Possibly Mr. Riley of the Rules Committee could tell me. What is the procedure if the proponent of a proposal desires to propose an amendment to the proposal other than to bring it simply before the committee itself so that it would come to the attention of all members that proposed amendments?

PRESIDENT EGAN: It would seem to the Chair that you would have to go before the committee, but, Mr. Riley, as Chairman of the Rules Committee, have you taken that particular question into consideration?

RILEY: Mr. President, I don't believe it has arisen any time up to now, certainly not in any committee meetings I have recalled. It would seem one possible solution would be to simply put in another proposal on the same general subject matter which in turn would get it before the same committee which is considering the earlier basic proposal.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I have an idea along that line. I think it was used in the legislature for many years. It is the fact that the bill is in committee now, in the Judiciary Committee. The fact that it is in there, the committee can amend that bill

and report it in as a committee amendment or rewrite the proposal and call a committee substitute for Mr. Robertson's proposal. I think it can be left up to the committee to take care of those particular --

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. Chairman, is there any reason why the author of a proposal cannot amend it himself in second reading after it comes out on the floor?

PRESIDENT EGAN: There is no reason why he could not attempt to do so Mrs. Hermann. There is also no reason, the Chair would feel, why the maker of the proposal might not ask unanimous consent or move to have the proposal withdrawn. Is there further discussion? Mr. Secretary do you have something? The Secretary states that the Committee on Administration has completed its arrangements for having new chairs and tables for the delegates' pleasure here in Convention Hall and that they plan to make this change immediately following the adjournment this afternoon, and if the delegates are around and wish to choose their various seats they are welcome to do so after the change has been made. Mr. Ralph Rivers.

R. RIVERS: Mr. President, the Judiciary Committee is going to meet at the TV station at 4 o'clock today, and I thought perhaps Mr. McLaughlin, our Chairman, would like to tell about transportation or such.

PRESIDENT EGAN: Would you like to comment, Mr. McLaughlin?

MCLAUGHLIN: There will be a rump session of the Committee on the Judiciary immediately after the adjournment of this session. Transportation is available to members of the Committee if anyone desires to go downtown immediately.

PRESIDENT EGAN: Mr. McLaughlin, you will appear on Channel 11 at 4 p.m.? Mr. Nerland, did you bring out that TV set?

NERLAND: Yes, it is all set up upstairs.

PRESIDENT EGAN: If any delegates who are still here wish to view the Committee on the Judiciary on television beginning at 4 o'clock this afternoon, Mr. Nerland has been kind enough to bring a television set out for the delegates. Mr. Coghill?

COGHILL: It might be well to point out that the Committee on Convention Administration made the proposal in their first report for the chairs and tables, and it was the wish of this Committee to have it brought before the floor as to whether they want the chairs and table arrangement placed in the Convention Hall this afternoon. I don't believe that was followed through after your announcement.

PRESIDENT EGAN: Mr. Coghill, the Chair has stated to the members it was going to be done. The Chair did not hear any objection. The Chair would feel the Convention delegates are practically unanimous in their feeling for that change. Is there anything further to come before the Convention at this time? Mr. Sundborg?

SUNDBORG: I notice that some new equipment has appeared before us today, the soundscribing equipment. I take it this is the permanent equipment for which we arranged. I notice too, that Mr. Carozza of the company that installed the equipment at our request, is here. I wonder if we might request that he explain to us just how it works and what he would like us to do when speaking if we're not doing it right and subjects of that kind?

PRESIDENT EGAN: You have heard the request of Mr. Sundborg. Is there objection? Mr. McNealy?

MCNEALY: I would move that we revert to a Committee of the Whole for the purpose of hearing Mr. Carozza.

PRESIDENT EGAN: Mr. McNealy asks unanimous consent that we revert to a Committee of the Whole for the purpose of hearing Mr. Carozza explain the ramifications of the new equipment. Is there objection? Hearing no objection then the Convention will resolve itself into a Committee as a Whole. Mr. McNees?

MCNEES: I would like to make one comment here today. Day after day in this afternoon session we are losing an important portion of our own committee time due to the fact that we must adjourn on schedule so that they can go into an additional committee.

PRESIDENT EGAN: Is there objection to resolving the Convention into a Committee of the Whole for the purpose of hearing Mr. Carozza? If there is no objection the Committee is resolved to a Committee of the Whole. Mr. Hilscher, will you take the Chair please?

COMMITTEE OF THE WHOLE

(At this time the Committee of the Whole met. Mr. Hilscher presided.)

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

KILCHER: Unless it is entirely out of order or unless the Committee on Style and Drafting or somebody else has objection, I would make a suggestion to the Chair, as in the case of the Mr. Rivers, and with Mr. Hilscher, that we all four be called by our first names. If I am not wrong, the Chair awhile ago has called Mr. Kilcher, "Mr. Hilscher".

PRESIDENT EGAN: Hereafter the Chair will call Mr. Hilscher and Mr. Kilcher by their first names also. Mr. Hellenthal?

HELLENTHAL: I move we adjourn until the regular time tomorrow morning at 9 o'clock.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow morning. Is there objection? Mr. McNealy?

MCNEALY: Mr. President, I would like to announce immediately after recess Committee No. IV on Ordinances will meet.

PRESIDENT EGAN: The Convention will stand adjourned until 9 o'clock tomorrow morning.

ALASKA CONSTITUTIONAL CONVENTION

November 22, 1955

FIFTEENTH DAY

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

REVEREND ALFSEN: Let us pray. Almighty God, unto Whom all hearts are open, all desires known, and from Whom no secrets are hid, deliver this assembly, O Lord, from arrogance and from impatience, from wilful misunderstanding of each other's difficulties. And grant unto each member a full measure of kindness and love, through Christ, Our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. We will proceed with the regular order of business. Mr. White, the reading of the journal of the 11th day?

WHITE: Mr. President, the Committee to read the journal recommends the approval of the journal for the 11th Convention day, November 18, with the following changes: On Page 2 --

PRESIDENT EGAN: Does everyone have a copy of the journal for the 11th day? Mr. White, would you mind deferring that until the members all have a copy of that? How many do not have a copy of the journal of the 11th day? If there is no objection we might just pass that order of business until later in the session. The presentation of petitions, memorials and communications from outside the Convention. Are there any communications, petitions or memorials?

SECRETARY: Mr. President, there is a letter from the Mayor of Skagway discussing certain provisions of a right-to-work clause in a possible constitution.

PRESIDENT EGAN: The communication can be made available to the Committee on Preamble and Bill of Rights. Are there other communications?

JOHNSON: Mr. President, I would like a copy of that communication also if it is going to be mimeographed, for my own information.

PRESIDENT EGAN: If there is no objection the Secretary will run off a few copies of that communication. So ordered. Are

SECRETARY: No other communications.

MARSTON: May I make a communication direct?

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

MARSTON: At the suggestion of Delegate Truman Emberg, I move and ask unanimous consent that this organization extend to the Air Force appropriate appreciations for the party and the fine instructions they gave us out there. I wish to comment on that. I notice that he said one-fifth of our information came from the Natives along the coast line on enemy operations. I think that is a civilian operation and that young man, Sergeant Walunga, who has been decorated by the Navy just yesterday, I swore his father into the Alaska Territorial Guard as an officer 13 years ago. The General said, and I think we should take heed of what he said and take it back to our respective villages, that if you want to lay down a propaganda or good will missionaries to America, you make friends with these 80,000 soldiers here and coming each year to our shores. He also said that you look out for yourself. This Army is not out here to defend us as individuals. They are there to defend that piece of ground they are on for America, for all of America and not us. General Simon Buckner told me during the war, "You tell the people of Anchorage they are on their own -- I am here to defend this plot of ground." He said we should look out for our civilian defense. That is a warning we should take back home to all the people of Alaska as delegates. I think these things should be made note of and that we as representatives of this group carry the information back. That is all.

PRESIDENT EGAN: Mr. Marston, were you asking unanimous consent that a proper communication be written by the secretariat and sent to General Atkinson and General Bennett, the Commander at Ladd Air Force Base and General Ruggles of the Army?

MARSTON: Yes, that is the request.

PRESIDENT EGAN: If there is no objection so ordered and a proper note of appreciation will be sent to the generals. Are there reports of standing committees? Mr. Smith?

SMITH: Mr. President, I would like to announce that the Committee on Resources will meet at 11 a.m., our scheduled time, in this room rather than our committee room.

PRESIDENT EGAN: Mr. Smith announces a meeting of the Committee on Resources at 11 a.m. in this room here.

SMITH: I might say further that the reason for that is that

we will have present at our meeting this morning Delegate Bartlett to discuss the relationship between the various enabling acts and the constitution, and it was thought that a considerable number of delegates might wish to hear this discussion, and that was the reason for holding the meeting in this room, and that of course is provided that no other dispensation of this room at that time has been made. I have one other announcement to make in regard to the Resources Committee. The Resources Committee will hold its first public hearing Saturday afternoon, a week from this coming Saturday. I do not have a calendar so I don't know the date, but it will be a week from this coming Saturday afternoon, and I will try to get a time to you later.

PRESIDENT EGAN: Mr. Smith announces that the Resources Committee will hold a public hearing one week from this coming Saturday. Mr. Rosswog?

ROSSWOG: Mr. Chairman, the Local Government Committee No. XII will hold their meeting at 11 o'clock this morning because of a conflict with one of the other committees this afternoon. We may hold our regular meeting but this will be a special meeting this morning.

PRESIDENT EGAN: You have heard the announcement. Committee No. XII will meet at 11 o'clock this morning rather than in the afternoon. Mr. Collins?

COLLINS: Committee on Direct Legislation and Revision, No. XIII, will meet as scheduled.

PRESIDENT EGAN: Committee No. XIII will meet as scheduled today, the Committee on Direct Legislation. Mr. Coghill?

COGHILL: The Committee on Administration will meet on schedule.

PRESIDENT EGAN: The Committee on Administration will meet on schedule. Mr. Cross:

CROSS: The Committee on Resolutions, No. XIV will meet in the gallery immediately after this session.

PRESIDENT EGAN: The Committee on Resolutions will meet in the gallery immediately after this session. Mr. Sundborg?

SUNDBORG: Committee No. III, Style and Drafting, will meet at 11 o'clock as usual.

PRESIDENT EGAN: Committee No. III, Style and Drafting, will meet at 11 o'clock. Are there other reports? Introduction of first reading of proposals. Are there any proposals to be introduced at this time? Mr. Robertson?

ROBERTSON: Question. Is Proposal No. 12 ready for distribution yet?

PRESIDENT EGAN: Proposal No. 12? Is it ready for distribution?

CHIEF CLERK: I don't think it is ready. It is not assembled yet.

PRESIDENT EGAN: Evidently it is not quite ready, Mr. Robertson. If there are no proposals, are there any motions and resolutions to come before us at this time?

SECRETARY: Mr. President, "Resolution introduced by Mr. Yule Kilcher restoring the original name of 'Denali' to the mountain now called 'Mt. McKinley'."

PRESIDENT EGAN: A resolution by Mr. Kilcher restoring the name of -- Mr. Kilcher?

KILCHER: I move and ask unanimous consent that the rules be suspended and this resolution advanced to third reading.

PRESIDENT EGAN: Mr. Kilcher moves and asks unanimous consent that the rules be suspended and that this resolution be advanced to third reading.

SUNDBORG: I object.

PRESIDENT EGAN: Objection is heard.

KILCHER: I so move.

PRESIDENT EGAN: Mr. Kilcher so moves.

PERATROVICH: I second the motion.

PRESIDENT EGAN: Mr. Peratrovich seconds the motion. On a suspension of the rules it cannot be debated. A suspension of the rules is undebatable. Mr. Taylor?

TAYLOR: I rise to a point of order. I don't believe that under the rules of parliamentary procedure you can advance a resolution from direct to third reading, from first and bypass second reading.

PRESIDENT EGAN: Mr. Taylor, your point of order from first reading to third reading on a suspension of the rules, the Chair will have to admit -- if there is no objection the Convention will stand at recess for one minute. The Convention is at recess.

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

would feel that in the absence of any definite restriction that a suspension of the rules on anything in this body, due to the absence of any organic act governing the action of this body, that a suspension of the rules would technically be in order, but as to the propriety of such a move the Chair is in doubt. The question is, "Shall the rules be suspended?"

DAVIS: I call for a roll call vote.

PRESIDENT EGAN: The Chief Clerk will call the roll. "Shall the rules be suspended and Mr. Kilcher's resolution be advanced to third reading?"

BARR: Is there anything in Robert's Rules of Order about jumping from first reading to third reading? I can understand how it could be advanced to second reading and then the rules be suspended and advanced to third reading. Is there anything to allow that?

PRESIDENT EGAN: Mr. Barr, so far as the Chair can determine, there is nothing in Robert's Rules of Order that covers that question. In certain other assemblies there are such things as the Alaska Organic Act that takes care of that, but here we don't have such a restriction. The question is, "Shall the rules be suspended and Mr. Kilcher's resolution be advanced to third reading?"

ROBERTSON: Mr. President, may we have the resolution read.

PRESIDENT EGAN: The Secretary will read the resolution in its entirety.

SECRETARY: Resolution by Yule F. Kilcher, "Restoring the original name of Denali to the mountain now called Mt. McKinley.

WHEREAS Alaska's mountains command our love and and admiration, and Whereas one mountain more than any other is identified with Alaska, and

WHEREAS the beautiful, ancient name of this mountain is familiar to all Alaskans

THEREFORE BE IT RESOLVED:

That the original name of Denali be restored to Alaska's most majestic mountain and North America's highest peak, now called Mt. McKinley."

HELLENTHAL: Mr. President, I rise to a point of order. It would appear to me that this body has no jurisdiction over the subject matter of this resolution. We adopted a resolution that the constitution would be confined to basic matters, matters of principle, rather than matters of minute legislation.

Surely this patently on its face, violates the resolution of this body. It would seem to me the expeditious and quick way of disposing of it would be to rule that it was beyond the jurisdiction of the body and then perhaps there could be an appeal from the ruling of the Chair. That is my point of order. We have no jurisdiction over this matter.

PRESIDENT EGAN: Mr. Hellenthal, the Chair would feel that a resolution would not necessarily become a part of the constitution, and regardless, that it might be a directive or request of this Constitutional Convention that some matter be taken under consideration. The Chair could not quite see that under those circumstances that the Chair could declare it completely out of order. The question is on the suspension of the rules to advance this resolution from first to third reading at this time, and the Chief Clerk will call the roll.

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

Ayes: 6 - Collins, Harris, Kilcher, Peratrovich, Stewart, Smith

Nays: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Taylor VanderLeest, Walsh, White, Wien, Mr. President.)

CHIEF CLERK: Six ayes and 49 nays.

MCNEES: I would like to explain my vote on that. I am heartily in sympathy with the idea, but the proposer of the resolution told me he had done it without purpose.

PRESIDENT EGAN: The motion has failed and the resolution will be referred to the Committee on Resolutions. Are there other resolutions to come before us at this time?

SECRETARY: No further resolutions, Mr. President.

PRESIDENT EGAN: Is there any unfinished business? Are there special orders of the day or general orders of the day?

PRESIDENT EGAN: Mr. White, are the journals before the delegates at this time?

WHITE: Mr. President, I understand the Sergeant at Arms has

copies of the journal. I wonder if with unanimous consent we might return to the order of reading of the journal.

PRESIDENT EGAN: If there is no objection we will return to the order of business of the reading of the journal at this time.

WHITE: Mr. President, the Committee on reading the journal recommends the approval of the journal for the 11th Convention day, November 18, with the following changes: On Page 2, paragraph 2, before the name "Rivers" insert "V." Same page, first paragraph under Committee Reports, line 6, last word, change "memorandum" to "memoranda". That is all the changes, Mr. President.

PRESIDENT EGAN: You have heard the report of the Chairman of the Committee that has been designated to read the journal. You have heard his suggestions for corrections. Is there objection? Mr. Doogan?

DOOGAN: Not an objection, but I would like to be shown present on the roll call even if I was a little late.

PRESIDENT EGAN: If there is no objection, Mr. Doogan will be shown present on the roll call even though he was a few minutes late. The Chair has been asked to ascertain whether each delegate is satisfied with his new seating arrangement. If there should be any changes that you would like to have made during the recess or during an adjournment that undoubtedly could be accomplished, and later all your seating places will be marked. Mr. Sundborg?

SUNDBORG: I would just like to observe that one of our two "Fischers" has ended up stranded between two "Rivers".

PRESIDENT EGAN: Quite an observation, Mr. Sundborg. Mr. Taylor?

TAYLOR: Mr. President, I move that we unanimously approve the installation of the tables and chairs here, much as we are sorry to get rid of the little chairs we have had.

JOHNSON: I ask unanimous consent to that motion.

PRESIDENT EGAN: Unanimous consent has been asked that approval be given to the Committee on Administration for the manner in which they have made the new seating arrangements. Hearing no objection it is so ordered. Is there any other business to come before the Convention at this time? If there is no objection, the Secretary has a statement he would like to make to the Convention at this time.

SECRETARY: We received reports that in some of the constitutional

studies issued on behalf of the Statehood Committee, there were pages either upside down or improperly printed. Not to apologize, but there were difficulties in the operation of the machine at the beginning of the production process. There are now extra copies available if anyone has a faulty copy they may be obtained through the librarian, a replacement for a copy you may have that is not perfect.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I noted on reading the daily newspaper last night in the schedule of events that this Convention is apparently invited to attend some kind of affair at Eielson Air Force Base tonight, and that is some miles out of town. I wonder if any arrangements have been made or if there is such an invitation.

PRESIDENT EGAN: We had attempted to learn something about that yesterday. Mr. Secretary, do you have a report on that?

SECRETARY: I apologize. We received a report late last night that the entertainment scheduled had been cancelled or postponed.

PRESIDENT EGAN: Is there any other business at this time? Mr. Johnson?

JOHNSON: I move that the Convention stand at recess until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand at recess until 1:30 p.m. Hearing no objection the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson?

JOHNSON: I move and ask unanimous consent that the Convention revert to the order of business on introduction and first reading of proposals.

PRESIDENT EGAN: If there is no objection, Mr. Johnson asks unanimous consent that the Convention revert to the introduction of proposals. Hearing no objection it is so ordered. Mr. Johnson, you have a proposal?

CHIEF CLERK: "Delegate Proposal No. 16, introduced by Mr. Maurice T. Johnson, A SUGGESTED PREAMBLE."

PRESIDENT EGAN: Committee on Preamble and Bill of Rights, the proposal is referred to.

CHIEF CLERK: "Delegate Proposal No. 17, introduced by Warren A. Taylor, PUBLIC WELFARE."

PRESIDENT EGAN: The proposal will be referred then to the Committee on the Executive Branch. Are there other proposals?

DOOGAN: Point of order, Mr. Chairman. I believe that should be referred to the Committee on Preamble and Bill of Rights.

PRESIDENT EGAN: The Chair is taking your suggestion under advisement, Mr. Doogan. Mr. Taylor, you suggested that you would like to have it go to the Committee on the Executive Branch, but perhaps Mr. Doogan is correct that the Committee on Preamble and Bill of Rights would be where those sections might appear. Miss Awes?

AWES: Maybe I can say something on that. The other day there was a proposal dealing with both education and welfare, which was referred to Preamble and Bill of Rights. There was another proposal on education which was referred to Mr. Collins' committee, and Mr. Collins and I talked it over and he said he was going to refer it to our committee so it would all be in one committee, and I would suggest this on welfare, whether it's our committee or some other committee, it should all be in the same one.

PRESIDENT EGAN: Let the journal stand corrected then and the statement of the Chair is that the proposal is referred to the Committee on Preamble and Bill of Rights. Are there other proposals? The Chair would like to announce at this time that the President would like to meet with the secretaries of all standing committees tomorrow afternoon at 1 in Room 208 on the third floor. Do you have any communications?

CHIEF CLERK: A letter from Acting Governor Waino E. Hendrickson.

(The Chief Clerk read a letter from Acting Governor Waino E. Hendrickson requesting a leave of absence for John B. Coghill to attend the President's White House Conference on Education.)

PRESIDENT EGAN: The leave that would be requested for Mr. Coghill would be from this last Saturday until coming Monday a week about a nine day period of time, and if there is no objection the Chair will adhere to the request from the Governor of Alaska and allow Mr. Coghill a leave of absence in order to attend this important conference at the White House. Is there objection? Hearing no objection it is so ordered. Mr. Coghill is granted a leave of absence during that period of time. Are there other communications?

CHIEF CLERK: I don't have any more.

PRESIDENT EGAN: Is there any unfinished business to come before the Convention at this time? Mr. Johnson?

JOHNSON: Mr. President, I move and ask unanimous consent that the prayer given this morning be spread upon the journal of today's proceedings in its entirety.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the prayer given this morning be spread upon the journal of today's proceedings in its entirety. Is there objection? Hearing no objection it is so ordered and the prayer will take its proper place in the journal. Is there any other unfinished business to come before the Convention? Mr. McNealy?

MCNEALY: I have just one. The Committee on Ordinances will meet in the gallery immediately following this session.

PRESIDENT EGAN: Are there other announcements or anything else to come to the attention of the Convention? If there are none the Chair will entertain a motion for adjournment. Mr. Johnson?

JOHNSON: Mr. President, I move and ask unanimous consent that the Convention stand adjourned until tomorrow morning at 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand adjourned until tomorrow morning at 9. Is there objection? Hearing no objection it is so ordered and the Convention stands adjourned until 9 o'clock tomorrow morning.

ALASKA CONSTITUTIONAL CONVENTION

November 23, 1955

SIXTEENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Jess W. Thompson, pastor of the Fairbanks Evangelical Lutheran Church. Reverend Thompson will give the daily invocation.

REVEREND THOMPSON: Let us join our hearts in prayer. Come let us give thanks unto the Lord, for He is good and His mercy endures forever. Our Heavenly Father, for the night of rest and the beautiful new day which has been given to us, we give Thee thanks; for all the blessings which have been given to us, for life, health, and every good thing. Tomorrow when we as a nation and as a community pause in our duties to worship and give thanks to Thee for the blessings of the year, wilt Thou grant to the heart of all people a spirit of thankfulness. We pray that since Thou art Lord of all, Thou wilt be present here in this assembled Constitutional Convention, and we pray for the awareness of Thy Presence. Wilt Thou grant to these delegates the wisdom of knowing what should be done, the skill of knowing how it should be done and the virtue of doing it. May there be no cobwebs in their brains nor lead in their feet as they continue to carry on in this important work of preparing the constitution which shall govern the State of Alaska. Be with us, be with them. May Thy will be done, through Christ our Lord. Amen.

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will call the roll.

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

CHIEF CLERK: All present.

PRESIDENT EGAN: A quorum is present. We will proceed with the regular order of business. We will have the reading of the journal of the 14th day.

DOOGAN: Mr. President, on page 4 of the journal, in the first paragraph starting "Mr. Sundborg" line 2, strike the word "that". On page 5 where the name "Mr. Hilcher" appears in two places, it should be "Mr. Hilscher". With those corrections I move and ask unanimous consent that the journal be adopted.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that the journal of the 14th day with the recommended corrections of the committee that has read the journal be accepted by the Convention. Is there objection? Hearing no objection it is so ordered and the journal will become approved. Are there any petitions, memorials, or communications from outside the

Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced?

SECRETARY: "Delegate Proposal No. 18, introduced by Mr. Emberg and Mr. Hellenthal, NATURAL RESOURCES: MAXIMUM PUBLICITY AND PUBLIC HEARING AFTER NOTICE, WHERE DISPOSAL OF NATURAL RESOURCES INVOLVED."

PRESIDENT EGAN: The proposal is referred to the Committee on Resources, Committee No. X.

SECRETARY: No further proposals, Mr. President.

PRESIDENT EGAN: Are there any motions or resolutions? Is there any unfinished business? Is there any new business or general orders of the day? If not, the Chair would entertain a motion for recess. Mr. Ralph Rivers?

R. RIVERS: Mr. President, I would move that we recess until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Ralph Rivers moves and asks unanimous consent that the Convention stand at recess until 1:30 p.m. Is there objection? Hearing no objection the Convention is at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have anything before us at this time, Mr. Secretary?

SECRETARY: Mr. President, a communication from outside the Convention from Ernest Patty, President of the University of Alaska. Do you wish me to read it?

PRESIDENT EGAN: You may read it.

(The Secretary read the communication advising the Convention of the special convocation to be held November 29, at 2 o'clock p.m., to hear speeches by Senator Knowland and former Governor Gruening. At the end of the ceremony, honorary degrees will be presented to these two outstanding men. A special invitation was extended for the delegates to attend in a body.)

PRESIDENT EGAN: What is the wish of the Convention relative to this subject? Mr. Johnson?

JOHNSON: Mr. President, I move and ask unanimous consent that we accept the invitation of the President and arrange to recess the Convention during the convocation and attend in a body.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that we accept the invitation extended by the President of the University and the Convention arrange to adjourn during the convocation and attend in a body. Is there objection? Hearing no objection it is so ordered. Is there other business to come before the Convention? If there is no objection the Convention will be at ease for a few moments. The Secretary has a request for information from the Fairbanks Chamber of Commerce. If there is no objection the Secretary may proceed and the Convention is at ease. The Convention will come to order. Mr. Sundborg?

SUNDBORG: Mr. President, I would like to inquire whether we have had any answer from Senator Knowland to our invitation which we extended to him to address the Convention during his visit to Fairbanks or College.

PRESIDENT EGAN: Mr. Sundborg, no such answer has been received, but the Chair does not believe that the communication went out as quickly as that. Is that right, Mr. Secretary?

SECRETARY: About a week ago. I don't remember exactly.

SUNDBORG: It occurs to me that if we attend in a body the convocation and hear Senator Knowland give what will certainly be a major address, perhaps that will suffice and we should not put him to the additional trouble of trying to devise a particular speech for the Convention.

PRESIDENT EGAN: Of course that will probably be contained in whatever answer we receive from Senator Knowland. Is there further business to come before the Convention at this time? If not, the Chair will entertain a motion for adjournment. Mr. Buckalew?

BUCKALEW: I move that we adjourn until 9 o'clock Friday morning.

PRESIDENT EGAN: Mr. Buckalew moves and asks unanimous consent that the Convention stand adjourned until 9 a.m. Friday. Is there objection? Objection is heard. Mr. Metcalf?

METCALF: I object. I am a little confused on these minutes here.

PRESIDENT EGAN: The journal, Mr. Metcalf?

METCALF: The 14th Convention day, dated November 21, and then the journal of the 15th day, November 18.

PRESIDENT EGAN: Mr. Metcalf, the Chair might state that the journal of the 15th day has not been approved as yet, so that will probably be caught by the special committee to read the

journal, Mr. Doogan. Is there objection to the Convention standing adjourned until 9 a.m. Friday? Mrs. Hermann?

HERMANN: I have no objection, but I want to know if Friday is the same kind of holiday as the Veteran's Day was -- a Territorial holiday?

PRESIDENT EGAN: It is the understanding of the Chair that most business establishments would observe Friday as being the Thanksgiving Day in certain areas, but Thursday is the official day for Thanksgiving. Is there objection to the adjournment?

TAYLOR: Does that mean we are going to work on Thanksgiving, Mr. President?

PRESIDENT EGAN: Not officially as it relates to the Convention. Mr. Walsh?

WALSH: Is Friday a Territorial holiday? I might ask that question.

PRESIDENT EGAN: The Chair has no reason to believe that Friday is a Territorial holiday. No.

WALSH: What was your request on Friday, Mrs. Hermann?

HERMANN: The same as yours.

PRESIDENT EGAN: She asked the same question. If there is no objection the Convention will stand adjourned until 9 a.m. Friday. The Convention is adjourned.

ALASKA CONSTITUTIONAL CONVENTION

November 25, 1955

EIGHTEENTH DAY

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

LAMBERT: Let us pray. Most gracious God, we humbly beseech Thee as for the people of Alaska, and so especially for the Constitutional Convention delegates here assembled that Thou wouldst be pleased to direct and prosper all consultations to the advancement of safety, honor and welfare of Thy people, that all things may be settled by their endeavors upon the sure foundation that happiness, truth and justice may be established. We humbly beg in the name of Jesus Christ our Saviour. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. We will proceed with the order of business. Does the Committee to read the journal have a report to make at this time?

KNIGHT: The committee on the journal reports just two minor corrections. Top of page 1 should be "November 22" instead of "November 18", and the last line on page 1 should be "November 22" instead of "November 18". At this time I ask unanimous consent that the journal be adopted.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the corrections as proposed by the committee to read the journal be accepted by the Convention. Is there objection? Hearing no objection it is so ordered and unanimous consent is asked that the journal of the 15th Convention day be adopted. Is there objection? Hearing no objection it is so ordered and the journal of the 15th day is ordered adopted by the Convention. Presentation of petitions, memorials, communications from outside the Convention?

SECRETARY: None.

PRESIDENT EGAN: There are none. Reports of standing committees? Reports of select committees? Introduction and first reading of proposals?

JOHNSON: I have a proposal.

PRESIDENT EGAN: Mr. Johnson has a proposal.

SECRETARY: "Delegate proposal No. 19, introduced by Mr. Maurice Johnson, DEALING WITH THE DISTRIBUTION OF POWERS."

PRESIDENT EGAN: The Distribution of Powers -- the Committee on Executive? The proposal is referred.

JOHNSON: Mr. President, I believe that should be referred to the Committee on Bill of Rights.

PRESIDENT EGAN: If there is no objection then the suggestion of Mr. Johnson will be the reference of the Chair and the proposal will be referred to the Committee on Preamble and Bill of Rights. Are there other proposals?

SECRETARY: No further proposals.

PRESIDENT EGAN: We will revert back, if there is no objection, to the reports of select committees. Mr. Buckalew?

BUCKALEW: Mr. President, I almost forgot that our committee was a duly constituted and I wish to report along with Mr. Johnson that we have the gavels returned to the President with the necessary engraving.

PRESIDENT EGAN: Mr. Buckalew, the Chair would like at this time to express appreciation to the special committee to take care of these gavels. They have done a wonderful job in the opinion of the Chair. At this time, the Chair would like to ask the Sergeant at Arms to come forward and deliver this gavel which belongs to Mrs. Hermann, to her, at this time with very appropriate engraving on the gavel, and it is with pleasure that we present the gavel to Mrs. Hermann. Mr. Buckalew, perhaps you can read the inscription.

BUCKALEW: I was going to ask Mr. President to do it. I feel the Chair would have more dignity.

"Gavel used by Hon. B. Frank Heintzleman to open Alaska Constitutional Convention, University of Alaska, 1955, Mildred R. Hermann, President Pro tem"

PRESIDENT EGAN: Mrs. Hermann, we wish again to inform you that you really did a wonderful job as temporary Chairman of the Convention, and we are certainly happy to have that engraving inscribed on your gavel in appreciation of you. Mr. Hilscher?

HILSCHER: Mr. President, as a point of information, is there anything significant to the fact that Mrs. Hermann is not wearing a hat today? Does that mean she is going to stay until the Convention is finished?

PRESIDENT EGAN: Perhaps there is some significance there, Mr.

Hilscher. The President, in line with Mr. Buckalew's suggestion, will read the inscription on this gavel:

"Official Gavel, Alaska Constitutional Convention, 1955,
University of Alaska"

JOHNSON: Mr. President, you left out a line.

PRESIDENT EGAN: "William A. Egan, President". The President would also like to express his appreciation to the special committee for the wonderful letter opener that they have presented to the President.

BUCKALEW: Mr. Egan, would it be all right if I presented that letter opener to you on behalf of the Convention? Send it over and I will read the inscription. Delegates, we are presenting this to Mr. Egan. Somebody gave it to us and we in turn are giving it to Mr. President. It says:

"Presented to William A. (Wild Bill) Egan, President, Alaska
Constitutional Convention, by Delegates."

I wanted to put that "Wild Bill" on the one we put in the museum but I figured it would confuse the historians.

PRESIDENT EGAN: Are there any motions or resolutions to come before us at this time?

SECRETARY: None, Mr. President.

PRESIDENT EGAN: Is there any unfinished business? Are there any special orders of the day? Mr. Robertson?

ROBERTSON: Mr. President, I think the Chairman of the Recommendations and Resolutions Committee has a report to submit.

PRESIDENT EGAN: If there is no objection we will revert to the reading of committee reports at this time. Mr. Cross?

CROSS: I have been requested to delay this report for a day or two. If there is no objection I would like to delay the report.

PRESIDENT EGAN: Mr. Cross asks that the report be delayed for a day or two. The Chair would like to at this time ask that if members, as soon as they rise, they would speak out and address the Chair for the reason that the seating arrangement as it is now it is very hard sometimes if you are busy on the floor, and several people might be rising, to see right off to the direct right and left. The other day an occurrence happened where the Chair did not see a person who had risen before the other. Under those circumstances it would be well that as soon as you rise on the floor to address the Chair

so the Chair can hear someone is attempting to get the floor. Mr. Johnson?

JOHNSON: If a resolution which I was asked to present on the first day of the session had received a second and carried, that would be a regular rule of this Convention. You may recall that. It failed because of the want of a second. I do not know why.

PRESIDENT EGAN: Is there any other business to come before the Convention at this time? Mr. Collins?

COLLINS: I wish to announce Committee XIII, Direct Legislation, will meet on schedule.

PRESIDENT EGAN: The Committee on Direct Legislation will meet on schedule. Mr. Coghill?

COGHILL: The Committee on Convention Administration will meet on schedule. Mrs. Sweeney?

SWEENEY: The Committee on Legislative Branch will not meet at its regular time this afternoon but will join with the Committee on Apportionment at 11 o'clock this morning.

PRESIDENT EGAN: You have heard the announcement relative to the Committee on Legislative Branch. Are there other reports of committees? If not, the Chair will entertain a motion for recess.

DAVIS: Mr. President, I move we recess until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Davis moves and asks unanimous consent that the Convention stand at recess until 1:30 this afternoon. Is there objection? There will be a meeting of the secretaries of the committees at 12:30 -- a no-host lunch. The Convention will come to order. There will also be a meeting of the committee chairmen at 1 p.m. If there is no objection the Convention will stand at recess until 1:30 p.m. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have any business to come before us at this time? Mr. Taylor?

TAYLOR: I would like to ask unanimous consent to revert to introduction of proposals.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that the Convention revert to the introduction of proposals at this time. Is there objection? Hearing no objection, Mr. Taylor's

proposal may be introduced. Are there other proposals?

SECRETARY: There are, Mr. President. "Delegate Proposal No. 20, introduced by Mr. Hinckel, TO LIMIT THE ASSESSED VALUATION OF A SINGLE FAMILY DWELLING, OCCUPIED BY THE OWNER AS A HOME AND PLACE OF RESIDENCE."

PRESIDENT EGAN: The Committee on Finance.

SECRETARY: "Delegate Proposal No. 21, introduced by Mr. Harris, RIGHT OF SELF DETERMINATION."

PRESIDENT EGAN: The proposal is referred to Committee No. V on Preamble and Bill of Rights.

SECRETARY: "Delegate Proposal No. 21, introduced by Mr. Taylor, JUDICIAL BRANCH."

PRESIDENT EGAN: The proposal is referred to Committee No. IX, the Committee on Judiciary Branch. Are there any other proposals to be introduced at this time? If not, any other business to come before the Convention? Mr. Buckalew.

BUCKALEW: I move and ask unanimous consent that the committee on gavels, engraving and other trivia be dissolved as they have accomplished their mission.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that the committee on gavels be dissolved. If there is no objection the Chair will order the committee dissolved. Is there any other business to come before the Convention at this time? Mr. King?

KING: The University of Alaska has a large oil painting of the Cathedral mountains in the Chilkat mountain range. I asked Dr. Patty this morning if we could use it here in Convention Hall. It has particular significance to the President of this chamber as the same artist painted the picture behind your seat as Speaker of the House. I have permission to use that here, with your permission.

PRESIDENT EGAN: What is the pleasure of the Convention as regards Mr. King's request? Is there objection to having Mr. King --

KING: Mr. Chairman, I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked by Mr. King that the picture in question be brought here and accepted from Dr. Patty for the use of the Convention while we are in session. Is there objection? Hearing no objection the Chair will appoint Mr. King and Mrs. Sweeney as a committee of two, to take care of that matter. Is there other business to come

before the Convention? If not, the Chair will entertain a motion for recess. Mr. Buckalew?

BUCKALEW: Mr. President, I move that we adjourn until 9 'clock tomorrow morning.

PRESIDENT EGAN: Mr. Buckalew moves and asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow. Is there objection? Hearing no objection it is so ordered and the Convention is adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

November 26, 1955

NINETEENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Charles C. Powers of the Totem Park Church of the Nazarene who will give us our daily invocation.

REVEREND POWERS: Gracious Heavenly Father, we pray that Thou wilt be with us this morning. We thank Thee for this Convention and for the work that is being accomplished at this time. We pray, our Heavenly Father, that Thou wilt bless each member and their family. Help them as they labor here that they will give us a constitution to show us American rights. Give them courage and help. Give them blessing from God in Heaven. Be with us at this time. In Jesus' name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: Six absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Does the Committee to read the journal have a report? Mr. White?

WHITE: Mr. President, the Committee to read the journal recommends the approval of the journal for the 16th day without any changes.

PRESIDENT EGAN: The Committee to read the journal recommends the adoption of the journal of the 16th day without any changes. Unanimous consent is asked by Mr. White. Is there objection? There being no objection, it is so ordered and the journal for the 16th day is adopted. Are there any petitions, memorials or communications from outside the Convention? If not, are there reports of standing committees? Mr. Rosswog?

ROSSWOG: No. I, Local Government Committee, will meet at 11 o'clock this morning rather than this afternoon.

PRESIDENT EGAN: No. I, Local Government Committee, will meet at 11 o'clock this morning rather than this afternoon. Are there other committee reports?

COLLINS: Committee No. XIII will meet on schedule as this afternoon.

PRESIDENT EGAN: Committee No. XIII will meet on schedule this afternoon. Are there other committee reports? Mr. Marston?

MARSTON: I would like to ask the privilege of the floor.

PRESIDENT EGAN: Mr. Marston asks the privilege of the floor. Is there objection?

SUNDBORG: Mr. President, I would just like to observe that the soundscoring machine does not seem to be operating today. If Mr. Marston would like his remarks taped maybe he should wait.

MARSTON: I would like to have that. I think it should be. Thank you.

PRESIDENT EGAN: Mr. Marston, would you like to delay your request until later?

MARSTON: I will do that.

PRESIDENT EGAN: Mr. Marston withdraws his request at this time. Are there other reports of standing or select committees? Introduction and first reading of proposals.

TAYLOR: I have one.

MCNEALY: I have one.

PRESIDENT EGAN: The Sergeant at Arms will pick them up.

SECRETARY: "Delegate Proposal No. 23 by Mr. Robertson, LEGISLATURE: TO CREATE A LEGISLATURE WITH QUALIFICATIONS OF ITS MEMBERS, AND TO ESTABLISH LEGISLATIVE AND SUB-LEGISLATIVE DISTRICTS, AND REPRESENTATION THEREFROM, AND TO REQUIRE DECENNIAL REAPPORTIONMENT."

PRESIDENT EGAN: The proposal is referred to Committee No. VII, the Legislative Branch.

SECRETARY: "Delegate Proposal No. 24, by Mr. Taylor, SEAT OF GOVERNMENT, REGARDING THE LOCATION OF THE STATE CAPITAL."

PRESIDENT EGAN: Committee on Direct Legislation, Amendment and Revision.

TAYLOR: Mr. Speaker, I doubt very much that that would come under the function of that committee.

PRESIDENT EGAN: What one would you suggest -- the Resolutions Committee?

TAYLOR: I think the Resolutions Committee.

PRESIDENT EGAN: If there is no objection I will refer it to the Resolutions Committee.

SWEENEY: We had two similar proposals or resolutions and they were sent into No. VII.

GRAY: I think there are probably enough that probably every committee will get one of those.

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney, we will refer it to the Resolutions Committee.

METCALF: With reference to Proposal No. 6, it was the consensus of the opinion of Committee No. XIII that you be asked to reconsider and possibly with the idea of resubmitting this particular proposal to Bill of Rights and Preamble, titled EDUCATION by Maurice T. Johnson.

PRESIDENT EGAN: If there is no objection the Chair will resubmit that the Proposal No. 6 be referred to what committee?

HERMANN: I think we have a rule, if I am not mistaken, that any committee can refer any proposal to another committee without reference back to the house.

PRESIDENT EGAN: The Chair is not quite clear on that whether it should have to go through the Chair or not. Mr. Collins?

COLLINS: We considered that but the Chairman of the Committee thought it advisable to refer it back to the President.

PRESIDENT EGAN: The proposal has been referred to Committee No. V on Preamble and Bill of Rights.

SECRETARY: "Delegate Proposal No. 25, by Mr. McNealy, LEGISLATURE TO DELEGATE AUTHORITY TO, AND RESTRICT, AGENCIES."

PRESIDENT EGAN: Committee No. VII, Legislative Branch. Are there other proposals?

SECRETARY: No further proposals, Mr. President.

PRESIDENT EGAN: Are there motions or resolutions to come before us at this time? If there is no objection, the Convention will stand at recess for one or two minutes. Hearing no objection the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the Secretary have a resolution?

SECRETARY: Resolution by Mr. Kilcher pertaining to apportionment.

PRESIDENT EGAN: The author of the resolution has requested that the resolution be referred to the Committee on Suffrage, Election and Apportionment. Therefore, the Chair will refer the resolution to that Committee, No. VI. Are there other resolutions?

SECRETARY: No further resolutions, Mr. President.

PRESIDENT EGAN: Is there any unfinished business? Is there anything to come before the Convention at this time? If not, the Chair will entertain a motion. Mr. Johnson?

JOHNSON: Mr. President, I move that the Convention stand at recess until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand at recess until 1:30 p.m. Hearing no objection it is so ordered, and the Convention is at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there any business to come before us at this time? Mrs. Sweeney?

SWEENEY: I would like to add that there will be no meeting of the Legislative Branch Committee this afternoon.

PRESIDENT EGAN: There will be no meeting of the Committee on the Legislative Branch this afternoon. Are there other announcements of committees? The Secretary has an announcement he would like to make.

SECRETARY: The bus schedule has been changed. There will be no regularly scheduled bus leaving the University between the hours of 4:05 and 5:50 beginning this afternoon, so there needs to be consideration as to whether or not there should be a special bus. I wish only that the announcement might be made at this time so that Monday there might be an expression of desire on the part of the delegates whether you wish other bus arrangements. This new schedule goes into effect Monday afternoon.

PRESIDENT EGAN: Is there other business? Mr. White?

WHITE: I ask unanimous consent to return to the business of introduction of motions and resolutions.

PRESIDENT EGAN: If there is no objection we will return to the business of the introduction of motions or resolutions. Mr. White, you may proceed.

WHITE: Mr. President, on behalf of Mr. Riley and myself, I

offer the following resolution:

"Any person who appears before the Constitutional Convention or any of its Committees to offer testimony in support of, or in opposition to, any proposal or subject matter under consideration for inclusion in the Constitution of the State of Alaska shall first register with the Secretary of the Convention and shall identify himself as to principal business pursuit. He shall state also whether he appears before the Convention or any of its Committees in an individual or in a representative capacity. If in a representative capacity, he shall be required to state whom he represents in advocating or opposing the inclusion of any subject matter in the said Constitution."

I move the adoption of the resolution, Mr. Chairman, and ask unanimous consent.

PRESIDENT EGAN: Mr. White moves the adoption of the resolution and asks unanimous consent. Mr. Gray?

GRAY: Mr. President, I don't exactly know what all that may mean. It is probably good. I don't want to see any committee restricted in any pursuit or analysis of the problem by some technical details.

PRESIDENT EGAN: Mr. Gray, perhaps, since you are rising with an objection, there will have to be a second.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. You may proceed, Mr. Gray.

GRAY: I assume that it is perfectly all right, but I believe it is enough text that if he would have it printed so we could see it, then I think we could do something about it. I don't want to see the committees in any way limited in their investigation on any of these subjects.

PRESIDENT EGAN: Mr. Gray, then are you asking perhaps that this subject be held over until possibly the next meeting when copies could be available?

GRAY: That is my idea, and if the mover of the proposal could change his motion as such to fit this condition it would simplify things.

SUNDBORG: Mr. President, the proposal seems to me very clearly to be a regulation requiring the registration of lobbyists. I believe it is very closely patterned after one relating to the registration of lobbyists who want to appear before the

Legislature. I certainly feel it is a proper thing for our Convention to require. I don't object to having it set over for a day or two, but I think in the long run, we should set the regulations.

JOHNSON: Mr. President, on a point of order.

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

JOHNSON: If this is a resolution as Mr. Sundborg says relating to the business of lobbyists and registering them as such, then it occurs to me that it should be handled under the provisions of Rule 53 and submitted to the proper committee for any action.

PRESIDENT EGAN: Mr. Johnson, the Chair considered that, but there is a rule that states resolutions can be treated as motions. If there is no objection the Convention will stand at recess for two minutes. Hearing no objection the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Armstrong?

ARMSTRONG: Mr. President, may I ask Mr. White how this would relate to the condition where a committee is in hearing and testimony has been completed by those who have registered and their testimony has been recorded and the chairman of the committee asks if there is anyone else to be heard.

PRESIDENT EGAN: Before we proceed, Mr. Armstrong, the Chair would state that the point of order raised by Mr. Johnson which should be taken care of first. In the opinion of the Chair it was not well taken under this particular circumstance, under Rule 53. Mr. Armstrong, you may now have the floor.

ARMSTRONG: I wonder if Mr. White would answer the question. I would like some satisfaction of that point, sir.

WHITE: I am not sure I understood the question. It was not intended to be retroactive. I think it would be impossible to make it retroactive. I would assume from the content of the resolution that if an individual wishes to propose or oppose any matter for inclusion in the Convention, if he wanted to cover himself, he should register with the Secretary of the Convention. Obviously it is impossible for us to impose any penalties by a resolution of this nature or by the nature of the Convention, but I think it is intended at this time to clear the air and to put it on record that we would like to have any individual identified.

PRESIDENT EGAN: Mr. Hellenthal?

HELLENTHAL: I cannot see the necessity for this. It is trying to legislate common sense in committees. There is no committee here that is not going to ask each person who appears before it who he is and if he represents any group or organization. There is no member of a committee here who is going to be fooled by anyone. I don't anticipate and we have no reason to believe there will be fifth columnists who will sneak before our committees and perhaps talk us out of our common sense and our ability to judge matters correctly. I think this is detailed legislation. It amounts to a change of our standing rules. I think it has absolutely no place before this adult body.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to know when someone approaches me to talk about a matter who he represents and if he is being paid to make that representation or whether he is doing it entirely on his own. It seems to me that that is information to which we are entitled to and which we cannot get from anyone unless we do have a requirement of this kind requiring registration.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Just a point of information, I want to know if this applies to the witnesses appearing at a public hearing like we had here this morning.

WHITE: That would be my interpretation.

PERATROVICH: In that case I would oppose that myself because I think we should encourage the citizens of the Territory to appear before these committees on the various hearings. I for one while I wasn't a member of this Committee this morning, learned something from the people that testified, and I think that is the thing we are seeking, to get all the information we can so we can come out with a constitution that is acceptable. I am against the proposal.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, my thought on the subject is that if it is necessary to contain lobbyists, the Convention Bill provides for ordinances. Now an ordinance could be adopted by this Convention requiring a lobbyist or those representing any interest to register, but when it comes to a matter of people, there was one instance I know of in a committee meeting this morning where a party appeared who had not intended to testify but decided to testify before the committee while the hearing was in progress, and I believe that rather than attempting to discourage anyone from testifying they should be

encouraged and no restrictions put on them unless the Convention should see fit to go forward in what I deem the proper manner and prepare an ordinance restricting lobbyists. I think our big trouble during this Convention is going to be the lack of expression from the people and not an over abundance.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to move and ask unanimous consent that this motion be referred for review and recommendation to the Rules Committee.

RILEY: I second it.

PRESIDENT EGAN: It has been moved and seconded that this motion be referred to the Rules Committee for its consideration. Did you say you asked unanimous consent, Mr. Fischer?

V. FISCHER: Yes.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that the motion and the resolution be referred to the Rules Committee.

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard. Is there a second? Who seconded the motion? It was moved by Mr. Fischer, seconded by Mr. Riley then that the motion be referred to the Rules Committee for their consideration. Mr. Gray?

GRAY: Mr. Chairman, I notice the Chairman of the Rules Committee objected if he has a specific objection, why

PRESIDENT EGAN: No, he seconded the motion, Mr. Gray.

RILEY: You misunderstood me, I believe.

PRESIDENT EGAN: He seconded the motion to refer it to the Rules Committee.

TAYLOR: Mr. Chairman, I object. I can't see that this is any part of the rules at all. If it is going to be referred to anybody it should be referred to the Committee on Resolutions. It would not be an amendment or addition to the rules whatsoever.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to explain my motion by saying that this is not within the province of the Resolutions Committee of the Convention itself. This has to do with conduct and behavior before the Convention and its committees, and it seems

very proper that it be referred to the Rules Committee even though it is not proposed as an amendment to the rules.

PRESIDENT EGAN: Is there further discussion?

BUCKALEW: Question.

PRESIDENT EGAN: The question is, "Shall the resolution be referred to the Rules Committee for its consideration?" All those in favor of the motion to refer to the Rules Committee will signify by saying "aye", all opposed "no". The "ayes" have it and the resolution is referred to the Rules Committee for its consideration. Is there other business to come before the Convention at this time? Mr. Marston?

MARSTON: Mr. President, may I have the privilege of the floor?

PRESIDENT EGAN: If there is no objection, Mr. Marston asks for the privilege of the floor.

MARSTON: I am speaking to you representing citizen George Lockwood who sent a message to me at this Convention to try to save his home from the encroaching of a new civilization, and on his hopes and the outcome of this case rests the hopes and ambitions of 30,000 people, the Native people of Alaska. We are going to have to face up to this, and I hope we can face up to it and step out boldly and do something that has not been done all these years we have been here. May I go back a little ways to bring this case up to date. Three years ago I went down the Yukon with my boat -- 1400 miles with lumber and material to build a place in the Unalakleet River with seed and fertilizer the building is up and the seed is ripe. I tried to get the land in the hands of the Eskimos of the Unalakleet River. I could not get one foot of land in their hands in three long years of trying and spending of money, and there it is in that situation. They like to farm that land. It is good rich soil, but under the present land laws it is impossible to get the land into their hands. There are too many complicated ramifications, and I think the land laws of this country are due for overhauling -- not only in Europe but here we have a problem with our land laws. If we face up and comply with the requirements we got as a treaty made with the people from whom we bought this land we will then step up to this issue and recognize it and do something about it. There are petitions here in the land office from the people of Unalakleet to get their lands subdivided so they can have the land their homes are on. Those petitions lay in the land office and are gathering dust and will end there -- petition after petition goes to the "great white father" and nothing happens. It dies. He is too far away. He has too many agents. These petitions die and these people become discouraged and despondent. Mr. President, if I could show a map here I could

tell you what I want to tell the body.

(Held map up.)

This is the Unalakleet River. This is the village of Unalakleet where some upwards of 500 people live. This is the ocean here. What I ask here, what these people want, George Lockwood is a citizen here and his folks have lived right here on a little five-acre tract and fish off the ocean for over 50 years. He has petitioned the United States government. I put his stakes in three years ago on that piece of ground. He has gotten no place today and he's not going to get any place. Under the requirements they are supposed to have a frame house and they live in a tent, which is "more better", as they say, in the summer than a frame house. Therefore he does not comply. The Army now runs across his property. They have taken his logs and they've broken it up and he is so confused, he has had to move his family away. What I want to request here, in the name of George Lockwood and 30,000 other citizens of Alaska is that he be given from the State of Alaska that five-acre tract where he fishes and hunts and has his summer home. I want the government in Alaska to give him a deed to the land where his house rests in Unalakleet so he can build a good home to rear his family. Now he has squatter's rights. He can't afford to put a lot of money in his home because when he moves away, he practically loses squatter's rights. The State of Alaska should give him a deed to that little piece of ground there. Up the river here they have many little fishing sites 35 or 40 of them. Each one of those people should be given outright a five-acre tract and in addition to that the 160 acres any place in the unclaimed land of the State of Alaska where he can have a 160-acre homestead -- these three requirements -- a, b, and c -- spells life, liberty and the pursuit of happiness for those people. It is a very small thing. You and I all have the right to take these three requests that I am making here for George Lockwood. We are entitled to land we live on -- four corners put down and a deed to that piece of ground. We are entitled to 160 acres any place in the State of Alaska if we want to take it up. I want you to issue from the State of Alaska those three deeds. During the Civil War they offered and gave to every soldier a script which entitled him to 160 acres of any unappropriated land. If we can give it to them outright without them going through the tedious laws of letter upon letter. The Land Department here wrote George Lockwood, "Come into Fairbanks and talk to us." It is 600 miles away, 1500 miles by water and it takes months to come in and talk it over, and so his letters have come to no good end. I have spent my three years and gotten not one foot of land in the hands of those Eskimos. If they all took advantage of that 160 acres, the five acres and the little plot of ground where they live, it would take up just a few thousand acres of land. They are entitled to it, and I am going to ask that the President of the

that piece of property, where he fishes and hunts, land on which he had his home and 160 acres up that River any place he wishes and that would be a gesture of the State of Alaska from this Convention and I think some people here do not comprehend the great moment of this time and the position we occupy. These people have looked to us, all these years, in petitions and petitions and they have come to naught. Let us step out boldly here and give them this three little pieces of property. It would be a great gesture and it has nothing to do with aboriginal rights. This every citizen is entitled to. I am going to make a request of that. That is my mission today in the name of George Lockwood that he protect his home there where he has lived for 50 years, that he have the land where his home is in the village and 160 acres of homestead land any place in the unappropriated lands within the future state of Alaska. When you select the land for the future state of Alaska I hope you select land so he can have industrial sites and take land that can take care of these people on this request here. I thank you. I am now going to present this if I may?

PRESIDENT EGAN: If there is no objection, are you going to revert to the introduction of proposals, Mr. Marston?

MARSTON: I would like to do that if I may.

PRESIDENT EGAN: If there is no objection Mr. Marston you may present your proposal at this time.

MARSTON: Thank you for this time. I appreciate it.

PRESIDENT EGAN: If there is no objection, the Secretary may proceed with the reading of the proposal.

SECRETARY: "Delegate Proposal No. 26, introduced by Mr. Marston, DISPOSAL OF STATE LANDS TO ACHIEVE CERTAIN SOCIAL AND ECONOMICALLY BENEFICIAL PURPOSES."

PRESIDENT EGAN: The proposal will be referred to Committee No. X, the Committee on Resources. Is there other business to come before the Convention? If not, the Chair will entertain a Mr. Davis?

DAVIS: Mr. President, I move that we recess until Monday morning at 9 o'clock.

PRESIDENT EGAN: Mr. Davis moves and asks unanimous consent that the Convention stand adjourned until Monday morning at 9 o'clock. Is there objection? Hearing no objection it is so ordered, and the Convention is adjourned until Monday morning at 9 o'clock.

ALASKA CONSTITUTIONAL CONVENTION

November 28, 1955

TWENTY-FIRST DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Londborg, would you come forward and give us our daily invocation?

LONDBORG: Our Heavenly Father, we thank you for this new day that lies before us. We thank you for the health and strength that is ours. We thank you for the opportunities that are ours this day to work in this way as delegates at this Convention. Our Heavenly Father, we pray that you would give us each one clearness of mind, understanding hearts of one another, determination to carry out our convictions. We pray that the thoughts that are here, though they may be different, may be fused into one draft as we work together to put out this constitution for the State of Alaska. Bless us, we pray, as we continue. We ask it in Thy Name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Three absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. We will postpone the reading of the journal until the afternoon session. Are there any petitions, memorials or communications from outside the Convention?

SECRETARY: I have none, Mr. President.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Sundborg?

SUNDBORG: Mr. President, Committee No. III, Style and Drafting, calls the attention of the delegates to -- we started to call it a manual but maybe it is not that substantial -- a few pages of drafting suggestions which are on every delegate's desk this morning prepared by our Committee.

PRESIDENT EGAN: You have heard the report of the Chairman of the Committee on Style and Drafting. Mr. Collins?

COLLINS: Committee No. XIII at the scheduled meeting Saturday found it very inconvenient for some of the members to meet at the time scheduled for us originally -- 3:30 - 4:50. By discussion we found that our committee could meet at 9:30 in the morning until 10:50 without having to inconvenience any of the members, and I would like to give notice that that

will be our schedule -- from 9:30 - 10:50.

PRESIDENT EGAN: Mr. Collins then announces and asks unanimous consent that the meeting time of Committee No. XIII the Committee on Direct Legislation, Amendment and Revision be changed to 9:30 a.m. each day. Is there any objection to that? No objection, Mr. Collins, that will stand as your meeting time then.

COLLINS: We will have to adjust the meeting place.

PRESIDENT EGAN: Are there other reports? Mr. Rosswog?

ROSSWOG: The No. XII Committee on Local Government will meet at 11 this morning and we will not have a scheduled meeting this afternoon.

PRESIDENT EGAN: The Committee on Local Government will meet at 11 this morning and will not have a scheduled meeting this afternoon. Mr. Cross?

CROSS: Your Committee on Resolutions reports on the resolution introduced by Delegate Kilcher on November 22. "Upon consideration and after general discussion of the Resolution introduced by Delegate Yule F. Kilcher on November 22, 1955, to change the name of Mt. McKinley to the name of Denali, the Committee upon motion duly made, seconded and unanimously carried, reports that in its opinion said Resolution does not constitute either Constitutional or Legislative matter, and recommends that it be postponed indefinitely.

PRESIDENT EGAN: You have heard the report of the Resolutions Committee on the resolution by Mr. Kilcher. What is the pleasure of the Convention? Mr. Kilcher?

KILCHER: I ask unanimous consent that I may be permitted to withdraw the resolution for special reasons of my own.

PRESIDENT EGAN: Is there objection to Mr. Kilcher's unanimous consent request that he be allowed to withdraw the resolution at this time? Is there objection to that unanimous consent request? Hearing no objection then, Mr. Kilcher, you have been authorized to withdraw the resolution and it is no longer before the body. Are there other committee reports? Mr. Riley?

RILEY: Mr. President, it is not in the nature of a report, but to announce the Rules Committee will meet immediately after recess in the gallery.

PRESIDENT EGAN: There will be a meeting of the Rules Committee immediately upon recess in the gallery. Are there other announcements? Mr. Ralph Rivers?

R. RIVERS: Mr. President, while we still are on the subject of committee reports, I want to make reference to the drafting suggestions of the Style and Drafting Committee. I am very disturbed about paragraph 2, on the first page of those suggestions. It is stated that the constitution in speaking for itself must be written in the present tense. Now all the other constitutions, including that of the United States of America, are written in what I think is the future perfect. Maybe Mildred can prompt me on that. In other words, we will say the judicial power "shall be" vested in a supreme court and in certain superior courts or in a superior court. We are all accustomed to that "shall be". We are drafting something that won't become valid unless and until it is ratified by the people of Alaska, and there are many references to what the legislature is going to do in the future and that sort of thing. For us to say the judicial power "is" vested in a supreme court and the superior courts consist of such courts as the legislature from time to time creates, you are getting your "is" mixed up with something that has not happened yet. You are running that all the way through this thing. I think Style and Drafting should be consistent. If we are starting out with the "is" or the present tense, Style and Drafting is going to get into the most hopeless editing -- final drafting job it ever got into. Now I am trying to rescue Style and Drafting as well as this constitution and think that we should all go to the "shall be". Then we have patterns to go by and we will all know how to write up what we have in mind in patterning after other constitutions. So therefore, I move that this report be sent back to Style and Drafting for the rewriting of paragraph 2 on page 1. Aside from that I want to thank Style and Drafting for what I think is a nice piece of work.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that the report be sent back to the Style and Drafting Committee for the proposed change as explained by Mr. Ralph Rivers.

MCLAUGHLIN: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Ralph Rivers?

R. RIVERS: I so move.

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. Rivers so moves. Mr. McNealy seconds the motion. Mr. Rivers?

R. RIVERS: The motion would be to recommit. I may not have used the right expression, for redrafting of paragraph 2.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I don't speak for the Committee but I speak individually having been aware of the difficulty the Committee has had in drawing the drafting suggestions. I might point out that we discovered that several times we violated our own drafting suggestions while we were drafting the suggestions. I might point out, finally having accomplished this, we made the point merely as a suggestion and I think it would be difficult to send the suggestion back to the Committee when it is merely presented here on the floor as a suggestion which can obviously be ignored, as I suspect it might be, but it is merely presented here as an idea for unification. As a matter of fact, the Style and Drafting, if I might speak for them without contradiction, they treated the constitution something in the same sense as a will, it became effective only upon death or adoption and under those circumstances, treating it as a living and existing document after much learned discussion they decided it should speak in the present tense. That in itself is beside the point because I believe this is merely a suggestion so that we might have something that when the bills are presented, within reasonable limitations, the committees might be guided by this and the suggestion itself is not compulsory upon any committee or the assembly. That is my reason for the objection.

PRESIDENT EGAN: Mr. McLaughlin, would you not consider Mr. River's motion as being that the suggestion be amended? Is there further discussion of the motion to commit? Mrs. Hermann?

HERMANN: Mr. President, having been appointed Convention grammarian by Mr. Rivers I rise to say that the use of the word "shall" does not necessarily connote future tense. It is probably in the way of an instruction that they shall do this and they shall do that and becomes more or less the expression of a mandate to the legislature as to what it should do. I don't believe that the purpose of "shall" in any of the constitutions is necessarily to limit the action of the legislature in the future. Naturally, we have yet no state legislature, and the mandate of the constitution to the state legislature cannot be effective until we do have. I do not take the use of the word "shall" to mean future tense. I recognize some of the difficulties that Mr. Rivers has mentioned, and I like to say in that connection that I think that we may have to work pretty hard in the Style and Drafting Committee to translate our intentions into effective action, but I believe that the constitution would have greater dignity and greater strength if we do and if we can and do express everything in the present tense. I approve of the thought, and I believe that the Style and Drafting Committee is going to be equal to the challenge of it, if and when any of the Committees give it anything to do.

PRESIDENT EGAN: Mr. Smith.

SMITH: I probably will only add to the confusion. I would simply like to read a definition of the word "shall" as given in Black's Law Dictionary. "The word 'shall' as used in statutes is generally imperative or mandatory, but it may be construed as merely permissive or directly as equivalent to 'may' to carry out the legislative intention and in cases where no rights or benefit to anyone depends on its being taken in the imperative sense and where no public or private right is impaired by its interpretation in the other sense. Also, as against the government, it is to be construed as 'may' unless a contrary intention is manifest. Although the word usually denotes an obligation, it also implies an element of futurity."

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

R. RIVERS: Just to point out I am not talking about the word "shall", I am talking about expression "shall be".

V. FISCHER: Mr. President, I think this discussion has brought out some differences of opinion, and the Committee on Style and Drafting certainly had in mind that there may be a lot of other differences. If the Convention as a whole starts going through this point by point now, each and every one of us could find other suggestions. The best thing to do is for each committee to take into account what they believe is worthwhile in these drafting suggestions and not keep sending it back. Otherwise, the Committees will never have the manual before them so they could start using it in their daily work.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: There is in that. This points out that there should be uniformity in our work. This suggestion is stated in this manner: "It must therefore be written in the present tense." Now, I have had suggestions made to me before, and I have had objectives pointed out before. Here we find this is just a suggestion, it is not mandatory as stated. Mr. V. Fischer says we should all go on our own routes and then see what happens. I believe this body ought to decide. Maybe not now, maybe we could put it over and all sleep on it tonight but this body should decide whether we're all going to say "shall be" this or "shall be" that or whether we're all going to try and say "is". So I submit my motion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I want to add a note to this. It is certainly too bad that the state of New Jersey and the State of Missouri did not have the benefit of our Drafting Committee. They followed the procedure which our Drafting Committee frowns upon.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Is there any other discussion? Mr. McNealy.

MCNEALY: I have only one thing to add, and I say this without any reflection on the Style and Drafting Committee. The reflection may be on myself here, but I certainly am going to take my hat off to them and even attempt to eat it if they can take the Bill of Rights and eliminate the words "shall be in there and still preserve all of the rights.

PRESIDENT EGAN: Is there other discussion? If not, "Shall the suggestion of Style and Drafting be recommitted to that Committee for their consideration?" All those in favor of the --

R. RIVERS: Roll Call.

PRESIDENT EGAN: The Chief Clerk will call the roll. The question is, "Shall the suggestions be recommitted to the Style and Drafting Committee?"

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

Yeas: 19 - Awes, Boswell, Doogan, H. Fischer, Hinckel, Londborg, McNealy, Marston, Nolan, Peratrovich, Poulsen, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Taylor, Walsh, Mr. President.

Nays: 34 - Armstrong, Barr, Buckalew, Collins, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nordale, Reader, Riley, Rosswog, Sundborg, Sweeney, VanderLeest, White, Wien.

Absent: 2 - Coghill, Harris.)

CHIEF CLERK: Nineteen yeas, 34 nays and two absent.

PRESIDENT EGAN: So the motion has failed, We suggest a report of the Committee on Style and Drafting is still before us. Mr. Sundborg?

SUNDBORG: Mr. President, there will be no meeting of the Style and Drafting Committee this morning.

PRESIDENT EGAN: You have heard the report of the Style and Drafting Committee. Are there other reports of committees? Are there any proposals to be introduced at this time?

SECRETARY: "Delegate Proposal No. 27, by Mr. McNealy, ELECTION IN DISTRICT OTHER THAN PLACE OF RESIDENCE."

PRESIDENT EGAN: The proposal is referred to Committee No. VI on Suffrage, Elections and Apportionment. Are there other proposals?

SECRETARY: No further proposals, Mr. President.

PRESIDENT EGAN: Is there any unfinished business? Mr. Hilscher?

HILSCHER: I should like to ask permission of this body to spend not to exceed \$3.98 of our Convention fund. It was, as I understand it, the desire and intention of this organization to obtain as much national publicity on the Constitutional Convention as possible; that we're going to be favored with a number of celebrities as guests of the Convention and to date, with the exception of the address by former Governor Gruening on "American Colonial Policy" we have had very little in the way of outside publicity or matters which might possibly hit the national wire or receive national attention. In the past those of us who lived in Fairbanks a number of years ago got to know Fred Waring pretty well through the Fairbanks Winter Carnival. As a courtesy and gesture to the Fairbanks Winter Carnival, he played and sang the Alaska Flag Song, which as you know, his version of it is probably the most popular and thrilling of all of them. I should like unanimous approval to send this wire to Fred Waring:

"Fred Waring, 1697 Broadway, New York.

Fifty-five Alaskans are now in session at the University of Alaska drafting the Constitution for the future State of Alaska. This is the last time that a Constitution will be written for the admission of a state into the United States. Knowing your interest in Alaska and the affection Alaskans have for you and your inspiring rendition of the Alaska Flag Song, we would be highly honored if you and your crew would sing our state anthem and send the Constitutional Convention a recording which will be made a part of the permanent archives of this historic Convention. /Signed Herb Hilscher, Delegate to the Alaska Constitutional Convention."

The idea I had in my mind is this. He will undoubtedly read this over a nation-wide TV circuit and would favor us with the playing of it. I feel it would be \$3.98 well spent in getting us nationwide publicity. I therefore ask unanimous consent that we be permitted to send this telegram.

PRESIDENT EGAN: Mr. Hilscher asks unanimous consent that he be permitted to send the telegram. Mr. Sundborg?

SUNDBORG: Mr. President, I wonder if Mr. Hilscher would consent to a modest amendment. At the very beginning of it he says, "Fifty-five Alaskans are now in session . . ." I wonder if he would agree to say, "Fifty-five delegates elected by the people of Alaska" so that it will be very clear that this is an official duly constituted body.

PRESIDENT EGAN: You have no objection to the change in this message?

HILSCHER: That is in the present tense, is it?

PRESIDENT EGAN: Is there objection to Mr. Hilscher's unanimous consent request? Mr. Fischer?

V. FISCHER: I would like to ask Delegate Hilscher whether he would be willing to have the telegram signed by the President. I think, with all due respect, it might be more proper and carry more weight to have it signed by the President.

PRESIDENT EGAN: Do you offer that as a suggestion?

V. FISCHER: As a suggestion to Mr. Hilscher.

METCALF: Mr. President, this is not actual constitutional matters here. I would rather pay the \$3.98 myself instead of establishing precedent here. I am a little afraid we will be censured for establishing a precedent and I therefore object.

PRESIDENT EGAN: Mr. Metcalf objects to the unanimous consent request.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds Mr. Hilscher's motion that the telegram be sent. Mr. Sundborg.

SUNDBORG: I move to amend the motion to provide that the telegram will be signed by either the President or the Secretary on behalf of the Convention.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the motion be amended so that the telegram will either be signed by the President or Secretary of the Convention. Is there objection to that amendment? Mr. Marston?

MARSTON: I move that the President and the Secretary sign it.

PRESIDENT EGAN: Mr. Marston moves that Mr. Sundborg's motion be amended to amend the motion so that the President and Secretary will both sign.

SUNDBORG: I accept that amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I kind of feel like the gentleman from Seward there. This is a personal matter. I would just as soon send it myself. I think it is a fine idea and I am all for the idea, but I think it should be a personal matter. We are starting in something new in this little telegram and tomorrow we are going to have another little event. It's going to be good. There's going to be a thousand of them and I believe we have to watch this thing. It's a matter of precedence and not a matter of \$4.00, it's not a matter of being signed by a delegate. I think its a marvelous idea and I think it should be done but it should be done on a personal matter rather than an official matter and I am going to vote against the measure but I will furnish the \$4.00 to send it.

WHITE: Mr. President, this body is charged, and I think rightly so, with doing all those things necessary to prepare Alaska for statehood. I feel that this and any other measure in the nature of publicity is very much the business of this body. I hope there will be more similar suggestions.

PRESIDENT EGAN: Mr. Collins.

COLLINS: Mr. President, I heartily agree with Mr. Metcalf and Mr. Gray. This is an outside matter -- a wonderful gesture. We are letting the bars down -- there is no limit to how far we can go. We can well afford 15 or 20 cents apiece and make it personal rather than stab the treasury. We are writing a constitution. Still I think it is a nice gesture, but we are letting the bars down, and there will be others come in. First thing we know we are way off the trail. I think we better make it personal. I will pay for the telegram.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, a point of information. Is the Statehood Committee still alive and functioning? I personally think this is a perfect matter to be handled by the Statehood Committee. It is a matter of publicity and they should send the wire. It is a very good wire. They should sign it. Somebody on the Statehood Committee should send it and draw the attention of the public to the fact that there is a Convention and what it is about.

PRESIDENT EGAN: Mr. Barr has been trying to get the floor.

BARR: Mr. President, to begin with, I won't pay for the wire. I am going to make approximately the same motion as Mr. Kilcher. It seems to me the wire would not mean anything unless it were more or less official. However, I also have the feeling it would be setting a precedent. I would like to remind you that

the Statehood Committee is charged with doing everything possible to promote statehood, and this does fall within that category. It seems to me that it would be more or less official if they sent it and they are also authorized to do so.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I ask unanimous consent that this Convention take a 20 second recess to pass the hat and reconvene.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I am very pleased that this suggested telegram has brought all this discussion. One of the responsibilities of this Convention is to sell the end product that we are here to write. If it takes \$3.98 of Territorial funds to help sell this document, then I am all for it. If it takes \$3,000 or \$30,000 to sell the end result, I am all in favor of it. This organization is committed to not only produce a document that will be our basic constitution for years and years to come but we have the job of selling this to our people and of selling it to the United States Congress and to the American people.

DAVIS: Mr. Chairman, I move the previous question.

COOPER: I second it.

PRESIDENT EGAN: Mr. Davis moved, seconded by Mr. Cooper, that the previous question be ordered. Did you ask unanimous consent, Mr. Davis?

R. RIVERS: Point of information. What is the previous question at this point?

PRESIDENT EGAN: Unanimous consent was asked that Mr. Sundborg's amendment to the motion be adopted. There was no objection as the Chair recalls. So it would be the original motion as amended by Mr. Sundborg. Is there objection to having the previous question ordered at this time?

SUNDBORG: Question.

PRESIDENT EGAN: Hearing no objection, it is so ordered. If there is no objection then the question is -- would the Chief Clerk read the motion as it would be before us at this time?

CHIEF CLERK: Mr. Hilscher moved and asked unanimous consent

to send the telegram which I did not take down, to Fred Waring, and it will be signed by the President and Secretary.

PRESIDENT EGAN: You have heard the motion. All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the motion is carried. The telegram will be sent. Is there other unfinished business to come before us? If there is no other business to come before us at this time the Chair will entertain a motion. Mr. Buckalew?

BUCKALEW: I move and ask unanimous consent that we adjourn until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Buckalew moves and asks unanimous consent that the Convention stand at recess until 1:30 this afternoon. Hearing no objection it is so ordered and the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the Committee to read the journal have a report to make? Mr. Knight?

KNIGHT: Speaking for the Committee, we did not find any errors in the journal of the 18th day. I ask unanimous consent that it be approved.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the journal of the 18th day be approved by the Convention. Is there objection? Mr. Davis?

DAVIS: I find what I think is an error in tense here or numbering. In Reports of Committees it says "Mr. Buckalew reported that the Committee appointed to obtain a gavel" -- only one gavel is mentioned there. It should either be "gavels" or "it".

PRESIDENT EGAN: What is your proposed change?

DAVIS: My suggestion is that we either put an "s" on "gavel" or change the word "them" to "it", one or the other.

PRESIDENT EGAN: What is the pleasure of the Convention? Mr. Davis, you suggest then and ask unanimous consent that where it says a "Committee appointed to obtain a gavel for the use of the Convention.." should be "to obtain gavels". Strike the word "a" and pluralize the word "gavel" . Is there objection? If not the correction will be ordered. Mr. White?

WHITE: I would like to move to a point of order. To save time in the future I would like to call attention to the agreement adopted previously that members of the Convention would

report any errors to the Chief Clerk's office prior to the one-half hour before the opening session and reading of the previous day's journal.

PRESIDENT EGAN: Hereafter that procedure will be adhered to wherever possible, Mr. White. Is there objection to Mr. Davis's request? Hearing none, the correction is ordered made. Unanimous consent is asked that the journal of the 18th day be approved by the Convention. Hearing no objection it is so ordered and the journal of the 18th day is ordered approved. Is there other business to come before the Convention at this time? Does the Chief Clerk have any communications to read?

CHIEF CLERK: A communication from Mr. Salisbury.

(The Chief Clerk read at this time a letter from Professor Lee H. Salisbury of the University of Alaska inviting the delegates to attend the performance of "Bell, Book and Candle" Friday and Saturday of this week and offering complimentary tickets.)

PRESIDENT EGAN: That is Friday and Saturday evening then at the University Gymnasium at 8:15 p.m.

CHIEF CLERK: And the matter of a bus schedule has to be decided whether a bus will be needed at 5 o'clock.

PRESIDENT EGAN: What is the desire of the Convention relative to the necessity of having a special bus around the hour of 5 o'clock or at such time as you may deem to be most appropriate.

CHIEF CLERK: The last bus leaves at 4:05 and the next bus at 5:50. We would have to have a show of hands to see how many we needed.

PRESIDENT EGAN: Is there discussion on that matter? Mrs. Sweeney.

SWEENEY: I am wondering how many have found it necessary to use the bus to get home in the afternoon. It seems to me quite a number are going home by private car. Could we have a show of hands?

PRESIDENT EGAN: Would those who have used buses almost exclusively in the afternoon please raise their hands. Then from the lack of hands it would seem there is no necessity at this time in the minds of the delegates for a special bus. Mrs. Hermann?

HERMANN: I think if we ever get down to holding longer plenary sessions it will be necessary to make some arrangements.

PRESIDENT EGAN: That might be necessary in the future. If not, then the matter will be held over until such time as the delegates feel it is necessary to take it up before us. Is there anything else to come before the Convention? Mr. McCutcheon?

MCCUTCHEON: I would like to move that we meet Wednesday evening at 7:30 for the purpose of resolving ourselves into a Committee of the Whole to discuss the matter of bicameralism and unicameralism in such a Committee of the Whole. I will ask unanimous consent.

PRESIDENT EGAN: Mr. McCutcheon moves and asks unanimous consent that the Convention meet on Wednesday evening at 7:30, at that time to resolve itself into a Committee of the Whole for the purpose of discussing the question of unicameralism and bicameralism as it relates to the legislature. Mr. Kilcher?

KILCHER: Point of information. We all know the need of this Committee of the Whole and in view of the fact that the need is dire and that a lot of labor will hinge upon decisions that we will reach at that time, I wonder if Mr. McCutcheon couldn't tell me why we shouldn't meet sooner.

PRESIDENT EGAN: Day after tomorrow, is that right? Mr. McCutcheon, you may answer the question.

MCCUTCHEON: Mr. Kilcher, I had in mind setting it as a matter of business of Wednesday evening. It would give the public information services ample time to get out across the wire, and we might have expressions from elsewhere in Alaska and it also might provide people an opportunity here locally to attend the evening session.

KILCHER: In other words, you would make it a public hearing?

MCCUTCHEON: Well, I hadn't thought of it in the sense of a public hearing, but it certainly would be open to the public.

V. FISCHER: I would like to address a question to Mr. McCutcheon.

PRESIDENT EGAN: Mr. Victor Fischer, without objection you may address your question.

V. FISCHER: Mr. McCutcheon, a meeting of this type without a definite program could easily develop into a free for all from which it would be very difficult to make any kind of determination of opinion among the delegates. Would it be possible for your Committee to present the issues, the two sides, one unicameral and one bicameral to start with and thereupon have a discussion rather than just throwing it open?

MCCUTCHEON: Mr. Fischer, it was not our Committee's intention to make a matter of settlement final. As far as a free for all is concerned, that is what I personally would like to see. Perhaps your idea of an agenda so to speak, having each side present themselves, might be well to have -- one protagonist from our committee supporting bicameralism present their views and one supporting unicameralism present their views, and from there let the discussion take its course. We are interested in hearing all the facets and shades of opinions without arriving at any conclusive action on the subject.

PRESIDENT EGAN: Mr. Gray, did you have a question?

GRAY: I had a question on the bus schedule, Mr. President. I notice you have the meeting at 7:30. We have a bus leaving at 6:30 from downtown. Do you think we ought to move the meeting up to 7 or have a special bus in that deal?

MCCUTCHEON: I had not thought a great deal about it. I thought to give the delegates ample time to conduct whatever business they might have in town before coming out here again but I wished it early enough in the evening so that we would have time to discuss it and also to provide ample opportunity for the people of Fairbanks to partake in the hearings and in the discussion.

PRESIDENT EGAN: Mr. Barr?

BARR: I would like to make a statement also as a point of information for Mr. McCutcheon. I suppose his Committee would like an expression of opinion from the body as a whole on this before they make a decision. Was it Mr. McCutcheon's idea that after we had this discussion we should take a vote on it to see the thinking on it?

MCCUTCHEON: It was not, Mr. Barr.

BARR: Then how will your Committee arrive at its decision as to what the body thinks?

MCCUTCHEON: I believe that most of the delegates here if their sensibilities are in order will probably have a pretty good idea of what the sentiment of this group is when we arise from the Committee.

BARR: That isn't so definite. Some people just naturally talk more than others. A minority might be on the talkative side. I don't see any reason for having it in the evening at all. It is a regular order of business. If it develops into a free for all, which I favor, in the evening after we've been working all day, it might be more interesting but more argumentative than it would be in the morning. I think anything like that should be taken up during the day.

MCCUTCHEON: Mr. President, my thought was to try not to interrupt other committees, because as we go along here and proposals are put on the floor from other committees we are going to require both all day and all evening to discuss the things, I am sure and we are now feeling our way along. I'd rather not interrupt the other committees. However, if the body feels they want to do it in the daytime, it is of no consequence to me.

DOOGAN: Mr. President, I might direct a question to Mr. McCutcheon. In asking for this Committee of the Whole in the sense of a public hearing, are you anticipating, then precluding argument after your Committee submits their proposal to the body as a whole?

MCCUTCHEON: Of course not. That would not preclude any discussion because the proposal would have to come in and take its normal course through the channels of our progress, according to the rules.

DOOGAN: I question then the advisability of it, because we are going to get the same old arguments twice. We are going to get them in this Committee of the Whole before the proposal is submitted then we'll get the identical arguments again after the proposal is submitted on the floor.

PRESIDENT EGAN: Mr. McCutcheon made the motion, then he said that he was asking unanimous consent. Evidently from the discussion here, there should be a second to the original motion.

SUNDBORG: I second it.

PRESIDENT EGAN: Mr. Sundborg seconded Mr. McCutcheon's motion that the Convention meet at 7:30 on Wednesday evening at that time resolve itself into a Committee of the Whole for the purpose of considering the question of the unicameral or bicameral legislature. Mrs. Hermann?

HERMANN: Mr. President, I want to rise to express the same opinion as Mr. Barr expressed in the informal discussion. I feel this meeting should be held during the regular session of the Convention and it won't do any harm if the work of the committees is interrupted for such a meeting, because after we have this Committee of the Whole consideration of this measure I think all the committees are going back to their own work probably a little better able to reach and formulate decisions than they were before they heard it. To me it seems apparent that much of the business of this meeting that is ultimately going to be finalized depends upon the approach to the question of whether we are going to have a unicameral or a bicameral legislature. I think it overlaps to

some extent almost every committee's deliberations, and it might be a very good time at this time to interrupt the committees for one half day if necessary and get down to some fundamental discussion on this important and perhaps controversial issue so the members of all committees will know where the body as a whole stands on this particular thing. I believe they can practically all of them do more effective work after such an interruption, if it takes an interruption, than they are doing at present, because they are all of them coming up against this particular snag in their deliberations. So I would like to say while on that subject too, I think the committee meetings should be lengthened. Instead of an hour and a half, the committees should meet for half a day almost, on alternate days. I think they would make greater progress if they had longer meetings and fewer of them. I don't see why we could not start off with this Committee of the Whole meeting either Wednesday or Thursday morning or afternoon, whichever is desirable, and I don't think the fact that it is going to interrupt committee meetings need be given any consideration at all.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to see an evening session held for this primary reason. It will permit the general public in the Fairbanks area especially, to attend if they would like to, where a day time session would largely prohibit it. I would go in favor of Mr. McCutcheon's original request that we meet at least this first time in the evening on Wednesday either at 7:00 or 7:30.

HELLENTHAL: I move to divide the question. I am not sure how to do that but I should like the first problem to be considered be the problem of whether the Committee as a Whole meeting be held and that the second problem then be considered as to when it should be held. I therefore move to divide the question into two parts the first part being, shall the meeting as proposed by Mr. McCutcheon to be held irrespective of time.

MCCUTCHEON: In order to negate a vote at this time, with the consent of my second, I would divide the question originally.

SUNDBORG: I agree.

PRESIDENT EGAN: Is there objection to the division of the question. If there is no objection, the second consents.

MCCUTCHEON: I would therefore change my motion to read that we assemble Wednesday for the purpose of discussing in a Committee of the Whole the matter of unicameralism and bicameralism.

PRESIDENT EGAN: Mr. McCutcheon moves then that the Convention

assemble Wednesday for the purpose of discussion the question of a unicameral or bicameral legislature. Mr. Hellenthal, do you withdraw your request?

HELLENTHAL: Yes indeed.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Do you want to tie that down to Wednesday? If I may address the question to Mr. McCutcheon, it is now too late to get it in this, in the newspapers for Monday. If we are going to have it Wednesday morning it is a little bit late.

MCCUTCHEON: I don't know --

PRESIDENT EGAN: At this time, Mr. McCutcheon, as the Chair understands it, your intent in making this motion originally was so the question of time could be considered in another motion.

SUNDBORG: Time as well as day. Did you want it on Wednesday?

MCCUTCHEON: I was hoping for Wednesday.

PRESIDENT EGAN: Has the motion been seconded?

MCNEES: I second the motion.

PRESIDENT EGAN: The motion is then that the Convention meet and resolve itself into a Committee of the Whole on Wednesday for the purpose of discussing the question of the unicameral or bicameral legislature. Is there discussion on the motion? Mr. Cooper, your point of order?

COOPER: Point of order. As I understand it, when the question was divided a day is symbolic of time. I think the question should be "Shall we meet in a Committee of the Whole to discuss this problem?" and the second question would be when.

PRESIDENT EGAN: Mr. Cooper, your point of order is in the mind of the Chair, probably well taken. Mr. McCutcheon?

MCCUTCHEON: Point of order. In view of Mr. Hellenthal's objection as to a time element, his point did not come to issue. Therefore, unless Mr. Cooper raises the point of issue as to an actual time outside of a date, I think my motion should stand as to date but not to time of the meeting on that date.

PRESIDENT EGAN: The point of order is before the Chair. It seems to the Chair that in the division of the question Mr. Cooper raises a question. The Chair has a feeling on it but

if there is no objection the Convention will stand at recess for a couple of minutes. The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper, your point of order would probably have been well taken all right if Mr. Hellenthal had not withdrawn his original division of the question motion. Mr. McCutcheon's motion is now before us. Mr. Kilcher?

KILCHER: Is an amendment in order to Mr. McCutcheon's motion?

PRESIDENT EGAN: Yes, an amendment would be in order, Mr. Kilcher.

KILCHER: I would then like to amend Mr. McCutcheon's motion to add that after this Committee of the Whole, the Convention, the regular Convention, shall take up the matter and definitely decide the issue immediately after the Committee of the Whole.

PRESIDENT EGAN: Mr. Kilcher, that motion would probably be more well taken after the time would be decided for the reason that it was stated that deciding the fact as to whether or not we would have a meeting is the main reason for this motion.

KILCHER: I dare to disagree Mr. President, not knowing what parliamentary form or shape that should be done. I think that if that amendment should be added to the motion it then would indicate what time would be preferable for the amended motion. If the amendment should pass then we would know what time would be most adequate. I think time should be subordinate to the amended motion.

PERATROVICH: I think I grasp Mr. Kilcher's idea there. He might have a point but that depends upon the recommendation of the committee, as I understand it. Am I correct in that, Mr. Chairman? The committee when it arises will have to give a report, and if they care to go into detail further as a body they can make such a recommendation.

PRESIDENT EGAN: The Committee of the Whole could recommend --

KILCHER: I concede this point. I did not intend to say that the Convention after having risen would be mandatory to reach a decision, but they should consider it. The Committee of the Whole should resolve itself into a Convention again and they should consider reaching a final agreement on the issue, seeing that it's vital.

PRESIDENT EGAN: Your proposed amendment, Mr. Kilcher, would ask that the Committee of the Whole that would be hearing this

meeting, that would be meeting, would render a definite report on the question that would be considered by the Convention in plenary session? Is that the sense of your proposed amendment?

KILCHER: Yes.

SUNDBORG: I object if Mr. Kilcher asked unanimous consent.

PRESIDENT EGAN: Objection is heard. Do you so move?

KILCHER: I so move.

PRESIDENT EGAN: Mr. Kilcher moves. Is there a second? There does not seem to be.

SWEENEY: I will second it to get the motion on the floor.

PRESIDENT EGAN: Mrs. Sweeney seconds Mr. Kilcher's motion. Mrs. Sweeney?

SWEENEY: There is some question in my mind as to whether Mr. McCutcheon was entirely right in saying we were not going to take a poll of the delegates here. It was my understanding that we would have this Committee of the Whole and then get a definite feeling of the sentiment in the Convention Hall as to the bicameral or unicameral legislature. I would like to hear more about that from Mr. McCutcheon.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, may I ask Mrs. Sweeney -- don't you think that would be an order of business say for the next day at the regular plenary session, after people have had a chance to think about it following the Committee of the Whole meeting whenever it is held.

SWEENEY: If we could be sure it would come up the next morning or if we have this in the morning and have it come up in the afternoon or something like that.

PRESIDENT EGAN: Of course, up to this point in a Committee of the Whole, a report could be made, the Chair would like to state. Mr. Riley?

RILEY: I believe Mrs. Sweeney's question touches on the same question raised by Delegate Kilcher and replied to by Mr. Peratrovich, that this body has an entity apart from the Committee of the Whole, and it would not be proper for us to seek to direct how the Committee of the Whole shall conduct itself, but in due course probably the desire of each will be expressed within the committee.

PRESIDENT EGAN: Mr. Barr.

BARR: That question will come up of course in the third reading in front of the plenary session for decision, but this Committee of the Whole, as I understand it, is to allow us to hash this over among ourselves, argue back and forth and perhaps form our opinions for the benefit of the committee and also for our own benefit. Now it seems to me that this Committee of the Whole, their word would be ineffective unless we had some showing of their opinion when it is all over. We would not necessarily put ourselves on record, but if we had a showing of hands before the Committee arose why then all these committees that are working with this question would have some indication of what the body thought. It would merely serve as a guide. I think that is necessary.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to report here, if I may, that discussion along this line took place today at a meeting of the committee chairmen, and after we had talked it over at some length I think it was the consensus of that group and probably unanimous, that it would be best not to try to reach a decision right away that same evening on a matter as important as this, but let's have a full discussion of it, bring out the issues if we can, maybe take a few days at it -- maybe we can't do it all in one evening and not try to bind the Convention with a decision on a matter as vital and substantial as this after a single evening's discussion. I might say further that the chairman of one of the other committees, which is very much interested in the matter of unicameral or bicameral, the Committee on Apportionment, said that his Committee would have a report a few days hence on how they would propose to apportion a House or a Senate if we had a bicameral system or just a single body if we had a unicameral one which might relate directly to this question. He hoped we would not make a decision immediately but would just air the issue and try to bring out the facts.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe that under our present rules and Robert's Rules of Order that if the question is put on Mr. Kilcher's motion it will take a two-thirds vote to carry it because it is a departure from the rules and requires suspension of the rules.

PRESIDENT EGAN: That is Mr. Taylor, that the proposed amendment made by Mr. Kilcher would be a departure in that it would require a certain specific report from the Committee of the Whole?

TAYLOR: No, you're waiving the report and asking an immediate

decision upon whether or not we agree upon a unicameral or a bicameral legislature instead of letting it take its usual course of business into second reading and then on into third reading for a vote. We are not doing that so that would require suspension of the rules and this motion now would take a two-thirds vote to suspend the rules and allow this motion to be put.

PERATROVICH: Mr. Chairman, point of order.

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

PERATROVICH: I doubt if you can tie the hands of your Committee of the Whole prior to their meeting. As I stated here before, we are going to discuss this question as the object of this Committee of the Whole, and your Committee is going to make a recommendation. If it sees fit to take this question upon the floor immediately after arising, they will make such a recommendation. If they want to set some other day that is their privilege. I don't think it is in order for us to act upon what the Committee shall do before they meet.

R. RIVERS: I pursue Mr. Peratrovich's point on the point of order. Mr. Kilcher's amendment would ask this Convention to tie its hands by commanding us at this point to take official and final action immediately after the Committee of the Whole arises. We retain the power to act from day to day as the Convention sees fit. So I don't think that his proposed amendment is in order.

PRESIDENT EGAN: That was more or less the feeling of the Chair in the beginning. Mr. Doogan are you rising on the same point of order?

DOOGAN: I am rising on the same point. If I recall the rules, when in calling for a meeting of the Committee of the Whole, when the Committee of the Whole is through, they are to rise and report and that throws the matter out on the Convention floor for a decision. I think possibly what Mr. McCutcheon had in mind was that possibly what he wanted was a committee meeting with the hearing where it is mandatory that all of the delegates be here to discuss it and for the delegates alone and then the matter could remain within the committee until such time as they are ready to report.

COLLINS: I might throw some light on this discussion of the Committee of the Whole --

PRESIDENT EGAN: Are you rising on the point of order that is before us?

COLLINS: Section 6, Rule 21, "All proposals, amendments, reports, resolutions, and other matters may be debated in the

Committee of the Whole section by section, and recommendations with respect thereto shall be reported to the Convention."

HELLENTHAL: I had hoped that I would not have to talk on this matter, but I want to go back to the reasons for this proposal that is now before us. Three weeks ago we would all have agreed unanimously that this motion was out of order because it runs contrary to the committee system that we have adopted for following and handling the work of this Convention. I think we can all agree on that. Three weeks ago when we first arrived here it would have been grossly improper to even suggest a means whereby the delegates could be polled on a fundamental problem that was facing the Convention. With the passage of some ten meetings of the committees, and that is all that on the average have occurred, we now an attempt is being made or the possibility is being made for the group here to instruct their committees. Now Mr. McCutcheon very carefully said that it was to discuss matters. He avoided any mention of a poll or a vote. Mr. Kilcher, on the other hand, wants a vote right after the meeting of the Committee of the Whole or, as he could see it proper, during the meeting of the Committee of the Whole so that the committees would know what to do. Now, it may or may not be desirable to instruct your committees in advance as to the practice, within which they are to operate, but these committees are working seriously, honestly, they are trying to keep an open mind, they are trying to gather facts. Now this goes to a basic principle in government. Are we going to have government by poll or are we going to have government after selective work. Some of the committees facing this matter of apportionment are going to bring in experts from the States who may not arrive until January I understand. Would we look kind of peculiar if we said on their arrival, "We all got together the other night and decided this. You just confine your remarks to bicameral or you just confine your remarks to unicameral. We know all about it so don't try to influence us one way or another." Now these committees are working seriously. They are calling experts in from Alaska and some of them from other places. I don't think we should try to influence or tell them how to decide matters after three, four, five, six or maybe ten hours discussion on the floor. I think it is basic. It goes to the very root of the system that we have chosen to adopt for doing our Convention business. Now, one more point on it. We might as well face it, the basic reason for this request is that all of us left home thinking that the problem of unicameralism was a remote possibility -- that there would doubtless be a small minority effort to obtain a unicameral body but that it would not gain any weight at all. To our surprise the movement is rapidly gaining weight, gaining momentum, and it may very well be that after great deliberation this body decides to adopt a unicameral house, but we want it voiced around the Territory. That is the reason for this motion. The reason for this motion is not to force the committees to think or arrive at a solution, but

it is to let the public know that a grave problem has arisen here -- one that was not anticipated, one in which we were unable to go to our friends and get their opinion on it. Now if I am wrong in that statement I am sure some of the members that attended the committee meeting of committee heads will correct me.

V. FISCHER: Point of order, Mr. President.

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

V. FISCHER: I hate to interrupt Mr. Hellenthal but previously a point of order was under discussion and we never had a ruling from the Chair which might dispose of this question altogether.

PRESIDENT EGAN: Mr. Fischer's point of order is well taken. There can be no further discussion until that point of order is resolved. Mr. McCutcheon.

MCCUTCHEON: Under the point of order, I feel that Mr. Hellenthal's remarks are entirely pertinent and if the Chair feels inclined to rule him out of order, I will have to appeal the ruling of the Chair.

PRESIDENT EGAN: Is that your intention, Mr. Hellenthal, to address to that point of order?

HELLENTHAL: Yes.

PRESIDENT EGAN: You're getting around to that?

HELLENTHAL: Yes.

PRESIDENT EGAN: If that is your feeling, then continue.

PERATROVICH: Mr. Chairman, could I interrupt?

PRESIDENT EGAN: Yes, Mr. Peratrovich.

PERATROVICH: I don't like to go too far with this either but I think the Chair has to make a ruling on the point of order.

PRESIDENT EGAN: If he is speaking to this point of order, Mr. Peratrovich, that has arisen, if that is his intention, he can - it might affect the Chair's decision.

HELLENTHAL: I do touch in other problems because I find it difficult to divide this, but to sum it up, there is nothing wrong and it is entirely proper that the people of Alaska know the problem that we are faced with, and if this opens discussion we will promote discussion throughout the Territory and

lend others to give us a view of their opinions, I am all for it, but to ask the body or to put ourselves in the position where immediately following or during the thing we are going to take a vote or a Gallup poll, I am vigorously opposed to that, and I am sure the intention of the men who spoke for the original motion, that that was not their intention.

PRESIDENT EGAN: Mr. Riley, as Chairman of the Rules Committee, the Chair would request that you hold a meeting of the Rules Committee, if there is no objection, and resolve this question as to whether or not Mr. Kilcher's amendment to the proposed motion by Mr. McCutcheon is in order under the terms of Rule 23 of the permanent rules. If there is no objection, the Convention will stand at recess. Mr. Kilcher?

KILCHER: In order to save time I would rather withdraw my amendment. I for one am as interested as anybody of seeing some headway made in this matter. If we want to let the pendulum of public opinion swing back and forth from unicameral to bicameralism we might even swing several times between now and next Spring. I am very surprised that our astute professional and politicians didn't all during last Summer or Fall have formed some sort of opinion upon some source of information as to what they are roughly in favor of . I don't think we should have a special college to decide --

PRESIDENT EGAN: Mr. Kilcher, are you asking unanimous consent that you withdraw your proposed amendment?

KILCHER: I ask the personal privilege to speak a couple of minutes on the subject.

PRESIDENT EGAN: Is there objection to Mr. Kilcher's personal privilege?

V. FISCHER: I object only to the point that his opinions can be expressed fully in the motion of Mr. McCutcheon.

PRESIDENT EGAN: Objection is heard.

KILCHER: I would like to withdraw my amendment and give the reasons for it.

PRESIDENT EGAN: Mr. Kilcher, you may give your reasons for withdrawing the amendment.

KILCHER: In order to save time on the floor and to save the Rules Committee time I withdraw my amendment and declare myself in general agreement with Mr. McCutcheon's motion, and having studied and listened to other interpretations of the rules, I am aware that a committee report would amount to what I actually had in mind, a recommendation to the Convention and I hope the matter will be settled soon.

PRESIDENT EGAN: The question before us then, if there is no objection to Mr. Kilcher's withdrawing his proposed amendment, the question is, "Shall the Convention meet on Wednesday for the purpose of considering in Committee of the Whole the question of a unicameral or bicameral legislature?" Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: All in favor of the motion will signify by saying "aye", all opposed by saying "no". The "ayes have it and the Convention will meet in the Committee of the Whole on Wednesday for considering the questions of the unicameral or bicameral legislature. Mr. Johnson?

JOHNSON: Mr. President, I now move that the Committee of the Whole hearing be held at 7:30 p.m. on Wednesday.

MCNEES: I second the motion.

BARR: I object.

PRESIDENT EGAN: Mr. Johnson moves and Mr. McNees seconds a motion that the Committee of the Whole be held on Wednesday evening at 7:30 p.m. The question is open for discussion. If there is no discussion the question is, "Shall the Committee of the Whole meeting be held for the purpose of discussing the unicameral and bicameral legislature at 7:30 p.m. on Wednesday?" All in favor of the motion signify by saying "aye", all opposed "no".

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 32 - Armstrong, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, V. Rivers, Robertson, Smith, Sundborg, Wien, Mr. President.

Nays: 19 - Awes, Barr, Boswell, Buckalew, Cooper, Hermann, Kilcher, Laws, Londborg, McNealy, Nolan, Reader, R. Rivers, Rosswog, Stewart, Sweeney, Taylor, Walsh, White.

Absent: 4 - Coghill, Harris, Metcalf, VanderLeest.)

CHIEF CLERK: Thirty-two yeas, 19 nays and four absent.

PRESIDENT EGAN: The "ayes" have it and so the Convention will meet as a Committee of the Whole at 7:30 o'clock Wednesday evening for the purpose of discussing unicameral and bicameral legislature.

SUNDBORG: Mr. President, I move and ask unanimous consent that the secretariat arrange to have a bus leave the Nordale Hotel for the University at 7 o'clock Wednesday evening.

PRESIDENT EGAN: Is there objection? Hearing none, then the Secretary or Chief Clerk is ordered to make arrangements for a bus. Mr. Londborg?

LONDBORG: Will we be excused for our TV program then on Wednesday evening?

PRESIDENT EGAN: We will take that under advisement between now and tomorrow, Mr. Londborg. Mrs. Hermann?

HERMANN: This memorandum that is on our desk in regard to TV appearances has the Committee on Rules scheduled to meet tonight? I was just thinking that in the event all of them are moved up we might leave Wednesday free because there will be left only five after the Rules is eliminated.

PRESIDENT EGAN: The Chair would like to announce that President Patty of the University has requested that the delegates meet in a body about 1:50 p.m. tomorrow here and then go to the gymnasium for the convocation proceedings that will be held there. Senator Knowland was due in Fairbanks at 2 p.m. this afternoon. We think that he might be available for a brief talk before the Convention at 9 o'clock tomorrow morning. That is in the process of being arranged and if that should be in agreement with Senator Knowland we will have the honor of his presence with us at 9 o'clock tomorrow morning when we convene and immediately following the roll call we will have an address by Senator Knowland. Are there any questions relative to this convocation?

V. RIVERS: Does that invitation include our staff? Are they also invited to attend in the matter of this invitation -- the secretarial staff?

PRESIDENT EGAN: Mr. Rivers, in the letter that came from Dr. Patty a short time ago I don't think they mentioned the staff. However, I don't think there would be any objection to the staff going to the convocation.

V. RIVERS: I move and ask unanimous consent that those members of the staff who desire to attend the convocation also be granted such a privilege.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that those members of the staff who desire to attend the convocation be invited to do so. Is there objection? Hearing no objection it is so ordered, and the members of the staff who desire to do so will attend the convocation. Is there other business to come before the Convention at this time? Mr. Rosswog?

ROSSWOG: Mr. Chairman, could we refer to the committee announcements?

PRESIDENT EGAN: If there is no objection we will refer back to the committee announcements.

ROSSWOG: The Local Government Committee, No. XII, will meet at 3:30 this afternoon.

PRESIDENT EGAN: Local Government Committee No. XII will meet at 3:30 this afternoon. Mr. Nerland?

NERLAND: Finance Committee No. XI will meet briefly in the gallery following this adjournment.

PRESIDENT EGAN: Finance Committee No. XI will meet briefly in the galleries following adjournment. Mr. Hilscher?

HILSCHER: I would like a point of information upon this memorandum here regarding radio and TV broadcasts. Is this a directive, Mr. President?

PRESIDENT EGAN: A directive?

HILSCHER: For appearances by committees?

PRESIDENT EGAN: Of course, Mr. Hilscher, this is all by just mutual agreement between the chairman of various committees. There is no directive to it.

HILSCHER: I really would like to make a comment on this. I fear that after all -- I wonder if it is not true that KTVF originated this idea of having TV programs.

PRESIDENT EGAN: That is right, but if I may interject that the moment they did so we made it known to them that if the other station broached the subject we would have to give them exactly the same consideration. This on Channel 2 will also be over the radio stations.

HILSCHER: I just hope that keeping us old fellows up until after 10:30 at night isn't going to wear us out for the next day.

PRESIDENT EGAN: Is there any other business to come before the

Convention? Mr. Johnson.

JOHNSON: I move and ask unanimous consent that the prayer offered by Delegate Londborg this morning be spread upon the journal in its entirety.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the prayer as offered by Reverend Londborg this morning be spread upon the journal in its entirety. Is there objection? Mr. Kilcher?

KILCHER: Point of information. Could we continue to spread them all on the journal every day -- I don't see the point of one -- why not have them all there if they are not too long?

SUNDBORG: I object, Mr. Chairman. I don't see any particular reason to put them on our journal. We hear them. I think they give us guidance for that day. It is a great deal of work for the secretariat to type and cut stencils and mimeograph the journal, and I really don't think that these prayers, at least picking out an occasional one and putting them in is quite the material we should put in our journal.

JOHNSON: I so move.

PRESIDENT EGAN: Objection is heard. Mr. Johnson so moves.

PRESIDENT EGAN: Was there a second?

SWEENEY: I seconded the motion.

PRESIDENT EGAN: Mrs. Sweeney seconded the motion. Mr. Marston?

MARSTON: I want to speak in favor of Delegate Londborg's prayer going on the record and then make this ruling that the Delegate from Juneau just made -- that it be ceased from there on.

PRESIDENT EGAN: The question is, "Shall the prayer as offered by Reverend Londborg this morning be spread upon the journal in its entirety?" Mr. Walsh?

WALSH: I don't see the fairness of Mr. Marston's remarks to cease at a certain time. That would be discriminating against some who might have prayers just as appropriate as those we have heard. I believe that each day the minister or the clergyman should offer the prayer, that it should all be inserted in the record, every day.

KILCHER: If Mr. Walsh would make this a motion I would be glad to second it.

PRESIDENT EGAN: There is a motion before the house at this

time, Mr. Kilcher. The question is, "Shall Mr. Longborg's prayer be inserted on the pages of the journal in its entirety?" All in favor signify by saying "aye". All opposed by saying "no". The "ayes" have it and the prayer will be inserted on the pages of the journal. Mr. Kilcher?

KILCHER: Is it in order to make a motion now that all prayers from now on be spread on the journal?

SUNDBORG: I second it.

PRESIDENT EGAN: It has been moved and seconded that all the daily prayers be spread upon the pages of the daily journal. Mrs. Hermann.

HERMANN: If we're going to spread them all from now on, we ought to go back and get all the ones we had in the past. I very much want that one on the journal of the man who said he hoped we "would have no cobwebs in our brain and no lead in our feet."

PRESIDENT EGAN: The Convention will come to order. Is there further discussion on this motion by Mr. Kilcher? Mr. Gray.

GRAY: If we are going to keep running into these honorable, well meaning phrases that I question whether they should be on the journal. They were not given to us to be put on the journal. They were given to us for our daily thought. We are the recipients of them personally. This is a personal question. I don't believe there has been a minister here that ever spoke for the fact of getting it on the record. He is speaking to us individually and personally, and I believe that if the individual delegate will listen and absorb what is being said, they should be able to retain it and not have to refer back to a journal. Again I say you are getting into things that are personal and honorable, and there is just no limit to this and I do hope we have a minister every day, and I don't want to be in the position of voting for one to be spread on the record and voting for one not to be on the record, and I wish we would confine our journal to a working journal.

PRESIDENT EGAN: We would be voting on this to spread them all on the journal, Mr. Gray. Mr. McLaughlin.

MCLAUGHLIN: Are amendments in order?

PRESIDENT EGAN: Amendments are in order if it is a proper amendment.

MCLAUGHLIN: I move that the motion be amended by adding after the word "prayers", "of less than 75 words."

PRESIDENT EGAN: You have heard Mr. McLaughlin's amendment to the motion. Is there objection?

BUCKALEW: I second it, Mr. McLaughlin's amendment.

PRESIDENT EGAN: It's been moved and seconded that Mr. McLaughlin's amendment be adopted. Mr. Walsh?

WALSH: I am surprised that Mr. McLaughlin would limit the words pertaining to the province of the Almighty and limit the wording of the prayer when we get so much extraneous matter that does not mean a thing. I think a little more of the prayer would help out a lot.

PRESIDENT EGAN: The Convention will come to order. The question is on Mr. McLaughlin's proposed amendment. All in favor of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the amendment has failed. The question now is, "Shall all the daily prayers be spread upon the pages of the journal?" Is there further discussion? If not, then all those in favor of the question will signify by saying "aye", all opposed by saying no

SUNDBORG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Ayes: 22 - Armstrong, Collins, Cooper, Doogan, H. Fischer, Hilscher, Johnson, Kilcher, King, Laws, Londborg, McLaughlin, McNealy, McNees, Nordale, Peratrovich, Poulsen, Smith, Stewart, Sweeney, Walsh, Wien,

Nays: 29 - Awes, Barr, Boswell, Buckalew, Cross, Davis, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Hurley, Knight, Lee, McCutcheon, Marston, Nerland, Nolan, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Sundborg, Taylor, White, Mr. President.

Absent: 4 - Coghill, Harris, Metcalf, VanderLeest.)

CHIEF CLERK: Twenty-two ayes, 29 nays and four absent.

PRESIDENT EGAN: The motion has failed. Is there other business to come before the Convention at this time? Mr. Gray?

GRAY: I move that the Convention adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Gray moves and asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow. Is there objection? Hearing no objection it is so ordered and the Convention will stand adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

November 29, 1955

TWENTY-SECOND DAY

PRESIDENT EGAN: The Convention will come to order (9:00 a.m.). This morning we have with us the Reverend Orland Cary of the First Baptist Church of Fairbanks. Reverend Cary will give our daily invocation.

REVEREND CARY: Our Father, we are grateful for the privileges of this day's work; we are grateful for the night's rest we have just had. We are grateful for this great land that is ours, for the privileges we have of living in a democracy. We are grateful for the work that is being done by the delegates to this Convention. We are grateful for the safeguards that are being set up for this future state regarding the resources of the land, for the people that shall live here in the succeeding generations. We pray that as we do the work that is before us today that we may have the wisdom of the Holy Spirit to lead us and that we may do this work acceptably. For Jesus' sake. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(At this time the Chief Clerk called the roll.)

CHIEF CLERK: Fifty-three present, two absent.

PRESIDENT EGAN: A quorum is present. We are very happy to have with us this morning one of America's most distinguished citizens, a man whose abilities and responsibilities are well known to each of us, the man who in 1953, in his capacity of majority leader of the greatest deliberative body in the world, called up the combined Alaska-Hawaii Statehood Bill, steered it through a long and thorny debate and voted for its passage. It is my great pleasure and high honor to present to you the Honorable William F. Knowland, United States Senator from California. Senator Knowland.

SENATOR KNOWLAND: Mr. Chairman, members of the Constitutional Convention and fellow Americans, I am highly privileged to have this opportunity to meet with this Constitutional Convention which is carrying on this most important of tasks. And perhaps this may be the last Constitutional Convention for statehood in our entire American history because our 48 states, of course, are now members of the sisterhood of states, the Territory of Hawaii has already drafted its state constitutional convention, and it is highly unlikely, perhaps at least during our lifetime or our generation, that any other territory unorganized and now under the American flag is apt to be an organized territory for the ultimate purpose of statehood. So this is indeed a historic occasion. It is my first opportunity with Mrs. Knowland to visit this great area of our country.

We have been tremendously impressed not only with the area, the limited time we have had here in seeing a very small segment of your Alaska, but we have been even more impressed with the greatest of all human resources, of course, the people of this great Territory, and I have a very deep conviction -- no one has a crystal ball that can predict with certainty at the precise time that you will come into statehood -- but I have a deep conviction that in the not too distant future this great Territory will join the sisterhood of states. I also have full confidence that within the lifetime of most of those in this room today you will see Alaska not only as a state of the Union, but I think as one of the great and important states of the American Union.

Now, if I could bring you in the brief time I have today, could bring you a message, it would be to not in any sense be discouraged because you have not become a state as yet or that you may not become a state even at the coming session of Congress, though I pledge to you, as I have already to the people of Alaska and the people of my own state, that I shall do everything I can, as the minority leader of the Senate as well as a Senator of the State of California, to expedite action on Alaska and Hawaii statehood. And I hope that at least it will be given favorable consideration at the coming session of Congress. If it does not come then, it will inevitably come in the very near future. Now all of the states almost that came into the Union after the original 13 went through a difficult period. My own state was not an exception, and perhaps I may be pardoned for reading a paragraph or two out of the Congressional Record of some of the things that were said about my own State of California to show how wrong even members of Congress could be.

Mr. John Maquee, 1850 --the state was admitted to the Union on September 9 of 1850 -- had this to say and I quote:

"The inhabitants, I beg pardon, the floating population of every color and nation who happened in California, have since that time clothed themselves with the habiliments of sovereignty and demand admission as one of the states upon equal terms with the others. This whole thing of the sovereign State of California would look better in the pages of the Arabian Nights than in the archives of this body."

Now the Honorable Representative James A. Sedden of Virginia, in the House of Representatives on January 3 of 1850, declared and I quote again,

"A very large proportion of them are mere sojourners, adventurers and wayfarers, roaming over a wild, uninhabited expanse in quest of treasure with which to return to their homes. The right of such a population to establish a state government can surely not be gravely entertained by any. It

is not to be tolerated, and at whatever hazards California ought to be remanded to territorial subordination." Well, of course, since that time my state has grown from a population of some 65 thousand to a 13 and a half millions of people, and it is not beyond the realms of possibility, some Californians feel, perhaps unfortunately so, that by the census of 1970, we will have a population of some 25 millions of people. I think the present pressures of population will undoubtedly make Alaska look even more attractive to some of the Californians who will want to come up into this beautiful country of yours.

I think the great challenge that faces us as free people is how we can do what Americans have always sought to do, and that is, to leave to our land and to our children a better land than we ourselves have found. This has been the objective of Americans ever since we won our independence. It has been the spirit which has helped us to grow from a small colony of three million on the Atlantic seaboard to a great nation of 165 millions of people, the most productive industrially and agriculturally the world has ever known, with the highest standard of living that any people have ever enjoyed. I don't believe we would have had that great growth except under our great constitutional system. The men who drafted our constitution were wise men. They were operating under a divine inspiration, as I believe this great deliberative body is acting under a divine inspiration. They wanted to preserve for themselves and for all posterity the freedom which they had won at so great a sacrifice. Now, they knew the history of the world up to their time. They knew that where the men had lost their freedom they had primarily lost it because of the concentration of power in the hands of a single individual in a national government, and in order to protect their generation and all future generations of Americans, they established our federal republic. They limited the power of the federal government and reserved all other powers to the people and to the states thereof, and in the federal government itself, they wanted to divide the powers so that they could not be concentrated in the hands of a single individual. And in our constitution, perhaps with some significance, they set up three great coordinate branches of the federal government -- the legislative, executive and judicial -- and named them in precisely that same order. Now, if we are half as wise as men who gave us our republic and helped to preserve it in the intervening period of years, we will preserve our federal republic, our constitutional system of divided powers of the federal government, one of limited and specified powers.

I do not believe that even under our constitutional system our great nation could have grown, and I feel certain my own State of California could not have grown under and waiting for a paternalistic government at Washington. I think it has only been that the resources of our area were opened up to

enterprise, the competitive system of free enterprise, has done more to build our country and give our people the high standards of living that we have. It will be very difficult for your own great area to have its ultimate economic development, and, I am sure that those in this room know far better than I, where the federal government is the owner of approximately 90 percent of your land area, it is going to be important that you invite investment of thrift capital. Our own great country developed its railroads, its mining resources and its industry first from the development of capital abroad and then from the development of capital from various parts of the United States of America. Our great neighbor of Canada has shown tremendous progress. It has been making some of the greatest advances of any nation in modern times. I think Alaska has all the background and all the qualities and all the resources to have a development as great as has Canada during the past few years.

I want to say in conclusion that your work is being watched by not only the Congress of the United States, but, I think, by our 165 millions of people. Despite the objections that have come from some people to statehood, I think the overwhelming proportion of the American people expect, and I think ultimately they will demand that both Alaska and Hawaii become states of the American union. Anything I can do in my individual capacity or in my capacity as a minority leader of the Senate of the United States to expedite that day and in the meantime to help you work out the many problems that you have, which in equity, should be worked out with the federal government, I will be prepared to do. I can think of no pledge which as American citizens, regardless of the party we belong to, and after all, some of these great problems facing the world today are American problems -- they are not party problems in any sense of the word -- I think of no pledge we might take as American citizens better than the pledge of Thomas Jefferson, the great architect of the Declaration of Independence, who said, "I have sworn upon the altar of God eternal hostility on every form of tyranny over the minds of man."

(Standing ovation)

PRESIDENT EGAN: The Chair notes there are many distinguished guests in the gallery. At this time I would like to call the attention of the delegates and visitors to the fact that Mrs. William Knowland, wife of the distinguished Senator, is in the gallery, that Governor and Mrs. Ernest Gruening are also in the gallery and that President and Mrs. Patty are with us this morning. (applause) The Chair will declare a ten-minute recess at this time. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the Committee to read the journal have a report to make at this time? Mr. Doogan?

DOOGAN: Mr. President, there are no errors or omissions in the journal for Saturday November 26. I ask unanimous consent that it be approved.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the journal of the 19th Convention day be approved. Is there objection? Hearing no objection it is so ordered and the journal is ordered approved. Are there petitions, memorials or communications from outside the Convention?

SECRETARY: I have none, Mr. President.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Collins?

COLLINS: Committee No. XIII will meet immediately after adjournment in the committee room where we met yesterday.

PRESIDENT EGAN: Committee No. XIII will meet immediately after adjournment. Mr. Rosswog?

ROSSWOG: Committee No. XII, Local Government, will meet at 11 o'clock this morning.

PRESIDENT EGAN: Committee No. XII, Local Government will meet at 11 o'clock this morning. Mr. Riley?

RILEY: Rules will meet immediately after recess in the gallery.

PRESIDENT EGAN: Are there other committee reports? Are there any proposals to be introduced at this time? Mr. Robertson?

ROBERTSON: I have a proposal. It is on the Secretary's desk.

PRESIDENT EGAN: The Secretary may proceed with the reading of the proposal.

SECRETARY: "Delegate Proposal No. 28, introduced by Mr. Robertson, ESTABLISHING THE SEAT OF GOVERNMENT."

PRESIDENT EGAN: The proposal is referred to Committee No. XIV, Committee on Resolutions. Are there further proposals?

SECRETARY: I have no further proposals, Mr. President.

PRESIDENT EGAN: Are there any resolutions or motions? Mr. Cooper?

COOPER: I would like to move and ask unanimous consent that Senator Knowland's address be spread upon the pages of the journal in its entirety.

PRESIDENT EGAN: Mr. Cooper moves and asks unanimous consent that the address of Senator Knowland be spread upon the pages of the journal in its entirety. Is there objection? Hearing no objection, it is so ordered. Is there any unfinished business? Is there anything to come before the Convention at this time? Mr. Victor Rivers?

V. RIVERS: I move and ask unanimous consent then that we adjourn until 1:30 to meet our obligation over there.

PRESIDENT EGAN: Mr. Rivers, the Chair, before we adjourn, had two or three remarks to make, if you would not mind holding it. The Chair would like to announce again, that because of the fact that a group of people have been invited from Fairbanks to eat here today it would be appreciated if the delegates would start eating not later than 12:15. Also, that the delegates should assemble here not later than 1:45 in order that they can be on their way to the gymnasium by 1:50, and the adjournment probably should be until tomorrow. Mr. Victor Rivers?

V. RIVERS: Mr. President, then I will move that we adjourn until tomorrow morning at 9 a.m.

PRESIDENT EGAN: The Secretary has a brief statement to make.

SECRETARY: Mr. President, the University asks the indulgence of the Convention. They do not have sufficient tables and chairs for the seating of the luncheon party today, and they wish to use all tables and chairs from the Convention floor and to move them upstairs as soon as the adjournment is had. The tables will be put back in the same place, but it will be necessary to make some disposition of the delegates' personal things in order to accomplish that this morning.

PRESIDENT EGAN: You have heard the statement of the Secretary. We are certain each delegate will cooperate with the request. Mr. Victor Rivers then asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow. Is there objection? Hearing no objection it is so ordered and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

November 30, 1955

TWENTY-THIRD DAY

PRESIDENT EGAN: The Convention will come to order (9:00 a.m.). We have with us this morning to deliver our daily invocation Mrs. Zora Banks, Chairman of the Spiritual Assembly of the Baha'i World Faith of Fairbanks. Mrs. Banks.

MRS. BANKS: Dear Heavenly Father, we are grateful that Thou hast created us to know Thee and to love Thee. I am grateful, dear Heavenly Father, that Thou hast enabled these people to gather again in this assembly. Dear Heavenly Father, we do ask that they will be able to cope with anything that might come in their path. Our dear Heavenly Father, should there be anything that needs agreement we would ask you to deliver them. We ask You dear Heavenly Father, for Thou art the Almighty, Thou art the gracious, the powerful, and Thou art able, dear Heavenly Father, to overcome all circumstances. Dear Heavenly Father, in this great assembly we do ask Thee to be with those persons who are bereaved today because of the terrible disaster we have in our midst. We ask you, dear Heavenly Father, to stand by them. And, dear Heavenly Father, we ask that you will give these people here in this assembly the power to do the things you would have them do according to the will of God. We ask these blessings in the name of your kind Son who said, "Ask and you shall receive." In Thy name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. We will proceed with our regular order of business. The reading of the journal will be delayed until the afternoon session. Are there any petitions, memorials or communications from outside the Convention?

SECRETARY: No, Mr. President.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Riley?

RILEY: Mr. President, the Rules Committee reports back to the body a Committee substitute for Resolution No. 6 which is before each of the members, a considerably modified version of the resolution which was referred to the Committee last Saturday. I believe all had ample time to read it, but on chance that it hasn't been seen, I will read it now before moving its adoption:

"Any person who appears to offer testimony in support of, or in opposition to, any subject matter under consideration by the Constitutional Convention or any of its Committees shall be required to state whether he appears in an individual or a representative capacity. If in a representative capacity, he shall be required to state whom he represents in so appearing."

Mr. President, I move the adoption of the report and ask unanimous consent.

COLLINS: I second it.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the report be adopted. Is there objection?

ROSSWOG: I object.

PRESIDENT EGAN: Mr. Rosswog objects. Mr. Collins seconded the motion. The question is open for discussion. Mr. Rosswog?

ROSSWOG: Mr. Chairman, I might mention my reason for objecting. I opposed this rule in the Committee, and I feel we should vote on it. The main thing is, the idea behind it is all right, but I feel that we want all the witnesses we can get here, and if any rule is put up here now and the publicity with it might keep some witnesses from appearing, why I would be against it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I should like to reiterate my opposition to it -- the watered-down version of the rule which, in the words of the chairman, "is considerably modified." First, it serves no useful purpose whatsoever. Secondly, it is virtually meaningless. It is like asking the delegation to use common sense or to behave or to act nicely. Thirdly, it is unenforceable. It has no sanctions whatsoever. If someone refuses to give the information, which of course no one would do, but just for the purpose of argument assume they did, it would make us look rather ridiculous, and it is needless. There is no danger, apparent or otherwise from which to guard against. This you might call something along the line of fighting windmills.

PRESIDENT EGAN: Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If not, the question is, "Shall the resolution be adopted?" All those in favor of adopting the resolution will signify by saying "aye", all opposed no". The "ayes" have it and the resolution is ordered adopted.

COOPER: Roll call.

JOHNSON: I rise to a point of order. The result of the vote has been announced and it's a closed issue.

PRESIDENT EGAN: Your point of order is well taken, Mr. Johnson. The Chair didn't mean to go too fast there. Are there other reports of standing committees? Are there reports of select committees? Are there any proposals to be presented to us this morning? Are there any motions or resolutions? Mr. Smith?

SMITH: I move and ask unanimous consent that the Committee on Resolutions and Recommendations be charged with the responsibility of making certain that proposals covering the seven requirements of H.R. 2535 are submitted to this Convention.

PRESIDENT EGAN: Do you have that resolution in writing, Mr. Smith?

SMITH: In very rough writing, Mr. President.

PRESIDENT EGAN: The Chair would wonder if it might be more in order if you had it to offer to the Convention, possibly at the next plenary session this afternoon so it could be a matter of record.

SMITH: Yes, that is all right.

PRESIDENT EGAN: Is there objection to that -- until it is in resolution form? Is there other business to come before the Convention at this time? Mr. Rosswog?

ROSSWOG: Could we refer to committee announcements? Committee XII, Local Government, will meet at 11 this morning.

PRESIDENT EGAN: Committee XII, Local Government, will meet at 11 this morning. Mr. Cross?

CROSS: Committee No. XIV on Resolutions and Recommendations will meet at the scheduled time this morning.

PRESIDENT EGAN: Committee No. XIV will meet at the scheduled time this morning. Mr. Hilscher?

HILSCHER: I rise to ask unanimous consent of the Convention that we may meet Mrs. Laura Jones who is an eighth-grade teacher in the Fairbanks Schools. Mrs. Jones created quite a sensation in her talk before the AAUW last Monday night, about the job she is doing with the school youngsters in the way of inspiring them with the work that is being done at the Constitutional Convention. Mrs. Laura Jones was for ten years an ANS teacher in the Territory. She is an author of a very

splendid book and if it meets with the approval of the body I should like to introduce Mrs. Jones at this time.

PRESIDENT EGAN: If there is no objection, Mr. Hilscher, you may introduce Mrs. Jones.

HILSCHER: Ladies and gentlemen, Mrs. Laura Jones of the Fairbanks Schools. (Applause)

MRS. JONES: Mr. President and delegates, it is indeed an honor to be invited to come before the Constitutional Convention, and I appreciate it very much, and I hope that what I have to say will be of interest to you.

V. FISCHER: Mr. President, I would like to move that the Convention resolve itself into a Committee of the Whole to hear Mrs. Jones.

PRESIDENT EGAN: If there is no objection the Convention will resolve itself into a Committee of the Whole to hear Mrs. Jones.

PRESIDENT EGAN: If there is no objection the Convention will resolve itself into a Committee of the Whole, and Mr. Fischer would you take the Chair?

(Mr. Fischer came forward to the Chair.)

COMMITTEE OF THE WHOLE

(At this time the Committee of the Whole met) Mr. Fischer presided.

PRESIDENT EGAN: The Convention will come to order.

V. FISCHER: Mr. President, the Committee of the Whole has risen and would like to express its appreciation to Mrs. Laura Jones for the very fine presentation.

PRESIDENT EGAN: Hearing no objection it is so ordered. Mr. Cooper?

COOPER: I imagine making a motion to this matter is in order. I would like to make a motion and ask unanimous consent that the Secretary be instructed to write a letter to Mrs. Jones's class issuing a formal invitation that that class attend one of the plenary sessions, that they might include a letter on our letterhead as an official act of this Convention in their scrap book.

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Cooper? Hearing none, it is so ordered, and the letter will be written.

BUCKALEW: This is probably not too relevant but before it slips my mind, I was in favor of an 18 year old franchise. From listening to the remarks of some of these 13 year olds, they can serve in the Legislature.

PRESIDENT EGAN: Is there any other business to come before us at this time? Mr. Sundlorg?

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess until 1:30 o'clock this afternoon.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention stand at recess until 1:30 this afternoon. Is there objection? Hearing no objection it is so ordered and the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have a report from the Committee to read the journal? We might postpone that until we are just about ready to finish the plenary session. Mr. Smith, you had a resolution or motion this morning, which ever manner you would wish to consider it.

SMITH: Mr. President, I would like to ask the Chief Clerk a question. Mr. President, there is no hurry on this and I suggest we forget it for now and continue with the business.

PRESIDENT EGAN: Then we will continue with the business we have before us. Mr. White.

WHITE: Mr. President, the Committee to read the journal is now ready to proceed with the journal for the 21st day. The following changes on page 2: All reference to "Mr. Rivers" in the middle of the page should be "R. Rivers". Page 3, third paragraph from the bottom, the word "Convention" should be "Convention's". On page 7, end of the first paragraph. insert, "There being no objection, it was so ordered. That was at the end of the first paragraph on page 7. The second paragraph on that page after "1:30", insert "p.m."; in the same line following "Tuesday" delete "so they could" and substitute "and"; same paragraph, third from last line, delete "it is agreeable with the Senator" and substitute "possible."

PRESIDENT EGAN: What is your desire, Mr. White?

WHITE: I should say some of these changes were suggested by the Chief Clerk before we got to them. With those changes we recommend approval of the journal.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journal of the 21st day be approved as corrected by the Committee. Mrs. Hermann?

HERMANN: Mr. President, I did not get his first correction, and I would like to have it restated.

WHITE: The first correction was on page 2, paragraph 5, two references to "Mr. Rivers" should be "Mr. R. Rivers". On same page, paragraph 6, one reference to "Mr. Rivers" should be "R. Rivers".

PRESIDENT EGAN: Is there objection to the adoption of the journal of the 21st Convention day with the proposed changes? If not, the journal is ordered approved as read. Is there other business to come before the Convention at this time? Mr. Doogan?

DOOGAN: I would ask a special privilege of the floor.

PRESIDENT EGAN: If there is no objection? No objection, you may proceed.

DOOGAN: Tomorrow morning there is a funeral in town for a woman who died here recently. She lived in the community for many years and was a pioneer of the Territory, and it was suggested to me by one or two of the other members of the Convention that if possible those that choose to go to the funeral tomorrow morning be excused and be shown present on roll call if they choose to attend the funeral.

PRESIDENT EGAN: You have heard the request. Do you ask that in the form of a unanimous consent request? You have heard the request. Is there objection? Mr. Walsh?

WALSH: Mr. Chairman, I am included as one of those in Mr. Doogan's request. I too feel that I should as a pioneer and as a long acquaintance of the Eagan family. They played a great part in the development of Fairbanks and the Territory as a whole. I would like to attend that funeral and would also like to be excused and marked present on the roll call.

PRESIDENT EGAN: Is there objection that these delegates who desire to attend the funeral tomorrow be excused but shown as being present on the record? Hearing no objection, it is so ordered and the delegates will be shown as present on the record. Mr. McLaughlin?

MCLAUGHLIN: Mr. President, I move that the remarks made under "personal privilege" shall not be soundscribed in the future.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that when a delegate asks for the floor under the question of "personal privilege" that the remarks at that time not be soundscribed. Is there objection?

V. RIVERS: I object.

WHITE: I second the motion.

PRESIDENT EGAN: Objection is heard. Mr. White seconds the motion of Mr. McLaughlin. The motion is open for discussion. Mrs. Sweeney?

SWEENEY: Mr. Chairman, would this also include "special privilege of the floor" or just "personal privilege"?

PRESIDENT EGAN: It would include, in the mind of the Chair, Mrs. Sweeney, any motion made under a privilege, whether special or otherwise. Is there discussion? Mr. Hilscher?

HILSCHER: I rise for a point of information. What is the point involved? What is to be accomplished by clicking that machine off and on so frequently?

MCLAUGHLIN: The purpose of the motion is to cut off the human machine rather than the transcriber here. I feel that in the future, not that it has been abused in the past, but there might be a danger, a tendency for too many people to attempt to memorialize their friends on transcriptions, and terminating transcriptions and saving money would be conducive to a brevity of remarks on any subject given under any privilege. The privilege is bluntly that is, by the experience of all here, there is a tendency to abuse it. To prevent it in the future and prevent the problem from arising in the future, I think it would be appropriate now that the Convention so vote.

PRESIDENT EGAN: Is there further discussion? Mr. Victor Rivers?

V. RIVERS: Mr. Chairman, I think the motion and the action behind it is ill-advised for this reason. When we grant the privilege of the floor to someone to state something in regard to this Convention it may be in regard to the Convention as a whole or to the individual member of the Convention, it should definitely be a part of the record. We can grant personal privileges as we did this morning to a woman to appear before us and she has the privilege when that privilege is granted of having the speaking privileges of a member on this floor. They should be entitled, after that privilege is granted to the privileges of a member on this floor. I think personal privilege comes under the head of one of the privileges of the delegates and as such should be a part of the record. It is hard to foresee what they might say, but in any event, it might be under the personal privilege, they desire their comments, for the good of the body and for the good of their own thinking as a delegate, to appear on the record. I see no reason for this attitude of every time we have personal privilege or every time we have someone who has something to say being taken off the record. It is not the purpose. The

record is to keep as near a complete record as possible. I, for one, feel we should vote this motion down.

PRESIDENT EGAN: Is there further discussion on the motion? Mr. Sundborg?

SUNDBORG: Mr. President, I think I probably should mention here that this subject has been under discussion at least two or perhaps three daily meetings of the committee chairmen and after a great deal of discussion it was finally decided unanimously, I believe -- perhaps you were not there, Mr. Rivers -- that we thought the soundscoring should be shut off when a delegate arises under "personal privilege". The thought behind it being not only that it might limit remarks but so many of the remarks made under that heading really have nothing to do with the business of this Convention -- they might be something entirely aside from the question of the Constitution of Alaska. One other consideration is that we are running out on time on soundscoring, and it is pretty clear to us that we are going to be far over the number of hours which we guaranteed, so this is really costing us money if we keep it on for things that don't have a whole lot to do with the direct business of the Convention.

HURLEY: Point of information.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Suppose I want to say something that is directly related to the business of the Convention but I do not desire to make a motion. What is the procedure that I use other than asking personal privilege of the floor?

PRESIDENT EGAN: Mr. Hurley, if you desire to speak on some matter that is the business of the Convention you could ask for unanimous consent to refer to a certain subject that may have been before us previously. If you got that unanimous consent, which would mean that the rules were suspended, you could have that privilege.

HURLEY: Mr. Chairman, I have reference to one of the rules that says any delegate may have the privilege of the floor at any time on the matter of personal privilege. I feel that is a convenient way of making general remarks sometime regarding the Convention, whereas it may be undesirable to refer it to some particular item which may have gone before or may be encompassed in a motion made in the future.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the soundscoring facilities be shut off when a person has gained the floor under a question of privilege?" All in favor of the motion will signify by saying "aye",

all opposed by saying "no". The "ayes" have it and the motion has carried. Is there other business to come before the Convention? Mr. Cooper?

COOPER: Mr. President, I want the floor on personal privilege but to get discussion on this I imagine I am going to have to make a motion and I know there has been a lot of discussion on this. Therefore, I am going to make a motion that the late evening TV sessions of the TV programs be suspended, and I ask unanimous consent.

H. FISCHER: I second the motion.

PRESIDENT EGAN: The motion has been made by Mr. Cooper and seconded by Mrs. Fischer that the late evening TV programs be suspended by the Convention. Mr. Cooper, if the Chair may, that subject was brought up at the meeting of the committee chairmen this afternoon, and quite thoroughly discussed and it was the feeling of the committee chairmen that we would suspend for at least the time being all of the TV appearances. The committee chairmen were to report back to all committees on that subject.

MCLAUGHLIN: Point of information, Mr. President.

PRESIDENT EGAN: Mr. McLaughlin, your point of information?

MCLAUGHLIN: That is they will be terminating effective Saturday, is that right?

PRESIDENT EGAN: Effective Saturday because of the press of detailed work here by the committees.

ROSSWOG: Was that not effective Friday night?

PRESIDENT EGAN: It was effective Friday night so that there would be no program on Saturday night. The President has had no opportunity to contact the radio and TV stations as yet. Would that take care of your motion?

COOPER: With that in mind and with the consent of my second, even though we will go down there Thursday night, I will withdraw my motion.

PRESIDENT EGAN: If there is no objection Mr. Cooper's motion is ordered withdrawn. Is there other business to come before the Convention? The Secretary has some announcements to make.

SECRETARY: The Convention stationery is available in the office of the message center chief and can be obtained in the amount desired by the members from Mrs. Russell. There are two announcements from the President of the University. On Saturday, December 3, between the hours of 2 and 4:30 p.m.,

there will be a tea at the President's residence honoring women delegates and wives of delegates to the Constitutional Convention, women members of the faculty and wives of faculty members and others. The Panel Discussion Group of the American Association of University Women would like to have the women delegates to the Constitutional Convention as their guests at a luncheon to be held in the private dining room in Constitution Hall on Saturday, December 3.

PRESIDENT EGAN: Is there other business to come before the Convention? Mr. McNealy?

MCNEALY: Mr. President, I would like to announce a short meeting of Committee No. IV on Ordinances immediately at the end of adjournment.

PRESIDENT EGAN: There will be a meeting of the Ordinance Committee immediately upon adjournment. Is there any other business? The Chair would like to at this time remind all the delegates of the Committee of the Whole meeting here this evening at 7:30. Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the Convention now adjourn subject to a meeting of the Committee of the Whole at 7:30 o'clock this evening and that they adjourn as a Convention until 9 o'clock tomorrow morning.

METCALF: Is there a special bus to run this evening, the same as it does in the morning?

PRESIDENT EGAN: The bus will leave the Nordale Hotel at 7 p.m. tonight. Mr. Hilscher?

HILSCHER: Mr. President, point of information. Since we are meeting as a Committee of the Whole tonight -- therefore the soundsciber will not be working?

PRESIDENT EGAN: That is correct, Mr. Hilscher.

HILSCHER: I happened to run into one of the radio men down town today and he was asking whether the transcription of this would be available to send to other radio stations throughout the Territory.

PRESIDENT EGAN: Mr. Sundborg, the Chair has been allowing for this discussion on point of information relative to the effect of the meeting tonight. Mr. Sundborg?

SUNDBORG: I wonder, Mr. President, if I may be permitted to rephrase my unanimous consent request and say to make it simply that we now recess until 7:30 this evening?

PRESIDENT EGAN: Mr. Sundborg's motion is a unanimous consent

request that the Convention stand at recess until 7:30 but before we do that -- should we have the stenotypist here tonight during the Committee of the Whole? What is the wish of the Convention? Mr. Sundborg?

SUNDBORG: Mr. President, may I withdraw my motion and I would like to move at this time and ask unanimous consent that we resolve ourselves into a Committee of the Whole to discuss the subject of what arrangements we will make for that meeting tonight.

PRESIDENT EGAN: If there is no objection then, the Convention will resolve itself into a Committee of the Whole for the purpose of discussing the Committee of the Whole tonight. Mr. Sundborg, will you take the Chair.

COMMITTEE OF THE WHOLE

(At this time the Committee of the Whole met. Mr. Sundborg presided.)

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

JOHNSON: Mr. President, I move that we instruct --

SUNDBORG: Mr. President, point of order -- the only matter now in order is for a report of the Committee of the Whole.

PRESIDENT EGAN: That is right. Your point of order is well taken Mr. Sundborg.

SUNDBORG: Mr. President, your Committee of the Whole has arisen and it reports that during the Committee of the Whole session it was informed that Radio Station KFAR will soundscribe tonight's proceedings without charge to the Convention.

PRESIDENT EGAN: Do you make a motion?

SUNDBORG: I move that the report of the Committee of the Whole be adopted.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves and Mr. Robertson seconded the motion. Mr. Hellenthal?

HELLENTHAL: I move to amend the motion by adding the words, "and that the stenotypist not be called upon for further services today."

WHITE: Second it.

HERMANN: I object.

PRESIDENT EGAN: Objection is heard. Now the Chair would rule that that motion would not be in order at this time, Mr. Hellenthal because the report of the Committee of the Whole is as Mr. Sundborg reported and the question is, "Shall the report Mr. Sundborg made as to the action taken by the Committee of the Whole be adopted by the Convention?" All those in favor of adopting the report signify by saying "aye", all opposed by "no". The "ayes have it and the report is ordered adopted. Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, I move the services of the stenotypist be dispensed with this evening during any hearing of the Committee of the Whole.

PRESIDENT EGAN: Mr. McLaughlin moves that the services of the stenotypist be dispensed with for the remainder of the day and that she not be required to be present this evening.

WHITE: I second the motion.

RILEY: Point of information, in adopting the report of the Committee of the Whole the body as I understand it has not yet accepted the offer of KFAR, is that right?

PRESIDENT EGAN: That is right.

RILEY: It seems to me we might better see how we stand as to soundscribing before we act on the dismissal of the stenotypist.

PRESIDENT EGAN: We adopted the report but we did not actually accept the offer of radio station KFAR. Mr. Hilscher?

HILSCHER: I so move and ask unanimous consent that this body accept the invitation of KFAR to soundscribe tonight's meeting.

RILEY: Point of order. Is there not a motion on the floor? Perhaps Mr. McLaughlin would accomodate us by withdrawing his motion.

PRESIDENT EGAN: Would you hold your motion for a minute, Mr. McLaughlin?

MCLAUGHLIN: I shall consent to any suspense for less than five minutes.

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent to

withdraw his motion with the consent of his second, Mr. White. Hearing no objection, the motion is withdrawn for the time being and Mr. Hilscher's request is asking unanimous consent that the Convention accept the offer of KFAR to soundscribe the proceedings at no cost to the Convention this evening. Is there objection? Hearing no objection, it is so ordered and the Convention goes on record as accepting the offer of radio station KFAR. Mr. McLaughlin?

MCLAUGHLIN: Mr. President, I request unanimous consent that my motion be reinstated. I will make parliamentary inquiry if somebody can move the previous question as soon as my motion is reinstated.

PRESIDENT EGAN: Mr. White seconded the motion. The question is, "Shall the services of the stenotypist for tonight's meeting be dispensed with?" Mrs. Hermann?

HERMANN: I do not see why we should dispense with the services of the stenotypist for tonight's meeting. After all, what some of us want, and I think it is more or less a universal hunger, is to have a printed record of who says what and what the arguments are, and that we cannot get from the soundscribing, and I also call the attention of the body to the report of the Administrative Committee at the time the original report was given on salaries and appointments to the effect that no overtime is to be paid and that all the people who were employed were to work as needed at night. I don't see that it needs to cost the Convention anything except the extra time for typing the report, but I don't want to do without this report. I would rather have it than the soundscribing.

PRESIDENT EGAN: Mr. White.

WHITE: I would like to point out then that this soundscribing record to be of use, it would have to be typed and mimeographed and distributed to all members. It might run two or three hours, if we are all here listening and all participating, that is an unnecessary expense and waste of time.

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

HARRIS: Mr. Chairman, I move the previous question.

PRESIDENT EGAN: Mr. Harris moves the previous question.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Doogan seconds the motion. It has been moved and seconded that the previous question be ordered. The motion automatically stops debate.

MCNEES: Point of information. This record that KFAR soundscribes

tonight, does that belong to the Convention?

PRESIDENT EGAN: Yes, it will. The question is, "Shall the previous question be ordered?"

KILCHER: I think there is a conflict of information. Mr. Hilscher, could you correct me on there as to whether the soundscribing will belong to the Convention or the radio station.

PRESIDENT EGAN: The Chair just stated, Mr. Kilcher, that the soundscribing will belong to the Convention. Mr. Carozza kindly stated that he will turn the tapes over to the Convention at no cost. The question is, "Shall the previous question be ordered?" All in favor of ordering the previous question will signify by saying "aye", all opposed "no". The "ayes" have it and the previous question is ordered. The question is, "Shall the services of the stenotypist be dispensed with for tonight's Committee of the Whole meeting?"

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 18 - Barr, Boswell, Cross, Doogan, Emberg, Harris, Hellenthal, Hurley, King, Knight, Lee, McNealy, Nolan, Peratrovich, Rosswog, Sweeney, White, Mr. President.

Nays: 33 - Armstrong, Awes, Collins, Cooper, Davis, H. Fischer, V. Fischer, Gray, Hermann, Hilscher, Hinckel, Johnson, Kilcher, Laws, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, Reader, Riley, V. Rivers, Robertson, Smith, Stewart, Sundborg, VanderLeest, Walsh, Wien.

Absent: 4 - Buckalew, Coghill, R. Rivers, Taylor.)

HILSCHER: I want to have the stenotypist here tonight, will you tell me which way to vote. I want to change my vote.

KILCHER: "No" for me too.

CHIEF CLERK: Eighteen yeas, 33 nays, and four absent.

PRESIDENT EGAN: So the motion has failed, and the stenotypist will be with us tonight. Mr. Sundborg?

SUNDBORG: Mr. President, I would like to move and ask unanimous

consent that the Convention pay the stenotypist the sum of \$25 for recording the session tonight, and if I may explain why I suggest that, I would like to say that we are enjoying the services of the stenotypist for what anyone who knows what stenotyping normally costs, it is really a very nominal sum. I don't believe it is proper to require the girl to come down here for a long evening session and then to transcribe those notes all within the range of the very modest daily stipend which we are paying her.

PRESIDENT EGAN: Mr. Sundborg moves that the stenotypist be paid an additional \$25 for her services tonight.

MARSTON: I second it.

PRESIDENT EGAN: The motion is seconded by Mr. Marston. The subject is open for discussion. Mr. Poulsen?

POULSEN: I object for the reason the salary has already been set.

SWEENEY: Mr. Chairman, I object too. We have already broken one rule in that we are going to record the Committee of the Whole. We are going to have the Committee of the Whole on at least 13 other committees, and are we going to be going through the same process of recording the sessions. If we set a precedent now of paying an additional \$25 I think we should follow through on that, and we just won't have the money. While I feel she is doing a very fine job for the \$25 she receives and I know it is not the fee that is generally ordered or paid for her services, I still feel it would be a very bad precedent to set. I am going to vote against the motion.

PRESIDENT EGAN: Is there other discussion? Mr. Barr?

BARR: I feel that some of us voted to have the stenotypist present because we thought it would be free. That is the only reason I can think of. Since we are having a record made of it on the tape, it's just as good a record, I see no reason to have two records made, and especially when this girl has to work after hours to make it. I don't believe in breaking rules either but if people insist on having her come here and work after hours when it is not necessary as today, then they should pay her.

PRESIDENT EGAN: Is there further discussion on the motion? The question is, "Shall the stenotypist be paid an additional \$25 for her services tonight?" All those in favor of the motion will signify by saying "aye", all opposed by saying "no".

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 22 - Awes, Barr, Cross, Davis, Doogan, Emberg, H. Fischer, Hurley, Johnson, King, McCutcheon, McNealy, Marston, Metcalf, Nordale, Peratrovich, Robertson, Stewart, Sundborg, VanderLeest, White, Mr. President.

Nays: 29 - Armstrong, Boswell, Collins, Cooper, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, Knight, Laws, Lee, Londborg, McLaughlin, McNees, Nerland, Nolan, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Sweeney, Walsh, Wien.

Absent: 4 - Buckalew, Coghill, R. Rivers, Taylor.)

CHIEF CLERK: Twenty-two yeas, 29 nays and four absent.

PRESIDENT EGAN: So the motion has failed. Mrs. Nordale?

NORDALE: Mr. President, I would like to move that when the stenotypist's notes are transcribed, that a copy be placed in the library for the reference of the delegates and that it not be mimeographed in sufficient quantities so that each would have one. It seems to me quite unnecessary, and I ask unanimous consent.

PRESIDENT EGAN: Mrs. Nordale moves and asks unanimous consent that when the stenotypist's notes are transcribed that a copy be placed in the library and that it not be mimeographed for each delegate.

MCNEES: Point of information. Would the maker of the motion go along with the suggestion that the copy not be removed from the library?

NORDALE: Yes.

PRESIDENT EGAN: That will be understood then that the copy will remain in the library and anyone wishing to read the copy will also remain in the library. Mr. Kilcher?

KILCHER: Would the maker of the motion agree to possibly include in her motion that five copies be typed -- it is the same labor, just a little more paper.

ARMSTRONG: I object. There is a great deal more work to making carbon copies from originals, and I don't believe it is necessary.

PRESIDENT EGAN: Mrs. Nordale asked unanimous consent. Is

there further objection? Hearing no objection it is so ordered and there will be a copy of the stenotypist's reports in the library available to the members. Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I move that the Convention adjourn until 7:30 this evening.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that the Convention adjourn until 7:30. Is there objection?

LONDBORG: I object. I would like to introduce a motion along this line -- that the journals of the first 13 days be placed on our desks at the earliest possible time. Sometime ago there was reference made to something and we had no journal to go by. I think the understanding was when we started getting our journals that we would have our complete journals.

PRESIDENT EGAN: Mr. Londborg moves and asks unanimous consent that the journals for the first 13 days be placed on the delegates' desks at the earliest possible time. Would the Chief Clerk explain that situation please?

DOOGAN: First eight days.

CHIEF CLERK: There are three of them ready. The girls have not had time to get them typed. They are finished but they just haven't been mimeographed.

PRESIDENT EGAN: The Chair will state the journal will be available as soon as the help can make them available.

LONDBORG: I withdraw my motion.

PRESIDENT EGAN: Mr. Londborg withdraws his request. The motion is asking unanimous consent that the Convention stand at recess until 7:30 p.m. Is there objection? The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there any business to come before the Convention at this time? Mr. McCutcheon?

MCCUTCHEON: Mr. President, I would move and ask unanimous consent that the Convention resolve itself into a Committee of the Whole for the purpose of discussing the proposal of unicameralism and bicameralism.

PRESIDENT EGAN: Mr. McCutcheon moves and asks unanimous consent that the Convention resolve itself into a Committee of the Whole for the purpose of discussing the unicameral and bicameral

legislature question. Is there objection? Hearing no objection, then the Convention will resolve itself into a Committee of the Whole. Mr. Victor Rivers, would you take the Chair?

V. RIVERS: Mr. President, I would like to ask to be excused as I have comments to make from the floor.

PRESIDENT EGAN: Mr. Barr, would you take the Chair?

BARR: Mr. President, I had hoped to be able to talk on the floor on this. I feel quite strongly on this.

PERATROVICH: Mr. President, the chairman can participate in the discussion in the Committee of the Whole, so I don't see why these capable men are refusing to take the Chair.

PRESIDENT EGAN: The Chairman of course during the Committee of the Whole could give the Chair to someone else if he so desired. Mr. Riley, will you take the Chair?

RILEY: Obviously, Mr. President, I have little that I can say.

COMMITTEE OF THE WHOLE

CHAIRMAN RILEY: The Committee will come to order. Being among those who were late to arrive, I did not hear the motion for our resolution as a Committee of the Whole, but I presume that the order of business is as announced and the matter before us is discussion of the structure of the legislature as proposed, I believe, by Mr. McCutcheon yesterday. The matter is now open for discussion. Mr. Victor Rivers?

V. RIVERS: Mr. Chairman, in adding up the discussion of the chairmen of the committees the other day, it seemed to me we would have a long session unless we came to some conclusion in this Committee of the Whole as to the time limit of the debate. Now the questioning of this subject and bringing it up before us at this time was for the purpose of determining an opinion -- not for the matter of final debate. I move and ask unanimous consent that we limit debate to ten minutes for each individual member on this subject.

CHAIRMAN RILEY: Mr. Rivers moves and asks unanimous consent that we limit debate to ten minutes for each individual member on this subject. Is there objection? Mr. Barr?

BARR: Mr. Chairman, I object for the moment for a point of information. Does that mean that ten minutes at one time? If a man has a chance at a second time, what then?

V. RIVERS: I had thought in adding up here that we have 55 numbers; if each uses ten minutes we have 55 or ten

minutes less than ten hours. I thought if each member got a chance to speak that ten minutes would be the maximum we could allow. Some of them will not desire to speak that long.

BARR: Some will not speak at all, but I have great powers of endurance myself.

CHAIRMAN RILEY: Do you object, Mr. Barr?

BARR: I do not object to limiting it to ten minutes each time that a member speaks, but if it comes around to him the second time I believe he should be able to speak again if he wishes for another ten minutes.

CHAIRMAN RILEY: Mr. Rivers, does that constitute an objection to your motion?

V. RIVERS: No, it constitutes no objection.

CHAIRMAN RILEY: Without objection it is so ordered. There will be a ten minute limitation. Mr. Sundborg?

SUNDBORG: Mr. Chairman, are you going to appoint a time keeper?

CHAIRMAN RILEY: I am going to ask the Clerk to give the Chair a copy of the roll call and I shall undertake to keep track of the time. Mr. McNees?

MCNEES: Mr. Chairman, will there be any yielding of time on the part of one delegate to another?

CHAIRMAN RILEY: I know of no reason why that cannot be allowed. We have nothing in the rules on the subject. I would say that each member has ten minutes allotted to him under the proposal. Mr. Rivers?

V. RIVERS: Mr. Chairman, I would object to that if that is a form of unanimous consent request on the grounds that we are trying to limit the total time of debate here to some reasonable figure. I think that if a member does not use his time, does not have ten minutes of time to devote to the subject, we should not allow that time to go to someone else.

CHAIRMAN RILEY: I would suggest in that event if the Chair may, that the matter be clarified right now with a request for unanimous consent or motion as in the case is necessary.

V. RIVERS: I ask unanimous consent that any member be limited to speak not more than ten minutes at this one time, the first time and his ten minutes if not used, not be transferable to some other member.

MCNEALY: I second the motion.

CHAIRMAN RILEY: It has been moved and seconded that each member be confined to ten minutes discussion and that his ten minutes not be transferable to some other member, if not exhausted by the one speaking. Mr. Kilcher?

KILCHER: Mr. Chairman, point of information only. This ten minute time -- if the first time -- is that to be construed that it is only one time if it is only three or four minutes, or can the ten minutes be cut into two or three small parts?

CHAIRMAN RILEY: Mr. Kilcher, as I construe the rule, if one does not use his full ten minutes the first time, he must allow all others who wish to speak on an intermediate basis, to speak before him on the same subject before he resumes.

KILCHER: Will the whole evening be one subject?

CHAIRMAN RILEY: I suspect it will be one subject as indicated by the call. You've heard the motion. Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

CHAIRMAN RILEY: All in favor signify by saying "aye", all opposed saying "no". The "ayes" have it. So ordered. You each have ten minutes.

BUCKALEW: Mr. Chairman, if no one is going to speak, I request that we rise and report progress.

MCCUTCHEON: Mr. Chairman, the purpose of our discussion here is to develop some of the thinking on the side of the proponents of unicameralism in showing the contrast between the two types of legislatures. There has been a good deal of condemnation in past years of the fashion in which our Territorial Legislature has proceeded on the several subjects, and there has been a good deal of thinking by people not well acquainted with the legislative constitution as the way it is in effect currently, believing that in putting the total membership of both the houses into one body the matter of the affairs of the state may be expedited and that an economy may be there effected. There is considerable argument in behalf of bicameralism predicated upon the historical aspects of our legislative assemblies throughout the United States, in England and in other countries. There have been a good number of proposals for unicameralism in the United States during the history of the United States, and it appears that currently only one is functioning. Our particular committee seems to be of two different opinions, and it is possible that some of the debate tonight may serve to strengthen either side or convince either side that they are incorrect. Consequently, I prefer, Mr. Chairman, to have someone take up the cudgels in behalf of either side and get the wheels going around.

CHAIRMAN RILEY: Mr. McNealy.

MCNEALY: Mr. Chairman, in view of the fact that the matter of ten minutes allocated to each delegate with possible chance of twenty minutes, and with the thought in mind that I don't want to be here at the end of ten or twenty hours, I seize this opportunity of being able to lead off and so have my brethren, and possibly sisters, who can speak longer and more fluently than I, have the privilege to carry on their speaking while I am enjoying much needed rest. To get down to the subject, I don't know whether -- first I will back up. I want to make my standing and my premise very clear. I am unalterably opposed to the unicameral legislature. I don't know whether there is any other delegate here who is from Nebraska. I was born and raised in Nebraska and practiced law there a good many years. I will have to say that I did not live too much time under the unicameral system. In fact, it was only in operation for a period of two years where before I came to Alaska to make my home. However, I have been back to Nebraska, I have exchanged correspondence with attorneys, politicians of Nebraska, and this being a Committee of the Whole I feel that I can safely say "Republican" and "Democrat" without any fear of criticism, because that is one thing that we have very admirably avoided in the meeting of the plenary sessions of the Convention and even carried on by those two great statesmen yesterday who referred to greater statesmen in both political parties. I believe we can more or less call a spade a spade. One of the reasons I left Nebraska was that I was probably one of the last Democrats who stayed in Nebraska, and to have freedom and get out from under a one-party system, I felt that a new, growing and progressive place such as Alaska would hold some future, a place where a two-party system could exist and continue in operation. Nebraska is, and I probably don't need to say this, Nebraska is a Republican state. The chances of a Democrat being elected in Nebraska are even less than that of the rich man mentioned in the Bible, getting into heaven. In Nebraska the unicameral system -- there are objections to it there -- on the whole it has worked and is working very well. That much I am going to grant in favor of the unicameral legislature as far as Nebraska is concerned. There my friends, we have a system whereby the Republicans, you have practically a one-party system setup on the non-partisan basis, for one thing. The second is that Nebraska has a stable population. "Stable" is hardly the word. It is not only stable but they are ultra ultra conservative. The largest town in Nebraska (I may be off a little on my figures now as I am probably using figures of ten or fifteen years ago, the population of Omaha (my home town was south of Omaha where the few Democrats were still able to congregate) was about 300,000 as against a state population of 3,000,000. That is not a bad deal under a unicameral system. You compare the size of Anchorage, or the greater Anchorage area with the population of Alaska and you will find your percentagewise that the unicameral

system on that basis would not be as fair here as it is in the State of Nebraska. There you have your sound and conservative farmers throughout the state and they see more or less eye to eye, there is not a chance of ramrodding things through the unicameral legislature in Nebraska because they are all as I said before the ultra conservative type, and it is only conservative measures that are going to get through that unicameral legislature in Nebraska. I can recollect back to the bicameral days when we tried to get some measures through that were not so conservative, and they failed pretty flat even when we still had some semblance of the two-party system in Nebraska. Now I am going to close off here very shortly. I am going to say some things to some of my fellow legislators who served with me in the House of Representatives, it is going to hurt me a little to say this. There are a number of Senators here that I served with in the last legislature. It hurts me but I am going to have to say a kind word for those Senators. There were times when I thought they were wrong and when I thought they were wrong, why they were wrong. There were other times, ladies and gentlemen, when in that House of Representatives things were ramrodded through by a certain segment of the members of the House of Representatives, of which I was one, and had we not had a Senate over there, much as I hate to say this had we not had a Senate there to cool off the House a little and water down some of these bills that we sent over to them, maybe if we had not known there was a Senate over there, very likely we would not have shoved some of these bills through. We depended a large part on the Senate to kill them. I can see -- is my time about up?

CHAIRMAN RILEY: Three minutes, Mr. McNealy.

MCNEALY: I can see whereby the unicameral legislature with the same ideas and the same thoughts, ladies and gentlemen as the House of Representatives in which I served this last time, on a good number of measures, a unicameral legislature could ram through legislation there that the people of Alaska would bow their heads in shame to think it had passed a representative body. It is a dangerous proposition from that point. In closing, I forget whether it was Hamilton or Madison, when he was asked about the bicameral deal in the United States, (incidentally the Senate and House of Representatives have worked pretty well for almost 170 years in our federal government) he said why the two-house system remember in the old days about Madison's time, when they used to pour the coffee out in a saucer and blow it off a little to cool it? Well, he said here is a hot cup of coffee and a hot cup of tea, which he said represented the House of Representatives -- a hot, impetuous body. The saucer here represents the United States Senate -- we pour a little of the hot tea into the saucer, we cool it off a little bit and drink it. I believe that more fully shows that I think that we could stand in this hot impetuous, a growing Territory, we could stand a little cooling off by a

Senate. Incidentally, I am not now nor do I intend to be a candidate for Territorial Senator.

CHAIRMAN RILEY: Is there further discussion? Mr. Marston?

MARSTON: Mr. Chairman, may I speak? How much time do we have here?

CHAIRMAN RILEY: Ten minutes sir.

MARSTON: I am the only man that comes from Spenard, Alaska, who is in this Convention. That group of people represents the largest single group of people back of any group that came here as a delegate, and I am thinking back over the people who live there, the 200 homes at Turnagain By the Sea. I am thinking seriously about the people and why I am here and I have used my influence here. Helen Fischer and some others and I have declared that I would vote for the one-house system. I don't think I had too much influence on them, and I have thought it over here tonight and this afternoon. Those 200 families who live in my development, they expect me to help write a constitution that will be acceptable to the United States group and I think that is my first duty. If we need reforming I think I want to join up with a family of states and then reform from within and not start my reforming from the outside. I believe that is what I am here for, and I am going to go along with the system, the pattern that has built a great United States of America, and I am going to throw my influence along the side of the two-house system that has made America great. Thank you, Mr. Chairman.

COOPER: Mr. Chairman, apparently I am laboring under some false ideas here. I thought there was going to be an argument. I prepared my little speech on the basis that someone would already have been on the floor for the unicameral legislature, but apparently right at this moment, just to stir up some debate, I would like to make the statement. I don't think they are very proud of it, so I will present mine with the full idea that I know very shortly there will be more people on the floor. I have one thing to say in reference to our first speaker. If he could guarantee a certain party in a unicameral legislature, I would swing my opinions to the unicameral. With indulgence I to read this. I really haven't time to study it out well enough to speak freely. Many of the strong points for a bicameral legislature and, of course, strong points for a unicameral legislature have been presented here. Primarily, unicameralism points out economy and expeditious legislation. My concern with the mentioned economy and expeditious legislation is, will this be accomplished at the sacrifice of good, strong comprehensive acts of legislation for the people. Very true, as has been pointed out, unicameralism could possibly forestall and correct some of the "log rolling", "passing the buck" and other undesirable means by which legislators in the past have used to gain personal fame, rather than

vote an issue for the good of the Territory and their constituents. I, for one, would like to assume that had a unicameral house existed in the past, the same caliber of representative referred to above would have been present in the legislature, and could have found other undesirable methods to further his or her purpose at the expense of the voters. Naturally, a bicameral house cannot legislate in the reported fast, economical manner of a unicameral house. However, for our age-old American custom of checks and balances, a bicameral procedure is far more desirable. Secondly, unicameralism cannot give the representation desired by the people. With a two-house system the lower house would be apportioned for representation on population alone. This guarantees each and every election district of 2500 population or more at least one representative in the House and naturally that representative would have the one vote. To enlarge on this, the election districts would be, where necessary due to greater population, multiple member districts based on the total population. The Senate, however, by custom (and I am not attempting to run for Senator in any way, shape or form) a more learned, sedate and responsible body, would be apportioned for representation by geographical areas. Possibly, to go further, geographic and economic areas. This body, the Senate, would then be responsible not to an immediate area, due to population, but would be responsible to the territory or the state at large. The Senate as such would be, in effect, a board of directors for the corporation which in this instance the State of Alaska. Individual Senate members would not be so apt to be concerned about minor legislation but would be instead the liaison between the lower house which is represented by population and the government of the State of Alaska based on over-all population, economics and geographic districts. To summarize, a great deal of the concern voiced in this body against a two-house legislature has been and is based on the supposed incompetence or lack of faith of the representatives to be elected by the people. We were told yesterday by a most distinguished gentleman that the words "politician, politics, government", are in most cases referred to or thought of as synonymous of graft and incompetence. The capabilities of the elected representative or senator we cannot control or guide. They are elected by the people, and rightly so, but a two-house system does install checks and balances, not otherwise obtainable to hold in check any ill-advised or unwanted legislation which would not benefit all.

SWEENEY: Mr. Chairman, I would like to ask a question but not be docked any time.

CHAIRMAN RILEY: Without objection Mrs. Sweeney, the question may be entertained.

SWEENEY: I do not think bicameralism has to be sold and so I came here expecting to hear unicameralism sold, but if there is no sales talk on it I think we might just as well adjourn.

CHAIRMAN RILEY: I would say that any motion is entertained that is in order.

MCNEES: Mr. Chairman, may I answer the question and not be docked any time?

CHAIRMAN RILEY: Mr. McNees.

MCNEES: There are several proponents of unicameralism in the crowd. I well know that. The only reason I am reserving my comments at the present time is that I have had on committee work, a preponderance of public time for the presentation of the subject of unicameralism. I felt that it was better that it come from the floor for the time being rather than by committee. I am prepared to go at any time.

R. RIVERS: Mr. Chairman, Mr. McNees I believe is an able proponent of unicameralism and I subscribe to the old idea that the one who advocates the proposition should have the affirmative and also should have the rebuttal. I think to help this Committee proceed that we would all welcome the argument of Mr. McNees for unicameralism. Then I am willing to have him make his rebuttal after I get through talking without being docked any time.

CHAIRMAN RILEY: The opportunity is open to all.

EMBERG: Mr. Chairman, as a result of the recommendations from the Committee, I would like to hear from that Committee and the members of it.

HINCKEL: Well, I am a member of the Committee, and I came here to learn. I never learned anything by listening to myself, and I did not intend to say anything, but from the study I have made of the subject I feel unicameralism is the type of house that I think will give us the best representation. I come from a portion of Alaska that has never had any representation in the legislature, and there are a lot of other parts that never have either. To me, to devise a lower house that will give us the representation we should have Territory-wide and then also give us a Senate that will also be a fair distribution throughout the Territory in any way so that the seats in the Senate will not be monopolized by the big heavily populated centers, we will have a complete legislature of such size that we cannot afford it in my opinion. The arguments they have against the unicameral house, that is that they will rush legislation through in the heat of the moment, so to speak, and without sufficient judgment, I don't think it is true. I think if we only have one house that the people in that house will give more deliberation to the subject that they are discussing, and I think they will vote the way they feel they should and the way the people they represent expect them to, and not just vote any old way having free knowledge that

the Senate is going to kill the thing anyway. I am not a very good speaker, and I can't express myself too well, but I feel real strongly about the subject, and probably on a different kind of debate, where I could get up and speak in rebuttal after somebody else talks, I could probably get up and say something that might make sense. But for the time being I have said about all I can. I am for a unicameral house on the basis that we will get a truer and better representation and have a better legislature.

CHAIRMAN RILEY: The Chair is noting just three and one-half minutes so you'll have ample opportunity, Mr. Hinckel.

NOLAN: Mr. Chairman, I don't think the people in the back are hearing what is going on.

CHAIRMAN RILEY: What is the situation as to the PA system in the gallery? Is there any hookup?

SOUNDSCRIBING ENGINEER: We have seen nothing of the amplifier -- I believe it is over in the gymnasium as of yesterday, however that is not our equipment and we have no control over it.

HELLENTHAL: Might I suggest, Mr. Chairman, that we move our tables up and permit the people that have visited us here this evening to bring their chairs into the main body. It will not offend my dignity.

LEE: May I move that we recess for five minutes so we can move the chairs?

CHAIRMAN RILEY: Mr. Lee asks unanimous consent without objection for a five - minute recess for rearranging purposes. If there is no objection so ordered.

(People moved chairs in from gallery at this time.)

CHAIRMAN RILEY: The Committee will come to order. I might suggest that to simplify the audience's hearing, the Chair certainly has no particular need to be addressed, except for recognition, and that the speaker, wherever he may stand, could perhaps address the audience to maximum advantage and catch most of those in the room from where he stands.

JOHNSON: Mr. Chairman, I doubt that we can do that because of the transcribing. We will have to face the microphone.

CHAIRMAN RILEY: Would it be the pleasure of the Committee that the speaker step forward?

COMMITTEE: No.

CHAIRMAN RILEY: We will see how it goes from the rear of the

room. Is there further discussion? Mr. Davis.

DAVIS: Mr. Chairman, as I understand it, the purpose of the meeting was to try to give the Committee some idea about the way the delegates felt on the question of a bicameral house and a unicameral house. So far as I am concerned, I am not going to take ten minutes or any fraction thereof. I believe that we should keep the traditional two-house system, and so far as I am concerned I have seen no demand or, for that matter, no request from the people of Alaska that we depart from that system, and I doubt seriously that were we to experiment with a one-house system that the people would be pleased with what we have done. My opinion is not such that it could not be changed, but that is the way I feel now, and I am willing to go on record that way.

CHAIRMAN RILEY: Mr. Fischer.

V. FISCHER: Mr. Chairman, I am not committed to myself one way or the other on unicameralism or bicameralism. I would like to make one point though before speaking on a specific point on unicameralism, and that is that I don't think we should talk in terms of will the people accept what we do. We are here as representatives of the people of Alaska. The people have not told us to go one way or the other. They have not demanded that we adopt unicameralism or that we preserve bicameralism. I think if this body by majority vote adopted unicameralism, that the people of Alaska are just as cognizant of all the factors as we would be in taking such action and would go along with this kind of a system. What I want to emphasize is that we are the people here and we should not worry about being on a higher plane than the rest of the people of Alaska. Insofar as unicameralism is concerned, I would like to bring out one particular point that to me carries more in its favor than anything else, and that is the better committee operation that you can have under a unicameral system. All of us who have worked here within the last few weeks have been engaged in committee work. We have seen the importance of committees for the actual formulation of proposals. A legislature basically is a similar body from that standpoint. The United States Congress is a good example. Most of the basic work is done in committees. Most of the studies and research and debates take place there. Most of the arguments are worked out there. Once a proposition gets on the floor of Congress, of either house, it is only a matter of final debate in the most serious questions of national importance. Most of the other things are pretty well worked out. Now I draw upon the example of the national Congress even though it has two bodies for the simple reason that they have worked out a committee system due to the large number of congressmen and senators that they have. It has generally been agreed that Alaska or any state legislature should not be overburdened with too many members due to cost factors and other considerations.

Taking this into account, if you have a 20-member House or a 20-member Senate or 22-member Senate in Alaska, if you have a 30-or 37-member House that means that each house of the legislature has to subdivide itself into a series of basic committees. They cannot get around that. They must study each bill, they must analyze it fully. That means that 20 people may have to spread themselves over 12, 14 or 15 committees, meaning that very little attention can be paid to any piece of legislation. In the unicameral legislature all the effort of all legislators can be concentrated in the work of the same number of committees that would be sufficient in one house of the two-house legislature. You could have twice as much study for each bill and probably much more thorough study since you would not have duplication and multiplicity of membership as you have in a two-house legislature, especially with a small number of members. I don't want to point to the Alaska Territorial Legislature. We probably should get away and think in terms of the state and the future rather than in thinking of what we have had in the past, although we are used to it and sometimes have to draw upon that as an example, but I am sorry to say that the committee system certainly does not work in a small legislature, as shown by what we have had during recent years. What happens is that the committees do not have time to go into the proposals, the members rush through bills, report them out to the floor because they feel they do not have time in committees to give them full consideration, therefore, let's throw them on the floor and give everybody a chance to talk about them. That is exactly what happens. You talk and talk and talk about various bills. They are amended time and again and sent back and forth to second reading, and the result is that the committee work is done on the floor of the legislature. To me this kind of operation does not result in the enactment of good legislation, and therefore I throw this out as one of the aspects of unicameralism that I feel has much to offer for the legislature of Alaska.

CHAIRMAN RILEY: Mr. Harris?

HARRIS: Mr. Chairman, I have not said too much at this Convention so far because I was sent up here by a bunch of people that told me, "Tommy, it is always best to stay quiet and let people think you are a fool than to open your mouth and prove it. But I have heard a lot of talk tonight on the one-party, two-party system. Alaska for the past two to three sessions has been a one-party system, kind of a one-party at a time, but we still must keep a system of checks and balances. Therefore, to my mind the two-house system has been more or less tried and proven and 47 of the 48 states seem to like the two-house system. In 1836, I believe, Virginia went from the unicameral house to the bicameral house. Evidently they had a reason. So since we have got something that we know has worked pretty good, I can't see much use in changing it.

CHAIRMAN RILEY: Mr. McNees.

MCNEES: Mr. Chairman, the legislature was originally organized as a check to curb the power of royalty. It had no representative functions. They did what the king desired and gradually this began to take shape and model out a form that we now know today as a democracy. They gradually assumed powers as the king was weakened. The king's powers lessened, the legislators' powers grew. It gradually split into a two-house system of legislation, one as a check upon royalty, the other one in the interest of legislation for the people. The members of the two-house system or the two houses of our present system are elected by the same people, from the same class of people. They are given the same legislative authority. There is no division on the basis of aristocratic lines or on the lines of wealth. There is no qualification whatsoever with regards to wealth and property. There is no need to give the two branches the same authority to do the same thing. Where they possess the same qualifications for office and where the work of the two bodies is identical, requiring that the work be done twice, identical action by each branch, although each branch has the same jurisdiction unreasonable, illogical, and required by no other government agency. This illogical procedure is well illustrated by what happened in our courts of justice. The case in court may involve a lifetime of savings. It may involve the liberty of one or more of the litigants. It may even involve human life, but however important may be the issue, it is unnecessary to have more than one trial. Under the guidance and control of the presiding judge each side offers all the evidence deemed important or relevant. When all the evidence is in, the attorneys argue the case to the jury. The jury retires and after deliberation renders a verdict. The judge renders judgment upon this verdict. This determination of the issue is then settled. It is ended unless the jury or the judge has violated some constitutional provision, in which case the entire trial is set aside and held for naught by the appellant act. This same check would exist in the legislative matters if we had the one house. First point -- if the legislature exceeded its constitutional authority in the enactment of any law, it would be set aside by the supreme court. Number two there would also exist the veto power of the governor. Number three -- there would also be the referendum provisions of the state constitution so that the people could by such referendum nullify any law passed by the one-house legislature, as they have the power to do so now. Let me trace, by way of an example, a bill through our present two-house system. A bill is introduced, we shall say in the house, stemming from the people. The first step by the house, it is referred to a committee whereupon the committee holds hearings. The committee then debates the question. The committee then reports the bill to the house. The bill comes up for discussion and debate. All members have the right to be heard. The bill is

argued in all its phases. The House votes. If the bill is passed the House then sends it to the Senate. We now have the bill in the Senate, and what happens? The same thing all over again, usually the same people testify before the Senate as testifies before the House committees. Finally it is reported out, debated, perhaps this time amended in some particular way, and so they pass the bill. The bill is then returned to the House for action upon the amendment. The House rejects the Senate amendment. The bill is sent to a conference committee. Practically all legislation over which there is any controversy goes to a conference committee. What is a conference committee? It is the third house. The conferees, usually free from the House and free from the Senate, take up the bill for consideration. Usually these deliberations are held behind closed doors. There is no roll call. There is no provision of law for a record of proceedings. The conference committee perhaps writes a new bill, modified perhaps, without any hearing whatsoever, modified perhaps without any publicity whatsoever, modified perhaps without any recorded vote. Is that democracy? If they agree, they report it to the House and the Senate. The conference bill comes up in the House and the Senate and it must be voted either up or down and that without amendment. That is a big point, remember it. There is no such thing as the amendment of a conference bill. Members may find provisions that they think are wrong, they cannot move to strike them out, they cannot move to insert good provisions that may have been left out. They must accept the evil to get the good. To reject the evil is to reject the good. This places the members of the House and Senate in a very unfavorable and unfair light. Modifications or changes of a bill have been made finally without public discussion, without the knowledge of the public, without any roll call, without any record, and it must be approved or disapproved as a whole. If the House or Senate (either one) rejects the conference report, it goes again to the conference committee, and in the last days of a session especially, this means death to what otherwise might have been a good bill. What a terrible waste of man power, time and expense. Now let us trace a bill through the one-house legislature. The bill is introduced to the single house, considered by the proper committee, hearings are held, subject is exhausted on the floor with every person given a chance to speak. A vote would be taken, any amendment offered would there be fully discussed and voted upon. The vote would be out in the open. Immediately the public would know with the next issue of the paper or the next radio broadcast at breakfast time, just what the record of the public servant was. Not only would they be able to punish the unworthy servant, but they would be better able to reward the one who is faithful. I could go on and on, but I'm not going to do it. My time must be about up.

CHAIRMAN RILEY: One minute.

MCNEES: The merits claimed for the unicameral system -- membership in a single chamber carries greater prestige, dignity and greater opportunity for public service than membership in a bicameral legislature, and hence attracts more distinguished, outstanding and representative citizens. A single chamber operates more efficiently than two and is able to give more thorough consideration to proposed legislation than two chambers. By the adoption of suitable rules of procedure and the establishment of effective committee systems it can insure that every measure is carefully reviewed before it is acted upon, with adequate safeguards to prevent hasty action and thus avoid the serious ills of the closing rush that pertains in many states. The jealousy, friction and rivalry in the two houses is gone. Responsibility can be definitely fixed. A single house facilitates the development of essential leadership. The single house permits closer and more effective relationships between the governor and executive departments and the legislature. Some observers in the Nebraska legislature claim that a single chamber law-making body reduces the power of special interest groups and lobbyists to defeat needed legislation and at the same time makes it easier for the groups of citizens who are interested in pending legislation to present their recommendations openly and above board to the legislature. The unicameral legislature does away with the need for conference committees. We have covered that. I won't go into detail on it.

CHAIRMAN RILEY: Mr. McNees, the Chair is obliged to call time on you.

R. RIVERS: I ask for unanimous consent to give Mr. McNees another five minutes. He is making the primary presentation of the affirmative of that proposition.

CHAIRMAN RILEY: Without objection, Mr. Rivers has asked unanimous consent. So ordered. Proceed, Mr. McNees.

MCNEES: The unicameral system facilitates public reporting of the work of the legislature and this is very important. If the press is in, the public is in, and the issues before it enables the public to keep informed on the course of legislation which should serve to increase the public confidence in the legislative body. The unicameral legislature results in substantial savings money-wise, and whooes that not make an appeal to? The cost of the legislature itself is reduced because the number of its members and the size of the legislative staff are reduced. There are many many other advantages, but I want to take just a few minutes that I have left and point out that unicameralism is not limited to Nebraska. Canada -- nine provinces with eight of the nine, unicameral. They have found that they have better laws and less expense, while the activities of corrupt lobbyists are cut to a minimum. Finland -- the little republic of Finland has been so well governed that it

is the only European power that has the financial ability to meet the installments of war loans due to the American government. Finland has been a one-house legislature for 37 years. England -- even though the House of Lords exists it is in name only, and it is essentially a one-house legislature. The history of unicameralism in the United States is not, has not, and will not be limited to Nebraska's very short term with it. It is significant that three states -- Pennsylvania, Georgia and Vermont for varying periods of time operated with unicameral legislatures. Georgia abandoned its unicameral plan in 1790, apparently influenced by the pattern of the national Congress. Pennsylvania did likewise in 1789, apparently because of dissatisfaction with the council of censors and with the executive council which acted as a plural executive. The new constitution created a second house of the legislature, abolished the council of censors and established a single executive. Vermont -- the longest experience of any American state with the unicameral legislature was that of Vermont, from the year of 1777 until 1836 -- a period of over 59 years. This experience, after a legislative deadlock that year in the election of a governor, none having received a minority at the last general election, the recommendation of the council of censors for the adoption of a bicameral legislature was approved by a close vote. It was found after close study of the merits claimed for the bicameral system were not realized, and that as far as can be judged from historical evidence, the previous unicameral legislature worked as well as if not better than the succeeding bicameral legislature. Now the big question -- why have not more states adopted it if it is so good? Here is the answer. Out of 197 bills introduced into the various state legislatures across the nation in the last 25 to 30 years, 189 were introduced by the House, the body representing the people. Eight were introduced by the Senate. Of the eight introduced by the Senate, they all died in the Senate. Of the 189 introduced in the House, 176 of them passed and went on into the Senate and were all killed in the Senate. I thank you.

R. RIVERS: Mr. Chairman, I appreciate the sincerity and the persuasiveness of Mr. McNees's case. I wonder if the Senate did not kill those bills for changing the form of those state legislatures because it exceeded the constitutional authority of the legislature to change its own form. I would not know. The reason that I advocate staying with the bicameral system is largely a matter of representation. I think of the United States, as big as it is, having had through the years the heavy center of population east of the Mississippi River. I think of a one-house body based upon proportional representation which would absolutely dominate the whole United States. I think of the western states and the more sparsely populated area as not having any check on legislation, such as would be controlled under proportional representation in a one-legislature congress. The reason that our constitution was drawn to

give equal geographic representation to all the states, and that is in the form of two senators for each state, was that the highly populated area could not absolutely control and dominate the whole country without some check in behalf of the less populated area. The United States Senate sometimes shows as much liberality as the House of Representatives, at one time showed a little more with regard to statehood for Alaska. The Territory of Alaska, one-fifth as big as the United States, is a diversity of economies and could be several states if you want to look at it from the standpoint of size and also from the standpoint of industries and diversity of activities. Southeastern is as different with its forests and its fish from the Fourth Division with its mines and furs, as one state would be from another. Then westward, the Alaska peninsula, the Arctic, Nome, and the northern westward is so different that very few people in Southeastern Alaska have ever been up to see what it looks like. I used to be grateful when the First Division had headquarters with the capital and all the brains and all the influence used to "wag the whole dog around" and practically run the Territory of Alaska. The only safeguard in those days was that you had a Senate with two senators from the Second Division, two from the Fourth and two from the Third. Now conceivably as the golden heart of Alaska might be the great power with the big build-up in the future, that would be "wagging the dog", but I am not saying that it will. You have the example of the Third Division that now outstrips by population any other division by two at least, and you can visualize that a one-house legislature with straight proportional representation would place at the present stage of history a preponderance of strength in the hands of the Third Division. It is conceivable that in the course of events the First, with its forests and its development down there might again become strongly preponderant over any other part of the Territory. But nevertheless, we are so widely scattered, we have such a diversity of economies, there are so many people in the Second Division that have never spent any time in the First and so many in the First that have never spent any time in the Second or the Fourth or the Third, that don't know anything about the rest of the country, that I hesitate to see a unicameral legislature based entirely out of proportional representation. I feel that with a country as big as Alaska that you should have one body with equal geographic representation. I am not saying that we would be sticking to the four divisions as we have known them, but from the standpoint of economic areas based on widespread geographic locations, you would have something similar or comparable to the four divisions as far as districting for senate representation is concerned, so that is the primary reason for Alaska. Notwithstanding all the good arguments in favor of unicameralism which have been introduced by Mr. McNeese, I favor the bicameral system for the State of Alaska.

MCNEESE: Mr. Chairman, may I ask Mr. Rivers a question? Does he not consider this present group representative of the people

of Alaska, our 55 Delegates to the Convention?

R. RIVERS: Yes, I do consider this group representative for the purposes of writing a constitution. There is no great diversity of policy to be considered. We are not appropriating money or taking anything away from the taxpayers. We are not trying to "slice the pie" a little thinner for one group or thicker for the other. I have every respect for the fine widespread representation that exists in this body.

KILCHER: Point of information. If I am right, I am of the impression that the public was also invited to take the stand on the issue tonight, or am I wrong?

CHAIRMAN RILEY: I recall noting the story in the press, Mr. Kilcher. I don't know its source. I believe that if any member wishes to call on the public that he may ask for the privilege of the floor for that member of the public. Subject to correction, why that's the way I understand it.

KILCHER: In that spirit I would invite the public in general to do so. I have no personal acquaintances among them that I know would like to speak.

CHAIRMAN RILEY: Mr. Barr.

BARR: Mr. Barr, this Committee of the Whole was called for the purpose of airing the views of the different delegates. This matter of the one or two-house legislature is the business of the Legislative Committee. Our different committees hold public hearings and invite the public to take part, and I believe that is the time the public should state their views, when the Legislative Committee holds a public hearing.

CHAIRMAN RILEY: Mr. Doogan.

DOOGAN: Mr. Chairman, I may have to be corrected, but if I recall correctly when Mr. McCutcheon, the Chairman of the Committee that asked for this public hearing, he stated that the purpose was for the delegates and for the public to participate.

CHAIRMAN RILEY: Mr. Egan.

EGAN: Mr. Chairman, in order to attempt to clear the situation, I would put a motion on the floor and that would be that if there is any member of the audience who would desire to be heard before this Committee of the Whole on this question, that he be granted the privilege of coming before us and stating his opinions if he so desires. I would ask unanimous consent.

V. RIVERS: I would object temporarily until we have heard the delegates express their opinions. I think we should not invite

the public as a whole until after each member has had a chance to say what he has to say on this subject.

EGAN: Mr. Chairman, that would be acceptable, waiting until all the delegates who wish to speak on the subject have been heard.

DOOGAN: Second the motion.

CHAIRMAN RILEY: Mr. Doogan, would you withhold your second for a moment? Is there further discussion from the membership? Mr. Hurley?

HURLEY: Mr. Chairman, I rise to point out what appears to me to be an inconsistency (I may be wrong here) on the part of the people that support the unicameral legislature. I can't think of any way of organizing a unicameral legislature without by necessity diluting the area representation. I can see where they will get area representation coupled with population representation, but by nature I think it will reduce area representation over a two-house legislature. I wonder if those people, while advocating that dilution, will also demand of the United States Congress the seating of two Senators from Alaska which is purely on a basis of area representation. If they do, I think they would be inconsistent.

ARMSTRONG: I agree.

CHAIRMAN RILEY: Is there further discussion from the delegates? Mrs. Sweeney?

SWEENEY: Mr. Chairman, I would like to say a few words. In connection with Mr. McNeese's statement concerning the three states which at one time had unicameral legislatures, he also mentioned that at the present time Nebraska was the only state. He failed to mention that Nebraska has a non-partisan legislature and attempts have been made at various time to return the legislature to a bicameral system. You might be interested to know, and I believe many of you do know, that there have been attempts made to have the unicameral system in Alaska. In 1945, House Joint Memorial No. 12 was introduced by Representative Chris Henning. This was introduced on the 33rd day and of course was sent to the Committee on Elections, Election Returns and Mileage. It was reported out by the Committee the following day with a "do not pass" with one of the committee members not concurring. It was placed on the calendar then for a second reading. No one was interested enough in that House Joint Memorial to see that it was read or that action was taken on it until 17 days had elapsed. On the 51st day it was read for the second time. The rules were suspended, it was considered engrossed and was read for the third time and the question was asked -- "Shall the memorial pass?" and it failed. It failed by a narrow margin -- 11 to 12 and one absent.

Later in the day one of the representatives gave notice of reconsideration which was then taken up on the 52nd day, and during the night he was able to swing not only himself but another to the other side, and so the memorial passed. However, it was so late in the session that the Senate refused to accept it on a vote of three to thirteen. That was in 1945. In 1946, House Joint Memorial No. 4, also by Chris Henning, was introduced on the 13th day. It went to committee and reported out "do not pass", with three members of the committee, Stan McCutcheon, Andrew Hope and Mr. Taylor returning it "without recommendation." It went to second reading and was brought up for reading on the 19th day when there was a motion made to lay it on the table which carried eleven to nine and three absent. It was laid on the table. Absent at that time were Stanley McCutcheon, Mr. Taylor and Mr. Peterson, The following day the author moved to call the Memorial from the table, and the call was successful and then it was to be brought up on the 23rd of March for final consideration and second reading but it was delayed and not brought up until the 29th. At that time it was read the second time, the rules were suspended, it was considered engrossed, read the third time and the question asked, and it failed. Now I bring this out to show you that in '46 it failed in the House. In '45 it failed also, except that on a reconsideration vote it squeaked by. If someone were really interested in unicameral legislature it seems to me that the author at least would have seen to it that that memorial, since it had already come out of committee, would have been read. It was on the calendar. It would have been read and action would have been taken before it was too late to be received in the Senate without the necessary vote after the certain period when no bills or memorials could be received. I think that the most important consideration on this business of whether we are going to have a unicameral or bicameral legislature is whether we can get the approval of the citizens of Alaska and the members of Congress. Now Mr. Fischer has told us that we have been elected by the people. We are the people and that if we put in a unicameral system or any other system, that should be all right. We should accept it then as all right, but if that is the case, why are we putting the constitution before the people for approval? I believe this is not just something that is up to us entirely. I think we have to reckon with the fact that we must get approval of a unicameral legislature if that is what we put in the constitution and there is a question in my mind whether you can get that and whether you get it from the people of Alaska and Congress too, I am not sure, but I think we should be very careful. I feel very strongly about this, that we must have the constitution so good and so easy to get an approval on so that it will go through, and I hope that everyone will consider the importance of that. I think that if we do not go to Congress with some assurance that the unicameral legislature is going to work in Alaska, then we will find ourselves waiting, not to be the 49th state but the 50th state. The legislature

in Nebraska being a non-partisan legislature, is no criterion for success of the unicameral legislature in Alaska. We have a two-party system here. Since coming to the Constitutional Convention I recognize that there is even a third party on the way, and so with a three party or two party strong system in a unicameral legislature, we cannot say because it is successful in Nebraska, it will be successful here. Mr. Hinckel thinks we would get better representation under the unicameral system. I hardly think that is an argument for the unicameral system. I believe that the apportionment of delegates to the Senate and House of Representatives in the new State can be worked out so that all the areas will be properly represented. I can't go along with many of the arguments that Mr. McNees stated. He would have you think that he has gone through a legislative session in both the House and the Senate, that it is very easy to get a bill through the House and the Senate, and I would grant you that that might be easy if you had a very simple bill such as the bill which was passed in this last session to designate Marie Drake's "Alaska Flag as the song for Alaska. However, in the question of introducing a bill on which there is a great deal of question and the bill squeaks through one house on a majority of one, it is not as easy as he has made it appear. I think it is very important that where there is division of opinion that we should have the check of the other house. If you have a wide difference in a single house, even though those representatives were all elected by the people of the state, you would still have, maybe just one person throwing the bill into an act -- he tells you that the legislators will have greater prestige and dignity, there would be more distinguished legislators, more effective legislation, closer relationship between the legislature and the executive. It would reduce lobbying, it would facilitate publication or newspaper printing and save moneywise. How can he say that this is so? How does he know that we will have more distinguished representatives? How can he say that it will be more effective? We will we have a two-party house, if it is unicameral and we cannot go by and base it on the Nebraska legislature. I have a number of other things here that I would like to mention. There was something about better legislation but as I said before, I don't know how they figure they can have better legislation on the unicameral system. If our procedure under a two-house is not good enough, it is our own fault and it is our business to see that our legislators are doing a better job than they are. As I mentioned the other night, we are a republican form of government, and operating under democratic principles and under the republican form of government you have a system of checks and balances which gives us our executive, judiciary and the legislative branches. It is a system that has been in effect for centuries, and I feel with this experience that we should go along rather than to go on the untried unicameral system for which we have absolutely no basis of success.

CHAIRMAN RILEY: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I have listened with a good deal of interest to the unicameral comments. When I came to this Convention I did not come here with any direction from the people whom I knew in our home country, to give deep consideration to unicameralism. I saw no one run on any ticket in which they came out and strongly advocated that we should have a unicameral legislature. I happen to know that there were three people in the Territory who advocated unicameralism and who were candidates for delegates and all three of these people were defeated. They are not here with us tonight. We have no mandate that says that we should give deep consideration or go to a unicameral type of legislature. I was a member of the Statehood Committee, and as such I am a great believer in presenting to the delegates all of the facts insofar as we possibly could. I was a strong advocate of the idea that we get the best theory that we could possibly get and that that theory then be presented to us in a form such that it was unbiased, present the theory from both sides of view, and we have done so with the work of the PAS. They have presented you as nearly as possible a balanced opinion on the questions that would come to this Convention. Along with that I have been a strong advocate, as you all know, of having with us the best theory we can get in the way of personal consultants. I want that theory. I want to know what the theorist thinks is the very best for us and then from that point we must take a hold and apply the long experience, the practical approach and the touch that we know that is best for the people of Alaska. We must apply the common sense touch that will be the answer to the problems of government for our people here. I have heard it said tonight by one of the delegates that it was not our problem to answer back to the people, or words to that effect, in regards to what we did here. We were their elected representatives and as such, were the people. However, I feel differently than that. I feel we are answerable to the people, and I feel we should come up with something that we know is not only the best for us and the best for them and also satisfactory and acceptable to them. I just wanted to read a little bit from the comments of the PAS in their handbook to us on this subject. On the one line they say, "The advocates of unicameralism can make, on paper at least, a very reasonable case." I want to read you this summary now of the two types of legislature. "There are no inherent reasons why either sort of legislature cannot work satisfactorily. The theoretical case for the unicameral body is good, yet only one state has adopted this form and no more are likely to in the near future, unless Alaska chooses the unconventional but not unprecedented course. As Dr. Graves observes, the opinions of . the people who ought to know vary widely, in fact they are often diametrically opposite. A large majority of political scientists favor unicameralism while an overwhelming majority of persons with actual legislative experience are opposed to

it. Delegates to the Convnetion can weigh arguments, on the one side -- tradition, experience, the possibility of the double check, on the other side -- simplicity economy, clear responsibility." I want to go into that matter just a little bit. We have had in the United States, as you know, through all history, with the exception of the first three states, Pennsylvania, Vermont and Georgia, the bicameral type of legislation, and on the other hand in Canada you have provinces all of which have unicameral legislature except the one of Quebec. Quebec has some 594,000 square miles, is the largest of the provinces and very similar to Alaska. However, I want to say that in Canada they did not have the separation of the legislative and executive powers. They have the governor general appointed by the Crown. The Crown appoints in each province a lieutenant governor. The lieutenant governor then is the governor of that particular province. They elect the representatives to their one house. From that one house then is chosen what is called the cabinet. The cabinet sits as the year around executives under the lieutenant governor. You really always have sitting a second legislature in the form of that cabinet who are from among the elected representatives in the one-house system. It is in no way comparable in my opinion to the problems of government in the United States. We have had a good chance to observe in the United States three states which have chosen to go from unicameralism to bicameralism -- Vermont, Pennsylvania, and Georgia. Now it is my opinion we were told otherwise by another delegate tonight -- it is my opinion that in all probability those states went from unicameralism to bicameralism at a time when communications were slow, travel was difficult. It is my opinion that the people in those states did not feel they had the proper check and balance. I have been in the legislature a number of times, as many of you know. It has been my experience that even though after careful weighing, careful consideration, the hearing of all arguments by each house or by the first house that handled a bill, that many times after that measure had passed the first house, that there were voices heard from different parts of the Territory, there were different issues brought into the picture, that radically changed the condition and the situation of the thinking, even of the people in one house who had sometimes passed the bill. I have had men come to me from one house and say "we did not find this out; we did not know this was something that affected the First Division, the Third Division, the Fourth Division; we did not have their voice so for that reason we wish you would change this matter in the Senate." I have had the same thing happen in the Senate where they did not have the complete details. Some people might say that we have a similarity between a one-house legislature and a city council. I want you to realize that in a city council, the people that the city council is serving are people living within a radius of perhaps five or ten miles. A city council sits every week. People can come to the city council and express their opposition, and they do frequently.

The next week if they haven't had their voice heard they can raise their voice again, but that does not compare to handling the area of a state as large as ours would be, 684,000 square miles, one-third of the area of the whole United States. It seems to me we must have this additional check and balance of the two house system in order to get a proper voice from the people in the more remote areas. I feel sure that the people who espouse this matter of a unicameral house are sincere. I feel certain by that they are honest, but it says here that the practical men in politics realize that the two-house system best serves the American system. It's so because in Canada your people are a different type of thinking people. They are not the driving, aggressive, energetic people, that we have in the United States, in many ways. At least that should be true in the matter of forcing legislation through their government. They don't pass as many laws, they don't seem to have as many lobbyists. We know it's a fact that our government

CHAIRMAN RILEY: I'm sorry Mr. Rivers, I don't like to break in on you but the stenotypist is having a little difficulty. May we call a five-minute recess while the machine cools off and your time stands still?

RECESS

CHAIRMAN RILEY: The Convention will come to order. On recessing Mr. Barr asked that unanimous consent be allowed Mr. Rivers to extend his time two minutes for the interruption of trend of thought. Without objection, was there an objection?

V. FISCHER: I would like to object for the sake of saying this has given Mr. Rivers more chance to think. (Laughter) I withdraw my objection.

CHAIRMAN RILEY: Is there objection? Without objections, so ordered.

V. RIVERS: I want to say then I have watched this Territory prepare for statehood and in my small way have been a part in helping it prepare for statehood for many years. I want to say briefly that after the big depression of the '30's, Alaska was in dire circumstances. We had elected Tony Dimond to office and his first move, of course, was to try with the administration to help get a raise in the price of gold. We got it. The next thing, of course, was to try and stabilize and get temporary employment for people who were unemployed. That came through, and it became evident that Alaska was geographically very strategic and a strong defense program was organized. But at that time the military coming into Alaska saw the undeveloped condition of the Territory, and at that time it became more and more evident we should have a well developed economy functioning normally in order to have

the best defense. It seemed only logical to get such an economy functioning normally that we should have a state government, and as far back as '37 we talked about such things and began to prepare for it. And under the two-house legislature which we had, 16 members in the Senate and 24 in the House, it was changed, pardon me, in '41. However, under that we passed many things. First came Social Security, welfare department, public health. We instituted and established a highway patrol which was to be the nucleus of the state police. It was told us by members of one of the congressional hearings that we did not have a firm revenue program. Under our system of legislation we passed a firm revenue program. We have no bonded indebtedness. We have money in the treasury. We are paying our bills. Those things have all been done with our two-house legislature, and I for one want to say that it has worked successfully in the Territory of Alaska. I also want to concede that there are areas in which there should be better geographic representation. I think that is one of our duties here to get proper proportioning in the matter of representation in this legislature when we set up this constitution. I just want to read you again though one line here, but before I do I want to say that in this Constitutional Convention and in this constitution we draft, we have many hours of work by many people. We have many private dollars invested on trips to Washington and hearings before Congress. We have at stake here some \$300,000 of taxpayers' money who want to see us come up with a constitution which is acceptable, not only to the people of Alaska, but also to the members of Congress." I want to read a line to you again which I read before: An overwhelming majority of persons with actual legislative experience are opposed to it. (Meaning the unicameral legislature). Now remember that if those men are opposed to it, the practical men with practical experience, those are the men who are going to have to approve the constitution for the State of Alaska and grant us statehood when it comes before Congress. I want to say again that I believe the people here are all honest and all sincere. Those who are favoring unicameralism -- I believe they are sincere in their beliefs, but I believe it is up to us and believe that if we did not adopt a bicameral legislature that we would be guilty of a great error in judgment, and I want to say that I hope and I will work hard for and continue to work hard for the establishment of the bicameral legislature or the two-house system of representation because I think for an area this large, where transportation and communications are apt to be delayed, it is the best system for Alaska. It has also proven to be, with our energetic, fast-moving, hard-pushing American people, I think it has also proven to be best for the states, or there would not be 47 states using it today. (Applause)

CHAIRMAN RILEY: Mr. Fischer.

V. FISCHER: Mr. Chairman, I would like to have permission to clarify a statement I previously made. Apparently it is being misunderstood or misinterpreted.

CHAIRMAN RILEY: You may proceed, Mr. Fischer.

V. FISCHER: I said before that among other things that we, the 55 delegates are the people. I did not mean in the least to imply that since we are the people that we are above the people, that we are not answerable to the people. What I meant to say is that we should not put ourselves in a separate category from the 200,000 Alaskans who sent us here. They are as intelligent as we are. If something makes sense to us, it will make sense to them, and therefore, we should not keep talking about them as something apart from us, something a group that we aren't sure will understand what we are talking about. In other words, what I meant to say was that as representatives, we reflect the thinking of Alaska. Certainly what we come up with is subject to a referendum approval. There is no question about that, and certainly we are answerable to the people.

CHAIRMAN RILEY: Miss Awes.

AWES: I would like to make just a few remarks prompted by statements made this evening.

CHAIRMAN RILEY: You may proceed.

AWES: We just had read to us the portion of the summary of the considerations of the two methods of two types of legislatures. I would like to fill out the picture by reading the last two sentences of that summary. Alaska's relatively small population and the economy and simplicity of the unicameral legislature seem to argue in the favor of a single house. On the other hand, the apparent satisfaction with the two-house system in the Territorial legislature makes any departure from tradition difficult." That again places the final argument in favor of the two-house system on the basis of tradition. It seems to me that most arguments in favor of the two-house system so end. Now I am not opposed to tradition as tradition. However, I do not think we should follow it blindly but ever so often we should reconsider tradition in the light of present-day conditions. I did not run on the platform of the unicameral legislature. However, I did run on the platform that this body should seriously consider the unicameral legislature before deciding on which form it should adopt. As you can see, I was not defeated by running on that platform. There has been much talk tonight as to what the people want and putting in what the people want. I agree that we are here as representatives of the people, but I believe the people elected us to draft the best possible constitution. We have an opportunity that Alaskans have probably never had

before, in our opportunity to study the two types of legislature. I think we have the obligation to do that and to adopt the legislature we conclude is the best type, and if those reasons are sufficient to convince us, they will probably be sufficient to convince the people, if adequately presented to them.

HINCKEL: I have already spoken. May I speak again.

CHAIRMAN RILEY: You have not used your time, Mr. Hinckel. I believe you have several minutes left.

HINCKEL: I stated before I am on the Legislative Committee, and I ran for this body not on any particular platform of one type house or the other, but I did tell the people that I would try to see they got the best type of constitution that we were able to write for them. And I think that, as Miss Awes more ably stated, well in other words I concur with most of the things she said. I think there are some things we have forgotten on the apportionment. I know that from attending the committee meetings I not only attended our own meetings but I attended a lot of the other meetings, that it is quite possible to apportion the legislature so we will have better representation with a single house than we could hope to have with both. That is merely my opinion. The main thing I wanted to say when I got up this time was the constitution must be written for one type of house or the other, and the Committee in discussing it felt that the time to decide that was now. It is my opinion that a lot of the state legislatures, had I been sitting on them, I would have gone along with them just exactly the way they did and refused to change because they already had everything else set up for it. But the experts that have written all the data that has been submitted, both for our own and for the Hawaii constitution, they all tell us that the one-house system is the best but usually go back to the same answer that Miss Awes stated -- that it is a tradition that we have the other kind. If we are going to have two houses, why now is the time we have to know it because if we write a constitution for one house and then attempt to change to two, we are going to have to have a constitutional convention and rewrite the whole thing and make it work and vice versa. If we write it for the two, and then want to change to a one because all of a sudden everybody else thinks it better too and they all start changing, we are going to have to tear ourselves all apart and put it together again. It was the concensus of opinion in the Committee that those are things we ought to find out now so as to stop wasting time and get things rolling in all the committees. That is the reason that I have spoken in favor of it as poorly as I have done, but that was my idea in working for it that I think it should be considered very thoroughly, and if we are going to consider it at all, now is the time to do it and not later on.

CHAIRMAN RILEY: If the Chair may make an observation, Mr. Hinckel, I think your point is well taken in that it represents the thinking of the body in resolving itself into a Committee of the Whole because of the inter-relationship of the two questions. Is there further discussion? Mrs. Hermann?

HERMANN: I just wanted to add a little historical footnote to the remarks that Mrs. Sweeney made about the efforts to secure a referendum on the matter of a unicameral legislature. I am a little older than Mrs. Sweeney and I have probably been watching legislatures a little longer, but way back yonder in the '30's there were two attempts made to pass a referendum providing for a unicameral legislature. There was also a bill introduced to provide for a unicameral legislature, and it was killed in the House, not in the Senate, but in the House. Both of the bills providing for referenda on the matter -- one in one session and one the next session, were likewise killed, and it is my recollection that they were killed in the House and not in the Senate, so that the legislature of Alaska itself has written a considerable volume of history in regard to the unicameral legislature. I think Mr. Fischer's statement of comparison with the value of committee work as applied to this Convention is probably a little bit premature. His suggestion that it is working so well here might also have a footnote in a day or two when some of these committee reports are turned loose on the floor. I hope he will not have a rude awakening at that time. There is little to say as far as I am concerned in regard to the merits of unicameral or bicameral houses. I think the time to say it is on the floor when we finally are going to vote on this measure, but I do think that it is advisable that everybody here stand up and be counted on how they stand on the matter at the present time, so that the committees may have some idea on what sort of report to bring out in regard to that particular angle of their work, and I am perfectly willing to tell the world here and now and next week also, that I favor the bicameral system.

CHAIRMAN RILEY: Mr. Egan -- if I may correct the Chair and recognize Mr. Barr. While I had recognized Mr. Barr earlier, no time was charged against him.

BARR: Mr. Chairman, I yield to Mr. Egan for the time being.

CHAIRMAN RILEY: Mr. Egan.

EGAN: Mr. Chairman, I know that each delegate who is in favor of the unicameral system is absolutely sincere. I have talked to every one of those people who have spoken on that subject so far, and it has occurred to me and been my observation in my conversations with those delegates that one of their chief worries and one of their chief reasons for being for the unicameral system is that there has been a fear in their minds

because of the past situation that has existed in Alaska. Now, I am absolutely certain that we are coming out of this Convention and are going to write into the constitution that comes out of this Convention, an apportionment feature in the constitution that will be accepted by, if not all the delegates, by almost all the delegates in the Convention and will be adopted into the constitution that it will be as fair an apportionment as is humanly possible to come up with at this time. I would like to point out that in Alaska the trouble has been, and I think the trouble that has caused most of these fears and most of the support for the unicameral system has been that we have not even had a bicameral system of legislative apportionment in Alaska. We have had a running-wild system, you might say, both in the makeup of the Territorial Senate and the makeup of the Territorial House. Our citizens here have not had the opportunity to view, so far as their Territorial government is concerned, a bicameral system of legislative bodies in action, and I feel very strongly, personally that at this time it would be unwise to adopt the unicameral form of government. We know that our United States has become the freest, the fairest and the greatest nation on earth under the bicameral system, and I hope that this Convention will continue that form of legislative government.

CHAIRMAN RILEY: Mr. Barr.

BARR: Mr. Chairman, I would ask the Chair to give me a warning about a minute before my time is up, as I don't want to leave a thought or a participle dangling in mid-air. I will submit to you that the ideal system for a legislature is the unicameral or one-house legislature, and that is just exactly what is wrong with it. It is an ideal. It is backed by theorists who have never had any experience in the practical applications of their theories. The unicameral system would work very well if human beings ceased to be human, if every voter got out and voted and every voter was aware of what he was voting for and acquainted with the candidates and if every elected man that was a member of that legislature were a statesman, then it would work, but unfortunately human beings are human. Now, I would like to give you a couple of illustrations of why we should have two houses. You have heard many times that our American system of government is based on checks and balances. It is in our present legislature. There are three forms of government to serve as a check on each other, and we have courts for that purpose -- we even have auditors, examiners and erasers on lead pencils for that reason. Now in the past I have served in the legislature, and I have seen the time I was very thankful we had two houses. I will give you two examples. The first one most of you are acquainted with, so I will not go into details on that. That was the time the House passed a so-called "luxury tax" which in effect really was a sales tax. It was passed by a large majority in the House. They thought it was a good tax and they were

concerned with raising more tax revenues. It was needed, I will grant you that. They were immediately flooded with telegrams and letters from everywhere protesting this tax, but meanwhile it had gone to the Senate and was in the taxation committee in the Senate. I doubt it would have passed the Senate even before the protest came in, but it failed in the Senate, and I have never seen anyone more thankful for two houses than all the members of that House of Representatives. The Senate really got them off the hook. Now, I will reverse the case. In the Senate there was a member who was an experienced legislator and a well-respected lawyer in the Territory. He submitted a bill which was a fairly complicated one, that was designed for a very good purpose, but during the debate in the Senate it was brought out that if one section of that bill was interpreted a certain way it would stop all the placer mining in the Territory, or at least start litigation in that direction. That bill passed the Senate and went to the House, but by this time the author of the bill was greatly concerned. He was afraid he would not be able to go home and face his constituents because it was a mining division that he came from, so he contacted certain members of the House and it was amended in the House to take that possibility out, that there would be any harm done or restriction on placer mining, and that bill is now a law, and the mining fraternity is still in existence and still doing business. That was through an oversight which is a very likely thing in a long and complicated bill, and it was corrected in the House. I have seen many other examples but those are two. We should stick to the system of checks and balances. I want to say that I was just as concerned as Mr. Hinckel here with the lack of representation from the outlying districts. I have been in more outlying districts perhaps than Mr. Hinckel. I have spent all my life in Alaska. I know they would like to be represented. I know there are able men who are willing to represent them. The reason they don't is because they can't be elected. We only have four election districts, the four judicial divisions and each one has a large center of population. But a unicameral or bicameral legislature does not cure that problem at all. The only thing that will cure that is the redistricting for the election and reapportionment. No matter what form of house we have, if the electors in a certain outlying district have a chance to vote for their man, they will get representation. Mr. Rivers here said that this body very well represented the people. I grant you it does, it represents the people a great deal better than the legislature, and why -because the Territory was redistricted for the election that sent us here. Now Mr. Fischer here has studied this matter from books, but there are a few things he does not seem to realize, even says that everything in a unicameral legislature will be brought out in the open and debated on the floor. He seems to think there will be no committees or at least no committees behind closed doors. That is a system that has been in existence for 170 years in all state legislatures and in the

Congress of the United States. There is a reason for it because they can do their business better. They are not afraid of what you think of them for what they do. They are afraid testimony might come up that will hurt some outsider and I have seen that happen in committee right here. When we were talking about former governors, things were said about former governors that brought up points that we wanted to bring out to clinch an argument. That could not be done in the public. We are operating under a republican form of government. The people delegate their authority to members of the legislature and they trust those members of the legislature to do their business for them and do it the best way possible, which sometimes should not be open to the public. It is said that the State of Nebraska, the one state that has a unicameral legislature which works very well. I am not well acquainted with Nebraska. Very likely it does, but a state more unlike Alaska could not have been pointed out. The geography is different, the terrain is different, the people are different. We have different races up here, different industries, most of the people in Nebraska are farmers or cattle raisers. They are all very conservative and while every Alaskan that I ever met was a distinct individual. Also it was brought up that it works in Canada and Europe. Well, it probably does. Our forefathers came to this country to get away from the European system of government. Don't let us import it to Alaska. Now it was said also that the closer relationship could be had between the governor and a unicameral legislature. I believe that is so, especially if the governor was trying to control them and also perhaps if the governor was of the opposite political faith then the majority of the legislature there would be more wrangling, more confusion and less done. A one-house legislature also might be more easily controlled by a special interest group or lobbyists. It would be very difficult to control two houses. Now, when we are granted statehood, we are going to launch our ship of state on her maiden voyage -- an untried ship with an untried crew. What system of navigation shall we use? Shall we try the old tried and true system that has steered 47 states through these past years or shall we try a new system advanced by theorists that has no system of checks and balances and one in which we would not know where we are going? I don't believe that the people of Alaska would want to try that. It is too early in the game when we are starting our state, and we want everything to work and work properly.

CHAIRMAN RILEY: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, what I have to say will be very brief, but I want to get up, as Mrs. Hermann suggested, to be counted. I have expressed my view to quite a number of delegates here upon my arrival. Much to my surprise this has been a primary question in this Convention, and I am glad we gathered here tonight to try to arrive at some conclusions and with that thought in mind I wish to offer my conclusions tonight.

I gather from what has been said here, the primary concern is the true representation of all areas, and I can sympathize with Mr. Hinckel, because I am more or less representing people of this type. However, I made it very plain when I was approached on this topic that I would never obstruct any constructive move. I am here to see that if I can contribute, in my own little way, to draw up a constitution acceptable to the people of the Territory. I might add, friends, that I worked mighty hard for statehood of Alaska and I'm still plugging. My area is limited, but there are voters there too. They are very much concerned, and I think it is only fair that they should have a voice in the state of Alaska, and I am very much encouraged after I listened to two or three speakers here tonight. Perhaps there will be reapportionment. I think that is the solution. My mind has been open on this thing and it is just about made up tonight. If that angle is thrashed out, I am sure they will forget about everything else. We will go back to the two-house system. That is all I have to offer.

CHAIRMAN RILEY: Mr. White.

WHITE: Mr. Chairman, I am on the fence on this proposition, so as not to frustrate the team who are checking off one side or the other, I lean toward bicameralism, but I have the feeling that a much better case can be made by more people for unicameralism than has been made tonight. I have just jotted down a few notes here that I would like to go over at random with a preface that I am not the one to make the case for unicameralism. I don't know enough about it. But in the two examples given by Mr. Barr, as to the legislature, it seems to me, the one in regard to the placer mining bill and the other the luxury tax, it seems to me it could be argued equally well that if there had been a one-house legislature in those two instances it would not have come to pass. I have heard that argued before here by people who were in the legislature at the time and particularly in the case of the luxury tax -- that that was designed to jar something loose from the other house. That makes sense to me. In the other case of a bill slipping through with a mistake in it, I think it might be argued equally well that if you had the one-house legislature, it would tend to make that one house considerably more careful in what it does than would be the case with the two-house legislature. Each member would be well aware his action is final and not subject to revision or review by another house. In that same vein I think it is equally logical to argue that when you give a person, properly qualified, additional responsibilities you generally get a better performance, a better qualified person running for the office or applying for the job. We have heard a good deal on the subject of representation. I don't know how you can get better representation than you would have in a one-house legislature. The point has been brought up that the lower house in a two-house legislature is

generally representative of the people and the upper house, representative of areas. I am not sure that that is too good an argument for maintaining two houses. It seems to me that one of our primary problems in Alaska in the past has been the problem of sectionalism. I wonder if in having a single house we might not tend to reduce that problem, make each member of a one-house in Alaska more conscious of the fact that he represents all of the Territory. In this case I submit that a system of checks and balances could equally well be called a "deadlock system". If one house represents the people and the other house represents areas and you have an irreconcilable problem, you get nowhere. I am not particularly impressed by the argument either, as to tradition. This will probably startle some of my friends. There is always friction when you suggest a change. There is always resistance to change. I think it has been made amply clear here the reason why there has been resistance to change in this particular matter. I think it is a rare case indeed when a body votes to do away with itself or to radically change its form, and it has been shown to my satisfaction that the death of most of the one-house unicameral bills that have been introduced, can be laid at the door of the Senate, which would be abolished were you to have one house. Also, I think we sometimes make a mistake of viewing a new idea in the context of the old. By that I mean that merely because certain procedures have been followed in the past with a certain system, we should not assume that the same rules, same customs, same reactions to problems, are going to apply in the future in the new system. I think that is a mistake often made. These are just random thoughts. The last one -- I think it would be very proper for us, should we decide to stick with the two-house system, to provide for an automatic referendum at some stated time or stated intervals so the matter could be brought up before the people. I think the reason for that is amply clear again, because once you start out with a two-house system you are never going to change it except by vote of the people. The legislature itself is not going to vote. Conversely, perhaps if we should decide on a one-house system, some of the fears of the people who don't like to experiment could be allayed by a similar provision to submitting the one-house legislature to a referendum after a stated interval of years. Two arguments given by one of the proponents of unicameralism impressed me as possibly worthy of further amplification. If they could do so I would like to have it. One of them was that a one-house legislature tends to reduce the effectiveness of lobbyists. I would like to have that amplified if that is possible. Secondly, that a one-house legislature tends to reduce the log jam of bills that plagues all legislatures at the last minute. I think those are two problems that have been very much before us here in Alaska in the past and if it can be shown that a unicameral legislature would eliminate or substantially reduce those problems, I think we should give it careful attention.

CHAIRMAN RILEY: Mr. Buckalew.

BUCKALEW: Mr. Chairman, I did not intend to address this body tonight, but I feel that I am compelled to speak, probably because we have such an attentive audience is another compelling factor. To begin with, as I recall the campaign of all of the delegates about the general nature of their campaigning was that the constitution should be clear, concise, short, confine itself to fundamentals. I don't recall even one candidate addressing any particular remarks to bicameral and unicameral. I got the impression that we were going to have a bicameral house, and I frankly did not give it much thought until Mr. McNees talked to me several times. My thought is that if we went ahead and adopted a unicameral house, we will be taking the voters of Alaska by surprise. I mean this was a nonparty election and I think we would be more or less slipping the people a gimmick which they did not expect. Then we are going to have the burden, and I don't care how fine this new system is, we are going to have the burden of selling this new idea to the people of Alaska, and I don't think it will do us any good. I think it will put an additional burden on the ratification of the constitution. I want to say a few things about the evils of the two houses. Mr. McNealy said that he was thankful that we had a Senate. I can recall on several occasions that I would have leaped to an opportunity to abolish the Senate during the last session of the legislature. I disagree with Mr. McNealy in that one particular. I think I should for the purpose of the public, clarify this luxury tax, this progressive fish tax and this property tax. Now this is a result of a conflict which developed between the two houses, and that is the most controlling and compelling argument that I see for the unicameral house. It will make it awfully difficult for the lobbyists to get control of the one house. If it was not for the fact that we hadn't put this idea to the people beforehand, I would vote for the unicameral house. The only reason I am not going to vote for it is that I think we are taking the people by surprise. It puts an additional burden on us to sell the constitution. Now, back to this luxury tax, this progressive fish tax and property tax, the idea of the House was to get a progressive fish tax or property tax. We figured we would put the luxury tax through and we were hoping that the Senate rather than tax the individual Alaskan, would tax the traps. I have only been in one session of the legislature, but the thing that shocked me and something I was never aware of was when I was in the halls there in Juneau and I observed a lobbyist by the name of Mr. Gilmore writing amendments on House bills. Right then I said if we could do away with that Senate, I am for it. Now I would be for the unicameral house except I think we are taking the people of Alaska by surprise and it is not fair to the people of Alaska but Mr. McNees certainly convinced me with the lobby argument.

CHAIRMAN RILEY: Mr. Collins.

COLLINS: Mr. Chairman, I have sat here and listened with a great deal of interest to the statements pro and con for the one-house and two-house legislature. Personally, I am in favor of a two-house legislature, and Delegate Barr brought to my attention a happening in favor of the two-house. I had presented a health bill in '45, ten years ago, and in that it had to do with the pollution of the streams of Alaska. It was a health bill, and we passed it, not thinking, not realizing the danger that might happen to the mining industry throughout the Territory of Alaska. After that bill had passed the Senate and went to the House, my attention was drawn to that dangerous provision in that bill, had it passed. I immediately contacted the committee in the House and presented the fact that if they did not amend that bill to protect the mining industry of the Territory of Alaska, 90 percent of all the mines in the Territory of Alaska would be shut down. It gave us that time to reconsider that, brought to our attention. It was inadvertently on the part of the drafters of that bill that it would affect one industry in Alaska. Mr. Barr brought that to my attention. I had forgotten it. Now, the question of one-house or two-house. We have if we pass the one-house proposition and have that in our constitution and present that to the Territory of Alaska for the voters to ratify, we have two hurdles to make. We have got to make that hurdle and then that bill of the constitution is sent on to the Congress of the United States. One state in the United States is practicing the one-house proposition. Each state is given two Senators throughout the states. What will they think of us if we present this constitution to the Congress of the United States? Will we make that hurdle? Can we sell our constitution under those conditions? Those gentlemen in Congress of the United States have been practicing under the proposition of the old tradition of a two-house legislature. Shall we break that strong thread of tradition with admission of our constitution for the coming state of Alaska? I say no, and I am very much in favor of a two-house legislature.

CHAIRMAN RILEY: Mr. Nolan.

NOLAN: Mr. Chairman, I am for the bicameral system. Now you have just heard an argument by Delegate Buckalew that it would probably be easier to control lobbyists under a one-house system. I have served in both houses over quite a few years, and if Mr. Buckalew had been down there a few years ago he would have seen a lobbyist passing notes in the House. Now I have found in my terms in the House and the Senate, that there has never been a time that the lobbyists have been able to control both houses.

CHAIRMAN RILEY: Mr. Stewart.

STEWART: Mr. Chairman, I am in a position to make an observation or two on that myself. I have attended nearly every session of the legislature since the first and often. Session after session I have seen measures that were for the benefit of the people as a whole pass through the House with a heavy majority, come up to the Senate, which in the earlier days had eight members, two of those members were employees of one large mining company, one of them their chief attorney. If those two men alone with one other could persuade a fourth person to join them, they would kill any beneficial legislation for the benefit of the whole people by producing a tie. I have seen that happen over and over again. I don't know that the unicameral system is the cure for that. It may be that with better representation from all the districts those things can be controlled, but the history of the past I think demonstrates that something should be done to eliminate that, not control it but eliminate it. It may be that with the representation of the apportionment being provided in a way that will give representation from all districts in a fairer way. It may be also that having more frequent sessions of the legislature so that measures originating at one session cannot be passed on finally but held over between two sessions, and thereby giving a chance for the people to express themselves on what has gone on in the first session. That may help, but anything we can do to eliminate the painful effects of the lobbying I have seen in the legislature ever since I have been here, I am for.

CHAIRMAN RILEY: Mr. Ralph Rivers.

R. RIVERS: Mr. Stewart, did not that situation improve when they enlarged the Senate to 16 members?

STEWART: To a degree.

R. RIVERS: Do you think that if we had a larger Senate so that not such a small group of people could cause a tie, that that would minimize the lobby effect?

STEWART: It might improve it, I wouldn't say that it would eliminate it. I think to eliminate it, some means should be provided whereby the people throughout the Territory, maybe that's possible now with the communications the way they are, let the people know what is going on in those halls, the way we who live in Juneau and attend the legislature observe.

R. RIVERS: I would like to observe, Mr. Chairman, that one of the historic reasons for increasing the Territorial Senate was that that closeknit group of eight men could kill any measure coming up from the House was the reason for increasing the Territorial Senate to 16 members.

CHAIRMAN RILEY: Mr. Johnson.

JOHNSON: Mr. President, it seems to me that Mr. Rivers' observation is a perfectly good answer to Mr. Stewart's objections of the bicameral system on the ground that it is too easily controlled by lobbyists. Certainly with the question of a proper proportionment being once settled by this Convention, then I think we have found the answer that is necessary to give every person in Alaska the proper representation in the legislature. I am unqualifiedly in favor of the bicameral system. I was in the House when in 1945 and '46, when these matters were before us by way of a joint memorial. I recall distinctly that I voted against those projects at that time, and I think the record will substantiate that, and I certainly feel no differently today, or I feel no differently after having listened to all the arguments here tonight. Mr. McNees argues that the unicameral system would still provide us with the so-called checks and balances and he says by way of illustrating that that we would have the supreme court to check us on faulty legislation. However, he did not point out that the supreme court rules, not on wise legislation, but only on illegal legislation. And besides that, every once in awhile the supreme court can make a mistake. In addition, he argues the check of the veto power. I have seen many times the veto power overridden by the legislature, and when it can be overridden by two houses with a two-thirds vote in each house, it certainly stands to reason it could be overridden in one house. So the two checks and balances he talks about do not seem to be sound. He made some reference, or rather comparison, to the one-house system with our courts. Well, everybody has his day in court, he gets a fair hearing, and if he does not like it he has an appeal. That is exactly the same as the Senate. This litigant appeals to the supreme court. The House perhaps has a bill that is not proper and the appeal is taken to the Senate and vice versa, so I don't believe there is any comparison between the unicameral system and the court system. He made reference to the fact that many countries have the unicameral system. He did not mention the name of a single country that I would trade for the United States of America, and he made reference to the fact that this bicameral system was, as he put it, "an illogical procedure" and yet it seems to me that that is not a very tenuous argument because if this bicameral system is such an illogical procedure, then the United States of America acting under that system for 175 or odd years could never have reached its present position of economic, political and military strength. I am unalterably opposed to the unicameral system. I believe that if we are going to keep faith with the people who sent us here to write the constitution that we should write it on the basis that was set out in the federal Constitution so many years ago so wisely by 55 men.

CHAIRMAN RILEY: Mr. McNees?

MCNEES: Mr. Chairman, I don't like to hear myself misquoted as I have two or three times tonight. I am going to pass over

most of them but this latest one I am going to have to take up. I am going to quote directly as I quoted before. I referred very closely to my notes tonight due to the time limitation that was politically pulled on me here, but my quotation, Mr. Johnson, was this: "If the legislature exceeded its constitutional authority in the enactment of any law, it would be set aside by the supreme court." I did not say a supreme court would pass upon the measure of a good bill or a bad bill. I have another point I would like to make if no one else would desire the floor right now.

CHAIRMAN RILEY: You may have the floor, Mr. McNeese.

MCNEESE: Thank you. Mr. Barrie White asked a question awhile ago about control of the lobbying in a one-house legislature as compared to that in the bicameral legislature. There are six points at which the lobbyist can gain very effective control in the two-house system. First, and I pointed that out rather graphically and spent a little time on it, the conference committee where he may gain control. We know session after session of the legislature where there is the constant battle over who is going to be speaker of the House. Why does that battle take place? It is a jockeying for position, so to speak, and don't think the lobbyists don't have their hands in that. Control of the election of the speaker is an important point. By control of the Senate at large, which Mr. Stewart pointed out here awhile ago, or by control of the House, the larger body and the hardest one to control, or getting down basically, if he can control the speaker of the House or the presiding officer of the Senate he might be in a position as a lobbyist, to name those two members to that conference committee from either the House or the Senate. If he only named those two he would have control of the conference committee. That I think is the important point to make here is that we have a conference committee squeezed in between two houses where everything is out of sight and where you can get at one, two or three men to maintain very, very effective control. If I were to make a rebuttal it would be this -- there is a committee known as the Committee of State Government made up of a very fine list of the top political scientists, statesmen, in our nation today, and those men recognize, as I do, the beauty of the theory of the unicameral system. I too feel the people of Alaska sent us here to represent them. I knew when I took hold of this issue that I was representing a minority group, but I believe that minority group should have a right to be heard. I got a very good hearing tonight and I am very pleased with it. I know that during the course of these many discussions we have had, there have been some of you won over but there have been a lot more of you have modified your thinking. During the course of the last 20 years or better, paralleling the growth or the interest, the information so to speak, of the unicameralistic theory of thought has been a group that I think is to be reckoned with, and that is

your Legislative Council. Today there are 35 states of the 48 that have active legislative councils. Prior to Nebraska switching to the unicameral system in 1937, there was a total of two legislative councils in the nation. Today there are 35. If you could have traced, as I did, over a period of many weeks running into months, the story that I painted to you tonight of the introduction of bills in favor of unicameralism and how they died, you would have seen this parallelism that I would like to draw your attention to tonight, and that is that prior to 1943 now we had 10 legislative councils. Today there are 35. Since the war ended there has been a very, very great increase in it and primarily that increase has been in the interest of more efficient government. The legislative council is a policy-making group. The usual size of the group -- we have to take a median number -- that median number across the nation as a whole is 18. That is hardly a fair number to reckon with because many states make the provision that every member of their legislature is on that legislative council. But the main thinking behind the idea of the legislative council is that here is a board of experts that sits through the year or meets quarterly, at least much more frequently than your biannual sessions of your legislature. There is a great trend of thought here on the present conference floor for an annual session, and I would not be at all surprised to see it come up with an annual session and more easily called special sessions because we must survey our laws constantly. We must introduce new laws constantly. We must revise laws constantly. The general policy of these legislative councils across the nation is that they meet not less than four times a year, some of them meet in continuous sessions. We have here in the Territory a Legislative Council that is very active and very fine, but the point I want to make and stress particularly is the fact that with the growth of the legislative council, we have a greater interest, greater participation judged primarily by the number of bills introduced in the unicameral system. I might say there has been only one state ever to repeal their legislative council. The principal thing that I think stands out in my thinking on this is that in a one-house system you have immediate reflection of how your public is going to react, how they feel, and if we have an annual session of our legislature meet annually instead of biannually as we have in the past, you are going to see that reflected in the voting, and in time it will give you a house that truly represents your people to the very best of their ability. I don't think I would have anything more to say except this -- that if 28 people, which is the number it will take to swing this issue one way or the other, go for a bicameral session, which I probably might weaken my own cause by saying that, I rather think that is the trend that will take place, but if 28 people here in the present Constitutional Convention vote for bicameral legislature, I will be one of the first to go out and try to help sell this constitution to the people of Alaska, will give my full efforts for it just as I would hope and feel sure

that if it went the other way you would do likewise. (Applause)

CHAIRMAN RILEY: Mr. Walsh.

WALSH: Mr. Chairman, I want to compliment my colleague from the Second Division, Mr. McNeese, for the very able, earnest, and efficient manner in which he presented his case for unicameralism. I know that Mr. McNeese has put a lot of time and research into that subject. He has studied it. I have talked with him prior to tonight many times, and I have great admiration for the amount of work and the intelligent approach that he has made to present his case here tonight. I think he did an excellent job. I regret, however, that I cannot agree with him for a unicameral legislature. I am not going to bring in the State of Nebraska, or I am not going to take up any time of the members here and go into details. I look to our Federal Constitution, and from there I take my views. It has withstood the test of time. It has gone past 150 years and today it is respected the world over as the greatest form of government known to man. We have, of course, 47 states to counteract the one lone State of Nebraska. That has been gone over by other people. I rise here principally on the statement made by Mrs. Hermann that I think we should stand up and be counted. I want to be counted for bicameralism.

CHAIRMAN RILEY: Mr. Lonsborg.

LONSBORG: Mr. Chairman, I would like to say a few words at this time. I don't wish to condemn unicameralism as such. In theory it may be good. I have not had a chance to study it through and through. I would like to say that as far as Alaska is concerned, I believe it is just good for the theorists. I had a chance to observe unicameralism to a small degree, having been raised in the State of Nebraska. I had the privilege of seeing it come into effect. I remember in high school we were very much interested in it, and as we noted this morning the interest in this one school grade here in Fairbanks in our Convention, we took a similar interest in our little part of Nebraska and had a chance to see it come into effect and also see it operate. I attended a few sessions sitting in the gallery at Lincoln when I lived there. One argument that we have heard over and over again, not just here but elsewhere, is that it works in Nebraska. I believe it was adopted there to simplify the government and also to give representation. However, they were able to sell it to the Nebraskans or Nebraska adopted it because at that time, in the 1930's, Nebraska was largely a rural population. According to Mr. McNeely who is also from Nebraska, he said that the largest city according to proportion would be about 10 percent of the total population. Now that is not too bad a proportion, city versus rural population, taking your largest city, but now due to the larger farms, many of the farmers moving to the cities, etc., Omaha has grown and the rural areas have declined in

Population so that Omaha has about 20 percent of the population. The metropolitan area around there is close to 33 percent. The representation that some people in the outer regions of Nebraska thought they were getting, is slipping away. It is slipping away because the population is moving toward the cities, and I believe now that it is largely impossible for Nebraska to return to the bicameral system because the heavily populated area is not likely to turn back the representation to the rest of Nebraska. So much for the state at this time. I don't think, as has been mentioned, that we can really compare Nebraska and Alaska except they sound similar at the end of the names. We have, as has been mentioned, the larger area, the floating population, many who will not vote, but I believe will be counted in apportionment. They will of course be in the larger areas, giving more representation to the areas -- I don't mean larger areas but the more populated areas yet they will not take an active part in voting. Representation in Alaska, I think we find that about 50 percent of our Alaskan people live in just a few of the larger cities and if we go on that basis we are going to have representation by the cities alone, if we go to direct population apportionment. Taking it on the national scales when we become a state, if the United States was on apportionment in the Senate and the House, we would have probably one senator out of 1000 less representation than we now have in our non-voting Delegate Bartlett. Take some of the fairness now and apply it to Alaska. Each division should be entitled to equal representation. That would be playing fair on that standpoint just as we expect the United States of America to play fair with us and give us two full-fledged voting senators. The argument of cost -- it may cost a little less to operate with one house, but if the two houses give us better government I think it is worth it. There was mention of the log jam of bills that seemed to flood in the two-house system at the end of the session. I don't know much about that. I think we will probably have something like that here in our one-house if we keep on, toward the end of the session, but I think one reason that Nebraska gets their bills in early is that their congressmen, I believe they're called, I think are paid \$200 for the whole session, stay as long as they like. You can be sure they get their bills in early to get back home again. As far as the lobbyist system, I think the lobbyists would have an open house if they had just one house because they would have all their eggs in one basket and only the one house to worry about. I think the way to get rid of the undue and unfair lobbying is the suggestion that we received from Dr. Gruening yesterday to educate the people of Alaska in our school system and on up to whatever is necessary, that they take more interest in the government, more schools with teachers in the schools as we were privileged to observe this morning, teachers training the youngsters to really get interested in the government of Alaska. Last year in our high school at Unalakleet we requested that all the proposals in the House

and the Senate be sent to us. We did not get a chance to read through them all, but it stimulated some good interest among the students. I think that should be done all over to create an interest among the students so that when they grow up they will take an interest in their government and then the men and women in legislature will vote for the people and not for the lobbyists, because they will know the people are watching them. As far as tradition is concerned, I don't particularly like tradition as such. I like to start out on something new. Yet I will never forget the advice that was given to me once. "Be not the last to leave the old nor the first to try the new." Now it is true that we would not be the first in one sense of the word, as Nebraska now has unicameral legislature but we would be the first state to start with unicameralism in the last 150 years. I don't believe we dare take such a gamble as to put unicameralism into the constitution that we will operate under when we first become a state.

CHAIRMAN RILEY: Is there further comment? Mr. Robertson?

ROBERTSON: Mr. Chairman, I would like to announce I am strongly for bicameralism. I doubt if it is necessary to state so because I have introduced two proposals to this Convention based upon the bicameral system, but I would like to emphasize one thing. Views have been expressed by so many which accord with my own views, but I would like to emphasize the fact that I don't think we should discard the nearly 42 or 43 years of experience in the two-house system in Alaska. We don't want to discard the experience that our government is based on a two-party system and we don't want to risk the chance that Congress will say that those Alaskans are simply trying to experiment in a new kind of legislation. Therefore, I hope this Convention adopts the bicameral system

CHAIRMAN RILEY: Is there further discussion? Mr. Armstrong.

ARMSTRONG: Mr. Riley, I think I can make this very brief. I would want to be counted for the bicameral system because I believe that this constitution will correct any error that has been perpetrated on the people of Alaska under our Territorial form of government. We will have adequate representation, we will provide for an annual meeting where we will not have all these log jams which have cluttered up the halls and wastebaskets of Juneau. I did not come here feeling that I had any mandate to change the form of government under which we are to operate. I believe that we would have a terrific job in the 120 days to educate the public to a change of form. I doubt that we would have the acceptance of the right kind of publicity from press, radio and TV that would be necessary in this type of an endeavor. I am also aware too that we have people from every state in the Union who have come into the family of Alaska. I do not believe that we can at this time afford to confuse them by this type of change, and I would add

this one other word -- that I have been in the halls of the legislature of Juneau, and I can say personally that I have been blessed to see the checks and balances that have been made available there to the people of Alaska. So you know exactly how I stand and how I will vote when this comes out of the committee. I hope we won't tarry many days before this does come for final action.

CHAIRMAN RILEY: Mr. Metcalf?

METCALF: I want to make a few brief remarks along the line Mr. Londborg has made. I am for the bicameral legislature, though I came to this meeting tonight with an open mind. The meeting has been very educational. I certainly sympathize with folks that are in favor of a unicameral legislature. There are abuses there. There certainly are but I believe could be corrected with the system of reapportionment and whereby the people out in the rural areas will have more active interest in government affairs. There is one other angle that has not been mentioned in adjusting this system of checks and balances. If we become a state or after we set up this constitution we would also have the initiative, referendum, amendments and revision clauses plus the recall which will give the common man further checks and balances on his legislature. I mention this because I don't believe it has been mentioned before.

CHAIRMAN RILEY: Mr. Cross.

CROSS: Mr. Chairman, we came here to build a constitution. This constitution has two basic requirements -- one is that it must be workable, the other that it must be acceptable. I believe Alaska could work a constitution with either form of legislature. . I doubt very much that we could sell one with any but a two-house legislature. I am for the two-house legislature.

CHAIRMAN RILEY: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to say just a few words. I have not served in the legislature but I have served on city councils and quite a few other boards, and I am in favor of a two-house system. I know at times on these boards we would have been glad to have some other check so that we would not have had to reverse ourselves. There is another thing that I think I am concerned about is the distribution of our representation, but I am sure that this Convention and the committees can work out distribution of representation so the areas are represented.

CHAIRMAN RILEY: Mr. Sundborg.

SUNDBORG: Mr. Chairman, we have heard this evening thus far

from 29 delegates and if my box score is correct, 23 of them have spoken in favor of a bicameral system and only six against. The six who were against, and this bears out something that appeared in the reference work that we had from the technical services which were employed by the Statehood Committee, were all men who had never served in any session of the legislature. By men that are against, I mean men who are for a unicameral system. The 23 who were for included six delegates here who had served in the Alaska Senate, and everyone of those men was in favor of a bicameral system. It included five men who have served in the Alaska House of Representatives, and every such representative who has been heard has been in favor of a bicameral system. We have heard from "the two great Rivers of the North", from Senator Barr, Senator Collins who served in the very first Territorial legislature and in many others, from Senator Nolan who was the President in our most recent Alaska Senate and from our own President, Bill Egan who is held I know in as high respect by every one here as any member among us and probably in higher respect. We owe much to the judgment of these men, and yet I feel that in exploring a problem of this kind that we should look at the problem itself and not necessarily only at those who advocate one course or the other. As for my own views on this subject, I was one, I found out after I got here, of a relatively few who answered a poll from the Associated Press after we were elected and before we had come here to serve, which asked a number of questions including the one, "Do you favor a one or two-house legislature?" I answered very readily that I favored a two-house legislature. The other evening I had the privilege of watching a television show. It was a televised committee meeting of our Committee on the Legislative Branch, and because of that show and the things that were said there I was pretty well convinced by a presentation that was made, particularly by Mr. McNees and also by another member who has not been heard from tonight, but who was very eloquent and persuasive on that occasion, Mrs. Helen Fischer, that a unicameral system had much to recommend it. Tonight, as I think has been the case with most of the delegates here, I have been pretty well won back to the other view that a bicameral system is the thing for us. This argument, if it is an argument, is not over yet. We are still going to hear from a Committee. We are going to debate the Committee's recommendations on the floor. We are going to arrive at some kind of decision and then after that there is still a whole lot more. For example, I think the Committee of which I happen to be Chairman, Style and Drafting, might conceivably drop out the second house as a matter of redundancy in the language. The best purpose served I think by this discussion tonight has not been at helping us to arrive at a decision in this one matter of whether we should have a one-house or two-house legislature. It has been most valuable because it has thrown light on so many other problems which will concern us. There is this great problem of representation, supreme in the minds of so many of our delegates.

This body I believe is the first ever elected in Alaska where we had actual representative districts. I think the result is commendable. We have a fine Constitutional Convention here which I think represents all sections and all elements of the economy and all interests of the people. It is a unicameral body. Let's look for a moment at what kind of a body it would be if on that same election day last September, we had been electing, the people of Alaska had been electing, not a one-house but a two-house body. Let us look at what it would be -- first of all there were 19 members elected from separate representative districts. Those districts did not overlap and they covered the whole Territory. So every area of our great Alaska is represented here. Then in addition to that we elected 36 from larger areas, we elected a number of them from the Territory at large. We elected another number of them from each of the judicial divisions, and the results of those elections if we look at them are as follows: one member came here from each of six small places, Wrangell, Klawock, Haines, Sitka, Unalakleet and Valdez. Three came from Nome, seven came from Juneau, eight came from Fairbanks and twelve came from Anchorage. Just from those at large elected. Now that would be your Senate if this were a two-house body, and if the election had been held on that same day and we were a bicameral Constitutional Convention. The delegates here from Anchorage and Fairbanks alone would control more than one-half of the upper house, and it does not matter how preponderant the sentiment may be in the body that has representatives from all over the Territory, nothing is ever finally passed through a two-house legislature unless it passes both houses. Getting through one house is not getting half-way there, it isn't getting any place. You have to get through both of them or you haven't got a law, you haven't got a bill or an act. So I think we need to give some thought to the matter of representation. It is supremely important and I hope we have another session such as this, with attendance such as this and with as eloquent expressions of opinion from the delegates as we've had tonight on that subject, in a Committee of the Whole. The matter of checks and balances has been mentioned. In my view, there is a need in government for checks and balances among the three coordinate equal bodies of any government. There needs to be checks between the legislative on the one hand and the judicial and the executive on the other, and between those three we do not find any system of checks and balances within any of the coordinate branches except in the legislature. We don't find that we have two courts on an equal level trying the same case and that there will never be a verdict unless the two courts come up with exactly the same decision on any matter. We have one court and when it decides something, that is it. There is a court on another level to which an appeal is possible in some cases, but only one. You don't go to two more and have no verdict unless both of them happen to decide the same thing. If it is good to have two houses of the legislature why is it not good to have two governors? Indeed, if it is good to have

two houses of the legislature why is it not good to have three houses, to make it even more certain that no bad legislation will get through, or four and let's be perfect. I believe that responsibility is the thing and that responsibility will be developed by placing the responsibility upon a number of people, whether that may be a one-house legislature or in a two-house legislature. There would be no five percent luxury tax passed by a one-house Alaska legislature if we had had a unicameral system, at the last session. I am convinced of that. I was close to it and watched what happened. I think that there is no argument either in tradition. The reason we have a two-house legislature in our national government, in our Congress, is because there was need of a compromise. There never would have been a nation, there never would have been a Congress, or Constitution if we had not been able to have one house which would be based upon representation of people and the other that would be based upon areas. We would not have had a nation. Now this matter of lobbyists of which Mr. Stewart spoke so feelingly. I can speak feelingly of that too. It was mentioned here a few minutes ago that one of the members who has had long legislative experience has never seen a lobby control both houses. A lobby doesn't have to control both houses. It has to control only one house, it doesn't even have to control a whole house. When we have a situation such as we have in Alaska at the present time where perhaps the executive is on a different side of the fence from the preponderant feeling of expression in a legislature and something comes up on a measure to override a veto, all that the lobby has had to do and all that the lobby had to do in the last session of our legislature was control just five members and no piece of legislation which the governor opposed could ever get through that legislature, although there were 40 members there, the lobby that could control five members (and believe me they did) can stop it. It was mentioned here too that somebody once saw a lobbyist pass a note to a member of the House. Of course, that happens all the time. It would happen in a one-house legislature. But what is the real meaning of that? In order to control a house, even if the house were only as large as that of our Alaska at present, the lobby would have to control 13 members. If we had a lobby trying to control this body, it would have to control 28 members, vastly more difficult than controlling a little group even if we doubled the size of our present Senate, the lobby would still only have to control 10 members.

CHAIRMAN RILEY: I'm sorry Mr. Sundborg but your time is past. Mr. Buckalew?

BUCKALEW: If there is no further discussion, I move that we report progress.

CHAIRMAN RILEY: Mr. Buckalew has made the motion that the Committee rise and report progress.

HARRIS: Point of order, did the motion come before the house that the visitors would be allowed to speak?

CHAIRMAN RILEY: That was discussed a few minutes ago. We will have two minutes of recess. The Convention is at recess.

RECESS

CHAIRMAN RILEY: The Committee will come to order. Mr. Doogan?

DOOGAN: Mr. Chairman, I think that most of the Committee, all of the Convention delegates who want to be heard have been heard from. I would like to move and ask unanimous consent that if there is anybody in the gallery that wishes to be heard, that they be granted the privilege.

CHAIRMAN RILEY: Without objection it is ordered that anyone in the audience who wishes to comment on the subject under discussion this evening may step forward and do so.

DR. HUGH FATE: I feel that this group should be represented and if others are too timid to do so, I shall pass a few remarks. We have heard the pros and cons of this debate. If I were to judge the debate I would say on the basis of brilliant presentation, the pros resolved that the unicameral system be adopted, would have won. On the basis of solid argument, I feel that the negative side would have won. We have had a classic example of how, if this house were evenly divided, one brilliant speaker might change the whole complexion of the house and a measure be passed, and that would be your unicameral system. It could be, and if that one brilliant speaker, which does not exist here, happened to be under the thumb of a lobbyist you might have a law that you did not want. I want to remark also that if this body thinks that the people of Alaska are not watching you, you are mistaken. We expect you to come up with something good, and we believe you will do so, and the attentiveness of your audience I think proves that point. It might be a good idea to take a straw vote among the audience. That is all, sir.

DOOGAN: Mr. Chairman, may I ask that the people that speak from the audience state their name for the benefit of those people who are not from Fairbanks and where they are from. That was Dr. Hugh Fate.

CHAIRMAN RILEY: Are there others who care to address any remarks?

MR. KOPONNEN: My name is Neil Koponnen. I am a homesteader on Chena Ridge and an electrician by trade, an unsuccessful candidate for the last election and I stuck my neck out on the unicameral issue. Nobody knows me very well. I don't belong to any party, I don't belong to any lodges, I don't have much

voted for me and I think largely because I stuck my neck out, so I guess that is about what I would be said to represent. I never could see any sense in the taxpayers hiring two bunches of politicians to go off in to opposite ends of a big building and argue the same bloody question and take twice as long to come to an answer and then finally disagree. But as it was pointed out, the control is always in the joint committees and if the lobby controls the joint committees, they control everything. I have heard a number of speeches by a number of people over the years, not necessarily running for this, but running for some other office, especially running for the legislature up here. They rant about the bureaucracy, they rant about executive, about how the government outside is doing something. One of the things that has lead to government by the executive and government by executive decree and judicial decree has been the fact that the legislature is unable to function. It is internally checked, I wouldn't say that there was very much balance to it. There are checks and balances but it's the complete brake on the system, on the legislature itself. It is unable to express itself, it is unable to act when it needs to act. Action has to be taken in a crisis sometimes, like during the depression or during a case of war, it is taken by the executive. To whom do we turn if something is wrong with that? Do we turn to the legislature for a good law? We don't give a damn, if we have enough money we go and hire a lawyer and go to the judges to secure relief. I don't think there is any argument in tradition as has been said or in the fact that the bicameral system has lasted 175 years. If you study history, the bicameral system is a simplification of what went before, when you had a four-part system. The medieval courts, the medieval legislatures were very often split amongst the nobles, the house of lords. You had a house of clergy, well let's have a third house if two houses are so good. I think that always we've tried to simplify our government so the people themselves can better express themselves through it. The government, I think I said, exists to do for us collectively that which we cannot individually do ourselves. If it cannot act, then how can we act in a question which concerns us? I am glad I had some representation here even if it comes from Kodiak and Nome.

CHAIRMAN RILEY: Thank you Mr. Koponnen. Is there other comment? Mr. Barr?

BARR: I would suggest that the public here be informed that their remarks are being taped probably will be broadcast from a radio station. In any case if they are groping for words, they will at least look at a dictionary and use some words that are in the dictionary instead of something that I don't recognize as English.

CHAIRMAN RILEY: Is there further comment from the audience?

ALICE STUART: I am also a defeated candidate. I got 2616 votes at large. I also don't belong to either political party nor do I belong to any civic or fraternal groups. However, I thought we should have a good constitution that should be based on fundamental American principles. One book that I have read that has been of great interest to me is The Federalist. I haven't read it all but parts that I have read, I enjoyed. There is one I would like to refer you all to and that is No. 62, credited to either Hamilton or Madison. In it is refers to ". . . inquiring into the purposes which are to be answered by the senate and in order to ascertain these, it will be necessary to review the inconvenience . . ." You will find that many of these reasons, I think there are five or six of them, will apply equally to the State of Alaska and I think you would all, if you haven't read The Federalist No. 62 will find it of great interest. It is in favor of the two-house system.

CHAIRMAN RILEY: Thank you, Miss Stuart.

CONSTANCE GRIFFITH: I am one of the three that lost in spite of sticking my neck out for unicameral legislature but I don't think in all fairness it is fair to say that was the reason I lost. It seems to me that the three points that have been advanced against unicameral legislature -- the embarrassment of a member of the House or the Senate because something passed that he was sorry he voted on, I would say that in the unicameral legislature, you would take more time and that would save the groping around, the running back and forth and the embarrassment, and that that would perhaps make much better legislation because a bill would not have to be rushed through the other house. In taking more time, then people would have a chance to get their views to the one house and the deliberations would be more gratifying to all concerned. The other two things are ratification and tradition. Now the tradition of our government in having a two-house legislature is because we have states and then the government. We don't have anything comparable to states in a state that needs representation in a separate house, so I don't see that purpose is served and that tradition needs to be so clung to in this particular instance. As far as ratification, I think the people trust you and are willing to go along with anything that you at the Constitutional Convention devise for us to ratify, and I don't think you need to be afraid if you really think this thing through and come out with either unicameral legislature or bicameral legislature, I am pretty sure the people of Alaska are going to get behind you and will ratify anything you do. Thank you very much.

CHAIRMAN RILEY: Thank you, Miss Griffith.

UNIDENTIFIED MAN: It has impressed me tonight how many people have said we must sell the constitution to the people of Alaska, and sell it to Congress, but somehow that smacks of something small to me. Maybe that is wrong, but all the great theories that have come from history have been something new, something different, and they have not always been impractical, because they haven't been done before but quite often the thing that turned out to be the most practical as well as the most inspirational for most people. I think a lot of people came to Alaska because they felt the United States was not completely God's country, that it wasn't perfect, but no country is. Maybe it's strong but strength isn't everything. I love Alaska because I feel that there is so much wrong up here, but there is still so much that can be done and so much future and that we need to have the courage to step forward and that we need not rely and say that we must do everything because it is done in the states and always has been done in the states. That doesn't make it perfect. I know people that have the courage to believe in theories if they feel that the theories are right and good, because I think most of the progress in the United States originally and throughout history has been through people having the courage of their convictions.

CHAIRMAN RILEY: If there are no further comments from the audience, the Chair would entertain a motion to rise.

V. RIVERS: Mr. Chairman, I make a motion and ask unanimous consent that the Committee of the Whole now rise and report progress.

CHAIRMAN RILEY: I might state first that the bus has been called and should be here in a matter of about 15 minutes. without objection the Committee shall rise and report progress. So ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there any business to come before us at this time?

RILEY: Mr. President, your Committee of the Whole has met, risen, and reports progress.

PRESIDENT EGAN: Mr. Riley reports that the Committee of the Whole has risen and reports progress. Is there other business to come before the Convention?

HELLENTHAL: Mr. Chairman, I move the meeting be adjourned until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Hellenenthal moves and asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow. Is there objection? Hearing no objection it is so ordered.

ALASKA CONSTITUTIONAL CONVENTION

December 1, 1955

TWENTY-FOURTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Chaplain Martin Shaner of Ladd Air Force Field who will give us our daily invocation.

CHAPLAIN SHANER: Almighty God our Heavenly Father, of Whose righteous will all things are and were created, Who liftest the islands out of the deep and prearest not in vain the habitable world. Thou hast gathered our people in a great land and in a great nation. Thou hast given to us the great heritage of the past. We would ask Thee this day to instill into each of us and especially to invoke Thy blessings upon this Convention, upon each individual severally and collectively. We ask for wisdom. We ask for strength, and, O God, we ask for courage that we may do those things in the preparation of this constitution which shall be in accord to Thy purpose and will and plan for mankind. May the precepts and principles of truth, of righteousness and justice ever be in our thinking and permeate our thoughts as we put together this document so that it shall be used as a means to govern Thy people here in this great land and in this State. We humbly pray in our Master's name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

PRESIDENT EGAN: The Secretary will show all members as being present. The absent members are attending a funeral and were properly excused. A quorum is present. We will proceed with the regular order of business. Are there any petitions, memorials or communications from outside the Convention? Reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? Mr. Metcalf?

METCALF: I have a proposal.

PRESIDENT EGAN: Are there other proposals to be read? The Chief Clerk will proceed with the reading of the proposal.

CHIEF CLERK: "Delegate Proposal No. 29 introduced by Mr. Metcalf, INITIATIVE, REFERENDUM, AND RECALL -- AMENDMENT & REVISION."

PRESIDENT EGAN: It would be the Committee -- what committee would you suggest?

METCALF: I would suggest it be submitted to Committee No. XIII, Direct Legislation.

PRESIDENT EGAN: That is the feeling of the Chair. It is referred to Committee No. XIII, Committee on Direct Legislation. Are there other proposals? Are there any motions or resolutions? Mr. Smith?

SMITH: Mr. President, I believe the Chief Clerk has the resolution which I had prepared yesterday.

PRESIDENT EGAN: Would you like that read at this time?

SMITH: Yes.

CHIEF CLERK: "Resolution No. 7, RESOLVED, that the Committee on Resolutions and Recommendations be charged with the responsibility of making certain that proposals covering the seven requirements of H.R. 2535 are submitted to this Convention."

PRESIDENT EGAN: The resolution is referred to Committee No. XIV on Resolutions and Recommendations. Mr. Hurley?

HURLEY: Mr. Chairman, point of information on that. I believe my Chairman is not here today but the Ordinance Committee is already considering the majority of those. We have prepared a great number of them already.

PRESIDENT EGAN: Mr. Smith, if there is no objection then the Chair would change that reference and refer it to the Committee on Ordinances.

SMITH: It does not make any difference to me as to which committee receives this Resolution. My whole purpose and intent was to make it the responsibility of some committee and that was my only interest.

PRESIDENT EGAN: If there is no objection then under those circumstances the resolution is referred to the Committee on Ordinances rather than the Committee on Resolutions. Are there other resolutions? Is there any unfinished business to come before the Convention at this time? If not, the Chair will entertain a motion for recess. Mrs. Sweeney?

SWEENEY: Mr. Chairman, I move that we recess until 1:30 o'clock this afternoon, and I ask unanimous consent.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the Convention stand at recess until 1:30 this afternoon. Is there objection? The Chair would like to advise the delegates before stating the question that the checks are available in the Secretary's office, so the Convention is at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the special Committee assigned to reading the journal have a report to make at this time? Mr. Knight?

KNIGHT: Mr. President, I move and ask unanimous consent that the journal for the 22nd Convention day be approved by the Convention as read.

PRESIDENT EGAN: Mr. Knight moves and asks unanimous consent that the journal for the 22nd Convention day be approved as read by the select committee. Is there objection?

NORDALE: I put a note on the Secretary's desk. I would like to know if they thought I was wrong. I understood we were to put a slip on the Secretary's desk if we thought anything was wrong with the journal, and I did that upstairs in his office over half an hour ago.

CHIEF CLERK: It should be the Chief Clerk.

PRESIDENT EGAN: Then if there is no objection, the journal of the 22nd Convention day will be ordered approved. Is there other business to come before the Convention at this time? Mr. Hurley?

HURLEY: Mr. President, I ask unanimous consent that we return to the introduction of proposals at this time.

PRESIDENT EGAN: Mr. Hurley asks unanimous consent that we revert to the introduction of proposals at this time. If there is no objection it is so ordered. Mr. Hurley, you may present your proposal.

CHIEF CLERK: "Delegate Proposal No. 30, by Mr. Hurley, STATE LANDS AND NATURAL RESOURCES.

PRESIDENT EGAN: The Committee on Resources, No. X. Are there other proposals? Is there other business to come before the Convention? Mr. Riley?

RILEY: Mr. President, I would wish to call a very brief meeting of the Rules Committee immediately after adjournment. It will be sufficiently brief that it will conflict with no other committee meeting.

PRESIDENT EGAN: Mr. Riley announces a brief meeting of the Rules Committee immediately upon adjournment. Are there other announcements? Will the delegates please come in and take their seats in the Convention Hall, please. Mr. Sundborg? (Delegates came in from gallery.)

SUNDBORG: Mr. President, I would like to inquire about the origin of a very interesting report which I found on my desk yesterday entitled, "Reapportionment for Representation for 1955". I am wondering if this is a committee report? It hasn't been referred to on the floor.

PRESIDENT EGAN: Mr. Sundborg, the Chair feels from hearing discussion that was just a tentative report in order to allow all the delegates to see what type of proposal the committee was working upon. That is not the final report at all and it was merely to allow each of you an opportunity to get an idea of the lines they are working along.

SUNDBORG: Is it from the Committee on Apportionment?

PRESIDENT EGAN: It is not a committee report, Mr. Sundborg. I believe it came from a member, it was drawn up by a member of the Committee.

SUNDBORG: I find it very interesting and helpful.

PRESIDENT EGAN: Is there other discussion? Mr. Armstrong?

ARMSTRONG: Mr. President, I would like to ask unanimous consent for the writing of a letter by our Secretary, through the command at Eielson Air Force Base, to the families and personnel of those who have been bereaved through the disastrous crash of the F-84. I feel that they should know that in our deliberations we are thinking of them and our sympathy goes out to them. I would ask unanimous consent, sir.

PRESIDENT EGAN: You have heard Reverend Armstrong's unanimous consent request. Hearing no objection it is so ordered, and, Reverend Armstrong, will you work with the Secretary and Mrs. Hermann, please, in drawing up such a letter to send to the command at Eielson Air Force Base? Is there other business to come before the Convention? Mr. McNealy.

MCNEALY: Mr. President, I would like to, out of regard for my fellow delegates from the Second Division, I would like to have the unanimous consent of this body to withdraw Proposal No. 27 entitled, "ELECTION IN DISTRICT OTHER THAN PLACE OF RESIDENCE", which proposal was submitted by me. If I might just add with your permission that the reason for withdrawing it or the reason for filing it was not the reason a number of delegates thought was the reason. I had no one in mind except McNealy when I filed it and because other situations have arisen I would like to ask unanimous consent that this proposal be withdrawn from the Committee and from the Convention.

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. McNealy asking that his Proposal No. 27 be withdrawn. Is there objection? Hearing no objection, Mr. McNealy, then

you may withdraw that Proposal, and the committee that has the Proposal in its possession can return the same to Mr. McNealy. Is there other business to come before the Convention? Mr. Smith?

SMITH: Mr. President, I would like to announce that Mr. Vincent Ostrom, of the staff for the Center for Advanced Study in the Behavioral Sciences, Stanford University, formerly associated with various organizations including the Northwest Regional Project in Educational Administration, Social Science Research Council, Wyoming Legislative Interim Committee, Oregon Bureau of Municipal Research Services, and the Haynes Foundation of Los Angeles, who was also formerly a member of the faculty at the University of Wyoming and at Oregon State College, author of Water and Politics, Water Supply and various articles and studies on natural resources policy and administration, local government and state and local finance taxation, has arrived and I looked around to see if he was in the gallery. I do not believe he is but I wanted to let the various committees know that he is here and I also wanted to put in first claim to his services for the Resources Committee.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, it seems to me we have a number of these consultants here or arriving here very shortly and I don't think the committees should be selfish and keep them locked up with them. I would like very much to have all of them introduced to the body as a whole and all of us given an opportunity to talk with them and have them say a few words to the Convention. I think that might be done tomorrow when the other two arrive, but I think it should be that the whole assembly should greet them rather than just committees with which they are planning to work.

SMITH: Mr. President, if the President would send the Sergeant at Arms to find Mr. Ostrom, I am sure he would be glad to come at this time and I am sure the Committee on Resources would be glad to have him come.

MCLAUGHLIN: Mr. President, the Judiciary Committee, with more efficiency, has its expert available and we can fill the interim if the Chair desires.

PRESIDENT EGAN: Are you referring to Mr. Sheldon Elliott, Mr. McLaughlin?

MCLAUGHLIN: Yes.

PRESIDENT EGAN: Is it the wish of the Convention that Mr. Ostrom come before us at this time or, as Mrs. Hermann suggests, that perhaps we extend the research men an invitation to visit with us in the morning? What is the consensus of the

delegates relative to this question? Mr. McNees?

MCNEES: Mr. President, I would like to support Mrs. Hermann's suggestion, and I think there is no sense in wasting time. If there is time today, I would like to have those introduced that are here because we can take advantage of their services immediately.

PRESIDENT EGAN: The Chair notes that in the gallery we have Mr. Sheldon Elliott and would like to, if there is no objection, ask Mr. Elliott to come in with us for a few moments, if he would like to say a few words to the delegates, and maybe, Mr. -- Sergeant at Arms, you could attempt to find Mr. Ostrom. Mr. Elliott.

SHELDEN ELLIOTT: Thank you very much, Mr. President, and ladies and gentlemen. I think I have had the pleasure of being introduced to a great number of you already, and during the all too short span of this, my first visit to Alaska, I hope to have the pleasure of getting to know the rest of you. I am from New York but only recently so, having started out as a native son of Southern California. I am a lawyer, as my affiliation with your Judiciary Committee might indicate. I have been a member of the California State Bar for nearly a quarter of a century. I have served in the Legislative Council Bureau of the California Legislature. I have served as a secretary to a committee of bar examiners, and I have been a practicing lawyer and then a law teacher both in Southern California and in New York. My present affiliation is with New York University, and I also serve as Director of the Institute of Judicial Administration. The Institute was established as a non-profit corporation in 1952 and has its headquarters at the law center of New York University. I shall give credit where credit is due. The inspiration for its establishment and the spade work in getting the money from Rockefeller Foundation and getting it going both came from Chief Justice Arthur T. Vanderbilt of New Jersey, whose name I am sure is known to many of you. It has been my privilege to work with him in this area of court organization and administration on a state-by-state and now country-by-country basis. I don't pretend to be an all knowledgeable expert in the field. I have had an eye on developments in many directions and in many areas, and to the extent that my acquaintance with what is going on may be of assistance in counseling your committee. I know they will feel free to call on me. I don't have any magic formulas. I am sure that you in Alaska know fundamentally what is best for your State to be. I should confess, also as a secondary matter, that I have taught the subject of legislation for many years and have co-authored some materials in the field with some emphasis on legislative style and drafting. I am not asking for more work. I will be here until next Friday. If in either of those categories of qualifications I can be of any assistance to any of you here, I hope you will

feel free to call on me. My primary duty of course is first to the Judiciary Committee and to Mr. McLaughlin. I thank you very much for giving me the privilege of a few words before you. I shall be here until Friday of next week. I hope to get to know all of you while I am here. I am tremendously impressed with Alaska. Thank you.

PRESIDENT EGAN: Thank you, Mr. Elliott. The Chair notes that Mr. Ostrom is present. Mr. Ostrom, would you mind coming forward and being introduced to the delegates. Mr. Vincent Ostrom, would you like to say a few words?

MR. OSTROM: This is also my first trip to Alaska, and I am somewhat amazed at the countryside. I have spent three years in Wyoming and in many ways the Alaska climate represents some of the rather severe winters we had in Laramie, Wyoming, when I was there. The difference in the section here is that there is not the elevation in Alaska that we had in Wyoming, but the 7,000 feet apparently makes up for the rather extreme differences in latitude we had. Something about my background, which I gather is what you want communicated to the members of the group here, my primary work in terms of work in university and graduate training, etc., has been in the field of political science and in that field primarily focusing upon local governments, state governments and aspects of regional development, primarily those that have been concerned with the development of natural resources. The first serious study that I did in the area of local government had to do with school board politics in the Los Angeles area. This in itself was, I think a very interesting study to see the impingement of a variety of factors and forces in the shaping of educational policies in a large public school system. After going to Wyoming my interest became fairly heavily concentrated in the natural resources field. Here was an area that had tremendous potentiality in terms of large land areas and yet the matter of water was of all-controlling importance, and it presented a particularly sharp contrast with the situation in Southern California say, where likewise the shortage of water existed, but here had grown the largest metropolis in the Western United States. The question was what made this metropolis possible in conditions that prevailed throughout the Western United States in general. This opened a variety of questions that have had to do with resources in many, many areas, and by and large I think the best statement that we have had are those of Frederick Jackson Turner and a good many of the other persons who have contributed quite significantly in the formulation of problems of resource policies and thinking about the institutions which have developed in the Western United States, in particular in regard to the utilization of natural resources and making possible the developments that have taken place in those areas. Frederick Jackson Turner and John W. Powell, I think are the two great pioneers in this area, pointed out quite vividly that the developments that have taken place in

the western frontier, particularly in the arid West, involved quite different institutions, quite different requirements than those which existed in the eastern portions of the United States, so there were developments, developments of whole systems of water law, for example, that came in the Western United States that had not previously existed in the eastern portions of the nation. I think the problem you are posed with here is very much the same kind of problem that, say, a Frederick Jackson Turner or a John W. Powell was concerned with. They were concerned with what are the conditions in human intelligence and human capacity to be able to organize themselves to provide rules for themselves so that they could accomplish or establish a good life in these rather adverse conditions of the arid west. It would seem to me that your problem here is that not facing, in effect, the western frontier but rather facing the northern frontier, and what are the special requirements that exist in facing the northern frontier, and it would seem to me that it is among you and among the legislators and administrators who are going to be taking charge of the stewardship of Alaska that will give rise to those who will be the lawmakers, the formulators of the conditions of life in the northern frontier. And I think this is a very stimulating opportunity that you have here at the present time, and I would hope that during the course of my visit here I might be able to raise some questions about problems of resource policy, provide some contribution in this area that has to do with the development of natural resources but I think above all else, recognize what we say about natural resources is not limited simply to lands and to fish and to minerals and metals out there, but rather being concerned with how we as human beings are going to utilize those so that they become a part of the continuing future development of an area like Alaska, how it makes possible the development of a better livelihood, a better existence on the part of the people who do comprise this land. In this sense almost every section of a constitution becomes related to the question of resource development, the whole matter for example of the organization of the administrative arrangement, the executive branch, I think is of some crucial significance in the matter of resource development in the area. Likewise the whole matter of the development of local government organization involves some very crucial questions in relation to resource development. One of the factors in the Western United States that involves some fairly important innovations was the development of such vehicles as irrigation districts and other kinds of local government agencies that were able to accomplish public purposes in the development of resources in that area. And I would suspect that in an area of the northern frontier we would face many of these problems of what kinds of public agencies, what kinds of local governmental instrumentalities, can make possible most effective utilization of the resources in this area. I am sure you are not interested simply in storing these resources to posterity but rather in

bringing them into use in the development of some kind of public purpose that will realize the important goals that you all want for Alaska. Thank you. (Applause)

PRESIDENT EGAN: Thank you, Mr. Ostrom. Mr. Buckalew?

BUCKALEW: Mr. President, I would like to ask Mr. Ostrom one question through the Chair if I may.

PRESIDENT EGAN: If there is no objection.

BUCKALEW: Mr. Smith read out your qualifications and he mentioned the term, "Behavioral Sciences". I wonder if you would define that for me.

MR. OSTROM: I am sorry I was doing some homework at the early part of this and did not have the background to speak to it. My present formal position has been, for some five or more years, that of being a member of the political science department at the University of Oregon. During this year I happen to be a Fellow at the Ford Foundation Center for Advanced Studies in the Behavioral Sciences. What they mean by "behavioral sciences" are simply those sciences concerned with the study of human behavior and in this sense includes such things as biology representing the most extreme range related say to the study of the biological organism on over to include such things as anthropology, sociology, psychology, political science, economics and the other fields that are traditionally classified in the social sciences. I think it is simply a new word that is brought in that sounded good and therefore someone had to attach it to a title.

PRESIDENT EGAN: Thank you, Mr. Ostrom. The Chair notes another distinguished visitor in the gallery, the Attorney General of Alaska, Mr. J. Gerald Williams. He has been of great help to the staff of the Convention in resolving certain legal problems that have come before us. We are happy to have you here with us, Mr. Attorney General. Is there other business to come before the Convention? Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that we stand adjourned until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow. Is there objection? Hearing no objection the Convention is adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

December 2, 1955

TWENTY-FIFTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Charles Alston, pastor of St. John's Baptist Church in Fairbanks. Reverend Alston will deliver our daily invocation.

REVEREND ALSTON: Almighty God, we thank Thee for this opportunity. Bless those who have given themselves in service of our fellow men. We invoke upon this delegation Thy blessing. Father, grant unto them clear vision, true judgment, with great daring as they seek to right the wrong. Remember the nation to which we belong, that in righteousness and truth we may be established -- through Jesus Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Six absent. Two excused absences.

PRESIDENT EGAN: A quorum is present. We will proceed with the regular order of business. Does the Committee to read the journal have a report to make at this time? If not, we will hold it over until this afternoon's session. Presentation of petitions, memorials and communications from outside the Convention?

SECRETARY: None.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Riley?

RILEY: Mr. President, I have a resolution to present on behalf of the Rules Committee which requires a little explanation. A situation confronts the Convention whereby its Secretary must leave, take a medical leave of absence, and that in turn will call for a modification of the operative effect of our Rule 3 which has to do with the delegation of duties of the Secretary and some of the secretariat. I would like to present the resolution for reading at this time.

PRESIDENT EGAN: The Chief Clerk will read the resolution.

CHIEF CLERK: "Resolution No. 8.

WHEREAS, the Secretary of the Alaska Constitutional Convention has, on medical advice, requested a leave of absence;

NOW, THEREFORE, BE IT RESOLVED

1. That the Convention hereby approves the Secretary's request for a leave of absence;

2. That the Convention hereby authorizes the President of the Convention to delegate, during the absence of the Secretary, such authority and duties of the Secretary of the Convention as he may deem necessary to such person or persons as are serving the Convention, and

3. That the Delegates hereby express to the Secretary their best wishes for a speedy recovery and a speedy return to the Convention.

PRESIDENT EGAN: What is the pleasure of the Convention?

RILEY: I move and ask unanimous consent that the Resolution as read be adopted.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the Resolution as read be adopted. Is there objection?

SUNDBORG: Mr. President, I object only momentarily to say that according to our rules, a resolution must take the regular course of business and be referred to a committee, etc. Am I correct?

PRESIDENT EGAN: No, Mr. Sundborg. Resolutions may be treated as a motion if it is so desired.

SUNDBORG: I stand corrected. Thank you.

PRESIDENT EGAN: If there is no objection then the Resolution is ordered adopted as read. Are there reports of other committees? Are there reports of select committees? Are there any proposals to be introduced? Are there any other motions or resolutions? Mrs. Hermann?

HERMANN: Mr. President, I notice the presence of Dr. Bartley in the gallery. I thought we might have the privilege of hearing a few words from him.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, Mrs. Hermann was just a little faster on her feet than I was. I meant to say that Professor Ernest R. Bartley, whose services were requested by the Resources Committee, is present. Professor Bartley is Professor of Political Science at the University of Florida. He is Director of Research, Florida Board of Constitutional Revisions Committee, author of several staff papers for PAS, Alaska Constitutional Project, the State Constitution within the American Political System, The Constitution and Natural

Resources, the Judicial Department, and he is co-author of the American National Government and Administration. He has special interest in judiciary, natural resources and executive branch. Again for Mrs. Hermann's benefit, I met Dr. Bartley about five minutes before the plenary session. I monopolized his time up to the plenary session.

PRESIDENT EGAN: If there is no objection the Chair would ask Dr. Bartley to come before us at this time, if he would like to do so, and say a few words to the delegates. Dr. Bartley.

DR. BARTLEY: Ladies and gentlemen of the Convention. It is a very real pleasure to be back in Alaska. I know a great many of you already, and I know that it was one of the tremendous pleasures that I have had during my professional career to be up here last summer and to meet with you then. This morning, of course, there are many whom I don't know personally. I am sure that in the next few days while I am here that I will get to meet and know the rest of you. I thank you again for doing me the honor of asking me to come up here, and there are very few things, very few instances that I have ever experienced, which have given me more satisfaction than the opportunity which I have had, to work with you. (Applause)

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I would make a suggestion that the secretaries of the committees who would like to have Mr. Bartley consult with their committees, get together and try to arrange a schedule so his time can be put to the best use. I don't know the procedure in other committees, but I am very thankful that the Secretary of the Resources Committee is handling the scheduling, and I feel that if the other committees will get in touch with Mr. Riley, a schedule can be worked out.

PRESIDENT EGAN: You have heard Mr. Smith's suggestion. If there is no objection, then those secretaries who might feel that they desire the aid of Mr. Bartley before their committee will contact him and try to arrange a schedule among the various secretaries as to when they will have the services of Dr. Bartley. Is there other business to come before the Convention? Mr. Davis?

DAVIS: Mr. President, I would like to request consent to absent myself tomorrow. I would like to be excused.

PRESIDENT EGAN: If there is no objection Mr. Davis may be excused for tomorrow. Mr. Gray?

GRAY: I likewise would like to be excused for tomorrow. I am going down to Juneau and I will be back Monday.

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

excused tomorrow also until Monday. Is there other business to come before the Convention? Mrs. Sweeney.

SWEENEY: Mr. Chairman, I move we recess and ask unanimous consent that the Convention recess until 1:30 p.m.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the Convention recess until 1:30 p.m. Hearing no objection the Convention is recessed until 1:30 this afternoon.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the special Committee to report on the reading of the journal have a report to make at this time? Mr. Doogan.

DOOGAN: Mr. President, on page 1 --

PRESIDENT EGAN: Is that the 23rd Convention day?

DOOGAN: Journal of the 23rd Convention day, November 30, on page 1, third paragraph from the bottom, where it says, "Mr. Cooper", change to "Mr. Rosswog asked for a roll call." On page 2, the third paragraph from the bottom, at the end of the sentence add "so they would have an official document from the Convention for their scrapbook." On page 7, fifth paragraph from the bottom, "Mr. Rivers and Mr. Barr", it should be "Mr. Victor Rivers". With those corrections I move and ask unanimous consent that this journal for the 23rd day be approved.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that the journal of the 23rd Convention day be approved with the corrections as noted by the special Committee to read the journal. Is there objection? Hearing no objection it is so ordered. Mr. Doogan?

DOOGAN: Mr. President, I think everybody has on their desk the journals for the first three Convention days. These will be read and reported on on Monday, and since there was quite a little confusion the first three days in getting organized, if everybody will attempt to read them and note any corrections or errors and report them to the Chief Clerk, we will get this taken care of on Monday.

PRESIDENT EGAN: You have heard the report of Mr. Doogan. Is there any discussion? Hearing none, is there other business at this time? Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, I move that the present Convention schedule of committee meetings be dispensed with, that the afternoon plenary session be dispensed with and that alternative (a) of the schedule which was included in Secretariat Memorandum 24/a, dated December 1, 1955, be substituted

therefore, until such time as the Chair again recommends revision.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that alternative (a) of the proposed changes in committee meetings be adopted until such further notice might be announced by the Chair.

MCLAUGHLIN: Mr. Chairman, before I hear any objections, I believe this was agreed upon by unanimous consent of all chairmen of committees in private sessions, that it would be more acceptable to the committees.

SUNDBORG: Mr. President, I wonder if Mr. McLaughlin would find it acceptable to have included in that a date in which this would take effect.

MCLAUGHLIN: Effective tomorrow morning.

PRESIDENT EGAN: The motion is amended so that the motion will show that the alternative committee sessions will take effect tomorrow morning.

MCLAUGHLIN: Mr. Chairman, before that is acted upon, are we having public hearings tomorrow?

PRESIDENT EGAN: There are some public hearings scheduled for tomorrow, as the Chair recalls.

MCLAUGHLIN: I shall amend it to read "effective Monday morning."

PRESIDENT EGAN: Then the correction is ordered made in the journal in the notes of the Clerk that it will take effect Monday morning. The Chair wants to let everyone understand that this schedule will do away with the afternoon plenary session until further notice. Mr. Barr?

BARR: I object but only to find a reason for that schedule being adopted. Schedule (b) would fit my plans better but that is only for personal reasons. Now if it is explained to me that schedule (a) benefits the Convention more, of course I'll go along with it but I would like to know why.

PRESIDENT EGAN: Is there a second to Mr. McLaughlin's motion?

SUNDBORG: I'll second it.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. Is there discussion? Will someone rise in explanation? Mr. Sundborg.

SUNDBORG: Mr. President, I think we should say here for Mr. Barr and others who have not had the benefit of the discussion

we had in the meetings of committee chairman for several days on this subject, that it was objected by several committee chairmen a week or so ago that the daily committee sessions were too brief and that the members no more than got into serious discussion of a subject than the time allotted to them expired and they dropped it and went on to an entirely different meeting and had a hard time taking it up at the exact point again. So starting with that the committee chairmen asked the staff to try to devise a new schedule which would give longer meetings, and after several days of discussion, two alternatives were proposed to the committee chairmen. The chairmen were asked to poll their respective committees and try to determine which alternative was preferable. At today's meeting of committee chairmen every chairman who reported, reported that (a) was preferable to (b), and so the committee chairmen, without a voice in opposition being raised, agreed that they would bring on the floor this afternoon the proposal that alternative (a) would be adopted. If there is serious objection to that from the members of the committees, I think that we should thrash it out here before going into a new schedule.

MCNEES: May I ask how long this schedule will be effective?

SUNDBORG: If I might answer, it is the thought of the committee chairmen this will be effective from Monday morning until such time as the Convention finds it needs to revise it. It is a temporary schedule until conditions change. The one thing we have in mind is that proposals will be coming out of committees, probably quite soon, and at that time we are going to need longer plenary sessions. Also, some of the committees, after they report, presumably will have nothing more to meet about, so we can use the time which would otherwise be theirs, to accommodate the committees which are still at work, so it is something that is for the time being and until the Convention would decide otherwise.

MCNEES: I do see some distinction in the amounts of time allocated to various committees here. In other words, the committee in the morning from 9:30 until 12:20 with shorter sessions for the other two. I was wondering, would it be possible for a rotational program to be put into effect -- say we do run three weeks into December -- let these rotate so that each one gets a turn at the various schedules for the longer session at a time.

SUNDBORG: Mr. President, this was not my proposal and I did not draw up the schedule. In fact, I had very little to do with it. All I know is what I have heard in the discussion of the meetings of committee chairmen. The proposal that we might rotate, that is have one set of committees meeting on Monday and an entirely different set on Tuesday was made and it was objected to because it was thought it would lead to

confusion among the delegates as to just where they were supposed to be at certain hours. I yield to anybody who wants to speak on it.

PRESIDENT EGAN: Mr. McNees, the President's recollection of the meeting today was that a certain discussion centered around and was agreed upon around that subject and that it was generally agreed that supposing your committee wanted to exchange a time with another committee, that you could by mutual consent change your times. It would be entirely satisfactory.

MCNEES: My suggestion primarily wasn't that we change on a day-to-day basis but on a week-to-week basis.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I am myself greatly concerned with the fact that the committees are taking as much time as they are. I realize that we have had told us that the target dates are now set and that the proposals are coming out of committees in very short order, but as when tomorrow ends we will have spent three weeks on straight committee work, and while there may be some subjects that require greater amount of time than others, it seems to me those reports ought to be coming in, and I am a little bit worried about the urgency of work on the floor and the need of time to give due attention to work that is going to have to be done on the floor and also that is subsequently to be done by Style and Drafting Committee after the work on the floor has been completed. So I am giving due warning to everybody here that if we don't get some of the work out by the first of the week I am going to become the nagging wife of this Convention. I am going to get up and remind you of it everytime I can get the floor. It is unfortunate that three members of this Convention, Mr. Sundborg, Mr. Davis, and I are on committees that have nothing at all to do except visit the other committees. Maybe the other committees would just as soon have a little relief from our visits.

BARR: Mr. President, I think everything Mrs. Hermann has done she has done well so if she is going to become the "nagging wife" I am going to run for cover. As I said before, I understand a need for in the committees, though personally I prefer alternative (b). I did not know it was a general agreement. I thought perhaps the majority of the chairmen had agreed on this. However, I think I will now renew my objection just in order to get a vote on it.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I wanted to point out, if my memory is correct, at yesterday's meeting of the committee chairmen, each committee chairman was requested to take this up with his committee. I did so in the Resources Committee. They stated a

preference for alternative (a).

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall alternative (a) be adopted to supersede the present committee schedules until further notice?" All those in favor of the question will signify by saying "aye", all opposed by saying "no". The ayes have it and it is so ordered. Is there other business to come before the Convention? Mr. McCutcheon?

MCCUTCHEON: Mr. Chairman, I would like to revert to reports from committees.

PRESIDENT EGAN: If there is no objection we will now revert to committee reports.

MCCUTCHEON: Committee No. VII on the Legislative Branch has had under its consideration Proposal No. 11 and Resolution No. 4. The Committee wishes to report the Resolution and Proposal back to the floor with the recommendation they be forwarded to the Committee on Resolutions inasmuch as they already have proposals of the same nature under consideration. I ask unanimous consent.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent that Proposal No. 11 and Resolution No. 4 be referred to the Committee on Resolutions. Is there objection? If there is no objection the Chair refers the Proposal No. 11 and Resolution No. 4 to the Committee on Resolutions. Is there other business to come before the Convention? Mr. Sundborg?

SUNDBORG: Mr. President, I would like to ask unanimous consent to revert to the order of business of introduction of resolutions.

PRESIDENT EGAN: If there is no objection we will now revert to the order of business of introduction of resolutions.

SUNDBORG: I have a resolution which I would like to read, and then move for its adoption.

"The Alaska Constitutional Convention takes note of the fact that Anthony J. Dimond Day, as designated by act of the twenty-second Territorial Legislature, occurred for the first time on November 30, 1955, the anniversary of the birth of this great Alaskan.

Anthony J. Dimond served Alaska well as pioneer citizen, lawyer, legislator, Delegate in Congress for six successive terms and as District Judge.

His career, not only as a public servant, but as a private

citizen, husband and father, furnished example and inspiration to all Alaskans, including the Delegates to this Constitutional Convention.

His advocacy of, and devotion to, statehood for Alaska was well known and contributed to the advancement of that cause to the point that we are now assembled here writing a Constitution for the State of Alaska.

Now therefore be it resolved by the Alaska Constitutional Convention that upon adjournment of the last plenary session of this week, such adjournment be taken out of respect to the memory of that great Alaskan and outstanding American, the late Anthony J. Dimond."

Mr. President, I move that the resolution without reference to any committee be adopted by the Convention and that it be spread upon the journal of this day's session.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the resolution be adopted by the Convention and that its contents be spread upon today's journal.

V. RIVERS: I am heartily in accord with the resolution, but as I was rather strictly reminded by Tony Dimond one time, he was not a Delegate to Congress but a Delegate in Congress from Alaska. I would ask unanimous consent that the word "to" be changed to "in".

PRESIDENT EGAN: If the author will accept that change

SUNDBORG: I do so.

PRESIDENT EGAN: If there is no objection, it is so ordered. Is there objection to having the resolution in full in the day's journal? Hearing none it is so ordered and the resolution is ordered adopted. Mr. Collins?

COLLINS: Mr. President, I would like to have opportunity to call attention to the Committee XIII, on Amendments, will meet promptly at the Northward Building, Studio KFRB at 3:45 p.m. this afternoon, promptly.

PRESIDENT EGAN: Committee No. XIII will meet promptly at Studio KFRB at 3:45 this afternoon, in the Northward Building. Are there other announcements? Is there any other business to come before the Convention at this time? If not, the Chair will entertain a motion for adjournment. Mr. Victor Rivers?

V. RIVERS: Mr. Chairman, I move and ask unanimous consent that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous

consent that the Convention adjourn until 9 o'clock tomorrow morning. Is there objection? Hearing no objection it is so ordered and the Convention stands adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

December 3, 1955

TWENTY-SIXTH DAY

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

REVEREND GAMBLE: Our great and loving Heavenly Father, we bow a moment in Thy divine Presence this morning to thank Thee for life, health and reason. Wilt Thou this day grant special strength and wisdom to these who struggle with the problems involved in giving us a great constitution. We feel that Thy great hands of providence have had a real part in this undertaking, and may it continue to be so until a constitution is presented to the people and accepted by the people which will uphold equity, justice and the freedoms for which our fathers came to America, and as Thy Word says, "May we prosper and be in health even as our soul prospers. This we ask for Jesus' sake. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Nine absent and 46 present.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Does the special Committee to read the journal have a report to make this morning? If not, we will dispense with that report until the afternoon session. Are there any petitions, memorials or communications from outside the Convention?

CHIEF CLERK: There is a communication from the Office of the Governor, Juneau. (The Chief Clerk read a telegram from the Office of the Governor of Alaska stating Governor Heintzleman would be unable to attend the hearing of the Executive Committee to be held this date because of his absence in Washington, D. C., and calling attention to remarks made in his speech to the delegates at the opening ceremonies.)

PRESIDENT EGAN: The communication will be referred to the Executive Committee. Are there other communications?

CHIEF CLERK: No.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Rosswog?

ROSSWOG: Mr. Chairman, for the Local Government Committee, No. XII, we will not hold our regular meeting this afternoon

but will have a meeting at 2 o'clock tomorrow afternoon at Apartment 205 in the Northward Building.

PRESIDENT EGAN: Local Government will not have its regular meeting this afternoon but will have a meeting at Apartment 205 in the Northward Building at 2 p.m. tomorrow.

ROSSWOG: I would also like to announce that Mr. Weldon Cooper of the University of Virginia has arrived at the request of my Committee, and at this time I would like to introduce him.

PRESIDENT EGAN: If there is no objection the Chair sees Mr. Cooper in the gallery. If Mr. Cooper would be kind enough to come forward and say a few words, we would be happy.

MR. COOPER: Mr. President, ladies and gentlemen of the Convention, a few words are all I need because I am sure that among this delegation of 55 members there is an ample number to make all the speeches that are needed. I would like to say simply, Mr. President, that I am deeply honored by your invitation to come. I have been in your Territory (and I hope soon your state) only a few hours and have learned a good deal about your Territory. I met a large number of people, and I trust that when I depart, you will not have too many unkind things to say about me. Thank you very much.

PRESIDENT EGAN: Thank you, Mr. Cooper. Mr. Rosswog?

ROSSWOG: Mr. Chairman, I might further announce that Mr. Cooper has written several books and papers on the executive branch and also on local government, so if any of the other committees would like to use his services they are available.

PRESIDENT EGAN: If any of the other committees would desire the services of Mr. Cooper, they are available. Mr. Smith?

SMITH: Mr. President, I would like to announce there will be no meeting of the Resources Committee this morning. The next meeting will be at the regularly scheduled time.

V. RIVERS: I want to call the attention of the members to the committee hearing by the Committee on the Executive Branch at 9:30 this morning.

PRESIDENT EGAN: Mr. Victor Rivers call the attention of the members to the committee hearing of the Committee on the Executive Branch at 9:30 this morning. Miss Awes?

AWES: There will be no meeting of the Bill of Rights Committee today. Our next meeting will be Monday as scheduled.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I want to be reported present. I was in the Executive meeting in the building.

PRESIDENT EGAN: I believe we have already reported you present. Mr. McLaughlin?

MCLAUGHLIN: There will be a special meeting of the Judiciary Committee as soon as the Convention recesses.

PRESIDENT EGAN: There will be a special meeting of the Judiciary Committee as soon as the Convention recesses. Mr. Sundborg.

SUNDBORG: Committee No. III, Style and Drafting, will meet for a very few minutes immediately upon adjournment.

PRESIDENT EGAN: Style and Drafting will meet immediately upon recess. Mr. Collins?

COLLINS: The Committee on Amendment and Revision will meet on schedule this morning.

PRESIDENT EGAN: The Committee on Amendment and Revision will meet on schedule this morning. Mr. McNealy?

MCNEALY: Mr. President, Committee No. IV on Ordinances will not meet as the committee until the regular time Monday, except the subcommittees will work over the weekend.

PRESIDENT EGAN: Committee No. IV will not meet in regular schedule until Monday. Are there other reports? Mr. Armstrong?

ARMSTRONG: Mr. President, there are two matters -- one the letter that was authorized to be sent to the Colonel at Eielson Air Force Base -- it has been placed in your hands and I believe you have signed it and sent it on to the proper authorities.

PRESIDENT EGAN: That is correct.

ARMSTRONG: I want to report that. The other matter is the matter of an introduction of a man who has served for many years at St. Lawrence Island, at Hydaburg, Alaska, and has just returned from a six months tour of duty at St. Lawrence Island -- the Reverend Elmer Parker who is with us this morning in the gallery. Those who are interested in some of the problems of the outlying areas, the isolated areas of Alaska, may want to talk or consult with him and I thought the Convention would be glad to know of his presence. (The Reverend Parker stood.)

PRESIDENT EGAN: We are happy to have you with us, Reverend Parker. Are there any proposals at this time? Any motions

or resolutions? Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that no plenary session be held this afternoon but that when we adjourn this morning we adjourn until 9 o'clock Monday morning.

PRESIDENT EGAN: You have heard Mr. Sundborg's unanimous consent request. Is there objection to that procedure? If there is no objection it is so ordered. Is there anything else to come before the Convention at this time? Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, in as much as many members of the Judiciary Committee are on the Committee on Style and Drafting, the Judiciary Committee will meet ten minutes after recess. That is on the presumption that the Style and Drafting Committee meeting will be as short as the Chairman declares it will be.

PRESIDENT EGAN: You have heard the report of the Chairman of the Judiciary Committee. (Discussion back and forth between Mr. Metcalf and Mr. McLaughlin at this time.)

PRESIDENT EGAN: If the Convention would be at ease for a few moments, we might have the report from the select committee. If there is no objection the Convention will be at ease for a few moments.

PRESIDENT EGAN: The Convention will come to order. Is there any report from a select committee that was appointed from among the committee chairmen? Mr. Sundborg?

SUNDBORG: Mr. President, yesterday you appointed a select committee of three committee chairmen to do some planning with respect to the proposed recess late this month, and the committee in order to do that planning desires some information from each of the delegates. The messenger or the doorkeeper is now distributing to each member of the Convention a questionnaire. May we have permission to proceed with the distributions?

PRESIDENT EGAN: Yes, you may.

SUNDBORG: What we want to know is clearly set forth here. It is just a little questionnaire that asks you about your wishes with respect to the proposed recess, and we are gathering this information so that we may set up or propose at least to the Convention a schedule of hearings during the proposed recess. The questionnaire, after it is filled out, should be returned to the Chief Clerk, and we hope that that may be done by each member by Monday so that we may proceed with our planning and bring our report before the Convention.

R. RIVERS: Mr. Chairman, the members would no doubt be curious

to know about the opinion of the Attorney General with regards to whether they get per diem during this proposed absence, etc. I might not know whether I want a vacation unless I get a per diem. I think we should have that information in connection with answering this questionnaire.

PRESIDENT EGAN: Mr. Sundborg, you were present when the Attorney General gave his opinion, if you would be so kind to do so.

SUNDBORG: The Attorney General attended a meeting of committee chairmen, I believe day before yesterday, and said that, while the opinion we requested has not yet been written, that it is in process of being written, and that it will say, first of all that, any delegate who desires to return to his home during a recess declared by the Convention will have his transportation paid to his home and return to Fairbanks, that such delegates will also be entitled to claim per diem for one day's travel in each direction. He said further that, if hearings are scheduled delegates will be entitled to claim both salary and per diem for the specific days on which hearings are held but not for other days during the recess. He also said with respect to those who have moved here to Fairbanks with families and do not intend to go home that they would be entitled to claim per diem for the entire 15-day recess, if the recess is for that time. He said further that the 15 days of the recess will not be counted in the 75 days which is the maximum this Convention can meet, but that we will have 75 days of session in addition to the 15-day recess, if one is declared. Does that seem to cover it?

PRESIDENT EGAN: That seems to cover it well, Mr. Sundborg. Are there any questions? Mr. Kilcher.

KILCHER: May I ask a question of Mr. Sundborg? The hearing days -- they are not deducted either from the 75 Convention days?.

SUNDBORG: They would be included in the 15 days of the recess and would not be considered either way.

KILCHER: Is there a reasonable mileage to the hearings? We have large areas to represent down there. It is much more sensible for instance for me to be in Homer. I know that Kenai is bigger than Homer right now, it is 90 miles away. Would it be more sensible for me to travel to Kenai, than to expect anyone in Kenai to travel to Homer?

SUNDBORG: All I can report is what the Attorney General told us and that question did not come up. I think it could be very readily decided.

KILCHER: I understand we have two days per diem to travel up.

It took us two days last trip up. It will take me two days to get home.

SUNDBORG: I am sure that what the Attorney General said was that per diem would be allowed for every day on which a delegate is travelling to and from his home to the Convention. Every delegate, even if it takes only a few hours, would be entitled to one day.

PRESIDENT EGAN: Mr. Johnson?

JOHNSON: May I address a question to Mr. Sundborg?

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

JOHNSON: It was my understanding from what you said that the Attorney General has ruled that anyone who has moved to Fairbanks and is living here during this Convention would be entitled to per diem during the recess. I don't see how that could apply to those of us who live here.

PRESIDENT EGAN: No, in the Attorney General's opinion, it does not.

JOHNSON: That wasn't clear.

HERMANN: It may have been stated, but has the length of the recess been determined?

PRESIDENT EGAN: That will have to be determined by the Convention. However, the committee chairmen and others who have mentioned it up to this time have felt that we should take the full 15 days. Whether that is the final decision remains with the Convention. Mr. Sundborg?

SUNDBORG: Maybe we should mention also for the guidance of the delegates that tentatively the dates which seem to be most agreeable to the committee chairmen are that the Convention would recess on the 19th of December at the end of the working day and that the recess would begin December 20 and extend through January 3 with the Convention resuming its plenary session on January 4. That is a 15-day recess. I think I also should say, as chairman of this select committee, that the committee has had some discussions about just what arrangements would be made with respect to pay, per diem, etc. We think it should be pointed out that the opinion of the Attorney General is on what is allowable and not necessarily on what we will recommend or what delegates will claim. It is up to the Convention as a matter of policy whether we will in fact claim and pay travel for each member to his home, and it is also up to the Convention as a matter of policy whether there will be either salary or per diem pay on days that hearings are held.

We can do it if the Convention so desires, according to the Attorney General.

LAWS: I would like to ask Mr. Sundborg -- he mentioned that married men would get the per diem for staying here, but how about the single fellows?

SUNDBORG: Even the single fellows will get it, Mr. Laws.

PRESIDENT EGAN: Are there other questions at this time? If not, Mr. Sundborg has asked unanimous consent that at the conclusion of our business we adjourn until 9 a.m. on Monday. If there is no other business, the Chair will put the question. Mrs. Hermann?

HERMANN: I was just going to suggest that the committees that are holding hearings today restate them so we will know when and where.

PRESIDENT EGAN: Would the committees who are holding hearings, please restate them. Mr. Victor Rivers?

V. RIVERS: Committee on Executive Branch hearing in the rear of the chamber here at 9:30.

PRESIDENT EGAN: The Committee on Executive Branch hearing in the rear of the gallery at 9:30. Mr. Smith?

SMITH: The Committee on Resources will hold hearings beginning at 3 o'clock this afternoon.

PRESIDENT EGAN: The Committee on Resources will hold their hearings at 3 o'clock this afternoon, in the rear of this chamber, too, Mr. Smith?

SMITH: I hadn't considered that. I suppose we would follow the pattern which had been established, by holding them here in this room.

COLLINS: In my announcement of Committee XIII on Amendments we have a hearing on schedule. I overspoke myself and we adjourned yesterday to meet Monday, so there will be no committee meeting on schedule today.

PRESIDENT EGAN: There will be no meeting of Committee No. XIII today but the Committee will meet Monday.

NERLAND: Committee No. XI, the Finance Committee, will hold a hearing at 2 p.m. this afternoon. The location will depend of course upon the attendance.

PRESIDENT EGAN: It will either be upstairs on the third floor

or down here, depending on the number of people to be heard. Mr. Sundborg?

SUNDBORG: Mr. President, I don't have a report, but I would like to ask permission to make a motion if I may at this time. Mr. President, I would like to move that the secretariat write a letter to the Director of Finance of the Territory and a letter to the Territorial Treasurer thanking them on behalf of the Convention for the very expeditious manner in which they have been handling the vouchers and per diem claims and pay checks of this Convention. I don't know whether the members realize it, but it is quite rare for Territorial checks to come through quite that promptly, and it has been done, I understand, because employees in those two offices have agreed to come down and work weekends and evenings and work unusual hours to make the mails and get the checks back to us so that we may have them very promptly. I do think that because of that, it would be proper if we would express our thanks to those two offices for the good work they are doing.

PRESIDENT EGAN: If there is no objection then the secretariat will write letters to the Territorial Treasurer and the Commissioner of Finance expressing the appreciation of the Convention for the expeditious manner in which they have handled matters pertaining to this Convention. Is there other business to come before the Convention? Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that we now adjourn until 9 o'clock Monday morning, and in line with the action already taken, that this adjournment be taken out of respect to the memory of the late Anthony J. Dimond.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention stand adjourned until 9 o'clock Monday morning and that the adjournment be taken out of respect to the memory of the late Anthony J. Dimond. Is there objection? Hearing no objection it is so ordered and the Convention stands adjourned until 9 a.m. on Monday.

ALASKA CONSTITUTIONAL CONVENTION

December 5, 1955

TWENTY-EIGHTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend William J. Gordon, Episcopal Bishop of Alaska. Bishop Gordon will give today's invocation.

BISHOP GORDON: O God our Heavenly Father, Who called us in this Convention to bring the blessings of love and justice and truth to this land of our heritage, fire our minds with a vision of a more perfect society here on earth in which justice, righteousness, peace and brotherhood shall reign according to Thy will. Help us each one to do our part that Thy will may be done on earth as in Heaven. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. We will proceed with the regular order of business. Mr. White?

WHITE: Mr. President, the Committee to read the journal has read the journal for the 24th Convention day and recommends its approval without change.

PRESIDENT EGAN: Mr. White, speaking for the special Committee assigned to read the journal, asks unanimous consent that the journal of the 24th Convention day be approved. Is there objection? Hearing no objection it is so ordered. Mr. White?

WHITE: Mr. President, the Committee to read the journal has read the journal for the 25th Convention day and asks its approval without change.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journal of the 25th Convention day be approved without change. Is there objection? Hearing no objection it is so ordered. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? Mr. Robertson?

ROBERTSON: Mr. President, I have two proposals on the Secretary's desk.

PRESIDENT EGAN: Are there other proposals? The Sergeant at Arms may bring them forward.

CHIEF CLERK: "Delegate Proposal No. 31, by Mr. Robertson,

BILL OF RIGHTS."

PRESIDENT EGAN: To the Committee on Preamble and Bill of Rights, Committee No. V.

CHIEF CLERK: "Delegate Proposal No. 32, by Mr. Robertson, STATE LANDS AND NATURAL RESOURCES."

PRESIDENT EGAN: To the Committee on Resources, Committee No. X.

CHIEF CLERK: "Delegate Proposal No. 33, by Mr. Lee, ABOLITION OF FISH TRAPS."

PRESIDENT EGAN: Committee on Direct Legislation or Resources?

LEE: Mr. President, I request it be referred to Resources.

PRESIDENT EGAN: If there is no objection then the proposal will be referred to Committee No. X on Resources. Are there other proposals?

CHIEF CLERK: "Delegate Proposal No. 34. introduced by Mr. Kilcher, CONVENTION FOR CONSTITUTIONAL REVISION."

PRESIDENT EGAN: Committee No. XIII, Committee on Direct Legislation, Amendment and Revision.

CHIEF CLERK: "Delegate Proposal No. 35, by Mr. Cooper, QUALIFICATION OF VOTERS."

PRESIDENT EGAN: Committee on Suffrage, Committee No. VI.

CHIEF CLERK: That is all the proposals I have.

PRESIDENT EGAN: Are there any motions or resolutions? Is there any unfinished business? Those questionnaires that were given to the delegates on Saturday -- the Chief Clerk would be very happy if they were turned in this morning to her office. The Chair would like to state that the reporter for the NEWSMINER does not feel too well because there was a slight error in the story that appeared in the paper on Saturday. She states that it was not her story and that we had actually voted on a recess, and she would like to have you all know that it in some manner got in the paper that way but it was not through her reporting in error. Is there any other unfinished business to come before the Convention? If not, the Chair will entertain a motion -- Mr. Victor Rivers?

V. RIVERS: Mr. Chairman, I move and ask unanimous consent that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous

consent that the Convention adjourn until 9 o'clock tomorrow morning. Is there objection? Hearing no objection the Convention is adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

December 6, 1955

TWENTY-NINTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Chaplain Harry P. Henderson of Ladd Air Force Base. Chaplain Henderson will give the morning invocation.

CHAPLAIN HENDERSON: O God our Heavenly Father, as we come to the duties and responsibilities of another day, we would look unto Thee for divine guidance. We thank Thee for the privileges, the opportunities and the responsibilities which come to us in life, and we pray for Thy divine blessing upon these Thy people as they seek to serve Thee and their country. And we ask it all in the Name of Jesus Christ our Lord and our Saviour. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

CHIEF CLERK: Everyone is present.

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

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

PRESIDENT EGAN: If there is no objection to Mr. Smith's request for getting the floor on the question of personal privilege. -- if not, Mr. Smith, continue.

SMITH: Mr. President, I wanted to call attention to the fact that in the gallery we have Senator and Mrs. Ellis, and I would ask unanimous consent that Mr. Ellis be granted the privilege of the floor for a few minutes to say anything he might have to say.

PRESIDENT EGAN: Mr. Smith asks unanimous consent that Senator Bob Ellis of Ketchikan be granted the floor for a minute or so to make any statement he would so desire. Senator Ellis. (Applause)

SENATOR ELLIS: Mr. President and all you delegates and friends. As a Senator, why I seize this opportunity to say a few words.

HILSCHER: I object to the Senator talking behind our backs. Get up here. (Senator Ellis came forward.)

SENATOR ELLIS: I wish I had some important inspirational message to bring to you but I am hoping that while I am here I will learn something about the work of the Convention is doing, that I can take the word back to Ketchikan and give it

to those people there. Of course, Ketchikan's greatest interest in the work you are doing is not as strong as it should be and for that reason I think any message I can take back that you want me to take back I will be glad to do, and we can get things stirred up a little better in that area. You have much more important work to do here than listen to me, so thank you for the honor and privilege of addressing you. (Applause)

PRESIDENT EGAN: Thank you, Bob. Does the special Committee to read the journal have a report to make at this time? Doogan? Mr.

DOOGAN: Mr. President, the journal for Saturday has been corrected but not distributed to the other members, as I understand, so I ask it be held up until tomorrow. However, I have the journal for the first four days here of the Convention in front of me, but most of the corrections are corrections an English teacher would have to make if you gave him a thesis to correct. There are many changes in punctuation, indentation for paragraphs, etc., that happened in the heat of getting everything out in the beginning days of the Convention, and I could take the time to go through it so everybody could correct copies, but I would rather suggest that these minutes as corrected for the first four days be left with the Chief Clerk or posted on the bulletin board and let any member that is interested go around for the next couple of days with their copies and correct them in that manner and then, say Thursday, just briefly run through them and accept them at that time.

PRESIDENT EGAN: Is there objection to Mr. Doogan's request that a corrected copy be left with the Chief Clerk and that the members have access to that copy at any time they wish to inspect it, then at a later date the journals of the first four days would be approved by the Convention? Mr. White?

WHITE: Mr. President, if Mr. Doogan would not object I would suggest they be left in the library. There is a table and place to work there.

PRESIDENT EGAN: If there is no objection then the copies will be left in the library and every member may inspect them in the next day or so. Are there reports of standing committees? Miss Awes?

AWES: I don't know if this is the proper time, but the Committee on the Bill of Rights has referred to the Committee on Resources paragraph 5 of Proposal 9 and paragraphs 6 and 7 of Proposal 17.

PRESIDENT EGAN: You have heard the report of the Chairman of the Committee on Preamble and Bill of Rights. The particular paragraphs have been referred to the Resources Committee. Mr.

Hellenthal?

HELLENTHAL: Mr. President, Committee Proposal No. 1 has been submitted by Committee No. VI and distributed, I understand, to the delegates. This represents a portion of the work of Committee VI.

PRESIDENT EGAN: Committee Proposal No. 1 then, a proposal coming from the Committee on Suffrage, Elections and Apportionment, Committee No. VI, will be ordered placed on the calendar in second reading. Are there others? Mrs. Hermann?

HERMANN: Mr. President, maybe I am wrong about this, but I am of the opinion, after being corrected by the chairman of a committee, that the committee itself does not refer things to other committees but they come back on the floor and are then referred. Now maybe I am wrong.

PRESIDENT EGAN: Miss Awes, was that not your reason for rising and reporting that so it would have the effect of allowing the Committee on Preamble and Bill of Rights to do that?

AWES: I told Mr. Smith, the Chairman of the Resources Committee. Now I am announcing it on the floor. I don't know just the procedure, if there is something else I should do, I'll do it.

PRESIDENT EGAN: Would that be sufficient, Mrs. Hermann?

HERMANN: I don't think that is the procedure. Perhaps Mr. Riley could tell us.

PRESIDENT EGAN: Mr. Riley, as Chairman of the Rules Committee, on that particular point --

RILEY: Mr. President, I believe the matter is amply covered in Rule 45 which states, "The President shall refer to the appropriate Standing Committee each proposal introduced. Where a proposal embraces subject matter which falls within the proper consideration of two or more Standing Committees, the President may divide the proposal or he may refer it to one Standing Committee with instructions to consult with other Standing Committees." I think it is solely in the province of the Chair to make those decisions.

PRESIDENT EGAN: Then the Chair has announced that those paragraphs are referred to the Committee on Resources.

HERMANN: I just wanted the record straight, Mr. Chairman.

PRESIDENT EGAN: Thank you Mrs. Hermann. Are there other committee reports? Mr. Ralph Rivers.

R. RIVERS: Along this line of consulting with other committees, I believe that the actual referral is still in the hands of the original committee. Dorothy could have shoved it over to this other committee on a consultation basis or had a joint meeting with them and not have to report that to the Convention at all, because I believe that when that other committee gives her an expression that it still is for her Committee to report back to us, unless there is going to be a report on that referral from the one committee to the other, I should think the committees could work that all out without this procedure.

PRESIDENT EGAN: Inasmuch as it was brought on the floor, Mr. Rivers, that was about the only way it could be handled. Mr. Smith?

SMITH: Mr. President, it was merely in the interest of saving time that this method was proposed and carried through. It would save considerable time for both committees.

PRESIDENT EGAN: Are there any other reports of standing committees? Are there any petitions, memorials or communications from outside the Convention? The Chief Clerk will read the communications. (The Chief Clerk read a telegram from R. E. McFarland, President of the Alaska Territorial Federation of Labor, stating that the first day of merger of the AFL-CIO saw the unanimous passage of a resolution calling for immediate statehood for Alaska.)

PRESIDENT EGAN: The communication will be filed.

CHIEF CLERK: A letter from Colonel Carl Y. Farrell. (The Chief Clerk read a letter from Colonel Carl Y. Farrell, District Engineer, offering a film to be shown, entitled The Great Land covering the activities of the Corps of Engineers in Alaska since 1869).

MARSTON: Mr. Chairman, I have seen that picture. I think it would be a very fine thing to have here. Old man Lloyd lived in the Arctic for 50 years and after quite some time he carved himself out a table by hand. It has become a museum piece. I am wondering what is being done about a table here. It is quite inconvenient without these tables. I think somebody should start carving pretty soon.

TAYLOR: On that question, I move we accept the offer of Colonel Farrell for the use of that film and I think it would be quite enlightening to all delegates and possibly educational and instructive.

PRESIDENT EGAN: Mr. Taylor, along that same line, Mr. Frank Whaley approached me the other morning and stated that he has a film on the Arctic on the Eskimo that will run for about an hour also, in addition to Colonel Farrell's film, and the

President was wondering if perhaps the Convention might be more acceptable to arranging to have these two films shown together some evening or on Sunday afternoon, or some such time as that. Perhaps it would be well to discuss that. Is there any discussion on that. Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the matter of the showing of the two films, those of Colonel Farrell and that of Mr. Whaley, be left to the Committee on Administration to correspond with the two persons and to arrange a convenient time when both films may be shown to the delegates.

PRESIDENT EGAN: Is there objection to the suggestion of Mr. Sundborg? If not, the matter is referred to the Committee on Administration.

TAYLOR: I move to a point of order. There is a motion before the house.

PRESIDENT EGAN: Well, Mr. Taylor,

TAYLOR: I withdraw the motion.

PRESIDENT EGAN: If there's no objection, Mr. Taylor will withdraw his motion. Mr. Victor Rivers?

V. RIVERS: Mr. Chairman, I ask unanimous consent that we acknowledge the wire of the combined CIO and AFL and thank them for their support in their resolution approving statehood at an early date for Alaska and Hawaii and that the President and Secretary be authorized to sign such a wire.

PRESIDENT EGAN: If there is no objection it is so ordered and the Convention will acknowledge the wire and thank the CIO-AFL for their support in their resolution approving statehood in an early day for Alaska and Hawaii, and the President and Secretary will sign such a wire. Are there other communications? Any proposals to be introduced at this time?

CHIEF CLERK: "Delegate Proposal No. 36, MEMBERSHIP OF THE STATE SENATE, introduced by Mrs. Sweeney."

PRESIDENT EGAN: The proposal is referred to Committee No. VII on the Legislative Branch. Are there other proposals? Mrs. Sweeney?

SWEENEY: Mr. President, I thought that would be referred to the Committee on Apportionment, etc.

PRESIDENT EGAN: Perhaps that is correct, Mrs. Sweeney. The proposal is referred to Committee No. VI on Suffrage, Elections and Apportionment. The Chair stands corrected. Are

there any other proposals? Are there any motions or resolutions? Is there any other unfinished business? Mrs. Hermann?

HERMANN: Mr. President, I don't know if this is exactly unfinished business, but I am making it in connection with the statement I made a few days ago that I was going to turn into a nagging wife if the reports of committees did not show some speed in coming in. Right now I am not inclined to do any nagging, but I would like to ask unanimous consent that all chairmen of committees, beginning with Committee No. IV, the first three not included, make a progress report each morning as a part of the regular business of this body, telling when they expect to get their reports in and how far along they are and things of that sort instead of just calling meetings. I ask unanimous consent that that be the order of the Convention.

SMITH: I will have to object temporarily.

PRESIDENT EGAN: Objection is heard. Do you so move, Mrs.

Hermann?

HERMANN: I so move.

H. FISCHER: Second.

PRESIDENT EGAN: Mrs. Helen Fischer seconds the motion. Mr.

Smith?

SMITH: Mr. President, my objection is based on the fact that at least as one Committee Chairman my time is very well filled up at the present time, and if I have to compile a report to make to this body every morning, it is going to be further burdened. The committees, I believe, have agreed to file at the end of each week a summary of the progress which we have made, and I just simply feel that it would not fall within the abilities of especially myself, to fulfill the obligations.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I agree with Delegate Smith on that. I have watched the work of the committees with some interest and the progress as well, and I think they fall into normally two different classes or groups. I think the work of those committees which we will want to consider first, Preamble and Bill of Rights and three divisions of powers branches, Legislative, Executive and Judicial, are now in the process of almost completion, and the others, such as Resources and Local Government, are substantially more difficult problems and will normally follow after the three or four I mentioned have been considered. It seems to me that the motion to make a morning report at this time, especially on those latter two committees, would be inappropriate, in regard

to time. It would take time and gain nothing. It is not going to be probably much after the end of the week that all three of the reports will be in, and this morning we have received the partial report of the Suffrage and Elections Committee. I think the weekly report serves our purpose quite well, and after the four committee reports I mentioned are in I feel sure Delegate Hermann will not be inclined to think there is not enough work on the floor.

PRESIDENT EGAN: Mr. Collins.

COLLINS: Mr. Chairman, Committee No. XIII, as Chairman, I heartily agree with Mr. Smith and Mr. Rivers. We are working on problems that take all our time, and the only thing we could report would be progress. Now that would not give any information whatever, but just as soon as the time arrives we will have a report. It will be a duplication of making a report every morning five times a week.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I think the committees are getting bogged down on what they consider reports. I did not intend for them to write a long-winded report which nobody would read anyway, but rather to stand up and say, "We expect to have our report in at such and such a time. I think this little one we have here today is fine. I am very proud of Mr. Hellenthal for being able to get the first committee proposal in, but we are certainly bogged down here so far as transacting business outside the committees is concerned, and I think something there should be done, and this was my solution of it, to hurry this thing along a little. I am perfectly aware of the fact that there are some committees that necessarily need more time than others, but I am also aware of the fact that some of the reports that should come out of committees should not take any time, so to speak, at all. We are starting our fourth week on straight committee work at which time a good many of us are marking time, as I called your attention the other day to the fact that there are three members of the Style and Drafting Committee who are not or any of these substance committees, and in addition to that there are six others who are only on one. Our time is practically being wasted, not exactly, but we certainly are not producing up to the full capacity that we are expected to produce in a gathering of this type, and we can't until the reports come in. I can't see any necessity for another week or another two weeks or ten days for most of the committees. I recognize the complexities of the Resources Committee and Local Government Committee, but there are still nine other committees that should be getting some reports in here and promptly because we ought to go to work on them. And I don't want to appear to be disparaging any of the committees, because I am not, but I do feel we must get a little further along with this work. By the end of

this week Mr. Rivers says most of them will be ready to report. We will have a week apparently before that Christmas vacation starts, and then we come back and start over again. Well, it seems to me that we ought to get more done than we have so far. I get letters all the time from people who want to know what we are doing up here except arguing, and I can't tell them. Mr. President, I think we have only heard from committee chairmen in opposition to this. There must be a whole lot of people here on the floor who are not committee chairmen who may feel as I do that we need to make a little more speed.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, the Committee on the Judiciary Branch, being aware of the unemployment of some members of the Convention, is prepared to submit tomorrow on the floor, with the cooperation of the boiler room, a complete proposed article on the Judiciary Branch, and we feel sure it will keep some of the delegates occupied.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I am not a committee chairman. I know of no committee in this Convention that is not working as hard as it can and which is not interested in getting a report on the floor as soon as possible. My personal experience with two committees is that I know the lack of submission of any report to the Committee on Style and Drafting is an attempt not to waste their time by submitting piecemeal reports that might be of no use. The committees I serve on feel it would be of more value to the Convention and to the Committee on Style and Drafting to submit a full report all at once. It certainly is the desire of those committees, and I am sure of all others, to get a report on the floor as soon as possible. I feel this matter of reporting is amply taken care of by the fact that each committee has been requested to submit to the Committee on Style and Drafting on a target date, and that no further report is necessary or useful unless that target is changed. In the absence of any report I think the Committee on Style and Drafting assumes that they can count on that target date. Any further remarks that I might make, I feel that a report every morning would merely clutter up the journal and serve no useful purpose whatsoever.

HERMANN: My request was not that the work be turned over to the Committee on Style and Drafting at all. My request was that it be put on the floor and taken care of in second reading so that it could ultimately get to Style and Drafting. That is my reason for thinking that we should be moving along a little faster. There is a great deal of floor work to be done here and no matter how perfect a report each committee ultimately turns out, that work will still have to be done and we will have to take up those committee proposals paragraph by

paragraph for amendment, and it is going to be very time consuming. We are pretty near half through the time allotted now, and I am seriously concerned with the log jam that is apt to develop here in the closing days if we don't get a little speed on.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, as one of the committee chairmen I want to agree with Mrs. Hermann here, and so later on in the week I don't have to ask for the privilege of the floor that I can say it now in one or two minutes, that in view of the fact that I talked of completing this Convention in 30 days and possibly maybe subject to recall about December 8, I want to agree with Mrs. Hermann. I have done a little study on this. I think the majority of our constitutions drawn for the states were completed in periods from 30 to 45 days, and of utmost interest in support of Mrs. Hermann here is the fact that we went into our Ordinances Committee yesterday and a proposition came up about elections. As you all know, February 1 is the deadline for filing in Territorial elections. By taking off 15 days for a recess, this Convention could go until the 9th or 10th of February in order to run out your full 75 days. Then it brings up the serious question of not only can ordinances proposed by our committee be gotten onto the ballot, but it also brings up the proposition of can you get the constitution onto the ballot and have it printed in ample time to have it up before the primary election, if this Convention goes to its ultimate end of February 10. I think it behooves each and all of us to endeavor so far as possible to do anything to get these reports out on the floor, will help speed up the business of this body. Further, by running out to your ultimate conclusion of the 9th or 10th of February, will this body have sufficient funds to even pay for the printing of the ballots. I think it goes without saying that the body is not going to have enough funds if it goes to the end, to hold a special election for this purpose. On that special election which is going to follow up some of the work and change plans within the ordinance and transitional measures that come at the end of this constitution and a need to put it into effect, in anything that will speed up the progress of this body and incidentally and possibly prevent McNealy from being recalled. However, I grant the fact that 54 delegates probably could finish this Convention and draw a constitution without me being present. I would like to be here at the end anyway.

V. FISCHER: We have a motion on the floor asking for daily reports by committee chairmen. Most of the discussion in favor of such an action has however been on the basis of, "Let's get to work, let's get this Convention over with as soon as possible. To my way of thinking there is no relationship between the two. As Mr. Collins pointed out, bringing progress reports before us every morning will not help speed the work of the

committees. I think you have to assume good faith in all committee chairmen and every member of each committee, that they will get work out as soon as possible. Just requiring them to report every morning will not speed up the work.

COOPER: Mr. Chairman, I wanted to move the previous question and in compliance with Rule 43 would like to submit Proposal No. 1 for second reading at this time so all delegates can start earning their money.

PRESIDENT EGAN: Mr. Cooper moves the previous question be ordered. Is there a second to the motion?

STEWART: I second the motion.

PRESIDENT EGAN: Mr. B. D. Stewart seconds the motion. The question is, "Shall the previous question be ordered?" All in favor say "aye", all opposed say no. The "ayes" have it and the previous question is ordered. The question is, "Shall the committee chairmen make progress reports to the Convention each morning?" All those in favor of the motion will signify by saying "aye", all opposed by saying "no". The "noes" have it and the motion has failed. Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, I move and ask unanimous consent that this Convention make for its special order of business on Thursday morning, next Thursday morning at 10 o'clock, consideration of the article of the proposal on the Judiciary Branch which will be submitted by the Judiciary Committee tomorrow morning.

PRESIDENT EGAN: Mr. McLaughlin moves that the Convention make for its special order of business on Thursday morning at 10 a.m. consideration of the Judiciary article.

MCLAUGHLIN: I ask unanimous consent. It will be submitted tomorrow morning, Mr. President. It is being mimeographed now.

PRESIDENT EGAN: Was the suggestion that that be taken up before the proposal is before us?

MCLAUGHLIN: I am asking for a unanimous consent, Mr. President.

V. RIVERS: Objection.

PRESIDENT EGAN: Objection is heard.

TAYLOR: I second it.

PRESIDENT EGAN: Mr. McLaughlin moves, Mr. Taylor seconds the motion that the report of the Committee on the Judiciary be taken up at 10 a.m. on Thursday morning. Mr. Victor Rivers?

V. RIVERS: Mr. President, it seems to me we are sort of jumping the gun if we approve this motion. It seems to me that our rules provide that the Rules Committee will, with the assistance of the Secretary, make up a calendar. I believe it should fall in its normal order under the decision of the Rules Committee. I think that some of these subjects should be discussed in proper order. For each committee chairman to jump up and say when they think their proposal should come into second reading would be robbing the Rules Committee prerogatives in arranging the calendar. I think the Rules Committee should be able to use their discretion and judgment in providing the time as to when the hearings for the various subjects should take place. Therefore I oppose this motion.

PRESIDENT EGAN: The Chairman would like to state that the Chairman of the Rules Committee signified that he would like to have a meeting of the Rules Committee immediately following adjournment to more or less consider this question that you have raised.

MCLAUGHLIN: Under those circumstances and with the consent of my second I withdraw the motion.

PRESIDENT EGAN: If there is no objection then, the motion has been withdrawn. Is there other business to come before the Convention?

HERMANN: One more thing, Mr. President.

PRESIDENT EGAN: . Mrs. Hermann.

HERMANN: A few moments ago, the statement was made that all committee chairmen have set their target dates and reported them to the Committee on Style and Drafting. I know of no target dates that have been set with the exception of the one that Mr. McLaughlin just now announced. If the Chairman has received them, I would like to know why the Committee has not been advised.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. Chairman, the Committee on Style and Drafting has asked Mr. Emil Sady to compile target dates for submission of proposals, and I talked with Mr. Sady about this last evening and understand that the subject will be on the agenda of the meeting of committee chairmen this afternoon. So we should have a report to make to the Convention at tomorrow morning's session on the target dates for every committee.

HERMANN: May I ask Mr. Sundborg a question? Have target dates been submitted to you previously for all the committees?

SUNDBORG: Not for all the committees, Mrs. Hermann. I would

say that we have received target dates for about half of the committees. The earliest target date was December 5, and two proposals in fact were given to the secretariat last night and they range from that date through about the 15th of December, but as I say, we have not yet heard from quite all the committees.

PRESIDENT EGAN: Is there any other business to come before the Convention? Mr. Coghill?

COGHILL: Mr. Chairman, your Committee on Administration will meet one hour after adjournment in this room.

PRESIDENT EGAN: The Committee on Administration will meet one hour after adjournment in this room. Mr. Armstrong?

ARMSTRONG: Mr. President, I believe it would be proper to have a statement by Mr. Coghill sometime during this early part of his return from Washington, on the Convention. I believe we would be interested, it would be informative, and it touches on many of our problems, and I hope that can be arranged on our schedule.

PRESIDENT EGAN: You have heard Reverend Armstrong's suggestion.

ARMSTRONG: I would ask unanimous consent that he be given a place on the docket.

PRESIDENT EGAN: Reverend Armstrong asks unanimous consent that Mr. Coghill be given a place on the calendar at some future time to make a report on his trip to the educational conference. Is there objection? Hearing no objection then it will be arranged for a future time. Is there any other business? Mr. Riley.

RILEY: Mr. President, this is simply to confirm the word from the Chair that the Rules Committee will meet in the gallery immediately upon adjournment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President. Your special committee on arranging committee hearings during the recess will meet at 3 o'clock this afternoon in the lounge upstairs.

PRESIDENT EGAN: The special committee of committee chairmen appointed to make suggestions as to the appointment of committees, if there is a recess, will meet at 3 o'clock this afternoon upstairs. Mrs. Hermann?

HERMANN: Mr. President, I hate to bother you again but I would like to know if it has been definitely decided when we

recess for Christmas and how long we stay recessed.

PRESIDENT EGAN: That has not been definitely decided, you are correct, Mrs. Hermann, and it is up to the Convention to make that decision. Mr. Hurley?

HURLEY: Mr. President, I move and ask unanimous consent that the matter of determining the exact date of recess be set as a general order of the day for tomorrow.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that the matter of determining specific dates for the recess for the purpose of holding public committee hearings be set as a general order of business for tomorrow. Is there objection?

SUNDBORG: I object.

KILCHER: Second.

SUNDBORG: I would like to say I withdraw objection if you will make it for day after tomorrow or Friday. My purpose is to say that it will be impossible to have a meeting of the special committee which is considering that until late this afternoon and that committee wants to bring a report back to the meeting of committee chairmen, which we could not do until tomorrow afternoon at 1 o'clock. And I assume the committee chairmen might have something to propose about it on the floor the following day or on Friday. I wonder if that would satisfy Mr. Hurley?

HURLEY: Not completely. The reason that I mentioned this is I think maybe we have two distinct problems here. They aren't inter-related but I think they could be considered separately. The one is the matter of time period of adjournment and the other is the matter of the arrangement of the hearings to be held during adjournment. I can see the correlation of them and yet I feel that many of us desire to know just what plans the Convention will be making as soon as possible so we can make the necessary arrangements. I hate to bring the matter to a vote if it is not sensible to make the decision. I would ask Mr. Sundborg in the light if he can see a possibility of determining the two things separately.

SUNDBORG: I certainly am agreeable, Mr. President, and it might be at the committee chairmen meeting today we could settle only the question of the dates, but as I say, our select committee will not be able to meet until 3 o'clock this afternoon because of conflicting assignment by the members, so we would not be able to bring our full report to the committee chairmen until tomorrow. But if the Chair feels we could set the dates by discussion at the committee chairmen meeting this afternoon or pick some dates which the committee chairmen would like to

propose on the floor tomorrow, I am agreeable to Mr. Hurley's original suggestion.

JOHNSON: How can the committee chairmen set the dates when that is a matter for the whole Convention?

PRESIDENT EGAN: Mr. Johnson, I don't think Mr. Sundborg meant the committee chairmen would set the dates but perhaps recommend the dates. Mr. Hurley, was your unanimous consent request in the form of a motion?

HURLEY: I so move.

KILCHER: I second it.

PRESIDENT EGAN: It has been moved by Mr. Hurley, seconded by Mr. Kilcher then that the matter be taken up as a general order of business tomorrow. Mr. Hellenthal?

HELLENTHAL: One matter Mr. Sundborg perhaps inadvertently overlooked is that we wired, on Friday, the committee that is advising the committee chairmen committee who in turn will advise the floor, we wired and asked the Attorney General to submit his written decision regarding this matter to us, and I think that all the questions will hinge on a study of the written opinion of the Attorney General. To date the opinion has been given piece-meal, and I don't see how we can intelligently pursue the matter or make a recommendation until we have that written opinion, and that was what I believe led the committee to wait so they would not go off half-cocked.

PRESIDENT EGAN: The question is, "Shall the question of setting a time for recess be held as a general order of business during tomorrow's session?" All those in favor of the question will signify by saying "aye", all opposed, by saying "no". The "noes have it and the motion has failed. Is there other business to come before the Convention? If not the Chair will entertain a motion for adjournment. Mr. Gray?

GRAY: I move and ask unanimous consent that the Convention adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Gray moves and asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow. Hearing no objection it is so ordered and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

December 7, 1955

THIRTIETH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend A. L. Moore of the Seventh Day Adventist Church in Fairbanks. Reverend Moore will give our daily invocation.

REVEREND MOORE: Our dear, kind Heavenly Father, we thank Thee for all Thy many blessings, for life and health and strength. We are especially thankful to Thee this morning for the privilege of living in a free country, for the privilege of holding and expressing our own views. We thank Thee for the privilege of living in a country in which we may formulate our own constitution and laws. We would ask You to bless this morning and this meeting and in the days to come. Bless each individual as they discuss the problems relating to our Territory and as they formulate a constitution. We ask Thee to be with the leaders of our Nation in the Capital and ask You to give them wisdom and understanding. We would ask Thee also to direct them in such a way, if it is Thy will, that Alaska may be instituted as a state. We ask these things in Thy Holy Name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make? Mr. Knight?

KNIGHT: Mr. President, for the journal of the 26th day, I ask unanimous consent that it be approved as read.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the journal of the 26th Convention day be approved as read. Is there objection? Hearing no objection the journal of the 26th day is ordered approved. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees?

CHIEF CLERK: I have one.

PRESIDENT EGAN: The Chief Clerk may read the report.

CHIEF CLERK: "Report of the Committee on Resolutions and Recommendations. The Committee, having had under consideration at several meetings Delegate Victor Fischer's Proposal No. 10,

and Mr. Fischer as well as Consultants Sady and Elliot having appeared before the Committee and expressed their views, and Mr. Elliott having stated that he did not think that the subject matter of Proposal No. 10 properly constituted Constitutional Matter, reports to the Convention that the Committee is of opinion that Proposal No. 10 should not be included in the Constitution and that it is not Constitutional matter.

Adopted December 6, 1955.

Signed by John M. Cross, Chairman."

PRESIDENT EGAN: You have heard the report of the Resolutions Committee as regards Proposal No. 10. What is the pleasure of the Convention as regards the report?

V. FISCHER: I move the report to the Committee be approved and ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that the report of the committee which was just read be approved. Is there objection? There being no objection it is so ordered. Are there reports of other standing committees? Mr. McLaughlin?

MCLAUGHLIN: Mr. President, a parliamentary inquiry. Is this the time for the submission of committee proposals?

PRESIDENT EGAN: That will come soon, Mr. McLaughlin. Mr. Sundborg?

SUNDBORG: Mr. President, the Style and Drafting Committee has distributed today a memorandum outlining target dates which have been mentioned to this Committee by each of the standing committees. These are the dates on which committee proposals are scheduled to be reported out of committee to the Convention.

PRESIDENT EGAN: I believe every delegate has a copy of that memorandum on his desk. Are there reports of select committees? Introduction and first reading of proposals? Mr. McLaughlin?

MCLAUGHLIN: The Committee on the Judiciary Branch submits its proposal.

PRESIDENT EGAN: The proposal by the Committee on the Judiciary Branch will be read for the first time. If there is no objection the Convention will stand at recess for a brief time. (Brief recess)

PRESIDENT EGAN: Committee Proposal No. 2 by the Judiciary Committee will be read for the first time.

CHIEF CLERK: "Committee Proposal No. 2, introduced by the Committee on the Judiciary Branch, ARTICLE ON THE JUDICIARY."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment on the calendar. Are there other reports? The Chair would like to state that Committee Proposal No. 1 that came from the Committee on Suffrage, Elections and Apportionment yesterday was not properly read for the first time. If there is no objection the Chief Clerk will read the proposal for the first time.

CHIEF CLERK: "Committee Proposal No. 1, introduced by Committee on Suffrage, Elections and Apportionment, ARTICLE ON SUFFRAGE AND ELECTIONS."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. The Chief Clerk will proceed with the reading of proposals.

CHIEF CLERK: "Delegate Proposal No. 37, introduced by Mr. Londborg, SENATE APPORTIONMENT."

PRESIDENT EGAN: Committee on Suffrage, Elections and Apportionment.

CHIEF CLERK: "Delegate Proposal No. 38, introduced by Mr. Taylor, BILL OF RIGHTS."

PRESIDENT EGAN: Committee on Preamble and Bill of Rights.

CHIEF CLERK: That is all I have.

PRESIDENT EGAN: Are there any other proposals? Are there any other proposals? Are there any motions or resolutions? Mr. Coghill?

COGHILL: The Committee on Administration has a Convention resolution.

PRESIDENT EGAN: Is it your desire to bring the resolution to the attention of the Convention at this time, Mr. Coghill?

COGHILL: Yes.

CHIEF CLERK: "Resolution, introduced by Committee on Administration, CONVENTION RECESS."

WHEREAS, the Act providing for this Constitutional Convention permits the Convention to recess for a period of not to exceed 15 days for the purpose of holding public hearings in Alaska;

WHEREAS, all substantive committees of the Convention plan to recommend articles for inclusion in the Constitution prior to December 19;

WHEREAS, the holding of public hearings by as many delegates as practicable in communities throughout Alaska after December 19 will permit delegates to gain valuable insights into public reaction to committee proposals and to enable them to act more wisely on these proposals prior to their final adoption by the Convention:

THEREFORE BE IT RESOLVED:

1. That the Convention recess from December 19, 1955 to January 3, 1955 inclusive, for the purpose of holding public hearings in Alaska on proposed provisions of the Constitution;

2. That hearings be held by such delegates at such times and places as the Convention shall approve;

3. That the delegates shall be entitled to reimbursement for their actual travel cost going to and returning from their homes for the recess and to compensation and per diem for the days involved in such travel.

4. That the delegates who participate in public hearings scheduled by the Convention will be entitled to compensation and per diem for the actual days devoted to such hearings, if it is necessary for the delegates to travel from their homes for such periods. Hearings shall not exceed the number of days approved in advance by the Convention. If the site of the hearings is away from their home, they shall also be entitled to reimbursement for the actual cost of travel going to the hearings and returning to their homes or to the Convention.

5. That those delegates whose normal residence is outside the Fairbanks area shall be entitled for per diem for the days of Convention recess spent in the Fairbanks area.

6. That the rate of compensation and per diem shall be those established in the Convention Enabling Act."

PRESIDENT EGAN: What is the pleasure of the Convention as regards the Resolution? Have copies of the Resolution been passed around? If not, the Convention will be at ease for a few minutes. The Convention will come to order. What is the pleasure of the Convention as regards the Resolution?

COGHILL: Mr. President, I move that the Convention Resolution on Recess be adopted.

PRESIDENT EGAN: Mr. Coghill moves that the Resolution dealing with the recess be adopted by the Convention.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion.

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

PRESIDENT EGAN: You may, Mr. White.

WHITE: Has the Committee figured out the cost involved here for travel and per diem during travel and pay and per diem during the holding of hearings and ascertained whether it will fit within our budget?

COGHILL: This has not been figured. We plan on figuring that as soon as the special committee on recess hearings brings in a report, and we were instructed by the President of the Convention to work with that Committee to the point of finding out the cost of the Convention hearings during the recess time. We will also at that time have a full report of monies expended up to December 19th.

LONDBORG: It seems that perhaps the hearings could run into a big expense. It might be better to wait until the other report could be worked in with this one.

PRESIDENT EGAN: Do you offer that as a suggestion, Mr. Londborg?

LONDBORG: Yes I do.

WHITE: I move to divide the question as between paragraphs 1 and 2 and paragraphs 3, 4, 5 and 6 on the other one.

V. FISCHER: I second that motion.

PRESIDENT EGAN: Mr. White moves that the question be divided. Mr. White, in order to defer to Mr. Londborg, I believe Mr. Londborg intended to ask, and it may be he just did not put a motion properly, to ask that this be held until tomorrow in lieu of a report on the cost. Would you be so inclined to agree to such a request?

MCNEES: Point of order. Did Mr. Londborg make that in a form of a motion?

PRESIDENT EGAN: Mr. Londborg did not say he was making a motion. He said that was his wish, that he make that request. The Chair felt it was the responsibility of the Chair to help. Mr. Londborg put his request in the proper fashion.

MCNEES: There isn't any objection to the original motion by Mr. Coghill, is there?

PRESIDENT EGAN: No, except that Mr. Londborg signified an

intention to ask that it be held over until a cost report was in. Mr. White?

WHITE: I have no objection if it is Mr. Londborg's intention not to delay action on 1 and 2 beyond tomorrow.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: If the special committee would have the report by then I would like to move that it be made the first matter of business tomorrow along with the other reports.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe your special committee will have a report at tomorrow's session. In the meantime it appears to me there are several errors in the Resolution as presented. I wonder if we want to work on those now or discuss them -- for instance on the date -- or do you want to lay the whole thing over?

PRESIDENT EGAN: Mr. Sundborg, if we agree to hold this over until tomorrow morning, it might be well that the Chairman of the Administration Committee could work with you on that and present it properly. Is there objection to Mr. Londborg's request to hold this Resolution over as the first order of business tomorrow morning?

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. Chairman. I see no objection to Mr. Londborg's request. I think we ought to proceed a little cautiously on this. If we accept this proposal as read this morning as it is, we don't know at this time what the cost is. If we overrun our budget, it would be a serious matter. I think we should have the information before we pass on it.

PRESIDENT EGAN: Is there objection to holding this report over as first order of business tomorrow? Mr. King?

KING: I think it is imperative that it be done quickly because going into Pan American last night to make reservations, I just about did not get any reservations. If we don't catch the plane on the 20th we might not get home where I live, at all. They asked if I would call from here as to the date that was set here. It is very important to them as they may have to put on an extra section.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, may I direct a question to Mr. Londborg? Would you have any objection to dividing the question

that is proposed by Mr. White so that the dates, with slight revision, could be approved today since that may not have any basic effect upon the total expenditures. The question as to expenditures that is of paying both compensation and per diem, travel, and that sort of thing and that is where the main cost comes in.

ARMSTRONG: I think it is directly connected together. If we are having hearings, then my judgment on dates would be one fashion. If we are not having hearings then I would suggest, and I will amend eventually, that we come back on the 29th. Someone said that they hate to think of us conducting business over the New Year. I don't know of any better process for us to be in than to start the New Year on this and I have faith that every member of the Convention would be here on the floor and on his feet and ready to work. I say that with all the implications, knowing it, but I have faith in the group here and I would make an amendment in view of the decision on hearings.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, so far as I personally am concerned, it is important to me to get this matter settled and I think a good many others feel the same way. I wonder if it might not be advisable to take a short recess and let this committee get together and come on and take care of it today instead of putting it off until tomorrow.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I agree with Mr. Davis on this. I might say in the chairmen's committee meeting that this would cost between \$6,000 and \$7,000 was roughly figured at that, and also there is a miscellaneous item in the budget of some \$23,6000 which is available for such items as this item. I give those figures to you merely as they were roughly calculated at the time the chairmen's meeting had its gathering on this subject.

COGHILL: I might add that probably one of the mistakes Mr. Sundborg was bringing out was the December 19 to January 3, inclusive. It should be the 20th to the 2nd, actually. We figured the 15 days for the recess being the maximum time because for the delegates to get back to their constituents and to the public and hold a hearing or a group of hearings, it is going to take all of that time. I don't believe that having Christmas in there is the intent of this recess. I believe the intent of this recess is for public hearings, and I think you are going to find an interested public to the point where you are going to have to hold a half dozen hearings when you get back into your areas.

HERMANN: Mr. President, I think if the recess is solely for the purpose of holding public hearings we should start it now and end it well before Christmas. I have my own ideas that we won't have many people attending public hearings during Christmas week.

R. RIVERS: Why bicker about the purpose of this recess? I think it fits in to try to hold some public hearings, but actually it gives the delegates a chance to get home to be with their families at Christmas and also maybe to bolster up their businesses a bit so they can come back after the New Year knowing that they are still afloat, so let's stick to the business of having a Christmas vacation. Let's not start any hearings now.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think we ought to face the problem. That is probably the reason we are having a recess, as Mr. Rivers said, to bolster our business and to go home on a frolic during the holidays. I don't think we should spend any public monies and if we are going to have hearings, I am inclined to agree with Delegate Hermann, that we should recess now and go back and conduct hearings and come back here and be in session during the holidays.

PRESIDENT EGAN: The Chair would like to state that the Chair assumes that Mr. Londborg's suggestion has been objected to and we are now on the original motion for the adoption of the resolution. The motion to divide has not actually been made because of the fact the Chairman recognized Mr. Londborg's request. Mr. Londborg?

LONDBORG: Mr. Chairman, I stated that in the form of a motion, that it be made a first order of business tomorrow. I thought I heard a second to that.

SUNDBORG: I second it.

LONDBORG: We should have the report from the Committee on Administration, and they should have the full financial report presented to them before we load them down with this. The per diem alone for 55 delegates for 15 days, if they would elect to take that, which they are entitled to, would come to \$16,500. It would be pretty easy to use up the difference.

PRESIDENT EGAN: Under this resolution, Mr. Londborg, there is no possibility that 55 delegates could take 15 days per diem.

JOHNSON: Mr. President, point of order. It occurs to me that Mr. Londborg's motion is in the nature of a motion to lay on the table and is therefore not debatable.

PRESIDENT EGAN: Mr. Johnson, it might be in the nature to lay on the table, but the motion was to make it the first order of business tomorrow which is not in the nature of laying on the table. To set over to a set time is debatable. Is there . further discussion? Mr. Victor Fischer?

V. FISCHER: Mr. President, I would again like to direct the same question I did before to Mr. Londborg. Somebody else got up between. That question was about the division as proposed by Mr. White. Do you think that should await the report by the Committee on Administration?

LONDBORG: Well, I would think the whole thing ties in together, myself. However, if you wish to move to amend it can be put to a vote. But I don't believe one more day is going to throw too many of us off. Probably some have already put in reservations on transportation.

PRESIDENT EGAN: The question before us at this time is, "Shall this resolution be held over as a first order of business tomorrow?"

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is not further discussion all those in favor of the question signify by saying "aye", all opposed "no". The Chief Clerk will call the roll.

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

Yeas: 32 - Armstrong, Barr, Boswell, Buckalew, Collins, Emberg, V. Fischer, Gray, Hellenthal, Hilscher. Johnson, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 21 - Awes, Coghill, Cooper, Cross, Davis. H. Fischer, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Nerland, Nolan, Nordale, Peratrovich, Poulsen, V. Rivers, Stewart, VanderLeest.

Absent: 2 - Doogan, McCutcheon.)

CHIEF CLERK: Thirty-two yeas, 21 nays and 2 absent.

PRESIDENT EGAN: The motion has carried and the resolution is held over until the first order of business tomorrow. Are there other motions or resolutions to come before us at this time?

JOHNSON: Mr. President, may I revert back to the order of business covering the introduction of proposals?

PRESIDENT EGAN: If there is no objection the Convention will now revert back to the order of business of introduction of proposals. The Chief Clerk may proceed with the reading of the proposal.

CHIEF CLERK: "Delegate Proposal No. 39, by Mr. Johnson, TRANSITORY PROVISIONS."

COGHILL: Point of information. Does it take a two-thirds vote to hold something over for a special order of business?

V. RIVERS: It requires a two-thirds for a special order. That was postponed to a set time and that requires a majority.

PRESIDENT EGAN: The proposal is referred to Committee No. IV the Committee on Ordinances. Are there other proposals?

CHIEF CLERK: That is all I have.

PRESIDENT EGAN: Is there any other unfinished business? Mrs. Hermann?

HERMANN: May we revert back to communications from outside the Convention? I have a wire I would like to have read.

PRESIDENT EGAN: If there is no objection we will revert back to communications from outside the Convention at this time. The Clerk may read the communication.

CHIEF CLERK: From Fred M. Langsam. (The Chief Clerk read a telegram from Dr Fred M. Langsam, President of the Northwestern Alaska Chamber of Commerce at Nome, opposing any Judiciary proposal combining the Second and Fourth Divisions and removing the court from Nome.)

PRESIDENT EGAN: The communication will be referred to the Judiciary Committee. Mr. McLaughlin?

MCLAUGHLIN: Mr. President, merely to clarify the matter for the Convention, there is no proposal in the Judiciary Committee's Branch proposed to remove any court from any place.

PRESIDENT EGAN: Mr. McLaughlin, we can probably take care of that and communicate that fact to these people. Are there any other reports or communications at this time? The Chair would like to state that in the gallery this morning is Mr. A. L. Renshaw, a member of the University of Alaska Mining Society. Mr. Renshaw has an invitation he would like to extend to the delegates at this time. Mr. Renshaw, would you wish to come forward?

MR. RENSHAW: This Saturday evening the Mining Society is sponsoring a dance to be held in the cafeteria. It is a semi-formal affair. We have gone to considerable expense to provide professional entertainment. I would like for you delegates to feel welcome to attend and encourage you to do so. We would like to have you come and enjoy yourself and meet the people who will inherit this constitution. Thank you.

(Applause)

PRESIDENT EGAN: Thank you, Mr. Renshaw. I feel certain you will have a good attendance of delegates. Is there any other unfinished business? Mr. Riley?

RILEY: Mr. President, the Rules Committee will meet immediately upon adjournment in this room.

PRESIDENT EGAN: The Rules Committee will meet immediately upon adjournment in this room. Mr. Sundborg?

SUNDBORG: Committee III, Style and Drafting, will have a luncheon meeting in the cafeteria at 12:15.

PRESIDENT EGAN: The Committee on Style and Drafting will have a luncheon meeting at 12:15 in the cafeteria. Are there other committee reports? Mr. McNealy?

MCNEALY: Mr. President, Committee No. IV on Ordinances will not meet until 3 o'clock this afternoon.

PRESIDENT EGAN: Committee on Ordinances will not meet until 3 o'clock this afternoon. Are there other reports? Any special orders of the day? If not, the Chair will entertain a motion -- Mr. King?

KING: Appearing before the Resources Committee, we hope before adjournment, will appear Dr. Gabrielson who is a national authority on fish and wildlife and his expenses are underwritten here by the Wildlife Association here in Alaska and the National Wildlife Institute. Due to his importance as a figure in this field I would certainly like to ask the Convention if he could appear before the Convention as a whole for a short talk before he appears before the various committees.

PRESIDENT EGAN: Do you have a set date, Mr. King?

KING: He was tied up until the 13th and I don't know if the Secretary of the Resources Committee has received a wire and he set a definite date or not.

PRESIDENT EGAN: You are asking then, Mr. King, unanimous consent that the Convention hear, or ask Dr. Gabrielson to appear before it and present a brief talk upon his arrival?

KING: Due to his importance as a national figure and leading exponent of wildlife.

PRESIDENT EGAN: You have heard the request of Mr. King. Is there objection?

V. RIVERS: I will object temporarily.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

COOPER: I second the motion.

V. RIVERS: My objection stems from the fact we are taking an action to set an order of business which we are not entirely certain that Mr. Gabrielson will be here at that time. I would much prefer to see the motion come up when he is actually here, when the issues are before us. To take action at this time I think we would be making a mistake.

PRESIDENT EGAN: Is there further discussion of the particular motion?

KING: Mr. President, it was not my idea that the date be set. I just wanted to get the consent of the body here so that we could prepare an itinerary for Dr. Gabrielson when he came, that he would be able to appear before the Convention.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I object to this kind of procedure not only because of the time being uncertain but also bringing a specific individual who is coming here to talk in favor of more or less a specific proposal according to the understanding that some of us have. It would seem to me that it would be more appropriate if Mr. Gabrielson addressed the Committee on Resources just as Delegate Bartlett did, and I am sure there will be just as many delegates, if not more, in attendance to hear him that way as there would be if he addressed the Convention as a whole, and I believe it would be a more proper procedure.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, we have set a little precedent on this Committee of the Whole. I agree entirely with Delegate King. He's a national figure, he is coming at his own expense, he knows a lot about this field, (we may not agree with him personally) but if he wishes to speak to the Committee of the Whole rather than make a Committee of the Whole out of the Committee on Resources, he may have something worthwhile to say for everyone and we have extended this privilege to other persons, and I believe that it would actually be poor conduct to refuse a

National figure the appearance of the Committee of the Whole. As far as the date is concerned, I agree with Mr. Victor Rivers. that until a definite date is known, we need not go into something like that, but from there on I believe that if this gentleman wished to speak to the whole Convention he should be given that opportunity.

PRESIDENT EGAN: The question is then that the Convention allow Dr. Gabrielson to be heard before the Convention at such time as he might arrive here or wish to be heard by the Convention.

TAYLOR: Mr. Chairman, I move that the matter be laid on the table.

WHITE: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the motion be laid on the table. The motion is undebatable. All those in favor of laying the motion on the table will signify by saying "aye" --

JOHNSON: Roll call, Mr. President.

PRESIDENT EGAN: The Chief Clerk will call the roll at Mr. Johnson's request.

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

Yeas: 17 - Buckalew, Coghill, Cross, Davis, H. Fischer, V. Fischer, Hellenthal, Hinckel, Hurley, Londborg, Poulsen, Reader, R. Rivers. Taylor, Walsh, White, Mr. President.

Nays:. 36 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Emberg, Gray, Harris, Hermann, Hilscher, Johnson, Kilcher, King, Knight aws, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Wien.

Absent: 2 - Doogan, McCutcheon.)

CHIEF CLERK: Seventeen yeas, 36 nays and 2 absent.

PRESIDENT EGAN: So the motion has failed. We have the original motion before us. Mr. Sundborg?

SUNDBORG: Mr. President, I would like to move to amend the motion to invite Dr. Gabrielson rather than just allow him to

address the Convention.

PRESIDENT EGAN: The motion, if there is no objection, shall be so stated that we invite Dr. Gabrielson to address us. Is there a second to that motion to amend the original motion?

GRAY: I second it.

TAYLOR: I object for the purposes of information. I take it from the first motion that Dr. Gabrielson has requested permission to appear before the Convention. Is that right?

KING: Mr. President, Dr. Gabrielson has never been here. He does not know a thing about it. We are just trying to get him up here without expense to the people of the Territory and without cost to the Convention -- just ask a simple request that he appear as an expert, exponent of wildlife and fish, to appear before this Convention.

TAYLOR: Well, then I believe if we ask him to appear before this Convention, we will be duty bound to pay his expenses the same as we have the other experts and specialists.

KING: I would rather withdraw the motion than have all this arguing with a lot of important work to do.

PRESIDENT EGAN: The motion was to amend it by inviting Dr. Gabrielson instead of allowing him. Is there objection to that amendment? Mr. Rosswog?

ROSSWOG: May I ask a question of Mr. King? To clear it in my mind, is Dr. Gabrielson's expenses being paid by the Sportsmen's Association or is he coming at his own expense?

KING: I thought I made that very clear in my opening statement. His expenses are paid by the Wildlife Institute, Alaska Sportsman's Council and Territorial Sportsmen's Association in Juneau. Mr. Riley, the Secretary of the Resources Committee, has that record in his file.

WHITE: Mr. President, I rise against the main motion. I dislike to do so and disagree with a fellow member of the Resources Committee, but I feel that I must, I am very anxious to hear what Dr. Gabrielson has to say. I think it is important to the business of the Committee. I am afraid of the precedent being set however, that one particular individual appearing in support of a particular proposal should be invited to appear before the Convention. The Committee on Resources has had and will have a steady stream of people wishing to appear before it. I think all of those people should have a full hearing . but I think the place for it is not on the floor of the Convention, but in regular committee meetings held in a room large enough to contain all the people who wish to hear him, in

public hearings set by the Committee, or in meetings of the Committee of the Whole, arranged for, scheduled and thought about in detail by the Committee. I would not like to be put in the position of giving one person preference over others.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I think we are quibbling here about something which is not really very important -- whether we have Dr. Gabrielson talk to us in front of the main body or in a hearing where everybody presumably would be present. Dr. Gabrielson is a national figure. It will do our Convention and the cause of statehood a great deal of good, I am sure throughout the nation, to have it reported that Dr. Gabrielson addressed us. I don't know, and I don't think anyone knows that he is coming here to espouse some particular course of action or to advocate something which should go into our constitution. I rather think not. I think we would be very lucky if we can get this man to talk to us. He is the former Director of the Fish and Wildlife Service. He is now the head of the largest voluntary sportsman and conservation group in the United States and I think a man that we could all well spend some time listening to.

HARRIS: Mr. President, I would like to move the previous question.

PRESIDENT EGAN: Mr. Harris moves the previous question. Is there a second?

SWEENEY: I second the motion.

PRESIDENT EGAN: Mrs. Sweeney seconds the motion. The question is, "Shall the previous question be ordered?" All in favor will signify by saying aye , all opposed "no". The "ayes" have it, and the previous question is ordered. The question is, "Shall Dr. Gabrielson be invited to appear before the Convention?"

DAVIS: Mr. President, I think that is correct except it is the amendment we are voting on that he be invited rather than allowed.

PRESIDENT EGAN: The amendment has already been accepted by unanimous consent. The Chair asked if there was objection to it. to the proposed amendment, to change it from "allow to "invite", and there was not objection, so the question is, "Shall Dr. Gabrielson be invited to appear"before us?" All those in favor will signify by saying aye , all opposed "no". The "ayes" have it, and Dr. Gabrielson will appear before us. Mr. Marston?

MARSTON: Mr. President. I move and ask unanimous consent that

we adjourn to meet tomorrow morning at 9 o'clock.

PRESIDENT EGAN: Mr. Marston moves and asks unanimous consent that the Convention stand adjourned until tomorrow morning at 9 o'clock. Is there objection? Hearing no objection it is so ordered and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

December 8, 1955

THIRTY-FIRST DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Bert J. Bingle, Presbyterian missionary minister. Reverend Bingle will give us our daily invocation.

REVEREND BINGLE: Let us pray. Our Father in Heaven, we thank Thee for the leadership that Thou has given us in the past and Thy benevolent protection as a Territory. We thank Thee for Thy presence with us even though sometimes the road may not be smooth and the going unseen, And, Our Father, as those meet here to make up a constitution for the new State of Alaska, may the words of their mouths and meditations of their hearts be acceptable in Thy sight. O Lord, our Strength and our Redeemer. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(Chief Clerk called the roll.)

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special committee to report on the journal have a report to make at this time? Mr. White?

WHITE: May I ask unanimous consent that the report be delayed until tomorrow.

PRESIDENT EGAN: Mr. White asks unanimous consent that the report be delayed until tomorrow. Is there objection? If there is no objection, it is so ordered. We will have the report on the journal tomorrow. Are there any petitions, memorials or communications from outside the Convention?

CHIEF CLERK: I have some.

PRESIDENT EGAN: The Chief Clerk may read the communications.

CHIEF CLERK: A letter from Mr. Coghill. (The Chief Clerk read a letter from Mr. Coghill expressing thanks for the granting of leave permitting him to attend the White House Conference on Education and stating that the Alaska conferees found Alaska's educational system equal to, if not better than that of any of the other states or territories in administration procedures as well as in teaching methods and standards.)

PRESIDENT EGAN: The communication will be filed. (At this time the Chief Clerk read a letter from Charles J. Keim of the

House to be held on the University campus from 10 o'clock a.m. to 10 o'clock p.m. Friday, December 9.)

PRESIDENT EGAN: The communication will be filed and the delegates will remember that there is an open house at the University tomorrow. Are there other communications? Are there reports of standing committees? Mr. Riley?

RILEY: Reporting for the Rules Committee, the members will find that before them this morning is a proposed amendment to several of the rules, namely 13, 16 and 44. These proposed amendments have been recommended by the Rules Committee to fill a void in our existing rules which was not anticipated when those rules were originally adopted. It was felt initially that the Committee on Style and Drafting might properly fill the enrollment and engrossing function. but it becomes apparent now that an Enrollment and Engrossment Committee will be desirable because Style and Drafting's work will be at considerably heavier volume at the same time that this function should be accomplished. Now these three proposed changes are interdependent. There is no reason for adopting one and rejecting another. There would be no purpose in taking less than all of them and, accordingly, I ask unanimous consent that the recommended changes be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the recommended changes be adopted. Mr. Kilcher?

KILCHER: A point of information. What is engrossment and enrollment?

PRESIDENT EGAN: Will you explain that to Mr. Kilcher. Mr. Riley?

RILEY: I think, Mr. Kilcher, that the change proposed in Rule 16 speaks for itself. In second reading when a proposal is subject to amendment, an amendment will often occur on the floor, and essentially the Committee on Engrossment and Enrollment is to see that the finished product properly reflects those amendments, accurately reflects those amendments, before another draft comes back to the body in copies to be considered from that point on.

PRESIDENT EGAN: Is there other discussion? Mr. Riley has asked unanimous consent. Is there objection that these proposed changes be adopted? If there is no objection it is so ordered and, Mr. Riley, you are asking the President to appoint a committee of three on Engrossment and Enrollment? If there is no objection the President will hold that over and report tomorrow morning on that Committee. Mr. Sundborg?

SUNDBORG: I move and ask unanimous consent that instead of

trying to incorporate these changes in the copies of the rules which we now have, that each delegate simply be furnished with a supplement. This would do the job if each delegate would just attach this to the rules which he now has.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's request? That would relieve a lot of work and readjustment of the rules if each member would insert this page in the copy of rules that he has. If there is no objection, Mr. Sundborg's request will be adopted by the Convention. Are there any other reports of standing committees? Are there reports of select committees? Are there any proposals to be introduced?

BARR: Mr. President, I have a proposal to submit. It is on the Chief Clerk's desk.

EMBERG: I have a proposal to submit. It is also on the Chief Clerk's desk.

PRESIDENT EGAN: If there are no other proposals, the Chief Clerk may proceed with the first reading of proposals.

CHIEF CLERK: "Delegate Proposal No. 40, by Mr. Barr, COMPOSITION OF THE SENATE.

PRESIDENT EGAN: Committee on Suffrage, Elections and Apportionment, Committee No. VI.

CHIEF CLERK: "Delegate Proposal No. 41, introduced by Mr. Emberg, REVERSION OF FUNDS ORIGINATING FROM DISPOSAL OF NATURAL RESOURCES TO SOURCE AREAS."

PRESIDENT EGAN: Committee No. X, Committee on Resources. Mr. Smith?

SMITH: Mr. President, if I understand that correctly, it concerns the Finance Committee to an extent above that of the Resources Committee.

PRESIDENT EGAN: The provision won't be contained in the section on Resources? Then it will be referred to the Committee on Finance, Committee No. XI.

CHIEF CLERK: "Delegate Proposal No. 42, by Mr. Hinckel, MEMBERSHIP IN STATE SENATE."

PRESIDENT EGAN: The proposal is referred to Committee No. VI, Committee on Suffrage, Elections and Apportionment. Are there other proposals? If not, are there any motions or resolutions? Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, may I inquire has the Rules Committee taken into consideration and is it now ready to report

on the calendar for tomorrow?

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

RILEY: In order to get the calendar around a little more expeditiously, to have it before the members sooner than by placement on the desk this morning, it was put in the mail boxes. Perhaps all delegates have not picked up calendars.

PRESIDENT EGAN: Is there any unfinished business to come before the Convention? Mr. Coghill?

COGHILL: Mr. President, don't we have a special or first order of business on the proposal for the resolution introduced by the Administration Committee yesterday?

PRESIDENT EGAN: Mr. Coghill, your question is well taken. The resolution that was offered yesterday was set over as the first order of business for today. If there is no objection we will take that matter up at this time. Do all the delegates have the particular resolution before them? It is the resolution that deals with the proposed recess and other matters pertaining to the recess. Mr. Victor Fischer?

V. FISCHER: Mr. President, do we have any motions before us left over from yesterday?

PRESIDENT EGAN: Would the Chief Clerk ascertain if there was any motion held over. The remembrance of the Chair is that we voted on the particular motions before us, unless you have the feeling that something was hanging fire.

CHIEF CLERK: No, there was no motion left over.

SUNDBORG: It is my recollection, Mr. President, that we did have before us a motion by Mr. Coghill that we adopt the report, and then we amended that in several ways and finally the final amendment was to hold it over until today. I wonder if that motion is not still before us. Perhaps Mr. Coghill would have some recollection of that.

PRESIDENT EGAN: The motion was not withdrawn before it was held over?

CHIEF CLERK: No, it was not.

PRESIDENT EGAN: Then the motion does hold over, Mr. Sundborg. The Chair had felt there had been a motion to withdraw prior to the time that we held this over. Mr. Coghill?

COGHILL: Mr. Chairman, apparently it was the objection of the body as to several of the ramifications of this resolution. I would like to offer an amendment and ask unanimous consent

that on the "resolve" of the first line, "December 19" be struck and "December 20" be inserted. And after "1956" on the second line, insert "both dates inclusive". I ask unanimous consent for the adoption of that amendment.

PRESIDENT EGAN: Insert the words "both dates inclusive", Mr. Coghill?

COGHILL: Yes sir.

PRESIDENT EGAN: Under this Resolution, the proposed recess would begin on December 20 and end on January 3, so, Mr. Coghill, it would not be inclusive on the 19th.

COGHILL: I changed that to the 20th. That was the amendment. Change the 19th to the 20th and both dates inclusive. I ask unanimous consent that it be adopted.

PRESIDENT EGAN: That would make 15 days -- both dates inclusive?

KILCHER: Mr. President, I don't quite make out what changes we have here. In the first paragraph, is that December 20 there?

PRESIDENT EGAN: No, Mr. Kilcher. It would be after the words, "Therefore be it resolved" at the bottom on the first section of that it would say that "the Convention recess from December 20, 1955, to January 3, 1956, both dates inclusive." You did what I did first. I marked the first paragraph.

HERMANN: That would mean we would not meet until the 4th of January?

PRESIDENT EGAN: That is right. It would clarify the fact it was a full 15 days. Is there objection to the request of Mr. Coghill? I believe Mr. Coghill asked unanimous consent.

ROBERTSON: I object, Mr. President. I thought Mr. White moved for division.

PRESIDENT EGAN: I believe that division motion was withdrawn in order to clear the way for holding this over. Is that correct, Mr. White? So unanimous consent is asked to adopt this change in the wording of the resolution. Is there objection to that? Mr. White, do you object?

WHITE: No.

PRESIDENT EGAN: Hearing no objection it is so ordered, and Mr. Coghill's proposed changes are ordered adopted. Mr. White?

WHITE: Mr. President, I move to divide the question -- that is to divide paragraphs 1 and 2 on one hand and paragraphs 3, 4, 5, 6 on the other.

V. FISCHER: I second it.

PRESIDENT EGAN: It is moved by Mr. White, seconded by Mr. Fischer that the question be divided so that paragraphs 1 and 2 are taken up by the Convention on the one hand and that paragraphs 3, 4, 5 and 6 be taken up by the Convention on the other. Is there objection to that motion to divide the question? Mr. Coghill?

COGHILL: I object temporarily for a point of information. I have before me an estimated cost of the transportation, the salary and per diem that would be needed for hearing dates as set up by the ruling of that special committee and for the per diem to carry home the delegates or the ones that were going to stay here in the Fairbanks area and the total amount. Now before the makers of the motion to divide the question, might well want to hear this out so the Convention can decide just what we are going to be doing on this Convention. Are we going to hold hearings at recess time and how is the pay going to be established and what not.

PRESIDENT EGAN: Mr. White, would it be satisfactory to you to hear the report of the Administration Committee prior to acting on your motion to divide the question?

WHITE: That is perfectly satisfactory, Mr. President.

PRESIDENT EGAN: Your motion will hold, Mr. White. Mr. Coghill may proceed with the report by the Committee on Administration.

COGHILL: This is not a report on the Committee of Administration, Mr. President. It is a finding that we were directed to find yesterday on the floor. The question that was raised as to just how much this is going to cost. The Committee on Administration had an estimate of around \$6,000 and figured that was what it would cost. However, we find that it raised quite a lot more than that. The transportation for delegates, according to the questionnaires that were placed before everyone, the transportation costs to their homes would be \$3,182.98. The per diem for that travel would be \$1,720. The hearings, if a one-day hearing was held as provided in the special report, would cost \$1,230 for the salary and \$3,320 for the per diem.

KILCHER: Mr. President, may I interrupt for a point of information. It was \$1,230 for salary? How much?

COGHILL: \$1,230.

KILCHER: That figure of \$3,000 can't be correct because it must be more than one-third of \$1,200, per diem being only one-third more than salary, so I am afraid your second figure is a total figure of salary and per diem. You are adding something wrong there.

SUNDBORG: Mr. President, I had a little bit to do with the preparation of these figures and I believe Mr. Coghill, that the figure of \$1,230 is for salary during days of travel which is provided for in the resolution which came from the Administration Committee.

COGHILL: \$1,000 for salary in route, \$1,290.

SUNDBORG: You have not given that figure yet?

COGHILL: The first figure is transportation, \$3,182.98, the days in route traveling home and back. Now this is the days enroute, you're traveling home now and back. That is round trip. Salaries in route \$1,290, per diem \$1,720. Now, for holding the hearings, salary \$1,230, per diem is \$2,640 for the hearings, \$2,640, and the per diem for those who are going to remain in Fairbanks is \$1,680, bringing us an approximate total cost for this recess of \$10,742.98. It seems quite high, Mr. President.

PRESIDENT EGAN: That is assuming that the Convention adopted all the recommendations in this resolution. Mr. Kilcher? Is that right?

KILCHER: I would like to question two figures there. The salary for hearings, if I am correct, you quoted \$1,230 and for per diem on hearings \$2,640, and that is the same amount of days?

COGHILL: Should be.

KILCHER: I am afraid again that your per diem figure for hearings is an inclusive figure of salary and per diem. It must be so because the difference between per diem and salary is one-third, so that figure \$2,640 should be \$1,640. You have a thousand bucks too much, roughly speaking.

PRESIDENT EGAN: Is that correct. Mr. Coghill?

ARMSTRONG: May we have a recess so this can be straightened out?

COGHILL: The reason for that figure there, we had to make an inclusion of the per diem for the people that were going to be staying here in Fairbanks and that was run into that column. I had to divide it with a new figure.

PRESIDENT EGAN: So Mr. Kilcher was correct in his observation. The total is the same.

COGHILL: The total is \$10,742.98.

PRESIDENT EGAN: Mr. Smith.

SMITH: I take it that these figures are all more or less the maximum that can be allowed to the delegates. I wonder if that is clearly understood. The actual expense involved will be determined by the actions of this body if we so desire we can eliminate a lot of that cost.

PRESIDENT EGAN: That is right, Mr. Smith.

COGHILL: I quite agree with Mr. Smith. This is just to inform you that if the provisions of this resolution are adopted, that is what it is going to cost.

PRESIDENT EGAN: The Chair will allow other discussion of these figures.

KILCHER: I would like to make a motion.

SUNDBORG: Mr. President, point of order. There is a motion before the body that is not debatable or amendable according to our rules.

PRESIDENT EGAN: If there is objection Mr. Kilcher, we will have to revert back to the motion that Mr. White so kindly held up while Mr. Coghill read his report and then we can go into this later. Mr. McNees?

MCNEES: Mr. President, may I rise to a point of information. Why was the question requested to be divided?

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, in answering the question, I thought they were two entirely separate matters embodied in this resolution and that it might unduly confuse the whole business if you considered it all at once. I thought we could settle on the dates of any adjournment very easily, separately from the matter of how much cost we were going to allow in pursuing the business of the adjournment.

PRESIDENT EGAN: If there is no objection the Chair will order that the motion of Mr. White, seconded by Mr. Fischer this morning, be stricken from the record inasmuch as your motion of yesterday was not acted upon, so we have the same motion for division of the question before us. Mr. Sundborg?

SUNDBORG: Mr. President, I wonder if Mr. White and Mr. Fischer would consent, and if the Convention would consent, to including the preamble of the resolution with the first half of the question if it is divided.

WHITE: I will consent to that.

PRESIDENT EGAN: It would appear that would not endanger the motion. The question is, "Shall the paragraphs contained in the resolution be divided so that paragraphs 1 and 2 be acted upon first and that paragraphs 3, 4, 5, and 6 be acted upon later?" All those in favor of the division of the question will signify by saying "aye", all opposed by saying "no". The "ayes have it, and the question has been divided. The question is, "Shall the preamble of the resolution and paragraphs 1 and 2 be adopted by the Convention?" The question is open for discussion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. White, will you move?

WHITE: I so move, Mr. President, that page 1 of this resolution, that page 1 including the "Whereases" and paragraphs 1 and 2 be adopted by the Convention and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent has been asked by Mr. White that page 1 of the resolution be adopted by the Convention. Is there objection? Hearing no objection it is so ordered and page 1 of the resolution has been adopted by the Convention. Mr. Coghill?

COGHILL: Mr. President, a point of information. When a question is divided is not the main motion for adoption still in order, so therefore Mr. White would not have to make a motion? My motion is still in order even though the question is divided?

PRESIDENT EGAN: The Convention accepted the division, Mr. Coghill, and therefore when the Convention accepted the division it is the feeling of the Chair it divided your main motion, had the effect of changing your main motion by vote of the Convention, and now the only thing we have before us after this adoption are the remaining four paragraphs of the resolution, but that motion is before us. That part would be before us now.

V. FISCHER: Do we have Mr. Coghill's motion before us then?

PRESIDENT EGAN: We would have in effect, we would have these four paragraphs before us for action without any further motion.

COGHILL: That was my question, Mr. Chairman, whether Mr. White had to make a motion to have the first part adopted. I thought my motion still held even in division.

PRESIDENT EGAN: I believe he would have had to make the first motion but is not necessary on the second part. Mr. Victor Fischer?

V. FISCHER: Mr. President, I move and ask unanimous consent that in paragraph 3, in line 3, the words "compensation and" be stricken.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that on page 2 line 3, the words "compensation and" be stricken.

GRAY: Mr. President, I object until I can read it.

COGHILL: Mr. Chairman, I object for purpose of amendment.

PRESIDENT EGAN: Objection is heard. Is there a second?

SUNDBORG: I second Mr. Fischer's motion.

PRESIDENT EGAN: Mr. Sundborg seconds Mr. Fischer's motion.

Mr. Coghill.

COGHILL: I move and ask unanimous consent that that motion be amended to read "per diem".

PRESIDENT EGAN: You mean to strike the words "per diem" also?

V. FISCHER: I accept the amendment.

PRESIDENT EGAN: Mr. Fischer accepts the amendment. Is there objection?

SUNDBORG: It certainly won't read like anything then. I think probably what Mr. Coghill intends is that we should amend the motion to strike out also the words "and to". Mr. Coghill's motion I believe was to strike out "and to" and "per diem".

PRESIDENT EGAN: Mr. Fischer, would you object to having reference to your original motion stricken from the record and start over again?

V. FISCHER: No. Do you want me to rephrase the original motion?

PRESIDENT EGAN: If it would be acceptable to you to withdraw your original motion and the proposed amendment. Is there objection to that request of Mr. Fischer's?

V. RIVERS: I just want to know what his request is now.

PRESIDENT EGAN: His request, Mr. Victor Rivers, would be to start from scratch in effect, to withdraw the original request in order to have a motion appear in the record that would reflect the complete intention.

V. RIVERS: No objection to withdrawing his request but I want to know where we stand before I --

PRESIDENT EGAN: Then the resolution and the motion, if his motion was withdrawn, would stand exactly as it reads before us now. Is there objection to withdrawing the motions before us? Hearing no objection it is so ordered. Mr. Fischer?

V. FISCHER: Mr. President, I move and ask unanimous consent that paragraph 3 be amended by deleting all the language after the word "recess" in line 3 and putting a period after the word "recess".

PRESIDENT EGAN: Mr. Fischer moves that the resolution be amended by inserting a period after the word "recess" in line 3 on page 2 and deleting the rest of the sentence.

COGHILL: I ask unanimous consent.

KILCHER: I object.

PRESIDENT EGAN: Unanimous consent has been asked. Objection is heard. Is there a second?

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion of Mr. Fischer. The question is, "Shall the language after the word 'recess' in line 3 on page 2 be deleted? Mr. Kilcher?"

KILCHER: I object for two reasons. We have a Section 5 down there which is logically connected with Section 3. If you pass one, I would say prematurely, logically if we are going to be logical, which is not necessarily the case, we are also --

COGHILL: Point of order. We are taking this in chronological order going down 1, 2, 3, 4 and 5 and that is not before the house at the time.

PRESIDENT EGAN: The delegate is referring, if he feels that section is connected with his debate on this motion, the Chair feels that he is in order. Mr. Kilcher?

KILCHER: I object on the grounds that hasty action taken in 3 will either compel a certain action to be taken under Section 5, if you want to be logical, and if we are not, we

affecting a similar situation, we will have to rescind what action we take in No. 3 again, provided you want to be logical and fair, namely, that is one ground. The other ground is just exactly what do actual travel costs mean? I would like to have an explanation of the two words "actual travel costs" before I can elaborate on my main objection. Mr. Coghill might be able to explain that to me.

PRESIDENT EGAN: In Section 3 you are speaking of the words, "actual travel cost"? Mr. Coghill, if you would care to answer the question.

COGHILL: "Actual travel costs" is the transportation being paid to the delegates to go to their homes and return, their tickets in other words, just the ticket portion.

KILCHER: Why don't we say "transportation costs"? "Actual travel costs" in my opinion, includes other items too. It may include a taxi, hotel bill, meals, if weather is bad, you have to stay in a hotel for two days. You have expenses which are normally included in per diem. Consequently, I advise against changing of Article 3 to make a period after "recess" on line 3 in accordance with Mr. Fischer's motion and leave "per diem". We need per diem to go home on. Later on in 5 we assume that per diem is needed, and justly so, by the people who will not be able to travel home. They need per diem, and I need per diem until I am home. I am not able to be home before I get there, and while I get there I am entitled to per diem as well as the man who stays in Fairbanks who can't go home for 15 days. I can't go home for two days and I should get that per diem for two days. It costs money to get there, besides the ticket. That is the logical point I was going to bring up.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: In support of Mr. Kilcher, Mr. Kilcher has a better argument than that. He has a point of order. This Convention, that is if you are entitled to per diem under the Act creating this assemblage while you are in a travel status, then this Convention by any action cannot deprive you of your right to secure it from the Territory. I believe that is pertinent in Mr. Kilcher's argument.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I want to speak on paragraph 4, you might rule me out of order but I won't know how to vote on 3 or 5 or 6 without a discussion on the whole thing.

PRESIDENT EGAN: Mrs. Sweeney, if it is your feeling that in voting on this particular amendment that you have to refer to

other paragraphs, you are in order.

SWEENEY: Mr. Coghill states that for one day hearings, there would be a salary of 1200 something and per diem of 26 something. Paragraph 4 says "if it is necessary for the delegates to travel from their homes for such period". I don't know what they're basing their per diem on but we will be at home to hold these hearings according to the report of the special committee, so I see no expense in that connection. We will not be getting any per diem with salary for holding hearings. All we will be getting is travel reimbursement and the per diem while we travel. That is all that I can see that this provides. There is no expenses for holding hearings unless we are out of our home town. I would like to hear from Mr. Coghill.

PRESIDENT EGAN: Your point was, Mrs. Sweeney, that Mr. Coghill's report of the cost with relation to this particular resolution was in error on that point?

SWEENEY: I feel that some of the delegates might go along with compensation and per diem during travel status if they knew there was not going to be this additional cost of salary and per diem during the time of holding hearings. I don't find that the resolution covers that.

COGHILL: I assume that the question was directed at me. But after finding the costs of the total recess on hearings, transportation, per diem and travel, and compensation to the delegates, I feel that we should as a body take this resolution and strike in all parts the compensation and the per diem and just allow the travel to and from the homes. I think we have a definite commitment to the people to have hearings and without cost. The cost for travel, if we just took the travel into consideration, would be \$3,182, where if we add the per diem and compensation it is going to raise that figure to \$10,000 and over.

SWEENEY: That's my point, Mr. Coghill. Actually the picture does not come to 10,000 because you are including in the report per diem and salary for days we are holding hearings, and that resolution does not state that.

COGHILL: It is my intent to amend the resolution as such.

SWEENEY: That would be a further job, it isn't what we're studying now as I understand it.

SUNDBORG: Mr. McLaughlin a moment ago raised a point of order. I don't believe we've taken care of it.

PRESIDENT EGAN: He said he felt Mr. Kilcher had raised a point of order. Since that time the Chair has been thinking

he raised a very pertinent point of question, and if there is no objection the Chair would like to declare a recess at this time and refer this matter to the Rules Committee and have those who would like, to appear before the Rules Committee and thrash out this question if possible.

COLLINS: Before we recess, this might throw some light on the argument we've been having. I call the Convention's attention to the Act itself. Section 1 provides for the 15 day recess for the object of holding meetings. Then it goes on and the Act provides a Section 19, "Delegates shall receive a per diem of \$20 for each day in attendance, including the time spent going to and returning from the Convention and they shall be reimbursed for their actual travel costs incurred attending upon their duties as delegates. In addition they shall receive for their services the sum of \$15 per day as compensation for each day's attendance while the Convention is in session."

PRESIDENT EGAN: If there is no objection then the Convention will stand at recess and the Rules Committee will take this question under advisement.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the motion to strike the words "and to compensate for the per diem for the days involved in such travel", beginning on the third line of Section 3. We have the report of the Rules Committee.

RILEY: Mr. President, Mr. McLaughlin's point of order was to the effect that the Convention could not properly deprive the members of a per diem entitlement which he felt was theirs under the law. The Rules Committee, in coming to a decision on that, felt obliged to interpret the meaning of passages of the Act in terms of the resolution from the Committee on Administration, which is before us. In doing so, as to paragraph No. 3 on page 2, it is the opinion of the Rules Committee that Chapter 46, under the provisions of Chapter 46 delegates shall be paid actual travel costs to and from places where hearings will be held as directed by the Convention and per diem for days of actual travel but not salary. Now as to paragraph No. 4 on the same page of the resolution, it is the opinion of the Committee that the Act does not authorize salary or per diem during a recess for days of hearings as distinguished from days of travel. It is conceivable that a travel day may also be a hearing day, but to distinguish between them it is the feeling of the Committee that salary or per diem during the recess for days of hearings, as distinguished from travel, is not authorized. As to paragraph 5, the Rules Committee would like to give that further consideration before reporting.

PRESIDENT EGAN: You submit this as the opinion of the Rules Committee on Mr. McLaughlin's point of order, is that right?

RILEY: Yes. As a matter of fact we have enlarged upon it somewhat but felt it necessary to do so in order to cover the point of order fully.

PRESIDENT EGAN: The Chair will accept the opinion of the Rules Committee as being the opinion of the Chair on the question. Mr. Victor Rivers?

V. RIVERS: Is the matter still open for discussion?

PRESIDENT EGAN: The motion is still open for discussion.

V. RIVERS: It seems to me there is some considerable concern about what this is going to cost and of course I can see this motion is along that line. I heard the reading of the Rules Committee report and it seems that is somewhat counter to the verbal opinion expressed by the Attorney General. I am of the opinion that if there are hearings and meetings, the delegates should receive pay for whatever they are actually entitled to receive pay under the Act. It seems to me the final decision would rest in the hands of the Attorney General. I just wanted to point out here primarily that I think the matter of not only what it will cost to take the vacation but what it will cost not to take the vacation should be considered. It costs \$2,500 a day to operate in round figures. If we don't take this recess for hearings, we will have four days, we will have Christmas, two Sundays and New Years which we will pay \$2,500 for each day that will not be work days of this Convention, if we do not recess. I want to put that out. I think it's important that we consider one against the other, that we balance the thing out if the dollars seem to be so important in the matter of the final decision. It seems to me we should consider the matter in both aspects. I do believe in order to resolve it we could get a vote on this and that's why I bring this up. It seems we cannot be saving money whichever action we take. We are going to be paying out what is justly entitled to be paid out to the delegates whether they stay here or whether they go.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, in harmony with the ruling of the Chair and the opinion of the Rules Committee, which I may mention was the unanimous opinion of the Rules Committee, I believe the motion before us is out of order, at least in part, and I wonder if I may have a ruling of the Chair on that. The motion was to put a period after the word "recess" and strike the rest of the Section 3, and according to the opinion of the Rules Committee, per diem is authorized.

PRESIDENT EGAN: You are correct, Mr. Sundborg, in your point of order. It is well taken under those circumstances that the matter has been brought to the attention of the delegates that the law itself specifically authorizes the per diem, and it is the opinion of the Chair that this Convention cannot override the law. Therefore, relative to the words "per diem" the particular motion would be out of order.

SUNDBORG: Mr. President, then I would like to move and ask unanimous consent that paragraph 3 be amended as follows: After the word "from" on line 2, strike the word "their", strike all of line 3 through the word "and", and insert in -- insert in lieu thereof the words "hearings authorized by the Convention and to". The whole paragraph would then read as follows: "3. That the delegates shall be entitled to reimbursement for their actual travel costs going to and returning from hearings authorized by the Convention and to per diem for the days involved in such travel."

V. FISCHER: Mr. Chairman, I will accept that amendment since my original motion is still on the floor. I will accept the words per diem" or should I withdraw mine and substitute that?

PRESIDENT EGAN: Under the ruling of the Chair the motion as it appeared would be out of order. Mr. Sundborg, feeling that the Chair had ruled the entire motion out of order because of the word "compensation" being in there, that Mr. Sundborg has moved that his motion be unanimously adopted by the Convention. Is there objection to the acceptance?

GRAY: I don't object. Under that line of reasoning, the word that bothers me is the word "actual" travel costs. I am speaking only for myself, but this Christmas recess is a matter of personal convenience, and everyone can make up their own minds whether it is or is not. But for myself the matter of the recess and the going home is a matter of personal convenience.

COGHILL: Mr. Chairman, I rise to a point of order. Mr. Gray may interpret it as a personal convenience, but the resolution as provided by the Committee on Administration you will notice on the first whereas" of the resolution it says "to recess for a period not to exceed 15 days for the purpose of holding public hearings." It has nothing to do with personal recessing to go home for Christmas.

GRAY: The only thing I have to say is that you might strike out the word "actual" if it has no difference in the meaning there, then people would be entitled to their travel costs whether they went home or whether they didn't go home. That is the point I am trying to point out. Does the word "actual" have to be in there? So when we adopt this resolution, you

won't tie anybody's hands by the word "actual". It may be people would take travel transportation and travel some place else.

PRESIDENT EGAN: Mr. Gray, the Chair will hold that you should have, in order to get that open for discussion, offered some kind of amendment. There is nothing before us.

SUNDBORG: I raise a point of order to it. If I may, I would like to read something here of the Act which established this Convention. It says, in Section 19, "They", (the delegates) "shall be reimbursed for their actual travel costs incurred in attending upon their duties as delegates." I think we have no jurisdiction, no right to change the provision of the Legislature in that respect.

PRESIDENT EGAN: The Chair wonders if the First Vice President will take the Chair at this time.

(Mr. Peratrovich took the Chair at this time.)

VICE PRESIDENT PERATROVICH: Mr. Egan.

EGAN: I would like to rise to a question of personal privilege.

VICE PRESIDENT PERATROVICH: You may state your privilege.

EGAN: I would like to speak on this proposition as to why these hearings are asked and why we are confronted with the question at this time.

VICTOR FISCHER: Point of order, Mr. President. Did you want the wire recorder going during this?

EGAN: No, I would just as soon the wire recorder be turned off and save that time.

HILSCHER: I rise to a point of order. I think Mr. Egan's comments are sufficiently important that they should be on the record.

V. FISCHER: My point of order is based on the fact that at an earlier decision the wire recorder was to be turned off on personal privilege and Committee of the Whole.

EGAN: The only reason I asked for a personal privilege was that the general question was not open at this time. It is immaterial to me.

VICE PRESIDENT PERATROVICH: Mr. Egan you may proceed.

EGAN: The Act that created this Convention set up, as has been pointed out, a 15-day recess for hearings, if the Convention so chooses to have hearings during that 15-day period.

Prior to the time that the Act became the law of the Territory, a joint committee of the House and Senate considered each and every provision in the Act. Now in the first draft that was presented to the Legislature in the bill's introduction in the House, in that first draft the particular section relating to the 15-day public hearings was there I am certain. All the way through the discussions in the joint committee that 15day clause stood intact and for this reason, that in many treatises or papers or books that have been written by men who have had a close relationship with constitutional conventions in the past, they made almost this uniform statement that a break during a constitutional convention somewhere along the mid-way mark had been proven to be, some two or three weeks' break, had been proven to be highly fruitful and served a very practical purpose in that it allowed the tensions that may have been created during the time when committee hearings had been held for many many hours, day after day, and after hearing many witnesses in public hearings, after the many meetings and the general tenseness that would naturally be evident in members of the Convention, that that break had proven very fruitful in that it let the convention members relax and that they could get a feeling different than the feeling that might entail upon them at their daily and nightly meetings of the particular convention, that it also was very helpful in allowing them to find what the real opinion at home was on certain matters that might still come before the convention and on matters that were considered by the convention. That Act up to the last few days, as I recall it, had the particular convening date of the Convention set in January of 1956, and it was more or less generally accepted by the joint committee of the House and Senate that the convening date of the proposed Convention would be set sometime in January, 1956. Then there arose the question if it would be possible to have consideration of this, as to whether or not it would be possible to have consideration of the statehood question again by Congress, in 1956. The question naturally arose at that time, well if we set the convening date in January, that the ratification date would then fall so far into the summer that we could not even be hopeful that the Congress would consider it in a new light because of the ratification of the constitution by the Territory of Alaska. Consequently, the date was set back to November 8, 1955, believing that if there was any possibility of Congressional approval of the Alaska Statehood Bill in 1956 that the ratification would have to come sufficiently early in the spring months that the constitution could be before the Congress early in the summer of 1956. I point that out to show all members that this particular 15-day recess was not set up, that section was not set up in the Act, taking into consideration Christmas or New Year's whatsoever. It is just coincidental that Christmas and New Year's fall within the time that we are now considering taking a recess. Thank you, Mr. President.

VICE PRESIDENT PERATROVICH: Do you wish to take the Chair again?

EGAN: You can do it.

VICE PRESIDENT PERATROVICH: Is there any further discussion? Mr. Riley?

RILEY: Was objection raised to Mr. Sundborg's request for unanimous consent?

GRAY: I withdraw the objection.

RILEY: There is no objection pending, is that right?

VICE PRESIDENT PERATROVICH: I would have to ask Mr. Sundborg, what is your request please?

SUNDBORG: My request, Mr. President, was that paragraph 3 be amended by striking in line 2 the word "their" and in line 3 all of the line through the word "and" and inserting in lieu thereof "hearings authorized by the Convention and to". The whole paragraph would read as follows: That the delegates shall be entitled to reimbursement for their actual travel costs going to and returning from hearings authorized by the Convention and to per diem for the days involved in such travel." I ask unanimous consent.

VICE PRESIDENT PERATROVICH: Do I hear any objection? If not, it is so ordered. Is there any further discussion on that? Mr. Sundborg?

SUNDBORG: I would now like to move and ask unanimous consent that in line with the opinion of the Rules Committee and the ruling of the Chair, all of paragraph 4 be stricken.

VICE PRESIDENT PERATROVICH: Do I hear any objections to that? If not, it is so ordered.

MCNEES: Mr. President, is there a motion before the floor at the present time?

VICE PRESIDENT PERATROVICH: We are still in the process of amending the last half of this resolution, as I understand it.

MCNEES: There is no motion on the floor at the present time? In view of that I'd like to make one.

COGHILL: I rise to a point of information. There is a motion on the floor -- the divided motion to adopt the second half of this resolution.

VICE PRESIDENT PERATROVICH: That is still open for amendment, however. You are in order, Mr. McNees.

MCNEES: My opinion is there was a special committee of three set up the other day by the President in order to schedule these hearings and poll the delegates as to their vacation plans. Today we have heard an expression from the Rules Committee, an expression from the Administration Committee. We do not have the Attorney General's opinion yet in writing, but we think we know what it is. We have the Act before us. I would like to suggest in view of the fact that everybody has had at least a reasonable chance to express their opinions, now it be placed back in the hands of either this original committee of three or another similar committee and that the floor abide by their decision.

VICE PRESIDENT PERATROVICH: Mr. Riley.

RILEY: In reporting for the Rules Committee a moment ago, I mentioned that the Rules Committee would like to give further consideration to paragraph 5 before action is had on that, and I ask for a five-minute recess accordingly, and ask unanimous consent.

VICE PRESIDENT PERATROVICH: Without any objection we will have a five-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the Rules Committee have a report to make at this time? Mr. Riley?

RILEY: Mr. President, to conclude the report of the Rules Committee, it is the opinion of that Committee that paragraph No. 5, page 2 of the resolution before us, is not out of conformity with Chapter 46 of 1955 S.L.A. which creates the Convention.

PRESIDENT EGAN: You have heard the report of the Rules Committee as to paragraph No. 5. Is there any discussion of that report? Mr. Sundborg?

SUNDBORG: I would like to move and ask unanimous consent that paragraphs 5 and 6 be renumbered 4 and 5 respectively to take account of the fact that we have stricken what was paragraph 4.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that paragraphs 5 and 6 be renumbered 4 and 5 respectively in order to conform with the amendments made in the resolution. Is there objection? Hearing no objection it is so ordered. Mr. Robertson?

ROBERTSON: Mr. President, the words "compensation and" in paragraph 6 shouldn't that be omitted?

RILEY: We have not gone that far.

ROBERTSON: In conformity with the past rules and what has been numbered paragraph 6, I ask for unanimous consent to eliminate the words "compensation and".

PRESIDENT EGAN: Mr. Riley, in the report of the Rules Committee on the point of order, did you eliminate the mention of compensation at all relative to those delegates who might be holding hearings? Compensation in your ruling was eliminated entirely, is that right?

RILEY: Well, the point of order raised by Mr. McLaughlin touched only on per diem. However, the Rules Committee held that compensation in paragraph 3 was not the proper expenditure. They interpreted the Act and the same would carry through in the Committee's judgment of original paragraph 6. It would support Mr. Robertson's request for unanimous consent.

PRESIDENT EGAN: Mr. Robertson moves and asks unanimous consent that paragraph 5, the words "compensation and" be deleted from the paragraph. Is there objection?

KILCHER: I object.

COGHILL: I second the motion.

PRESIDENT EGAN: Mr. Kilcher objects. Mr. Coghill seconds Mr. Robertson's motion.

KILCHER: My objection was meant to be temporary rather in the form of a point of information. Section 3, has that been adopted now in the revised form?

PRESIDENT EGAN: Yes.

KILCHER: New Sections 4 and 5 have not been adopted, only agreed that numbers be changed and 4 be stricken? The sections have not been adopted yet? All right. In new Section 5 we were advised to strike "compensation and". I would like to know if the Rules Committee could not foresee the possibility of the rightness of paying compensation on the hearing day, if this is against the Act or what. If it is against the Act that settles it, but if it is not I think it would be fair on the hearing date specifically if it is in a locality farther than home, that besides per diem, compensation would be in place. Because if we consider that each 55 of us has, as Mr. Hilscher likes to call it, a job of selling to do, I think it is futile to quibble about an extra 500 or 600 dollars and possibly jeopardize the expenditure of \$300,000. I for one am not at all optimistic, or let's say overly optimistic about the ratification of this constitution if we don't come up with a good one. In order to come up with a good one we have to go home and we have a selling job to do. The people in the States are not at all convinced about a lot of matters. We have a lot

populated places as possible. We have to hustle and in my opinion it is as expert a job as that of many of the experts that are getting \$100 a day here. I think \$35 a day for a day well spent is not too much money. If it is at all legally possible to get it, I would suggest we get it and it be not stricken from paragraph 5.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. Kilcher was asking for information, and I believe the information is contained again in Section 19 of the Act creating the Constitutional Convention. "In addition they, the delegates, shall receive for their services the sum of \$15 per day as compensation for each day's attendance while the Convention is in session." So it was the opinion of the Rules Committee that it is not proper to pay compensation while the Convention is in recess.

KILCHER: I object to that interpretation to the following grounds -- I think that the Convention if we so choose, has the power to designate anybody for any specific job and we could not claim to be in Convention, but it would be an expense like any other expense, like a wire sent someplace, a man sent someplace, for a specific purpose to do a specific job, to gather information and also to contact the public and make possible the ratification of the Act. That is germane to the expense of the \$300,000, that it be well spent.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I want to raise a point of order. I don't want to propose discussion, but I think the matter has been covered. The Rules Committee does not happen to be the Convention counsel but this point of order raised an hour ago did require some interpretation, and accordingly our interpretation was advanced just on the Act itself and without respect to the convenience of the members, the fairness of the situation in which we all find ourselves or the cost which might be incurred by individual members and perhaps not by others. It will work a hardship possibly in many directions. I should like to ask Mr. Robertson's consent to include in his request that the last word on the first line of 6 be changed to read "that".

ROBERTSON: I agree to that, Mr. President.

PRESIDENT EGAN: Mr. Robertson's original motion then would ask that the words "compensation and " be stricken and also that the word "those" in the first line of Section 5 would be changed to the word "that".

PRESIDENT EGAN: Mr. Cooper?

COOPER: Do I understand, now that we have discussed this thoroughly, and I believe the total figure in adding up the three sections here amounts to \$6,582.98 to disburse these delegates to the 15-day public hearing period. I think it is fairly reasonable in that it is considerably less than the \$8,000 that would be spent if the Convention remained here. I also think that if any delegate here felt as though he should be reimbursed for duty that I personally think that he owes to the public, he would have the right to file a claim to the Territory. Therefore, I move the previous question.

PRESIDENT EGAN: Mr. Cooper moves the previous question. Is there a second?

HERMANN: What is the previous question?

PRESIDENT EGAN: The previous question is, "Shall Mr. Robertson's proposed amendment be adopted, deleting the words in Section 5 'compensation and' and at the end of the first line changing the word 'those' to 'that'?" Is there a second to the motion for the previous question?

WHITE: I second Mr. Cooper's motion.

PRESIDENT EGAN: Mr. White seconded Mr. Cooper's motion. The question is, "Shall the previous question be ordered?" All in favor say "aye", all opposed say "no". The previous question has been ordered. The question is, "Shall Mr. Robertson's proposed amendment be adopted?" All in favor will say "aye", all opposed "no". The "ayes" have it and Mr. Robertson's amendments are ordered adopted. Mrs. Hermann?

HERMANN: Mr. President, may I ask Mr. Riley a question in regard to Section 4?

PRESIDENT EGAN: You may, Mrs. Hermann.

HERMANN: It was my understanding that was to apply not only to those people whose normal residences are outside of the Fairbanks area but also to Fairbanks residents. Am I correct in that?

RILEY: Mrs. Hermann, I think it was noted that Section 4 is narrower than the Act, but I believe its text is that which we have adopted as it reads.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I have an amendment to offer to Section 5, and I have it written out -- rather it is paragraph 4 now.

TAYLOR: Point of order. As I remember Section 4 was by practically unanimous vote of the Convention, was stricken.

PRESIDENT EGAN: The original Section 4 was, Mr. Taylor. We have moved the numbering up.

TAYLOR: While I was here there was no motion to do that.

PRESIDENT EGAN: The new 4 was Section 5. Mr. Barr's amendment is with relation to the new Section 4. Will the Chief Clerk read the proposed amendment.

CHIEF CLERK: "Paragraph 4, line 1, after the word 'delegates' strike the words, 'whose normal residence is outside the Fairbanks area' and substitute therefore the words, 'remaining in attendance upon the Convention'."

COOPER: I object.

BARR: I move that this amendment be adopted.

PRESIDENT EGAN: Mr. Barr moves his amendment be adopted? Did the Chair hear a second?

KILCHER: Second the motion.

DOOGAN: Point of order. That in effect amounts to rescinding an action already passed upon. We adopted Section 4, the new Section 4, without amendment, and now we are going back.

PRESIDENT EGAN: The Chair does not recall having adopted the section. If it was adopted and a new amendment was asked for, it would still probably be in order. Mr. Barr?

BARR: The principal change it makes here is that it more definitely establishes who is entitled to per diem. In other words, under this amendment, the people remaining in Fairbanks, who live outside of Fairbanks, are included. It also includes those who live in Fairbanks. The session will not be adjourned. It will be in session but will be in recess, and those who are here, willing and able to attend in Fairbanks, then will receive the per diem no matter whether they live here or outside.

PRESIDENT EGAN: Mr. White.

WHITE: If I understand this, it appears to me it would be a rather extraordinary suggestion that Fairbanks residents who live here ordinarily would be entitled to collect per diem throughout the recess, in direct contrast to every other delegate of this Convention, who returns to their homes. I am certainly opposed to the amendment.

HELLENTHAL: Along that line, the way 4 presently reads, a person from Anchorage who maintains an apartment here during the Convention would be entitled to per diem. Then he could take his \$300 in per diem, buy a round-trip ticket to Anchorage

for \$70 or \$80 and make himself \$220 or \$230, which is not a bad idea, but then to carry that to exclude that privilege from those who live in Anchorage and allow the people who stay in their own homes here in Fairbanks to draw per diem but not those who live in Anchorage or other cities who maintain apartments here, is getting pretty far afield.

PRESIDENT EGAN: Mr. Hellenenthal, the paragraph says now, "that those delegates whose normal residence is outside the Fairbanks area shall be entitled to per diem for the days of Convention recess spent in the Fairbanks area."

HELLENTHAL: You would have to be physically present here?

PRESIDENT EGAN: That is correct.

COGHILL: Mr. Chairman, I move that we lay the amendment on the table.

PRESIDENT EGAN: Mr. Coghill moves that Mr. Barr's amendment be laid on the table. Is there a second?

GRAY: I second the motion.

PRESIDENT EGAN: Mr. Gray seconds the motion. The question is, "Shall Mr. Barr's proposed amendment be laid on the table?" All those in favor will signify by saying "aye", all opposed by saying "no". The 'ayes have it and the amendment --

TAYLOR: Roll Call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

SUNDBORG: Before the roll call I would like to make a parliamentary inquiry. If we lay Mr. Barr's amendment on the table, does it carry anything else before this body with it?

PRESIDENT EGAN: No, just carries his amendment, Mr. Sundborg.

NORDALE: Could we have the section read now as it would appear with Mr. Barr's amendment in it?

PRESIDENT EGAN: Would the Chief Clerk do that please.

CHIEF CLERK: "That those delegates remaining in attendance upon the Convention shall be entitled to per diem for the days of Convention recess spent in the Fairbanks area."

PRESIDENT EGAN: Does everyone understand the question? Then the question is, "Shall Mr. Barr's proposed amendment be laid on the table?" The Chief Clerk will call the roll.

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

Yeas: 36 - Armstrong, Awes, Boswell, Coghill, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hilscher, Hurley, Johnson, King, Knight, Lee, Londborg, McLaughlin, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Riley, Robertson, Rosswog Smith, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 15 - Barr, Collins, Hermann, Hinckel, Kilcher, Laws, McCutcheon, McNeas, Marston, Nolan, Reader, V. Rivers, Stewart, Taylor, VanderLeest.

Absent: 4 - Buckalew, H. Fischer, McNealy, R. Rivers.)

CHIEF CLERK: Thirty-six yeas, 15 nays and four absent.

PRESIDENT EGAN: So Mr. Barr's amendment has been laid on the table. Are there other amendments to the resolution? Mr. McNeas?

MCNEES: Mr. President, in as much as we have now completed the discussion of all five articles as they now appear in the proposed resolution; inasmuch as anyone in attendance here must know the many varied opinions existing; inasmuch as I don't think any 55 delegates are going to come up with any one single answer, I would like to propose that the President name a committee of three or use his old original committee of three consisting of Mr. Hellenthal, Mr. Nerland and Mr. Sundborg, who I believe was Chairman, to come to a decision by which we agree to abide. I make that in the form of a motion.

MARSTON: I second that motion.

PRESIDENT EGAN: We have a motion before us and that is on a point of order, this motion would not be in order at this time. There is a motion on the floor that pertains directly to the paragraphs 3, 4, and 5 of this resolution, and that is, "Shall these paragraphs be adopted by this Convention?" Mr. Harris?

HARRIS: I move the previous question.

PRESIDENT EGAN: Mr. Harris moves the previous question.

WHITE: I second it.

PRESIDENT EGAN: Mr. White seconds the motion to ask that the previous question be called. All in favor of ordering the previous question will signify by saying "aye", all opposed by "no". The "ayes" have it and the previous question is ordered. The question is, "Shall Paragraphs 3, 4, and 5 of the proposed resolution be adopted by the Convention?"

ROBERTSON: Mr. President, I call for roll call.

PRESIDENT EGAN: Mr. Robertson asks for roll call. The Chief Clerk will call the roll.

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

Yeas: 37 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hilscher, Hinckel, King, Knight, Lee, Londborg, McLaughlin, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Riely, V. Rivers, Rosswog, Smith, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 13 - Cross, Hermann, Hurley, Johnson, Laws, McCutcheon, McNees, Marston, Nolan, Reader, Robertson, Stewart, Taylor.

Absent: 4 - Buckalew, H. Fischer, McNealy, R. Rivers.

Not

Voting: 1 - Kilcher.)

SUNDBORG: Mr. President, before the vote is announced I would like to rise to a point of order and say that under our rules, Mr. Kilcher is required to vote. He may not pass.

PRESIDENT EGAN: Mr. Sundborg, the Chair feels that Mr. Kilcher was not quite aware of what the question was. It is not proper to put the question to him during the roll call. We will have to hold that he had the right to pass.

KILCHER: As a point of information, can one pass temporarily and be put at the end of the roll call?

PRESIDENT EGAN: You can before the call is announced by the Chief Clerk, vote or change your vote.

KILCHER: That is what I intended to do. My vote is "yes".

PRESIDENT EGAN: Mr. Kilcher will have been recorded as having voted "yes".

SUNDBORG: Mr. President, as a point of order, I certainly think that is an improper procedure, and I will oppose it and appeal for a ruling from the Chair, if it is the Chair's ruling that any delegate during the calling of a roll may pass and be called last. If so, that would give the delegates who do so a great advantage.

PRESIDENT EGAN: Well, at the time Mr. Kilcher's name was called, the Chair would rule Mr. Sundborg, that ordinarily your objection would be in order, but Mr. Kilcher indicated that he didn't know, he wasn't aware of what we were voting on and that is the reason that the Chair allowed his vote to pass. The indication from him was that at that moment --

KILCHER: Mr. President, that is the reason, I actually had intended to ask before the roll call that the whole section be read. I wasn't quite aware of the many notes and striking and I had to go over the notes and that was why at that moment I wasn't prepared to vote. That is the sole reason. I would have liked to have the whole section read before the vote. That didn't happen so I was confused.

PRESIDENT EGAN: Inasmuch as he has cast his vote, Mr. Sundborg, I would say that the point of order was non-existent at this time. Inasmuch as this vote has been cast prior to announcement of roll call, but you are correct, Mr. Sundborg, that if a person, if he is not voting, should if he is going to abstain, state his reason.

SUNDBORG: Mr. President, may I say I feel this is a fairly basic matter, and I would like assurance from the Chair that it will not be the policy of the Chair to permit members to abstain from voting and if they so abstain, to vote last. Any member may change his vote during the roll call. Mr. Kilcher might have said "yes" and before it is announced, changed it to "no", if he could in the meantime find out what the question is about. I wonder if I may read our rule on that question.

PRESIDENT EGAN: Of course, Mr. Sundborg, the Chair feels that if Mr. Kilcher hadn't expressed himself, you are asking that he be forced to vote, which is in effect correct that he should vote unless it is a matter personally, pertaining to something he is interested in and states for that reason he is not voting.

SUNDBORG: And he must announce before the roll is called that he intends to abstain, according to our rules, Rule No. 30.

TAYLOR: Mr. President, I feel that Mr. Sundborg's objection is well taken. To allow that vote to go the way it is, would allow any person on this floor, if he wanted to vote last, to withhold his vote, to get up and say, "I don't want to vote now because I don't understand the question." Therefore, the vote is taken and then he votes this way or that way. He holds the balance of power. It is very difficult to understand.

V. FISCHER: Point of order. It seems to me this whole debate is completely out of order until after the roll call has been

announced.

PRESIDENT EGAN: Of course it has to be made before the roll call is announced. It is in order.

TAYLOR: It is difficult to understand how a person sitting in here and who possibly had more to say upon this one particular question than anybody in the house would refrain from voting and then come in and vote after the last man had voted.

PRESIDENT EGAN: Mr. Taylor, if there is no objection the Chair will declare a recess and ask the Rules Committee to make a decision.

SUNDBORG: I object. I would like to withdraw my point of order.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that his point of order be withdrawn.

KILCHER: Mr. President, can I withdraw my vote?

PRESIDENT EGAN: With no objection, Mr. Kilcher may withdraw his vote.

CHIEF CLERK: He didn't vote. Thirty-seven yeas, 13 nays, 4 absent and 1 not voting.

PRESIDENT EGAN: And so the sections of the resolution have been adopted by the Convention. Is there any other unfinished business to come before the Convention? Mr. Barr.

BARR: Mr. President, now that we have dealt with both sides of that divided question is it in order for me to propose an amendment to paragraph 1?

PRESIDENT EGAN: The resolution has been adopted by the Convention. If you so desire to offer an amendment the resolution is at this time still before us, Mr. Barr.

BARR: I would like to at this time offer an amendment to paragraph 1. It is a little lengthy. I will submit it in writing, but I would like to state it.

SUNDBORG: Mr. President, point of order. My point of order is that paragraph 1 has been adopted and if Mr. Barr desires to present some kind of amendment he would first have to obtain approval of the motion to rescind the action we have taken adopting paragraph 1 as it stands.

PRESIDENT EGAN: If there is unanimous consent or a two-thirds vote of the Convention allowing him to make the motion --

BARR: May I make the motion? The body would not know why I want to rescind unless I am allowed to state my reasons. I would like to have that paragraph 1 stricken completely and a new one substituted.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, I would like to rise to a point of information. I feel this way about Mr. Barr's proposal. I think he is in order. It seems to me we divided these questions for mere consideration. Therefore, when we get through considering on both divisions of the question we still have to adopt the resolution as a whole. Therefore, I think he is in order, if he has an amendment to offer.

PRESIDENT EGAN: Mr. Peratrovich, when we divided the question we voted in effect, adopted the first page. When we voted on the new sections 3, 4 and 5, we voted to adopt those. The whole resolution was adopted. Now if Mr. Barr rises to offer a motion to amend the resolution further it will take a two-thirds vote to allow him to offer that at this time.

BARR: Then, Mr. President, I would like to state that in adopting the second page it changed my thinking entirely on the length of the recess, and I hereby move that we rescind our action regarding paragraph 1 in order that I may make a motion in connection with it.

PRESIDENT EGAN: Now if we rescind at this time it will take a two-thirds vote. Is there a second to the motion?

KILCHER: A point of information, Mr. President. When notice is given it takes only a majority.

PRESIDENT EGAN: That is right. If his motion were acted upon tomorrow it would take a majority vote.

BARR: I would rather act on it today.

PRESIDENT EGAN: Mr. Barr moves that the Convention rescind its action as regards the first paragraph on page 1. Is there a second to the motion?

SUNDBORG: Mr. President, I will second the motion if he will include in the motion the matter that he desires to change. In other words, he moves to rescind and with respect to paragraph 1 then we will know what is following.

KILCHER: Point of order. That is not necessary. It will come out in a debate. The motion is debatable, the reasons will come out in debate.

MCCUTCHEON: Point of order. The point that Mr. Sundborg has

raised makes a compound motion of it and you can't make a compound motion.

PRESIDENT EGAN: You are correct, Mr. McCutcheon.

HERMANN: I second the motion.

SUNDBORG: I ask unanimous consent that we rescind our action with respect to paragraph 1 only, for the purpose of allowing Mr. Barr to propose an amendment.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Mr. Hellenthal?

HELLENTHAL: I rise to a point of information. What does Mr. Barr have in mind to propose?

PRESIDENT EGAN: Mr. Barr, if he so chooses --

BARR: Mr. President, my motion has been seconded and it is before the house now. Therefore, I will explain what I have in mind. Of course, from a personal viewpoint, if we have a two weeks vacation, the people in Fairbanks will receive no per diem and no pay. I myself and perhaps some others who live here just cannot afford to take a two weeks vacation under those circumstances. If we receive half pay, say just the per diem, then I could. I contend that this Convention is in session until we adjourn. A recess makes no difference. Therefore, while we are in recess and in town in attendance upon the Convention we are entitled to per diem, but that has been more or less ruled against. Therefore, I would like to make the motion, if this is rescinded, that we recess for a total of five days for the holidays for the purpose of taking a holiday, those five days being Christmas, the day before and day after, and New Years and the day after, and that we are in session the intervening five days, that during that intervening period the Chair may grant leave of members living out of town to go home for the purpose of holding hearings and those remaining here doing the committee work and hearings. That is the reason for my motion.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I can't help but feel that Mr. Barr and some others apparently misunderstand what action we have taken. The people resident in Fairbanks are being treated no differently from any other delegates to this Convention. Those of us returning to our homes for Christmas is as perfectly normal procedure in any deliberative body, and has added incentive of holding public hearings in this case, are not receiving any extra pay, we are not receiving per diem but merely being reimbursed for travel expenses. I have the definite

feeling that as this day has proceeded that the people in Fairbanks feel they are being put upon in some way. Actually it should be very convenient for them, living here and I don't feel that in denying them per diem during this recess they are being unfairly treated. I think the matter has been perfectly clear. We have passed upon the dates of the recess. Those dates are necessary, I think to allow people to return to distant points and accomplish the purpose of the recess I feel the amendment is without merit.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I believe I can see Mr. Barr's point now. I had not noticed it before. It does become a matter of each individual. There are some who no doubt can resume business during the Christmas holidays at home and in that way take care of their necessary expenses, where some may, even though living in the Fairbanks area, be on a strict vacation. They have had to give up their job to even be at the Convention, and in that way they are left without any income at all during that time.

COOPER: Mr. President, I want to make it specifically clear right at this time. One of the previous speakers referred to delegates from Fairbanks in a unanimous state. I want to make it specifically clear that I for one as a delegate from Fairbanks do not intend to accept any form of remuneration whatsoever from this Convention while it is recessed.

BARR: Mr. President, I did not speak for all of the members who reside here. I spoke for myself, and said very likely some others, and I want that in the record clearly. Now I was thinking specifically of the people who live outside of the Fairbanks area who are remaining here and are being allowed per diem. They are being allowed that per diem because it is legal and because they are in attendance upon the Convention which is only in recess. We who live here are still in attendance upon the Convention while it is in recess and we have no other income just like the people who are staying here from out of town. Mr. Cooper of course, is in business as are two or three others and they have steady incomes or at least have made enough money to put it aside for their living expenses. I have not. I am on a salary. When I am off that salary I have no other income. As long as it is legal for me to receive per diem as well as those people who are remaining in Fairbanks, I don't see why we should not receive it.

PRESIDENT EGAN: Is there further discussion on the motion? Mr. McCutcheon.

MCCUTCHEON: In support of Mr. Barr's contention, I would say this, that the 15-day recess for specific purpose is no different than a recess that this Convention has already accomplished

for a specific purpose. The only difference is that we recessed over one Saturday for a specific purpose. This time we intend to recess for 15 days. It doesn't appear to me that there is any difference at all in that the delegates here would be entitled to per diem.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I would like to point out that when we recessed over that Saturday it counted against 75 days of total Convention time. If we recess for anything but hearings, it will count against Convention time. That is why we can't recess for holidays or any other purpose.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, merely referring to one delegate's suggestion that we are entitled, as a matter of law to per diem and compensation for 15 days, shocks the conscience. One of the opinions that was presented to the Attorney General, and he approved, was an opinion that suggested that it is the universal custom and the courts will uphold it, to pay per diem and compensation over short periods of time when the Convention is in recess because the presumption is that the committees of the Convention are going about their work, but to suggest for 15 days that this Convention, or any one of its delegates, be entitled to compensation or per diem while being absent from the Convention actually shocks the conscience and probably should.

BARR: My motion in case the action to rescind is upheld, my motion will be to recess for five days for vacation purposes in which case there would be no pay or per diem and then during the intervening five days, between Christmas and New Years, we would be in full session and carry on our work. So in that case there would be no question of illegal payments of any kind.

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

COLLINS: There is nothing in this Act that refers to a vacation except for the purpose of hearings.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, Mr. Londborg said a few minutes ago he had been somewhat convinced to Mr. Barr's point of view by reason of the fact that some delegates would be in a position to take up the threads of their private careers and some would not, and I think that is just as true of the ones who might be going somewhere to hold hearings as it is of the ones who remain in Fairbanks. We don't draw the line between those who are inconvenienced by this and between those who are remaining here

and live in Fairbanks and those who are going to their homes wherever they are. I think that is no argument for it at all. I also feel that throughout the Convention those who live in the Fairbanks area have been getting \$20.00 per diem for every day they have been here. That is a great advantage to them who do not have to maintain two establishments, one at a home which may be at a great distance and one here temporarily. I think they are not being disadvantaged at all by not being paid a per diem for the 15 days of the recess.

DOOGAN: I move the previous question.

PRESIDENT EGAN: Mr. Doogan moves the previous question. Is there a second?

GRAY: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Gray. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the previous question is ordered. The question is, "Shall the Convention rescind its action relative to the first paragraph of the resolution relating to the recess?" All those in favor --

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 10 - Barr, Hermann, Laws, Londborg, McCutcheon, McNees, Nolan, Peratrovich, Reader, Stewart.

Nays: 41 - Armstrong, Awes, Boswell, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, McLaughlin, Marston, Metcalf, Nerland, Nordale, Poulsen, Riley, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 4 - Buckalew, H. Fischer, McNealy, R. Rivers.)

CHIEF CLERK: Ten yeas, 41 nays and 4 absent.

PRESIDENT EGAN: So the motion to rescind the action has failed. Is there other business? Mr. Harris.

HARRIS: Am I correct in assuming we can go on to something new?

PRESIDENT EGAN: That is correct, Mr. Harris. Mr. Marston?

MARSTON: I rise to a point of information. There is some part we have left out of this thing right here. We have forgotten our secretarial staff entirely. I think they should be considered. What are we going to do? Have you information on what's to be done about it?

PRESIDENT EGAN: Mr. Sundborg, you may answer the question.

SUNDBORG: In a resolution of the Administration Committee which was adopted in the early days of the session, it would provide that should the Convention recess that the salaries of the secretarial staff would cease. Am I correct in that?

COGHILL: That is correct. It is the understanding of the Administration Committee stemming from that decision that the secretariat was hired on the spot here at Fairbanks and that they would be thoroughly informed that if the Convention recessed for any period of time to hold hearings, that their salary would not continue.

PRESIDENT EGAN: That was brought to the attention of the secretarial staff of the Convention in the early days.

MARSTON: These people from out of town -- are we going to leave them here? I think they would like to go home same as we would. We have brought them in here from out of town, part of them, I think they should be considered.

PRESIDENT EGAN: Mr. Marston, the Chair would suggest that that perhaps is a subject you might take up before the Board of Administration at its next meeting. Would that be satisfactory?

MARSTON: Thank you, sir. Will do.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I have a resolution on the Chief Clerk's desk. I will ask her to read it, then I will ask for a unanimous vote for adoption.

PRESIDENT EGAN: Is there objection to reverting to the introduction of resolutions at this time? Mr. Hellenenthal?

HELLENTHAL: Yes. I think we should follow through with this arrangement for hearings and finish it up so we won't take another full morning on it, and then tackle anything new that might come up. I object to Mr. Harris's request.

PRESIDENT EGAN: Do you object to Mr. Harris's request then Mr. Hellenenthal?

HELLENTHAL: Yes, if it's going to take longer than two minutes, yes.

PRESIDENT EGAN: Well, do you object?

HELLENTHAL: I object.

HARRIS: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Harris moves and Mr. Johnson seconds the motion that we revert to the introduction of resolutions at this time. Mr. Gray?

GRAY: I rise to a point of information. Are we all finished now so far as the resolution is concerned?

PRESIDENT EGAN: So far as the resolution is concerned. The hearings has not come before us yet. The question is, "Shall the Convention revert to the introduction of resolutions at this time?" All those in favor of reverting to the introduction of resolutions at this time will signify by saying "aye", all opposed by saying "no". The ayes have it and we have reverted to the introduction of resolutions. The Chief Clerk may read the resolution.

CHIEF CLERK: Resolution by Mr. Harris:

"Whereas: the first resolution adopted by the Alaska Constitutional Convention stated 'that it is the intent of this Convention that the Constitution should be a document of fundamental principles of basic government and contain the framework for state government', and

"Whereas, the location of the permanent seat of the capital cannot be regarded as a fundamental principle of government, nor as part of the framework of government

"Now Therefore Be It Resolved: That the Constitution shall be silent on the matter of the seat of government for the State of Alaska."

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

HARRIS: I ask for unanimous consent that the resolution be adopted.

PRESIDENT EGAN: Mr. Harris asks unanimous consent that the resolution be adopted.

ROBERTSON: I object.

HARRIS: I so move.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Harris so moves that the resolution be adopted. Mr. Taylor seconds the motion. The question is open for discussion. Mr. Hurley.

HURLEY: Mr. President, I don't object to the resolution but I think it should be handled more as a proposal than as a motion and should be referred to the committee that previously had the resolutions pertaining to that subject.

PRESIDENT EGAN: Mr. Hurley, the rules say that a resolution can be considered the same as a motion on the floor if the proposer of the resolution so requests. Is there other discussion on the resolution?

PRESIDENT EGAN: Mr. White.

WHITE: I would like to direct a question to Mr. Harris. Mr. Harris, would it carry out the intent of your resolution if it said the Constitution did not name the site of the state capital?

HARRIS: That is the intent.

WHITE: Mr. Chairman, I ask of Mr. Harris if he would so amend the resolution.

PRESIDENT EGAN: You are asking Mr. Harris if he would be amenable to accepting such an amendment? The Chief Clerk will read what it says on that particular subject.

CHIEF CLERK: "That the Constitution shall be silent on the matter of the seat of government for the State of Alaska." The amendment would say "That the Constitution shall not name the site of the state capital."

PRESIDENT EGAN: There is nothing before us. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that Mr. Harris's motion be amended to provide that his proposed resolution be referred to the Committee on Recommendations and Resolutions. I so move.

HARRIS: I object.

HELLENTHAL: Point of order. We had this out once before here by labeling a proposal a motion. I do not think that one can properly force his attention on the delegates at a time of his choosing. This matter is essentially a proposal, although labeled a motion, and for that reason I think it is out of order,

that it should be treated as a proposal and referred to the proper committee.

PRESIDENT EGAN: What does the Chief Clerk --

CHIEF CLERK: I didn't get a second to the motion.

TAYLOR: I seconded the motion.

PRESIDENT EGAN: Mr. Taylor seconded the original motion.

CHIEF CLERK: Yes, but this one that Mr. Sundborg just made now. Somebody seconded it.

PRESIDENT EGAN: Mr. Cooper seconded the motion. The Chair would have to hold that that resolution states that it is the feeling of the Convention in effect, not of the committee, Mr. Hellenthal, but it is a resolution. Mr. Riley?

RILEY: Mr. President, I wish to speak in support of Mr. Hellenthal's suggestion and perhaps to amplify a part, a bit, to suggest that while this may not be phrased precisely as a proposal, it has the effect of defeating consideration, further consideration of several proposals now before the Convention. In effect, it becomes a proposal. Its subject matter is proper subject matter for proposals which already are under consideration by several Committees, or I should say, several such proposals which are under consideration and have been by one or more committees. I feel that simply by labeling it a resolution it has not necessarily become a resolution and it is not entitled to more expeditious treatment than was given the resolution to which it refers.

PRESIDENT EGAN: Mr. Riley, the Chair will have to express why the Chair feels that it is a resolution in that it refers in its first paragraph, as I recall, to the fact that the Convention adopted a resolution in the early days of the Convention that only basic fundamental constitutional matters would be considered in the constitution. Mr. Taylor.

BARR: Mr. President, I have been trying to get the floor.

TAYLOR: I yield to Mr. Barr.

PRESIDENT EGAN: Mr. Barr, you may have the floor.

BARR: This resolution is definitely a resolution because a proposal contains matter to be included in the constitution and this does not. It treats the manner in which we are to write the constitution. Therefore, it is definitely a resolution, and our rules say, no matter what we want now, our rules say that a resolution may be treated as a motion. Therefore, we have to do that or change the rules.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, it is hard for me to understand as to how either Mr. Hellenthal or Mr. Riley can say that this is a proposal. We have a motion. We have a resolution that has been adopted by this body in which we said that we were going to put only into the constitution those things which would be the basic laws of the Territory of Alaska. It is equally hard for me to see, attempting to choose, or choosing where the capital is going to be, has anything to do with the basic laws of the State of Alaska. And, therefore, if this is now a resolution treating, or calling this body's attention to the fact that a previous resolution which was adopted, which would prevent us from attempting to choose the place of the seat of government. Now, I think that should be a matter left to the Legislature or to the people of Alaska and to come after the adoption of the constitution. And I feel that this is the time and place for the hearing on this resolution because it cannot be considered anything more than a resolution. I have a proposal in, I suppose before that committee providing for a matter of choosing the Convention, but that matter of choosing will be after the constitution is ratified and we become a state of the United States, and I think that this is perfectly feasible and proper for us to consider this resolution, which is not a proposal, at this time.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I would like to inquire as far as this resolution of Mr. Harris is concerned, does that exclude any possibility of a resolution for giving the consideration, such as your proposal, Mr. Taylor, if I may direct a question to Mr. Taylor.

TAYLOR: I feel that if this resolution carries, it could still provide for a method of selection, but as to any particular place, I think we should be absolutely silent.

LONDBORG: I think that is fine. I would just like to say this then, that somewhere in our deliberation we must either state the site or make provision for a site because if our constitution is ratified by the people and Congress accepts it, as we hope this coming spring, we would perhaps be allowed to become a state. I would doubt if it could be as soon as next fall, but let's say it is. Where would we meet then and conduct our business if we did not either provide for a capital or name a capital?

PRESIDENT EGAN: Mr. White.

WHITE: All of this is precisely why I directed a question to Mr. Harris. To clear up the record, I move his resolution be amended.

SUNDBORG: There is a motion before the house which has been seconded.

PRESIDENT EGAN: Would you state your motion for Mr. White, Mr. Sundborg?

SUNDBORG: I made a motion which was seconded, to provide that Mr. Harris's resolution be referred to the Committee on Resolutions and Recommendations.

PRESIDENT EGAN: Mr. Sundborg, now in order to accomplish your motion, it would take a two-thirds vote because the rules give Mr. Harris a right to ask for a vote on it at this time. Who seconded Mr. Sundborg's motion?

COOPER: I seconded the motion.

PRESIDENT EGAN: So the question as to whether or not it will be referred to committee is in order although it calls for a suspension of the rules. Therefore the motion is not debatable, and this motion is in effect the motion to suspend the rules.

GRAY: All I have to say is that we have a committee for

TAYLOR: Point of order.

PRESIDENT EGAN: Your point of order is well taken.

UNIDENTIFIED DELEGATE: Roll call.

SUNDBORG: Have you just declared that it is a rule of this Convention that a motion to suspend the rules is not debatable?

PRESIDENT EGAN: That is right, Mr. Sundborg. Robert's Rules of Order. Our own rules, I believe, are silent on the matter, but Robert's Rules provides that a motion for suspension of the rules or, in effect, to suspend the rules is undebatable.

SUNDBORG: I wonder if I may ask if that is the understanding of the Rules Committee Chairman?

RILEY: May we defer that just a moment while --

MCCUTCHEON: Point of order, Mr. President.

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

MCCUTCHEON: Mr. Sundborg's motion was incorrectly put and the Chair could rule it out of order. I think you have been kind to the Delegate by stating a suspension in his motion for him.

PRESIDENT EGAN: However, as it stands now the motion asks that the rules be suspended and that the resolution be referred to

the Committee on Resolutions and Recommendations.

SUNDBORG: When I was originally recognized, I think the record of the Chief Clerk will show, that my motion was to amend the motion of Mr. Harris to provide that instead of settling this matter now, that the proposed resolution be referred to the Committee on Resolutions and Recommendations. I take the view that this is a perfectly proper amendment and does not require suspension of the rules or a two-thirds vote.

PRESIDENT EGAN: The Chair will hold that it is in effect a motion to suspend the rules to amend such a motion that is in order, Mr. Sundborg.

MCCUTCHEON: Mr. President, if Mr. Sundborg's motion was actually a motion for amendment, then he was perfectly in order, but I didn't understand it as a motion for amendment.

SUNDBORG: May I ask the Chief Clerk to read my motion as it was put.

CHIEF CLERK: Mr. Sundborg "Moved and asked unanimous consent that Mr. Harris's motion be amended to provide that his proposed resolution be referred to the Committee on Resolutions and Recommendations."

PRESIDENT EGAN: The Chair will still hold that an amendment of that nature puts the motion in the category of a suspension of the rules inasmuch as the rules specifically state that a member can bring a motion if he so chooses before the Convention on a resolution and acted upon at this time, and to change the method of the rules, which Mr. Sundborg's motion for amendment is, in effect asking that that rule be suspended and that it be sent to the Committee. The question is, "Shall Mr. Sundborg's proposed amendment be adopted? The Chief Clerk will call the roll.

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

Yeas: 35 - Armstrong, Awes, Boswell, Coghill, Collins, Cooper, Doogan, Gray, Hellenthal, Hermann, Hilscher, Hurley, King, Knight, Lee, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh.

Nays: 16 - Barr, Cross, Davis, Emberg, V. Fischer, Harris, Hinckel, Johnson, Kilcher, Laws, McCutcheon, McNees, Taylor, White, Wien, Mr. President.

Absent: 4 - Buckalew, H. Fischer, McNealy, R. Rivers.)

WHITE: Mr. President, I wish to change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. White asks that his vote be changed from "yes" to "no".

CHIEF CLERK: 35 yeas, 16 nays and 4 absent.

PRESIDENT EGAN: So the resolution by two-thirds majority vote of the members present is ordered sent to the Resolutions Committee.

BARR: Mr. President, I rise to a point of personal privilege. Our rules specifically say that a member may do a certain thing. Now this body has voted to override those rules preventing him from doing that certain thing. I want to state I am not very proud of belonging to a body that would do that.

COOPER: Point of order. The rule was not carried. Rule 59 states "... two-third's of the membership to which the Convention is entitled." and 35 votes is not two-thirds.

NOLAN: Mr. President, may we have a short recess?

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state that the point of order raised by Mr. Cooper was well taken. It is the first time the Chair has ever been confronted with such a rule. Usually the rule is that on the final passage of proposals or something as momentous as that, it takes a majority of those to which a body is entitled. However, Rule 59 does state, and the Chair was in error in saying that the resolution is referred to the Resolutions Committee. The resolution is still before us.

WHITE: Mr. President, I move the resolution be amended and to strike the words "shall be silent on the matter of" and insert in lieu thereof "not name".

KILCHER: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that Mr. White's proposed amendment be adopted. Will the Chief Clerk read the proposed amendment as it has been offered by Mr. White.

CHIEF CLERK: "That the Constitution not name the seat of government for the State of Alaska."

PRESIDENT EGAN: In other words, the effect of the proposed

amendment by says, "The Constitution shall be silent as to the proposed seat of government" that it will say "The Constitution will not name the seat of government."

HARRIS: Mr. President, I will accept that as my original motion.

PRESIDENT EGAN: If there is no objection -- you ask unanimous consent Mr. White?

WHITE: I put it in the form of an amendment. I ask unanimous consent.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Mr. Kilcher seconded the motion by Mr. White. The subject is open for discussion. Mrs. Hermann?

HERMANN: I think before we adopt any amendment of that nature we should be very sure that we may do that and that it is not necessary that we have a seat of government named. I have talked to two or three of the consultants we have here about that particular matter, and it has been their opinion that we have to name a seat of government in the constitution, and I think all state constitutions do name the seat of government except in one or two cases where it is named by implication rather than by outright designation. I am not particularly opposed to the resolution, but I think we should find out if we are in order in adopting it, and maybe we ought to have the advice of some of our consultants on that matter.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I rise to a point of order. I believe that the amendment now removes any questions and that the matter is now properly a proposal and that it should be referred to the proper committee just as four or five similar resolutions have already been so referred.

PRESIDENT EGAN: Of course, Mr. Hellenthal, for instance the resolution by Mr. Poulsen, was considered as a resolution and was referred to a committee. The committee accepted it and no one objected. Mr. Poulsen did not ask that it be considered by the Convention at that time. Mr. Harris is asking that his resolution be considered at this time, and the Chair would feel he is in order and has already stated that. Mr. Fischer?

V. FISCHER: Mr. President, in regard to the motion made by Mr. White to amend, it would seem more proper that we should not preclude some inclusion or reference to have a capital may be named in the future, or a seat of government may be

named, and therefore a substitution, the elimination of the language, "silent on" may be much better. And an additional point I would like to make is that in any case the matter of a capital could probably best be treated in a separate ordinance anyway rather than in the body of the constitution.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I believe as we stated before it will be necessary to have some place for the government to be in operation, some seat of capital, and I would like to move that that resolution be amended to say that we decide on a permanent site of the capital, that a temporary capital site be named for the transitional period.

PRESIDENT EGAN: We have before us the particular amendment offered by Mr. White, is that correct? Mr. Taylor?

TAYLOR: To overcome some of the objections that have been voiced by members as to this amendment that I am in favor of, I might call attention to the body that in the separate committee here is a proposal in which established a method of choosing a seat of government and also as to tide it over until such selection can be made by the people of Alaska, there is a section there that "Juneau shall be the seat of government until such time as the people of Alaska choose the capital." So that proposal if enacted or any part of it, will take care of the question that is now confronting the delegates.

LONDBORG: I would like to have it clear that by voting on this proposal and accepting that this does not stop anything of Mr. Taylor's nature. My understanding is that if we accept this resolution that the proposals relative to the capital will be just null and void.

PRESIDENT EGAN: That would be the effect, the Chair would feel, that the adoption of this proposal would lend to the Convention. Mr. White.

WHITE: Mr. President, to explain my amendment, it is to take care of the very matter that you raised. I feel personally the constitution should deal with the method of choosing the state capital. I do not feel that the constitution should name the state capital. I felt that Mr. Harris's wording, where he said "shall be silent on the matter of" would preclude any formula for adopting a state capital in the future. Therefore, I inserted my words to allow any formulas to be considered but to preclude only the naming of the specific place in the constitution.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I wonder if we could have the proposed

resolution, including Mr. White's amendment read so that we will know, have the thing down in front of us.

PRESIDENT EGAN: The Chief Clerk will, at the request of Mr. Davis, read the resolution including Mr. White's proposed amendment to the Convention.

CHIEF CLERK: "Whereas: the first resolution adopted by the Alaska Constitutional Convention stated 'that it is the intent of this Convention that the Constitution should be a document of fundamental principles of basic government and contain the framework for state government', and

"Whereas, the location of the permanent seat of the capital cannot be regarded as a fundamental principle of government, nor as part of the framework of government

"Now Therefore Be It Resolved: That the Constitution not name the seat of government for the State of Alaska."

LONDBORG: Mr. President, to make that resolution consistent, I still believe the word "permanent" should be in the latter reference to the capital site so that the proposals that are now in committees can take care of temporary sites for the capital. I would still like to move again that the word "permanent" be put in --

PRESIDENT EGAN: There is a motion on the floor already, Mr. Londborg. It would be in order that you hold yours. Mr. Hilscher?

HILSCHER: Mr. President, there are 22 state constitutions that make no reference to the capital at all in the constitution.

SUNDBORG: I have to object to that. All but eight state constitutions do name the capital by the name of a city. I will present the evidence and read the constitutions to Mr. Hilscher or anyone else.

PRESIDENT EGAN: Mr. Hilscher has the floor.

HILSCHER: I would like to add to what I said. We have some consultants here who are authorities on the subject. Let's settle this matter through intelligence rather than through a political hassle.

WHITE: If it would help anyone, I would agree to the insertion of the word "permanent" in my amendment.

PRESIDENT EGAN: Mr. White asks that he amend the original

amendment by adding the word "permanent". Would you read it as you would like to have it, Mr. White?

ROBERTSON: Mr. President, I move that we table the resolution and the proposed amendment.

HERMANN: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the proposed resolution with the pending amendment be tabled. All those in favor of tabling the proposed resolution along with the proposed amendment will signify by saying "aye", all opposed by saying "no". The proposed amendment has been laid on the table. Is there other unfinished business to come before the Convention? Mr. Johnson?

JOHNSON: Mr. President, I move that the Convention --

PRESIDENT EGAN: Mr. Johnson, before we put that motion, if the Chair may, we have with us today in the gallery Mr. Dayton McKean, the Dean of the Graduate School of the University of Colorado. The Chair would like to take this opportunity of introducing Mr. McKean to the delegates. If you wish to speak a few words to the delegates, Mr. McKean --

MR. MCKEAN: I am very glad to have the opportunity to accept the invitation to come here and meet with you for a couple of weeks and I hope to be of some help. Maybe at least I can say in some of the things, don't do it the way we did and save the posterity of Alaska from lots of trouble. And I hope to get acquainted with everybody in the next few days. (Applause)

PRESIDENT EGAN: Thank you, Mr. McKean. Mr. Johnson, you had the floor.

JOHNSON: Mr. President, I now move that the Convention stand adjourned until tomorrow morning at 9 o'clock.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand adjourned until 9 o'clock tomorrow morning.

SUNDBORG: I object.

STEWART: I second the motion.

PRESIDENT EGAN: Objection is heard. Mr. Stewart seconded the motion. All those in favor of adjournment until tomorrow morning at 9 a.m. will signify by saying aye, all opposed by saying no. The "ayes have it and the Convention will stand adjourned.

ALASKA CONSTITUTIONAL CONVENTION

December 9, 1955

THIRTY-SECOND DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Chaplain Major Henry A. Foss of Ladd Air Force Base. Chaplain Foss will give the daily invocation.

CHAPLAIN FOSS: Eternal loving Heavenly Father, we raise our hearts in gratitude to Thee Who has been the guiding and sustaining force and power within our lives throughout the days and years of the history of our nation. We thank Thee for this occasion and this assembly which is gathered here for the transaction of this important business. We pray Thee that we may be guided by Thy Spirit in mind, in heart, in our deliberations and actions that may determine a course and path of life that may bring happiness and welfare for the common good of all concerned. We ask in His name and for His sake. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Does the special Committee to read the journal have a report to make at this time?

WHITE: Mr. President, the Committee to read the journal has read the journal for the 29th and 30th days, Tuesday and Wednesday, December 6 and 7, respectively, and recommends their adoption without change.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journals of the 29th and 30th Convention days be adopted.

WHITE: I beg your pardon. Correction. The journals for the 28th and 29th days.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journals of the 28th and 29th days be adopted by the Convention. Is there objection? Hearing no objection it is so ordered and the journals are ordered adopted.

WHITE: Mr. President, the Committee to read the journal has read the journal for the 30th day, Wednesday, December 7, and on page 2, sixth paragraph, in the middle of the page, beginning ". Coghill", instead of "Administration Committee" say "Committee on Administration". Two paragraphs below that "Mr. Londborg asks that the consideration , strike "the". Three paragraphs below that is the same situation. "Mr. Londborg

moved that the", strike "the". Page 4, fourth paragraph, second line, after "12:15" insert o'clock p.m. The Committee to read the journal, Mr. President, recommends the adoption of the journal for the 30th day with these corrections.

PRESIDENT EGAN: Mr. White asks unanimous consent for the adoption of the journal for the 30th day, with the proposed amendments. Is there objection? Hearing no objection it is so ordered and the journal of the 30th day with the proposed amendments is ordered adopted. Are there any petitions, memorials or communications from outside the Convention?

CHIEF CLERK: No.

PRESIDENT EGAN: Are there reports of standing committees? Reports of select committees? Mr. Sundborg?

SUNDBORG: Mr. President, your committee to suggest arrangements for hearings during recess has had placed on the desk of each delegate a report which, since its preparation, has been approved by the committee chairmen. The committee chairmen asked that it be submitted to the Convention for such action as the Convention desired to take on it. I would like to say that this report and the arrangements suggested therein were compiled from the questionnaires which the members filled out and turned in to the Chief Clerk. Since the time that the report was prepared, we have made some slightly different arrangements respecting compensation and per diem than many members contemplated at the time they filled out the questionnaires and so it is possible there will be some changes which we will want to make in the schedule of hearings. I would like to explain that several principles which guided your committee in setting up this schedule of hearings were as follows: first of all, we scheduled delegates for hearings only in their home communities except in the case of those who are remaining in Fairbanks and who are here from other places and except that Mrs. Hermann, who is going to Nome anyway and who was elected at large in the Territory, would be scheduled for a hearing in that City. We also had the guiding principle that no delegate would be set down on the schedule for a hearing in more than one place. Since I know there will probably be several members who want to suggest changes in this as far as their own plans are concerned, I would like to suggest to the Convention that we take a brief recess during which those members could contact the Committee and then we will bring the resolution out on the floor and I will move its adoption with certain amendments.

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

RECESS

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

SUNDBORG: Mr. President, I ask unanimous consent to revert to the order of business dealing with introduction of resolutions.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent to revert to the order of business of introduction of resolutions. Is there objection? If there is no objection it is so ordered.

SUNDBORG: Mr. President, I move and ask unanimous consent that a resolution consisting of the matter contained in the report to the Convention by committee chairmen, which was distributed to the delegates yesterday, be adopted by the Convention with the following changes: On the first page, item 1, after the word, "hearings" strike the words, "of not to exceed two days". On line 2 insert a comma after the word "Anchorage" and strike the word "and" immediately following. Change the period after "Fairbanks" to a comma. Strike all of the next line which is the first line of the second paragraph. In the following line, which is line 4, strike "Kotzebue and insert in its place "Unalakleet". In the next paragraph, second line, strike Unalakleet" and insert in its place Kotzebue". On page 2 the fourth item, strike "Kotzebue -- Mr. Cross" and insert "Unalakleet -- Mr. Londborg". In the last of the places shown for hearings, Fairbanks, strike the first name, "Mr. Barr". Item 5, second line, after the word "Convention" insert the words "if possible".. Mr. President, I would like to now read item 1 where we made several changes so all delegates will know how it reads if the changes are adopted.

" 1. Hearings shall be held at Ketchikan, Juneau, Anchorage, Fairbanks, Wrangell, Petersburg, Sitka, Haines, Klawock, Nome, Unalakleet, Kodiak, Cordova, Seward, Homer, Palmer, Dillingham, Valdez and Nenana."

One additional amendment has just been called to my attention. On page 2, the third place name, Nome", strike the words "and Mr. Londborg". Mr. President, I move and ask unanimous consent for the adoption of the resolution as amended.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent for the adoption of the resolution as amended.

KILCHER: I object.

SUNDBORG: I so move.

PRESIDENT EGAN: Mr. Sundborg so moves. Who seconded the motion?

WHITE: I second the motion.

PRESIDENT EGAN: Mr. White seconded the motion. When a person

seconds the motion they should also get up and address the Chair so it will be easier for the secretariat to see who it was. The motion is open for discussion. Mr. Kilcher.

KILCHER: Mr. President, I am sorry that I have to object. The reason is that in spite of having contacted the Committee of three on a matter of importance, no consideration has been given to my objection.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I wonder if I could interpose that we did give consideration in the Committee to Mr. Kilcher's objection, and the Committee unanimously discarded it. We did give consideration to it, Mr. Kilcher.

KILCHER: I stand corrected. The Committee has adopted rules in putting up this report that have nothing to do with the need at hand in holding hearings, in my opinion. The Committee was led by its commendable desire of simplicity and savings. If we are not hypocritical about going to have hearings during this winter recess, we should have hearings where they are most needed, and the judge as to where the hearings are most needed, should be the delegate from his district. The delegate should have been contacted more as to their will and wishes. Those delegates that had two or three places of hearings should have been personally contacted as to which place they think is the most important or possibly which places are equally important. This has not been done for simplicity's sake and for matters of streamlining an arbitrary rule as set up by the Committee, to have one hearing or one delegate in his hometown, send him home, let him have a hearing and that should be enough. That is not logical. Namely, in my particular case, and I know of three or four others, cases, exceptions should be made. Personally, I know a hearing in Kenai is much more important for the sake of statehood, for the sake of ratification of the constitution, than Homer. I have a lot of time next spring and a lot of time during my stay in Homer area when I am home. I can influence these people, I can talk to them in small groups. I can have a hearing sure enough. But the place that needs hearings badly where people are utterly critical if not downright opposed to statehood are Kenai and Seldovia. I don't want to say I could influence them greatly. I would suggest that somebody be sent to Kenai, probably also to Seldovia. Maybe somebody should go down from Anchorage. If hearings are going to be held they should be held where they are needed, and if we spend 10,000 dollars for this Christmas recess you can spend another \$500, for maybe ten extra hearings in places where they are badly needed, and one of them is Kenai. Somebody should be sent down there from Anchorage or Kodiak, I don't care. I would gladly go. It has been intimated in the Committee that once we delegates are sent home then it should be our duty to hold

further hearings. We may hold them. We are magnanimously given the freedom that we may hold other hearings for instance, Kenai and Seldovia. We may do that but without expense or prior notice. Why, they certainly need prior notice and certainly the expense to any hearing should be paid if the others are paid. If we are sent to one hearing in Homer and if we don't take that just as an excuse to go home for Christmas vacation we should also be paid the expenses to any other hearing held necessary.

COGHILL: I rise to a point of order. I believe this was thoroughly discussed yesterday on the other point of the recess. Therefore, I move debate be limited to five minutes.

PRESIDENT EGAN: Your point of order is out of order, Mr. Coghill. Mr. Kilcher has the floor. Mr. Kilcher, proceed.

KILCHER: From a financial point of view I could just as leave stay in Fairbanks. I have a lot of friends up here and interesting things to do. I would like to learn the country better. I could be well paid by per diem. I could stay here and get \$300 pay for it. If I go home it will cost the Territory about \$120 or \$130, which is a nice savings. I don't see at all why a man should not be sent to another hearing place which costs the Territory possibly another \$40 or \$50. It is still much less than if a man stays here. I don't see why if I go home I should be penalized by spending a plane trip to Seldovia, which is about \$20 forth and back or a plane trip to Kenai which is about \$30 on my own time and my own money just out of sentimental reasons when it is my duty as a delegate. I will do plenty as a duty of the delegate. I have done so before November 8 and I will do so after February 8, but if we are going to go to hearings where they are needed. I think we should get paid for it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I address two questions through the Chair to Mr. Kilcher? Mr. Kilcher, do you feel that a hearing in Kenai would be more desirable than a hearing in Homer?

KILCHER: It is equally desirable.

SUNDBORG: My second question was going to be, would you prefer we sent you down for a hearing in Kenai in place of Homer, if it is to be but one per delegate, which was our guiding principle.

KILCHER: I have many objections to your guiding principle for being an arbitrary one, but consequently I don't feel I can answer your question. They are equally desirable, there should be two hearings, possibly three.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Before we send Delegate Kilcher down to Seldovia or wherever he is going, I want to know whether he is qualified to sell statehood down there, which he says he's going down there selling. I notice he said he never thought of statehood one way or the other before he was going to run for the Convention. So if he's going down there to sell statehood, maybe he has been converted. I would like to know.

GRAY: I move the previous question, Mr. Chairman.

PRESIDENT EGAN: Mr. Gray moves the previous question. Is there a second to the motion?

METCALF: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the previous question be ordered. All those in favor of ordering the previous question will dignify by saying "aye", all opposed by saying "no". The ayes have it and the previous question is ordered. The question is, "Shall the resolution with the proposed amendments be adopted by the Convention?" All those in favor of the adoption of the proposed resolution will signify by saying "aye", all opposed by saying "no", and so the Convention has adopted the resolution as amended. Mr. Davis.

DAVIS: Mr. President, I think this is possibly a matter of personal privilege. At my own request I was not named as a person to hold, as to appearing on any of these hearings. For that reason I feel I am not entitled to travel either way or to per diem going to my home and back, and for that reason I would like to request that when the payroll clerk makes up the payroll that I not be given either travel or per diem.

PRESIDENT EGAN: The Chief Clerk will make a note as to Mr. Davis's request. Are there any proposals to be presented at this time? If not, are there any motions or resolutions to come before us? Is there any unfinished business? Under unfinished business we will revert to the reading of communications. We have one from outside the Convention. The Chief Clerk may proceed with the reading of the communications.

CHIEF CLERK: Letter from Mrs. Laura Jones. (At this time the Chief Clerk read a letter from Mrs. Laura E. Jones, 8th grade teacher in the Fairbanks schools, thanking the delegates for the invitation extended for her class to attend a plenary session and to be guests of the delegates at lunch.)

PRESIDENT EGAN: Were there 28 children in that group?

CHIEF CLERK: Twenty-eight.

PRESIDENT EGAN: That would be, if the Chair might say so,

that would be approximately -- it might be that each two delegates could take one of these children. I am just suggesting what might happen here, as we go down the alphabet, except in the case of Mr. Hinckel. The Chair notes there are two Hinckel boys on that list. Mr. Hinckel being of the same name, you would want to have your alphabetical listing changed. Is there any suggestion as to how we should proceed in this situation? Mr. Hurley.

HURLEY: Mr. President, I think your suggestion is very well taken, and I will move that two delegates take charge of one student for the luncheon.

PRESIDENT EGAN: Every two delegates will take --

HURLEY: What I mean is I agree in substance. I think it is a good idea.

PRESIDENT EGAN: Is it the general agreement that each two delegates will take one of these children to lunch here on a certain day? Does somebody want to suggest as to what day? Mr. Cooper?

COOPER: Mr. Chairman, I would like to leave the date open to the Rules Committee on the date that they will put the next committee report in second reading on the calendar, so that the plenary session will not merely be a formality that they attend, and in line with that, that it be done if possible prior to recess.

PRESIDENT EGAN: Mr. Riley then if there is no objection would your Rules Committee attempt to report back to the Convention tomorrow so that we might send some communication back to the classroom?

RILEY: I expect we will have matters in second reading perhaps through Monday as the calendar now appears -- perhaps beyond that, dependent on what comes in meanwhile.

PRESIDENT EGAN: Is there any other unfinished business? Mr. Kilcher?

KILCHER: I would like to rise to a point of personal privilege.

PRESIDENT EGAN: If there is no objection. Mr. Kilcher, you may rise to a point of personal privilege.

KILCHER: How long may I speak, Mr. President?

PRESIDENT EGAN: There is no specified limit as to how long you can talk.

KILCHER: I would hate to be interrupted by a motion to cut it

to five minutes, for instance. I don't intend to speak that long.

PRESIDENT EGAN: Mr. Kilcher, yesterday after the Chairman spoke, I don't mean to interrupt you, but it was called to the President's attention that we had adopted a resolution or motion that the tapes be cut off when the question of personal privilege, when a delegate rises to a question of personal privilege and owing to the fact that was brought to the attention of the President, he has no other alternative.

(At this time Mr. Kilcher spoke under the question of personal privilege.)

PRESIDENT EGAN: Mr. Kilcher, the Chair would like to additionally state that the remark was not directed at you particularly. It was something that the Chair feels that each and every delegate should recognize when he takes his feet at all times. Mr. Hellenthal?

HELLENTHAL: Mr. President, I should move, I believe there is no further unfinished business, I therefore move that we have a recess for a definite stated period of 15 minutes perhaps to get a cup of coffee. I move that we have a 15-minute recess.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that the Convention stand at recess for 15 minutes. If there is no objection, the Convention is at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no other unfinished business we will proceed with the general orders of the day. General order of the day is consideration of Committee Proposal No. 2 in second reading. The Chief Clerk may proceed with the second reading of Committee Proposal No. 2.

(The Chief Clerk read Committee Proposal No. 2 for the second time.)

PRESIDENT EGAN: Before we proceed the Chair would like to announce that the University expects at least 100 additional people for lunch and they would like to have the tables, to be able to come down and get the tables at 11:45. The tables would be returned to this room at 1:30. We now have Committee Proposal No. 2 before us. The proposal is open for amendment section by section. Mr. Taylor?

TAYLOR: Mr. President, I believe the President should call to the attention of the delegates that attached to the copy of the committee proposal which is on everybody's desk is a

commentary which has been prepared by the Committee for the benefit of the delegates in construing the meaning of each section of the proposed article. Of course, so many of the sections are self-explanatory, but some of them possibly need a little explanation, and for that reason this commentary on the various sections we felt would be helpful and it might be the means of perhaps enlightening the members so there would not be too much discussion or time taken up in the consideration of the proposal.

PRESIDENT EGAN: Thank you, Mr. Taylor. Are there amendments to Section 1 of Committee Proposal No. 2? Does everyone have the copy of the proposal and a copy of the commentary on the judiciary article before them? Is there anyone else who does not have a copy? Mr. Marston also needs a copy of the proposal and a copy of the commentary on the article. Are there amendments to Section 1?

MCNEALY: I have an amendment.

PRESIDENT EGAN: Mr. McNealy, you may offer your amendment.

MCNEALY: Mr. President, I offer this amendment now only to preserve the future race.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment by Mr. McNealy.

CHIEF CLERK: "Strike Sections 4, 5, 6, 9, 10, 11, 12, 13, 14."

HURLEY: Point of order. Mr. President. I understood we were considering Section 1.

PRESIDENT EGAN: Mr. McNealy, would you mind if your proposed amendment were held until we come to Section 4? If it is the wish of the Convention we will determine first as to whether or not there are amendments to each section. Are there amendments to Section 1? If there are none we will proceed to Section 2. Are there amendments to Section 2? Are there amendments to Section 3? Are there amendments to Section 4? Mr. McNealy's amendment may be made at this time.

CHIEF CLERK: "Strike Section 4."

PRESIDENT EGAN: Are you moving that the section be stricken?

MCNEALY: I wish to move the adoption of the amendment striking Section 4.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the amendment striking Section 4. Mr. Davis?

DAVIS: I did not hear what he said.

PRESIDENT EGAN: He moves the amendment to strike Section 4. Is there a second to the motion?

SUNDBORG: Mr. President, I will second for the purpose of allowing Mr. McNealy to explain what his intention and purpose is.

PRESIDENT EGAN: Mr. Sundborg seconds the motion to strike Section 4.

MCNEALY: Mr. President, I am not going to take a great deal of time today as I understand the bill possibly will be continued in second reading until after the recess and very likely it will not be necessary for me to speak upon all these amendments because probably my thought is included in my motion to strike Section 4. It states that, "Justices of the Supreme Court and judges of the Superior Court are appointed by the Governor on nomination by the Judicial Council as provided in this article." Being an attorney, I know the background of the appointment system of judges. Being an Alaskan I have lived under the appointment system so long that I feel that I should have the right to vote for these judges. The thought behind this I believe and the thought of the Judiciary Committee no doubt is to keep judges out of politics. In my opinion this appointment method will bring judges into politics more so than an election by the people. For that reason and in regard to many other reasons which I do not want to take up the time of the Convention to discuss now, I am opposed to the appointment by the governor on nomination by the judicial council.

PRESIDENT EGAN: Mr. McNealy, in order to clarify a statement that you just made, the Chair feels obligated to state to the delegates that anyone who is under the impression that any official action has been taken that will hold any proposal in second reading is wrong. There has never been any action that will hold anything in second reading officially as you mentioned, Mr. McNealy. If it was your feeling it might be held until after the hearings recessed, no such action has ever been taken, and the Chair wants to clarify that point to all the delegates. Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, as Chairman of the Judiciary Committee, I feel in answer to the argument presented here and the proposal to strike, I feel it proper to point out to the Convention that I, probably in this Convention, was the only elected judge present in this Convention. I was twice elected as municipal Magistrate for the City of Anchorage. I might point out, not in vanity or pride but as a factual argument that I never lost, and never won by less than double the vote of any other candidate. The last time I ran my recollection is that I won four to one. If any man should be in favor of the elective system, it should be I. I might point out that in terms of the elective system no member of the

Judiciary Committee and that consisted of two laymen, one of whom had spent 15 years in law enforcement activities, never questioned the impropriety of having elective judges in Alaska. Historically, at the time of the adoption of the Federal Constitution, I don't believe that any state of the Union authorized the election of its judges. They were all appointed. When the elective system came in it was approximately the middle of the 19th century. It was found inadequate because of the fact that we will be confronted here in Alaska with not a nonpartisan judiciary but a judiciary that in substance would be dictated and controlled by a political machine. I am a partisan myself, but I don't believe that our judiciary should be subject to the influences where they would have to go to any clubhouse to secure their nomination or have to secure funds and sometimes excessive and exorbitant funds for the purposes of being elected. I might also point out that one of the dangers of the elective system is the fact that a judge whenever he makes a decision, he has to keep peering over his shoulder to find out whether it is popular or unpopular. If we determine the validity of our laws in terms of popularity as the general acceptance, we are then not a government of laws on which we pride ourselves. It is not the function of the judge to make the law, it is his function to determine it, and the way to keep them independent is to keep them out of politics. Historically, in terms of this document here there is nothing in it that is radical. There is nothing in it that is theory. All of it has worked. California, in 1932, adopted what is known as the Missouri Plan. That is a system of selection. One reason why we did not permit the governor of the state to pick candidates and have them approved or ratified by the senate or house of representatives was that it was discovered under the California plan that there was a tendency on the part of the governor to always pick men of his own political party, subject to the confirmation, not of the senate, but a group called a "committee on qualifications". He would just present them with a long line of Democrats or a long line of Republicans. Does the system work? The system does work. The method by which we determine how the judicial council would be created was -- we followed the Missouri Bar plan that has been in effect (when I say Missouri Bar plan, I mean the Missouri Plan which is part of Article 5, Section 29, of the Missouri Constitution) since 1942 and my recollection is that it has been ratified by the voters three times in succession. The complement of our judicial council, that is three selected directly by the bar association, three appointed by the governor, and the chief justice being ex officio member. The constitution of our judicial council is exactly the same as that in the State of Missouri. We did not follow the New Jersey Plan although the New Jersey Plan which has been sponsored by Chief Justice Vanderbilt, who is Chief Justice of the Supreme Court of New Jersey -- Judge Vanderbilt is not opposed to the Missouri Bar Plan -- but frankly because of the complexities of the New Jersey judiciary, they

could not get it through. In New Jersey the governor appoints and his appointment is ratified by the senate. In every modern constitution, and when I say modern constitution, with the exception of Hawaii which evaded the issue, in every modern constitution -- by that I mean all our latest -- Missouri, the State of New Jersey, and Hawaii -- they all provide for appointive judges and not elective judges. Have we compromised? Yes, we have -- we have compromised -- we have accepted the Missouri Plan. That means in substance what happens is that three lawyers appointed by the bar association as under the Missouri Plan, and the three laymen as appointed by the governor and approved by the senate initially determine who the candidates will be. What is the theory? The theory is you have a select group. The lawyers know who are good and they know who are bad. The laymen represent in substance the public in order to protect them in substance from the lawyers, but they are confirmed by the senate for one reason. The laymen in the committee insisted upon it so that we would have a broader base and the governor himself would not necessarily be able to nominate to the judicial council, his own house. The governor is presented with two names, two or more names, Missouri says three or more. We figured because of the size of the Territory, initially it would be preferable to present two names. The governor has no other choice, of the two names presented, he takes one, fills the vacancy in the court. In terms of the general acceptance of this plan is it radical? Is it new? Is it theory? No sir. It has been approved by the American Judicature Society. It has been approved by an organization I know which is, forgive me, I know I might affront many members here, which is renowned for its conservatism -- the American Bar Association. It has been in substance approved by the Alaska Bar Association, and it has been approved by probably the organization in the field which is most zealous in its idealism, the American Judicature Society. There is nothing unusual, nothing new. What we are trying to prevent are some of the travesties which have existed in some of the states where our judges are picked and plucked directly from the ward political office. Many of the members compromised. We are not happy, in a sense, with the compromise, but the only system that has ever worked apparently in recent years, has been a combination of the appointive and the elective. I might carry on a bit and point out what happens in terms after the governor does appoint from the list presented to him as under the Missouri Plan. Roughly, three and one-half or four years later, the judge is required, every judge without exception, is required to go on the ballot for approval by the voters. Does he have to spend any money? No sir. What is the requirement? The only requirement on a nonpartisan ballot could be, "Shall Judge 'Blank' be retained in office?" The Missouri Plan provides and the New Jersey Plan in substance provides (my figures are rough), that roughly a year and one-half after appointment the judge will be put on the ballot to determine whether or not the public desires to retain

him. It was the view of the Committee that in order to attract good men to become candidates, the only way we could assure the attraction of good candidates was to assure them they would be in office at least for a period of three and one-half years. Why is that necessary? Because after a year and one-half a judge might make a very unpopular decision, and he would not be able to overcome that in terms of popular resentment, and he might be forced out of office after a year and one-half. It is not universally true, but generally your best practitioners in the law are also the men who have the best income and the best practice. A man with good income and good practice will not be attracted to the bench if he feels that after a year and one-half, he will hazard his whole career. He has already hazarded his private practice. He will hazard his whole career with the possibility of being rejected. Three and one-half years is a good inducement. If he is reelected after three and one-half years then under our terms, the terms of our proposal here, he will then sit on the bench for a period of ten years if he is a supreme court judge or he will sit on the bench for a period of six years if a superior court judge and then he will automatically go on another nonpartisan ballot to determine whether he shall be retained or not. That compromises the difficulty in the American judiciary system, and when I say compromise, it is the best compromise and the best solution to a vexing problem between those who feel we should have lifetime tenure so the judges can be absolutely independent or whether we should have short terms so the judges could be subject to popular will. The popular will should be expressed even in the control of the judiciary, but the way to control it is to put the judge on a nonpartisan ballot. It does not cost him a nickel. He is running against himself, he's not running against anybody else. In terms of whether or not the lawyers would pick the poorest or the best, my answer to that is the answer of Benjamin Franklin who in arguing for appointive system pointed out that it would be very advisable to have an appointive system under the Federal Constitution because of the fact that every lawyer, having determined that a judgeship was open, would promptly designate and recommend the most successful of his brothers in order to steal his practice. Do the lawyers, do they have a vested interest in the proposition? Definitely they do, but as craftsmen or professional men they know best, who is the most desirable. Will you get unanimity on that Judicial council? If the Alaska Bar Association or if any bar association in this Territory or in the United States can be used as an example, as long as you have three lawyers you will have three different opinions. It is probably the most democratic and probably the only efficient system that has yet been devised. It is not a crackpot idea, it has worked and regularly. State constitutional conventions have adopted it. In general I might point out this -- this conforms generally to all the recommendations of the American Judicature Society, all the recommendations of the American Bar Association. It conforms

to the theory under which the Missouri Plan was adopted, and if this is adopted this will be (Hawaii avoided it) the most modern, most liberal, most workable judiciary article of all the constitutions of all the 49 states. Is it theory? Is it social planning? It is based on practice. It is based on experience, and it conforms to very good theory.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, may I direct a question in order to get information? According to your proposal, the judiciary council submits nominations, not less than two. What happens if the governor refuses to appoint either of the two or three as the case may be, if they do not meet with his approval?

MCLAUGHLIN: Others can be presented.

LONDBORG: Would he have the right to call for other nominations or must he stick with those originally presented?

MCLAUGHLIN: In theory the governor would be required to stick with those nominated.

LONDBORG: May I ask this, just for lack of information on my own part on the Bar Association who and how do people get into that? I take it they have to be lawyers.

MCLAUGHLIN: They would have to be lawyers, Mr. Londborg. There was no attempt made -- if we had started to define everyone's qualifications -- much of this will be left to the legislature, but normally that means lawyers.

LONDBORG: Then I'd like to ask this question, is it true that the judiciary council is composed of a majority of lawyers?

MCLAUGHLIN: That is true.

LONDBORG: That is counting the supreme court judge?

MCLAUGHLIN: That is true. I might point out that in Missouri, the appellate Judicial Commission (this is the Missouri Plan) consists of seven members, the chief justice, three elected lawyers, and three laymen appointed by the governor, and these are the ones that designate for the governor. They have subordinate commissions, the circuit Judicial Commission consists of two lawyers, two laymen, and the president and judge of the court of appeals.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I have a question, Mr. President, that I would like to present to any member of the Judiciary Committee. That is this that I want to state first that I am very favorably

impressed with this particular section. The appointive power however clearing through the governor -- in most of the state impeachment clauses -- the two or three highest elective officials or any elective officials being impeached in ordinary procedure, the impeachment springs from the house and is tried by the senate with the chief justice sitting or some of the other supreme court justices sitting as the presiding officer of that body. Now we have a situation here, I am just wondering why the appointive power of the governor is invoked in this particular clause, because it would seem to me with the judicial council and the recommendations such as they have made, it might be best to submit the recommendation directly to the senate. The governor, if he were in a position where he is being impeached, would then have on the presiding bench on the body that was impeaching him a justice whom he had named for appointment and I wonder what the thinking of the Judicial Committee on that is.

MCLAUGHLIN: It is my understanding that Mr. Rivers has some potential objection to the appointment of the nominees to the bench by the governor. Is that right, Mr. Rivers?

V. RIVERS: No, it is more a question to get explanation on the floor as to what would happen in a case like this. I have a good deal of regard for the section you folks have drawn up. I regard it very highly as a layman, but I did want to find out what your thinking was as to why we had to clear the judges through the governor in any event. Why didn't they spring from this appointive and recommending body directly to the senate for confirmation rather than clearing through the governor in any instance, because there might be a conflict of interests if these supreme court judges were called to sit upon the trial of a man whom they had received their appointment from.

MCLAUGHLIN: The thinking of the Committee, Mr. Rivers, was that we wanted something that had precedent and that worked. It has worked in Missouri, it is working in a limited sense in New Jersey, it is working in California. That is, we wanted a practical precedent for it. We did not want to experiment. We did consider the possibility that the judicial council do it, but we wanted some participation by the executive in it, and in fact one of the laymen insisted, on the Committee, insisted that not only the governor appoint the laymen to the committee but they be ratified by the senate so we would have a full participation in the process. As you know, under the model state constitution, the chief justice runs for election and he designates the judges. It was the feeling of the Committee that that would be too much of a closed corporation, that is the chief justice appoints, in lieu of the governor, under the Missouri Plan, but since it had been untried, the Committee didn't want to consider it. The fact of the matter is, there are many problems that we cannot anticipate, all

the problems that will arise, but we took the best available everywhere and we applied it and when the problems arise, then we will attempt to solve them.

PRESIDENT EGAN: Mr. Smith.

SMITH: I believe the mover of this amendment intimated that the Committee had based their favoring the appointive system on the basis that it would take the judgeships out of politics. I don't know what the Committee's thinking has been, but I certainly would not defend either the appointive nor the elective on the grounds that it would take the judgeships out of politics. I believe the political implications would be equal in either case. However, the appointive system does have the advantage of being selective as to the qualifications of judges. Quite often under an elective system a man is elected on his personal charm or his popularity and quite often his qualifications are not closely examined. Therefore, I would oppose the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, in regard to a question submitted by Mr. Rivers. Now I believe Mr. McLaughlin touched upon that, but I believe Mr. Rivers loses sight of the fact that the governor does not select any appointee that the only ones he can appoint to either the supreme court or the superior court are those men who have been selected by the judicial council, so the governor does not have any choice in the selection of the candidate for office. He merely appoints. I don't believe that that would create such a feeling of gratitude towards the governor from a man that was appointed to the supreme court or to the superior court that it would cause him to be derelict in his duties. Also I would like to point out that over many years there has been a great controversy in the legal profession throughout the United States. The American Bar Association Journal, which I have been receiving for some 27 years, periodically comes out with articles by various practicing attorneys and by judges, leading men in the profession, who have felt that a distinct change should be made in the selection of the judiciary. When the Missouri Plan was adopted, I believe it was in 1945, it was felt that there was a distinct improvement in the methods of choosing judges, that it abolished the necessity which had prevailed for many years of having to get out into the rough and tumble of a political fight, to spend money, perhaps depend upon certain groups for the support to get elected to a judgeship. Now in this particular instance we have got away from that necessity. We have the laymen and the attorneys -- and coming back to this attorney -- I might mention to the Convention that the attorneys now are organized in a body known as the Alaska Bar Association. It is an integrated bar, an official body of the Territory. Any person seeking to practice law in the Territory

of Alaska, before he can practice, must be a member of the Alaska Bar Association, and he is bound by the actions of the integrated bar, so it is through the integrated bar that these names are selected. It is a democratic election among the attorneys for the selection of these judges. I think Mr. McLaughlin has elaborated upon that as to the selection and the lawyers would know possibly who would be the most able sitting on the benches. The less lucrative practice the man has, the more he would like to see the able man who has been making the money step up there, he might get some of his practice. That is true. It was not original with Mr. McLaughlin. Thomas Jefferson or Benjamin Franklin said that. I feel that in view of the historical matters of selection of judges, which has not met with the approval, that we have before us now an article which we hope will be adopted as it is into the constitution, and I know that if this article is adopted by this Convention and becomes a part of the constitution that every university in the United States that has a law school and all law societies that have the opportunity of reading this article can honestly say that they have perhaps the most progressive and most modern and up-to-date system of selecting the judiciary of any state in the United States, and I would like to see this adopted by this Convention without one syllable or a comma or a period left out, just as it is. Mr. McNealy says, "Well, we have had judges appointed here for many years. I would like to protect those men." Perhaps Mr. McNealy has practiced under those appointed judges so long he is like the prisoner who after many years begins to love his chains.

V. RIVERS: May I ask a question of Mr. Taylor?

PRESIDENT EGAN: You may, Mr. Victor Rivers.

V. RIVERS: Mr. Taylor, if the governor does not appoint and the appointment springs from judicial council, why is not only one name recommended to him instead of two?

TAYLOR: It is to give a choice.

V. RIVERS: He has a choice power and appointive power?

TAYLOR: That is correct. I might say that there will be legislative act to implement these sections that are in here. He will have to appoint because it devolves upon him. There can be three to give him a choice if he wants them, according to what the legislature says.

MCNEALY: Mr. President, this matter I wish to assure the delegates is not personal with me, and if you will bear with me for a couple of minutes I am going to make the whole pitch, .so to speak, on this particular amendment. If this amendment fails then I am going to ask unanimous consent to withdraw all the

other suggested amendments for the purpose of saving time of this Convention, because if all the amendments were considered and argued upon, and I were fortunate enough to have a second, this discussion could go on for days and even weeks. I offer this amendment. I am not sold on the bill as it is. I am not particularly sold on the matter of the election of the judges by the public. I owe it to other attorneys who have asked me to offer this amendment and to laymen who feel that they should have the right to vote for all the offices that they possibly could vote for under a system of state government. I did not start in the law business as of yesterday. I have been admitted to the bar almost 27 years, and I did not have the funds to attend a university and the prior four years then I spent in the law office, and that was a continuous four years of work in a law office, so for more than 30 years I have been depending upon the law for my bread and butter, and on the point of having a successful practice, why that certainly should not prevent me from being one of those appointed if I ever desired to be a judge, which I don't think I could afford to because of probable pay scales, so I'll probably be appearing before the judges as long as I'm able to get around, possibly as long as old Judge Grigsby down in Anchorage or our Dean here, Julien Hurley. Now as far as your election of changing judges in office, I want to call attention to another old saw which has been in effect since time when the memory of man runneth not to the contrary and that is that judges never die and they very seldom retire. In this matter of running against the record, I want to argue that point just a minute. To say that the voters are going to have an opportunity now, it's going to be put on the ballot shall Judge So-and-so be reelected. Well, I can think of this situation, I am concerned about this. Judge So-and-so has been appointed, and he serves and he is on the supreme bench for ten years or is on the superior bench and has served for six years and then he runs against his own record. All of the attorneys that are practicing before this judge learned over this period of six or ten years that Judge So-and-so is a stinker. He comes down with some of the lousiest decisions. He steps on this fellow and that fellow, he does not follow the law. He hands down decisions that are unfair to people. Now, all of the lawyers know this situation, but the general public does not know. The general public does not pay too much attention to judges and what is going on in court unless it is your case that is before the court, so the time eventually rolls around -- the six or ten years -- and old Judge "Stinker" comes up to run against his record. So then the lawyers, if they can do it -- Mr. Taylor, to digress a minute, mentioned the American Bar Association. I am not a member of the American Bar Association. Never have been and never will be. If my memory serves me correct, there are probably only about 30 per cent of the lawyers in the United States that do belong. I am not going to state why I do not belong and why the other 60 or 70 per cent don't -- but the fellow comes up. The lawyers

then look over those now that belong to the American Bar Association at least, and possibly under our Alaska Bar Association, I haven't seen the Canon of Ethics adopted, or to be adopted, but if the members of the American Bar, under the Canon of Ethics, can do this, can get out and bring to the public's attention that Judge So-and-so should not be reelected, (and I question under the Canon of Ethics of the American Bar will allow it) then the lawyers carry on a campaign in the newspapers and over the radio and say that Judge So-and-so is no good and urge the public to vote against him. Now, I am speaking from years of experience as to how the public in general feel about the attorneys and I am in hopes that the Alaska Bar Association will so regulate our own ranks that the attorneys will be considered as professional men and not shysters in the future. But in carrying on this campaign with the general public, unless their minds are changed, they are going to say, "What is the matter, this bunch of lawyers here are trying to get rid of good old Judge Whoozit." So Judge Whoozit comes out, he doesn't have to spend any money campaigning, all he's got to do is tell the reporter, "This bunch of lawyers -- I have stepped on their toes in trying to carry out the laws as written and this bunch of lawyers are trying to sabotage me." Judge Whoozit will go back into office by the biggest vote that it is possible to give him. The only ones who will ever vote against him will be the lawyers and there's not enough of them in the Territory to have an effect on the election. If I were a judge and wanted to be continued in perpetuity in office, then I would want the attorneys to come out and recommend against me. Now, and as I said before, I am going to withdraw these others and this will be my last time on the floor if you will bear with me just a few more moments. Now, I would like to speak personally of the matter of politics involved. I don't think that running for a judgeship either, should be a popularity contest. But here we have three laymen appointed by the governor, three lawyers appointed by the bar association. I am looking ahead to a situation of this kind that will arise where a governor appoints three laymen, now the governor appoints these three laymen and they are beholden to the governor. The governor, be he Republican or Democrat, tells these three laymen, Here is Jones and Smith here now, they have been good party workers, they helped get me into office. Now, I want you three laymen on the board, Jones and Smith should be rewarded, so I want you to come up with their names." Then the three lawyer members don't agree. They want two different members to be appointed, so they come up with two. The three laymen members say to the governor, "What are we going to do?" The governor says "hang tough. Now, we have precedent for that. Take your Employment Security Commission here in the Territory, which is one of these two and two deals, two from labor and two from management, and they have not been able to agree on one single solitary important problem under the Employment Security Commission, and it is questionable that they ever will be able to.

They can't even agree, or haven't the last time I knew, on a bill which was passed in the last legislature hoping to break the deadlock by authorizing the four of them to get together and select a fifth member. So I can see an absolute stalemate in that regard. Going further, now currently the vast majority of states elect their judges. First I want to apologize to the Convention here about saying anything about Nebraska. That is where I studied law and where I was admitted to the bar, and being opposed to their unicameral system, maybe I should be opposed to the fact that they elect their judges. I have been an inactive member of the bar there for a great many years, and the other day I received a list of the judges that were still on the district court bench -- we called it district court there, not superior court were on the district court bench in Omaha. At the time I was there, in the late 20's and early 30's, we had 12 district judges in Omaha Douglas County, I should say. These 12 district judges ran for election every four years. I noted in the recent paper that I got from the Quarterly Law Review from the Bar Association that all 12 of these district judges are still on the bench in Omaha. They have been running for office every four years. They are good judges. The lawyers like them, the people like them. It is no argument that you are going to have inferior men on the bench simply because, if the judge is not a good judge, the people themselves are going to see that he is removed. Now, in closing, I believe it was on the floor that this constitution should be more or less of a fundamental document. I am in favor of a fundamental document. I believe that this judiciary article, with all due respect to the attorney members and the laymen members on the Judiciary Committee, that it could have been solved by saying, "There shall be a supreme court and such inferior courts as the legislature may establish from time to time", which would have taken care of the matter just as well. I assure you, ladies and gentlemen, I will not speak upon this subject again, and I thank you for this opportunity.

PRESIDENT EGAN: Mr. Ralph Rivers?

R. RIVERS: As a member of the Judiciary Committee, I would like to second the able presentation of our Chairman and to endorse the points brought out by Mr. Taylor. I was a member of the bar in Seattle when I was a young fellow, over 20 years ago, and there they had the election system. The judges had to file in a competitive political field every two years, and there was always that undercurrent that litigants were contributing to the judges' campaign funds. There was nothing improper for a person to contribute to the campaign fund, but there was an undercurrent of chicanery. It does not seem to be right that a man sitting on the bench should be the subject of contributions from various and sundry people, either presently litigants or people with cases pending. The best soap-box orator often times gets elected and your better

attorneys who have these qualifications we are all aware that are required would hesitate to throw their hats in the ring and get into that kind of a circus. I concur with Mr. Smith that this has the virtue of a screening process, an orderly screening process. We label it nonpartisan because the ability and qualifications should have nothing to do with the political party. But actually this is not only an approach at nonpartisanship although politics is bound to enter into it to a certain extent, this is a screening process which is the most important point involved. So I think that it is positive with some decency of approach and thinking the judicial council will seek for the best available timber, and we take a bow to the governor in taking his choice of two persons that are nominated, or three if we have that many to spare and are available to be nominated, but he has no alternative but to pick one of the names that are presented to him by the judicial council. There is the other point that there will only be six until a supreme court justice is appointed and the only chance for a deadlock would be on nominating two or three people for the office of supreme court justice. After that you have your seventh member and there will be no chance of a deadlock. I am willing to trust the integrity and good sense of the six people first appointed to judicial council to be able to agree on two or three nominations for chief justice, and I am willing to trust the governor to take his choice of those two or three names that are presented, so I see no serious problem of a deadlock in order to get the machinery fully implemented. I go along with Mr. Taylor that this Committee has given and taken and bumped its head, I should say the members have bumped their heads together. There has been some compromising and adjusting, but our composite thinking is better than the thinking of any one of the seven of us that constituted that Committee. I believe we have a constructive article, one of which we can be duly proud. So outside of letting the Style and Drafting Committee change a few commas, Mr. Taylor notwithstanding, and polish up a sentence or two, I hope it is adopted the way it is written.

JOHNSON: I move the previous question.

PRESIDENT EGAN: Mr. Johnson moves the previous question.

TAYLOR: I second the motion.

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

SUNDBORG: Parliamentary inquiry, Mr. President. Is the matter of voting on the previous question debatable?

PRESIDENT EGAN: No, it is not, Mr. Sundborg.

SUNDBORG: I call for a roll call.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" A roll call is asked for, the Chief Clerk will call the roll. Mr. Smith?

SMITH: May I rise to a point of information? The previous question would be the vote on the amendment?

PRESIDENT EGAN: The previous question would be the vote on the amendment. What you will be voting on now is whether you should order that previous question. Mr. Davis?

DAVIS: Mr. President, the amendment is only to Section 4, is that right?

PRESIDENT EGAN: That is right. We are not speaking of Section 4 right now, Mr. Davis. We are speaking as to whether we will order the vote on Section 4. The Chief Clerk may call the roll.

(The Chief Clerk called the roll at this time with the following result:

Yeas: 41 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Doogan, Gray, Harris, Hellenthal, Hilshcer, Hinckel, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 12 - Davis, Emberg, V. Fischer, Hermann, Hurley, Kilcher, Londborg, Nordale, V. Rivers, Sundborg, Sweeney, Mr. President.

Absent: 2 - Buckalew, H. Fischer.)

LONDBORG: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Londborg wishes to change his vote to "no".

CHIEF CLERK: 41 yeas, 12 nays and 2 absent.

PRESIDENT EGAN: So the previous question has been ordered.

JOHNSON: I request a roll call on the previous question.

V. RIVERS: Is a question of personal privilege in order at this time?

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

V. RIVERS: I just want to say that we are acting in final action now on the amending of a bill, rather the amendment of a proposal. It seems to me not only good courtesy but good judgment that the previous

question and final action should be used very charily. I can see using it late at night after many hours of debate, but it is hard for me to conceive foreclosing any member of this group from having their full expression of their views on the final action of any part of any proposal that comes up. It seems to me that it is very poor policy to exercise the previous question in a matter of prime importance that we are taking the primary action of amending. I have sat in a good many deliberative bodies. I have seen the previous question used to stop debate on minor points where you have something at issue which may have not been primary to the functioning of the body. But I seldom have seen the privilege of the previous question abused to stop debate on a final action of a measure that is coming up for either amendment or final passage. It seems to me that debate on these things of importance that are going to carry on for many years should not be limited to the expression of the opinions of a few. We are here for the primary purpose of considering all facets of all of these questions, and it seems to me that moving the previous question forecloses substantial consideration. I think there are men in this body who should not only express their views but to express their views for the record, should be heard in regard to what they have to say pro and con on this question. It is one of the fundamental questions involved as to whether or not we have the appointive system of judges. I might tell you I favor the appointive system of judges in the manner set up here. However, that is beside the point. It seems to me, in determining intent and determining the consensus of this body, the record should be complete. It seems to me that moving the previous question was entirely one of -- not a desire to foreclose the record but to foreclose many men who might have had some valuable comments to put into this record on this point. I just want to say at this point I am going to close my discussion on the previous question, but I just want to say in reading the handbook (the Hawaiian Legislative Handbook) in connection with judges, I want to call your attention to the first paragraph. Independence of the judiciary is a fundamental principle of our American court system. How to achieve that independence is a problem still unsolved. All agree that the first step is to find the right method of selecting judges which will insure a bench free from the influence and control of party politics, individuals or pressure groups." Now it seems to me this matter should have a more full discussion before action is taken on this particular amendment.

NORDALE: I would like to echo everything that Mr. Rivers says, and I believe that every paragraph of this constitution is too important to preclude anyone from expressing his views. I would like to move to rescind the action on the previous question.

SUNDBORG: I second it.

PRESIDENT EGAN: It has been moved and seconded that the action taken to order the previous question be rescinded. All those in favor of rescinding the action ordering the previous question will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the action has been rescinded. We have before us Mr. McNealy's proposed amendment to Committee Proposal No. 2. Mr. Hurley?

HURLEY: Mr. President, in order that there will not be a feeling on the part of the 55 delegates that this is a courtroom and only attorneys are speaking, I would like to endorse in substance Section 4 of the proposal. I think Section 4 goes to the meat of the whole proposal and as such it will be necessary for us probably to digress into a great many other things that may have been taken care of in later sections. Generally speaking, I think that Mr. McNealy is extremely sincere in his objections to it, but I too have lived under an area where judges were elected to office from anywhere to two or four years. I too have found that those judges have stayed in office from anywhere to 20 to 40 years. I think that is a very substantial argument why a system that is prescribed here should be adopted. In other words, it is not an argument against it. The main argument against the running of judges on an open ticket in a prescribed time against other competition I think has been ably stated by Mr. Ralph Rivers, that it does degenerate, and I have seen it degenerate, into a question of whether a judge is capable of making his own decision on the litigants that are before him and whether he has in mind whether or not they will serve him well at election time. The only other thing I would like to say, besides endorsing in full, is that I would like at a later time, in Section 9 and 10, when we come to it, to offer some slight amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, Mr. Hurley has a point here when he says that only the attorneys have been speaking in this matter. I am an attorney but I want to speak on this amendment because the matter is absolutely fundamental. If Mr. McNealy's amendment proposed to Section 4 should be adopted, of course the whole approach to the matter of the selection of the judiciary would be different. We would have to start out and do it all over again. Now that would be all right too. Merely the fact that the Committee has put in a proposal here is certainly not governing on this body. But at this time we are going to have to decide, by this body, as to whether it is the will of the Convention that judges be appointed, or as to whether it is the will of the Convention that judges be elected. After we decide that, one way or the other, then we can go into the other matters as to how they are appointed or as to how they are elected, in either case. Now historically, judges were

always appointed until some time after the adoption of our Federal Constitution, and our Federal Constitution included that procedure in providing that judges are appointed and, in fact, are appointed for life. And, of course, the theory behind appointing judges for life is that they are once appointed, completely independent, and over the years we have seen many times when a President attempted to what we might call, "pack" the Supreme Court. The President has appointed his man or his men with a particular idea in mind, and when those judges were appointed, I think invariably or at least almost all the time, the President in question has been badly disappointed to find that his man followed what he conceived to be the law and not the President's wishes. The lifetime tenure of judges has much to recommend it. On the other hand, the lifetime tenure of judges has the possibility of being abused. Any attorney who has practiced law has seen instances where a judge appointed for a lifetime, after serving for a length of time, becomes completely unresponsive to the will of the people, refuses to change with the times and the times do change. And for that reason, strict appointment with a lifetime tenure, has its disadvantages. With that in mind then, sometime shortly after the adoption of the United States Constitution, many of the states started electing their judges with the idea that the judges would be more responsive to the public will. And the pendulum, as somebody said awhile ago, swung clear over to the other side and we had very nearly all our judges except our Federal judges being elected by the people and for relatively short terms. I grew up in the State of Idaho and we had elective judges. Their terms, even the supreme court judge terms, were only four years. The judge ran every four years and inevitably it got into politics. In order to attempt to remedy that situation, the State of Idaho many years ago adopted a nonpartisan judicial ballot where the judge runs, not as a member of the party, but runs for the office. However, he runs against some other person who aspires to be a judge, and he runs every four years. The result was that the judiciary was not and could not be independent, depending on the whims of the time. depending on the decisions a man might have made, he was or was not retained, or depending on how popular his opponent might be, completely irrespective of qualifications. Now the elective system has much to recommend it, but likewise, it has much against it. In the creation and maintenance of an independent judiciary, and I believe without qualification, I believe I could say that all of us here want an independent judiciary, a judiciary that will not be swayed by the public will at any particular moment, a judiciary that will not be subject to political pressure, a judiciary that will not be subject to pressure from the executive branch of the government. I moved to Alaska some 16 years ago and from that time to this I have been operating under a judiciary which was appointive. However, appointed for a very short term of four years, and I am willing to state flatly in my opinion that system will not work. I have seen instances where judges were

appointed who had no qualifications at all to be judges. They were appointed either by reason of a compromise they were the only ones everyone could get together on -- or for some other reason. In at least one instance, I saw an instance of a judge appointed who was a good judge and who was doing a good job as judge. In the particular case I have in mind the judge made a decision against the United States of America, in my opinion a completely proper decision, but a decision against the United States of America. When he came up for reappointment at the expiration of his four years he was not reappointed, and a judge was appointed who it was believed would follow what the government wanted, and I know that we do not want that. Now the plan which has been presented here is a compromise between the plan of appointing judges for long terms and a plan for election of judges. In my opinion it has the best features of both. Now Mr. McNealy said, when he was talking, that the fact that a judge may be appointed, may be elected rather, might be an entirely a good judge and that the fact that judges are elected is not any argument that the elected judges are inferior, and I will admit that in a minute, and I also will admit that the fact that judges are appointed does not necessarily guarantee that they are superior judges, but it seems to me that the plan which is set up here gives the best of the two systems with the result that when the procedure is followed we have taken the best means yet devised to appoint and select qualified judges and to keep judges free from outside pressures and to get rid of judges who are not able to properly do their job. I hope that Mr. McNealy's proposed amendment will be defeated.

PRESIDENT EGAN: Mr. Metcalf? If there is no objection, the Convention is at ease for a moment while the stenotypist changes her machine.

RECESS

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

SWEENEY: Mr. Chairman, in view of the fact that they are going to take our desks from us in a few minutes, I would like to move that we recess until 1:30 this afternoon and that Mr. Metcalf be the first speaker when we resume discussion.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that owing to the fact that the University people will have to get these tables out of here in a few minutes, that the Convention stand at recess until 1:30 p.m. and that Mr. Metcalf, who was recognized, have the floor at that time. Is there objection? Hearing no objection the Convention stands at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher?

KILCHER: Mr. President, I move that the Rule 35, pertaining to the previous question, be referred to the Rules Committee for further study.

HELLENTHAL: I second the motion, Mr. President.

PRESIDENT EGAN: Did you ask unanimous consent, Mr. Kilcher?

KILCHER: Yes.

PRESIDENT EGAN: Mr. Kilcher moves, seconded by Mr. Hellenenthal, unanimous consent is asked that Rule 35 pertaining to the previous question be referred to the Rules Committee for further study. That does not mean at this time, Mr. Kilcher, but that they report at the next plenary session?

KILCHER: Yes.

PRESIDENT EGAN: If there is no objection, it is so ordered. Mr. Metcalf, I believe you have the floor on Mr. McNealy's proposed amendment.

METCALF: I am one of the lay members of the Judiciary Committee, and I wish to speak briefly, make a few remarks in opposition to Mr. McNealy's amendment. I would not argue that this proposal submitted is perfect. Anything that is man made is certainly not perfect. For instance, you go up in an airplane and you don't know for sure you are going to get down in one piece or two, so there can be defects -- In anything that is man made. I am of the sincere belief that this proposal that the Committee has brought out as a result of the thinking of all seven members of the Committee is as near perfect and workable as possible. There is something that I would like to bring out that has not been brought out already. As an experience, I have had almost 15 years' experience in serving with the Justice Department, and as part of that I had charge of the jail at Seward for nearly 14 years where we had from 3 to 30 inmates in the jail. Here is an observation from having a ringside seat of all this activity going on and taking part in it. I wish to make an observation that there is a great lack of uniformity in the distribution of justice and it is also my personal observation that lack of uniformity is due to probable pressures being exerted. Perhaps people who are fortunate to be wealthy can employ extra good lawyers and put on a real good case before the court and jury and thereby a man with money gets a lighter sentence than the person who does not have money. That is my criticism of the judicial system lack of uniformity. To illustrate roughly, maybe I have seen a man get ten years for manslaughter for killing a man and another sentence maybe 15 years for just shooting a

leg off. There is lack of uniformity. So speaking sincerely from my heart, I would like to see, and I believe this proposal here does it, it makes the judiciary courts strictly nonpartisan and as near independent so that they can be fearless and interpret the law equal to all and special privilege to none, and I am certainly in accord with the sentiments expressed by my fellow members of the Committee.

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

BARR: Mr. President, we have heard from several able attorneys whom I consider experts in the judiciary. I am certainly not an expert. However, we must bear in mind that the courts are established for the benefit of the public and I am a member of that group. I would like to speak from that viewpoint. Now the chief value of a judge on the bench to the public is the work he does, the decisions he renders. He should have in qualifications, first, ability and experience. Secondly, he should have integrity and a willingness to render impartial decisions. Of course the first, the ability, is without value unless he also has Integrity. We have before us two methods of selecting the judges -- by appointment or by election by the people. Now, I will not deny that a little political consideration at least, might enter into both methods. Of course, our interest here is to select that method with the minimum of political consideration or partisanship of any kind. Under the proposed method in this Committee Proposal, whereby he is appointed by the governor, I would like to point out that two candidates are submitted by the judicial council and the governor ^ approves of one and disapproves of the other. In other words, that is tantamount to appointment by the judicial council with approval by the governor since he has only two to select from. If anyone is going to appoint the judges, it certainly should be the experts who understand his duties more than any other group. On the other hand, if he has to campaign in election (and if he expects to win he will have to campaign vigorously like any other candidate), some campaigns cost quite a bit of money, he may accept campaign contributions which in itself is perfectly correct as long as they are contributions and not payment, and there will be certain groups backing him and others against him, certain individuals likewise. When he is elected he may be Impartial, it is hoped he will be. But he has less a chance to be impartial after being backed or opposed by certain people, and I would not like to put the judge in the position of having that tension of feeling that he should be grateful, even if he does nothing about it. Another thing, during the campaign if he expects to win, he is going to have to make speeches to the people to point out why he should be elected. He might even be asked to make campaign promises. He will be asked to make statements which might amount to commitments. Then after he is on the bench he can't forget those statements. He is supposed to live up to them. That is not right. A judge should be free in every way, after he is on the bench, to render a decision. Now in examining these two

different methods of selecting a judge -- first, if he is appointed by a judicial committee and approved by the governor, he should have these two qualifications -- ability and integrity. It is certain, almost 100 per cent certain, that a man with ability will be selected. If he campaigns and that election goes to the people, that is not so certain because the candidacy will be open to any attorney. There are attorneys of all degrees of fitness for that office, of course. On the other hand, if the judicial council appoints a man there is no guarantee of his Integrity but certainly these people are well acquainted with him and there is a greater guarantee than if he were selected by popular vote. So in balancing one method against the other, in my own mind I would say that by election you have no guarantee whatever of ability. You do have nearly 100 per cent guarantee if appointed. In integrity, you have no guarantee whatever of integrity in election. In appointment you have some guarantee of integrity. I believe that this Committee report that outlined the system of selection of our judges which is just about as perfect as can be, it's not perfect, nothing's perfect, but I think it is a system we want in the Territory.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, at this moment we are at the heart of the problem of creating an independent Judiciary. Some of us have not always been proud of segments of the legal profession in Alaska, but at this moment I am very proud of this Committee of five lawyers and two laymen who have recommended this plan and this proposal to us. If this proposal is adopted, I shall be and shall continue to be proud of not only the legal profession in Alaska but of the Alaskans who in their search for an independent judiciary have drawn the very best from the studies and the constitutions of 48 states and have rejected the poor and the second rate. I hope that in substance that this proposal will be adopted by this Convention.

SUNDBORG: Mr. President, may I have permission to address a couple of questions to the speakers who have spoken on this issue just for the purpose of clearing up a few points?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, you may address the questions.

SUNDBORG: I was wondering, Mr. McLaughlin, if you know whether in states which do have a plan such as this, which I understand is generally designated as the Missouri Plan, in such states as a matter of practice, does the electorate ever, or very often, vote out of office a judge who is in office when the question comes up?

MCLAUGHLIN: As a matter of fact I will refer you back to the sheet that was prepared for this Convention by the Public

Administration Service and I believe that in there they specifically point out that in Missouri, they have, in fact, repudiated judges at the polls. Is that a startling thing? It is indeed. My own state (the State of New York--when I say my own state, where I am also admitted in addition to Alaska) between the time of the adoption of the constitution until very recently, I think they had 17 attempts at removal of judges and only twice did they succeed, and I am sure by that time the man was in a padded cell. Does it work? Yes. They do repudiate them at the poll. In Missouri, yes, they did repudiate them at the polls.

SUNDBORG: Thank you. Now, Mr. Taylor, earlier in the Convention I happened to watch one of the television programs when the Judiciary Committee was holding a meeting, and as I remember it, you spoke quite strongly in favor of electing judges. I take it from your remarks today you have been won around to the other view that it would be better to appoint judges. Is that correct?

TAYLOR: No, that is incorrect, Mr. Sundborg, because I introduced a proposal here which to a great extent is embodied in this now and I was in favor of the Missouri Plan. In fact, when I was running for the legislature, I was very emphatic in my stand upon the adoption of the Missouri Plan or something close as possible to it.

SUNDBORG: I see. Mr. McNealy, I was wondering in case your motion should prevail to strike this and other sections, do you intend to substitute anything else in their place or would you just leave that part of the constitution silent?

MCNEALY: It would be necessary to rewrite a section covering elections rather than appointments.

HINCKEL: May I direct a question to Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection, Mr. Hinckel, you may address your question to Mr. McLaughlin.

HINCKEL: Was consideration given to appointment by the judicial council with the governor to have veto power?

MCLAUGHLIN: Consideration was given to the appointment by the judicial council with the governor to have veto power, but it was believed that in order to balance up the powers that the governor have some choice in the matter, that is, the executive branch have some election in the matter. As I say, the Committee was reluctant to recommend anything of a material nature which did not have prior precedent and the benefit of experience so that we could adjudge its value.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, am I correct that the amendment to Section 4 is now under discussion? If Section 4 should stand as written would that imply in line 17, page 2, "judicial council as provided in this article," if you accept that would that preclude any change in Section 6? Could we amend Section 4 again in some other manner?

PRESIDENT EGAN: Section 4 could still be amended, Mr. Kilcher, if this motion of Mr. McNealy should fail. Inasmuch as Mr. McNealy's proposed amendment would delete Section 4, if there was some other amendment offered to Section 4 or 6 it would stand and be a proper subject for the Convention. Is there anyone else who has not spoken yet on the proposal who would like to? Mr. Londborg?

LONDBORG: I am getting more and more sold on the idea of the appointment of judges. However, there is a matter in another section that may make a difference in the voting, and I am wondering if it would be in order to submit an amendment to Section 10 on page 3.

PRESIDENT EGAN: Mr. Londborg, it will be in order, properly so if you so feel, after this particular amendment on Section 4 is dealt with, unless by a two-thirds leave of the Convention you are allowed to explain what your purpose was and the Convention would feel that it was in line. If you were speaking in the nature that it might affect your decision as to how you will vote on the proposal of Mr. McNealy's.

LONDBORG: Well, it would as far as pertaining to Section 4, because leaving Section 4 as it is would call for nomination by the judicial council. Now if you feel that that could be perhaps amended later, I would hold my amendment in Section 10 until that time.

PRESIDENT EGAN: It could be amended later if you so choose to offer an amendment.

LONDBORG: Otherwise, I thought I would offer them now.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I wonder whether in view of Mr. Londborg's state of mind, which I think may be that of many of us, if Mr. McNealy might consent to withdrawing his motion to amend, by striking only Section 4, and would agree to make his motion which would cover all the sections he mentioned and which covered the issue of the appointive as against the elective selection of judges at the time we reach the sections, which would be Section .14, so that we could proceed and see exactly how we would change the sections about the appointment of judges, if we do intend to change them, and then we can decide whether we want that system, or whether we want the

system of elective judges, rather than try to decide it now before we have gone into Sections 3, 6, 9, 10, 11, 12, 13, and 14, which I understand Mr. McNealy also would strike.

PRESIDENT EGAN: Mr. McNealy, would you care to answer Mr. Sundborg's question?

MCNEALY: Mr. President, as I have stated, and I still feel the same way, if Section 4 should by any chance, if my amendment be adopted, then it would require, certainly, further work on the other sections. However, it was my intention, I'll put it this way, when the amendment is defeated, then it is my intention to withdraw my amendments as to the other sections and leave them open for any action on the floor as to those further sections.

SUNDBORG: As I understand it, Mr. President, Mr. Londborg was saying that his vote on the motion now before us, namely to strike Section 4, might depend to considerable extent upon what we might do about some later section here which we would have reached and dealt with, if we could proceed in the manner just suggested to Mr. McNealy.

PRESIDENT EGAN: Mr. Sundborg, it sounded to the Chair like that before Mr. Londborg sat down, that he felt that if it would be proper that he offer a different amendment to Section 4 if this motion of Mr. McNealy's failed, it would be in line with his thinking.

LONDBORG: Mr. President, I would have no other offer as far as amendment for Section 4. Mine pertains to another section. However, it may influence my voting on this matter of the motion that you have before the house.

SUNDBORG: Mr. President, is it not true that if we should now vote, either rejecting or accepting Mr. McNealy's amendment to strike Section 4, that we could not again later vote on that same matter?

PRESIDENT EGAN: We could not vote on that same matter, Mr. Sundborg, unless, of course, by a two-thirds majority vote of the Convention you can almost do anything. But there could be other amendments offered to Section 4. We could not vote on the out and out matter to delete the entire section, no. Mr. Taylor.

TAYLOR: I think Mr. Londborg's question was not answered, because it was specifically understood that at the time we entered into the consideration we were only acting upon Section 4 and not upon 9 and 10 -- 10 especially Mr. Londborg mentioned, as he might want to make a change in that one, and I think if Mr. McNealy's motion failed or if Mr. McNealy's motion carried, 8, 9, etc. will be out of the proposal anyway.

PRESIDENT EGAN: Mr. Smith hasn't had the floor yet. Mr. Smith.

SMITH: I would like to request and ask unanimous consent that a two-minute recess be called, and I believe this matter could possibly be straightened out.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. McNealy's motion to delete No. 4 from the proposal.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The Chair would like to state at this time that this morning Mr. McNealy, when he first brought up the question of second reading, when he first proposed his amendment, he stated that he was of the feeling that second reading of proposals was going to be held over, that all proposals were going to be held in second reading until after the hearings recess. The Chair informed him when he sat down that such was not the case and then Mr. McNealy took the floor later than that and gave his argument. In the opinion of the Chair that did not preclude Mr. McNealy of his right to close the argument, if he so chooses. The Chair would like to call to the attention of all the delegates at this time that each delegate is entitled to speak twice on any question without further leave of the Convention. He should speak once, only once without leave of the Convention until all the rest of the delegates who wish to be heard, are heard. Then he is entitled to speak again. The mover of the motion is always entitled to the final say if he so chooses. Mr. McNealy, at this time, in the opinion of the Chair wishes to make a closing argument, it is his privilege. Mr. Victor Rivers,

V. RIVERS: Mr. President, point of order. In speaking, you do not include the matter of personal privilege or the asking of questions?

PRESIDENT EGAN: That is right, Mr. Rivers. If a person rises and wishes to ask a particular question, that is not counted against his time on the floor. Mr. Kilcher?

KILCHER: Mr. President, point of information. Does this imply that the previous question could not be asked either before each delegate has had the floor once?

PRESIDENT EGAN: No, it does not imply that, Mr. Kilcher. The previous question can be asked for at any time that a delegate

he so chooses. However, in going into the Robert's Rules of Order, the brown book where everything is explained explicitly – it goes much further than these books that we have – and on the question of the previous question, Robert's Rules of Order goes into that in a quite lengthy order, and it gives the chairman of any parliamentary organization considerable latitude as to how he shall treat the question at the time it is put. In other words, in general procedure some judgment is left to the chairman as to whether he will allow immediate closing of debate without having information made available to the assembly, and that is precisely what was done this morning because maybe the Chair felt that some members did not realize they were closing debate when there were other members on the floor who were seeking that privilege. If there is no further debate on this motion – Mr. Robertson?

ROBERTSON: Mr. Chairman, inasmuch as I am one of the advocates of this proposal, I staunchly advocate it now but I would like to again emphasize that Section 4 is the keystone of the entire structure of this proposal, and I would like to also state and call it to the Convention's attention that we had the advice on several meetings of Mr. Elliott on this proposal, and it was only drawn and prepared after consultation with him and a good deal of investigation, and I suggest to the Convention that it guarantees a strong, fearless, independent judiciary, and I hope that Mr. McNealy's amendment may be voted down.

PRESIDENT EGAN: Is there further discussion of this proposed amendment by Mr. McNealy? If there is none, then the question is, "Shall Mr. McNealy's proposed amendment, the deletion of Section 4 from Committee Proposal No. 2, be adopted by the Convention?"

JOHNSON: I request a roll call.

PRESIDENT EGAN: Mr. Johnson requests a roll call vote. The Chief Clerk will call the roll. Mr. Londborg?

LONDBORG: I would like to express my privilege of not voting in this matter.

PRESIDENT EGAN: Mr. Londborg requests the privilege of not voting on this matter. The Chief Clerk will call the roll.

COOPER: Mr. President, before the roll is called, as I understand the rules, any five delegates can now request any other delegate to state his reason for not voting. If there is doubt in any one delegate's mind, I would like to know what the doubt is, if there is still a doubt, possibly something overlooked, that wasn't brought on the floor. I would like to know. I am one, I would like to have four others.

PRESIDENT EGAN: You are asking Mr. Londborg why he is not

voting? Mr. McNees, Mr. Hellenthal, Mr. VanderLeest, Mr. Knight, Mr. Poulsen, Mr. Hinckel, Mr. Stewart (These men raised their hands) – yes, we have five.

LONDBORG: Well, as I understand it, Section 4 is basic and it is hard to be divorced from the remaining sections of the article and it seems that the entire matter should be voted on finally as a whole, and I would like to find out after we read through these and approve each section if the whole proposal then is voted upon in our deliberation and adopted by a majority vote or not.

PRESIDENT EGAN: Mr. Londborg, after all the amendments have been proposed, defeated, or accepted by this Convention, then we go back and vote on the whole Committee Proposal. The question will be in third reading after it passes second reading, the whole proposal will be voted on. It will not be adopted by the Convention until it is voted on in its final form in third reading.

LONDBORG: In voting in final form in third reading it would still take a two-thirds to put it back in second reading for amendment, right?

PRESIDENT EGAN: That is correct under the present rules, Mr. Londborg.

LONDBORG: Therefore I don't know if I can vote for or against Section 4 being deleted or left in until I find out what the other sections are going to contain.

PRESIDENT EGAN: Mr. McCutcheon?

MCCUTCHEON: The thing Mr. Londborg fails to realize is the fact that before he is required to vote on this in final passage that there will be one more copy of this document come to your desk which will include all the amendments that have been put in it. Then you will have it up in third reading. If you decide to put it back in second reading again, give notice of one day and you can return it to second reading for further amendment if necessary.

LONDBORG: By a majority vote?

MCCUTCHEON: Yes sir.

LONDBORG: Well then, I'll vote.

MCCUTCHEON: But you must give notice of one day and take action the next day in order to return it to second reading for specific amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I certainly differ with Mr.

McCutcheon in the interpretation of the rules in that matter.

A motion to rescind, if notice is given for only one day, takes only a majority vote. But a motion to put a matter back in second reading after it has gone to third certainly always takes a two-thirds vote.

PRESIDENT EGAN: Mr. McCutcheon probably meant a motion to rescind.

SUNDBORG: What would you rescind in the case that you are thinking of?

MCCUTCHEON: He could request a rescission on a specific item.

SUNDBORG: The Convention might rescind its action for example, on what it did on Section 4 but that would not put this article back in second reading and permit any other change to take that place without a two-thirds vote.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I have been asked to state my reasons and it seems to me that if I vote against Mr. McNealy's proposal or if his proposal fails, that it remains on an appointive basis, we cannot go and amend it to be on an elective basis as he suggests, and it may be that certain articles following Section 4, it may be that some of those articles as they are now would force me to vote Section 4 to be deleted, as they are now.

PRESIDENT EGAN: Of course, Mr. Londborg, would that not be true of any amendment that was proposed at any time to any proposal? None of us will know exactly until we get through.

LONDBORG: That is why it seems to me that after all the sections are voted upon, would it not be the procedure then to vote on the proposal as a whole before it goes to third reading?

PRESIDENT EGAN: When you vote on the proposal as a whole it is in third reading, but after other amendments are adopted it does not preclude further amendment to the proposal in second reading because an amendment might be adopted now. A different amendment could be offered to that same section at any time, Mr. Londborg, so long as we are in second reading. Mrs. Nordale?

NORDALE: I think maybe what is troubling Mr. Londborg is that he fears that if an amendment is adopted later in the proposal that is not consistent with something we have been over, that he cannot go back and make it coincide, but until we are all through, he can go back to Section 1 or 2 and change them to coincide with what happens later.

MCCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall Mr. McNealy's proposed amendment deleting Section 4 from Committee Proposal No. 2 be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result

Yeas: 2 - Laws, McNealy.

Nays: 51 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Buckalew, H. Fischer.)

CHIEF CLERK: 2 yeas and 51 nays and 2 absent.

PRESIDENT EGAN: So the motion has failed. We now have before us Section 5. Mr. McNealy?

MCNEALY: At this time I would move and ask unanimous consent that the balance of my amendments as to further sections be withdrawn from consideration.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent that the amendments he offered to other sections be withdrawn. Is there objection? Hearing no objection it is so ordered. Mr. Victor Fischer?

V. FISCHER: I still have one question on Section 4 if I may ask the Chairman of the Judiciary Committee.

PRESIDENT EGAN: If there is no objection, you may address your question to the Chairman of the Judiciary Committee, Mr. Fischer.

V. FISCHER: In Section 4, it states the justices of the supreme court will be appointed by the governor. In Section 2, there is a reference to the supreme court consisting of three justices, one of whom is chief justice. Who appoints the chief justice?

MCLAUGHLIN: I believe that is covered further. Actually, he

is appointed by the governor. It is covered in some future provision. There is a phrase --

PRESIDENT EGAN: Section 9 would probably take care of that. Mr. Victor Fischer?

V. FISCHER: Upon further reading I notice on page 4, on line 3, it generally, in that top there, it refers to the judicial council submitting to the governor nominees for appointments to fill initial vacancies including the office of chief justice. It is segregated in the initial appointment.

PRESIDENT EGAN: Are there amendments to Section 5? Mr. Victor Rivers?

V. RIVERS: I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the amendment.

CHIEF CLERK: "Page 2, line 8, strike the word 'ten' and insert in lieu thereof the word 'six'."

PRESIDENT EGAN: What is the pleasure of the body? Mr. Victor Rivers?

V. RIVERS: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Victor Rivers moves that the proposed amendment be adopted. Is there a second to the motion changing the word "ten" to read "six"?

SUNDBORG: I will second the motion, and I would like to ask the Chairman of the Judiciary Committee how the practice that is specified in the article embraced in Committee Proposal No. 2 compares with that of other states as to the length of time between these elections?

MCLAUGHLIN: As I presume, the question is, why did we determine that the judges of the supreme court should serve ten years. I personally voted for twelve. The Committee decided that ten was the average, and the Committee when it decided that ten was the average, followed the recommendation of the conference of the Chief Justices of the United States, at which they recommended that the term of judges of the appellate courts be not less than ten years. In fact, as I say, I reduced it two years, and Mr. Robertson decreased his an intangible amount, from lifetime to ten years. As the practice is in other courts, that is those which have revised their judiciary article in recent years, California, the supreme court has a term of twelve years. All justices of the supreme court, district court -- that is the Intermediate appellate courts -- is twelve years, and the superior court*which is the trial court, is six years. In New Jersey, the supreme court judges hold for seven years

and upon reappointment, they hold for life subject to removal, that is during good behavior and until the age of 70. That is Article 6, Section 6, Subdivision 3, of the New Jersey State Constitution. In Missouri, the supreme court justices hold for twelve years, the circuit court judges hold for six years. That is under Article 5, Section 29, C-1 of the Missouri Constitution, which has recently been amended. Under the Hawaii Constitution, under Article 5, Section 3, judges of the supreme court seven years, circuit court six years. It is the feeling of the Committee, because of the selective process, that is, screening for initial appointment and the fact that four years thereafter, every judge, that is, a maximum of four years, every supreme court judge and every superior court judge would be up for re-election, that there would be enough of a public control over them that long terms would be more desirable. How do these compare with the United States? Generally throughout the United States the figures are being upped. They are giving longer tenure to their judges, but it was on the basis of the fact that the chief justices of each state court has recommended as a minimum judicial standard the figure ten, the Committee adopted that figure. As I say, many Committee members consented to reducing it because of the re-elective system process we have.

PRESIDENT EGAN: Is there further discussion? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, in adopting the Section 4 we adopted the appointive process for judges, and of course I think the meat of that whole thing settled down to the fact that it was not an appointive process so much, but how they were appointed. Now I did not notice very many of the law members referring to past history. There was some brief reference to it, but perhaps that is because we do not enjoy on this floor certain privileges of immunity. However, I think if we look at appointive systems as such, our experience as Mr. Davis pointed out has been very poor. Now we have adopted the appointive system and the only difference is the method by which we select the judges for appointment. We have had judges in the past in the Territory under this appointive system, of course they have handled both Federal and the Territorial business, we have had some fine judges. We have had some men that were average and mediocre and some that many people considered very poor, but we are setting up now an entirely new system of justices. We have had the situation in the past where to make an ordinary appeal from the ruling of one of these courts would cost anywhere from \$2,000 to \$3,000. You would have to go down and have your transcript made and have your attorney go to San Francisco and of course you were practically, if you were an average citizen, foreclosed from having an appeal, but at this time we are setting up a system of justice at which we will now have under our direct jurisdiction, or at least within reach, the judges whom we appoint to these various positions and they

are subject to put their name before the electorate in the first three years they are appointed. Now we ask that the judge sit inviolate in that position for ten years. If he is a good judge, a fair and just judge, it is my opinion that he should have no fear in going before the electorate, because it has been my observation that a man who sticks to his principles and does not compromise principles with expediency and is generally known to be honest will even be elected and reelected to political office. Six years is a term for which we elect a senator. It seems that these men if they are good judges and there is no reason for recall, if the recall method as set up in here has failed to function, it might be very well to put their name before the electing body. They are appointed, we have given a strong appointive power to the judicial council. I am happy to see there is a certain layman representative group on that council. It seems that the least thing we can do now to offset this appointive power is to have a fairly strong or fairly liberal interpretation of the powers of electing these men as they run against themselves. It does not seem to me it is working any hardship on a man's tenure of office or on his feeling of security or on his ability to perform his duties by asking he get up and have his actions approved every six years without competition, by the electorate. It seems to me to be a much more democratic system of putting him in a position such that he's practically unremovable for--well, 20 years is probably the average productive life of a man who has gone through college and who has finally got himself in a position to be a judge. I don't expect his expectancy would be much more than ten years or possibly 15 years after he had become a judge, so we are practically giving an appointment in that position for life after he has once appeared before the electorate. I notice that Hawaii set up a period of seven years, quite evidently a compromise figure, because they ask the superior court judges, who are dealing with affairs much closer to the people, to appear every six years. As you know, the supreme court, as I visualize it here, will sit and act only on appeals from the court of lower decisions. There won't be a tendency to have this great wave of popular support swing for or against them after decisions in court because their decisions are so much fewer than the court's decisions that are made in the lower courts. I see no reason why we should not consider confirming these judges to offset the appointive power resting in the hands of a judicial council, consider letting their names come before the electorate every six years. It seems to me fair and somewhat considerably more democratic than keeping them in there for the longer period. I also want to point out that, as we start off in the statehood picture, as it is in many other layers of our society, we have a great many relatively new and younger attorneys and not very many of the more older, experienced, tried veterans to draw from. It seems to me that that is another good argument why we should have these people answer back to the electorate every six

years. It is not Imposing, in my opinion, any burden on them. If they are good judges, If they are qualified, if they are honest men doing a honest job, I should think they would be proud to put their name before the electorate. I see no reason to hold them back in this rarefied atmosphere of untouchability. I think the electorate should have the chance to express their opinion on them at least every six years.

PRESIDENT EGAN: Is there further discussion on this proposed amendment? If not, the question is, "Shall the amendment offered by Mr. Victor Rivers changing the word 'ten' to 'six', making it six years instead of ten years, for the supreme court justice to come before the electorate be adopted by the Convention?"

JOHNSON: Mr. President, I request a roll call.

PRESIDENT EGAN: Mr. Johnson requests a roll call vote. The Chief Clerk will call the roll.

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

Yeas: 11 - Cooper, Hinckel, Kilcher, Londborg, McNealy, Nolan, Peratrovich, Reader, V. Rivers, Smith, Sundborg.

Nays: 42 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, Riley, R. Rivers, Robertson, Rosswog, Stewart, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Buckalew, H. Fischer.)

CHIEF CLERK: 11 yeas, 42 nays, and 2 absent.

PRESIDENT EGAN: So the motion has failed of adoption. Are there other amendments to Section 5? If not, proceed to Section 6. Are there amendments to be offered to Section 6? If not, proceed with Section 7. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to ask a question of the Chairman of the Committee on the Judiciary Branch with respect to Section 7, if I may. Mr. McLaughlin, I notice that Section 7 appears to require that any person in order to be eligible for appointment as a Justice or judge would have to have been admitted to practice law in Alaska for at least five years, not necessarily five years preceding his nomination,

whereas he would have had to be a resident of Alaska for the five years immediately preceding his nomination. Is that what the Committee intended, or do you take that final phrase, "next preceding their respective nominations," as modifying both the admission to practice law and the residence in the state?

MCLAUGHLIN: I take it to modify both phrases. In fact, my recollection is that the Committee dropped out a comma, that is they wanted to have them both residents and admitted for the five years preceding their appointment.

SUNDBORG: I certainly believe as now written, it leaves that question very much up in the air, and it would be possible for a man who had been admitted at some time in Alaska for a period of five years, to be appointed even though they weren't the five years immediately preceding.

MCLAUGHLIN: That is true. Admission, you will note, Mr. Sundborg, that we say he has to be admitted to practice in the state for at least five years. He could have been admitted 20 years ago, left the Territory, heard there was a lush practice available in the town of Fairbanks and have returned in the five years just preceding his designation. That is a minimum of five years' residence immediately preceding. The admission takes effect in the one point in time and is continuous thereafter.

SUNDBORG: No man is ever "un-admitted" from the bar?

MCLAUGHLIN: I don't think that he would be found acceptable to the judicial council.

SUNDBORG: That may be, but is there procedure for removing a man's right to practice before the bar of Alaska?

MCLAUGHLIN: There would, and that would be a subject for the legislature to determine, that is, the qualifications, who becomes an attorney is left apparently, under this constitution, and should be, to the determination of the legislature.

SUNDBORG: I am asking this quite as much for our guidance in Style and Drafting as for the information of the Convention here. What I want to know, and I believe you have answered it is, it is the belief of the Committee and the decision of the Committee that the five years provision should be immediately preceding nomination both with respect to practice or admission and with respect to residence.

MCLAUGHLIN: Yes.

HELLENTHAL: I have a proposed amendment to Section 7.

PRESIDENT EGAN: Mr. Hellenthal has an amendment to offer. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Delete the period and add 'and who have practiced private nongovernmental law for said period.'"

ROBERTSON: Would the Chief Clerk please read that again.

CHIEF CLERK: "Delete the period and add 'and who have practiced private nongovernmental law for said period.'" It goes on to the end of Section 7. Delete the period.

PRESIDENT EGAN: Mr. Hellenthal, I think I know what you mean, but would the wording "nongovernmental", would that be the , proper – perhaps if there is no objection we will have a recess for two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal?

HELLENTHAL: Mr. President, I ask that the amendment that I offered to the Chief Clerk a few minutes ago be withdrawn and that the amendment that I have now left with her be considered in its place.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that his original amendment be withdrawn and that he be allowed to submit the amendment that is now before the Chief Clerk. Hearing no objection, it is so ordered. The Chief Clerk may read the amendment by Mr. Hellenthal.

CHIEF CLERK: "Line 4, omit period and insert a semicolon and then add, 'provided that time spent as an attorney for the United States, or agency thereof, shall not be construed as counting toward the five-year admission requirement.'"

DAVIS: I wonder if we may have that read slowly.

CHIEF CLERK: "After Line 4, omit the period and insert a semicolon and add, 'provided that time spent as an attorney for the United States, or agency thereof, shall not be construed as counting toward the five-year admission requirement.'"

HELLENTHAL: I move the adoption of the amendment.

MCNEALY: I second the motion.

V. RIVERS: May I ask the mover of the motion a question? I would like to ask if he is accomplishing his purpose here by only confining his exemptions to the employees of the United States, because we are going to have a great many prosecutors

under the state as I now see this setup. As I visualize your motion, it is to keep men who are prosecutors and have no other experience from going on to the bench, is that correct?

HELLENTHAL: In some instances, prosecutors, and in other instances, other governmental officials in different fields of the government.

V. RIVERS: If you have state prosecutors, this will not prohibit them. If they have nothing but five years of prosecution experience, they could still be appointed a judge.

HELLENTHAL: Yes, and so could an attorney general under this amendment, whereas the first amendment would have excluded the attorney general from going on the bench. Mr. Chairman, may I be heard in connection with the reason for offering the amendment?

PRESIDENT EGAN: Mr. Hellenthal, you may be heard.

HELLENTHAL: Some of us feel, based on experience in the Territory, that it is not wise that a person who comes to Alaska as an employee of the Federal government and who engages in governmental activity in which he achieves considerable prominence and who in many instances have never devoted themselves to the private practice of law at all should be elevated to the bench, and the proposal as it reads without the amendment would permit a man, say from Tennessee, that was nominated to a federal position in Alaska, perhaps say in the CAB and who achieved a great deal of notoriety but who had never once in his lifetime practiced law. That man would be permitted under the present reading of Section 7 to be eligible for the bench, and we feel that that loophole should not be left open because we have seen harm result to Alaska from that very circumstance.

PRESIDENT EGAN: Mr. Riley?

RILEY: I should like to address a question to Mr. Hellenthal. As I heard the proposed amendment, the next to last word was "admission". Had you not "eligibility" in mind?

PRESIDENT EGAN: Would the Chief Clerk read the amendment?

CHIEF CLERK: "Admission" is the word you had.

HELLENTHAL: Read the whole thing here.

CHIEF CLERK: "... provided that time spent as an attorney for the United States, or agency thereof, shall not be construed as counting toward the five-year admission requirement."

HELLENTHAL: Yes. The "five-year admission requirement" being

the language of the present Section 7, which reads as follows: "who have been admitted to practice law in the State for at least five years". That is the admission requirement under the present Section 7- We would not want to include federal time in that admission requirement.

RILEY: Mr. President, just to make my point clear -- I had in mind that you were referring back to eligibility for appointment.

AWES: I would like to ask Mr. McLaughlin a question.

PRESIDENT EGAN: If there is no objection you may ask Mr. McLaughlin a question, Miss Awes.

AWES: This requirement that a person who had been admitted to practice law, is that for five years? Is that interpreted to mean that he has to be admitted and to actually practice?

MCLAUGHLIN: It was the Committee interpretation that admission to the practice of law did not necessarily imply any type of consistent regular practice, merely being admitted, nor did it imply that a person who was in a governmental service either in the United States or the Territory of Alaska should be precluded from appointment under the article. It was merely the technical requirement of having been admitted for a period of five years.

AWES: Well then, with Mr. Hellenthal's amendment, a person who has worked for five years in the government -- that five years would not count, but what about the man who is admitted to the bar and then goes out and gets a job as a salesman or is business manager of some company?

MCLAUGHLIN: Under the literal interpretation of this provision, a man who goes out and gets a job, and I will use another example, a man who is a mortician and practices as a mortician still under this article would be eligible for appointment.

PRESIDENT EGAN; Mr. Hurley?

HURLEY: Mr. Chairman, I think the amendment is discriminatory and unnecessary. The comment that was made by the mover of the amendment had reference to a situation which we will not have if this proposal is adopted. Under this proposal we will have a judicial council, which in my opinion should be given credit for being able to make decisions to the benefit of the Territory at large. I prefer, rather than to appoint an obviously discriminatory finger against some faction, to leave it up to the judicial council to act wisely in the matter.

HARRIS: Mr. President, I would like to agree with Mr. Hurley. This amendment seems discriminatory to the extreme. We have

set up in our judicial council a system where they have three lawyers plus the chief justice and if the four lawyers together can't keep the right type of judge in there, along with three laymen, there is something wrong about the judicial council setup as a whole.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, as I read Mr. Hellenenthal's proposed amendment, I see some merit if it relates to eligibility for appointment as a judge. But when he reiterates that his amendment looks only to eligibility for admission --

HELLENTHAL: It relates only to eligibility for judges.

RILEY: Yes, but the word "admission" relates back with admission to practice, does it not?

HELLENTHAL: I do not so read it, Mr. Riley.

RILEY: Let me continue in the hope you may correct me. As I read your proposal, your amendment, five years, or I should say service for the United States, "or agency thereof, shall not be construed as counting toward the five-year admission requirement." Now let us assume that a fellow has been practicing in private practice for 15 years. He was admitted initially after having served for five years, we will say, when he came to Alaska as an Assistant D. A., or whatever. Are we not throwing an unnecessary obstacle in his path toward eligibility?

HELLENTHAL: I don't think so, because Section 7 says that to be eligible for an appointment, then by Implication, to the office of justice or judge you must be one who has been admitted to practice law in the state for at least five years. Now, as to that class of individuals, and not the young lawyers who seek admission, as to that class of individuals, namely the justices or the judges, that five-year admission period will not include time spent in the federal activity.

RILEY: But you are speaking of admission initially to practice law.

HELLENTHAL: No, we are speaking to the admission requirement with regard to judges or justices. I think that is quite clear because the whole thing is tied in with eligibility for appointment as justices or judges.

RILEY: Shall we say admission for consideration for appointment? Does that bear on your point?

PRESIDENT EGAN: Mr. Riley, would you object to a five-minute recess at this time?

RILEY: I would appreciate it.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Hellenthall proposed amendment to Section 7. Is there further discussion on the proposed amendment? Mr. Hilscher?

HILSCHER: Mr. President, as a layman on this thing, I am sure there are others who join me who would like to know what the arguments were within the Judiciary Committee on this particular item. The question must have come up and I would like to address that question with your permission to the Chairman of the Judiciary Committee.

PRESIDENT EGAN: You may Mr. Hilscher. Mr. McLaughlin, would you care to answer that question?

MCLAUGHLIN: Mr. President, if you will forgive me for digressing a moment, I was just showing my fellow Delegate, Mrs. Wien, a letter from an unnamed individual who said, "I was impressed, however, by the rather widespread feeling among many delegates that lawyers should be distrusted. Also, with the sentiment that all legislators, governors, and other elected officials cannot be trusted and must be hamstrung with restrictions." The discussion which took place in committee on this article on Section 7, originally my recollection was that most members requested a practice requirement and a private practice requirement, and those members can contradict me if I do not state the facts accurately or completely, a private practice requirement of ten years. And there was initially, which was taken from Missouri, a requirement that Justices of the supreme court had to practice law for a period, not had to practice law, but were required to be citizens of the United States for approximately 15 years and justices of the superior court had to be citizens of the United States for approximately 13 years. That was knocked out by the committee and substituted merely the requirement that citizenship in the United States should be the determination. Originally the advocate of committee proposals was that there be a requirement of ten years' active private practice of law, and that in a sense is justified if existence in other states is justified. In New Jersey Article 6, Section 6, Subsection 2, provides that the supreme court justices shall be admitted to practice for a period of ten years prior to their appointment to the bench. Hawaii, under Article Section 3, has an admission practice for ten years. Most states have a requirement, generally statutorily or in their constitution, that judges be learned in the law, and as many of you know, in the State of Texas that means by judicial interpretation,

you don't have to know anything, but the argument finally, some of the arguments that were raised, where they pointed out that we had had In the Territory and more so In the United States, many examples of judges who had been appointed to the bench without any prior practice and without any experience with trial work, appearance in the court, or his background or training was limited let us say to prosecution of criminal cases and he did not have that breadth and scope which is practically essential to the efficient operation of a good trial court. Some members did object that there should be no requirement. One I specifically recall, did make the objection that since we were growing and would be a growing state there was a possibility that limiting, for example, the requirements to ten years or conditioning the requirements on ten years practice would mean that most of the lawyers in the community would be ineligible and that a select few would first occupy the supreme court bench and superior court bench. Another suggestion that was made was that there was a possibility that if the State of Alaska rapidly expanded, we might require those persons who need not be generally versed in the general practice of law but who would be essentially specialists. For example, the condemnation experts, if the calendars become blocked with condemnation and a rapidly expanding economy, we would not have a man available or specially versed in that field in the Territory, and the constitution would preclude us from introducing a good man. One of the arguments that was presented since the judicial council consisted of lawyers, they themselves, based on their own experience, might preclude the appointment of some novice without any prior trial practice, office practice, or experience in the courts. One of the problems that did confront us was the fact that under one of our original proposals a justice of the superior court couldn't acquire time, that is even though he sat on the superior court for 20 years, under the lesser qualifications for the superior court, he could never be elevated to the supreme court because service on the bench as a superior judge did nothing in favor of his practice time. Most of the members did confess a concern about judges who did not have in fact, training, background, and experience in dealing with clients or participating in the work of court. Does that answer your question, Mr. Hilscher?

HILSCHER: Mr. President, I would then assume from what the

Chairman has stated that it was the consensus of the Committee that possibly the judicial committee would be of sufficient experience to properly evaluate the nominees for the various judgeships that would be open?

MCLAUGHLIN: That is a difficult question to answer. Since the Committee ratified this article, they did not feel that everything should be left to the discretion of the judicial council. I prefer that the members of the Judiciary Committee speak for themselves, in that respect. I have a personal viewpoint that I think it improper for me to present.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to address an answer to the question of Mr. Hilscher to the effect that I thought and I thought the other members of the Committee thought, that the screening by judicial council would be a weighing of the qualifications of the persons nominated, and that if a fellow had been a prosecutor for five years, had never defended, had never engaged in private practice, the judicial council would not for a moment nominate him for a position on the bench. We encountered the proposition that Mr. McLaughlin mentioned, that if you require private practice, then the man that is sitting as a judge on the superior court bench is not making himself eligible to be appointed to the supreme court. We had the proposition that you might have a law school here some day with a prominent dean of a law school. Why shouldn't he be eligible, perhaps, to be on the supreme court? We thought that if a man is going to serve as attorney general, which is a very broad scope of civil practice, that he should be gaining time toward being eligible for appointment to the bench. When we got all through we just said well, we will just say they have to be admitted for five years and then let the judicial council decide what the qualifications are.

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

DOOGAN: Speaking strictly on the amendment that I think it pertains to, I can understand why they would like to have a man practice law for five years in the Territory, but I am concerned about the five years of residence. I can foresee several possibilities that would preclude many people from ever aspiring to be a judge of the supreme or superior courts. A man could practice law in the Territory for 20 years and never be a resident. The point I am making, I think that we as Alaskans tend to put too much on this business of residency. I think that this is a growing country, and I don't think we should be so selfish, I guess is the word, as to preclude other good men that could practice law in the Territory and do practice law in the Territory and yet never fulfill the residence requirement. The judicial council may find that among those men, that they consider some of them to be the best, that could sit as the judges of our supreme and superior courts, and I would like to ask Mr. McLaughlin why that residence requirement was put in there.

BARR: Point of order. Is Mr. Doogan now speaking on the amendment which I believe has nothing to do with residence? Practice only, what kind of practice.

PRESIDENT EGAN: Mr. Barr, Section 7 has to do with residence and the particular amendment, of course, is related to the extent that the Chair would hold Mr. Doogan was not talking strictly in opposition to the amendment. Mr. Hellenthal?

HELLENTHAL: With the consent of my second and In order to satisfy Mr. Riley's objection, we would like to substitute the word eligibility for "admission" In the last portion of the proposed amendment.

PRESIDENT EGAN: Is there objection to the substitution of the word eligibility for the word "admission" in the last portion of the proposed amendment? Hearing no objection It Is so ordered and the word "eligibility" is now contained in the proposed amendment. Mr. Cooper.

COOPER: Mr. President, yesterday during the meeting of the Legislative Committee we were searching for a definition for a word. I suggested "agency" and the definition of "agency" was so large, so engrossing, that it was not clearly definable as to U. S. or state agency. Now one of the consultants we have here, I spoke with him during the last recess, and there is a little doubt in my mind now if the words, "United States or agency thereof" is clearly definable. Just exactly how far reaching is the word "agency" or possibly this should be a matter of the Style and Drafting.

PRESIDENT EGAN: Would the Chief Clerk read the proposed amendment as it now reads?

CHIEF CLERK: "Section 7, omit the period and insert a semicolon and add 'provided that time spent as an attorney for the United States, or agency thereof, shall not be construed as counting toward the five-year eligibility requirement.'"

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I had just a brief conversation with the same consultant and the word "agency" generally deals with a branch of the government. There are instrumentalities which are not agencies. I think the RFC is a corporation, federally created. It is an instrumentality of the Federal government but perhaps not an agency. So if you would want to make it all-embracive you would say "agency or instrumentality of the United States".

COOPER: I would like to ask Ralph Rivers then, if supposing the Golden Valley Electric Association, a public corporation - I think that would be defined as a state agency?

R. RIVERS: Yes, that is not a federal instrumentality.

COOPER: Supposing that an attorney in this immediate area of Fairbanks were hired on a retainer basis to handle all their legal business. Would that exclude that attorney from eventually being admitted or having the eligibility to be appointed as a judge?

R. RIVERS: No. Your engagements on a retainer basis are not

employment and that would be one of several clients no doubt, and he would be in private practice.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, as a former attorney for the Golden Valley Electric Association, I can say that it is not an instrumentality of the United States or an agency. It is a corporation organized under the laws of the Territory of Alaska, and the man under the circumstances, as related by Mr. Cooper, would be practicing law in the Territory of Alaska. He has his office here. He would be practicing law because he would not be able to survive very long on the small amount of money you get from the Golden Valley Electric Association.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, my quarrel would not be with the wording of Mr. Hellenthal's amendment. The quarrel would be with the amendment in the entirety. I can foresee several instances in where a good man might be disqualified. It is true we might disqualify a lot of people that would never want in as judge. On the other hand, if we have a good man, and with a provision of this type should in any way disqualify him from serving, then we are restricting our constitution and building up a clique withinside a clique. This discriminatory sort of deal is what I object to.

PRESIDENT EGAN: Reverend Armstrong has been trying to get the floor.

ARMSTRONG: I want to register my objection to the amendment on the basis that I think we're inserting it on the basis of prejudice we have at this moment which may not continue on for 20 or 30 or 40 years. What I would like to ask is, does this type of a regulation inserted in other constitutions of the state where they call upon federal attorneys to qualify in this way before they can work within the court system of their state. I ask that as a question while I am registering an objection.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, what I am going to say -- I rather hesitate to say it because some day I may need a lawyer, but we are setting up here, I believe, a good judicial council and so far as I see it, I think it is going to be fine, and I believe near infallible. It is one I believe we should have a lot of confidence in. I don't believe they should be restricted in any way to select the man they think is the best man to be the judge. Now according to this article or this section and the amendment, they are being restricted as to who they can put in or select as their judge. According to this

it seems that many are going to be barred from ever being a judge of the supreme or superior court. I would like to direct a question, if I may, and I would like to ask the judicial council if it was the feeling within the council that only lawyers make the best judges.

PRESIDENT EGAN: Someone on the Judiciary Committee like to answer that?

MCLAUGHLIN: Is that remark addressed to me?

PRESIDENT EGAN: The Chair did not quite catch who the remark was addressed to.

MCLAUGHLIN: Mr. Chairman, it was the unanimous, now that includes both lawyers and laymen, it was the unanimous opinion of the council that lawyers make the best judges. In fact, nearly every judicial reform instituted in the United States is directed toward removing laymen from the bench. Are there exceptions? There are definitely exceptions. That is, when I say exceptions, there could be exceptions -- I am thinking of Mr. Corwin who is probably still in existence as Professor of Constitutional Law at Princeton -- he is not a lawyer. I can think of other exceptions but generally the requirement that he be admitted to practice of law is the basic requirement that you be learned in the law. One of the objections that we have heard in our Committee universally and uniformly, is the complaint from people who have been dealt with by commissioners in the outlying areas -- the grounds that they did not receive even the form of a fair trial. The theory is as a lawyer, at least he is grounded in the traditions of the constitution and the law and he is more intent upon preserving liberties rather than the others. Is there a precedent for nonlawyer judges? Yes, but it was just abolished under the New Jersey State Constitution. The New Jersey State Constitution provided in one of their courts, Court of Errors and Appeals, approximately something like 26 judges, some of whom were laymen. In effect, what happened was the people appointed as laymen were, in fact, lawyers. The requirement that judges be lawyers is a minimal requirement that everyone in the Judiciary Committee agreed upon, and that was not solely the lawyers themselves.

LONDBORG: Mr. President, I did not want it to be felt that I

intended it against lawyers as such, but it does seem that we are restricting this judicial council which is composed of four lawyers and in that respect it seems they would favor lawyers, all things being equal, and I for one would say that a person would be a better judge if he were a lawyer, other things being equal. I happen to have the opportunity of serving for awhile as a United States Commissioner and I would have given a lot for some law study or law practice that I could have used along with that work. But I am wondering if it may happen

that there be a dearth of good lawyers that want to be judges. Maybe the best ones don't want to be judges, then it would certainly seem better not to limit the judicial council so they can pick a layman who might be a better judge.

COGHILL: I would like to direct a question to the author of the amendment. Is it not true that in years to come, through the new State of Alaska that the problem of United States attorneys or agencies thereof in our area, will be diminished and therefore this would be a transitory measure instead of a constitutional matter?

HELLENTHAL: I hope that in the years to come that we will see a diminution of federal officials in Alaska, and I sincerely hope it will be accelerated but there will be many for many years to come, and I therefore feel that this is in order. I want to, just in closing, state the case that no prejudice whatsoever is intended by this amendment. If one were to propose that the suffrage, as has been proposed, be limited to those 20 or over in age, one surely could not say that the person who made that proposal was prejudiced against everyone under the age of 20, and no prejudice is intended here at all. It is merely this, experience has shown that people who have never practiced law and who have merely been in government jobs do not make good judges. Further, that those people as a class, at government expense, can draw on the resources of the Federal government to put themselves into positions of prominence, and thus it is pretty hard for a judicial council to resist their application for the bench, and I don't think those people should be put in an unfair position, especially when their experience does not qualify them, and experience teaches us that. Now, the university president would not be disqualified under this amendment because I doubt if he would be a federal official, but over and above that many university presidents are not qualified nor are deans of law schools qualified to be judges. A judge has to be a broad person with experience in all forms of activities, not narrow experience.

PRESIDENT EGAN: Miss Awes?

AWES: Mr. Hellenenthal a few minutes ago asked that the amendment be changed by changing the word "admission" to "eligibility". By directing a remark to that change I don't want it to be implied that I approve of the idea of the amendment. I object to the amendment itself, both on the grounds that it is discriminatory and I think it is an unnecessary limitation on the activities of the judicial council. But it seems to me that with this recent change that it is more confusing than it was to begin with, because it says it shall not affect the five-year eligibility. When you read the section, there are two different five-year requirements, it does not specify which one it applies to.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I feel impelled to argue against this amendment, and I predicate my inclination on the fact that we are endeavoring, I think, to limit this council. As I read this measure, it indicates the council shall submit two or more, an unlimited amount of names, to the governor for choice. It seems to me that if an attorney could run the gauntlet of not only his own profession but the sympathies of the private citizen who is on that council, if he can run the gauntlet of the governor's search through the list of names, taking into consideration the quality of these people and is still eligible, then certainly he should be appointed. But one thing I think the body here has rather overlooked and that is, our legislature under the provisions of the constitution, may set up additional restrictions as matter of tenure and practice. Consequently, I am going to vote against the amendment.

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

SUNDBORG: Mr. President, I feel very strongly that the proposed amendment is something that does not belong in the constitution of the State of Alaska, which we hope is going to be adopted and which will endure for many, many years, centuries. Who knows what the situation may be? Our grandchildren may all be working for "Uncle Sam" - we don't know. I think to put in something like this is certainly lowering the tone of the constitution and destroying part of its spirit, and I would urge all delegates to vote against the proposed amendment.

PRESIDENT EGAN: Mr. Barr, you have been trying to get the floor.

BARR: Mr. President, I concur with Mr. Sundborg's sentiments in this matter. I believe it should be left up to the judicial council, and I do not believe it has its proper place in this constitution. I can imagine that there are several cases that we can not envision right now where a man may be eliminated as a candidate for judge. For one thing, I believe a man who had practiced, who had been an attorney for five years in the Territory, two years of which he was working for the Federal government as prosecutor, I do not believe that he should be eliminated. Although in principle I believe in this amendment, I don't believe that a man sent here as an attorney for a federal agency should be allowed to be a candidate. However, I am confident that the judicial council would take care of such matters. I believe if the legislature wants to put a limit on the qualifications that is also correct.

PRESIDENT EGAN: Mr. Riley?

RILEY: Not withstanding Mr. Hellenthal's having acceded to my

suggestion as to a change in language, I feel obliged to record certain other sentiments. I find Mr. Armstrong's remarks quite persuasive and others have amplified on those, the question of the dignity of the document perhaps, or its misunderstanding in its reference to the United States, and for that reason I will be impelled to vote against the amendment.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I fully concur with those who have spoken so far against the amendment, and I would like to bring up another reason why I believe this amendment should be defeated, and that is if we start putting in this kind of a qualification against United States attorneys, the next thing we will be putting in all sorts of other prohibitions and opening the doors to all sorts of minor issues being brought into the constitution.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I seconded Mr. Hellenthal's amendment if I remember right and therefore will speak a moment in favor of it. Our thought behind this is not clearly expressed. Possibly before this final adoption, something can be worked out. I am going to vote for the amendment for the reason that there is nothing better to vote for at the moment. The reason behind it that someone mentioned, one of the attorneys mentioned here, it was Mr. Hellenthal I think, that we have had experience in the Territory. Now so many of the delegates have never come in contact with this personal experience we have had with judges who have been elevated to the bench who have had no private practice before, judges who have merely been prosecuting attorneys or government attorneys and they go on the bench as narrow-minded men. I would even go further on this and say that county attorneys or state prosecutors who had no other experience in five years as state prosecutors should not be allowed on the bench because their minds are narrow. All they know is largely the matter of prosecution of criminal law and that alone does not make a good judge. A good judge is a judge who has had a wide experience both in civil and criminal practice, and that is the kind of judge to be proud of. The reason I am in favor further of amending this section here in some fashion is that as long as there is so much legislation written in the bill and so little that the legislature can do about it once this becomes a part of the constitution, then I don't believe a few more words constitutes an addition of legislation.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Hellenthal's proposed amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify

by saying "aye", all opposed by saying "no". The "noes" have it and the amendment has failed. If there is no objection the Convention will stand at recess while the steno- typist fixes her machine.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state that yesterday morning Mr. Buckalew called and said he was ill. He also called this morning and said he was ill and would be present again as soon as he is able to do so. He has been sick in bed for two days. Mr. Coghill?

COGHILL: Mr. President, I move and ask unanimous consent that if the calendar is not cleared by 5 p.m. that we recess and take the calendar up again at 7 p.m.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that if the calendar is not cleared by 5 p.m. that the Convention recess until 7 p.m. and continue with the calendar at that time.

V. RIVERS: Objection, Mr. Chairman.

COGHILL: I so move.

MCCUTCHEON: I second the motion.

V. RIVERS: I state as my objection that the committees have had no chance to work yet today and we have, for one, in our Committee set up a meeting for 7:30 which will probably go on until about 11, and I don't think this business of carrying this on can't be conducted and carried on until 9; 30 Monday morning in second reading or this particular position in which we find it at that time.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, It is my belief that unless we do something like what is proposed In Mr. Coghill's motion, the committees will not only have no chance to meet today but they won't have any chance to meet tomorrow or for several days. I think we must get to work and clear our calendar. I am in favor of an evening session.

RILEY: The reason I object to this motion is that we have several consultants in town who are on pretty tight schedules. One in particular is leaving tomorrow morning and is committed to spend the evening with one large committee, and there may be other similar instances.

AWES: I don't know if Mr. Riley was speaking of the Bill of

Rights Committee or not, but that is the situation on our Committee. We have a meeting set at 7 o'clock tonight to meet with one of the consultants who is leaving in the morning. I know personally I am on two committees and one has arranged a meeting for tonight and one has arranged a meeting for Sunday, and I think we should, if we can't leave our days open for the Committees, it is a good idea to leave evenings and Sundays, and I object to that.

PRESIDENT EGAN: In other words, there are at-least two committees meeting tonight, one at 7:00 and one at 7:30 and the consultant is leaving in the morning. Mr. Taylor?

TAYLOR: I believe that anybody proposing such a motion be made should be given a little longer notice, because arrangements have been made with the specialists to meet with these committees. It is very hard to make other arrangements when they obligated -themselves to do this. I think this motion should be voted down at this time.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I simply want to echo the sentiments expressed by Mr. Riley and Miss Awes. I also wanted to point out that it is not necessary that the consultants be in attendance at our plenary sessions. It is not only essential, it is vital that the committees be able to make full use of the short time which is left in which we can use the consultants, so I think it is very important that the committees have that time this evening.

PRESIDENT EGAN: Mr. Barr.

BARR: I might point out that it would make for more efficient operation if we held our plenary sessions during the daytime from many angles, taking into consideration transportation, etc., and if we have our committee meetings at night, in many cases a committee can meet in town without the necessity of traveling all this distance out here, and we should have quite a few committee meetings between now and our recess. The experts of course are available while they are here. That way we could have both plenary sessions and committee meetings.

LONDBORG: I believe the motion is relative to tonight. Two committees then at least have asked consultants to be present, and I think we ought to vote the motion down.

PRESIDENT EGAN: Mr. Coghill, does this discussion affect your feeling in the matter?

COGHILL: Mr. President, the reason for the motion is the fact that we are presently engaged in this proposal. It is fresh in our minds. I, too, am on two committees and one of

my committees is suffering quite badly from the lack of being able to meet in the morning. I had a schedule for this afternoon, a meeting for the Administration Committee, and again we cannot have that. Now if we could go ahead and clear up the business before us on the calendar then we would have tomorrow free to revert back to the committee work. I believe it is timely that we should try and clear the calendar as soon as possible.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I think it should be pointed out that the calendar, as it now stands includes not only the matter in which we are now engaged, but also the suffrage matter which if we are going to clear it up tonight we are apt to be here until early in the morning.

MCNEES: I would be inclined to agree with Mr. Coghill except for the one point and that is relative to the need for the services of these consultants and a very limited time here.

PRESIDENT EGAN: Mr. King.

KING: Mr. Chairman, in our committee which I am on, Resources, we are taking every possible opportunity to meet with these consultants. We have a very large job to do and one of our main consultants is leaving in the morning, and we have arranged this for some time. We do need his services because we are taking several approaches to this subject, and these consultants themselves have different ideas, and we are certainly going to lose a lot by not being able to meet with our consultant tonight.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Chairman, with the consent of my second, in view of the committee hearings, I withdraw my motion.

PRESIDENT EGAN: If there is no objection Mr. Coghill, with the consent of his second, will be allowed to withdraw his motion. Mr. Sundborg?

SUNDBORG: Mr. President, we are now on Section 7, is that correct?

PRESIDENT EGAN: Yes, Mr. Hellenthal's proposed amendment on Section 7. The question is, are there other amendments?

SUNDBORG: I have another amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment by Mr. Sundborg to Section 7.

CHIEF CLERK: "Page 3, line 2, following the word 'state' insert a period and strike the balance of the section."

PRESIDENT EGAN: Mr. Sundborg moves that on page 3, line 2, insert a period and strike the balance of the sentence.

V. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Victor Fischer seconds the motion. Mr. Sundborg.

SUNDBORG: Mr. President, if I may explain my thinking which led me to propose this amendment, we are setting up here a judicial council, a majority of whose members will be lawyers and all of these members will be selected by a very careful process. The duty of that council will be to nominate persons for appointment as judges and justices of the state. I think it is unnecessary and unwise to limit the field of persons who may be considered as candidates for justices and judges in the manner in which Section 7 would do as it is now written. I believe that all that is necessary as an absolute requirement of a person who might be nominated is that he must be a citizen of the United States and of Alaska and shall be a member of the bar. Beyond that leave it up to the judicial council. There would be many cases in the years to come when there will be a man who might make an excellent judge or justice who might have been absent for example, for one year out of the five years immediately preceding the time when he is considered for appointment or might have been a member of the bar of Alaska for perhaps only four years where he might have been a member of some other bar for 20 or 30 years before that and would be excellent timber for judge or justice. I think it would not be likely in many cases that such persons, unless they met the requirements which are set out in Section 7 a3 it now stands, would be proposed by the judicial council, but I believe that there would be cases when such men should be, and therefore I would like to leave it to the judgment of the judicial council in the years to come who should be nominated for judge and justice, as long as the man is a citizen of the United States and of Alaska and is a member of the bar.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, not for purposes of expressing assent or dissent but merely for purposes of style of which the proponent is the Chairman, I would additionally suggest that to have the motion complete and that the words in the second line of page 3, reading 'have been', that the words be stricken and the word "are be substituted. That is merely for the purpose of completing the motion.

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

CHIEF CLERK: "Page 3, line 2, following the word 'state' insert a period and strike the balance of the section.

MCLAUGHLIN: Forgive me, I withdraw my suggestion.

PRESIDENT EGAN: Is there other discussion of the proposed amendment? Mr. Doogan?

DOOGAN: I feel as Mr. Sundborg does and primarily I feel that here we are setting up a judicial council. Now this is not going to only happen in a judiciary committee, there are other things going to be recommended or be set up in the constitution to help the new State of Alaska get along, and I don't believe in setting up these councils, boards, or whatever they are, in trying to make things move along as rapidly and as expeditiously as they can, that we should in any manner tie their hands in the constitution. If their hands need tying it His going to be done by the legislature anyhow.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, now this matter was argued quite long and perhaps vociferously in the committee. We had the advice of Mr. Elliott, and after searching the provisions of many other constitutions that have been adopted, we finally came up with what we considered the minimum qualifications for a judge as to residence and practice. Now that is all we are setting here is a minimum qualification. I think we should set a minimum qualification. The judicial council may or the integrated bar of Alaska may require greater or higher qualifications. Now take for Instance Hawaii who had this matter under consideration. Nobody is eligible to be a judge, either supreme court or district judge or superior court judge In the state of Hawaii, until they have practiced for ten years before the supreme court of Hawaii. Now that is the qualifications they have set upon the judges there in the constitution. We are only asking half of that, and this is much less than a good many. Nevada I think is 15 years' practice before you can be a judge of the supreme court. We are only asking for five. I think it Is shortsightedness or possibly not acquainted sufficiently with the matter before to say this is discriminatory. Well, you have certain qualifications you set up for a doctor, do you not that's going to treat you for your ailments, but when you have a judge, he might be the deciding factor as to whether you are going to lose a lot of money or a lot of your property or whether you're going to maintain it, and don't you want then a man sitting on the bench that is versed In the law and sees that you get a fair trial before a fair jury and that it is conducted right? Why will you give less consideration to picking a man that is going to decide a case, maybe your life, or your liberty for many years? Would you give less consideration to that than you will to a man who is going to possibly treat you for some ailment? They established these

in all branches of you might say professional life. Mr. President, you know has been in the legislature, you know we have qualifications for an osteopath, for chiropractors. They must take an examination in basic science and many instances along that line that for those you might say, mediocre services, they establish a higher requirement than we would require here for a man sitting on the bench deciding whether you are going to the penitentiary or whether you're going to go free. I think we should at least maintain these minimum requirements that we have in this article.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I would like to rise in support of the amendment. I have gone along with this article so far because I think it is an excellent article as it tends to set up standards of excellence in performance of duties in this field, but I feel those standards have no bearing on this question. This question 'is as to regional residence. Alaska is known as the land of opportunity, and I would like to see it continue to be known as the land of opportunity. I think this particular question goes beyond this article. I think it will come up again and again, and I hope throughout the constitution we will put as few bars as possible in the way of people joining us up here in the work of developing this country, because of reason of residence. The standards as to performance, qualifications, education, training are fine in their place, but that has no relation to this subject. I think the amendment is a good one and I think that the philosophy behind it, I hope the philosophy behind it, will be carried through many other sections of this constitution,

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Sundborg's amendment, supported by Mr. McCutcheon and Mr. White, seems to be predicated on the assumption that these are merely minimum qualifications and that the legislature may prescribe additional qualifications. I do not share that opinion. Section 8 provides that as to judges' eligibility qualifications are to be prescribed by the legislature, so I think we have this situation -that as to judges of other courts the legislature can prescribe additional qualifications, but since that power is not granted to the legislature as to the justices of the supreme court and judges of the superior court, that whatever we agree on here will be the qualifications which will not be subject to change by the legislature. I would perhaps go along with Mr. Sundborg's amendment if he would add after the word "state" in line 2, the words "and subject to further qualifications to be prescribed by the legislature." But unless those words are there, I don't think the power would exist.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I would like to point out something. In Section 13, dealing with the judicial council, It says,

"... the judicial council to be responsible for conducting studies from time to time for Improvement of the administration of justice, and make recommendations to the legislature. . ." so I favor the amendment because I feel that we should not restrict the judicial council In Its efforts to improve the administration of justice.

MCNEALY: I would like to speak only briefly against the amendment and call the attention to the fact that historically and lawfully here in the Territory the offices of treasurer, attorney general and other Territorial-wide offices require a residence of five years, and In going back over those, the reasons for that is not only that the incumbents or candidates for office become familiar with the Territory and the problems of the Territory but also that the people may have an opportunity to become familiar with the candidates for those offices, and it has worked out in my opinion, very successfully. We have that precedent to go by, five years for residence requirement for the Territorial offices, and like Mr. Taylor, I would hesitate that either any of my clients or myself would have to sit under a judge who had the life and liberty and property rights in his hand and who could, under this proposed amendment, have no knowledge of Alaska whatsoever.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I wish to speak in opposition to Mr. Sundborg's amendment and call the members of the Convention, their attention to the section of the Missouri Constitution which was adopted with the revisions in 1945. It says, "The judges of the supreme court shall be citizens of the United States for at least fifteen years and qualified voters of this state for nine years just preceding their election." Speaking further on this matter, I believe we certainly should have these minimum requirements. The people up here In Alaska -- we live differently, think, differently from the people say in Nebraska or Kansas or the Middle West. From my experience of teaching school many years ago out Westward, some of these folks from the states come up to the Native villages, we thought when they first arrived they were a little queer, and for that reason I believe that due to our thinking and our living and our occupations are different from many states outside we certainly should have this minimum residence requirement.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I do not believe the language of this amendment would carry with it the letting down of the standards for the selection of judges. The amendment would simply remove these minimum standards. I think that these standards as included here will not of themselves assure this

election of good judges. It will take a good judicial council to make a proper selection. You can have people with ten years' residence and ten years practice of law in Alaska and they still may not make good judges. The judicial council as presently set up in this proposal would be made up of at least three attorneys and the supreme court, a chief justice of the supreme court. Leaving out the lay members, could any one of the attorneys here imagine that if they were in a position of selecting the nominees, or even selecting the members of the judicial council, that they would select the kind of people or the kind of nominees who would select someone who would not make a good judge. I believe that this amendment is good. I don't think it will result in our getting judges who have no knowledge of Alaska or are not able to perform their duties.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Chairman, may I ask Mr. McLaughlin a question? Do you regard the qualifications prescribed in Section 7 as minimum qualifications for justices of the supreme court and judges of the superior court?

MCLAUGHLIN: Mr. President, in terms of minimum qualifications if you will permit me Mr. Hellenthal, I shall say this. I don't believe that the legislature can change these qualifications or add to them. The judicial council as a matter of administration can do them, but I do not believe the legislature can actually change any of the qualifications set down.

HELLENTHAL: One more question, Mr. McLaughlin. Do you think the judicial council could say impose a 20-year requirement for residence?

MCLAUGHLIN: No. I do not believe the judicial council could impose a 20-year requirement for residence, but I think as a practical matter the judicial council could in itself say in the course of its discussion, "We don't think this man has been here for sufficient long time to make him qualify." But it could not establish a rule, nor could the legislature establish a rule limiting this section or changing the qualifications or in fact increasing them to make a man eligible for the bench. Does that answer your question?

HELLENTHAL: Yes.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I rise to speak against this amendment, feel that they have, as Mr. Taylor pointed out, set up minimum standards. As you notice, these judges are going to travel all parts of the Territory. They are going to be jockeyed around at the will of the supreme court if they are superior court judges. They are going to have to have, in the handling

of many of the court affairs, an intimate knowledge of the people and the country which they are trying to serve, seems to me that in all of our officers that have high powers and high policy-making powers we should have men who have had an acquaintance with and know the conditions of the country and the people, as well as of their particular professional subject. For that reason I feel it is basic that we have set up an absolute minimum here of requirements for residence in order to get acquainted with any substantial part of the Territory and its problems. As a judge I would like to see that he have at least a minimum standard of five years residence and of course, five years' admission to the bar.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I have already spoken a couple of times on these judicial matters. I hesitate to speak again for fear someone might think I am an attorney. Actually I am not. I am speaking from the viewpoint of one who might in the future be judged by the courts. If I were to be judged by the court, I would consider that one of the qualifications of the judge should be a certain acquaintance with our conditions here in the Territory. Now I can envision a case coming up, perhaps a civil case involving a common carrier, engaged in transportation, operating trucks or buses or airplanes, and that particular industry confronted with problems which you would not find in other states, or perhaps a case involving the placer mining industry which is highly seasonal here in Alaska and has to overcome many difficulties such as transportation, which they do not encounter in the States. Also, perhaps the might be sitting on a criminal case involving a crime committed by a member of one of our Native races who resides in a remote area who has not had the advantages of the education that most of us have had. It seems to me that one of the qualifications of a judge, one of the most important qualifications, should be his acquaintance with our peculiar conditions in Alaska, and he can gain that only by residing here a certain length of time. Now I sympathize with those who say that Alaska should be a land of opportunity for the newcomers. I also believe in presenting them with plenty of opportunity. A man coming up here to engage in a trucking business or a news dealer, perhaps, could operate just as efficiently as one who has lived here for 50 years, but a judge sitting on a bench could not, and I do not believe that we should open up opportunities at the top for the newcomers, especially in as highly a specialized profession as the law. I believe that, as I stated, that one of the qualifications of a judge should be experience in the country. Otherwise he is not qualified to judge.

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

HURLEY: Mr. President, I would like to call attention of the

group to a matter which I think is of some importance and that is that we have been engaged here for sometime in arguing the merits of what a judge's qualifications should be. It appears to me what we are really confronted with is whether or not we want the judicial council to make the decision on the qualification of the judge or not, I think we are attempting to be the judicial council, and I am in favor of the motion to amend, primarily for the reason that it eliminates three lines from our constitution and does not do any harm. I think that the minimum qualifications that are stated here, if it were put to the members of the bar, they would readily agree that there would be very few cases where they would recommend a person to be a judge that had only those minimum qualifications. So in fact what they are saying is that the judicial council will submit names of people who have had more experience and more residence than that. So I think for the sake of the constitution being brief and to the point that we can eliminate those last three lines without hurting the meat in it.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I had to go "outside" this last weekend on some personal business, and I was astonished with some things I learned "outside". I had not been "outside" for sometime, and I was astonished to find out that the people in the States pull their pants on the same way we do in Alaska and that the people in the United States are probable no different than we are. Here we are building a little wall around our attorneys who may be available for the bench and I don't think there is any reason for it. Let me speak of a hypothetical case, I wouldn't want to use any names. In the Territory of Alaska a judgeship became available. An Alaskan was not picked for that position. A man was brought in from the "outside" and it is positively astonishing how quickly that man learned a lot of things about Alaska and how well in a few months' time he was regarded by all people in that area. I think we are placing an aura about ourselves trying to give ourselves a smoked salmon distinction which we are not entitled to. We are going to be a state someday and we're not going to be any different from anybody else. And I should imagine that probably some of the men could open the coats on their suit and on the label see "Hart, Schaffner & Marx" In here, and I think a lot of this stuff is entirely beside the point. I am heartily In favor of the amendment of Mr. Sundborg, and I believe it will do the Territory a lot of good when we became a state.

PRESIDENT EGAN: Mr. Harris?

HARRIS: Mr. Hilscher just stated that he saw no reason why we should be any different from anybody else. I don't either and the majority of the other state constitutions demand

a minimum requirement for their judges, and that is what we have done in this Committee in setting up what we figured was the minimum, the absolute minimum I might add, of what a residence of a judge should be. I am inclined to think that although we may not be different from the States in some things, in other things such as our weather and our climate conditions, which could come up into court, that a judge would necessarily have to understand and that was one of the big arguments for putting in the five-year requirement. I think it should stay in.

PRESIDENT EGAN: Mr. McNeese.

MCNEESE: I rise to speak in favor of the amendment. The government is big business. And if I were a businessman, as I am, had the wherewithal to do as I would like to do and pick the best possible manager, the best possible man for a position, I think I would want to be able to reach just as far as necessary in order to get that man. I would not want to find out that after I had found the good man, the man for the job, that I was unable to hire him for some other reason. Perhaps we could get together in our thinking. He would be willing to go to work for me. I wanted him to work in the worst possible way. I feel here that we are placing a restriction that has no business whatsoever in the constitution. I would like to say this about this document that the Judiciary Branch has presented to us for consideration -- that up to this particular point I have found no quarrel in my thinking whatsoever with it. At this point I do. I feel it is restrictive, and therefore I feel that I would vote in favor of the amendment at this point.

PRESIDENT EGAN: Does anyone else wish to be heard on the question? If not, Mr. Sundborg, you may close.

SUNDBORG: I agree with practically everything that has been said here by those who have been opposing the motion. That is, I believe we should have men who are acquainted with Alaskan conditions. I believe we should have men who would make good judges. I believe with other matters that have been brought up and I would be inclined to go along with them if we did not have here in our Judicial Article the provision that every man, before he ever could be appointed a judge, would have to be nominated for that position by a judicial council consisting mainly of attorneys. I might say, with respect to something that Mr. Hellenthal brought up, that my proposed amendment was not suggested on the predication that the legislature could or would establish further minimum qualifications., I believe that would be unnecessary, even if it were legally possible, that the judicial council itself is a body which should have pretty wide discretion in deciding who would make a good judge of the State of Alaska. It was mentioned here that in our Territorial experience that we have

had rather lengthy requirements on residence covering such positions as treasurer, auditor, attorney general and so on.

We have had Territorial officials who have gone to prison.

We have had some others who maybe should have gone to prison.

I believe we have suffered as a Territory because we have had high and lengthy requirements on residence and that we have made it impossible for the people to have a choice sometimes of who would be the best man for those positions when the people should have the choice, just as I believe here that the judicial council should have the choice of who would make a good judge. It has been mentioned that some of the states have very much longer residence requirements than is proposed in this act. I would like to suggest that it would not be appropriate to have longer ones in Alaska, and in fact I think we should have none at all. This is not Nebraska, Hawaii or Missouri or any of the states that have been mentioned. This is Alaska. It is a new country where, as has been said, we hope to attract a lot of additional people to help us in building a state. I believe we should not frustrate ourselves by putting in our constitution, provisions which at some time in the future might foreclose us from getting the very best man possible for a position of judge in the state.

PRESIDENT EGAN: The question is, "Shall Mr. Sundborg's amendment be adopted?"

JOHNSON: Mr. President, I request a roll call.

PRESIDENT EGAN: Mr. Johnson requests a roll call. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Page 3, line 2, following the word 'state' insert a period and strike the balance of the section."

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

Yeas: 24 - Awes, Coghill, Cross, Davis, Doogan, Emberg, V. Fischer, Hilscher, Hurley, Kilcher, Lee, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, Stewart, Sundborg, White, Wien, Mr. President.

Nays: 28 - Armstrong, Barr, Boswell, Collins, Cooper, Gray, Harris, Hellenthal, Plermann, Hinckel, Johnson, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNealy, Metcalf, Nolan, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Taylor, VanderLeest, Walsh.

Absent: 3 - Buckalew, H. Fischer, Sweeney.)

CHIEF CLERK: 24 yeas, 28 nays and 3 absent.

PRESIDENT EGAN: And so the amendment has failed. The Chair would like to state at this time that Mrs. Helen Fischer., too, has been ill for the past couple of days and her doctor will not be able to say until Monday just when she can return to the Convention. Mr. Hinckel?

HINCKEL: In view of the arguments that have been presented during the discussion of this last section, I would like to go back to Section 5 and propose in line 6 to delete voters of the state" and substitute qualified electors". I so move.

PRESIDENT EGAN: Page 2, line 6, delete "voters of the state" and substitute "qualified electors". Do you so move the adoption of that amendment, Mr. Hinckel?

HINCKEL: I do.

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

MCLAUGHLIN: Mr. Chairman, if I may suggest to Mr. Hinckel, I plan tomorrow morning to call a meeting of the Judiciary Committee, and could you withhold that until then and I will second any motion you make tomorrow.

HINCKEL: I will be happy to withhold it until then, but if there is no objection, may I make a short statement now?

PRESIDENT EGAN: If there is no objection, you may make a short statement now.

HINCKEL: My reason for it is that I feel that the present wording might be construed to mean that an election confirming the reappointment of a judge or the continuing of a judge would have to be a state-wide election, and I object to that. I think the judge should merely be confirmed by the people in his jurisdiction.

PRESIDENT EGAN: This proposed amendment will be offered tomorrow. Are there other amendments to Section 7? Mr. Cooper?

COOPER: Mr. President, I have an amendment to Section No. 7.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment offered by Mr. Cooper to Section No. 7.

COOPER: May I have a one-second at ease?

PRESIDENT EGAN: If there is no objection the Convention will stand at ease for one second. The Convention will come to order.

CHIEF CLERK: "Delete Section 7 and substitute the following: 'To be eligible for appointment, Justices of the Supreme Court, and Judges of the Superior Court shall be citizens of the United States and of the State of Alaska who have been admitted

to practice law in the State of Alaska, and shall be subject to eligibility qualifications to be prescribed by the Legislature.'"

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

COOPER: I ask unanimous consent that that be accepted, be adopted.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent that the amendment be adopted.

JOHNSON: I object.

PRESIDENT EGAN: Mr. Johnson objects.

JOHNSON: I object temporarily on a point of information. Has that matter not already been acted upon under the Hellenthal proposal?

PRESIDENT EGAN: That is a different amendment, Mr. Johnson. It relates to this section but it is different than anything that has been suggested before.

JOHNSON: The subject matter is the same, isn't it?

COOPER: Mr. President, I would like to make myself clear -

PRESIDENT EGAN: Is there a second to your motion?

DOOGAN: I second the motion.

COOPER: During all the discussion previous to this point, the majority of the delegates wanted additional qualifications to be prescribed in some manner or some form. I believe those additional qualifications should be prescribed by the legislature which 50 years from this date could possibly change said qualifications without having to amend the constitution by the people of Alaska.

PRESIDENT EGAN: Is there further discussion of the motion? If not, the question is, "Shall Mr. Cooper's proposed amendment be adopted by the Convention?" The Chief Clerk may read the amendment again.

CHIEF CLERK: "To be eligible for appointment, Justices of the Supreme Court, and Judges of the Superior Court shall be citizens of the United States and of the State of Alaska who have been admitted to practice law in the State of Alaska, and shall be subject to eligibility qualifications to be prescribed by the Legislature."

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

TAYLOR: Point of information. I wanted to ask Mr. Cooper if under his motion that he contemplated that it be necessary for a man to have practiced law?

COOPER: If I might say to Mr. Taylor, I assume a man who had been admitted to practice law in the state would be capable of practicing law, and I would like to add one word in my proposal. It would be "and subject to further eligibility qualifications to be prescribed by the Legislature."

PRESIDENT EGAN: You ask that your proposed amendment be changed to that extent? Then how would the proposed amendment read?

CHIEF CLERK: "To be eligible for appointment, Justices of the Supreme Court and Judges of the Superior Court shall be citizens of the United States and of the State of Alaska who have been admitted to practice law in the State of Alaska, and shall be subject to further eligibility qualifications to be prescribed by the Legislature."

PRESIDENT EGAN: Is there objection to the inclusion of those words in Mr. Cooper's amendment?

HELLENTHAL: May I ask Mr. Cooper a question about his amendment? Would you object to leaving Section 7 in its present form, which has apparently been approved by this body, and adding the words, "and subject to further eligibility qualifications to be prescribed by the Legislature."?

COOPER: May I ask for a two-minute recess?

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

RECESS

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

COOPER: In the last two minutes I have had an education. I ask unanimous consent that I be allowed to make further amendments to my amendment.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent for further amendments of his amendment.

COOPER: In the last sentence, "and subject to further eligibility qualifications which may be prescribed by the Judicial Council."

PRESIDENT EGAN: You mean you want to add those words?

COOPER: No, I would strike the word "to" and insert "which may

be prescribed by the" and strike the word "Legislature" and insert "the Judicial Council".

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment then as it would appear.

CHIEF CLERK: "To be eligible for appointment, Justices of the Supreme Court, and Judges of the Superior Court shall be citizens of the United States and of the State of Alaska who have been admitted to practice law in the State of Alaska, and shall be subject to further eligibility qualifications which may be prescribed by the Judicial Council."

PRESIDENT EGAN: Is there objection to Mr. Cooper's offering that proposed amendment in its present form?

MCNEALY: I object to his changing the wording.

PRESIDENT EGAN: Do you so move, Mr. Cooper, that you be allowed to amend your original amendment?

COOPER: I so move.

LEE: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Cooper, seconded by Mr. Lee that the original amendment be amended to read as the Chief Clerk just read it, and if it is necessary the Chief Clerk may read the proposed amendment to the amendment once more.

(The Chief Clerk read the proposed amendment to the amendment once more.)

PRESIDENT EGAN: The question is, "Shall the amendment to the amendment as offered by Mr. Cooper be adopted?" Mr. McNealy.

MCNEALY: Mr. President, I would like to explain my objection to it before the vote. I was in favor of the amendment until "Judicial Council" was substituted for "Legislature". Now this body has, or will when this bill is passed, have taken away from the people the right to vote for the judges and has put the power of appointment of judges in the hands of a judicial council. Now, if we are going to continue to go along through here and amend and give greater powers to the judicial council. I fear we are setting up a board here which is comparable to some of the federal boards which I could name, but which I don't know whether the immunity of the floor would allow me to speak on them or not. We are setting up an arbitrary board here who, if we grant more powers than is already in this bill, then the only alternative I can see is that with other legal members, and I trust some of the lay members of this Convention, we can all get on this all-powerful board so we see that we get something in the way of judges.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I might suggest by way of information to Mr. McNealy, that there is a potential device that may be proposed by the legislative branch which would take care of this omnipotent board he is concerned about.

PRESIDENT EGAN: Mr. Kilcher?

KILCHER: I disagree with Mr. McNealy that the peoples' power would be restrained by the proposed amendment. As a matter of fact, the people would gain by this amendment because more of them would be eligible for appointment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Cooper, I don't quite understand the meaning of your amendment. It seems to me that as long as the judicial council is the one that selects this person that they are within themselves, they have the inherent power for the procedure without being spelled out. I believe that the intent of your motion is already in the hands of the judicial council. I don't believe you have changed the wording as it stands without your amendment. Can you explain why it is different?

COOPER: Yes, I would like to explain that. As I see it, the way I understand my own amendment is that the judicial council is responsible for putting before the governor the names of two men in this particular case for the justice of the supreme court. Now, in addition to the qualifications that the judicial, council might consider important, they are already obligated that the qualifications of this justice of the supreme court will be a citizen of the United States and of the state and have been admitted to practice law in the state, and further, the judicial council will set up qualifications, further qualifications that he will have to be endowed with before he would be considered as a nominee for this position. I like it this way so that in the future, possibly 100 or 200 years from now, the qualifications may have to be upgraded or downgraded, and rather than have to take the constitution back to the people of the State of Alaska for amendment, it can merely be performed right within the judicial council.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to be heard on this. The amendment proposed by Mr. Cooper would not allow any downgrading. The constitution would say, the way I see he has it, they would only have to be admitted to practice. Under his setup, the judicial council could prescribe the five years' residence requirement, they could prescribe practice requirement for, so many years and various other things, but as Mr. Gray said, they are going to be doing the appointing, they have the

inherent power anyway, subject to whatever minimum requirements we put in the constitution, the judicial council has full powers. I don't like, as Mr. McNealy suggested, to flag a rule-making power for the judicial council. Let them use their discretion but let them not make rules other than minimum requirements that are prescribed in this section.

PRESIDENT EGAN: Mrs. Hermann?

HERMANN: I am opposed to Mr. Cooper's amendment to his amendment. I am willing to support the amendment as long as it leaves the eligibility requirements in the hands of the legislature, but I am inherently opposed to building up strong appointive boards and any line of activity if it can possibly be avoided, and I don't have any particular reason to think that one that is composed principally of lawyers is going to be any better as a board than one composed entirely of laymen. I think that the original amendment is good, but the amendment to the amendment which changes the rule-making power, transfers the rule-making power to the judicial council instead of the legislature, is very bad, and it will not require any amendment of the constitution if the power is left with the legislature. If the legislature uses it unwisely next year we can throw the rascals out and elect a new one the next year and "undo the harm that they have done without a Constitutional Convention. I think the amendment has been greatly weakened by Mr. Cooper's change, and I wish he would rise up now and withdraw it.

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

MARSTON: I wish to go along with Delegate Hermann on her position right now, and I hope Mr. Cooper will do what you have requested.

COOPER: Mr. President, in lieu of the rolling pin, may I have a one-minute recess?

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Taylor?

TAYLOR: I move we adjourn until 9 o'clock tomorrow morning.

JOHNSON: I second the motion.

V. RIVERS: I object.

PRESIDENT EGAN: Mr. Taylor moves, Mr. Johnson seconds the

motion that the Convention stand adjourned until 9 o'clock tomorrow. Are there committee reports? Committee meetings?

The motion is not debatable but the Chair will entertain a notice of committee meetings.

DOOGAN: Point of order, Mr. Chairman. It seems to me there was a matter of recess declared for clarification and we were discussing an amendment.

PRESIDENT EGAN: That is right, but a motion to adjourn is in order. It doesn't mean you have to accept it one way or the other, but the motion is in order.

MCCUTCHEON: Call the roll.

PRESIDENT EGAN: The Chief Clerk will call the roll on the motion to adjourn until 9 o'clock tomorrow.

HERMANN: Maybe we should do something about arranging for transportation to town at this hour.

PRESIDENT EGAN: Has there been anything done about the arrangements for transportation back to town?

SERGEANT AT ARMS: There is a bus at 5:05 p.m.

V. FISCHER: Point of order. I would like to point out that an official hearing has been scheduled for 9:30 tomorrow morning.

PRESIDENT EGAN: Are there other announcements of committee meetings?

ROSSWOG: The Local Government Committee has scheduled a meeting for 7:30 tonight at Apartment 205 in the Northward Building.

PRESIDENT EGAN: There will be a meeting of the Committee on Local Government at Apartment 205 in the Northward Building at 7:30 this evening. Mr. Coghill?

COGHILL: Mr. Chairman, your Committee on Administration, Committee No. II, will meet tonight at 8 p.m. here at the Convention Hall, pickup time about 7:30.

PRESIDENT EGAN: A meeting of the Committee on Administration at 8 p.m. in Convention Hall. Miss Awes?

AWES: Committee on Bill of Rights and Preamble will meet at 7 o'clock this evening in Apartment 1009 in the Polaris Building.

PRESIDENT EGAN: The Committee on Preamble and Bill of Rights will meet at 7 p.m. in Apartment 1009 of the Polaris Building.

BOSWELL: The Resources Committee will meet tonight at 7:30 in the Northward Building.

PRESIDENT EGAN: Resources Committee will meet tonight at 7:30 in the Northward Building. Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, the Judiciary Committee will meet here tomorrow as soon as the bus arrives out here, and we request that Mr. Londborg, Walsh, Reverend Armstrong and Delegate Cooper attend.

PRESIDENT EGAN: Mr. McLaughlin, you would request that who attend?

MCLAUGHLIN: Londborg, Hinckel, Walsh, Armstrong and Cooper appear for the information of the assemblage. We have discussed the matter with everyone except Mr. Cooper. They had objections we wanted to explain or possibly amend to satisfy. We thought we would expedite the work of the assembly if we could satisfy them on what we feel are technical points.

PRESIDENT EGAN: Are there other announcements of committee meetings? Mr. McCutcheon?

MCCUTCHEON: No. VII, Legislative Branch, will meet at 803 in the Polaris Building at 7:30.

PRESIDENT EGAN: The Committee on the Legislative Branch will meet at Apartment 803 in the Polaris Building. Mr. Smith?

SMITH: I would like to ask that the Resources Committee get together for one minute immediately after adjournment of this session.

PRESIDENT EGAN: The Resources Committee will meet immediately after adjournment of this session. The question is, "Shall the Convention adjourn until --" Mr. Rosswog?

ROSSWOG: Point of order. Can that motion be amended just for the time, because we are having a hearing of the Local Government Committee tomorrow morning? I would like to offer an amendment that the Convention reconvene at 11:00 tomorrow morning.

PRESIDENT EGAN: Would that be satisfactory with the maker of the motion that convening time in the proposed motion be set at 11 a.m. rather than 9 a.m.?

TAYLOR: The motion is unamendable, but I will change my motion to make it at that time.

PRESIDENT EGAN: Well, Mr. Taylor, in view of the fact that the hearing is being held in the morning, that was the reason

Mr. Rosswog made the suggestion and under those circumstances --

TAYLOR: Whatever time you want to amend it, is all right with me.

PRESIDENT EGAN: The proposed motion is that the Convention -- Mr. Victor Rivers?

V. RIVERS: I would like to state that the committee hearing which we are having on Local Government tomorrow may extend considerably beyond the 11 o'clock time. It was my intention that if and when we met tomorrow at 9:30, we would ask that our order of business be continued in second reading until 9:30 on Monday. Then we could adjourn and have our committee meetings and also have our hearing. I think the 11 o'clock hour is not a good hour.

PRESIDENT EGAN: How does that affect your feeling, Mr. Rosswog?

ROSSWOG: Mr. Chairman that would be perfectly all right.

PRESIDENT EGAN: The question is. "Shall the Convention stand adjourned until 9 a.m. tomorrow?" The Chief Clerk will call the roll.

SUNDBORG: Mr. President, before roll is called on that, I wonder if I may just give a point of information. There is a bus to town at 5:50 p.m. as well as at 5:05. That may influence somebody's vote with respect to adjourning at this time.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following re-sult:

Yeas: 30 - Awes, Barr, Boswell, Cross, Doogan, Gray, Hurley, Johnson, King, Knight, Laws, Londborg, McNealy, Marston, Metcalf, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, VanderLeest, Walsh, White.

Nays: 22 - Armstrong, Coghill, Collins, Cooper, Davis, Emberg, V. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Nerland, Peratrovich, Sundborg, Wien, Mr. President.

Absent: 3 - Buckalew, H. Fischer, Sweeney.)

CHIEF CLERK: 30 ayes, 22 nays, and 3 absent.

PRESIDENT EGAN: So the Convention stands adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

December 10, 1955

THIRTY-THIRD DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Mr. Harry O. Arend, President of the Fairbanks branch of the Church of Jesus Christ of Latter Day Saints. Mr. Arend will give us our daily invocation.

MR. AREND: Our Heavenly Father, it is good that we pause in our councils to recognize Thy land in the affairs of men. We thank thee, Heavenly Father, for this great land of America, for the freedom and brotherhood that symbolizes it. We ask Thee to bless the leader of the land, Mr. Eisenhower. We thank Thee for preserving him unto us in this time of world tension. We thank Thee, Heavenly Father, especially at this time for these, Thy sons and daughters, who have gathered here to devote their time and their talents to the creation of a constitution for a new state. As the Christmas season approaches, and they prepare to go to their various homes and firesides, we ask Thee to take them there in safety and if necessary temper the elements that they may have a safe voyage home and back again. Heavenly Father, we dedicate this land of Alaska and the work that is being done here to a new state in the great union of the United States of America. This we do in the name of Jesus Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Two absent.

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

V. RIVERS: Mr. President, we have an order of business on the floor. We have Proposal No. 2 in second reading. I ask that Proposal No. 2 be continued in second reading until Monday.

PRESIDENT EGAN: If there is no objection Proposal No. 2 will be continued in second reading until Monday. The Chair would like to bring to the attention of the delegates at this time that in the gallery we have the Anchorage High School Eagles Basketball team. Many of their supporters and also their coach is with them in the gallery. The Chair would like to call upon Mr. Ned Imlach, if he would like to come forward and say a few words to the delegates. (Applause)

MR. IMLACH: Mr. President, delegates and guests. As spokesman for the Anchorage High School basketball team I wish to express our appreciation and gratitude for the honor of attending

this Convention and viewing these proceedings. The students of Anchorage High School are well aware of the significance of your work here and realize that what is achieved will have a direct bearing on our future lives here in Alaska. This awareness was increased by the recent speeches given our student body by Delegate Bartlett and Senator Knowland. We are indebted to these distinguished men for increasing our knowledge of the needs of our Territory and future State of Alaska. In observing the proceedings of the Constitutional Convention will give us a much greater insight into the problems and difficulties involved in drawing up a state constitution. All of us realize that this is probably the last time that a Constitutional Convention will be held in the United States. We are aware that this opportunity is one which will probably never be granted to young people of future generations. We are very grateful for the invitation extended to us by you, the delegates, and I am sure that this is an occasion none of us will forget the rest of our lives. Thank you. (Applause)

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

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the talk which we just heard be spread upon today's journal. Is there objection? Hearing no objection it is so ordered. Thank you, Mr. Imlach, and we are happy to have the visitors in the gallery. Mr. Doogan, do you have a report to make from the special Committee to read the journal?

DOOGAN: I understand that because of the press of business today that we would hold it over until Monday and I ask unanimous consent.

PRESIDENT EGAN: If there is no objection the reading of the journal will be held over until Monday. Are there any petitions, memorials, or communications from outside the Convention? Are there reports of standing committees? Mr. Coghill?

COGHILL: Mr. Chairman, your Committee on Administration met last night, and we will have a full report Monday. However, there are two subjects which are pending and should be taken into consideration by this body. The first one is, we have a film by the Alaska Visitors Association and one by the Corps of Engineers. Mr. Whaley is going to be leaving Fairbanks Tuesday and that film will have to be shown before that time. We would like to suggest to the delegates that probably a date of Sunday evening would be satisfactory in the auditorium of the Mines Building. The other subject is in regard to the transportation, that all delegates going to home or to hearings during this recess, in order to obtain the correct travel orders for this trip, we must have a definite schedule of your

travel. If you will give that to Mrs. Dolores Goad up in the message center room we can then send out to Juneau and have those travel orders speeded to the Convention Hall. But I think the most pressing is the film, Mr. President.

PRESIDENT EGAN: Is there any objection to notifying Mr. Whaley that we would be happy to view his film on the Arctic sometime on Sunday evening, say at 7:30 p.m. in the Mines Building? Does someone have a motion? Mr. Sundborg?

SUNDBORG: I will move and ask unanimous consent that arrangements be made to show these two pictures at 7:30 o'clock Sunday evening in the Mines Building auditorium.

PRESIDENT EGAN: Mr. Sundborg, so far as the Chair knows, Colonel Farrell's pictures are not available right here now. The Chair is not quite clear on that. Probably on Sunday evening we would just be able to have Mr. Whaley's.

SUNDBORG: I ask permission to change my unanimous consent request.

HURLEY: Point of information. The regular bus schedule leaves at 6:30 in town and 9:50 back to town. If we could start at 7:00 it would be more convenient for the bus company.

PRESIDENT EGAN: Mr. Hurley, that is an enlightening observation. Mr. Walsh?

WALSH: Further point of information. I am wondering if we have already ascertained whether or not the Mines Building would be available to us at that time.

COGHILL: Mr. Chairman, in answering that question, before I could determine whether it would be available I would have to find out what the wishes of the Convention are. It has been told to the Administration Committee by Mr. Beistline, Dean of Mines, that we can have that auditorium at any time.

HURLEY: The regular ASUA shows are held in the Mines Auditorium from 4:00 - 6:00 and 6:00 - 9:00 on Sunday.

PRESIDENT EGAN: Mr. Coghill, that seems to preclude the use of the Mines Building for tomorrow evening. Mr. Sundborg?

SUNDBORG: I would like to ask permission to change my unanimous consent request to provide that the showing would be arranged for Monday evening at sometime which would be announced by the Administration Committee on Monday morning.

PRESIDENT EGAN: Then Mr. Sundborg asks unanimous consent that Mr. Whaley be notified that the delegates will be happy to view his film some time on Monday evening, the most likely

place being the Mines Building out here at the University, the time to be announced Monday by the Chairman of the Administration Committee. Also the Chairman of the Administration Committee will make certain that Mr. Whaley is notified. Mr. Marston?

MARSTON: Mr. President, this is a great picture and this delegation ought to see it. It will bring us up to date on Alaska and the great future. I am afraid if we have it out here at the Mines Building you won't be there. It would be great to have it in right here, this room right here. Could it be held down town so you could get to it easier? I am just trying to survey different courses.

PRESIDENT EGAN: Of course Mr. Marston, the question arises as to what the situation might possibly be on Monday night relative to committee meetings. Mr. McNeese?

MCNEESE: Point of information. What is the duration of this film?

PRESIDENT EGAN: I believe that Mr. Whaley said approximately one hour, Mr. McNeese.

MCNEESE: I would think we could squeeze it in some afternoon, maybe delay our departure from here, get into town an hour later.

PRESIDENT EGAN: At any rate, the Administration Committee will report back to the Convention on Monday morning. Mr. Coghill?

COGHILL: The Chairman of the Administration Committee wants to get it clear whether the delegation here wishes to use plenary session time for this film. We figured in the evening and also by bringing it up to see how many people would be there, if there is going to be a half dozen here attend there is no sense in going to the trouble.

BARR: It seems that would be a wonderful opportunity on Monday evening since transportation will be available anyway to hold committee meetings. If this film only lasts an hour and then you have an hour and a half for committee meetings, you'd be gaining a lot of time that way.

PRESIDENT EGAN: You have a very fine idea there, Mr. Barr. Is there other discussion? Mr. Walsh?

WALSH: For the information of the delegates, I have seen parts of that picture and I think it is very, very interesting and very important, and if it could be arranged that the delegates could attend and not interfere with their committee meetings (the Committee on Administration might check into

that) I think every delegate should have an opportunity to see it and regret it if they don't.

PRESIDENT EGAN: Is it the general feeling of the delegates that the film should be shown in the evening? Mr. Coghill, you may report back Monday morning. Are there reports of other committee meetings?

AWES: The Committee on Bill of Rights has been considering Proposal 6 which has been referred to it and wishes to report back that certain of the provisions are not within the function of the Bill of Rights Committee. Among these are Sections 8, 10, 11 and 12 which we recommend be referred to the Finance Committee and Section 13 which we recommend be referred to the Resources Committee.

PRESIDENT EGAN: If there are no objections these portions of Proposal No. 6 are referred to the committees that Miss Awes, as Chairman of the Bill of Rights Committee, recommends. Hearing no objection it is so ordered. Are there reports of other committees? Mr. Sundborg?

SUNDBORG: Your special committee on arrangements for hearings during recess, wishes to call the attention of the delegates to the fact that the committees which were designated to conduct hearings at the larger towns were directed by the resolution which we have adopted to organize to select a chairman and secretary of each, and every committee was directed by that resolution to schedule specific dates and times and places for the hearings, if possible, and announce them to the Convention. We would just like to suggest that as early as possible, those committees should arrange to get together and make those determinations.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to announce again for the Local Government Committee that our public hearing will be immediately following this session.

PRESIDENT EGAN: The public committee hearing of the Local Government Committee will be held immediately following this session. Are there other standing committee reports? Mr. McLaughlin?

MCLAUGHLIN: Mr. President, the Judiciary Committee will meet immediately after recess.

PRESIDENT EGAN: The Judiciary Committee will meet immediately after recess. Mr. Collins?

COLLINS: Mr. President, the Committee XIII, Direct Legislation, I wish the Committee to meet immediately on adjournment

for the purpose of hearing our reports before we submit it. We have it ready.

PRESIDENT EGAN: Mr. Collins announces the Committee No. XIII will meet immediately upon recess. Are there other reports? Mr. Robertson?

ROBERTSON: Mr. President, I would like to ask the Chairman, Mr. Cross, Committee No. XIV if we are going to have a meeting this morning?

CROSS: There will be no meeting this morning.

HELLENTHAL: Committee No. VI will meet on schedule this afternoon.

PRESIDENT EGAN: Committee No. VI will meet on schedule this afternoon. Mr. Smith?

SMITH: Mr. President, the Committee on Resources will meet on schedule this afternoon.

PRESIDENT EGAN: The Resources Committee will meet as scheduled this afternoon. Mr. Coghill?

COGHILL: Your Committee on Administration will meet at 11 o'clock.

PRESIDENT EGAN: The Committee on Administration will meet at 11 a.m. Mr. McNealy?

MCNEALY: A short meeting of Committee No. IV on Ordinances following recess.

PRESIDENT EGAN: Committee No. IV on Ordinances will meet upon adjournment.

AWES: There will be a meeting of Bill of Rights Committee at 9:30.

PRESIDENT EGAN: The Bill of Rights Committee will meet at 9:30. Are there other committee reports? Mr. Sundborg?

SUNDBORG: Mr. President, I was waiting until after I had heard an announcement of committee meetings to determine whether any committee meetings had been scheduled for tomorrow. I would like to suggest that since there were none scheduled that we have a meeting of the plenary session tomorrow in order to continue with our calendar. As it now appears, we are not going to take up the calendar again until Monday. Undoubtedly many other matters will be crowding for attention by that time. I think every standing committee has set up a target date to report an article on the constitution to us

next week at the latest and I am afraid we are going to be hopelessly behind unless we do tear into this calendar. There is no doubt at all that we are going to have to utilize Sundays toward the end of the session in order to finish with our work. I would be much more in favor of utilizing Sundays now so we could get on top of the situation and not be hopelessly bogged down by our work. I would like to move and ask unanimous consent that when we adjourn today we adjourn until some hour that suits the delegates tomorrow afternoon for a plenary session and that we continue with the calendar at that time.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention when it adjourns today adjourn until some time tomorrow afternoon. Mr. Victor Rivers?

V. RIVERS: On that point, the Executive Committee was going to meet tomorrow and we have lost two of our regular meeting times although we sandwiched in one. It seems to me that in the regular conduct of our business we are going to have to do like all bodies of this type. We are going to have to devote a portion of each day to our plenary session and the rest of it to committee meetings as we would do normally. I see no special reason yet why we should conduct evening meetings and plenary sessions or on Sundays. I think that is a very good time though to fill in the incidental business. At the same time, it gives our stenographic and our clerical staff a chance to get caught up on their work. I personally would have to object to the Sunday meeting, both from the point of view of its need and its expediency and also from the point of view of our previously announced committee meetings.

PRESIDENT EGAN: Objection of Mr. Victor Rivers is heard. Mr. Sundborg?

SUNDBORG: At what hour had you scheduled that meeting?

V. RIVERS: We have set it up for tomorrow afternoon, probably at 2 o'clock.

SUNDBORG: Would it be practical for you to hold it tomorrow morning?

V. RIVERS: I don't think so, it might be.

PRESIDENT EGAN: Reverend Armstrong?

ARMSTRONG: I think it is completely out of order to suggest that we have any meetings on Sunday morning. I will go along with other things in the form of a compromise to my own feelings about it. But I object to our even considering Sunday morning.

PRESIDENT EGAN: Mr. Nerland?

NERLAND: The Finance Committee has a meeting scheduled from 12:00 until 3:00 tomorrow afternoon. It was not announced because the members are aware of it.

PRESIDENT EGAN: Mr. Sundborg, objection is heard. There is nothing before us at this time. Mrs. Hermann?

HERMANN: Mr. President, Mr. Sundborg tentatively had scheduled a meeting of the Style and Drafting Committee yesterday to receive a report from Mr. Elliott, and the influx of visitors kind of destroyed that proposition, and I just wanted to ask if he plans to have it today.

SUNDBORG: I would certainly be glad to have it today, but the schedule which we are working on does not provide any time on which we can meet without conflicting with meetings.

HERMANN: What about the lunch hour?

SUNDBORG: Oh, the lunch hour? Yes, well then, I would like to announce a meeting of the Style and Drafting Committee --

MCLAUGHLIN: If I may, Mr. Sundborg. I believe Mr. Elliott has a prior commitment as to many members of the Style and Drafting.

SUNDBORG: May I ask, Mr. President, I wonder if I could have a recess of several minutes to get together with the members of Style and Drafting Committee to determine when we can have a meeting.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce particularly for the benefit of the out-of-town visitors that everyone is -- we are pleased to have any of you attend the committee meetings at any time you choose during the morning or during the day. Mr. Sundborg?

SUNDBORG: Mr. President, Committee No. III, Style and Drafting, will meet at 12:15 Monday in the cafeteria special lunch room.

PRESIDENT EGAN: The Committee on Style and Drafting will meet at 12:15 Monday in the lunch room upstairs. Mr. Victor Rivers.

V. RIVERS: I request the Chair to announce to the visitors, also, that the meeting of the Local Government Committee is a

public hearing today.

PRESIDENT EGAN: The meeting that will be held immediately upon adjournment by the Local Government Committee is not just a committee meeting, it is a public hearing and anyone who has any testimony they would like to present before that hearing we will be glad to have them do so. Mr. Davis?

DAVIS: Where is that meeting going to be held?

PRESIDENT EGAN: The Chair assumes in the gallery. Is that right, Mr. Rosswog?

ROSSWOG: In the gallery.

PRESIDENT EGAN: Are there other reports? Mr. Walsh?

WALSH: Could I make a brief statement? Two days ago when this Convention decided to recess from the 19th of this month to the 3rd, I notified the Chief Clerk that I did not intend to go home to Nome during the recess but by choice I stayed here and will spend Christmas here, as we've done before, and as I would have done had I not been a member of the Convention. I also stated to the Chief Clerk that I was not entitled, nor would I accept, per diem because it is of my own volition to remain here. It was suggested to me this morning that I should make that statement from the floor, and I am now making that statement, that I am not in my opinion, entitled to per diem and will not accept per diem during the recess period because I am staying in Fairbanks by choice and not because I am a member of the Convention.

PRESIDENT EGAN: Thank you Mr. Walsh. The Chief Clerk will so note. Mr. Robertson?

ROBERTSON: I did not know that was necessary, but in order to be consistent, and inasmuch as I voted against Sections 3, 4 and 5 of the resolution of Mr. Coghill's Committee, while I will attend the committee hearings in Juneau that I have been assigned to, I don't desire my transportation home or my per diem.

PRESIDENT EGAN: The Chief Clerk will note Mr. Robertson's comment.

COGHILL: For clarification the Chief Clerk will convey that information on to the payroll clerk so she will keep consistent on it.

PRESIDENT EGAN: Yes, she will. Mrs. Nordale?

NORDALE: Since I will not be going to Juneau nor will I be remaining in Fairbanks, I shall not be entitled to either

transportation or per diem.

PRESIDENT EGAN: The Chief Clerk will note Mrs. Nordale's comments. The Chair would like to state at this time for the benefit of all the delegates that the President will receive verbatim from the Assistant Attorney General the opinion as it has been written by him in Juneau. Owing to the fact that he could not get it on the plane evidently, he is going to give that opinion over the phone. It is going to be taken in shorthand. The actual written opinion will arrive later, so everyone will be aware that we will have the written opinion relative to the recess on hand. Are there any motions or resolutions to be presented to the Convention? Is there any other unfinished business? Is there any business to come before the Convention at this time? Mr. Hilscher.

HILSCHER: Mr. President, just as a matter of correcting the record, I ask Mr. Sundborg's indulgence on a correction which he made of a statement of mine two days ago in the record. I stated that there were 22 state constitutions which did not specify the location of the capital. And Mr. Sundborg immediately informed me that I was in error on that. I have since checked back and have been advised by our consultants that 22 original constitutions did not specify the location of the capital but that as a result of political expediency or other circumstances, when constitutions were revised, the location of the capital was placed in it. so Mr. Sundborg and I are substantially correct in both of our statements.

SUNDBORG: I too would like this opportunity to correct a statement that I made during the heat of debate several days ago. I said there were only eight constitutions which were silent on the location of the capital. I have since checked my sources and I find that there are nine state constitutions which are silent.

PRESIDENT EGAN: The Chair will entertain a motion for adjournment. Mr. McLaughlin.

MCLAUGHLIN: Mr. President, on behalf of Delegate Ada B. Wien, I move that the Convention adjourn until 9 o'clock on Monday.

PRESIDENT EGAN: Mr. McLaughlin moves on the behalf of Mrs. Wien that the Convention adjourn until 9 o'clock Monday and asks unanimous consent. Is there objection? If there is no objection it is so ordered and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

December 12, 1955

THIRTY-FIFTH DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Armstrong, will you give our daily invocation.

REVEREND ARMSTRONG: Our Father, we come to Thee asking for Thy divine help and guidance. Create within us clean hearts, renew within us right spirits, cause us to devote all of our energy to the building of a constitution that will insure right, peace, and harmony within the State of Alaska. Teach us humbly to rely upon Thee for wisdom in each step of our way. For this we ask in Jesus' name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Mr. Knight?

KNIGHT: Mr. President, after reading the journal for the 31st day I would like to make the following corrections

PRESIDENT EGAN: Mr. Knight, reporting for the special Committee to read the journal, would like to make the following corrections for the journal for the 31st day.

KNIGHT: In the paragraph beginning "A letter from", add the word "Mr." on page 1. On page 4, paragraph beginning with "Mr. McLaughlin" on the second line, delete the word "from" and add thereto the word "of". Same page, beginning with the paragraph "After recess", on the third line, add "S.L.A. 1955" after "46". On page 5, paragraph beginning with "Mr. Riley", the word "rules" should be changed to "ruled". Those are all the corrections, Mr. President. I ask unanimous consent that the journal be approved as read.

HERMANN: I object for a moment, Mr. President. On page 3, in the second paragraph, as I recall the minutes, that should be "both dates inclusive". The word "inclusive" has been left out after "dates".

CHIEF CLERK: No, that was in, Mrs. Hermann, and the words that were added were "both dates". I don't have it right here.

PRESIDENT EGAN: Then on the original resolution the word "inclusive" was there but they added the words, "both dates"?

HERMANN: Then on page 4, the second paragraph, second line says "Paragraph 3 in the resolve be amended. Should that not be resolution"?

PRESIDENT EGAN: That would indicate more or less the title.

CHIEF CLERK: It was the resolve clause that was amended. That is the only way you can designate what was amended, by looking back.

PRESIDENT EGAN: Is there objection to Mr. Knight's request? Mr. Knight asks unanimous consent that the journal for the 31st Convention day, with the proposed amendments offered by the special Committee to read the journal, be approved by the Convention. Is there objection? Hearing no objection it is so ordered. Are there any petitions, memorials, or communications from outside the Convention?

CHIEF CLERK: A letter from the Republican Women's Club of Anchorage, opposing the Tennessee Plan.

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

CHIEF CLERK: A letter from Walter J. Hickel. (Clerk read letter inviting the delegates to attend the opening of the Fairbanks Traveler's Inn, December 17 at 1:30 p.m.)

PRESIDENT EGAN: The delegates will attempt to remember that date and the letter will be filed. Are there other communications?

CHIEF CLERK: I have none.

PRESIDENT EGAN: Are there reports of standing committees? Mr. Collins?

COLLINS: Mr. President, Committee on Amendment, No. XIII, submits Committee Report No. 3 for first reading.

PRESIDENT EGAN: The Chief Clerk will proceed with the first reading of Proposal No. 3.

CHIEF CLERK: "Committee Proposal No. 3, introduced by the Committee on Direct Legislation, Amendment and Revision, INITIATIVE, REFERENDUM AND RECALL, AMENDMENT AND REVISION."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for placement on the calendar. Are there other reports of standing committees? If not, are there reports of special committees or select committees? Are there any proposals to be introduced at this time? Are there any motions or resolutions? Mr. Marston?

MARSTON: Mr. President, I think this comes in here. It is pertaining to the arrangements for hearing during recess. I have had communications from my particular group in Spenard and they do not feel that it is necessary for me to call a meeting --

PRESIDENT EGAN: Is there objection to taking up this question at this time? If not, proceed Mr. Marston.

MARSTON: They do not think it necessary for me to call a meeting with them. They have admonished this institution to forget sectionalism and not let it creep in, and they expect to find this constitution, yet written by mankind, one that is acceptable to the people as a whole. They are watching these deliberations very carefully, and they want a constitution built for the good of all, with favoritism toward none. That is the position they took on it and I am carrying that message to you. That comes from my group in Spenard. I will not hold meetings there and therefore I will not be entitled to any compensation for travel or per diem or compensation while I am away. I am so notifying the Finance Committee of that now.

PRESIDENT EGAN: The Chief Clerk will make a note of that fact that he will not accept his per diem or any other compensation during the recess. Are there any motions or resolutions? Is there any unfinished business? Under unfinished business the Chair might state that with regard to the proposed Committee on Engrossment and Enrollment, the Chair desires to appoint Mrs. Sweeney, Mr. Ralph Rivers and Mr. Yule Kilcher to serve as the Committee on Engrossment and Enrollment. Is there any other unfinished business to come before the Convention? Mr. Coghill?

COGHILL: I don't know whether it is in order at this time but Saturday we discussed the possibility of seeing the films. one from the Alaska Visitor's Association and one from the Corps of Engineers. We have arranged for that at the pleasure of the Convention. It will be held in the Mines Auditorium at 7 p.m. this evening. I hope that does not conflict with any committee meetings or hearings and if there is a majority of the Convention that wants to see these films, it will go on as scheduled. However, if the majority of the Convention feels they don't want them, there is no sense in bothering the Mines organization. I think we should have a show of hands on how many want to see this particular two-feature film.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, before we have a show of hands, I would like to suggest that since we have a good deal of business on hand and that we work straight through to 6 o'clock, eat dinner in the cafeteria and go from there to see the film.

That is just a suggestion but I think we would have more who would be willing to stay over and see the film that way than we would have if they had to come back.

HINCKEL: Along the same lines, may I suggest we work to 7 o'clock, go to the show, and eat afterwards.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. President, relative to the discussion on films, I wish to be permitted to read a very brief comment, one from Mr. Bartlett, also one from Dr. Patty and one from Governor Heintzleman, very brief. I will quote just the meat of it. "These pictures are truly authentic. They depict the real Alaska of the far North. The photography is simply beautiful. I hope the pictures may be widely shown to promote a better understanding of the real Arctic." Signed E. L. Bartlett, Alaska Delegate to United States Congress. And from Dr. Patty, "The photography and narrations are excellent. It was a relief to find the restraint and factual way in which you presented your subjects. These will be excellent for showing in schools." Signed Dr. Patty, President, University of Alaska. And from Governor Heintzleman, "I have viewed many pictures of conditions in Northern Alaska and the life of the Eskimos there, but I was never more satisfied with any presentation than with these. You have caught the spirit of the North country." Signed B. Frank Heintzleman, Governor of Alaska. I thought it would be well for the members to know that these have been endorsed by those men whom I have just read.

PRESIDENT EGAN: What seems to be the desire of the Chairman of the Committee on Administration? Mr. McNeese?

MCNEESE: In line with what we have heard here this morning, I would like to move that we stay organized for a group until 6 o'clock tonight and that the group as a whole see these two pictures at 7 o'clock.

PRESIDENT EGAN: Mr. Smith.

SMITH: Along this same line, I would like to ask the consent to be excused at 3:30 this afternoon on the grounds that I have some very urgent personal business to attend to before 5 o'clock.

PRESIDENT EGAN: If there is no objection, Mr. Smith, you may be excused at 3:30 this afternoon. Mr. Nerland?

NERLAND: Point of information? Is it contemplated that this session will last all day today and if we attend this showing this evening, there will be no committee meetings at all today?

PRESIDENT EGAN: That would be the assumption if this --

NERLAND: It occurs to me our time is drawing short before we recess for the hearings and I know the Finance Committee had planned a meeting for this evening, assuming that we would not have time during the day, and perhaps there are going to be other committees pressed too, to get their committee proposals in before our recess time, which I consider quite essential.

MCNEES: By that motion I did not mean that we should stay in plenary session, of course, we would stay about for the conduct of Convention business.

PRESIDENT EGAN: Mr. McNees, do you think it might be well if, as Mr. Coghill first suggested, before we put any motion to ask those members who feel they will be present at this film showing to raise their hands?

MCNEES: I will withhold the motion for the moment.

PRESIDENT EGAN: Will those delegates who feel they will be present to see the showing of the films, please raise their hands. Mr. Barr?

BARR: Before I vote on that I would like to know for sure if I have a committee meeting tonight for this reason. I would not want to come back out here especially for the show, but if I am going to have a committee meeting afterwards, I will come out early and take in the show. I wonder how many committee meetings are planned.

PRESIDENT EGAN: Are there other committees that plan meetings for tonight? Mr. Victor Rivers?

V. RIVERS: The Executive Committee will have a meeting at 3 o'clock if we can all get together. I think that does not conflict with most of our members.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the Resources Committee will also hold a meeting if time is available. We will hold it on schedule if the plenary session allows. Otherwise, any time that it is possible to hold one.

PRESIDENT EGAN: The Resources Committee will meet as soon as possible, on schedule if the plenary session allows. Mr. Rosswog.

ROSSWOG: Mr. Chairman, your Local Government Committee would like to have a meeting sometime this afternoon, at its regular time or at sometime at least.

AWES: The Bill of Rights Committee would also like to meet, if possible.

PRESIDENT EGAN: The Bill of Rights Committee would like to meet. Mrs. Hermann?

HERMANN: I think if we break up in committee meetings, it will be the usual rule that those who do not have committee meetings will go back to town. I can't vote on this until I know whether I am going to have to come back out here or whether I am going to stay. I would like to see the pictures, but whether or not I can come back out, I don't know. Now, I think my original suggestion was that we continue in plenary session until time to adjourn today and then go ahead with the hearing and after that hold committee meetings if they want to, but I think I would have to know which we are going to do before I could vote.

PRESIDENT EGAN: Perhaps then you would rather find out how long we are going to be here before you put the question as to whether you want to stay and see the film. Mr. Coghill?

COGHILL: Mr. Chairman, it might be well to bring up the thought that possibly we could adjourn our plenary session this morning early and adjourn until 3 o'clock this afternoon and take up plenary work until this afternoon, giving a chance for most of the committees a chance to get together. It is just a suggestion if that would clear up the point of whether you're going to be here or not when the showing convenes.

PRESIDENT EGAN: The Chair would like to state that we should remember we have a committee proposal to work on and it is very hard to tell, subject to the wishes of the body, just when we could recess. Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, in line with the motion, I think it is appropriate to say that in my opinion and a number of others that I have talked to, we should start dividing work up into regular orders of business, both plenary and committee work, we have gotten through the bulk of the work which has been practically all committee work and it was my intention and thought that I would move for a recess about 12:30 today, even though we had an order of business, and ask for recess until 9 o'clock tomorrow morning, and in that way we would then have our afternoon free for committee meetings. If we are going to have something on our calendar from now on, it seems we should divide and give an equal portion of our time to the two different phases that we are facing, the plenary work and committee work. It was my thought that I would at 12:30 ask for an adjournment until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I don't agree that we can divide the time equally between committees and plenary sessions. I think the committees have had their time, and if they are not through, they should find extra time and not interfere with work on the floor.

PRESIDENT EGAN: Mr. McNees, what was the subject matter of your motion? Would you state your motion again.

MCNEES: The motion originally was that we continue to conduct whatever business in a Convention way that we had before us whether plenary sessions or committee meetings, but hold the entire group here through the dinner hour for the showing at 7 o'clock. My understanding was that the showing of this film will not take too long.

COGHILL: No, it is about an hour in length -- the Alaska Visitors and then we have two short thirty-minute films that can be shown but the Alaska Visitors film this is the last night we can possibly obtain the Alaska Visitors film. It is leaving tomorrow.

PRESIDENT EGAN: The Chair would question whether a motion could bind all the members to be sure and stay here to see the film.

MCNEES: I will withdraw the motion.

WALSH: Again I might state I have seen those films, a great part of them, and I think they are very interesting and important. I don't mean to say that we should leave any regular order of business for it, but if the members could arrange so that we could see those at 7 o'clock and for one hour I think they are very important. I realize too, that we have before us business since Saturday, the Judiciary recommended proposal, and I think that time could be given to the continuation of that today. It probably would make some progress. That is a very important and in my opinion, an excellent proposal, and I would like to see the Convention put in some time on that. That is my opinion.

PRESIDENT EGAN: If there is no objection then the Chair will just state that it is planned to have the films at 7 o'clock this evening in the Mines Building, and all those delegates who so desire can attend the showing of those films at that time. Is there any other business to come before the Convention? If not, we will proceed with the second reading of the Committee Proposal No. 2. We have before us an amendment to a motion by Mr. Cooper, as the Chair recalls. Mr. Hinckel?

HINCKEL: I am out of order then because I have withdrawn a motion and I thought I was in order by presenting it now.

PRESIDENT EGAN: Mr. Hinckel, had you withdrawn a motion with the understanding that you would be able to present it later,

but was it not that this particular thing was before us at that time the reason you held your motion? Was that with relation to this committee proposal?

HINCKEL: I am out of order. I will wait.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment to the motion. Mr. Cooper?

COOPER: Since Friday I met with the Judiciary Committee and during the meeting the conversation was very enlightening, and all but, in effect the Committee has taken a pat stand on their Section No. 7, and I would like to withdraw my original motion with the consent of my second, and in effect the only amendment that I could offer at this time would be that after the word "nomination" the last word in Section 7 would be "and possess such additional qualifications as the legislature may prescribe." I don't really believe my amendment now would have any meat whatsoever. As I understand, something not specifically spoken of in the constitution can be accomplished at a later date, such as "the legislature requiring additional qualifications." Am I correct?

PRESIDENT EGAN: Mr. Cooper, now your present amendment to the motion that you originally introduced would set up or give this power to the advisory council, isn't that right, or is that correct?

COOPER: I withdrew that. I ask with the consent of my second.

PRESIDENT EGAN: You would like to withdraw the amendment to your original motion?

COOPER: I would have to take it in that order.

PRESIDENT EGAN: Is there objection to Mr. Cooper's withdrawing the amendment to his original motion? If not, with the consent of the second, the amendment to the original motion by Mr. Cooper is ordered withdrawn.

COOPER: Now, Mr. President, I would like to withdraw the original motion.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent that he be allowed to withdraw his original motion which would strike, after the word "state" on line 2, page 3 --

CHIEF CLERK: No, it was a substitution, it was to strike Section 7 and to put in a new Section 7.

COOPER: The original motion was to strike the entire Section 7 and insert the amendment I had written.

PRESIDENT EGAN: Is there objection to Mr. Cooper's withdrawing that motion? Hearing no objection the motion is ordered withdrawn.

COOPER: Mr. President, I do want it made clear to me that if the constitution does not speak on the subject that that subject then is authorized in essence.

PRESIDENT EGAN: Mr. Cooper, if there is no objection the Chair will declare a one-minute recess and perhaps the Rules Committee or other members can answer that exactly. The Convention is at recess.

RECESS

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

COOPER: Having withdrawn my other amendment, I wish at this time to offer an amendment which is my honest feeling that I was trying to accomplish last Friday. I would like to present this amendment and ask for unanimous consent.

PRESIDENT EGAN: Mr. Cooper, do you have your amendment prepared to offer to the Chief Clerk at this time?

COOPER: Yes, I do.

PRESIDENT EGAN: The Chair would like to ask that all delegates please speak up as the gallery is pretty well filled and it is very hard for the delegates to be heard in the gallery.

BUCKALEW: Mr. President, who is in the gallery?

PRESIDENT EGAN: Mr. Buckalew, the Chair understands that there are some 50 students of the senior class of the Fairbanks High School along with several of the faculty, and we are very happy to have you with us this morning. The Chief Clerk will read the amendment.

CHIEF CLERK: "Page 3. line 2, after the word 'state' delete the rest of the section and substitute the following: 'and possess such other qualifications as may be prescribed by law.'"

PRESIDENT EGAN: What is the pleasure of the delegates? Mr. Cooper?

COOPER: I ask unanimous consent to that amendment.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent that the proposed amendment be adopted.

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. White seconds the motion. The motion is open for discussion. Mr. Ralph Rivers?

R. RIVERS: Mr. President, I helped George draft this clause for the purpose of achieving what he had in mind. Many of the members of the Rules Committee and of the Judiciary met with the Board of Governors of the Bar Association Saturday noon, and the members of the Board of Governors had expressed the thought that we could very well dispense with that residence requirement and that membership of the Alaska Bar for five whole years stating that additional flexibility was better, and the Board of Governors did not naturally, would not, object to adding some qualifications by the legislature. It is my thought though that if you are going to lay down an eligibility qualification that the legislature may not change that unless we give the legislature authority to do so. Now the effect of the present proposed amendment would be that to be eligible to be a justice of the supreme court or a judge of the superior court you must be a member of the Alaska Bar and possess such other qualifications as the legislature may prescribe. That is the effect of the present amendment, and to get this thing on the way I will trust the legislature as to whether they want to put three years or five years or any other period or else leave it the way it is, so I am going to support Mr. Cooper's amendment.

PRESIDENT EGAN: Is there other discussion? Mr. McNees?

MCNEES: Mr. President, I rise to speak in favor of the amendment, feeling that the constitution has no right to restrict, and therefore I would vote in favor of the amendment.

PRESIDENT EGAN: Is there further discussion?

BARR: I spoke on this before. I can only repeat myself, but I would like to say that the principal aim of the constitution is to protect the rights of the people, and the attorneys here have all said that a justice or a judge should have a wide experience in law, not just have had experience as a prosecutor or a corporation attorney or something of that sort, but have wide experience. The people of Alaska who might be judged by that court also will have a right to demand that he have a wide experience and not only in the law but be thoroughly familiar with our conditions in Alaska, since they are rather peculiar to those of the states. It is the duty of we here to see that it is written in the constitution because it is the constitution's purpose to preserve the rights of the

people, and this would do it if there was a five-year residence requirement in the constitution.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I generally would agree with Mr. Barr's ideas about protecting the rights of the people. Requirements might seem in order if we did not have this new situation where a board consisting of a majority of lawyers that are also interested in the people's rights. They are appointed by people who are interested in the people's rights. Therefore, it has practically full powers to nominate the right kind of people, and furthermore we have the legislature, who is mainly interested in protecting the people's rights to establish further qualifications if they choose, and I think it is satisfactory to protect the people's rights and I am in favor of Mr. Cooper's amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have to further explain myself again, that that is exactly, that is the protection of the people's rights was what I was trying to accomplish and what I have accomplished by this amendment. The people have no choice originally in the appointment or in the nomination for judges, but through the people's representatives, their legislators, they will have the right to insist on additional qualifications if the people so desire. That was exactly the entire essence of my amendment, in that the qualifications can be increased if the people so desire.

MARSTON: Mr. President, may I have the Cooper amendment read?

PRESIDENT EGAN: Would the Chief Clerk please read the amendment by Mr. Cooper.

CHIEF CLERK: "Page 3, line 2, after the word 'state' delete the rest of the section and substitute the following: 'and possess such other qualifications as may be prescribed by law.'"

MARSTON: I vote for the Cooper resolution.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I would like to call attention to the fact that at the last plenary session when this section was before us the precise question was also considered and voted on twice. In other words, the striking of everything in Section 7 after the word "state" in line 2 on page 3, that proposal came before us twice at the last plenary session and was rejected by the Convention. The only new part of this proposal is the addition of the wording after the word "state" which

is, "and possess such other qualifications as the legislature may prescribe. Now that part of the amendment or proposed amendment is new. I contend that the first part of the amendment has already been acted on twice and is not proper and should be rejected on that basis. However, I would like to point out that Saturday the Judicial Committee had a meeting at which Mr. Cooper attended, and at that meeting Mr. Cooper gave us the understanding and the impression that all he wanted to do was to add the phraseology, and possess such additional qualifications as the legislature may prescribe" to the wording already contained in Section 7, without any deletions, except for deleting the period and inserting a semicolon after the word "nomination". That was the understanding of the Judiciary Committee and so far as I know the Committee approved of that particular change. But now, presumably over the weekend, he has changed his mind and now wants to strike out all of the words which I believe have already been passed on twice and I think this five-year requirement certainly is not an unreasonable safeguard to put in the article, and it has been passed on, certainly unanimously, by the entire Judiciary Committee, and I am not aware that the Board of Governors of the Alaska Bar Association are necessarily opposed to it, as Mr. Ralph Rivers indicated, because I attended the meeting yesterday afternoon of the Judiciary Committee, and the Board of Governors of the Alaska Bar Association, and so far as I know nothing was said at that time to indicate that the Bar Association wanted this five-year requirement stricken from the constitution. They did raise questions about whether or not there would be available manpower. However, they felt that the authority given to the judicial council was broad enough in the entire article to give or to provide for a good and independent judiciary when the time comes. I believe that the amendment is out of order and I certainly am opposed to it.

PRESIDENT EGAN: The Chair would have to state at this point that in the opinion of the Chair the amendment is in order. There is something new that entirely changes the original idea, so the Chair would have to hold that the amendment is in order.

R. RIVERS: I was going to ask for the privilege of the floor for just a moment. It was to the effect that Mr. Clasby, Secretary of the Board of Governors, said that they approved this article as a whole but were going to make some minor suggestions, and one of the suggestions that they were going to make was that we might modify this five-year business. Then he went on to say, "We're short of manpower and maybe we can get a good judge elsewhere." Now they did not say to what extent they might want it modified, but they distinctly left the impression we did not need that five-year residence in there. I don't think Mr. Johnson was trying to impair my integrity. Perhaps he and I just did not hear it the same way.

PRESIDENT EGAN: Mr. Taylor?

TAYLOR: I will have to take issue with Mr. Rivers on that. We had a meeting of the Judiciary Committee with the Board of Governors of the Alaska Bar Association. I don't know whether Mr. Rivers was there last night, and they have withdrawn all objections to the bill. There was only one man who voiced objection. That was Mr. Clasby, the Secretary, and that was personal objection, not the Board of Governors. They said to leave it as it is, and as far as the manpower condition might exist of getting six or nine judges, if they had to pick them all at one time, that it should be better to leave this bill exactly the way it is now, except at the end, after the word "nomination" , then "possess such other qualifications as the legislature may prescribe or which may be provided by law." So there is nothing from the Board of Governors here but what they are in favor of it. They spoke very highly of it yesterday. They said to leave it go the way it is. You don't see them here objecting to it, do you? That was the result of the meeting yesterday.

R. RIVERS: I refer to a luncheon meeting on Saturday. If they had the following meeting I must have overlooked it, but I do refer to a luncheon meeting on Saturday.

TAYLOR: They raised some very minor objections, but the other members said those were taken care of in the bill itself. I don't think they had time to go over it fully.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, to clarify a very minor tempest in a teapot, Mr. Johnson, for his information Mr. Cooper asked me this morning whether or not he in substance were bound by his conversations with the Judiciary Committee on Saturday, and I assured him, Mr. Johnson, that if he felt in good conscience that he had in substance agreed to something that he now regretted, I felt sure the Judiciary Committee did not feel it was a commitment of sorts. It was on my assurance, Mr. Johnson, that he changed his mind and submitted a new amendment. That is in justification of Mr. Cooper's attitude.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Taylor a question. Mr. Taylor, if the proposed amendment is defeated, do you plan to propose an amendment adding the words, "and subject to such further eligibility qualifications as the legislature may prescribe", following the present Section 7?

TAYLOR: Yes. If this motion carries, which I hope it does not, I would offer that amendment.

HELLENTHAL: If it is defeated, what do you plan to do, offer this amendment?

TAYLOR: No, I would not offer that amendment for the reason that I am on this Committee, and I bound myself to go for this bill as it is. It might be if the amendment is offered I might support it, but I am not going to offer any amendment to change the nature.

PRESIDENT EGAN: Mr. Gray.

GRAY: I am not speaking from a lawyer's standpoint (I'll let them take care of that but just from the protection of the average citizen, I believe in the supreme court justice much like we have the governor. If we have a five-year residence requirement, it is no requirement to a position of that statute in the State of Alaska. By five years the people will know what they are getting for supreme court judges. Just like by five years residence, we will know what we will be getting for governor. I believe in the five-year requirement. It gives the people a chance to know who they are receiving for the top offices of the state. For that reason I am going to go along with the five-year residence requirement.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I oppose Mr. Cooper's amendment, that part of it which abolishes the five-year residence requirement. I have seen many times in the small towns where newcomers come to town with a good gift of gab and a great big smile and they win a lot of friends immediately and a few months afterwards they have just as many enemies. Therefore, I feel that we should have the entire five-year residence requirement so that we really know what people are under stress and under pressure. Let me ask you also, remind the delegates that this constitution for the great State of Missouri, which was revised and adopted in 1945, the residence requirement was said last week were nine years in addition to being 15 years a citizen of the United States. If it is good enough for the State of Missouri and other states that have adopted recent constitutions, it certainly should be good enough for us. Another matter I want to bring up with reference to the late Judge Dimond. What were the reasons for him being loved by every one, it was the fact that he was a long-time resident here in the Territory. He worked with the miners out in the hills in the winter time and understood the common man's problems. He was not only a humane judge but learned in the law, and I wish you people would remember that, that residence means something, and therefore I oppose Mr. Cooper's motion for that reason.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, the last time this was discussed on

the floor I was in substance probably opposed to the amendment offered by Mr. Cooper or an amendment of this type. However, in talking with other attorneys over the weekend who are not members of the Judiciary Committee here, it has changed my thinking, and I am wholeheartedly in favor of the amendment as offered by Mr. Cooper and for several reasons. The bill, as I see it in going all the way through, is set up so it leaves no possible control by the legislature whatsoever. It is entirely a piece of legislation in itself. It purports to have a closed corporation, so to speak, in my opinion. Now if the judiciary council or the Judiciary Committee believes so strongly in the qualifications of the judiciary council, as it is going to be set up, then there should be no worry on their part or the part of anyone in this Convention of having this amendment adopted, because this supreme judicial council will without question appoint the right man, and if they feel that he should have five years residence in the Territory and five-years practice in the Territory, surely this council, also set up by the Judiciary Committee, is not going to go off the track. If they are, there is something wrong with the judicial council system. Now conditions may change over a course of years, or if the matter is left to the legislature they may see a necessity for rather than five years, of requiring ten years here. I think it certainly should, some parts of this bill at least, should be left to the discretion of the legislature. As an attorney I probably should be in favor of a closed shop corporation, but for the reasons I have stated, I believe no harm can be done, in fact I believe the bill will be greatly improved, and certainly it would be in my opinion, to adopt the amendment as offered by Mr. Cooper.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I voted against the amendment to delete the five-year residence the other day. I am going to vote for Mr. Cooper's amendment because something new which has been added, in my mind, strengthens it to the point where I can support it. I think one of the fundamental things that this body is going to have to do, whether they like it or not, is to develop faith and trust in the future legislatures of Alaska. Now I have on occasion criticized the legislature, and I reserve the right to do it again, but nevertheless, it is a very important instrumentality of government. And it is the only instrumentality of government that is sufficiently flexible to correct conditions that may change with the passing years, and for one I am not insisting that we have five years of residence if the amendment is in that will permit the legislature to correct that if the need for it ever arises. I am going to support Mr. Cooper's amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, may I ask the Clerk to read the portion which is to be added under Mr. Cooper's amendment?

CHIEF CLERK: "and possess such other qualifications as may be prescribed by law."

DAVIS: May I direct a question to Mr. Cooper? Mr. Cooper, I would ask as to whether you would make any objection to substituting the word "additional" for the word "other"?

COOPER: I have no objection.

DAVIS: I would like to offer an amendment to Mr. Cooper's proposed amendment to substitute the word "additional" for the word "other", and I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the word "additional" be substituted for the word "other" in Mr. Cooper's proposed amendment. Is there objection? Hearing no objection the change is ordered made. Now we have the original amendment. Mr. Stewart?

STEWART: As a nonlawyer, I would like to say that I have been convinced now that with the legislature having the say as to the qualifications of the Chief Justice, I am going to support the amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I am going to restate my position of the other day that I think that every man in high office in the Territory, whether it be on the judiciary or the executive, wherever he may be, where he is establishing policy and handling the affairs of the Alaskans, should have a close acquaintance with Alaska. I believe that the requirement of the registration should stay in. I can also see that unless you have, as we come into the new status of statehood, there is going to be a transitory period. In that transitory period, under this amendment, the only requirement you will have for your chief justice on down will be admission to the Alaska bar. Now it's nice to say that the judicial council will make no mistakes but I am sure that there is nobody that has ever been assembled that won't make mistakes. I think it is a necessary safeguard that we leave in the five years of practice and the five years of residence. I don't agree with this idea of opening the gates wide open. As far as any closed shop goes, it is not a closed shop to say that a man shall not only have an acquaintance with the law in his business but he shall also have an acquaintance with the people and the country he is doing business with and doing business for. It seems to me utterly ridiculous to pass this on to the legislature in this particular form, in this particular instance. I notice that practically none of the other states have done it. If they

had any good reason, I think they had. We have also a good reason to retain the five years, because I am sure as I stand here, in the transitory provisions the legislature will be piled high with work. They are not going to take up the minor qualifications of judges at that time. You are going to get a chief justice, and all the first appointments to the court will come in with the only requirement being they will be admitted to the bar and to my way of thinking that is not adequate.

PRESIDENT EGAN: Mr. Coghill?

COGHILL: Speaking for the first time on this proposal and being a nonattorney, I go along with Mr. Rivers on his statement and would like to bring that further in opposing this. You are in fact placing the responsibility on the legislature to encroach upon a division of government, which is the judicial. Also, you will note that in past years in the legislature, if you are going to throw the qualifications of judges into the legislative hands that you are going to encroach upon the people being willing to take responsibility to that effect, the same way as has been brought about by board members in our Territorial form of government. Therefore, I am opposed to the amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to speak in favor of this amendment. I feel that the requirements should be left flexible and that we will have protection in the judicial council. I have been a long resident of the Territory and I have grown to look at it from the attitude of residence requirements from our officials, but I do think in this case I would be in favor of the amendment.

PRESIDENT EGAN: Mr. Robertson:

ROBERTSON: Mr. President, I am obliged to oppose this proposed amendment. In my opinion this is not setting up a closed corporation. It is a provision particularly for the protection of the people of Alaska because they get a good judiciary. I would have no objection to adding to the present Section 7, the last clause of Mr. Cooper's proposed amendment, "and possess such other qualifications as may be prescribed by law." But I think we ought to have the minimum limitations to start out with, and furthermore, I think we have the manpower among the men who are practicing attorneys in Alaska to obtain the necessary judgeships and justices as we enter statehood, and I hope the amendment is voted down.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I wish to speak in favor of the

amendment for this reason. A statement just recently made on the floor here stated that there were sufficient qualified men in the legal profession in the Territory at the present time to cover the jobs that would be open when we become a state. Now that is just a polite way of inferring possibly that a certain amount of protection should be given to the men who are in the Territory in the legal profession. The point I wish to make is this there are going to be so many small items which will come up before this final document is completed, Mr. President, that the antistatehood crowd will be able to go to the members of Congress and say, "They are building a fence around themselves." They will have 25 or 30 small items which from the standpoint of publicity and personal opinion, they can sway members of Congress and say, "Who do those Alaskans think they are, building a fence around themselves and they want to get into the Union of the United States." We have an end product to sell. We had better make that pretty liberal if we are going to get into the Union.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Robertson, if this amendment is defeated, will you propose an amendment adding the words, "and subject to such further qualifications as the legislature may prescribe" to the present Section 7?

BUCKALEW: Point of order. I think it is out of order to ask a man if he is going to offer an amendment if this passes, and ask somebody else if that is

PRESIDENT EGAN: The Chair will have to hold that your point of order is well taken in that it doesn't have anything to do with this amendment before us right now.

HELLENTHAL: Mr. Chairman, if I felt that the members of the Judiciary Committee would offer the amendment that I speak of, to the present Section 7, I would then vote against Mr. Cooper's amendment. However, until those assurances are forthcoming, I shall vote for Mr. Cooper's amendment. Now, Mr. Coghill made a mention that the Cooper amendment, he said would encroach upon the prerogatives of the judiciary. Well, I cannot see that in the light of Section 8. The Judiciary Committee in Section 8, as far as judges of other courts are concerned, is perfectly willing to leave their qualifications to the legislature. So if Mr. Coghill is consistent, Section 8 would have to be amended and rewritten completely. So I see nothing wrong in allowing the legislature to prescribe the qualifications. However, I do think it would be preferable if the residence requirement were left in as a minimum and then the legislature would take up from there. But until I have assurances from the Judiciary Committee I shall support this amendment.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I feel impelled to support Mr. Robertson and Mr. Rivers in speaking against the proposed amendment. I, too, would go along with the idea that after the word "nominations" if we added in that the additional qualifications by the legislature could be set up. I feel the little fence building by Alaskans is not a bad idea, since primarily we are using airplanes these days and are able to get over fences. Also, I believe the proponents of this thing are presupposing that we are going to have statehood in the next 15 minutes. I like to view that idea kindly but I am afraid it is not going to be the case. There are a good many qualified attorneys, young attorneys here in Alaska who will have had more probably than ample residence requirements to be joining in such a thing as this by the time we get to be a state and we shouldn't overlook that fact. I am compelled to vote against this proposed amendment, but if it were later on added in after the word "nominations ", I would be inclined to support it.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, first of all I would like to say that if I in any way impuned Mr. Ralph Rivers' integrity, I apologize. I had no such intention. In answer to what Mr. Hilscher has said about going to Congress with a constitution that provides little fences, I would like to point out that the constitution of the Commonwealth of Puerto Rico, which has already been approved by the Congress, makes the residence requirement for judges ten years, "and they shall have been admitted to practice law in Puerto Rico at least ten years prior to this appointment and shall have resided in Puerto Rico at least five years immediately prior thereto." That was the type of fence that was built in Puerto Rico and which was subsequently approved by the Congress. I don't see that that is any argument against the amendment. I go along with Mr. Robertson, Mr. McCutcheon and Mr. Victor Rivers in their idea that the language sought to be added after striking out the five-year requirement, could well be added to the section as it is now, and I would have no objection to that and I would be willing to offer such an amendment if this proposal is defeated.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would like to make only the statement that the comparison of Alaska with Puerto Rico is a most unhappy one. For one thing Puerto Rico is a Commonwealth. If some of them had their way they would be entirely independent. They have a language of their own, they are feeling like a minority nationality, they are an overpopulated small island. A lot of them are leaving their country, entirely the reverse situation of Alaska. We are a country that is vast and we are

absorbing population yet, so from this point of view I think that we could not possibly choose an unlikelier comparison than the one with Puerto Rico. Again I reiterate that I still think that the amendment should be supported.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, it is very true that Puerto Rico is far different than Alaska, but Congress's feeling on this subject is probably the same in both cases, and I would like to point out here that in the debate on the floor we have been for and against two different things in this amendment. One is the residence requirement and the other is whether or not the legislature should have some say in this matter of appointment. Now I believe that we should leave the residence requirement in, as I have stated before. Another reason that I have not stated is that since we have our choice of appointing these judges or electing them, and we have chosen not to elect them for very good reasons, it seems that we should at least then give the people a chance to know who is going to be the judge. If he has been residing here for five years or practicing law for five years, at least they're acquainted with him or heard of him and they have some chance to object, but not so if he comes in from the outside as a stranger. If this amendment fails and if someone else does not put in a like amendment, I am prepared to put in an amendment incorporating Mr. Cooper's words regarding the legislature but placing them after the words in the third line, "for at least five years" and striking, "next preceding their respective nominations". I don't think they should be required to live here five years just immediately before their nomination because such a man might be elected to Congress and want to come back.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, several speakers have referred to this provision as it now stands as one designed to protect the people of the state and have attacked this proposed amendment as being one that would remove the protection from the people. I disagree completely with that kind of an approach. I am sure that the legislature would put in requirements that would insure protection of the people of Alaska but at the same time, by leaving it to the legislature, we would also insure that it would be flexible enough to assure that we would get good judges in Alaska.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I move the previous question.

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

TAYLOR: There has been some objection voiced here as to citing Puerto Rico as an example of building a fence around themselves. Now Mr. Kilcher says we should not pay any attention to that example because they speak a different language, they are a different class of people, they are on a little island. I would like to call Mr. Kilcher's attention to the fact that Hawaii, who has called their convention and have a constitution, and we have referred to it a good many times here, they have the ten-year residence and practice provision for the judges of Hawaii. Now nobody has spoken out against the Hawaii Constitution. The Congress has not said to them they cannot have statehood because they have got a ten-year residence and practice for judges. It is the accepted thing all over the United States. The various constitutions that have been drawn or revised within the past ten or twelve years, have all got the residence requirement up to 15 years. I don't think we are letting the bars down in this thing whatsoever, and as I said, we had the meeting the other day with a number of people who were objecting to this, Mr. Cooper amongst them, and at that time the Judiciary Committee agreed with those men that after the word "nomination" at the end of the paragraph we would insert a semicolon and, "provided however that the legislature may prescribe other qualifications" and leave the paragraph as it was. Well, we had agreed that the members of the Committee would not make any changes but we would support that amendment, and I will support that amendment if it is put at the end of the present paragraph. Mr. Johnson says he will do it. Also, coming back to this fact of the striking of this five-year residence and five-year practice provision here, I think that is brought about by certain elements in Alaska wanting some outside judges. Now, there is only one man who spoke on the Board of Governors for that. That is a man who is a big corporation attorney, and he is the one who wants to get the judges from outside. Is it not much better that we have judges from lawyers in Alaska? We know them, we have a chance to pass on their qualifications and if they have a five-year residence and a five-year practice, we know it. But what would we know about a man's ability, his honesty and integrity if he is dragged in here from the outside, perhaps for a particular purpose? I feel we should select them from the people that we know. I think we should leave this in here.

UNIDENTIFIED DELEGATE: Question.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read the proposed amendment as amended, as it is now offered by Mr. Cooper.

CHIEF CLERK: "Page 3, line 2, after the word 'state', delete the rest of the section and substitute the following: 'and possess such additional qualifications as may be prescribed by law.'"

UNIDENTIFIED DELEGATE: Question.

METCALF: Roll call.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, inasmuch as I moved this amendment, do I have the right to close the debate?

PRESIDENT EGAN: That is correct.

COOPER: All I can say is that in listening to this entire discussion what has been proven to me so far is that the best qualifications for a judge is an Alaskan who has lived here for five years and been admitted to practice law for five years. That is practically the only qualification as it now stands. I can see no reason why that is necessary. The best men, possibly a better man, will be available and made available to the people of Alaska if that man has the right to serve as a judge whether he has lived here for five years or not. It is the people of Alaska that are going to be tried by these judges and not the Alaska Bar Association, and the best judge that can be secured to sit on the bench is what the people are entitled to. The people have only one recourse and that is through the legislature. That is why my amendment was presented. That is their final recourse, the only recourse, and if additional qualifications should be or could be prescribed by the legislature to secure a better judge, then I believe that is the right of the people.

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

JOHNSON: Mr. President, I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 32 - Awes, Buckalew, Cooper, Cross, Davis, Emberg, V. Fischer, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Lee, Londborg, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, Rosswog, Smith, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.

Nays: 21 - Armstrong, Barr, Boswell, Coghill, Collins, Gray, Harris, Hellenthal, Johnson, King, Knight, Laws,

McCutcheon, McLaughlin, Metcalf, Nolan, V. Rivers,
Robertson, Sweeney, Taylor, Walsh.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 32 yeas, 21 nays, and 2 absent.

PRESIDENT EGAN: So the proposed amendment has been adopted by the Convention. Mr. Hinckel?

HINCKEL: On Friday I had an amendment in which I did not withdraw, but I withdrew my motion for approval. I would now like to withdraw the amendment and substitute an amendment that reads as follows --

PRESIDENT EGAN: Mr. Hinckel asks unanimous consent. Was it ever offered for the record? It was not moved, Mr. Hinckel, so it would not have been on the record, and you can just offer the new amendment if you so choose.

HINCKEL: I offer this amendment and ask unanimous consent. "Section 5, line 6. Proposal No. 2, after the words, 'rejection of the voters' we delete the words, 'of the State'."

PRESIDENT EGAN: In line 6, page 2, wasn't the word "qualified"?

HINCKEL: I had previously suggested that the words "those voters of the State" be deleted and another phrase substituted, but now I am requesting only the words "of the State" be deleted because I am told by legal counsel that I accomplish the same purpose by just striking those words.

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

HINCKEL: I do.

PRESIDENT EGAN: Is there objection to Mr. Hinckel's unanimous consent request? Mr. Stewart?

STEWART: May I ask Mr. Hinckel to explain why.

HINCKEL: The object in making the request was that I felt if it was left worded as it is that there is the possibility of interpretation that all elections or confirmations of judges for the superior and supreme court for the statewide election, and I felt that the superior court judges should be confirmed

by the people under their jurisdiction.

PRESIDENT EGAN: Mr. McLaughlin, you may ask a question.

MCLAUGHLIN: Merely to confirm Mr. Hinckel, he did discuss the matter with the Judiciary Committee, and we unanimously agreed that it would not change the deletion of the words, "of the state" on line 6, page 2, would not change the meaning and would effectuate the purpose that Mr. Hinckel sought. In other words, the Judiciary Committee unanimously consents.

PRESIDENT EGAN: Is there further objection to Mr. Hinckel's unanimous consent request? If not, the request has been adopted by the Convention and the words "of the State" are ordered deleted. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess for ten minutes.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has been informed that we have with us some of the members of the Board of Governors of the Alaska Bar Association. We have the President of the Alaska Bar, Mr. Mike Monagle of Juneau, and we are certainly happy to have you with us this morning. We are now on Section 8 of the Committee Proposal No. 2. Are there amendments to Section 8? If not, we will proceed to Section 9. Are there amendments to Section 9?

HURLEY: May I ask the Chairman of the Committee on Judiciary a question?

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

HURLEY: Is there in your opinion, Mr. Chairman, any possibility that the judicial council would nominate a large number of persons for selection by the governor? In other words, say ten, in which case it would, in effect, place the selection and the nomination on the governor and relieve the judicial council of any responsibility for having selected a precise panel. In other words, the fact that there is no upper limit there, would that affect the --

MCLAUGHLIN: The possibility does exist that the council could do that. Under the Missouri Plan, that is under the Missouri Constitution from which this section is derived, it reads "not less than three". It was the intent of the Judiciary Committee not to make it "not less than three" because then by law the council would be required to present three persons.

It is the desire of the Judiciary Committee and to some extent that had confirmation of the Board of Governors of the Alaska Bar Association that we keep the selections down to a minimum, because of the limited number of lawyers that we have in the Territory we wanted to restrict the selection of the governor. In fact, the fear has been expressed already that initially the governor might have too much determination in selecting the judges. For that reason it was kept down to two, but with the increase in size of the state it is well recognized that then the judicial council should have latitude in submitting more than two nominations for the one vacancy.

SUNDBORG: May I be permitted to address a question to Mr. McLaughlin?

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

SUNDBORG: Mr. McLaughlin, several days ago when we were discussing this article for the first time, as I heard you, you answered a question, asked by someone, on whether if the governor did not like the names suggested to him he could call for more names, and my recollection was that you answered that in that case more names would be supplied. Was that a considered answer?

MCLAUGHLIN: That was not a considered answer. I believe that I corrected myself. Under this article, under Section 9, the governor has no right of refusal, he cannot refuse. The obvious answer to it, that's the way the section was intended, if there was any other intent it would mean, particularly with the present status of the Alaska Bar, that if the governor refused, he would very promptly exhaust all nominees and he would pick the man that he wanted.

SUNDBORG: Thank you, I just wanted to clear the record. May I address another question to Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection.

SUNDBORG: Also with respect to Section 9. it does not mention there is an office of chief justice. Is there an office of chief justice created by this article? The reason I ask is that when a man, for instance, is appointed by the governor to the position of chief justice, does he hold that position subject to the elections every ten years, and the retirement provision is in here for life, or does each governor who is elected have the right to name a chief justice from among the panel that then makes up the supreme court?

MCLAUGHLIN: There is an office of the chief justice and once appointed by the governor, he remains the chief justice for life or until removed by the voters or until retired for other cause or resignation.

PRESIDENT EGAN: Mr. White?

WHITE: My question was somewhat along the same line, Mr. President. I am not sure that that answered it or not. Did I understand the intent of this section Mr. McLaughlin, to be that when the office of chief justice of the supreme court becomes vacant it, the new appointee is automatically the chief justice?

MCLAUGHLIN: Those who are designated by the judicial council, the nominees, the governor selects one of the two or maybe three nominees. The governor selects one of those and that man becomes the chief justice.

WHITE: Not only the first time but each subsequent time the office becomes vacant?

MCLAUGHLIN: That is correct.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Following through on the same line, if the governor desired to elevate one of the justices of the supreme court to be the chief justice, it would have to go through the regular procedure of approval by the judicial council that his name might be one of two submitted to the governor, and then it would be up to him to choose?

MCLAUGHLIN: That does not preclude a member of the supreme court from becoming chief justice. Actually, under this act he could resign. The judicial council could select him, he and someone else submitted to the governor and if the governor selected him, then he would become chief justice.

V. FISCHER: Would he have to resign?

MCLAUGHLIN: There is a possibility he would have to resign.

PRESIDENT EGAN: Are there any other questions or amendments relative to Section 9? If not, we will proceed with Section 10. Are there amendments to Section 10? Mr. Sundborg?

SUNDBORG: Mr. President, may I be permitted to address a question to Mr. McLaughlin? With respect to Section 10 I am in the dark as to what you mean by this phrase, "on the basis of appropriate area representation".

MCLAUGHLIN: The phrase, "on the basis of appropriate area representation" was put in there as a guide in order to assure that the judicial council would not consist entirely of three lawyers, let us say from an area like Anchorage. It was intended to have the representation from all areas of the Territory. We were indicating an intent to have a geographical

representation.

SUNDBORG: That then refers to and modifies the word, "appoint". They "appoint on the basis of appropriate area representation"?

MCLAUGHLIN: That is right.

V. RIVERS: Are members of the bar, all members of the bar, members of the "organized state bar", or is that just the American Bar Association?

MCLAUGHLIN: The "organized state bar" was a generic term the Committee took as best representing what would be a statewide organization of attorneys. Originally the Committee did have the expression "The Alaska Bar Association or its successor". The difficulty was that the legislature could terminate the organized bar, that is terminate the integrated bar, and we use the "organized bar" as best representing that association which would represent all the attorneys of the Territory.

V. RIVERS: "Organized state bar" would not necessarily imply that all members admitted to the bar then were members of that organized bar, is that right?

MCLAUGHLIN: That would imply this, that all could belong to it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to address a question to Mr. McLaughlin. My question really has reference to Section 11 but affects Section 10. In Section 11 you mention that "the chief justice shall thereafter be ex officio a seventh member and the chairman of the judicial council" and then mention that it requires an affirmative vote of four of its members. Does the term, "ex officio member", restrict his voting rights in that group?

MCLAUGHLIN: It does not restrict his voting rights at all.

HURLEY: In the matter of a tie he would have a vote?

MCLAUGHLIN: He does anyway.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to address a question to Mr. McLaughlin. I am just a little curious as to the Committee reasons for providing that the organized state bar shall appoint the three attorney members and that the governor shall appoint the three nonattorney members.

MCLAUGHLIN: The reason, Mr. President, for that is that is the very essence of the so-called Missouri Plan. The three who are appointed by the bar represent a craft in substance, the theory being, and it has worked out in Missouri, that they best know their brothers, and they are there, based solely on their professional qualifications but selected because they would represent in theory the best thinking of the bar, and they are there solely because they represent their craft. In essence there is nothing undemocratic about it because of the fact that we know by its very nature that the judges of the supreme and superior court will be attorneys. The three lay members are in substance those who represent the public. Under the Missouri Plan there is a specific provision that the members appointed by the bar of Missouri shall be elected. They specifically use the word "elected". We didn't use it, we did not deem it necessary. Under the Missouri Plan the three laymen are appointed by the governor. There is a difference in this Section 9 in the sense that the laymen under our Section 9 are required to be approved by the senate. That is, they are subject to confirmation by the senate. The reason that varies from the Missouri Plan is that what happened was in Committee there was quite some discussion about the popular representation.

DAVIS: Mr. President, before he goes ahead, he is talking about Section 9, I am sure he meant Section 10. I would like it to be clear.

MCLAUGHLIN: Do you desire me to proceed, Mr. President, or wait until that arises.

PRESIDENT EGAN: It might be inasmuch as the question has arisen that if there is no objection, Mr. McLaughlin could proceed. Mr. Fischer?

V. FISCHER: I would like to give cause to the question to arise by introducing an amendment on this subject.

PRESIDENT EGAN: Mr. Fischer, you may introduce your amendment at this time. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 10, page 3, line 22, strike the comma after the word 'article', substitute a period and strike the remainder of the sentence."

V. FISCHER: Mr. President, I move and ask unanimous consent for the adoption of this motion.

MCCUTCHEON: I object.

COGHILL: I second the motion.

PRESIDENT EGAN: Objection is heard. Mr. Coghill seconds the motion. The question is open for discussion. Mr. Fischer?

V. FISCHER: I would just like to briefly say that I believe the confirmation requirement is not necessary and is in a way

discriminatory against the lay members. I can see why it was put in originally, to give the legislature some say in the selection of judges. We have now amended Section 7 to provide that the qualifications, in effect, would be established by the legislature, and I believe that therefore we should not require confirmation of lay appointees to the council by the legislature.

PRESIDENT EGAN: Is there further discussion of the motion by Mr. Fischer? Mr. Taylor?

TAYLOR: Perhaps Mr. Fischer did not give full consideration to this particular section of the proposal. Under our present act, the Bar Association, the integrated bar, is an official body of the Territory. It is, you might say, chartered, by the legislature, and compulsory membership is required under the act. Nobody can practice law unless they have been admitted to the bar and belong to the integrated bar. Now the bar is screening their applicants, their men for the board, on this judicial board. They must have certain geographical representation in the integrated bar. We have three from the First Division, three from the Third Division and three from the combined Second and Fourth Divisions. So the selection of the three attorney members of the Commission are a selection by an official Alaska organization, the integrated bar. The other three would be selected and approved by the senate, appointed by the governor and approved by the senate. The attorney members have already been approved by the Alaska Bar Association, so why then put them through a further screening when they have already been screened by the members. The lay members have not been screened at all, only by the senate. We feel that the bar members are screened by the bar, then the lay members are screened by the senate. It makes it even.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, there is in Section 10, it is pertinent to this motion, the way that I interpret it, line 16, "the appropriate area", in line 20, "different major areas". I would like to ask Mr. McLaughlin if the intent was that the three attorney members of the judicial council would come from three appropriate areas and the three lay members would come from different major areas than that of the three appropriate areas?

MCLAUGHLIN: There is no difference. In fact, if the Committee on Style and Drafting desires in the future to change it, we would be delighted. The one reason why we have left in the words "major areas" on the laymen representation is the possibility (forgive me, Mr. Walsh) that Nome itself might have the feeling that it would be left out in its representation. If we struck "major areas" then there would be

an implication that we did not have to worry about certain areas of the Territory. Frankly, it is my belief that both could be made to conform and the same wording could be used.

COOPER: In other words then, the idea is not to cause the three laymen to come from different areas than the areas from which the three lawyers came?

MCLAUGHLIN: No, there was no such intent.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to ask the question of the Judicial Committee, if using the word major, does not that denote there is also a minor?

MCLAUGHLIN: In answer to that, Mr. Londborg, if the representatives from the alleged minor areas so desire, we can strike the whole expression, "major area or appropriate area" and then you're not assured of any representation at all. It is the desire of the Committee to have a general geographical representation on the judicial council and that includes all areas.

COGHILL: Point of order. I believe we are diverting from the subject before the Convention. We have a motion on confirmation by the senate for the nonattorney members. We are talking about representation from the major areas. I think we ought to dispose of the subject at hand.

PRESIDENT EGAN: You are correct, Mr. Coghill. That was allowed because the question was asked. The question is, "Shall Mr. Fischer's amendment, inserting a period and striking the words, 'subject to confirmation by the Senate', on line 22 of page 3, be adopted?" Mr. Davis?

DAVIS: Mr. President, was Mr. Fischer's motion seconded?

PRESIDENT EGAN: Yes, by Mr. Coghill. Mrs. Nordale?

NORDALE: I would like to call attention to the fact that one speaker said that the organized bar was an arm of the Territorial government and the senate was an arm of the Territorial government, and I would like to point out that the governor is certainly an arm of the Territorial government and elected by direct vote of the people.

HELLENTHAL: Mr. President, on Mrs. Nordale's suggestion I heartily agree. The people through their agency, the integrated bar, are going to screen the three attorney members. The people through their agent, the governor, will screen the nonattorney members. I don't know why we should get the senate in on the act in addition.

PRESIDENT EGAN: Does anyone else wish to speak on the subject?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If not, the question is, "Shall Mr. Fischer's amendment be adopted?"

METCALF: Roll call.

PRESIDENT EGAN: Mr. Metcalf asks that the roll be called. The Chief Clerk will call the roll.

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

Yeas: 26 - Armstrong, Boswell, Coghill, Collins, Cooper, Cross, Davis, V. Fischer, Hellenthal, Hilscher, Hurley, Kilcher, Knight, Lee, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, Rosswog, Sundborg, Sweeney, VanderLeest, White.

Nays: 27 - Awes, Barr, Buckalew, Emberg, Gray, Harris, Hermann, Hinckel, Johnson, King, Laws, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, V. Rivers, Robertson, Smith, Stewart, Taylor, Walsh, Wien, Mr. President.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 26 yeas, 27 nays and 2 absent.

PRESIDENT EGAN: So the amendment has failed of adoption. Mr. Sundborg?

SUNDBORG: Mr. President, I have an amendment to offer.

PRESIDENT EGAN: Mr. Sundborg has an amendment to offer to Section 10. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 10, line 22, strike the words 'the Senate' and insert in lieu thereof the following: 'a majority of the members of the Legislature in joint session assembled'."

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

JOHNSON: I object.

MCNEES: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Sundborg?

SUNDBORG: Mr. President, this is a fairly basic matter also which I am sure is going to come before us in some other connection before we are through here. The practice in the Territorial legislature in the past has been that confirmation of appointments is by both houses in joint session assembled. I believe it has been a good practice. I don't believe that only the senate should have the right to express the people's will with respect to appointments by the executive, as it would be in this case, but that it should be by majority of all the members of the legislature and not just by majority of the members of the upper house.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President. I wish to speak in favor of the amendment. The situation can arise, as it has in the past, where in the makeup of our senate alone, there might be a majority of attorneys as members of the senate or there may be a sufficient number of attorneys that if they wish to exert certain influence, they could act as somewhat of a damper on confirmation of the lay members of that board. I believe that Mr. Sundborg's amendment is worthy of support.

BARR: I am not going to discuss it very widely, but I would say that I don't know what may happen in the future. The only thing I can do is judge by what has happened in the past. I have never been in the senate when there was a majority of attorneys. But I remember distinctly when there was a time when there were 14 attorneys in the house out of 24.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am a little concerned. I think the confirmation of the lay members of the judicial council should be the same as the confirmation procedure which will be uniform throughout our governmental structure. Now I don't know what the body has in mind or whether the constitution could contain a blanket clause to the effect that when the language "subject to confirmation" is used that means subject to confirmation by the members of both houses sitting in joint session. It seems to me that Mr. Sundborg made a good point, but I don't know whether we are doing the right thing by saying "subject to confirmation by both houses sitting in joint session" and later on come up with a different motive for the general operation of the state. I would like to hear from somebody.

MCNEES: May I ask Mr. Rivers if this might not be a general policy of the Convention to require the meeting of both houses

in joint session on issues of this magnitude or nature.

R. RIVERS: That would be fine if that were to turn out to be the fact.

HERMANN: I think the adoption of any such provision should wait upon the report of the Apportionment Committee and find out how big the house and senate are going to be. You might very well have the tail wagging the dog in this case.

PRESIDENT EGAN: The question is, "Shall Mr. Sundborg's proposed amendment be adopted?" All those in favor of the adoption of Mr. Sundborg's amendment will signify by saying "aye", all opposed "no".

MCCUTCHEON: Call the roll.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 28 - Armstrong, Buckalew, Collins, Cooper, Davis, Emberg, V. Fischer, Hellenthal, Hilscher, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNealy, McNees, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, Smith, Stewart, Sundborg, VanderLeest, White, Mr. President.

Nays: 25 - Awes, Barr, Boswell, Coghill, Cross, Gray, Harris, Hermann, Johnson, King, Knight, Laws, Londborg, McLaughlin, Metcalf, Nerland, Nolan, R. Rivers, V. Rivers, Robertson, Rosswog, Sweeney, Taylor, Walsh, Wien.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 28 yeas, 25 nays and 2 absent.

PRESIDENT EGAN: The "yeas" have it and so the proposed amendment has been adopted. Are there other amendments to Section 10? If there are no further amendments, we will proceed --

STEWART: Mr. President, may we have that read as it was amended?

CHIEF CLERK: "Line 22, page 3, strike the words 'The Senate' and insert in lieu thereof the following: 'a majority of the members of the Legislature in joint session assembled'."

PRESIDENT EGAN: Are there other amendments? We will proceed with Section 11. Mr. Coghill?

COGHILL: Mr. President, Section 10, I have an amendment that

I am contemplating on proposing. However, first I would like to hear discussion by the Convention as far as the subject of confirmation by the legislature in joint session assembled, as far as the attorney members of these boards are concerned. I feel that we are going to be setting up a precedent here that all professional boards will be chosen by their given profession and a minority will be picked by the nonprofessional group and confirmed by the elected members of the electorate for Alaska, but in turn the professions of the doctors, lawyers, and dentists and all the rest of them are going to have the chance to load the committee with professional people.

PRESIDENT EGAN: Mr. Coghill, the Chair has been lenient in allowing discussion even through there was no motion on the floor, owing to the fact that questions have been asked. The Chair will have to ask that these discussions be confined to matters before the Convention.

COGHILL: Well I'll submit a proposal then, Mr. Chairman.

CHIEF CLERK: "Line 18, page 3, after the word 'bar' insert a comma and add the following: 'subject to confirmation by the Legislature in joint session assembled'."

COGHILL: Mr. President, I move and ask unanimous consent for the adoption of this amendment.

BUCKALEW: Objection.

COGHILL: I so move.

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Kilcher seconded Mr. Coghill's motion. Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "In Section 10, line 18, after the word 'bar' insert 'subject to confirmation by the Legislature in joint session assembled'."

PRESIDENT EGAN: Add a comma.

SUNDBORG: I wonder if I might ask Mr. Coghill if he would consent to a proposed change in his amendment which would not change the sense but I believe would be a little smoother. If on line 22, after the word "article" we change the comma to a period and then insert "both the attorney and nonattorney members shall be". It would then read, the new sentence, would say "both the attorney and nonattorney members shall be subject to confirmation by majority."

COGHILL: Mr. President, I consent to that with consent of my second because it does not change the intent of my amendment.

PRESIDENT EGAN: Mr. Coghill, it might be more in order if you ask that your original amendment be withdrawn and then submit it. There will be no confusion in the minds of the delegates when we vote on it, if that is what you are attempting to accomplish.

COGHILL: Yes, that's right. I will so move and ask unanimous consent that my proposed amendment be withdrawn.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent that his original proposed amendment be withdrawn. Is there objection? Mr. Riley?

RILEY: I object for purposes of comment. It would appear to me to be far more expeditious to act on it as first offered. Otherwise we are going to introduce the complication of, do we rescind our former action to put the show on the road. This could all be reconciled in Style and Drafting later if Mr. Coghill's motion is adopted.

SUNDBORG: I agree with that, Mr. President, and withdraw my suggestion.

PRESIDENT EGAN: Mr. Sundborg then asks unanimous consent that his motion be withdrawn. If there is no objection it is so ordered and we have Mr. Coghill's original motion before us. Mr. McLaughlin.

MCLAUGHLIN: I presume Mr. Coghill submitted this motion merely for the purpose of getting this on the floor. Coldly and calculatingly, if this motion is passed you might as well tear up the whole proposal and provide for the election of juries, because then it would be more efficacious and more democratic. The whole theory of the Missouri Plan is that in substance, a select and professional group, licensed by the state, can best determine the qualifications of their brothers. The intent of the Missouri Plan was in substance to give a predominance of the vote to professional men who knew the foibles, the defects and the qualifications of their brothers. It is unquestionably true that in every trade and every profession the men who know their brother careerists the best are the men engaged in the same type of occupation. That was the theory of the Missouri Plan. The theory was that the bar association would attempt to select the best men possible for the bench because they had to work under them. If you require a confirmation of your attorney members you can promptly see what will happen. The selection is not then made by the organized bar on the basis of a man's professional qualifications alone. The determination of the selection of those people who are on the judicial council will be qualified by the condition, are they acceptable to a house and a senate or a senate alone, which is essentially Democratic or essentially Republican. No longer is the question based solely on the qualification

of the candidate for the bench. The question is, will those people whom we set up here on the judicial council, that we send from the bar, will they be acceptable in terms of political correctness? If political correctness enters into the determination of the selection of those professional members who are to be placed upon the judicial council, the whole system goes out the window. All you have is one other political method of selection of your judges. The theory, and it is the only way it can possibly work, is that the lawyers are put on there to get the best man and not to take a man on the basis of his politics. But if we require confirmation, then the material consideration to be made by the Alaska Bar Association is, are we sending our best representative -- no. But are we sending a good Democrat acceptable to both members to both houses or are we sending a good Republican acceptable to both houses. If we permit that determination to enter into our consideration, then in substance we should provide for an initial election or initial appointment by the governor or some other body. Qualifications go out the window as soon as you have confirmation. The theory on the lay members on the confirmation, they represent the public and they represent the predominant political thought. The theory on the lawyer members of the council, they represent the profession, they represent the best interests of the profession. They represent a desire to have the best judges on the benches. I beg of you, please don't vote for the amendment.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I want to heartily second the remarks of Mr. McLaughlin but also want to point out that the purpose of the draft as now written is to have a nonpartisan selection of these lawyer members, and the minute you adopt something like this, you are making a partisanship proposition out of it. We want that to carry through to a nonpartisan selection of judges, so I think our thinking is quite clear.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: In bringing this up, I quite agree with both the Chairman of the Judiciary Committee and also the member. I believe that all of us here are working on committees real hard and we are trying to bring out good and concise thoughts. We are not trying to go to the extreme in our committee proposals, so that we will get a compromise on the floor. I don't think that is the intent. The purpose for this amendment is that I foresee that the nonattorney members of this board are going to be subject to all the ills of political skulduggery on the floor of the senate or the joint house assembled, and I see that if we are going to pick the judges on nonpartisan basis, that it should be left up to your representative of the government, the highest official in the executive branch which is your governor. That is the reason

why I voted for the amendment to strike that, the acceptance or confirmation by the senate. I think if we are going to accept some of them by the senate confirmation, we should accept them all. It is the precedent you are setting up here for boards on the professional level.

UNIDENTIFIED DELEGATE: Question.

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

ROBERTSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 4 - Coghill, Kilcher, Londborg, Mr. President.

Nays: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 4 yeas, 49 nays and 2 absent.

PRESIDENT EGAN: So the proposed amendment has failed. Are there other amendments to the section?

TAYLOR: I have one.

PRESIDENT EGAN: Mr. Taylor has a proposed amendment.

TAYLOR: Mr. President, I am proposing this amendment to Section 7.

PRESIDENT EGAN: Mr. Taylor offers a proposed amendment to Section 7. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 2, page 3, after the word 'State' strike the balance of the section and insert 'for at least three years and have been residents of the State for at least three years next preceding their respective nominations; provided, that additional qualifications may be prescribed by law.'"

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

SUNDBORG: Objection.

TAYLOR: I so move.

METCALF: I second it.

PRESIDENT EGAN: Mr. Metcalf seconds the motion of Mr. Taylor. Mr. Taylor?

TAYLOR: I would like to mention one thing. The matter was brought up and we have argued this thing quite thoroughly. I felt that it might be of the period of time that would elapse. Now in the last three years we have admitted perhaps 50 attorneys to the practice of law in Alaska, and it seems like there are going to be quite a number of them admitted each year from now on. Now this past year we had 25 who took the examination, the year before 19, so those men who in the past couple of years have taken the bar and have been admitted to the bar, in all probability by the time we achieve statehood will have the required residence of three years, and they have been practicing law for three years, which will make them eligible for the bench. It seemed the opinion of some of the proponents to eliminate the five-year period. It was through the fact there might not be sufficient manpower, but I think that would be taken care of. Now, even putting the best light on it, we cannot anticipate we will have statehood for a year and a half or possibly more. I think I am being unduly optimistic when I say a year and a half. These men who are barred by time, that will be taken care of, as immaturity is always cured by the passage of time, and by three years we will have plenty of attorneys to pick for the judiciary. We feel there should be some restriction instead of dragging a man in from the outside and putting him on the bench, not knowing his qualifications or background, I think we should put at least three years because by that time there will be approximately 60 or 70 more lawyers in Alaska who will be judicial timber. I feel this amendment should be adopted.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I rise to speak against the amendment on the same basis that I rose to speak against the original article as it was originally turned out in the Judiciary Committee. Feeling that it is not a matter of constitutional law but one of legislative law, therefore I oppose the amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Will you have the Chief Clerk read the amendment again?

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

CHIEF CLERK: "Section 7, page 3, line 2, after the word 'State', strike the balance of the section and insert, 'for at least three years and have been residents of the State for at least three years next preceding their respective nominations; provided, that additional qualifications may be prescribed by law.'"

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

MARSTON: Mr. Chairman, I want to talk on this. I wish we would quit going back. We settled this. We are never going to get through.

TAYLOR: Point of order. He is not speaking on the subject.

MARSTON: We have passed on this. We have given our reasons.

PRESIDENT EGAN: Mr. Marston, under the circumstances, Mr. Taylor's point of order, if you say we have passed on this, will have to be well taken because we did not pass on the question that is before us at the present time.

MARSTON: No new subject matter is brought up here.

PRESIDENT EGAN: Mr. Marston, the Chair will have to hold that Mr. Taylor's point of order is in order because there is new subject matter here.

MARSTON: May I say I am opposed to this amendment?

PRESIDENT EGAN: That is right. Mr. Barr.

BARR: May I say I am in favor of this amendment? In answer to another member who took the floor a minute ago, he said that this was properly a legislative matter. I believe that certain qualifications should be specified by the legislature, but I believe that the constitution should state the basic law and preserve the rights of the people, and the people should be entitled to a judge who is properly qualified. That does not just mean qualified in the law. It means also qualified by various other types of experience, including experience in Alaska.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Taylor's proposed amendment be adopted by the Convention?" All in favor of the --

MCCUTCHEON: Call the roll.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 20 - Armstrong, Barr, Boswell, Coghill, Cross, Gray, Harris, Hellenthal, Johnson, King, Laws, McCutcheon, Metcalf, Nolan, R. Rivers, V. Rivers, Robertson, Sweeney, Taylor, Walsh.

Nays: 33 - Awes, Buckalew, Collins, Cooper, Davis, Emberg, V. Fischer, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee. Londborg, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, Rosswog, Smith, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 20 yeas, 33 nays and 2 absent.

PRESIDENT EGAN: And so the proposed amendment has failed to pass. Are there other amendments? Mr. Sundborg?

SUNDBORG: Mr. President, may I be permitted to address a question to Mr. McLaughlin?

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

SUNDBORG: Mr. McLaughlin, is it really necessary to provide at the end of Section 10 this language saying that the members of the judicial council "shall be compensated as provided by law"? It occurs to me that we have no such language, for instance, covering the compensation of the judges at all or of any other officials.

MCLAUGHLIN: There is provision specifically in the Act providing for compensation for the judges, and we did not want to make it mandatory, but we wanted to put it in there because we wanted to make it expressed that they could be paid for their services.

SUNDBORG: Is it your belief that if we did not have it in here that the legislature could not provide to compensate them?

MCLAUGHLIN: We are running close. Actually, I think the legislature, even if it were not in there, could provide for their compensation. I would prefer to leave it as it is, and if Style and Drafting so recommends, after discussion with members of the Committee, we might recommend --

SUNDBORG: As Chairman of Style and Drafting, I certainly would not, for myself, want to recommend such a thing as striking that out because I believe it is substantive.

MCLAUGHLIN: I would prefer on behalf of the Committee to leave it in.

PRESIDENT EGAN: Are there other amendments to Section 10? Are there amendments to Section 11? Mr. Hellenthal?

HELLENTHAL: Mr. President, I ask unanimous consent that the word "ex officio" be stricken in the fifth and sixth lines on page 4.

R. RIVERS: I object.

HELLENTHAL: I so move.

MCNEES: I second the motion.

R. RIVERS: The word "ex officio" means that that particular seventh member of the judicial council is the member of judicial council by virtue of the fact that he happens to be chief justice, and so that when the person who occupies the office of chief justice is changed the next chief justice, because he is chief justice, becomes a member of the judicial council, so I just think it is better to leave it in there.

PRESIDENT EGAN: Mr. Rivers, if I might ask a question, by specifically stating "ex officio" and not mentioning anything about his voting power, does that take away from him the right of voting except in the event of a tie?

R. RIVERS: No, he has full membership rights and the full vote at all times.

PRESIDENT EGAN: Where would that be definitely established?

R. RIVERS: I have seen it work through the Territorial government. Governor Gruening was a member of a half dozen boards and he was a voting member. I was an ex officio member of several boards. Now unless we say, "He shall not have the vote except in the event of a tie" ex officio member has full voting rights, so I like it the way it is.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That was not my understanding of an ex officio member. I doubt that an ex officio member, so designated, has voting rights. I would like to withdraw my objection and ask that the word "voting" be inserted after the word "seven" in line 6, which will clearly obviate my objection.

PRESIDENT EGAN: Do you ask unanimous consent that that be included in your motion, Mr. Hellenenthal?

HELLENTHAL: Yes.

PRESIDENT EGAN: Without objection, it is included in the original motion.

TAYLOR: Mr. President, I am going to object for the time being. I cannot see the use of putting in the word "voting", "the seventh voting member", because of the fact that if he is a member of the board, he has to vote. Being a presiding officer he would vote last. In case there were four votes cast in favor of him there would be no necessity -- only in case of a tie. Now ex officio in no way or intent can mean a man is not entitled to vote, if he has an office, sometimes he cannot vote, he's merely presiding but that's got to be prescribed. If it isn't prescribed, why he votes. Now the word "ex officio" does not mean to take away any rights conferred upon a member of a committee or a commission. Ex officio means by virtue of an office, the office, not the man, is actually a man. It happens to be whoever holds that office is a member -- is a member of the board. That is all it means. I can't see the use of putting in the word "voting".

PRESIDENT EGAN: Is there objection to a one-or two-minute recess? If there's no objection the Convention is recessed for one or two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. What is the status of Mr. Hellenenthal's amendment right now? Did you ask unanimous consent, Mr. Hellenenthal, that your original amendment be withdrawn?

HELLENTHAL: Correct.

MCNEES: I withdraw my second.

PRESIDENT EGAN: If there is no objection, it is so ordered.

HELLENTHAL: I ask unanimous consent that the word "voting" be included following the word "seventh" in line 6, page 4.

PRESIDENT EGAN: Mr. Hellenenthal asks unanimous consent that the word "voting" be included following the word "seventh" in line 6, page 4.

HELLENTHAL: Mr. President, I don't mean to be picayune but apparently in the Senate of Alaska as it is now constituted, the president who is the ex officio

member of boards is not entitled to a vote. Now Robert's says if the ex officio member is not under the authority of the society he has all the privileges including the right to vote, so the question is whether or not the chief justice under this proposal would be under the authority of the society, and I would interpret the society to mean there the seven-man supreme court. There is still a very grave question in my mind. One group here tells me that he is under the authority of the society. Another group says that he is not. If there is question why don't we leave the word "voting" in?

PRESIDENT EGAN: Mr. Hellenthal, I wonder if you would be acceptable to the proposition that this matter be turned over to the Rules Committee in conjunction with the Judiciary Committee and that they come to some determination on it and report at some later time.

HELLENTHAL: I am very happy with that suggestion.

PRESIDENT EGAN: If there is no objection Mr. Hellenthal's request will be held in abeyance until such time as a complete report is made on that subject to the Convention. Are there other amendments to Section 11 or 12? If not, are there proposed amendments to Section 13? Are there proposed amendments to Section 14? Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, may I read into the record so that the Convention will well know that under Section 13 we did not go into minute detail concerning the functions of the judicial council, but inquiry has been made whether or not the judicial council would make budgetary recommendations to the legislature. That is specifically inherent in these recommendations. Matters such as court structures would include budgets. Administration of the court would include budgetary recommendations to the legislature.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I would like to ask a question of Mr. McLaughlin. I would also like to have the answer read into the record. Is it intended that the judicial council shall also make studies and recommendations of the lower courts and see if they can get from our present system some considerable more semblance of order or procedure?

MCLAUGHLIN: That would be specifically intended under such a phrase as including such matters as court structure.

PRESIDENT EGAN: Are there amendments to Section 13? Amendments to Section 14? Are there amendments to Section 15? Are there proposed amendments to Section 16? Mr. Gray.

GRAY: Mr. Chairman, I would like to ask the Chairman of the Judiciary, in Section 15, where the judges, "...at the age of

70, on such retirement pay as may be prescribed by law, and shall render no further service on the bench, except for special assignments as provided by court rule." What do you mean by that phrase?

MCLAUGHLIN: That was intended. The presumption is that at sometime the Committee decided that age 70 is about the time that men may become subject to the infirmities of age and it would be just as well to have that as the arbitrary time at which they retire. As for special assignments, it is fair to presume that at some time in Alaska we will have a Mr. Justice Oliver Wendell Holmes who was quite effective at the age of 92 or we might have a Cardozo, where their services and experience would be of great benefit to the state, then the exception could be made to utilize those men for special assignments.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we often encounter occasions when the docket gets overly crowded and if you could recruit an experienced jurist who doesn't happen to be infirm, -- it's pretty handy to have him available, if he is willing to serve. Often times leave is granted to judges for particular persons and one of these men could be made use of during such periods.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Could I ask a question of Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection, you can direct your question.

COOPER: Mr. McLaughlin, again do I understand that in line 25 on page 5 and the first two lines on page 6, "The basis and amount of retirement pay for justices and judges who retire or are retired at an earlier age shall be prescribed by law." Does that mean that they can retire themselves at the age of 60 if they decide they want to go into retirement and that they will be provided with a form of retirement pay if they are the ones that elect to retire?

MCLAUGHLIN: That means that the legislature can determine exactly what retirement provisions are, that is what retirement is and they can make an allocation of one dollar a year or 30,000 dollars a year, but they shall lay down the rules as to what retirement is, and what constitutes it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to direct a question to Mr. McLaughlin.

PRESIDENT EGAN: Without objection, you may direct the question.

MCCUTCHEON: In other words, a mandatory retirement of 70 years does not obviate the possibility that the legislature may set a lower retirement age?

MCLAUGHLIN: That is true.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we have fixed a compulsory retirement age at 70. Reading of this article shows that the judicial council may recommend earlier retirement for judges who are infirm and may not have the capacity to continue performing their services. In some instances a person will get fairly stubborn and he will not resign. We have a forced retirement on account of infirmities prior to age of 70 based on action of the judicial council, or recommendation of judicial council, or if it happens to be a member of the supreme court it would be on the recommendation of a board of three persons appointed by the governor to investigate the matter and with retirement by the governor, but I think that the legislature could not retire judges on a compulsory basis earlier than 70 if we spell 70 in here.

MCLAUGHLIN: Mr. Rivers, the State of Maine -- I was answering Mr. McCutcheon, State of Maine has a provision that no provision for retirement as such, but it provides that if you are not off the bench when you are 70 you won't collect any pay. So in effect the legislature could provide if you are serving on the bench after the age of 65, their act concerning retirement benefits would be ineffective, that you would waive all rights to them and in that sense the legislature could so provide.

R. RIVERS: In that sense I will concur.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I would like to address a question to Mr. McLaughlin.

PRESIDENT EGAN: If there is no objection Mr. McNealy, you may ask your question.

MCNEALY: Mr. McLaughlin, have you and your Committee checked into the number of states that do provide for retirement pay for state judges?

MCLAUGHLIN: We did check on it, but we left the matter entirely to the legislature. There was some discussion whether or not we should provide a definite mechanical or arithmetical figure, and the Committee wholeheartedly decided that was a

matter that should be left to the legislature. In terms of constitutional provisions for retirement, New Jersey retires at 70 without a right of special assignment. Connecticut, New York, New Hampshire at 70, Missouri at 75 and Louisiana at 80. They set them forth, I believe, in their constitution. The statutory limit for retirement age is generally set at 70. Hawaii for instance, under their constitution, retires at 70 under Article 5, Section 3.

V. FISCHER: I would like to know whether the term "retire" or "are retired" includes defeat at an election. For instance, assume that a justice has served for 25 years and then at the age of 68, he is defeated at the polls when he comes up for reconfirmation. Would he be precluded by the term "retire"?

MCLAUGHLIN: Mr. Chairman, these are curbstome opinions, but the legislature could determine that a justice who had served so many years and then was defeated for reelection could be retired and use the expression under the constitution and so provide for it. These are outside limits that we are setting on the activities of judges.

PRESIDENT EGAN: Are there other amendments to -- Mr. Hellenthal?

HELLENTHAL: I worry somewhat about the words "except for special assignments as are provided by court rule." It seems to me I have heard of abuses in this regard. Perhaps the word "temporary" should be inserted before the word "special". Here we will have the rule-making body, which will have a tendency to recognize that their mental abilities will continue unimpaired after 70. They will all be convinced of it in fact. They are going to make the rule and they might keep themselves on indefinitely under the guise of special assignments. I ask Mr. McLaughlin if the word "temporary" might not preclude that possibility.

MCLAUGHLIN: Mr. Chairman, it is the belief of the Committee that that is mere legislation. The age of 70 was specifically set forth so there would be no embarrassment on retiring a person. If there is an abuse of the special assignment privilege, I might point out the legislature controls the purse strings and if it is abused, there will be no appropriation for the purpose. It is something that we should not necessarily anticipate or write into our constitution.

HELLENTHAL: I do not favor enacting legislation by cutting off appropriations and I therefore ask unanimous consent that the word "temporary" be inserted prior to the word "special" on line 24.

PRESIDENT EGAN: Line 24, on page 5?

HELLENTHAL: Yes.

PRESIDENT EGAN: You ask unanimous consent?

R. RIVERS: I object for a question.

PRESIDENT EGAN: Objection is heard. Mr. Ralph Rivers?

R. RIVERS: I would say it would be better to substitute the word "temporary" for the word "special" and not put them both in.

HELLENTHAL: I consent to that.

PRESIDENT EGAN: Then if there is no objection -- Mr. Davis?

DAVIS: I would object to that. I like it the way it is.

PRESIDENT EGAN: Your objection is heard. Do you so move, Mr. Hellenthal?

HELLENTHAL: I so move that the word "temporary" be inserted in lieu of the word "special" in line 24.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that his proposed amendment be to insert the word "temporary" prior to the word "special" in line 24.

JOHNSON: I object to the unanimous consent.

R. RIVERS: Did you say instead of the word "special"?

PRESIDENT EGAN: The Chair understood that Mr. Hellenthal had changed his mind but the Chair was probably in error.

HELLENTHAL: No, that incorporates Mr. Rivers' suggestion which was, as I interpret it, that "temporary" be substituted for the word "special" and I did not ask unanimous consent but merely moved that the change be made.

POULSEN: I second it.

PRESIDENT EGAN: Mr. Poulsen seconds the motion. Mr. Gray?

GRAY: I would like somebody to explain to me the difference between these two proposals.

PRESIDENT EGAN: Mr. Hellenthal, would you explain the difference?

HELLENTHAL: Yes, the special assignment is limited to a temporary one now, whereas under the former wording a special assignment could go on for ten years and could be used as a guise for increasing the tenure of the judges by the exercise of their own rule-making power.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I see what Mr. Hellenthal is driving at, but I am afraid the mere change of the word "special" to "temporary" would not accomplish his purpose because "temporary" is almost synonymous with "indefinite". It is an amount of time. If we are going to burden the constitution with such things, it is useless. Either we forget about the matter entirely or specify it further.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I realize that the cases are special and possibly unusual, but there have been many, many cases of very exceptional judges who were well beyond 70 years. I think it is unwise in the constitution to make it impossible for such judges to serve their state. After all, they have all of the experience of their years of service on the bench. Now personally I am against the 70-year retirement age, but the Committee has gone over that back and forth, one way or the other, and I am not going to raise an objection that way, but I would certainly like to see it provided in the constitution so that in the event we have a person who is physically and mentally capable to be a judge, and in the event we have crowded dockets and we need to assign somebody to help clear up the docket, that we have the power to do so. And if we say "temporary" that means, I suppose, just what it says -- temporary. You could not assign a man to do a job that needed to be done if it was something more than temporary. For that reason I like the language as is, "for special assignments".

PRESIDENT EGAN: Is there further discussion?

NOLAN: Question.

PRESIDENT EGAN: If not, the question is, "Shall Mr. Hellenthal's proposed amendment be adopted by the Convention?" All in favor of the adoption of the proposed amendment say "aye", all opposed by saying "no". The "noes" have it and the amendment has failed. Are there other amendments to Section 15? Mr. Taylor?

TAYLOR: I have an amendment.

CHIEF CLERK: "Amend Section 15 by striking the following words: On line 22, page 5, 'at the age of 70'."

PRESIDENT EGAN: What is the pleasure?

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment. Is there a second to the motion? Hearing no second --

HELLENTHAL: I will second the motion.

PRESIDENT EGAN: Mr. Hellenthal seconds the motion. The question is, "On line 22, page 5, shall the words 'at the age of 70' be deleted from the section?"

BUCKALEW: Question.

EGAN: All those in favor of the adoption of Mr. Taylor's proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes have it and the amendment has failed. Are there other amendments? Mrs. Wien?

WIEN: Mr. President, I move and ask unanimous consent that this Convention recess until 1:30 this afternoon.

PRESIDENT EGAN: Mrs. Wien asks unanimous consent that the Convention stand at recess until 1:30 p.m. Mr. Sundborg?

SUNDBORG: As announced yesterday, the Style and Drafting will meet at 12:15, in the lunchroom.

PRESIDENT EGAN: The Chair would like to state there will be no meeting of committee chairmen as had been previously announced. Miss Awes?

AWES: The Bill of Rights Committee will meet at 12:45.

RILEY: Subject to Mr. McLaughlin's views, such members of Rules and Judiciary who are free to get together during the noon hour should perhaps do so to resolve that one question we have heard.

PRESIDENT EGAN: The Rules Committee and Judiciary will meet during the noon hour. Mr. Nerland?

NERLAND: Mr. President, I request the members of the Finance Committee meet for just a few minutes immediately following recess.

PRESIDENT EGAN: The members of the Finance Committee will meet immediately upon recess. Mr. McNealy?

MCNEALY: Mr. President, I request a meeting of the Ordinance Committee, No. IV, at 12:15.

PRESIDENT EGAN: There will be a meeting of the Ordinance Committee at 12:15. Hearing no further committee announcements and no objection, then the Convention will stand at recess until 1:30 p.m.. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the delegates that we now have in the gallery the balance of the senior class of the Fairbanks High School. We hope that you will enjoy the debate, if any, that will occur here on the floor this afternoon. The Chief Clerk has a communication. If there is no objection it will be read at this time.

CHIEF CLERK: From the Northwestern Alaska Chamber of Commerce to Mr. George McLaughlin, Chairman of the Judiciary Committee. (The Chief Clerk read the communication expressing opposition to the combining of the Second and Fourth Judicial Divisions.)

PRESIDENT EGAN: The letter will be filed. Mr. Taylor.

TAYLOR: Mr. President, I think that the Chief Clerk should be instructed to send a letter to the Chamber of Commerce up there and tell them they have their wires crossed, that there is no such a proposal before this Convention. They seem to be quite alarmed about it and I think if we just send a wire, they will simmer down.

PRESIDENT EGAN: The Chair might ask the Chairman of the Judiciary Committee, what have you done about this?

MCLAUGHLIN: Mr. President, on receipt of the original telegram which referred to this letter, which was the letter to follow on the day of the receipt of the telegram, I transmitted a letter on behalf of the Judiciary Committee assuring them that there was no intent in the present committee proposal to abolish any court house in Nome or deprive Nome of any privileges that it now possesses, and I am sure that the representatives, Mr. Walsh from Nome and Mr. McNees from Nome, and possibly Mr. Londborg, have transmitted copies of the committee proposal to the Northwest Chamber of Commerce,

WALSH: I might say that Mr. McLaughlin is correct. As soon as the Judiciary Committee proposal came on the floor I sent a copy that night. They had apparently not received it at the time this letter and telegram were sent so that is in their hands now.

PRESIDENT EGAN: Is there any amendment before us at this time?

CHIEF CLERK: The one that was referred to the Rules Committee.

PRESIDENT EGAN: Mr. Riley, do you have a report to make on that particular question relative to the meaning of "ex officio"?

RILEY: Subject to any revision that may come from Judiciary, we have not met together, although there has been some conference back and forth during the noon hour, the Rules

Committee was of the view that there was no foreseeable hazard in leaving the language as it is, that "ex officio member" was membership in every sense. However, I have since talked to Mr. Hellenthal at some length and feel that probably because of our library's limitation, that further study might be made of the matter while this is still in second reading, and in all likelihood it will be in second reading when we refer it to Engrossment and Enrollment.

PRESIDENT EGAN: If there is no objection the matter will be deferred until a proper understanding can be reached. Mr. Sundborg?

SUNDBORG: Mr. President, the manager of the cafeteria here has said that if any considerable number of delegates plan to stay for dinner this evening, they would like to know that in advance. The cafeteria is open each evening until 7 o'clock. Anybody through the line by 7 is fed. The meals cost \$1.75 in the evening and they are similar to the noon meal. The meals are quite good. I wonder if we could settle now so we could notify them whether we will be eating here this evening.

PRESIDENT EGAN: Could the delegates by a show of hands indicate how many would care to eat here this evening. Approximately 18. We might tell them we would have as many as possibly 20. Mr. Coghill.

COGHILL: As long as we are showing hands, I wish we could have another show of hands as far as the show is concerned.

HILSCHER: Mr. President, could you look in the crystal ball and tell us what time we will be through here? That might determine it.

PRESIDENT EGAN: That would really take a crystal ball all right, Mr. Hilscher. Mr. Sundborg?

SUNDBORG: Mr. President, there is another item on our calendar after the item on the judiciary, so I would suggest, if we are so inclined, that we would have enough material on the calendar to keep us here until 6 o'clock.

PRESIDENT EGAN: If that is the feeling of the delegates it is certainly all right with the Chair. Mr. Davis.

DAVIS: Mr. President, since there was so much discussion about the necessity of getting committee reports out of the way, I would like to suggest that we finish up the present proposal and then adjourn to the committee meetings and hold over the other articles and other order of business for tomorrow.

PRESIDENT EGAN: What is the pleasure of the delegates relative to Mr. Davis's proposal? Is there a motion before us? Would the delegates who plan to attend the movie tonight please indicate by raising their hand. Well, it is better than half of the delegates. Mr. Ralph Rivers.

R. RIVERS: Mr. President, may it be understood that the delegates may bring their wives?

PRESIDENT EGAN: That is generally understood or should be. Mr. McNees.

MCNEES: We were told by Dean Beistline that there are seats for 100 and that your wives are welcome.

PRESIDENT EGAN: It appears, Mr. Coghill, there will be quite a group attending the movie this evening. If there is no further discussion, we will continue with the proposal before us. Section 17, are there any amendments to Section 17? Are there any amendments to Section 18? Mr. McNealy?

MCNEALY: Mr. President, through the Chair I would like to ask one question in regard to Section 18, of Mr. McLaughlin. The section states that Mr. McLaughlin, that no justice or judges of the superior court while serving may practice law. Would that include his partnership in a law office? Say one member of a firm became a judge, would that mean that he would still be able to take profits from the firm itself?

MCLAUGHLIN: I am not an expert on judicial ethics, but I believe that would preclude his taking any profits from any existing law practice from the time that he assumed the bench. Of necessity it would. He would be practicing law if he were associated with anyone else and deriving any profit from it. We are merely incorporating in here one of the canons of judicial ethics. It was deemed essential by the Committee.

PRESIDENT EGAN: Is there any proposed amendment to Section 18? Mr. Sundborg?

SUNDBORG: May I address a question to Mr. McLaughlin?

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

SUNDBORG: What would the situation be if the judicial council wanted to propose that one of the members of that council be nominated for judge? Could they do so and the man would not have to resign from the council until and unless the governor should appoint him a judge, when of course he would be barred because it says here that no member of the judicial council may hold a position under the state.

MCLAUGHLIN: Technically, I think the judicial council could

designate one of their own members if qualified. His resignation would have to take effect immediately upon his selection by the governor.

PRESIDENT EGAN: If there are no amendments, we will proceed to Section 19. Mr. McNees?

MCNEES: I have an amendment to Section 19.

PRESIDENT EGAN: The Chief Clerk may read the amendment.

CHIEF CLERK: "Section 19, page 7, line 2, that all of line 2 be deleted and the following be introduced: 'meeting in joint session'."

PRESIDENT EGAN: What is the pleasure of the delegate?

MCNEES: I move the adoption of this amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. McNees moves the adoption of the amendment and asks unanimous consent. Is there objection?

COLLINS: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

HURLEY: I second the motion.

PRESIDENT EGAN: Mr. Hurley seconds the motion. The Chief Clerk will read the amendment again.

CHIEF CLERK: "Page 7, line 2, strike line 2 and insert 'meeting in joint session'."

MCNEES: May I read the full section as it would appear, Mr. President?

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

MCNEES: "The Supreme Court shall make and promulgate rules governing the administration of all courts of the State. It shall also make and promulgate rules governing practice and procedure in all civil and criminal cases in all courts, which rules may be changed by the Legislature only upon a two-thirds vote of the members meeting in joint session."

RILEY: Is there a second?

PRESIDENT EGAN: Mr. Hurley seconded the motion.

RILEY: Mr. President, just a question to address to Mr. McNees.

In view of the fact that that is a legislative process, Mr. McNees, does that have any unicameral significance?

MCNEES: Possibly.

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

SUNDBORG: Mr. President, I want to get clear what the meaning would be. As I read it now it would require a two-thirds vote of the senate and a two-thirds vote of the house in order to change any rules of the procedure which had been promulgated by the supreme court. Is that correct?

MCLAUGHLIN: That is not correct. At the moment as it stands, not amended, it reads "only upon two-thirds vote of the members elected to each house", which is a little stronger than the amended provision. The amended provision does not require two-thirds of the elected members of each house to concur. As it presently stands, two-thirds of the elected members must concur, and Mr. McNees has dropped the word "elected" members from his amendment.

SUNDBORG: Mr. McLaughlin, does the wording "to each house" not suggest to you, and I think to all of us, that the vote would have to carry at least two-thirds of the house and at least two-thirds of the senate and not be a two-thirds vote of the total membership of the two bodies. That is what it now provides. If we adopt the change suggested by Mr. McNees, a two-thirds vote of the total number of house and senate members would be all that is required to change the rules.

MCLAUGHLIN: That is right.

R. RIVERS: A change in these rules the way it is now written would require the legislative process. It would be a bill introduced in either house. It would go through the regular legislative process of a bicameral legislature. This is strictly a legislative matter. If the legislature acts, if any serious thing came up that we can't foresee, this gives some flexibility for changing those rules. They count the votes to see if you have a sufficient vote in the house to pass the house and a sufficient vote in the senate to pass the senate, but inasmuch as this is of a strictly legislative character and we have a bicameral legislature, there is no reason why they should convene in a joint session here and become a unicameral legislature for this particular subject matter. The only purpose joint sessions are used is for confirming appointments.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, this matter here is nothing more

than we have already adopted on page 3 in line 22 where we say "in joint session". This matter here is identical in its context. I would say it is not necessarily a legislative matter. It's a matter whether or not the legislature approves of the rules that have been adopted by the judicial council. If they disapprove of one rule, they could do it in joint session just as well as they could in individual session.

R. RIVERS: The rules are the law, unless the legislature by a two-thirds majority changes those rules. There is no appointment until the confirmation takes place under this confirmation power. Under this, the rules are the law until they are changed. This takes the action of a legislature. My distinction still holds, I contend.

TAYLOR: I feel Mr. Rivers is absolutely right in this matter. This is a matter of legislation, and these rules and regulations which should receive the same treatment in the same manner as a bill. They go in for ratification, and I think that we could all see the endless discussion that would take place if the rules as promulgated by the supreme court with the help of the legislative council or the judicial council, which could possibly be reams and reams of paper. I know the federal rules of procedure take up several volumes. We would sit there in joint session for days going over these rules as to enact some law in which we change them or strike some of them out. The matter should be that each house act upon them independently.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think that Mr. Taylor has argued very well in favor of this amendment. These rules that may fill volumes and volumes certainly can be dealt with much more expeditiously if they are not to be dealt with in two separate houses but in one house that can see eye to eye on that matter. But it certainly cannot be compared with ordinary legislation, since two-thirds majority vote is required. It has more of the character of a referendum, of the rules, promulgated by the supreme court, so that in that respect I think it is not to be compared with average general legislation, and I am in favor of the amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am not in favor of the amendment. I think that throughout the United States, and particularly with respect to the supreme court of the United States, where the Congress has seen fit to put the rule-making power, most of the rule-making power is vested throughout the country in the supreme court of a particular state. This is done largely because the courts are familiar with practice and procedure and are much more capable of setting up good conservative and concise rules

of practice and procedure governing the operation of their courts. They are much better fitted to do that, and certainly to dump the matter into the hands of the legislature as purely a legislative proposition, would conceivably slow up the litigation and the expeditious handling of litigation to the detriment of the litigant. It seems to me, Mr. President, that if this amendment is adopted, it will weaken the provision very materially because as it now stands, the legislature by two-thirds vote of the members elected to each house must vote to change a rule. By that is meant, as I see it, that it would take a full two-thirds of the entire membership to which each house is entitled. If you put in the amendment as suggested, then a bare quorum could be present, which would be less than the 25, let us say, members of the senate. A bare quorum could be present and two-thirds of the quorum present would be able to change the rule which is a far less stringent requirement than the proposition that we have set forth. This matter was discussed very considerably in the Committee, and the unanimous opinion of the Committee was that the rule-making power should be left in the courts and that those rules should be held inviolate as much as possible except that on instances of this kind where two-thirds of the entire membership of each house might vote to make a change. But we discussed that matter very carefully. We compared it with many other constitutions, and the consensus was that this was by far the best method of procedure. I believe that if we should adopt this amendment now, we will very materially weaken our judicial system.

BUCKALEW: Mr. President, could I ask Mr. McLaughlin a question?

PRESIDENT EGAN: Mr. Buckalew, if there is no objection, you may ask the question.

BUCKALEW: I read this Section 19, I don't know whether, is the legislature required to adopt the rules drawn by the court or only do they have the power to amend the rules?

MCLAUGHLIN: The legislature has the power to amend the rules by a two-thirds vote. If you desire I will give you the history of other constitutional provisions and the thinking of the Committee on it.

BUCKALEW: Well my question is then, that the rules are not adopted by the legislature. I mean, when the rules are drawn up, the legislature doesn't have anything to do with it?

MCLAUGHLIN: The legislature has nothing to do with it. As a matter of fact, this is a modification of the State of New Jersey. In its provision it has an arbitrary rule-making power (Article 6, Section 7, Subdivision 1) not subject to be overruled by the legislature. That was by judicial interpretation. Hawaii has a similar article to New Jersey's (Article 6,

Section 6) and that is, no veto. That is the absolute rule-making power vested in the supreme court. New Jersey and Hawaii have an absolute rule-making power vested in the supreme court. Missouri has a more limited rule whereby the rules can be upset by the legislature. The Committee did not desire to follow the New Jersey rule where you have an absolute rule-making power by the court, for fear that there might be at some time or another, an arbitrary excess, and it was the belief of the Committee that there should be some check by the legislature, but the Committee was wary of the practice in most states that when attorneys discovered that the rules work to their disadvantage in certain types of cases, they promptly tried to have the rules amended by the act of the legislature. One reason why we put in the provision requiring two-thirds of the elective members of each house to vote upon it separately was the desire to prevent actions or revisions of the supreme court rules while in the heat of passion. And in substance this amendment, and I think the Committee agrees with me, does water down the protection the supreme court has from hasty impromptu action in revising its rules. We desire to give the right, leave vested in the legislature the right to amend, but we desire to curb it because of prior experiences in other states.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, may I address a question to Mr. Johnson or Mr. McLaughlin.

PRESIDENT EGAN: If there is no objection.

MCNEES: Would it remove the objections of the opponents of this amendment if we were to insert the word "elected" ahead of the word "members", the last word in the first line?

MCLAUGHLIN: I, cannot speak for the Committee, but I can point out this. When you have a senate which might be small and a large house, then the effectiveness of separate action by the senate is lost when you have a combined vote, and so it does water down. No matter even if you leave in the word "elected" It does water down the protection which the Committee felt the court should be accorded in sustaining its rules.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears to me that the terminology of this section, in the light of Mr. McLaughlin's argument, is self-stultifying. In other words, they wish the supreme court to set up a list of rules for the operation of all the courts. They don't wish the legislature to enter into it except on certain stipulated fashions, but once the material is before the legislature there is nothing in the world to stop the legislature from entering into the rest of the

document. It would appear to me that if members of the bar association would like to have this tightened up a little bit* that we would be better to adopt the straight supreme court rules and leave off the legislature, because once you put it on the floor there is nothing to bar the introduction of new material by amendment or addition.

MCLAUGHLIN: We understand that possibility but we still felt

the legislature should have some say to prevent arbitrary action by the supreme court, but the say should be limited by this two-thirds vote of the elected members of each house.

PRESIDENT EGAN: If there is no further discussion -- Mrs.

Sweeney?

SWEENEY: Mr. Chairman, I want to say a few words in opposition to this amendment. This is but the beginning of articles in our proposals which are going to call for a vote by the legislature sitting as one body. As a member of the legislative branch I think we have it three or four times in our proposal, and I intend to put in the minority report.

MCNEES: Point of order, Mr. President.

PRESIDENT EGAN: Mrs. Sweeney is coming around to the matter at hand.

SWEENEY: I do not believe that this should be changed as Mr. McNeess wants it for the reason that it appears that our house is going to have at least 40 members, our senate may be 20, and the house will then have a two-thirds of the total members to which the legislature is entitled. I am going to fight it on that basis. I want it left so that it will be a vote of each house, not the total membership sitting as one body.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, It seems to me that some of the members are overlooking the fact that this is not such a thing as confirming an appointment. This means the introduction of a bill into one of the other houses and its progress through both houses. Now it is unheard of for both houses to meet to vote on a bill. Sometimes they do on a report but not on a bill, and it just is not a practical way to approach the matter. You can assemble them together for confirmation because that is the only thing at issue. But your bill is introduced, it has to go through the one house, through its committees, etc., get passed by a two-thirds vote and go on into the other house. The action has to be separate if it is treated as a bill, and it has to be a bill if it changes the rules.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, believe me, I can't see one word in this Section 19 that says that anything that changes the rules has to be a bill, not a thing that says It has to be a bill.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I am in a peculiar position of agreeing with both sides here. It has emerged that the matter is one of legislation. I agree with that, I think the matter is one of legislation. Whether a bill is introduced or not it is going to have to be introduced to change that rule, I think. However, I am not familiar with very many bills requiring a two-thirds majority of both houses of the legislature elected to the office, and if this matter is legislation as it has been urged that it be treated as legislation, then I find myself as having to favor the amendment because it takes out the word "elected" which I think does not belong in there. So I have to vote for the amendment on that ground.

R. RIVERS: The reason the word "elected" is in there is to distinguish between whether you must have a two-thirds vote of the entire membership to which the body is entitled or whether you mean a majority of those that are present. Now if we did not say the "elected members" then you would be saying by a two-thirds vote of the legislature acting, I mean to say separately, or a two-thirds vote of the members of each house. That leads to ambiguity. Does that mean a total membership to which each house is entitled or does that mean two-thirds of the majority which happens to be present and voting? We stuck that word "elected" in there simply to clear up an ambiguity. So when you say two-thirds of the people elected to each house you know that means two-thirds of the total membership to which the body is entitled. If you knock out the word "elected" then you have an argument on your hands as to what is meant.

NORDALE: Could I ask the President a question?

PRESIDENT EGAN? Mrs. Nordale?

NORDALE: Is it true that in the legislature, when it says "a majority", doesn't that mean a majority of all the votes to which a house is entitled or only those present?

PRESIDENT EGAN: Those present, except in the Organic Act it states that in the final passage of a bill It takes the majority of those members to which the house is entitled. Ordinarily, the majority is a majority of those who happen to be present.

TAYLOR: I think some of the members that are advocating the passage of this amendment are overlooking the fact that the

Territorial government I believe, will be consisting of three separate branches with equal powers and duties and obligations. Now in this case we have the supreme court of the state in promulgating rules for the administration of the courts. Now that is an act of law. That is conferred upon the supreme court or upon the judiciary system – the right to make the rules. Now, do you think it would be right for the legislature, which is just another branch of the government, to come along and by a bare majority and say "we are overturning what the other branch of government is doing." I think it should require a two-thirds vote of the membership to which each of the houses should be entitled. Otherwise, the judiciary cannot overturn anything that the legislature does unless it is unconstitutional. But here we are giving the legislature the right to set aside the rules and the regulations that are conferred upon the judiciary by the constitution. And I think in a case such as that, it would only be an extraordinary case in which I think the legislature would want to set aside or nullify or change a rule. I think it should be left just exactly the way it is. I can see no useful purpose in the amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the amendment offered by Mr. McNees be adopted?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the amendment has failed. Are there other amendments?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading of the amendments.

CHIEF CLERK: "Amendment by Mr. Buckalew to Section 19, page 6, line 25, after the word 'court' strike the comma and insert a period and delete the remainder of the sentence,"

BUCKALEW: Mr. President, according to Rule 19 the legislative body never acts on the rules at all. The supreme court or the court adopts the rules and they start using them and then as an afterthought, they are going to give the legislature –

PRESIDENT EGAN: Mr. Buckalew, are you moving the adoption of the amendment?

BUCKALEW: I move the adoption of the amendment.

TAYLOR: Unanimous consent is asked.

MCCUTCHEON: I second the motion.

V. RIVERS. I object.

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

V. RIVERS: Explaining my objection, I want to say that this has been explained to us by the Chairman of the Judiciary Committee as being an added safeguard and safety valve against the abuse of the rule-making power. I see no reason why the two-thirds majority should not be allowed to stay in and prevail as set up in the original draft. It has been discussed at length in the Judiciary Committee, and the members of that Committee felt that it was a safeguard based upon what he has told you to be the precedent in other states. I see no reason to strike the possibility of the legislature, by a two-thirds majority, overruling some or one rule maybe set up by the courts.

BUCKALEW: I am not too interested primarily in what they do in the other states. I can see the experience that we have had by bringing the courts into the legislature and It seems to me that this particular provision would just cause a lot of trouble and I don't think we need that check on the type of judiciary that we are going to set up, and I think if there was anything wrong with the rules the courts would be the first party to act. Then if they did not act it would get down to the point where it would be a political question of whether or not they change the rule. It seems to me that the result would probably be one on occasion to discredit the courts and the judges, and if we don't take that power I don't think there will ever be a necessity for the legislature ever desiring to change the rules. I think it is something peculiar to the courts, and I think that the judicial article as drawn will probably give us a competent judicial system, and I don't think we need to have any cause to worry about the rules.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Buckalew's proposed amendment be adopted?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no".

MCCUTCHEON. Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 13 - Awes, Buckalew, Coghill, V. Fischer, Hermann, Hinckel, Hurley, McCutcheon, McNeese, Sundborg,

Taylor, VanderLeest, White.

Nays: 4 1 - Armstrong, Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, Emberg, Gray, Harris, Hellenthal, Hilscher, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 1 - H. Fischer.)

CHIEF CLERK: 13 yeas, 41 nays and 1 absent.

PRESIDENT EGAN: So the proposed amendment has failed. Mr. Coghill.

COGHILL: Mr. Chairman, I move to reconsider my vote tomorrow morning. I voted yea and on the losing side.

PRESIDENT EGAN: You can't move to reconsider if you voted on the losing side. You have to vote on the affirmative side. The motion has failed. Are there other amendments to Section No. 19 or to the proposal?

CHIEF CLERK: From Mr. McLaughlin.

MCLAUGHLIN: Mr. President, may that be deferred until we consider Section 20?

PRESIDENT EGAN: Are there amendments to Section No. 20? If there are no amendments to Section No. 20 then the proposed amendment may be read by the Chief Clerk again.

CHIEF CLERK: "Add Section 21, 'Judicial divisions shall be established by law.'"

MCLAUGHLIN: I so move that that be added to the proposal.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. McLaughlin moves the adoption of the amendment, Mr. Robertson seconds. Mr. Davis.

DAVIS: Was it your intention to use the word "divisions" or "districts"?

MCLAUGHLIN: Mr. Davis, on reconsideration I decided to make it "divisions" because the expression "divisions is used in Section 20, and it might make some complications if we added the expression "districts" in there.

DAVIS: I think that was different.

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

RECESS

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

MCLAUGHLIN: Mr. President, I have amended my proposed motion to read "Judicial Districts 21. Judicial Districts shall be established by law."

PRESIDENT EGAN: Is there objection to Mr. McLaughlin amending his proposed motion?

R. RIVERS: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr.

McLaughlin?

MCLAUGHLIN: I so move.

R. RIVERS: Is that a motion to amend?

MCLAUGHLIN: I am just changing it.

PRESIDENT EGAN: It has to be a motion to amend as we already have your other motion before us.

MCLAUGHLIN: I now move to amend my original amendment to read, "Judicial Districts (marginal heading) 21. Judicial districts shall be established by law. In substance I have stricken the word "divisions" and substituted the word "dis-tricts".

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds the motion. I believe it is already on the Chief Clerk's record as having been made, Is that not correct?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to direct a question through the Chair to Mr. McLaughlin. I wonder if the advisability of the legislature establishing the judicial districts as against the supreme court setting up the areas of authority for the various courts. Is it not more advisable for the judiciary who is acquainted with the load factors of the various

areas, etc., to create those various districts rather than by legislative law which may be more subject to politics?

MCLAUGHLIN: The reason for the introduction of Section 21 was the concern of some members that they might be deprived of districts or there might be an attempt by this proposal to do away with court houses in certain areas. Frankly, it was not the Intent of the Committee. We don't believe that the bill proposes to do away with it, but to satisfy their objections we specifically provided that judicial districts should be established by law. Inasmuch as the legislature holds the purse strings they can in substance determine where the judicial districts are, for practical purposes. We felt that the legislature could act wisely on the matter and particularly in view of the fact that it would have the very persuasive recommendations of the judicial council on the subject. It was a matter we felt should be left to the legislature and could be changed from time to time. I know of no state where the judicial districts are in substance in the constitution provided, to be described by the supreme court. Normally the burden is in the constitution, they set forth specifically what the districts shall be, and it is impossible to change them.

R. RIVERS: May I explain my objection? In Section 20 we refer to the divisions of the court, or I guess it was Section 19 - no 20. Under this structure we would have a superior court of Alaska. That superior court would have jurisdiction over the entire Territory. It is going to have to be broken up into areas. Now you can call those areas "districts" or you can call them "divisions" of the superior court. There is no question but what there will be an area - jurisdictional area down in Southeastern, with a judge or two judges.

There will be one here, one at Nome, perhaps one at Anchorage for headquarters. We might have a fifth judicial area which will have another judge or a sixth as time goes on. In any event though, it is still one superior court and those areas, the judge in each area will be able to issue process which will cover the entire Territory. After we get to be a state, Alaska is going to become a federal district with one district judge and a district marshal and a clerk, etc. This is going to be the district of Alaska, and that federal court is going to be a federal district. If we have judicial districts in Alaska to represent these areas I am talking about, each one having a judge or two judges or three judges, then we are going to have two district courts and people are going to talk about the district court and how are you going to know whether they are talking about the state district court or the federal district court? Now "divisions" is a division of that one main court, the superior court. Why not use "divisions" and distinguish our courts from the federal district court? We've got it in one section already, we know what we're talking about, why not stick with the word "divisions"? That is the

reason I oppose this business of sticking in the word "dis-tricts".

PRESIDENT EGAN: Mr. Davis.

DAVIS: I think we have already taken care of all Mr. Rivers' objections by calling the trial court the superior court. Now the state where I grew up had exactly the situation that Mr. Rivers has mentioned. We had a state district court or rather state district courts and we had a District Court of the United States for the State of Idaho. I don't see any great confusion there, but it seems to me we are taking care of this just the way we should, if we follow Mr. McLaughlin's suggested amendment. We have one superior court, that court has various divisions but those divisions sit in districts. They don't sit in divisions, they sit in districts, and I believe that we are doing just exactly what we should do here in this proposed Section 21, to say that the legislature shall set up judicial districts.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. Chairman, I would just like to cite another example that leads me to believe that we are on the right track by using the language that Mr. McLaughlin has used in his amendment. Calling attention to the State of Washington, which has a district court for the State of Washington, they have an Eastern division setting at Spokane, a Western division setting at Seattle, but also Washington when they established their state courts, also established judicial districts and of course at that time they would take possibly two or three counties. I know in one instance, an uncle of mine was the superior judge a good many years in the judicial district in Eastern Washington, which included the counties of Okanogan and Douglas and they went right down the line. Sometimes there were three counties in the judicial districts. At the same time there were two federal district courts in the State of Washington. I have never heard of anybody who got confused and got into the wrong court.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, in answer to Mr. McCutcheon's objection, it occurs to me that if we leave this matter in the hands of the legislature rather than to spell it out in the constitution we won't run into the difficulties that they are now experiencing in the State of Florida, where as I understand it, the constitution spelled out the judicial districts and the number of courts to be established and the number of judges and limited all of those things, and now in large centers of population where the court work has become so heavy that another court is necessary, it requires an amendment to the constitution to be passed before they are able to go

ahead and set up another court under the same judicial system. So It seems to me that by adding Section 21 and leaving the other provisions as they are, and up to the legislature that we have given enough leeway to avoid the possibility of an amendment to the constitution in order to create another court rather than by the simple expedient of having the legislature do it.

MCCUTCHEON: I would like to clear up the matter of my objection here. It was merely a question I think, directed to Mr, McLaughlin and it did not concern with the establishment of any division or district of any type in the constitution. It was merely to leave up to the authority of the supreme court to establish such sections as was necessary.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask a question of the mover of the motion. By this broad terminology, if you say the legislature shall establish court districts, just what extent of authority would that grant? Would that grant them the authority to name an area in which they would specify a central town where the court would be established, whether they would specify how many judges would be resident judges there? I see in the other part of the act that the supreme court could make temporary disposition of judges. What is the extent you intend to cover with this particular amendment? How broad an interpretation would we have to assume it had when we're voting on it?

MCLAUGHLIN: The legislature could, the creation of judicial districts would imply that the legislature can say that a justice of the superior court shall sit at such and such a place and hold regular sessions of court at such and such a place. That would be subject always to the right of the chief justice of the supreme court to assign them elsewhere to take care of the burden of duty. The presumption is that the legislature would designate those courts where they are most needed, but they could change it from time to time as is required.

PRESIDENT EGAN: The question is, "Shall Mr. McLaughlin's proposed amendment to the amendment be adopted by the Convention?" All those In favor of the adoption of the amendment to the amendment will signify by saying "aye", all opposed by saying "no". So the proposed amendment to the amendment has been adopted. The question now is, "Shall the proposed amendment, as amended, be adopted by the Convention?"

V. RIVERS: Mr. Chairman, there are two or three things that I would like to touch upon before we continue it in second or move it into third reading.

HELLENTHAL: I rise to a point or order.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal. We still have the original amendment, Mr. Victor Rivers.

V. RIVERS: Oh, I didn't know it was going to be offered as an amendment, I thought we were voting on the original motion.

MCCUTCHEON: In order to clarify the situation does not the amendment amount to the complete Section 21 as composed by Mr. McLaughlin?

PRESIDENT EGAN: That is correct. Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment to the amendment.

PRESIDENT EGAN: Mr. Sundborg offers an amendment to the amendment.

CHIEF CLERK: "Section 21, after the word 'established', strike the balance of the section and insert 'by the Supreme Court, subject to change by the Legislature in the manner provided in Section 19.'"

PRESIDENT EGAN: Will the Chief Clerk now read the proposed amendment as Mr. Sundborg seeks to amend the amendment.

CHIEF CLERK: "Judicial Districts – Section 21. Judicial districts shall be established by the supreme court subject to change by the legislature in the manner provided in Section 19."

PRESIDENT EGAN: Did you so move?

SUNDBORG: I move and ask unanimous consent for the adoption of the amendment to the amendment.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent. Is there objection?

JOHNSON: I object.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. Johnson objects. Mr. White seconds Mr. Sundborg's motion. The question is now open for discussion. Is there discussion on the question of the adoption of the amendment to the amendment? Mr. Sundborg?

SUNDBORG: Mr. President, in Section 19 we gave the supreme court generally the power to make and promulgate rules governing the administration of all courts of the state. Section 21 would have, if it stood as Mr. McLaughlin proposed it, taken away from the supreme court the right to say what, and how the

state should be divided into districts for the purpose of administration of justice, which I believe is not proper. I think the legislature does not know, as well as the supreme court knows, how the state should be divided for the purpose of establishing court districts. But I believe also that the legislature should have just as much to say about that as it does about any other matter of administration of the courts.

The general jurisdiction which it has is provided in Section 19, and if the amendment to the amendment, which I now propose, should be adopted and Mr. McLaughlin's, amendment then be adopted, the situation would be that the supreme court could draw the lines on where the districts for court purposes should be in the state, and that if the legislature did not like that for any reason it could, by a two-thirds vote of each house, override the supreme court and provide what it desires. I don't believe that the legislature should be given that right initially on a mere majority vote in a matter which is not truly a legislative matter but is a court administrative matter.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that the amendment as proposed by Mr. Sundborg is a good amendment, and to disabuse the minds of anybody that might believe that these are districts or divisions such as now in existence in the Territory of Alaska, they are not. They are only designated, they would only be designated by the court, the supreme court, who had knowledge of the case loads in the various divisions where most of these cases emanated from and what would be the greatest convenience for attorneys, litigants, etc., connected with the business of the courts, and it would not be a voting precinct or a district in which you would say certain things would take place. It would only be for the purpose of the administration of the law by the courts and for no other purpose. It is an arbitrary distinction that a court setting in this division or this district would be the limit of the jurisdiction or the use of that court. I think it would be perfectly in order.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, my objection to the amendment stems from the fact that I believe under the system as it is proposed in Section 21, that is by leaving it to the legislature, the matter of establishing judicial districts could very well at some time or other involve a question of politics and if you leave it entirely to the supreme court, it is conceivable that political pressure could be brought to bear on the supreme court. Maybe that would not happen, but it is a possibility, and it strikes me that there should be as little possibility of that in our court system as we can possibly make. Now I feel that by leaving it as it is, by leaving it up to the legislature, should any one area feel they are not being properly

taken care of by judicial division, they have the recourse of going to their members of the legislature and asking for some remedy, but if it is left entirely up to the supreme court, then you are subjecting three judges to political pressure when it is our desire under the entire system to have that court free from such pressure, if it is at all possible to do so. I don't believe the amendment adds anything, and I think it takes away from the legislature a right they ought to have.

R. RIVERS: I want to second Mr. Johnson on that. Lots of little communities with a lot of pride want a courthouse and they want a judge. Everytime there is a big clamor for some new district they would be going and bothering the supreme court judges. I say leave it with the legislature, and I am going to vote against this amendment.

PRESIDENT EGAN: The question is, "Shall Mr. Sundborg's proposed amendment to the amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed say "no".

SUNDBORG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 23 - Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Hilscher, Lee, McCutcheon, McNees, Marston, Nordale, Peratrovich, V, Rivers, Rosswog, Sundborg, Taylor, VanderLeest, White, Mr. President.

Nays: 31 - Armstrong, Awes, Barr, Boswell, Collins, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nerland, Nolan, Poulsen, Reader, Riley, R. Rivers, Robertson, Smith, Stewart, Sweeney, Walsh, Wien.

Absent: 1 - H. Fischer.)

CHIEF CLERK: 23 yeas, 31 nays and 1 absent.

PRESIDENT EGAN: The "noes" have it and so the proposed amendment to the amendment has failed. Mr, Fischer?

V. FISCHER: Mr. President, I would like to address a question to the Chairman of the Judiciary Committee. I would like to know, in case Section 21 is not adopted by the approval of the

pending amendment, who would have the authority to establish districts?

MCLAUGHLIN: My personal opinion is that the legislature would still have the power to designate districts.

MCCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall Mr. McLaughlin's proposed amendment be adopted by the Convention – that is, the adoption of the proposed new Section 21?" The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 21 – Judicial districts shall be established by law."

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Doogan.

DOOGAN: I would like to revert to Section 16 for the purpose of information. I would like to direct a question to the Chairman of the Judiciary Committee. Mr. McLaughlin, you spelled out malfeasance and misfeasance. Would you tell me why you left out nonfeasance.

MCLAUGHLIN: I have already requested Mr. Rivers to answer that question, I knew it was going to arise.

PRESIDENT EGAN: Mr. Ralph Rivers, you may answer the question.

R. RIVERS: We set up an early retirement of judges for infirmities and incapacity which might occur prior to the age of compulsory retirement and when I was more or less a subcommittee, within the Committee working on this, we considered that nonfeasance generally is because of illness or incapacity to perform. I don't see impeaching a man because he perhaps falls behind in the performance of his duties. So for the purposes of talking about impeachment, we just chose to say malfeasance and misfeasance, and we wanted to carry out that distinction. If a judge should, in the due course of a proceedings, have an order in front of him that should be signed in the due course and refuses to sign it, that could be misfeasance instead of nonfeasance. So I think it is all covered and we're leaving the nonfeasance more or less to take care of the failure to perform because of Incapacity and illness.

DOOGAN: May I ask another question?

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

DOOGAN: What would you do in the case of a person who absolutely

refuses to work, and that could very conceivably happen.

RIVERS: That would be misfeasance.

PRESIDENT EGAN: Are there any other questions or amendment to be proposed to Committee Proposal No. 2? Mr. Victor Rivers?

V. RIVERS: I wanted to discuss briefly Section 10 regarding judicial council. I mainly wanted this matter to be a matter of discussion on the record. I wanted to ask the Chairman of the Judiciary Committee if he thinks there is a possibility that the governing body of the organized state bar -- now we don't know what that is or may be under the new state -- do you think there is any possibility that within their bylaws or rules of organization there might be a chance for discrimination because of race, creed, color or religion?

MCLAUGHLIN: I think not, and if there were it could be corrected immediately by the legislature. The legislature has the right to determine who are members of the bar, it has the right to determine what bar association or associations exist and can even prescribe, since the practice of law is not a right but a privilege, it can even prescribe the conditions under which you are permitted to practice. It is a very remote possibility, Mr. Rivers.

V. RIVERS: I am not quite satisfied with that answer Mr. President. I think that there is different terminology in regard to the words "organized state bar". We had an occasion arise this morning when I asked a similar question which you told me that a man might be admitted to the bar but might not be a member of the Alaska Bar Association. I am assuming that some organization exists in here that might possibly adopt bylaws which would have the discriminations I mentioned.

MCLAUGHLIN: There would be no possible method, Mr. Rivers, of fully defining in the constitutional article exactly who should be and who should not be members of an organized bar and what an organized bar consists of. Originally, to give you some of its history, we had the provision in there, "The Alaska Bar Association or Its successor". Then the possibility was discussed that the Alaska Bar Association could be abolished by the next act of the legislature. So when we use the expression, "organized bar" we use it in the generic sense of that bar which contains all members admitted to practice in the Territory.

V. RIVERS: Do you think there is any value or necessity in putting in after the words, "shall appoint three members", the words, "regardless of race, creed, color, or religion"? Do you think that would be necessary as an addition to clarify this?

MCLAUGHLIN: I think that is unnecessary, Mr. Rivers, because you would then have to apply that qualification to every office holder in every portion of the constitution. I am sure that the learned gentlemen on the Preamble and Bill of Rights Committee have anticipated the question and will prohibit discrimination on those grounds.

V. RIVERS: Another question, Mr. President.

PRESIDENT EGAN: You may proceed to ask the question, Mr. Rivers.

V. RIVERS: I see that on the basis of area representation, the governing body of the organized state bar, not the membership, shall select the appointees from the legal side. Is there some reason why these are not selected from the membership of the organized state bar, rather than by their governing body?

MCLAUGHLIN: The intent was that there would be in existence or be created, a body which would be representative of all persons admitted to practice, and they would lay down the rules by which the governing body would designate people to the judicial council. It doesn't preclude election, it is determined on majority vote of the membership. The mechanics we felt should not be spelled out in the constitution,

V. RIVERS: Mr. President, I have another question and it seems to me appropriate to get it in at this time. We have approached this judicial council and taken it largely at face value. We have three laymen members, three legal members, and a judge member. I see in the explanation matter that the Committee has prepared that they give us no information as to the value of different types of judicial councils -- whether they are best composed of half judges, half lawyers and no laymen, or whether they are best composed with laymen on them or not, and it would seem to me that the establishment of the judicial council at this time follows the Missouri Plan. We have heard considerable about the Missouri Plan, but it has never actually been expressed in the record in detail. I would like to have your comments on the composition of the board and the reason for both the judicial and lay members and the thinking of the Committee in regard to that.

MCLAUGHLIN: For the information of the gentleman, in the State of Missouri, the appellate judicial commission consists of seven members -- the chief justice, three elected lawyers, that is, elected by the bar and three laymen appointed by the governor. The circuit judicial commission, which is a variation of the lower courts, consists of the circuit judicial commission, two lawyers, two laymen and the presiding judge of the court of appeals. They are both created under Article V, Section 29B of the Missouri Constitution. The Committee based

its recommendations directly upon the Missouri Bar Plan. That is, the composition is identical with that of the appellate judicial commission in Missouri, The basis of it is that you should not have all attorneys on it. The theory of having the laymen on it are fairly balanced, having one representative of the judiciary, three lawyers and three laymen, is based on the assumption that there is a public interest involved and that the laymen represent the public at large, rather than any professional group. Mr. Morris -- I had a quote available but I'm sure I've lost it in this welter of papers -- the comment by one of the prior members (President of the American Bar Association) was to the effect that, and this is by Mr. George M. Morris, and I am quoting: "I asked an informed individual which kind of group gets the best results. His answer was 'Those councils which have laymen on them. Where either judges or lawyers serve alone they seem to lack energy for sustained attack. Where judges and lawyers serve together, each group seems to have a diffidence about imposing its views upon the other, which stultifies action. Where, however, laymen are included, their presence seems to act as an ice breaker and to stir activity among the professional members of the council. Laymen's criticisms are sharper.'"

V. RIVERS: That is what I wanted to get in the record, Mr. President, and I want to have it shown that that came from the Judicial Councils of the States, American Bar Association Journal of July, 1943.

PRESIDENT EGAN: That is in the record then, Mr. Victor Rivers. Mr. White.

WHITE: Mr. President, also going back a little bit, I feel there is one big gap in our discussion of this committee proposal, and it has to do with the establishment of other courts. I would like to direct a question to the Chairman of the Judiciary Committee, merely to get into the record a little fuller explanation of the Committee reasoning in arriving at the language in Section 1 and 8 as to other courts. I think it is important.

MCLAUGHLIN: Mr. Chairman, Section 8, which reads, "Judges of other courts shall be selected in the manner and for the terms and subject to eligibility qualifications, to be prescribed by the Legislature." You will note the Committee did not even prefer to qualify the other courts as being inferior courts or courts of limited jurisdiction. We avoided the word "inferior" because it has a distasteful connotation in modern jurisprudence, and we avoided the other courts of limited jurisdiction because of the fact that we wanted a flexible system which could grow with the Territory. One of the problems which was presented to the Committee was the possibility that our Supreme Court, since it must in substance sit

en banc, would not be able to handle all the direct appeals from the superior court and sometime in the future, with the development of Alaska, we might require an intermediate court of appeals such as we have in most states, that is an appellate division or a court of appeals which took appeals from the superior court, having heard them, could then be appealed to the supreme court. We did not want to set up a useless court system in our constitution, but under this article we can create in between the superior court and the supreme court, an Intermediate court of appeals. The legislature can create it. Would it be independent of the judiciary? No, because we have, in substance, given the power to the supreme court to make rules and to administer all courts, so the legislature would be circumscribed and yet in effect, it could fill the gaps when the time arose. We did not say inferior courts or courts of limited jurisdiction, because we knew the people in Local Government did not know or may not know in the future, for sometime, what the evolution of their local government units would be. We wanted to leave flexible, a system which could be utilized, a court system which could be utilized in local government units, possibly covering several units, or whatever they're called. We wanted to give great flexibility but we did control them because of the fact that we have the power to administer (when I say "we" I mean the supreme court) and the power to make rules. In fact in New Jersey, the supreme court under its rule-making power, has made part of its rules, The Canons of Judicial Ethics, and so no matter what the legislature says about its courts which it creates, the supreme court can insist the judges abide by Canons of Judicial Ethics, even in those courts created by the legislature. The local government people were desirous of having flexible courts available to meet a developing situation and yet give the supreme court the control and the power to step in any time there is a legislative abuse of the judicial system. Is that an adequate explanation, Mr. White?

WHITE: Yes it is. Thank you.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I would like to ask a question along the same line. I would like to have our thinking reflect the thinking of the Committee, the Judicial Committee, on, when you mention intermediate courts, or courts of second appeal, do you refer to specialty courts such as juvenile jurisdiction and in matrimonial relations, etc.? Is there a competent authority in here for them to establish such courts?

MCLAUGHLIN: There is competent authority in here for the legislature to create any type of court imaginable except that the highest court of appeal and the court with the rule-making power and the administrative power is the supreme court. We can establish probate courts, magistrate courts, if they so

desire, justice of the peace courts, domestic relations courts, courts of special sessions, courts of any conceivable nature. The requirement is, we are avoiding the difficulties that New Jersey encountered. We don't want to spell them out in the constitution – if we do we'll never get rid of them.

V. RIVERS: That would have to be established by the legislature, an act of the legislature and not by any act of the supreme court or superior court, is that right?

MCLAUGHLIN: As It stands now, the superior court and possibly even the supreme court, can have jurisdiction over every conceivable case that arises in the State of Alaska, and they cannot be deprived of that jurisdiction given to them, but the legislature can create other courts of great power but subject to the control of the supreme court.

PRESIDENT EGAN: Mr. Doogan?

DOOGAN: Could we have a recess for a minute?

PRESIDENT EGAN: If there is no objection the Convention will stand at recess until about 3:25 p.m. for the reason that there are some electricians who would like to come here just about now and install the public address system so that the galleries can hear what we are saying. Mr. Victor Rivers?

V. RIVERS: That seems like that is going to take quite a bit of time. I would like to ask that this Proposal No, 2 be continued in second reading and be referred to the Committee on Style and Drafting.

PRESIDENT EGAN: The Chair felt that it would be necessary for the Chair, when we are all through, to refer the proposal to the Committee on Engrossment and Enrollment first and then later, It would go to Style and Drafting. However, it might be well that we just hold it where it is now and when we take up at the end of the recess, someone might have other questions or there is a possibility that there may be other amendments to be offered. Mr. Victor Rivers.

V. RIVERS: If we are going to have to leave it where it is, I move we adjourn until 9 o'clock tomorrow morning at this time and ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that the Convention stand adjourned until 9 o'clock a.m. tomorrow morning. First, are there committee announcements of meetings or any other announcements before that motion is put? Miss Awes?

AWES: If we adjourn I would like to call a meeting of the Bill of Rights Committee for a few minutes upon adjournment.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the Committee on Resources will meet immediately following adjournment.

PRESIDENT EGAN: The Committee on Resources will meet immediately upon adjournment. Mr. Hellenthal?

HELLENTHAL: Mr. President, the Committee on Apportionment would like to meet immediately following adjournment, if there is an adjournment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: The Local Government Committee will have a meeting at 4 o'clock If we adjourn.

PRESIDENT EGAN: The Local Government Committee will meet at 4 o'clock If the Convention adjourns. Mr. Nerland.

NERLAND: The Finance Committee will meet at 3:10.

PRESIDENT EGAN: The Finance Committee will meet at 3:10, if we adjourn. Are there other committee announcements? The Chair would like to announce that a letter was sent to Mrs. Jones, the school teacher of the 7th and 8th grades, in which we asked that her class visit us on the 15th, which would be Thursday, and prior to that time we will try to arrange a listing of the children for the particular delegates to take to luncheon on that day on Thursday the 15th. Is there anything else to come before the Convention before this move for adjournment is put. If not, unanimous consent has been asked that the Convention stand adjourned until 9 o'clock tomorrow morning. Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard.

STEWART: I second the motion.

PRESIDENT EGAN: Mr. B. D. Stewart seconds the motion. The question is, "Shall the Convention stand adjourned until 9 o'clock tomorrow morning?" All those in favor of adjourning the Convention until 9 a.m. tomorrow will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention does not stand adjourned. Mr. Coghill.

COGHILL: Mr. President, I move we have a ten-minute recess and ask unanimous consent.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the Convention recess for ten minutes. Is there objection?

SUNDBORG: I object. I would like to move to amend Mr. Coghill's motion to provide so that committee meetings may be held, that we stand at recess until 4:30 o'clock today.

PRESIDENT EGAN: Is there objection to having the recess stand until 4:30 this afternoon? Do you accept that Mr. Coghill?

COGHILL: I will accept.

PRESIDENT EGAN: Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard.

SUNDBORG: I so move.

RILEY: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention stand adjourned until 4:30 p.m. All those in favor will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention is not adjourned. Is there another motion? Mr. Gray.

GRAY: I move that we recess until 3:20 p.m.

PRESIDENT EGAN: Mr. Gray moves that the Convention recess until 3:20 p.m. Is there objection? The Convention stands at recess until 3:20 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state that the opinions requested of the Attorney General have arrived, and we are going to have them mimeographed and should have them available for all delegates tomorrow. So we have Committee Proposal No. 2 before us in second reading. Are there any other questions or proposed amendments to Committee Proposal No. 2? If not, the Proposal will be referred to the Committee on Engrossment and Enrollment. Committee Proposal No. 2 is referred to the Committee on Engrossment and Enrollment. When it comes back from Engrossment and Enrollment it will still be in second reading. When that report has been accepted and if there are no further amendments at that time, then it will be referred to the Committee on Style and Drafting. We have on the calendar Committee Proposal No. 1. Mrs. Hermann?

HERMANN: Mr. President, before we take up Proposal No. 1, I would like to ask the Judiciary Chairman if he, his Committee, contemplates any more proposals that might take care of matters belonging to the judiciary department but were not properly

part of this original proposal?

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

MCLAUGHLIN: Mr. Chairman, we did not. It was our understanding that on the related matters such as compositions of juries and civil cases, indictments by the grand jury, and other similar matters, that those would be handled by the Bill of Rights Committee and possibly by the Executive Committee. We did consider the proposal suggesting that we set up a public defender system, proposal that we provide for the public prosecutors, and we felt it was not within the scope of the Committee's function.

PRESIDENT EGAN: Then, Mr. McLaughlin, at this time so far as you can see, your Committee will be inactive to the extent that it won't be holding Committee sessions.

MCLAUGHLIN: With the indulgence of the Convention, we shall be inactive henceforth.

PRESIDENT EGAN: And available for any other work the Convention needs you for. We have before us Committee Proposal No. 1. The Chief Clerk may proceed with the reading of Proposal No. 1.

(The Chief Clerk read Committee Proposal No. 1 the second time.)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I have two suggested amendments to Section 1 and one to Section 4.

PRESIDENT EGAN: Are there other amendments? We have before us an amendment by Mr. Johnson, an amendment proposed for Section 1. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 9, page 1, strike the word 'or', insert a comma and after the word 'read' and after the word 'speak' insert the following: 'and write'."

JOHNSON: I move the adoption of the amendment.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the amendment. Mr. Robertson seconds the motion. The question is open for discussion. Would the Chief Clerk please read the amendment once more.

CHIEF CLERK: "Line 9, page 1, strike the word 'or', insert a comma after the word 'read' and after the word 'speak' insert the following: 'and write'." So it would read "speak and write".

PRESIDENT EGAN: The question is open for discussion. Mr. Barr?

BARR: I know this is in line with the requirements generally in other states, but I have in mind our large Native population up here, and I don't believe we should make too many restrictions. It is true a man should know who he is voting for and what he is voting about if possible, but up here, a person living in outlying communities, especially the Natives, they hear quite a bit over the radio, and I am certain they hear all the campaign speeches. It seems to me that they can become fairly well acquainted with issues at hand through other means than reading. I don't object to them being able to read, but they should not be required to be especially proficient in it in order to vote.

PRESIDENT EGAN: Mr. Barr, the word "read" is already in there. Mr. Johnson peeks to add the word "write".

BARR: I don't think they should be required to write at all other than their name.

PRESIDENT EGAN: Mr. Gray.

GRAY: I do not approve of the amendment because it is too limitive. Actually, there are two classes of people that will come up before this amendment, one is our naturalized citizen who by naturalization had to learn to read, speak or write, so this particular phrase, or the full limitations of this is only directed to one person, and that is a person that is actually born in this country, and that is the one that it disfranchises. Now the ability to write your name is not a criterion of intelligence, and if you go back to 100 years ago, when it was not as common as it was today, why the ability to read or write was no criterion of intelligence, and it is no criterion of intelligence today. These are local born citizens we are talking about, and we are going to disfranchise them because the state itself has not provided them with the education in their early years. I see nothing but harm to our own local born citizens with this full limitation they have and I believe that the mere fact that you can speak the English language is sufficient to cover and tell of how they should vote. Otherwise you are disfranchising one of your own citizens.

PRESIDENT EGAN: If the Chair may, Mr. Johnson, does not the Act that appears on the Territorial statutes at the present time contain substantially the same language with this provision, "This section shall not apply to any citizen who legally voted at the general election of November 4, 1924."?

JOHNSON: Yes, it does.

COOPER: Mr. Chairman, the last line, line 16 is actually a mistake I believe, in the typing. It should read "citizen who legally voted at or prior to the general election of November 4, 1924,"

HELLENTHAL: No, that is verbatim from the Act of Congress that has been in effect since 1924 which reads, "This section shall not apply to any citizen who has legally voted at the general election of November 4, 1924." There is no mistake in it, it is verbatim from the Act of Congress.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: A point of Information. Is that a part of the present Organic Act?

HELLENTHAL: No. This is from the Act of Congress that was passed and has not been changed since June, 1901.

R. RIVERS: Why do we have to have that in our constitution?

HELLENTHAL: That question, Mr. Rivers was a subject of considerable debate, and Mr. Peratrovich was familiar with matters of this kind and was familiar with many of the people who were protected by that clause. He states that although all those people are growing quite old, that if we do not include that provision in the constitution, these people who have been voting since 1924, will be disenfranchised and that this was put in to protect those relatively few people in their old age.

R. RIVERS: Would that be the Metlakatlans who are not citizens of this country? Would that be some of those Canadian Indians who became Metlakatlans?

HELLENTHAL: No, It would be citizens only. I will read again the language of the Act of Congress. "This section shall not apply to any citizen who has legally voted at the general election of November 4, 1924." What it does is protect citizens who voted at that particular general election just as they have been protected ever since that date in 1924.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I was instrumental in changing this language from "and" to "or" and I think I owe it to the Convention to give my reasons here. Now I don't know how the situation is up in this area, but down in the Southern end of our Division we do have the type of citizens that can speak and understand the English language and also can write their name and perhaps write a sentence in English, but they cannot sit down and write letters. As the Chairman of our Committee related here, they are very few in number at the present time, and they have

been participating in the works of the government through voting, and I think they have been good citizens - at least that has been my observation, and I am afraid if we are going to be too restrictive here that you are going to disqualify such people, citizens, from practicing the privilege of voting. I don't especially say that we should just open the gates to everybody. But here we are, we are concerned with a constitution that is going to govern us in the future here, and we have such people here, through no fault of theirs perhaps, that do not measure up to the requirements that you would like to have in your constitution. Your school program is such that the people in the outlying districts don't get the benefits that your children have in Fairbanks, Anchorage, Juneau and other places, and I think it is only fair that you people should take that type of citizen under consideration. Now I don't think it is asking too much to permit these people that have already voted to go to the polls and exercise these rights. Some of your politicians that go around know that any number of the citizens in these small communities can sit down and understand everything that you advocate. They know what you are promising, they can understand the English language, and they can go to the polls and vote intelligently on the grounds of what they heard. But if you were to ask them to sit down and write a letter from the constitution on certain sentences, they could not do it. They are very few in number, however, but in consideration of them I felt it was my duty to change this language and proposed recommendation of this Committee. That is my stand on it. And this Act our Chairman refers to is a Federal Act, as I understand it, and at the present time we only have from five or six in my Division that comes under that. However, they cherish that right, and I know it is going to hurt them terribly to take that away from them. However, that is up to you to decide that issue. For Mr. Rivers' information, I think everyone in Metlakatla is a United States citizen, declared as such by act of Congress, I understand.

R. RIVERS: Mr. President, I understand that to be true with the exception of a few who did not become citizens, but they'd all be citizens there now. I wanted to ask Mr. Peratrovich if putting the words "or speak" instead of the words "and speak does not do away with the necessity of that last sentence. I understand that some of those people can talk the English language but they can't write, and I would be in favor of this last sentence if you were saying that they had to qualify by being able to write the English language, but when you say to be "able to read or speak the language", then I don't see the need for that last sentence, because I am sure they can speak.

MARSTON: I want to follow up Delegate Peratrovich on the northern country. I am thinking right now down in Hooper Bay. There are 23 people that voted one time. Only three of them could qualify under the requirements at that time. But these

other 20 men, If you want to change the requirements, if Mr. Johnson's amendment goes through, will be lost to the United States. You stop a man from voting who has been voting, he does not belong to this country. He would look to other shores. He is not one of us. It would be a crime to throw him out because he cannot write. They have no writing material. They live in wet tents in the summer time and in boats and dugouts. They have no writing material or pencils. They just don't write, but they use the radio, and they have good intelligence, and they are smart and smarter than a lot of our people in our big cities on the political issues that come up. Foreign people come here and adopt this country, many of them can't write. You will find this true in many of our places, and they are the most patriotic citizens we have. If you force them to write to qualify them to vote, you lose a lot of fine citizens, and after all, we want to build the nation up and have every man who lives here a loyal patriotic citizen. If you throw him out of Voting where he has been voting, he will not be inclined to be loyal and patriotic, and neither would you if you were stopped from taking part in the government. I think these people who lived here and inherited this country might turn around and ask us about some things about how we vote. Instead of our telling them how they can or can't vote. It is their country and I think every man should vote and we should not stop him. Quite a few states have no educational qualifications for voting. They are wide open and that is what I would like to do if I had my way about it -- no qualifications for voting, just citizens and qualify that way, that is all the requirements we should request.

PRESIDENT EGAN: Is there further discussion on this motion? Mr. Johnson.

JOHNSON: I would just like to point out that I certainly did not intend to disfranchise anyone by this amendment, but we do have that requirement now and if, as Mr. Marston says, this amendment is adopted, 20 people in Hooper Bay will be denied their right to vote because they are unable to write, then certainly there is no reason why they should not have been denied that right before because that requirement is in the law now. It is not unusual or strange -- I don't see that it is so difficult to learn how to read and write the English language if you are an American citizen, and certainly it was pointed out by somebody here that every citizen who comes over from some foreign land and is naturalized, must be able to read and write. Is it so much to ask that Nativeborn American citizens should not be able to do the same thing?

PRESIDENT EGAN: Miss Awes.

AWES: I just wanted to ask a question and it was answered in Mr. Johnson's statement.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I have come to the conclusion that the present literacy act which we have requires the voter (maybe it's a juror) to read a section of the Constitution, chosen at random. That might be that it refers for jurors instead of voters but in any event, I favor the language as it stands. I also have had a great deal of experience with the Native people of Alaska, both in my own Division and in the Northern Division which comprises the Second Division, and I know that we have a great many of them up there who have very fine citizens who may be able to speak the English language and can't read it, or read it and can't speak it, and I think that provision was put in there with an eye toward those people. And if the government itself provides no facilities and did provide no facilities 20 or 15 years ago whereby those people could go to school and learn to write, I don't think that they should be penalized now by making a requirement of voting, that they have to write in order to qualify. After all, we are pretty well informed that we have over 3,000 children of school age in Alaska at this time that are not going to school because no schools have been provided for them. That situation was infinitely worse 15 or 20 years ago, and many of these people who will be unable to qualify on the writing end of this amendment* had no opportunity to learn to write and little opportunity to learn to read. The story of how some of them have overcome their handicaps in that respect, is really one of the sagas of the North. I approve of the language as it stands.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I also approve of the language as it stands here because we might, from reverse logic, conclude if we should accept the amendment that all those who do speak and read the English language who have had opportunities to learn it and go to school should, by law, be forced to vote.

ROBERTSON: I speak for the amendment. I think that the right of suffrage is the greatest right the American citizens hold. Instead of lowering the bars to the right of suffrage, I think the bars should be increased, and I think if they were increased that we would find instead of now where thousands of people reject the opportunity to exercise the right, I think we would find it was worthwhile, if they would all get out and vote. I believe it is no hardship on anybody as long as we have the grandfather clause in this section to require that the citizen who wants to vote should also be able to read, speak and write the English language.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I was trying to think of the precedent in other states and ran across this in the Hawaiian

Constitution where it says, "No person shall be qualified to vote unless he is also able, except for physical disability, to speak, read and write the English or Hawaiian language." I noticed that before that if we go to Hawaii we have to learn their native language before we can vote over there. Maybe that might be our answer to our problem here. I think a lot is going to depend on the school system. Mr. Johnson's amendment, or the proposal as it is, would have very little effect upon the voting right of the people at Unalakleet, and that is one of the largest Native villages. There may be about five who would be disqualified if the amendment went in and I don't think those five have voted or have ever tried to vote. They haven't shown any interest in voting. We have quite a large voting population, or quite a large vote, I should say, and they have been fully qualified to vote. I think the difference lies in whether we have schools or not. Unalakleet has had a school since 1890. I think there you have your difference. You do have many villages that have had the first school started in their village in the last four or five years and there are still a few villages with no schools at all, and I can't help but feel that we do disenfranchise them by making them do something they have not had the opportunity to learn how to do. Now, on the other hand, if they can't vote intelligently unless they read, write and speak, then that throws in another side of the picture so we have here probably a pretty well balanced debate.

JOHNSON: I request a roll call.

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

(The Chief Clerk called the roll with the following re-sult:

Yeas: 11 - Boswell, Collins, Cooper, Johnson, Laws, Londborg, Nerland, Reader, Robertson, Sweeney, Walsh.

Nays: 42 - Armstrong, Awes, Barr, Buckalew, Coghill, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, Taylor, VanderLeest, White, Wien, Mr. President.

Absent: 2 - H. Fischer, Smith.)

CHIEF CLERK: 11 yeas, 42 nays and 2 absent.

PRESIDENT EGAN: So the proposed amendment has failed to pass. Mr. Victor Fischer.

V. FISCHER: Mr. President, are we still on Section 1?

PRESIDENT EGAN: We are still on Section 1.

V. FISCHER: I have an amendment, and first of all I would like to address a question to the Chairman of the Committee on Suffrage and Election. I would like to ask Mr. Hellenenthal why the age of voting has been lowered to 20 years from our current age of 21.

HELLENTHAL: Mr. Fischer, the Committee made that determination. I think they were motivated by the fact that they felt that there should be some relaxation of the age requirement. They had in mind that the voting age of 21, the magic figure, was adopted at the close of the 18th century and has more or less persisted. In those days men did not receive their formal education until comparatively late in life. With the passage of almost 200 years, younger people have become educated at an earlier age of course, and they felt that there should be some recognition of that fact. Yet, they felt they should not go down to 16, 14, 12, but they wanted to give some recognition of that fact, just as Hawaii did. Hawaii likewise set the age at 20. Two states have it at 18, but the Committee felt, in the light of their hearing and their careful consideration of the matter, that 20 would reflect that principle.

PRESIDENT EGAN: Mr. Fischer?

V. FISCHER: Could I have the amendment read, my amendment?

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

CHIEF CLERK: "On page 1, line 2, that the number '20' be stricken and the number '18' be substituted.

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

V. FISCHER: I would like to move the adoption and ask unanimous consent.

SUNDBORG: I second the motion, and since I have an identical amendment on the desk, I wonder if the record could show that Mr. Fischer and I together proposed this amendment.

PRESIDENT EGAN: Mr. Fischer, do you object to that?

V. FISCHER: No.

V. RIVERS: Mr. President, I also have an identical amendment

there.

PRESIDENT EGAN: The record will show, if there is no objection, that Mr. Victor Fischer, Mr. George Sundborg and Mr. Victor Rivers proposed such an amendment. Is there objection?

GRAY: I object.

PRESIDENT EGAN: The question would then become, "Shall the names of Mr. Sundborg and Mr. Victor Rivers be added to the amendment?"

V. RIVERS: I withdraw my amendment.

GRAY: No, I don't object to the three of you, just to the amendment.

PRESIDENT EGAN: Is there objection to having the amendment read that it is by Mr. Victor Fischer, Mr. George Sundborg and Mr. Victor Rivers? Hearing no objection it is so ordered, and we now have the amendment before us for discussion. It has been moved and seconded. Mr. Victor Fischer.

V. FISCHER: Mr. Hellenthal has given a fine argument as to why we should depart from the old concept of franchising the voters at the age of 21. Now he explained that the Committee felt there should be a lowering but they did not feel that 16, 14 or 12 would be right. The Committee arrived at the age of 20. I believe that a much better case can be made to substitute the age of 18, which is the age when our young men and women generally graduate from high school. Their education is finished at that time. They go forth into the world. We expect them to earn their living, we expect them to fight, they can get married without any question. They can do all those things. Maybe they are not considered legally adults, but in every other way they are except also as citizens with the full right to vote. Now it seems to me that we would be much better off to give our young people something to shoot for, give them something that the educational system could prepare them for, and when they reach the age of 18 they can start voting and they will keep voting. I have quite a few arguments written down, I am sure that others will bring up. I would like to point out this is not a radical departure, something brand new to Alaska. In 1945, the Alaska Legislature passed a law authorizing 18-year-olds to vote. It was signed by Governor Gruening and the law could only become effective with the approval of Congress. It was pigeonholed in Congress as so many of the bills that Alaskans are interested in are, but this is not a new issue, it was approved by the Alaska Legislature.

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

COGHILL: I might add I too favor this amendment. I have asked, by wire, of both of the National veterans organizations, the American Legion and the Veterans of Foreign Wars, of the date of the convention to which they have approved a resolution for going on record of 18-year-olds voting. However, I haven't received that. I do know that the VFW has gone on record, but what date and what year that convention was, I do not know, but I feel that if they are eligible to become a part of our fighting citizenry, they are certainly entitled to a part in the voting citizenry of our great Republic.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I am a member of this Committee and I am going to vote for Mr. Fischer's amendment. I think our President said that he believed that a man of 18 years old today should vote. If he is old enough to fight he is old enough to vote. I am going to vote for this amendment.

SUNDBORG: May I ask Mr. Marston, which one of our Presidents said that, was it Mr. Eisenhower or Mr. Egan?

MARSTON: I think they will both say it.

PRESIDENT EGAN: It is a mutual feeling, you are correct on that, Mr. Marston. Mr. Taylor?

TAYLOR: Mr. President, I think the members of this body should take into consideration the fact that when you lower the age of voting to 18 years, conferring upon them all the rights of a citizen, and that certain laws enacted for the benefit of those young people of whom you might say, tender years, then have the right to go into saloons, the right to drink over the bar, because otherwise it would be an act of discrimination to keep them out. You couldn't pass a law that would be constitutional if you attempted to enforce the laws that were made for their benefit. What you would have if you lowered this to 18, you would have these bars, you see the young fellows coming in now from Ladd Field and Eielson Field and falling all over themselves to, get into a saloon and get something to drink. Every day you see in the paper where a bartender is arrested for selling liquor to a minor, and they are also arresting minors and fining them and putting them in jail. You want to take a look at that angle when you vote to reduce it to 18, because those people have the right to go into the bars and go into any place regardless of the moral atmosphere of it, and that applies to the girls as well as the boys. That would put juvenile delinquency down to lower than that, too. They would be subject to being punished in the regular courts that are for hardened criminals. That is one aspect of it that I thought I would call to your attention. I am not concerned over the act except I thought you should bear that in mind when you vote on it. If you want the young people doing that, why

vote it down to 18,

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I am wondering what effect it will have on the jury system. I assume it would be possible for the legislature to write laws regarding the qualifications of jurors that did not include the fact that the list is chosen from the voters at the last general election, as it is at the present time. But whether or not an 18-year-old boy or girl is qualified as a juror is one of the things that has been puzzling me, and I think that that would automatically throw them into the class of citizens who are eligible to serve on juries. I could be wrong about that and I am really throwing it out for somebody to answer than I am for any positive opinion about it. I just question very much, if that is the case, if an 18-year-old has had enough worldly or business experience to be qualified as a juror in an important civil case, for instance, which might involve hundreds of thousands of dollars or even on an important criminal case where their sympathies might be inclined to run away with them. I am not opposed to the amendment, except that I would like some expression of opinion on that point.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, I wish to call an error to Mr. Fischer's statement. He said anyone can get married now without question, I believe was his statement, at the age of 18. I believe the members of the legal profession can bear me out. It is 21 for males and 18 for females. Another question I would like to bring up -- I doubt very much if Congress would be much in favor of admitting us to the Union if our voting age was put down to 18 whereas all the other states in the Union have 21. Another question I wish to bring up, you cannot sue minors under the age of 21. What kind of confusion is that going to bring us into if we make them a voting citizen at the age of 18 and can't be sued or contracts be made. I think that will only add to the confusion of things, and I will therefore oppose Mr. Fischer's amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I, of course am in favor of the amendment, as I have my name on it. I want to say that I think the old age of '21 came down to us originally from English law and was something of a hangover in the matter of trying to curb the voting privileges. I want to point out also that two states, Georgia and Kentucky, now both have the 18-year age voting limit. They have been able to provide means of getting around the necessary qualifications for jurors, and of course as far as the Congress goes, It is my opinion that the Congress had very little hesitation of accepting men 18 years up for the

military service. I don't think they have any particular distinction about taking the income tax that those 18-year-olds pay. Most of our labor laws are such that they are, at the age of 18, able to work as a full citizen or a full worker and I think that this is our opportunity to get ourselves abreast of the times rather than to hark back to the old age of 21 as established by English common law and that's where the age first came from and I for one feel that we should, at this time, on the basis of our advanced literacy and our advanced system of education, and the progress that our youngsters have made, physically and mentally, grant them the privilege of voting. I want to point out in that connection that this is the vitamin age, the irradiated milk age, the enriched food age and at the age of 14 now, a youngster is two and a half inches taller and 30 pounds heavier than they were 30 years ago. It is hard to tell what the next two or three generations will bring, we might have to raise the size of our doors and also reduce the voting age and I am favorable to it. I would like to see them have the privilege of voting for the things that they fight to defend and pay the taxes to pay for it.

PRESIDENT EGAN: Mr. White, have you been attempting to get the floor?

WHITE: Mr. President, I have the feeling this is one of the things you don't oppose if you can avoid it. It seems to me that a lot of the arguments being made here are very good reasons for keeping the voting age at 21. I think the trend apparent in all of these matters that have been mentioned is towards keeping young people in school longer. I would like to see the trend toward keeping them out of the army longer. I would like to draw this parallel for example -- 100 years ago we had 14 year olds working in the factories in this country. We did not say because they were working in factories they should then vote. We concentrated on getting them out of the factories and into the schools where they belonged. That to me is the proper Interpretation of the trend. The fact that 18- year-olds can fight or are called into the armed services has no relevance at all. It is the cold fact that an 18-year boy is the best fighting machine and a cold hard fact that he is the most easily led. It is a cold hard fact that when we get into an all-out fight that we need to call on all of our young men that we can get. I hope the day will come when we won't need to do that, but to say because an 18-year-old can fight, he should be allowed to vote, I think there is no relevance whatsoever. I think the matter of voting is much more closely connected with the age of majority. When the time comes to lower the age of majority to 18, then perhaps the time will have come to lower the voting age. I am fully in sympathy with the intent of getting more education into the school system leaning towards intelligent voting, but I see no reason why the first vote has to come while the young

boy or girl is still in school, to make that education take hold. I see no harm of allowing the period to elapse between the end of school and the first vote for a maturing period, a period of observation and a period of continued study. After all, the trend is towards more and more children going on to college. Perhaps the day will arrive when they will all go to college. That completely removes the argument that they should be able to vote at the age of 18. I am a little concerned about the political machines working into the high schools and trying to capture this 18-year-old vote before they get out of high school. The fact that two states adopted this 18-year-old vote need not concern us here. We get a lot of reference to what other states have done. I think we can probably consider the matter in the light of our own State-to-be. I think that that about sums up my argument.

PRESIDENT EGAN: Mr. LONDBORG.

LONDBORG: Mr. President, I feel that if the age of 21 was some sort of hang-over, that is one hang-over that I approve of. It has been mentioned that the boys and the girls are through high school now, in other words they are through their schooling and they are on their own, they are getting a job, etc. Well, I think "grandpa" was through with his schooling long before that and he was out and he had a farm and probably had a family, at least probably married by that time - was well out on his own. He was in his rights in his day and age, but he still waited until he was 21, until he had learned a few things before he voted.

V. FISCHER: Point of order. We are discussing the lowering from 20 to 18, and the argument of whether it should be 21 is not really a part of this.

PRESIDENT EGAN: Mr. Fischer, I believe the argument is relevant.

LONDBORG: My argument is to hold it to 20. I refer to 21 because it had been referred to before and had not been called, so I thought I could do it myself. As far as the war is concerned, I certainly feel sorry for any boy who has to go at that age and fight and cannot vote and say whether he should go or not, but at the same time I do not know if that necessarily means that they should vote at that age. True, medical science has probably enabled the boys and girls to be taller and bigger at a younger age. I don't know how much that has affected the growth of the brain. The life expectancy is more, so that if even if it is held at 20, they have more opportunities to vote. Another argument that comes up in the lowering of the age is the fact that they can fly jets at 18, 19, or 20, and therefore, should be able to vote. Some parents have suddenly woke up and found their sons to be jet pilots when yesterday they denied them the use of the car. I wonder

if some of these jet-age young people could go back in grand-pa's day and drive the old mule. I think the age should be held as we have it here in our proposal at 20, I would go even a point further, but that would be out of order right now.

PRESIDENT EGAN: Mr. Harris.

HARRIS: As the youngest member of this body, I think I am entitled to speak on the question. The reference to Mr. Londborg's remark about grand-pa getting married at 20 or 21 - I got married at 18 and I think at 18 I was just as qualified as anybody, maybe not as qualified as I am now. I think the majority of our young people are qualified to vote at 18, and therefore, I think they should have the privilege of voting if they so choose.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I agree with the views expressed by Mr. White and Mr. Londborg. When you speak about fighting and making the draft age the age of maturity, I don't think there is any logic to it. As a matter of fact, at least the Union men in the Civil War were taken into war at 16 years of age, but I don't think that qualified them to vote, and we all know there were thousands of the Southern boys who were good soldiers long before they were 16. I don't think it is logical to say that our children are maturing more quickly. I don't think our children mature as fast nowadays as they did 50 or 100 years ago. I think the whole tendency of the age is to shove our age limits upwards so to make them take more education, go through more to prepare for their life work, and the labor laws themselves won't even permit them to work until they are 18, except in certain protected instances. And I think this is a great mistake to put this age limit down and I hope they vote against the amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I hope we get right down to the issue here now and draw aside the curtains of things that really don't apply to this matter at all. One of those things is how old a man should be when he fights. That has nothing to do with what has been proposed here or how old he should be when he pays taxes. What we are talking about is how old he should be when he is allowed to vote in our elections. I believe it does not follow automatically, I've been told by attorneys that it does not, that if we establish the voting age at 18 or 20 or whatever, that the age at which a person would be admitted to a bar would automatically be the same. We can legislate or we can set up in our constitution, requirements of minimum age for persons to be served alcoholic liquor and we can make it 35 or we can make it 50 and it wouldn't

be discriminatory anymore than it is discriminatory to say that no man shall be a candidate for the state senate unless he is 30. We are not thereby discriminating against all people between the ages of 21 and 30. We are setting up an age requirement for the specific thing which is under consideration. The specific thing under consideration here is the age that young people or any people may vote. I believe that when a young man or woman has reached the age of 20 he or she is sufficiently well versed in what our government and what our kind of life is about to be qualified to vote. In fact, I think many of the people between the ages of 18 and 21 probably know a great deal more and are better qualified to vote than some of the old folks of 70 and older and all of them now are allowed to vote. So I would hope that when we vote on this that we think only of the one issue -- how old should a person be to vote.

PRESIDENT EGAN: Mr. Buckalew?

BUCKALEW: Now that this discussion came up about the 20-and 18-year-old I remember when I was going to law school and we had a gentleman who was elected governor of the state and he was going to address the children of one of the large high schools in the State of Florida and he was having a lot of difficulty with his speech, in preparing his speech, and we were talking about it in the lunch room, and he says, "You know, it is pretty tough to address these people that are graduating. They are a lot smarter than these people I have been used to addressing, and I can't give them the old hell and brimstone speech; they won't accept it." That is what came to my mind when he said that politicians will probably get in there and sway the 18-year-olds. I am going to vote for the 18-year-olds for one selfish reason and then for other reasons because I think they deserve it. I recall when they had all this business in Korea and some of the soldiers said, "Why should I fight? I can't vote." I think that we are going to be fighting again, and I think if they have the privilege to vote it will raise their morale. It is possible. If we raise the morale in one or two divisions some day we might be glad we did it. It seems to me that if there is some hope that lowering the age to 18 will eventually cause these individuals to participate more in government -- they get out of high school and they can see they are going to vote -- there won't be a two-or three-year-void there, I think we ought to give them the privilege on that account alone because it will train them for it. They'll realize when they get out of high school, they can vote. If they go in the service they know they are fighting for the Republic or whatever it is, they can vote in it, I would not mind having 18-year-olds on juries. I have had some experience with juries, and I don't think that if we had 18-year-olds on the jury that it would lower the standards of the jury system. In fact, I think it would probably strengthen them because the educational standards have risen over the

years. I feel pretty strongly about this, and I think the 18-year-olds are entitled to vote, and I don't think that the legal age to contract has anything to do with the right to vote. There is no relationship between the two. If you want to keep 18-year-olds out of the bars, you can do it although you let them vote. I can probably name you a lot of people who would be in favor of keeping everybody that's not 60 years old out of the bars and probably would get a lot of support for it. You will find a lot of 35-year-olds who need that prohibition as much as the 18-year-olds, I really think this body should think about it because the world situation like it is I think it would raise the morale of the American troops if you allowed 18-year-olds to vote.

MCNEES: I rise also to speak in favor of the motion, largely in support of Mr. Sundborg's views. We are granting here primarily the right to vote at the age of 18, and I think they should have the right to vote at that time. I do not think we need to worry about the other consideration, relative to jury duty, bars, etc. I think perhaps some of those 18-year-olds might carry their responsibilities better than some of the older folks. I favor the amendment, drop the voting age to 18.

ARMSTRONG: I am in the position of the old deacon who was asked how he was going to make up his mind on a particular vote and he said, "I haven't made up my mind yet but I'll be mean about it." It is difficult for me because there are some questions that are not clearly answered. Mr. Sundborg is not the chief justice of the supreme court of the State of Alaska and what he has stated of what will happen does not satisfy me in the eventualities as we lower our age range. If I can be satisfied in my own mind that in the transitions, that these other matters of contract, of the legal age of the bars and all, of entrance into the bars, if that can be handled I would feel much clearer in my own conscience in this matter of voting. So I would ask if that could be cleared up, it would certainly help me because I don't want to vote on the basis of a motion. I don't want to vote "yes" for 18-year-olds just because that is the popular thing to do.

PRESIDENT EGAN: Is there objection to having a five-minute recess at this time and perhaps legal minds can get together and solve this question? If there is no objection the Convention is at recess for five minutes.

RECESS

PRESIDENT EGAN; The Convention will come to order. Mrs. Wien, had you been trying to get the floor?

WIEN: I thought perhaps that as a mother of three children who have recently gone through the 18-and 20-year-old stage,

I would like to say what I think. I would oppose the amendment. My children, and most children, are in high school until they are 18. They have been taught theory. They have not been taught as much practical living as the young people 50 and 100 years ago who had to get out at 14 and 15 and earn a living. After they got out of high school, they either worked or went to the university where the type of education put you more on your initiative. This is a subject which I have not only decided by observation but have talked over with my young people at home. They agreed that when they got out of high school, before they had the practical experience of working or going to a university they would not have made intelligent voters until they had been able to put into practice some of the theory they had been taught in high school. I might also mention that although you consider the draft age 18 (and I think it is too low) before these boys are put out to fighting, they go through a training period or sort of a practical period a step between their high school and going into actual war. I might mention, it was brought up that there are certain labor restrictions until they are 18. That also restricts them from having practical experience in working before they get to vote. I would also like to say that I don't know how there are any jet pilots in the 18-to 20-year-old class since our United States services make a requirement of 20-1/2 years before a man can go into pilot training in any of the services. I am for the 20-year-old age.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, those points were very well presented. I think we should hear from Mrs. Wien more often. There have been many arguments here as to why an 18-year-old should be allowed to vote. Education, military service, etc., have been pointed out here. None of those are really potent arguments because the chief qualification of the voter is that of good judgment and the ability to make decisions. It is true that our young people are better educated at a younger age than ever before. But as Mrs. Wien pointed out, that is education in theory. Fifty years ago people at that age would have had more practical experience in battling with the world and taking care of themselves and would have had better judgment. Now all I have to go on is my own experience. I can remember when I was 18 and 16, and at the age of 16 I joined the regular army, voluntarily. That proves I did not have good judgment at that time, and at the age of 19 I re-enlisted -- that proves I did not have good judgment then. (Laughter) As time goes on and I look five years back, I always think I have better judgment than I had five years ago. But I believe, in turning it over in my own mind, that 21 is the best age, but I will agree, that a man begins to form better considered opinions on these matters at around 20 than he would at 18. Just because he has a fit body and is a good fighting machine does not mean he should be able to vote. As a matter of fact, when

a man goes in the army he is told what to do at every turn. As soon as he has a fit body he makes a good fighter. I want to repeat that the principal qualification of a voter should be able to judge between different situations, between different arguments and issues and be able to make the proper decisions, and only age and experience can accomplish that.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I wish to speak in favor of the age of 20. I have run a kind of Gallup poll on this myself among the teen-agers, and I don't find that there is too much interest from them in voting at the age of 18. I have heard much the same thing as Mrs. Wien has mentioned. They feel at the age of 18, they get out of high school and they don't have that judgment. I suggested to one of the professors here at the University that this would be an opportunity for the students here at the University to help this Convention if they would run some sort of a poll and see what the students wanted. He said he had suggested that to some of his classes do that and he could not find much interest in it. He said he would suggest it again to the Student Body President and we have heard nothing from them. I think that shows an apathy to the proposition, and here we are sitting trying to force this voting age down to 18 on these teen-agers, and I don't believe they are really interested in it, and I think when they think it over they come up with the idea of 20 as about the right age. In fact, I think they would rather see the draft age raised than the voting age lowered, and I firmly believe that 20 is the best age for the voting.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would also like to speak in favor of the amendment. I have several points here in favor of it. I think if we are mentioning Gallup polls we should possibly ask the class that Mrs. Jones will bring out here tomorrow. I would not recommend we table the question for that purpose alone, but I think there would be very little doubt about what the class of Mrs. Jones would think. I largely think the question of whether 18-year-olds are capable of voting intelligently is one of education. Maybe it would be a very good thing if because of the lowering of the voting age, education would make a special effort to improve the instruction of civics in school. The question of whether a theoretical approach to all the voting problems is a disadvantage or not or that a practical approach is the only standard, is also debatable. I think very often we see the case when a man, the older he gets the more practical he gets, possibly too practical very often, so a little bit of the theoretical considerations being the prerogative of youth would not hurt, and I am last but not least speaking as a father of seven. I have some priority in that respect. I have only two sons I

can speak for. I got a letter yesterday from my wife, and she said that our children that formerly very little listened to the radio, (we have no TV of course, we are behind the hill) they are rather uncivilized in a lot of respects, they don't read the funny papers and they are otherwise compelled by circumstances to think quite a bit and now my wife writes that the eight-year-old two days ago asked her and said, "What is a Democrat, what is a Republican, Mother?" So I think there is hope for the children of Alaska. Give them a good education. Make them think. I think the family, which they leave, roughly, when they are 18, the family is a repository of our political liberties and also of our fundamental civic education for children. I am afraid the older they get, the more extraneous will their interests be, the more superficial their interests will possibly become. Our whole civilization points to it. I think if we catch the political interests when they are young and leaving their family, providing that the families will foster that interest, I think that is the best thing to do for them.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, it is unfortunate that one of the only two farmers in the Convention has to disagree. I think there are two essential points which make me feel I must vote against the amendment. The one is that I have a feeling there will be a tendency to bring partisan politics into the high school senior class if this matter is dropped to the age of 18. I have seen the matter enough in universities in the lower levels when right after the war under the GI Bill of Rights there were great many young men of 21 in the colleges and many times there were very vicious sides taken in academic work in the matter of politics, that could creep into the senior class in high school. In Alaska we have a great many 18-year-olds as seniors in high school; we also have a great many 18-year-olds in lower grades. The other thing which worries me about dropping it to 18 is this matter of the tendency of a legislature to pass laws regarding moral matters with more leniency towards a younger age than 21. When we have a larger percentage of our voting population that will be younger than 21, there may be a tendency on the part of the legislators to think they will bring them into such matters as signing petitions for liquor licenses. I think presently it requires that you be a qualified elector and a resident of the area. Things like that could be dangerous. I had hoped probably that we might get to 19, but I think 20 is better than 18. I shall vote against the amendment.

METCALF: Mr. Chairman, if we should vote for this 18, does that make him a citizen for purposes of contract? Can he be sued on the contracts in the courts?

HELLENTHAL: No, it does not automatically. It would take

further legislation by the legislature to reduce the age of when you reach majority and similar problems. I personally think that practically, to reduce the age for voting from 20 to 18 would tend toward a relaxation such as you suggest, but it would not be necessary that it so happens.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, after much discussion I hesitate to rise and say further on the subject except it is a subject that I very likely should not speak on because in between times of making a living I have been running for some "office or other since I was elected as justice of the peace in 1927. The more popular side of this question probably would be to favor the 18-year-olds, but like Mrs. Wien and Mr. Boswell, I have children between the ages of 23 and 12 and having taken a poll, I am especially interested in the one who is presently 18 and does not feel that she should have the right to vote. Now I don't think that possibly the children should altogether control it. I would like to speak on the legal and political implication that could be involved here. I agree with Mr. Hellenthal that the laws regarding contracts, the laws regarding juveniles and jurors and to the ages at which they could buy intoxicating liquor are set by law now and would have to be changed before they would be allowed to do those various things, but the important thing to consider here is if a man is running for office, and there is a large number of voters between the ages of 18 and 21, there would be a large number there, what finer fodder for a politician to use than to go to a group and say, "Now you get behind me and support me and when I get to the legislature I will introduce a bill so you can buy an automobile without having your dad or mother sign on it," and that bill would be introduced and the members of the legislature thinking about themselves coming up for the legislature again and wanting to get this popular vote between the ages of 18 and 21 are going to go along to relax the standards. Now that is only the one example. I want to add this on a bit of levity here - it concerns me very much to have a boy of mine who cannot marry in the Territory, now without my consent until he is 21. I don't want him getting married and bringing home a wife before he is 21 so that I have to support both my boy and wife and my hands are pretty full now.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, it rather amuses me that some of those who are speaking against this amendment and display concern because they feel that senior classes of our high schools might be invaded by politicians, did not have that concern a little while ago when we eliminated the requirement that a person be able to write before they be entitled to vote. I feel that as long as we have eliminated that requirement that

the average 18-year-old today is much better qualified, much more familiar with current affairs and much more able to decide how he or she should vote than a person who is not able to write, and I am not making any reflections on those people, but I feel that our 18-year-olds of today are more progressive and more interested in civic affairs and the affairs of the Territory and the nation than they ever have been before, and if we give them the right to vote at 18 they will prepare themselves ahead of time.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: One thing that we might take into consideration under this is the Territory itself, the new State of Alaska. We have a vast and wonderful country here, and in order to develop it we have got to also encourage people to come to Alaska and to develop it. We call ourselves a new country, a land of opportunity, and if we are going to lure young people from the states and from the large cities and paths already molded for them, if we produce at this Convention the intention of the Alaskan people to welcome young people to the Territory, this is the best way we can do it.

PRESIDENT EGAN: Mr, McLaughlin.

MCLAUGHLIN: Mr. Chairman, I am sure that none of the senior or junior ladies present here in this Convention were ever members of the "bloomer girls" and I am quite sure that none of them ever marched in a suffrage parade, but my recollection is, dimly, that the same arguments that are being used here against 18-year-olds were the arguments that we used approximately 35 years ago against women's vote. The history of the thing goes back about 90 years when they removed the curtain of coverture from married women and permitted them for the first time to contract. The arguments were against it. They didn't feel that women were capable of managing their own affairs. They did not feel that women were capable of voting and would be unduly swayed, in a sense, by their husbands and by the temperance societies to which they belonged. None of those arguments have any particular pertinence here. The argument is, do the 18-year-olds possess mature judgment and competent education these days. The suggestion is that some of these people, the professional politicians, certainly none of whom are present here in this Convention, might invade the high schools or the colleges. My recollection is that our chief machines in all of our large cities are not based upon their ability to sway you but their ability to sway Ignorance and to sway ethnic groups. My recollection is that in one of the recent municipal campaigns in the city of Chicago, the only idea or ideal of reform emanated from the University of Chicago, and only in that area did any reform element indicate any sizeable vote. The suggestion that the high schools would be invaded is a little bit ridiculous. If the high schools

will be invaded, why haven't the universities been invaded on the same principle? The fact is, they haven't been. Youth at 18 is idealistic and they certainly vote historically on a much better and much higher plane than do their elders. X think it is unjust to suggest that 18 is not competent to vote. I rather suspect that age is not competent any longer to adjudge youth. I am in favor of the 18-year-old voting age.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I think the sole criterion here as to whether an 18-year-old is competent to vote or note, I feel that is not the sole criterion by a long shot, I was interested in the use of the word "progressive" by Mr. Nerland. I was waiting for someone to say that because I think a number of people interested in this question are laboring under the delusion that this is a progressive measure. I don't feel that it is, I think it is regressive. I was interested In what Mr. Hellenthal had to say In that connection because I agreed that while lowering this voting age to 18 may not immediately result in all the dire consequences that have been suggested, it is certainly tending in that direction. I say It Is going directly contrary to the whole trend of development in this country in this matter. We have labored to take the children out of the factories. We have labored to keep them in the schools longer. We would hope to keep them out of the army longer. We are proud of the fact that age is increasing, we have many more years of life expectancy now than we had some years ago. We have many more years to fight the battle of life but I think the whole tendency should be given this increase life expectancy to devote a little longer time to preparing young people for taking part in life. I don't feel this is a progressive measure at all.

PRESIDENT EGAN: Mr. Gray.

GRAY: Here's another case where you are on both sides of the question again. Basically I see this as, the 18-year-olds' in high school, we'll say that 50 per cent now my contacts with high schools, they are dependents, they eat, sleep, and work and so on, and somebody else pays the bill. They are just removed from one year – now they do have apathy all right in politics. Anyone that is given no part of any affair, naturally has an apathy. I think if they are given the right to vote you will find that apathy disappears. Now I object to this void in our society. With juveniles and these school children up to 18, then for three years they are nothing. They are not juveniles, they're not adults, they go around for three years, and then we make them over night. What I see wrong with this thing is this 18-year-old and the reason for the 18-year-old is due to our present society of school. We still have them in school, and they are going to school and coming home, and they are still dependent. I don't put them in

the same dependence as Mr. McLaughlin had the women, because I think the women were earning their pay all the time in those days. But I do believe that at this time and I want the debate carried out, I think we have covered the 18 and 20, and if at this time I could amend the motion to 19, we may carry this out. That may be a complete new amendment, we should not bring it in, but if I am in the middle, I would like to have my amendment in the middle.

PRESIDENT EGAN: Mr. Gray, it would be a complete new amendment. It would be in order later but at this time it would not be in order because it would completely eliminate the proposed amendment.

COGHILL: Mr. President, I move the previous question.

ROBERTSON: I second it.

V. FISCHER: As the maker of the motion I think I am entitled to speak.

PRESIDENT EGAN: If the previous question was not seconded, then it --

V. RIVERS: Point of order, Mr. President, The motion was seconded by Mr. Robertson.

PRESIDENT EGAN: Was it seconded?

ROBERTSON: Yes, I seconded it.

PRESIDENT EGAN: The previous question was seconded, the question then is, "Shall the previous question be ordered?"

BARR: Point of order, Mr. President. Was it not agreed here that we should not limit debate on these matters by moving the previous question?

PRESIDENT EGAN: No, Mr. Barr, it was not agreed. If a delegate wishes to resort to moving the previous question and it is seconded, the Chair will have no other alternative but to vote on it.

COGHILL: As mover of the motion I yield to the maker of the motion.

V. RIVERS: Point of order. There are three makers of the motion.

PRESIDENT EGAN: Your point of order is well taken, Mr. Rivers. If there is no objection, Mr. Coghill has withdrawn his motion for the question. Mr. Fischer, you have the floor.

V. FISCHER: Mr. President, there was reference made here to apathy, and as Mr. Gray pointed out, one of the problems has been a divorcing of the young men and women from political life. One of the major problems of the United States, as well as Alaska today, is nonvoting. There have been numerous studies that have shown that the age group that is most guilty of nonvoting is the age group of 21 to 30. Now there you have a good example that having this break probably constitutes one of the main reasons for nonvoters. A partial solution has been suggested in one of the studies to the problem of nonvoting, in the laying of more stress on broad civic education from early youth through adulthood. That is part of it. Let's start educating them in high school and getting them right into the voting habit. Maybe when they first start voting they may not be the best voter or the most intelligent voter, or maybe only ten per cent of them will vote, but the point is, once you give them the franchise, once you get them started voting, I think that it will be something they will keep on doing through the rest of their life, because once they vote, they will keep right on voting. In conclusion, I would like to say that at a previous meeting it was pointed out that if passed, our Judiciary article as written and pretty much as approved so far, will be a model throughout the United States. Well, I would say that in terms of the people of the United States we will show more progress, so far as they are concerned, if we adopt the 18-year-old voting age, because the majority of the people have, through Gallup polls, expressed a definite preference for the 18-year-old voting age.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: In closing, I want to make a mention also of just what we are doing if we adopt this amendment. Our figures show there are 70,000 eligible voters in Alaska at the present time. If we adopt this motion we will increase that by approximately seven per cent. We will bring into eligibility approximately 5,000 more voters. Our records show that the average voting has been around 25 per cent. I can see where the amount that would vote then would be around 1,500 people added to our present voting strength. It would seem to me that would not be an inducement for the politicians to invade the schools any more than he does at the present time, any more than he seeks votes any place else.

PRESIDENT EGAN: If there is no further discussion, then, the question is, "Shall the proposed amendment as offered by Mr. Fischer, Mr. Sundborg, and Mr. Victor Rivers be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 23 - Buckalew, Coghill, Cross, Emberg, V. Fischer, Harris, Hilscher, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Stewart, Sundborg, VanderLeest, Mr. President.

Nays: 30 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Davis, Doogan, Gray, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Londborg, McNealy, Metcalf, Nolan, Nordale, Reader, Robertson, Rosswog, Sweeney, Taylor, Walsh, White, Wien.

Absent: 2 - H. Fischer, Smith.)

LONDBORG: My name was not called. My vote will be "no".

CHIEF CLERK: "No". I am sorry. 23 yeas, 30 nays and 2 absent.

PRESIDENT EGAN: SO the proposed amendment has failed of adoption. Mr. McNees?

MCNEES: Mr. President, I have an amendment for Section No. 1.

PRESIDENT EGAN: Mr. McNees has a proposed amendment for Section No. 1.

GRAY: Mr. Chairman, I have the same proposal.

COGHILL: So have I.

PRESIDENT EGAN: Is it all right to put everyone's name on this, Mr. McNees?

MCNEES: Yes.

CHIEF CLERK: "Section 1, line 2, delete the figure '20' and insert the figure '19'."

PRESIDENT EGAN: Mr. Londborg.

LONDBORG; Mr. President, may I rise to a point of information? What is our rule on the mover of the motion getting the last word? That is the rule, is it not?

PRESIDENT EGAN: That is right, Mr. Londborg.

LONDBORG: Is that in the singular or the plural, the mover?

PRESIDENT EGAN: Of course, in the case where there were several authors of the particular motion the Chair would hold that, in effect, they were just one-third of each and that they should be allowed the privilege of having some say if they so desired, If they were the author of the proposed amendment.

LONDBORG: I realize that is the technicality there. In other words, if I want to make a motion I get five coauthors then we five can wind up debate then?

PRESIDENT EGAN: That is if no one moves the previous question and they shut you off from debate.

COGHILL: Mr. President, I move and ask unanimous consent for my other two coauthors that this amendment be adopted.

PRESIDENT EGAN: Is there any objection from these people who have offered this amendment that other names be put on this amendment? The Chief Clerk will please read the proposed amendment and who the authors are.

CHIEF CLERK: Offered by Mr. McNees, Mr. Gray, and Mr. Coghill. "Line 2, Section 1, delete the figure '20' and insert the figure '19'."

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

SUNDBORG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following re-sult:

Yeas: 28 - Buckalew, Coghill, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, VanderLeest, Mr. President.

Nays: 24 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Doogan, Hellenthal, Hermann, Hinckel, Johnson, King, Knight, Laws, Londborg, Metcalf, Nolan, Poulsen, Reader, Robertson, Sweeney, Taylor, Walsh, White, Wien.

Absent: 3 - H. Fischer, McNealy, Smith.)

PRESIDENT EGAN: Mr. McNealy was called but he was not here when the question was put. The Chief Clerk may proceed.

CHIEF CLERK: 28 yeas, 24 nays and 3 absent.

PRESIDENT EGAN: So the yeas have it and the proposed amendment has been adopted. Are there other amendments to Section 1?

ROBERTSON: I have one on the Chief Clerk's desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment to Section 1.

CHIEF CLERK: There are three amendments to raise the age to 21. Those are to be thrown out then?

R. RIVERS: I was about to say right early in the game I favored either 18 or 21 but not the 20, so I did introduce one to change it to 21.

PRESIDENT EGAN: Is that Mr. Ralph Rivers' amendment?

CHIEF CLERK: Mr. White and Mr. Robertson, also. They are all the same.

R. RIVERS: I voted for 19 so I wish to withdraw my amendment.

PRESIDENT EGAN: Mr. Ralph Rivers asks that his amendment be withdrawn. Mr. Coghill?

COGHILL: Mr. President, is it my understanding there is an amendment for 21 now? We would have to rescind our action then.

PRESIDENT EGAN: No, we wouldn't have to rescind our action, Mr. Coghill.

CHIEF CLERK: Well, it's not right when it says to strike the number "20" through.

PRESIDENT EGAN: Now, of course, anyone who would offer an amendment to make it 21 would have to strike the word "19" because we have adopted the age of 19. Mrs. Sweeney?

SWEENEY: Were those amendments on the Secretary's desk before we got this last one? It seems to me that the amendments ought to be taken in the order they were received on the Secretary's desk.

PRESIDENT EGAN: Of course Mrs. Sweeney, the Chair will agree with you, but inasmuch as the delegates moved around rather quickly and got their amendments up there, it caused a little state of confusion up here. The Chair would admonish the delegates not to push in their amendments too fast.

SWEENEY: I don't think there should be that confusion. They

should be put on the bottom of the stack when received in order.

PRESIDENT EGAN: You're right, Mrs. Sweeney. Mr. Robertson?

ROBERTSON: My proposed amendment was on the desk before the "19" amendment was offered by any one of the three delegates.

PRESIDENT EGAN: Is that correct?

CHIEF CLERK: Yes, it is.

PRESIDENT EGAN: Well, It's still in order, Mr. Robertson. Mr. Sundborg?

SUNDBORG: Point of order. I wonder If it is not correct and if the Chair would not rule that amendments are considered in the order in which the mover is recognized by the Chair and given the floor and the right to make the motion.

PRESIDENT EGAN: Mr. Sundborg, you are correct, but the Chair feels that Mrs. Sweeney is correct inasmuch as the Chair should have recognized the fact there were other amendments on the table. The reason that error was made was that there had been such a terrific amount of time between the time that these original amendments had been placed on the Secretary's desk that the Chair forgot that.

SUNDBORG: Were the persons who wrote out the amendments seeking recognition at that time?

PRESIDENT EGAN: No, they were not.

SUNDBORG: I think there is no doubt about it then that we acted correctly and in order in recognizing the person who got the floor.

PRESIDENT EGAN: We acted correctly inasmuch as the Chair recognized the maker of the proposed amendment, yes, Mrs. Sweeney?

SWEENEY: Mr. Chairman, I move and ask unanimous consent that we rescind our action on the 19-year-old vote we just took.

MCCUTCHEON: I object.

METCALF: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention rescind its action on the vote on the amendment that was just adopted. It will require a two-thirds vote of the delegates to accomplish that. Your point of information, Mr. Doogan.

DOOGAN: If this motion fails to rescind our action on the 19, then any other amendments such as substituting "21" would be out of order, is that correct?

PRESIDENT EGAN: No, that is not right, Mr. Doogan. Mr. McNees?

MCNEES: Mrs. Sweeney and Mr. Johnson, why was action not taken earlier to call attention to the amendments on the floor?

SWEENEY: It has always been my opinion that amendments on the Secretary's desk were read in the order received, and it does not necessarily mean that when action is taken on one that you have to have three or six people hopping up to get notice on their amendment. The next amendment would be called and then the person would move the adoption.

PRESIDENT EGAN: This discussion is out of order. It has already been taken care of, and we have the motion before us to rescind the action that we just took in changing the voting age from 20 to 19 years of age. The question is, "Shall the Convention rescind its action?" Mr. Kilcher.

KILCHER: Mr. Chairman, it is debatable, is it not?

PRESIDENT EGAN: Yes, it is debatable, Mr. Kilcher.

KILCHER: I suggest to the movers of the motion to raise the age to 21, that they abolish the action by amending it according to their new amendment.

PRESIDENT EGAN: Mr. Kilcher, we have the motion to rescind before us, and the question is, "Shall the Convention rescind its action just taken in changing the voting age in Section 1 from 20 years to read '19 years'?" The Chief Clerk will call the roll.

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

Yeas: 20 - Armstrong, Awes, Boswell, Cooper, Doogan, Hermann, Hinckel, Johnson, King, Knight, Laws, Londborg, McNealy, Metcalf, Nolan, Reader, Robertson, Sweeney, Taylor, Walsh.

Nays: 33 - Barr, Buckalew, Coghill, Collins, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 2 - H. Fischer, Smith.)

CHIEF CLERK: 20 yeas, 33 nays, 2 absent.

PRESIDENT EGAN: So the rescinding action has failed of passage. Mr. Robertson?

ROBERTSON: Mr. President, I have two proposed amendments to Article 1 on the table, and as I understand the ruling of the Chair, in one I said, "Section 1, line 2 delete the word '20'." I ask permission to change that from "delete the word '19' and insert the word '21'."

PRESIDENT EGAN: The Chief Clerk will delete the word "20" then and insert the word "19". Mr. White.

WHITE: Mr. President, if we are in the practice of combining similar motions, I would ask mine to be combined in a similar manner with Mr. Robertson's.

PRESIDENT EGAN: Mr. Robertson, what is your pleasure regarding this amendment? Do you move its adoption?

ROBERTSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Robertson moves adoption of his amendment. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 1, line 2, delete '19' and insert '21' in lieu thereof."

PRESIDENT EGAN: Mr. Robertson, do you agree to have Mr. White's name on there?

ROBERTSON: That is entirely agreeable to me.

TAYLOR: I want my name on there and ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor wants his name on there, too. Mr. Coghill.

COGHILL: I object. I would like to appeal the ruling of the Chair and ask for a five minute recess to bring before the Rules Committee the fact of changing the Intent of an amendment to an original motion.

PRESIDENT EGAN: Mr. Coghill, the Chair would like to state that the particular section read as it came to us, "20 years" on line 2, Section 1. There has been no amendment attempting to change that to the age of 21, this particular amendment before us now is an entirely different amendment than any other we have considered.

COGHILL: Maybe I'm a little confused, Mr. President, but attempt was made to rescind the action and the action failed and so therefore does it not prevail that that amendment – but I would like to have it stated clearly, we are in fact working on the adoption of Section 1 of our report, is that right?

PRESIDENT EGAN: That's right Mr. Coghill, the Chair believes that he realizes what you think and that is that the rescinding action precluded any further amendment. That is not true. The rescinding action had the affect of saying that the Convention would not rescind the action on that particular motion that had just been made, but it does not preclude offering another motion of a different category. Mr. Peratrovich.

PERATROVICH: I rise to a point of information. I was just wondering if it is in order to delete the amendment you have just adopted, the "19"?

PRESIDENT EGAN: It is in order Mr. Peratrovich, if the Convention so chooses.

PERATROVICH: I realize we do have the authority to amend an amendment but after it is adopted I question the propriety of deleting it after it has been adopted. Otherwise, we'll be here all day.

PRESIDENT EGAN: Well, if you change it to something other than has been proposed before, It is in order, the Chair will rule. Mr. Laws.

LAWS: Just for a little information, are we going to vote now on something that already is a law? It is the law to vote at 21. We are going to vote the same law we have right now?

PRESIDENT EGAN: Mr. Laws, you are correct inasmuch as it is the law of the Territory but it isn't the law of the new state yet. Mr. Barr.

BARR: I move that we recess until 9 o'clock tomorrow morning subject to notices of committee meetings.

COOPER: I object.

VANDERLEEST: I second the motion.

PRESIDENT EGAN: Mr. Barr moves, Mr. VanderLeest seconds, that the Convention adjourn until 9 o'clock tomorrow morning subject to notices of committee meetings. Are there reports of committees?

HELLENTHAL: I rise to a point of order. Subject to announcements of committee meetings -- should not the announcements

be taken after the vote?

PRESIDENT EGAN: After the vote, if the vote carries, we probably would not be able to catch them. If there are announcements of committee meetings they should be made right now. The question is, "Shall the Convention stand at recess until 9 a.m. tomorrow?" All those in favor say "aye", all opposed by saying "no". The "noes" have it and the Convention is still in session. Mr. Londborg.

LONDBORG: Mr. President, I move that we stand at recess for five minutes.

PRESIDENT EGAN: If there is no objection we will stand at recess for five minutes.

RECESS

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

JOHNSON: Mr. President, during the recess I ascertained that Mr. Robertson's motion, after the objection to the unanimous consent filed by Mr. Coghill, was not seconded. I now wish to second it.

PRESIDENT EGAN: Mr. Johnson seconds Mr. Robertson's motion to delete the word "19" and insert "21". Mr. Robertson.

ROBERTSON: Mr. President, after all the discussion I don't know that much can be added on my motion, which Mr. White joins me. I want to state that I think it is a great mistake to lower the standards of the exercise of the right of suffrage. I reiterate, in my opinion, it is the greatest privilege and right of the American people and instead of lowering the standards we ought to, if anything, consider raising the standards, and I hope sincerely the delegates will vote for my amendment.

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

WHITE: Mr. President, I don't want to hold this up too much longer. I think we have arrived at something that's neither "fish nor fowl". Naturally, I am still in favor of 21, I don't see what we can accomplish by making the age 19. I would like to see the issue clear cut. I still think one of the greatest difficulties in lowering it is that you create the discrepancy in the age of majority and the age of voting and that objection still remains whether it's 19 or some other age.

PRESIDENT EGAN: Will the Chief Clerk call the roll.

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

Yeas: 19 - Armstrong, Awes, Barr, Boswell, Collins, Doogan, Hinckel, Johnson, King, Knight, Laws, Londborg, Metcalf, Nolan, Reader, Robertson, Sweeney, Taylor, White.

Nays: 33 - Buckalew, Coghill, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, Walsh, Wien, Mr. President.

Absent: 3 - H. Fischer, Smith, VanderLeest.)

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

PRESIDENT EGAN: Reverend Armstrong asks that his vote be changed to "yes".

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

PRESIDENT EGAN: So the motion has failed for adoption. Mr. McNealy.

MCNEALY: I would like to give notice of reconsideration of my vote on it.

PRESIDENT EGAN: How did Mr. McNealy vote?

CHIEF CLERK: He voted "no".

PRESIDENT EGAN: Mr. McNealy serves notice of a reconsideration of his vote. Mr. Victor Rivers.

V. RIVERS: I move we adjourn until 9 o'clock tomorrow morning.

SWEENEY: Mr. Chairman, I asked for the floor before Mr. Rivers.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. Chairman, I would like to know if the reconsideration by Mr. McNealy precludes any further amendments? I have an amendment I wish to offer.

PRESIDENT EGAN: The notice of reconsideration would preclude the offering of any other amendments the Chair would feel. Mr. McCutcheon.

MCCUTCHEON: Mr. Chairman, I will move that the rules be suspended and that Mr. McNealy be given an opportunity for reconsideration of his vote at this time.

BUCKALEW: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that Mr. McNealy's reconsideration of his vote be taken at this time. Mr. Hurley.

HURLEY: Point of information. Is he considering his vote or is he going to ask we reconsider the whole question?

PRESIDENT EGAN: No, his vote on this particular proposed amendment that just failed, Mr. Hurley. It will take a two-thirds majority vote to carry Mr. McCutcheon's motion. Mr. Taylor.

TAYLOR: Mr. President, I believe that is a suspension of the rules and it takes a two-thirds vote to suspend them so as to make Mr. McNealy's motion come on for hearing now.

PRESIDENT EGAN: Yes, that is right.

WHITE: Parliamentary inquiry. If this suspension of the rules vote passes, does that preclude Mr. McNealy of again serving notice of reconsideration of vote on the question?

PRESIDENT EGAN: It does, there is but one reconsideration on a vote on a question. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until tomorrow morning at 9 o'clock.

ROBERTSON: I second the motion.

PRESIDENT EGAN: It has been moved and seconded -- Mr. Rosswog?

ROSSWOG: I would like to make a committee announcement.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Mr. Rosswog, you would like to make a committee announcement?

ROSSWOG: Yes, that is that the Local Government Committee No. XII will meet at 8:15 this evening in our committee room.

PRESIDENT EGAN: Mr. Rosswog announces a meeting of the Local Government Committee this evening at 8:15 in the committee room. The question is, "Shall the Convention stand adjourned until 9 a.m. tomorrow?" All those In favor of the adjourning the Convention will signify by saying "aye", all opposed by

saying "no". The "noes" have it and so the Convention will stay in session.

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chair had already announced the decision, before there was any roll call request.

V. FISCHER: I move to adjourn.

PERATROVICH: There has to be some other business taken care of before you can renew the motion.

PRESIDENT EGAN: Mr. Peratrovich, your point is well taken. The question is, "Shall the reconsideration of Mr. McNealy's motion be ordered at this time?" The Chief Clerk will call the roll on Mr. McNealy's motion to reconsider. Mr. McCutcheon asked that the reconsideration be ordered at this time.

JOHNSON: The question is a suspension of the rules?

PRESIDENT EGAN: That is right, to suspend the rules in order that Mr. McNealy's motion be taken up at this time.

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

Yeas: 20 - Awes, Buckalew, Coghill, Emberg, V. Fischer, Harris, Hilscher, Lee, McCutcheon, McNees, Marston, Nerland, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Stewart, Sundborg, Mr. President.

Nays: 32 - Armstrong, Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, Gray, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Nordale, Reader, Robertson, Rosswog, Sweeney, Taylor, Walsh, White, Wien-

Absent: 3 - H. Fischer, Smith, VanderLeest.)

CHIEF CLERK: 20 yeas, 32 nays and 3 absent.

PRESIDENT EGAN: So the motion has failed. Sundborg?

SUNDBORG: Mr. President, I wonder if I may be allowed to address an inquiry to the Chairman of the Committee on Suffrage with respect to the article before us.

PRESIDENT EGAN: You may proceed, Mr. Sundborg.

SUNDBORG: Mr. Hellenenthal, I am bothered by the final sentence of the section which says, "This section shall not apply to any citizen who legally voted at the general election of November 4, 1924." The section as it seems to me is one that permits persons to vote. The whole sentence preceding the one I have just read is one saying that persons who possess the following qualifications "shall be qualified to vote" and if we take this literally what that final sentence says that any person who shall have voted in the general election of November 4, 1924, shall not be qualified to vote. Was that the intention of the Committee?

HELLENTHAL: That isn't what it says. It says that "any citizen who legally voted at the general election of November 4, 1924" may vote. And as to that small class of people, we are following the rule that the United States Congress has had in effect since 1924, that if they were citizens, and secondly if they voted at that November 4, 1924 election, they shall continue to be entitled to vote, irrespective of any other qualifications set forth.

SUNDBORG: Well, I submit that that is not what your section says. What your sections says is that citizens who legally voted in 1924 shall not be qualified to vote. It says that this section does not apply to that and it is a section that permits people to vote. I think perhaps your intention was that no person who voted at this general election of November 4, 1924, shall be barred from voting by anything in this section. Was that your intention?

HELLENTHAL: That is correct.

SUNDBORG: Do you agree with me that you say exactly the opposite.

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, the Chair will declare a five-minute recess.

R. RIVERS: I move that we adjourn until 9:05 tomorrow morning.

BARR: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers moves that we adjourn until 9:05 tomorrow morning, seconded by Mr. Barr.

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following re-sult:

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

Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, Kilcher, King, Knight, Lee, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, White, Wien.

Nays: 12 - Buckalew, Coghill, Davis, Harris, Hurley, Laws, McCutcheon, McNealy, McNees, Peratrovich, Walsh, Mr. President.

Absent: 3 - H. Fischer, Smith, VanderLeest.)

CHIEF CLERK: 40 yeas, 12 nays and 3 absent.

PRESIDENT EGAN: And so the Convention stands adjourned until 9:05 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

December 13, 1955

THIRTY-SIXTH DAY

PRESIDENT EGAN: The Convention will come to order. The Reverend B. P. Wilson of the Assembly of God Church is with us and will give our daily invocation.

REVEREND WILSON: Our God and Heavenly Father, we thank Thee for Thy goodness to our land. We thank Thee for Thy blessing upon us and for Thy mercy towards its people. Thou hast said in Thy word, "that righteousness exalteth a nation but sin is a reproach to any people. Thou hast been gracious to us and shown mercy to us. Now we pray for Thy special grace and Thy special blessing upon the framers of this constitution as they labor with the problems that come before them and they need wisdom and grace from Thy hand. Thou hast promised in Thy Word that the meek will He guide in judgment, the meek will He teach His way and if any of you lack wisdom let him ask of God that giveth to all men liberally and upbraideth not and it shall be given him. Give that understanding and that wisdom that God only can impart so that this shall be a righteous document and will be pleasing and acceptable in the sight of God Almighty. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

PRESIDENT EGAN: The Chair would like to state Mr. Ralph Rivers has a sore throat and perhaps will be here later in the day.

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. White.

WHITE: Mr. President, the Committee to read the journal asks unanimous consent to delay the report until tomorrow.

PRESIDENT EGAN: If there is no objection the report of the Committee to read the journal will be delayed until tomorrow. The Chair would like to state at this time that in the event, in the course of offering amendments, that many delegates offer amendments from their desks and the Sergeant at Arms is called to pick them up and bring them to the desk of the Secretary, that there is hardly anything the Chair can do if another delegate rises, is recognized and offers another amendment. Just because the amendments have been offered to the Secretary does not preclude the right of any other delegate to get up

on the floor and be recognized and offer an amendment. The Chair cannot see how it would be possible to determine, when the Sergeant at Arms brings in a handful of amendments, which were handed to him first. Although, if no other amendments would be offered from the floor, if no other delegate rose and was recognized by the Chair, of course the Chair would ask if there are amendments on the Secretary's desk. But it should be up to the delegate to try to stay on top of his amendment that he has offered and attempt to get the floor and be recognized. The Chair feels that the delegates can recognize the difficulty there would be in the affairs of the Chair if he had to assume that other amendments were there and that someone rose from the delegation and offered a different amendment. It would be pretty hard to tell a delegate to sit down, that someone had just merely sent an amendment up to the Secretary's desk. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? Are there any motions or resolutions? Mr. Coghill?

COGHILL: Mr. President, after the fine display last night of two documentary films, I move and ask unanimous consent that the Secretary be instructed to write Mr. Whaley of the Alaska Visitors Association and Colonel Farrell of the Corps of Engineers, thanking them for the opportunity of the delegates to view these pictures and also a letter of appreciation to the Dean of Mines for the use of his building.

PRESIDENT EGAN: If there is no objection the letters will be written. Is there any other unfinished business? Mr. Barr?

BARR: Mr. President, I move and ask unanimous consent that our permanent Rule No. 38 be referred to the Rules Committee for study and interpretation. That is, the one saying the mover has the right to speak last on the subject. In view of the fact that the word "mover" is in the singular, I believe we should have a ruling on whether that includes one or more being able to speak last.

PRESIDENT EGAN: Mr. Barr, last night the President went through the rules, too and came to the very definite conclusion that if, as occurred here yesterday several people put their name on the same amendment that this rule would mean that the mover of the motion would be the last to speak and that regardless of whether there were four or five on the particular proposed amendment or motion. Would that answer your question?

BARR: That will.

PRESIDENT EGAN: When the question was brought up yesterday the Chair had not given enough thought to this particular

problem, but that will be the ruling of the Chair, that the actual mover of the motion, regardless of how many names are on a particular amendment or proposal.

BARR: I will withdraw my motion.

PRESIDENT EGAN: We are now back to Committee Proposal No. 1. Mr. Smith.

SMITH: Mr. President, I would like to announce that there will be a luncheon meeting of the Resources Committee, if that is in order at this time.

PRESIDENT EGAN: A luncheon meeting of the Resources Committee at 12:15.

SMITH: In the small anteroom in the cafeteria.

PRESIDENT EGAN: Mr. Smith announces he will have a luncheon meeting of his Committee. We have before us Committee Proposal No. 1. Mr. McNealy's motion to reconsider is before us at this time. Mr. McNealy.

MCNEALY: Mr. President, unless the Chair has called attention to it I feel obliged to move to have my vote of yesterday reconsidered at this time.

PRESIDENT EGAN: Mr. McNealy serves notice that his reconsideration be taken up at this time.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds the motion. The question is, "Shall the word or figure '19' be changed to read '21'?" The motion is debatable. Mr. Johnson.

JOHNSON: Mr. President, I have what is in the nature of a question to put to some of the legal beagles in the Convention regarding this proposal that is now before us -- that is regarding the motion to reconsider and the question of whether or not the figure "19" should be changed to "21". Since yesterday I had occasion to look at the United States Constitution and I think, as most of you will remember, the 14th Amendment provides, among other things, that, "The electors for the members of Congress shall be 21 years of age and male." Now the only other mentions on suffrage in the Federal Constitution that I was able to find are the 15th and 19th Amendments. The 15th Amendment, as you may recall, provides that, "There shall be no discrimination as to voting on account of race, creed or previous condition of servitude." There is no mention of age in that particular amendment. The next amendment that deals with suffrage is the 19th which gave the right to vote to women. This amendment likewise is silent on

the question of age. Therefore, it occurs to me that so far as the Federal Constitution is concerned and so far as voting for president and members of Congress, an elector must be at least 21 years of age. Now it was pointed out yesterday that many states in the Union have the age limit fixed at 21. I was unable to find any record of any state except Georgia that did not have the age limit at 21. However, I was told this morning that recently the State of Kentucky has reduced it. But the question that occurs to me is that suppose we reduce the age to 19 or anything less than 21, would these people still have the right to vote for president and for members of Congress from the State of Alaska as long as the Federal Constitution fixes that age at 21? I have not been able to find an answer to that question. However, it occurs to me and it seems to me one that is rather serious. The President of the United States, Mr. Eisenhower, in 1954 requested Congress to pass an amendment to the Federal Constitution reducing the age from 21 to 19. A bill amending the Federal Constitution was introduced and in the session of Congress then attending and it was defeated in the Senate by a vote of 34 to 24 on May 21, 1954. Now, what I wish to call attention to particularly is that apparently it was thought necessary that in order to change the voting age it would require an amendment to the Federal Constitution, so it seems to me that 21 years of age is fixed by our Federal Constitution. We have already adopted the Federal Constitution so far as it applies to Alaska, and it seems to me that if we are going to vote for president and for members of Congress in the State of Alaska we would still have to be 21 years of age. I simply raise this point because there is that question in my mind, and I don't know what the Congress will say if we go back there with a provision that voters may be less than 21 years of age.

RILEY: Point of order, Mr. President. Far be it from me to limit debate or suggest it, but I think we ought to be operating under a suspension because our own rules say that motion for reconsideration shall not be amendable or debatable. That is rule 33.

PRESIDENT EGAN: Mr. Riley, the Chair will have to take the advice of the Chairman of the Rules Committee. The Chair was just proceeding under the regular rule on reconsideration. Mr. Marston?

MARSTON: Mr. President, how are we going to delete this talk here?

PRESIDENT EGAN: The Chair will hold that the talk is out of order.

HURLEY: I will move and ask unanimous consent that the rules be suspended and the argument hold forth.

METCALF: I second the motion.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that the rules be suspended. Mr. Metcalf seconds the motion. Is there objection? If there is no objection, debate will be forthcoming. Mr. Hellenenthal.

HELLENTHAL: In answer to Mr. Johnson's statement, the matter of elections, of the presidential election, is governed by state law, and to state that the 14th Amendment prescribes the voting age is incorrect. The 14th Amendment does not prescribe the voting age for the states. I am quite familiar with this problem because during the war I was the soldier voting officer for the entire Pacific Ocean Area's Command, and at that time we arranged for the voting of some 300,000 soldiers stationed through the entire Pacific. Each soldier voted according to the laws of his particular state. The matter of suffrage is a state problem under the Federal Constitution and is not governed by the Federal Constitution. Now it is possible, according to some legal theories, that the Federal government could prescribe the age and other conditions of voting for the states. However, as Mr. Johnson stated, the Federal government has hesitated to assume that responsibility -- first, because it would be of questionable legality and second, it is primarily under our form of government a matter for each state to determine. Now to refresh your memory on the point, you will recall in the Constitution that electors are chosen by the states who in turn elect the president of the United States. This is a much criticized and clumsy provision of the Constitution. Now those electors don't even have to be elected by the people of the state. They could be chosen by a caucus of the state legislature. However, the state legislatures have hesitated to do this and generally they have resolved the matter by electing through the state but according to state laws, not according to anything in the 14th Amendment. Now I think that the confusion results from the fact that in the 14th Amendment, in dealing with an entirely different topic, not with the qualifications of voters, but dealing with another topic, the United States Constitution states "That should any state," this is a penal provision, "should any state deprive a man of the age of 21 of his vote," in other words, restrict it to people over 30 or people over 25, should that be done, then the basis of representation of that state in the Union shall be reduced in the proportion which the number of male citizens shall bear to the whole number of male citizens 21 years of age in the state. But that is an entirely different thing. That is a penal provision for restricting the ballot to those over 21 and it certainly would not apply where the state in the exercise of its true state function lowered the voting age to less than 21. So if you will bear those points in mind, that suffrage is a state concern under the United States Constitution, the 14th Amendment does not and cannot prescribe the voting age

for the states, that presidents are chosen by electors and not necessarily by the people of the state. Bearing those points in mind I think Mr. Johnson's objections can be answered.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. Chairman, I wonder if we could stand at ease for a moment to let this class into the gallery.

PRESIDENT EGAN: If there is no objection the Convention will sit at ease. (Class entered gallery.) The Convention will come to order. We have in the gallery this morning a portion of the junior class of the Fairbanks High School. We hope you will enjoy the progress of the Convention that you see here this morning. We have before us the reconsideration of Mr. McNealy's vote. Is there a further discussion? Mr. White.

WHITE: Mr. President, there may be some doubt on the question raised by Mr. Johnson, as Mr. Hellenthal points out. I think the fact remains that the United States Congress found it necessary to consider this question, considered it worthy of bringing it to a vote on May 21, 1954, in spite of some popular pressure towards lowering the voting age constitutionally, from 21 to 19, voted it down in the United States Senate by a vote of 34 to 24. That impresses me. It also impresses me that in that vote 38 senators appear to have been absent from the floor, which suggests to me what I felt all along, that this is a politically loaded question and that the vote on the subject tends to become difficult. I think we should consider very carefully before we lower the age.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Chairman, I might be wrong, but I thought that in the Hawaii Constitution that the voting age is 20. That is certainly different than 21, and I don't recall any questions raised about the voting age in Hawaii. That was not a legal question then. I think it becomes a legal question when it gets 19 for example. I don't think that this provision in the 14th Amendment even gives our vote a color of illegality. I think it is just a political question. In my opinion and I don't care what Congress did or how many senators voted on it, if what I learn in constitutional law is correct, and I hope that it is, the power of the state over election is residual. They have absolute control over it. It is left strictly to the states. Now what Congress was trying to do was trying to correct some of the abuse of some of the states to American citizens. It did not have anything to do with the voting age except I can see where at that time it would have looked rather ridiculous to put 18 in because you were certainly not depriving anybody 18 years old of the right to vote. No state had that provision.

GRAY: Mr. Chairman, I might call to Mr. White's attention that this body also voted down the 18-year-old and we compromised at 19. It may have happened that the extreme of 18 occurred to the Senate much like it did to this delegation.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, if you will allow me to speak further in opposition to lowering the age of 21, I realize I am not a pleasing speaker. That has not been my business as it has some of you other folks. I brought up the question yesterday of the minor's right of suing or being sued. As you know, that is my understanding of the law, that a person under 21 cannot be sued on contract. One of my objections to lowering the age to 21 is this - that possibly taxes may be incurred by the minor. According to this law he can't be sued by the state to recover the taxes. He will be put in the position of voting and sanctioning and voting for legislatures that will be spending public money, and yet the state could not sue him to collect taxes. Objection number two - I believe the insurance rates that are put out by the insurance companies are much higher for that segment of people under 25, especially for the insurance of driving cars. Now, why do insurance companies do that? My conclusion is that their judgment is not quite as mature as an adult who has been seasoned. Next objection - from my recollection of crime statistics, I believe your ratio of the appearance of crime appears higher in the lower age group which points out or brings out that judgment is not mature. That is all.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, there have been several references here in the course of the argument to the Hawaiian Constitution, including the one just made by Mr. Buckalew. I would like to know if the Hawaiian Constitution has ever been approved by Congress. If it has not I think it is a bad example to quote as proof that we are doing right because Hawaii did it. It is also my recollection that following the writing of the Hawaiian Constitution and its approval by the people, I think they called in a consultant who is shortly going to be a consultant of ours I hope, and he found so many things wrong with it that they have been very sorry they did not call him in before they wrote it. Now I don't know whether this is a case in point or not, but I think in view of the fact that we are being constantly cited to the Hawaiian Constitution, it is probably better to ascertain if it has been approved by Congress, and I don't believe it has.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I merely want to say that the Hawaiian Constitution has been approved by the House Committee and by a

Senate Committee.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, the several suggestions here by the delegates are somewhat confused by the question of voting rights and majority. Voting rights has nothing to do with the age of majority. As a matter of fact, in the Territory of Alaska a female reaches the age of majority as soon as she marries. I as an attorney have had occasion to go into court where I have had an 18-year-old wife, who because by virtue of her marriage had attained majority, and I made her a guardian for her 20 year old husband in order to accomplish something for her husband. The insistence that majority has something to do with voting rights is utter nonsense. Tomorrow the Territory of Alaska could determine that the age of majority for children is 16 years of age. The question of contract has nothing to do with the voting rights. Tomorrow you could reduce the age or you could make infants, that is, anyone under the age of 21 liable on their contract - from the year one. As a matter of fact we have somewhat changed the law that we are making now that parents are responsible for the torts they're in. Infants are responsible for their torts when they're under the age of 21. A question of emancipation comes in. There is no relationship between the age of majority, the right to contract or the right to avoid a contract and the right of election. The suggestion is made here that this has something to do with it. The germ is being placed in the mind that if you reduce the age to 18 or 19 or 20 that all the infants are going to dash into the saloons. It has nothing to do with the right to drink. Under the police powers of the Territory you can prohibit anyone up to the age 65 from drinking, and frankly, there are some members of this Convention who would like to do it. It has no relationship this question of what age you are as to the age you go into a saloon. Women over the age of 21 can be prohibited from certain types of work. It has nothing to do with their electoral rights. There is a suggestion here also that this question is loaded. It has been twice suggested that it is dangerous politically. I might point out to these people who are complaining about the dangerous political plans, that when they propose the Tennessee Plan they might keep the question of political dynamite well in mind. And when they say these things haven't been tried or that it has only been tried once, that it is no justification for our present action, they might keep in mind that what Tennessee did may not be good for Alaska either. When we talk in terms of political dynamite, we might as well remember that we do have an extra precedent, that the State of Georgia has reduced it to 18. It's right in its Constitution. It isn't fiction, it isn't theory, it is fact.

PRESIDENT EGAN: Mr. Marston has been trying to get to the floor. The Convention will be at ease while the stenotypist repairs

her machine.

RECESS

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

MARSTON: Mr. President, I thought all that could be said was said yesterday, but I have some new evidence right here locally, and I have been talked to, people take this very seriously. I have thought it through and I appreciate being talked to on this issue. I am not a worshiper of the old, and I think 21 years is a thing we seem to worship. There are some problems that will come up, but I think the gain is greater than the loss by far, and I have faith in the youth of America, and I am objecting this morning to this gerrymandering maneuvering to stop a decision made yesterday. I am not happy with it or my friends over there, and I am going forward to get the decision yesterday on the records if I can. I have faith in the youth of America, and when we finish high school with our children, most of them get no more schooling, and when they have finished if they are not ready to vote then it is our fault. The big majority will finish right here in high school, and I want to start them in then. I have faith in America and the youth of America and this school right here, I talked to them about this and they were not interested in it and they did not come to attention, and the opinion this morning is that 19 would satisfy the people right here in the College of Alaska, and I want to get that on the record. I have faith in the youth of America, and I am going to stick with the 19, and I hope the rest of the people do that.

PRESIDENT EGAN: Mr. Barr.

BARR: It has been brought up two or three times that Georgia allows 18-year-old citizens to vote, and that is brought up as if to point out that if they can do it, it is probably all right. I ask you -- does the State of Georgia allow Negroes over 21 years old to vote, and is that all right?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would just like to ask a question of Mr. Hellenthal, if I may. As a matter of fact, Mr. Hellenthal, do you know from your experience as voting officer in the army whether those between the ages of 18 and 21 from the State of Georgia were permitted to vote in the senatorial, congressional and electoral elections?

HELLENTHAL: To be perfectly frank, I have no recollection at that time, which was 1943, of Georgia even permitting those under 21 to vote. I just have no recollection of it. They

may have done it and they may not have done it, but I am convinced had they done it they would not have been denied the ballot. They would have been given the ballot in accordance with state law.

SUNDBORG: You know now then as Chairman of our Committee on Suffrage whether as a matter of the fact the votes which are cast by citizens of Georgia between the ages of 18 and 21 are counted in presidential and congressional elections?

HELLENTHAL: Definitely, they are counted.

METCALF: Mr. Chairman, may I ask Mr. McLaughlin a question for information?

PRESIDENT EGAN: If there is no objection, you may direct your question.

METCALF: Mr. McLaughlin, if the age limit is lowered from 21 to 19, can a male at the age of 19 be sued on contract in the courts for things that he purchased?

MCLAUGHLIN: Under our present law, no until they change that act of the Territory that says an infant is anyone under the age of 21 and can avoid his contracts and cannot be sued but the next session of the Legislature without further ado can say that all infants from the age of seven on, can be sued on their contract.

METCALF: I don't want to leave it to the next session of Legislature. I would like to have it settled now.

MCLAUGHLIN: It is settled now. For practical purposes an infant cannot be sued. If this were our constitution now, that is providing that they could vote at the age of 19 and we still had the same laws on the books in the Territory, it would mean that a man of 19 could vote, but as long as he was 21 under our Territorial law he could avoid his contract.

METCALF: He could spend money for the state and yet could avoid his taxes, is that right?

MCLAUGHLIN: An infant can be taxed. There is no relationship between taxes and contracts. They are two different things.

METCALF: They could not sue him under contract? Am I ignorant or stupid, tell me?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, there are others who would probably like to speak on this, and I will waive any right to speak last upon the subject. I think that Delegate White has most amply

covered the very heart of this subject as supported by Delegate Metcalf. I do want to point out one or two things in connection with statements of Mr. McLaughlin. Now, there has been a great deal of talk here in regard to the State of Georgia allowing voting at the age of 18. All I know is what I read in the papers and what I read in the papers does not make Georgia to me a proper precedent for us to follow. I am thinking here just a few days back in regard to Georgia and the University of Pittsburgh playing in the Orange Bowl and the objection coming from the governor that Pitt had a Negro on the team.

MCCUTCHEON: Point of order, Mr. President. I can't see where the matter of racial prejudice one way or the other affects this question.

MCNEALY: Mr. President, as long as they have referred to the State of Georgia in this connection, I see no reason why I can't make reference there.

PRESIDENT EGAN: The Chair will have to hold that the question of racial prejudice does not have any connection with this case. The reference to Georgia was made only to the showing that the State of Georgia has lowered their age limit. The debate will have to be confined to the question under discussion. Mr. Barr, your point of order.

BARR: Mr. President, I don't like to appeal the ruling of the Chair, but actually we were speaking on suffrage. That has to do not only with age limit but with different groups of people, and it seems to me that this should be brought out.

PRESIDENT EGAN: Mr. Barr, this act has nothing to do with denying anyone the right of suffrage over the particular age stated in the act. Mrs. Hermann.

HERMANN: Mr. President, I think I agree with Mr. Barr on that. Mr. McNealy has a right to compare Alaska with the State of Georgia as to its progressiveness, its general advancement, and its laws in general, since it has been cited here so many times as an example of one state having it.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe that Mrs. Hermann and Mr. Barr are entirely right in their stand. I think if we are holding up some particular state as a criterion of what we should do, I think the opponents of that argument can bring in the backwardness of that state, their desires to set aside the Constitution of the United States, in a pertinent and particular matter to show they are not a law-abiding state and they practice discrimination contrary to the laws of the United States and contrary to statutes we have. I think that should be shown here to

show that we should not take the statutes of the State of Georgia with much concern.

PRESIDENT EGAN: The Chair will leave the question up to a consideration of the Rules Committee. The Convention is at recess.

RECESS

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

RILEY: Mr. President, reporting for the Rules Committee on the matter referred to it before recess, the Committee wishes to inform the Chair that it finds Mr. McNealy's comment not to have been out of order.

PRESIDENT EGAN: The finding of the Rules Committee will be the ruling of the Chair. Mr. McNealy, you may proceed with your statement.

MCNEALY: Thank you, Mr. President. As stated before, the arguments of Mr. Metcalf impressed me a great deal, and I don't believe that this can be considered progress except progress in the wrong direction. Now I want to cover the points briefly on contracts, on the juries, and we might throw in saloons as we go along, but there is no question in my mind as an attorney that the fact for all legal purposes the age of majority is 21 years, and it is so written largely in the statute books and understood in common law. But the important thing, and I mentioned it yesterday and I wish to mention it more fully today, that if those between the ages of 19 and 21 are granted the right to vote, there is no question in my mind what will ultimately follow the granting of that right. Certainly at the first session of the Legislature, and if not at the first session certainly at subsequent sessions, it will take more than this and I speak not as a statesman but as a minor politician. At this moment, a very small segment of the voters between the age of 19 and 21 can go to any particular candidate for the house or candidate for the senate, and say we want a bill in granting us the right to contract. We have the right to vote and we feel we should be able to buy an automobile without our parents' name on it, we should be able to go down and buy a watch or diamond ring or fur coats, any luxury or anything we see fit, and we are bound by that contract. Now you are getting into a serious proposition there, fellow delegates. It runs back time beyond when the memory of man runneth not to the contrary that the age has been at 21 for the purposes of contract, and the reason is that it takes a little more mature judgment to enter into contracts and dealings. Why even those of us who are older get taken in many times on contracts. In fact, it is one of the things that keeps the attorneys busy, you might say. Now

then if this right is granted, political pressure is brought on, the respective senator or representative goes down to Juneau to the Legislature. He introduces a bill and the first step in this is he introduces a bill there to lower the contracting age of minors down to the age of 19 years. How many of those elected representatives and senators are going to vote against that because when it comes out in the paper, if they do vote against it, at the next election all those of 19 and 20 years of age are going to carry on a campaign against the party who voted against it, something that they felt they had a right to because they have the right to vote. That is the first step. The second step is they say that we have the right to vote then we have the right to serve on a jury. Speaking as a practicing attorney, I am not saying that by this that those between the ages of 19 and 21 are incompetent - far be it from that - but I am saying that some things take sound and mature judgment, judgment which often times is not gained until later years in life. And to sit on a jury deciding cases involving great amounts of money or cases involving the life or liberty -- had that been a good practice it seems to me that would have been a practice 100 or 200 years ago. The military here in which we are concerned very much within the Territory of Alaska, you talk to any of the higher echelons of the military who are attempting to protect those under the age of 21 in the armed services as an obligation that they owe to the parents of these children who come here from all the states in the Union. Certainly I cannot see where they should favor this type of thing which would open the doors to allowing the young people coming in from the other states to have rights in this state which they don't have in states at home. You add a problem to the military, and the military is with us, and we have to recognize it and get along with it whether we like it or whether we don't like it. I could go on talking a great deal of time, but practically everything has been said. There is little use of taking up more time in the Convention. I regret myself that the Committee bill setting the age at 20 was not accepted. Therefore, I am supporting this amendment for the age of 21 and again I want to close on just a little point of levity. In taking a small poll of three or four high school girls last night at very near this 18-year-old voting age, they studied the question over a little bit and then said to me, Well, possibly the girls should be allowed to vote at the age of 19 but we hardly think the boys should because they are not very mature at that age."

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to speak for the age of 21. I don't think that we as a body of 55 have any moral right to change the age of 21. I am sorry it was ever brought up at the Convention here. I am sorry that it was ever brought up by anybody politically. I think it has become a political football,

and I don't think that any political body can give it honest consideration. I think that the only way that a voting age or the age of majority or the privileges that are accorded people when they have in the past become 21 should be changed without a referendum vote. I think if we could take a referendum vote here of this body we would find they would leave it at 21. Since all of the people who are political timber have already spoken that that be the case, that they have it in the record for the young people that they might be soliciting that vote, but it is my opinion that we should return this to 21 and possibly put something in the constitution so that no political body can ever handle it, that it should be done on a referendum vote of the people if and when it is done.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe that the fellow delegates here at the Convention that are advocating this amendment to change from 19 to 21 have sure tried this morning to confuse the issue. They have brought in quite a few of the ramifications and we discussed this quite thoroughly yesterday. It is quite apparent that the delegates have no faith in their youth and in turn no faith in their educational system. It is going to be a pretty glum future for Alaska if we can't have faith in our educational system and our youth. I think a child that comes out of high school is well deserved to become a legal voter of our land. I think it has no connection with the bars, as Mr. McLaughlin pointed out. It is strictly a state of confusion. I see that in the legislature there are other pressure groups. Are you going to bar them too? The pressure groups of the 19-year-olds, according to our statistics, would only be three and one-half per cent of the voters of the new State of Alaska. I see through that argument quite well. The history of the country shows that the rights of individual people was in part from the first time the Constitution was written for the United States. We have progressed quite thoroughly through the years allowing the women to vote. Now we are trying in a new state and new future country of Alaska to lower the standards so as to give the young people, the people who want to come up to this country and settle, a chance to partake in their government.

PRESIDENT EGAN: Mrs. Wien.

WIEN: Mr. President, I would like to read two or three sentences from the manual prepared from Hawaii, which I think has a direct bearing on the subject. "In Russia today the age is 18. Great Britain, Canada, and the Union of South Africa have recently considered the lowering of the voting age below 21 but all three nations have rejected proposals for change." Then a little further, "During 1942-43 bills designed to reduce the voting age were introduced in 31 state legislatures, but only one state, the state of Georgia, lowered the minimum

age qualification to 18 years. The other 47 states continued to maintain the minimum age requirement for voting at 21." First, I would like to have us in a class, not with Russia or with one state of the Union but with the majority of the states of the United States and with such countries as Great Britain, Canada, and the Union of South Africa, rather than Russia. And, secondly, since we are going to ask Congress to become a state, they have to approve of our constitution. Since the voters of 47 states feel that 21 is the proper age and it is going to be their senators and representatives who have to look over our constitution and partly decide on that as a basis of whether we become a state or not, I feel sure that they might frown upon our lowering of the voting age. And, thirdly, I have the highest regard for the young people of today. Nothing irritates me more than to hear a reference to the delinquency of our youth because I feel it is a delinquency of the parents, not of the youth, and that they are the most wonderful youth that the world has ever known, but I don't feel that those youth are requesting that we lower the age even below 21. I was willing to go for 20 but the longer I go into this subject and the more I hear, the more firmly I believe that we should keep it at 21.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, Kentucky has also joined the ranks of Georgia in the lowering of the voting age to 18. I am not one of those that says we should not break precedent. If this nation had not broken precedent we would have never become a nation. I am also a firm believer in the fact that responsibility of action is most often achieved by the delegation of responsibility. I feel that our high school students of today, our 18-and 19-year-olds, are more qualified to vote than the 21-year-old was perhaps even a few years back when I was that age and I felt very much at the time that I could have voted and voted responsibly at that time. Our youth of today is better educated than it has ever been before. That goes for both young men and young women. I feel that also that these bugaboos that have been thrown at us constantly this morning, particularly this one with reference as to how Congress will respond in the event that Alaska comes up with a 19-year-old franchise age, I am not the least bit concerned about that, primarily for this reason, I know that there have been other constitutions referred back on maybe one point or two points only requesting a change. We will be judged by the over-all constitution we write and on no one particular point. I feel that if this body were to act in favor of granting the voting privilege to our 19-year-olds that a period of two or three or four to five years at the very most, and possibly as others have pointed out we will not achieve statehood prior to that time, but we will find that our actions probably will not be criticized even in our own eyes, and I think that this body will probably be the harshest critics in the years to come

of this constitution that we are here to write. I am going to hold with this 19-year-old age and I feel that if the body as a whole goes that way, and I am confident we are going to, that we will never regret it.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I would like to point out one thing. I spoke yesterday for the 18-year-old voting age, and I am today supporting the 19-year-old, not because Russia has 18 years voting age, not because Georgia has it or Kentucky. That makes no difference to me. I think those arguments are extraneous. The discrimination angle we have a nondiscrimination clause in the Russian constitution. Just because of that will we be for discrimination? Never. I think the important thing is what do we want, and as has been pointed out, the arguments for 21 have largely been based upon issues of doubt, "What will happen if? We know very well that our legislature can protect the people as well as anybody, and the point is -- if we feel that 19-year-old voting is right, let's vote for it.

PRESIDENT EGAN: Mr. Harris.

HARRIS: We spent considerable time discussing this yesterday and again today we have spent considerable time. I think everybody has had their say one way or another, so therefore, I move the previous question.

DAVIS: I second the motion.

PRESIDENT EGAN: Mr. Harris moves the previous question, seconded by Mr. Davis. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

MCLAUGHLIN: Mr. President, may I inquire -- are we voting on the previous question or are we voting as to whether we should have --

PRESIDENT EGAN: We are voting as to whether we should order the previous question.

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

Yeas: 27 - Awes, Barr, Coghill, Collins, Cross, Davis, H. Fischer, Harris, Hellenthal, Hilscher, Hinckel, Kilcher, King, Knight, McLaughlin, McNealy, Marston, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Rosswog, Stewart, Taylor, VanderLeest, Wien.

Nays: 27 - Armstrong, Boswell, Buckalew, Cooper, Doogan, Emberg, V. Fischer, Gray, Hermann, Hurley, Johnson, Laws, Lee, Londborg, McCutcheon, McNees, Metcalf, Reader, Riley, V. Rivers, Robertson, Smith, Sundborg, Sweeney, Walsh, White. Mr. President.

Absent: 1 - R. Rivers.)

SWEENEY: Mr. Chairman, I would like to change my vote from "yes" to "no".

BUCKALEW: Mr. President, I would like to change my vote from "yes" to "no".

PRESIDENT EGAN: Mrs. Sweeney and Mr. Buckalew change their vote from "yes" to "no".

CHIEF CLERK: 27 yeas, 27 nays and one absent.

PRESIDENT EGAN: So the question has failed of passage.

EMBERG: I would like to make a few remarks, I haven't so far. Many of them have been covered in the debate so far. Many of the objections toward establishing the age of 19 are based upon the idea that a lowering of the traditional age will dilute the quality of responsibility in the electorate, that it will change a traditional system that establishes an electorate that presumably is responsible in every sense, but how does this present system work? We are lucky if we get 50 per cent right now to turn out for an election in Alaska. So I don't feel that we should be too reluctant to change this traditional attitude. If we can get the young folks voting earlier, getting them in the habit of voting, then I am for letting them have the opportunity. I would also like to point out that this isn't a compulsory provision, that in effect it only extends suffrage to those who interest themselves in government and will inform themselves in politics and take the time and trouble to go and vote. That is the real test in my mind of political maturity, and I think if the youngsters of 19 and 20 meet that test, we should let them vote.

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

WHITE: Mr. President, I am sorry to prolong this but I don't feel our time is wasted. I'll be very brief. In answer to Mr. McLaughlin, I would like to say that I for one never once in this debate have maintained that those other things would automatically follow the lowering of voting age to 18, 19, or any other age with the possible exception of serving on juries. I heartily subscribe to Mr. McNealy's remarks that to be logical you are of necessity going to lower the age for these things to coincide with the age of voting. I see no

escape from the logic to that argument. In answer to something Mr. Gray said, I would like to point out that I for one do not believe that the 19-year-old vote represents a true opinion of this body. I think it is a fluke for the way the voting went, and I think it should be either 18 or 21. I have deliberately refrained from bringing up Georgia or Kentucky before, but since they have been brought up again and again, I would merely like to remark that I see nothing in the internal politics of those two states that should recommend them to our attention in this matter. In closing, the only other thing I would like to repeat is that although the Territorial Legislature on a previous occasion voted to ask Congress to lower the Territory voting age to 18, Congress turned it down or did not act on it, and I think we must consider the fact that on the vote in Congress of May 21, 1954, 38 statesmen in the United States Senate saw fit to absent themselves from the floor on this very important question, and even so it failed by a vote of 34 to 24. I think that should suggest something to us.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, may I make one more brief remark? Mr. Coghill asked a question of those who oppose the 19-year-old restriction. He asked the question, "Have we no faith in our educational system?" And I would like to point out to the body, while Fairbanks and cities here in Alaska have certainly wonderful schools but out in the outlying precincts, way out beyond the cities where there are only 12 children or less. the ANS doesn't provide any schools whatsoever, so I show that in rebuttal to his question.

ROBERTSON: Mr. Chairman, I would like to challenge the suggestion made by several of the previous speakers that those of us who are in favor of 21 years thereby evince a lack of faith in our children. I submit that we have just as much faith in our children as those who want to reduce the age to 19. It is only a question of maturity of judgment, and I submit that all of us become more mature in judgment as we reach older years and get out of the teen age.

V. RIVERS: I spoke on this subject yesterday and I had not intended to say anything today but I did want to add this fact for the information of the Convention. In discussing this matter with a lady from Anchorage yesterday after the ballot, she advised me that in the League of Women Voters, a nonpartisan organization, they had taken a poll as to whether or not they desired a lowering of the voting age. In that particular meeting of 16 people present, 15 of them voted for lowering the voting age and showed a preference for the age of 18. I merely wanted that to be before the body.

MCCUTCHEON: I feel impelled to speak against this particular

amendment. I predicate my remarks on the fact that there is a great deal that has been said on the floor with regard to the judgment of the youth and the judgment of those deemed to be older than 21. It is assumed that after 21 the people of Alaska are able to choose their legislators and other elected officials, and they predicate this matter on judgment. I submit that the elections are not based on judgment, that they are based on prejudice and passion of the times and certainly the youth of the school age or subsequent to that time would view this matter with a good deal more cynical attitude than some of the oldsters would.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: May we be at ease again so the class can come in? Oh, they are not coming in.

PRESIDENT EGAN: Mr. Londborg?

LONDBORG: Reference has been made quite often basing on, "What will happen if?" I think there is something that is going to happen if we lower this voting age. Mr. McLaughlin brought in something very interesting about a minor boy that had to have his wife for legal guardian. That is something I hadn't thought about, but I see where it is entirely possible according to the present setup. I think it is going to make a boy like that feel rather odd if he has the right to go and vote and then still has his wife for legal guardian. I am sure that the age of majority will have to be lowered. It is not a matter of what will happen if but I think it is going to happen. Certainly if they have the vote right that age is going to be lowered, probably down to include all over 18. Then as the girls mature biologically earlier, they will be lowered to 15 or 16. That's just one thing. This matter of jury duty I think is a serious thing. It is not a matter of whether you have a right to vote or not, but you will have the right to serve on the jury. I don't think you can legislate against them. That would be discrimination. They are part of the ones that elect the legislators to come and certainly the age for serving on jury duty will go along with the voting age, and I am sure that they will be allowed to be on the jury. Of course, the argument can be that they have mature judgment at that age. I think they have good judgment at that age but I think that judgment could be improved on by a few years of experience in the world. We have heard a lot that the youth of today are better educated. They might be as far as book knowledge is concerned but if they are so well educated at the end of high school, why do we have colleges?. Evidently the complicated world that we live in today demands a college education, and I think the complexities of the world today demand even more maturity in voting than they did years ago, and I don't think that lowering the voting age is going to bring in a great deal more maturity. I think we are going to

lose as far as that is concerned. I think the suggestion that was brought up awhile ago that this should be brought up to a referendum vote, it would be a fair one to all Alaskans where they could vote their convictions in secret ballot rather than have us put it on as a rider in the constitution, a rider that can very possibly defeat our constitution on referendum or approval.

METCALF: I move the previous question.

V. FISCHER: I would just like to reply briefly to one of the statements made. I do not believe that leaving the voting age at 19, as has been voted so far by this body, would mean that jurors would have to be 19 years of age. We approved yesterday a provision that anyone may vote who is able to read or speak the English language. Does that mean that the legislature would authorize just blanket selection of jurors even if they can't read, if they can't write, if they can't understand some basic principles and then sit on estate cases and all sort of jury cases. I think that is the kind of extraneous matter that has been brought in. The thing is if the legislature feels that this voting age is too young for jurors they can add additional qualifications. Another thing brought in was this business of ratification by Congress. I don't know how many of you have read the debates on the floor of Congress on the Alaska - Hawaii statehood bill. I think if you read them you will find that not one objection was made to the provisions of the Hawaiian Constitution -- any provisions -- all the provisions were brought out as examples of an excellent constitution. The lowering of the voting age was one of those. I think we should concentrate on the merits of this and let's vote on the merits of 19-year-olds' voting and 21-year-olds' voting.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, inasmuch as remarks were made on something I had said, I would like to just add this. I am very, very happy that you brought in the fact about the voters serving on jury duty. Again I say I don't think we will be able to discriminate against anyone allowed to vote and not be allowed to serve on jury. Let us say it is possible to prevent it by law, by writing in some kind of rider that they have to read, speak and write and a few other things, but I would like to know how the legislators are going to work out some kind of a system whereby they are going to go out and fairly examine all of these people like that when it comes time to serve on jury duty. As it is now, our law is not as strict as it should be along that line, and very often we find that someone may write a letter asking that her husband be excused from jury duty because he can't read and write. I think the laws that we have right now aren't enforced as much as they should be and to lower it by dropping the age bracket and all

of that is not going to solve the problem at all.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, in reference to Committee Proposal No. 1, Section 1, line 2, "Shall the voting age of 19 years be deleted and the voting age of 21 years be inserted in lieu thereof?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 23 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Doogan, Hinckel, Johnson, King, Knight Laws, Londborg, McNealy, Metcalf, Nolan, Reader, Robertson, Sweeney, Taylor, Walsh, White, Wien.

Nays: 31 - Buckalew, Coghill, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, VanderLeest, Mr. President.

Absent: 1 - R. Rivers.)

CHIEF CLERK: 23 yeas, 31 nays and 1 absent.

PRESIDENT EGAN: So the motion has failed of adoption.

PRESIDENT EGAN: Mr. Riley

RILEY: Mr. President, I ask unanimous consent for a two minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order.

COOPER: Mr. President, inasmuch as there is nothing on the floor at this time --

PRESIDENT EGAN: We have before us Section No. 1 of the proposal.

COOPER: I would like to ask for the floor on a point of personal privilege.

PRESIDENT EGAN: If there is no objection. Mr. Cooper asks the floor under the point of personal privilege.

(Mr. Cooper spoke under the point of personal privilege.)

PRESIDENT EGAN: Often times a delegate, yourself or others, might rise and request the privilege to ask a question, question of a member. Now the Chair has not been considering that as using up one of his allocated times on the floor. Now that happened many times here this morning. And the Chair will agree with you that people should remember that they only have two times allowed on the floor on any question.

COOPER: I bring this up because of the moving of the previous question which the other day we were reprimanded, the Convention as a whole, and I think justly so far acting hastily, but if the arguments were prepared and presented within the scope of Rule 38 I believe it would be far more educational and advantageous to expediting the business at hand.

PRESIDENT EGAN: Well Mr. Cooper, the Chair would not say that the delegates had been reprimanded, but it was the feeling of the Chair in that discussion by one delegate that it was just being brought to the attention of all the delegates what the previous question meant. It meant the shutting off of all debate. Mr. Robertson?

ROBERTSON: I have an amendment to Proposal No. 1, Section 1, line 9. Delete "or" and insert "and".

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

ROBERTSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Robertson moves that his proposed amendment be adopted. On line 9 delete the word "or" and insert the word "and". Is there a second to the motion?

METCALF: I second the motion.

PRESIDENT EGAN: Mr. Metcalf seconds the motion. Mr. Robertson?

ROBERTSON: Mr. President, my thought is yesterday by refusing to adopt Mr. Johnson's proposal, that we pretty well lowered the standards of education or qualifications as an elector and that the delegates seemed to press down or emphasize considerably the thought that many people could not write but they listen to the radio and listen to campaign talks so they are well informed on the subject. Now it seems to me that if that is true they ought to also have the qualifications of being able

to read and speak the English language and not just read "or" speak the English language. So that is the thought of my proposed amendment.

PRESIDENT EGAN: Is there other discussion? If not, the question is, "Shall Mr. Robertson's proposed amendment be adopted?" Mr. Marston.

MARSTON: Mr. Chairman, did we not pass on this one time?

PRESIDENT EGAN: The Chair does not recall that that particular amendment had ever been made, Mr. Marston. If such an amendment had been made, the Chair would stand corrected. It is the remembrance of the Chair that there never was such an amendment before us.

MARSTON: May I speak on it? I have got to. We are building citizens of the United States of America and particularly the State of Alaska, and we want them all. It is a hard time getting them to vote. We have a lot of people out in the Bering Sea and at the Arctic coast and up the great rivers that have lived here since time was, and they are great men and great women, and if this amendment passes we blot them out. They do not belong to the stars and stripes any more in their mind. If you tell a man who has been voting on problems and a part of us and you isolate him he is not for us. I am absolutely against this amendment in any way shape or form you put it through. The "read or write" was put in by a great statesman from Southeastern Alaska to save a lot of great people who live here. I am unalterably opposed to this amendment. I wish some others would speak on this. I wish the great statesman of Southeastern Alaska would talk on it who put the "read or write" in there. I am against this amendment.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: First, before I start, I want to thank Mr. Marston for his reference to me. I am very anxious, just like a good many of you are here, to do what is right, and I do feel in my presentation yesterday that I covered the subject thoroughly, that is as far as my knowledge goes. I can see the disadvantage it is going to create to a certain group of people, perhaps not only the Natives. I can refer to some from your side of the fence right down in our area with the same proposition. There are few in number, but yet there is such a condition existing, and I cannot help but think of that type of citizen. Whether I am wrong, I still maintain that in writing this constitution we should think of such a group within our area, within our country. It is true that those of you perhaps that live in larger communities have had the advantages of civilization which lacks in the outlying and fringe areas. However, I don't think that should be a factor in determining what to put in your constitution. I maintain that when political issues

arise, anything that is going to be beneficial to our country as a whole, if it is advertised or brought to the attention of these types of people that I am trying to protect, they understand just what it is all about. They are not going to vote against any issue that they feel is going to be detrimental to the country. They are not going to vote on any issue they do not understand. I think Mr. Robertson will bear me out in the First Division. He ran for office, he has gone to the villages, and I don't think that after he got through talking to these individuals that they did not know what he was talking about. They knew, that's the way they are. I don't know what the condition is up here. I have high respect for Mr. Marston, and I feel that what he says is perhaps is the actual condition that is existing up here. Therefore, I am for that also. I don't feel that the fact that these people are going to be swayed by some politician coming to town and voting should be a major factor, and I have never seen any such conditions existing anywhere, and if it is up here then I think there should be some way of remedying that. I am going to have to vote against this amendment and to be consistent, I will support my views.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I think that the voting record of Alaska in previous years will bear Mr. Peratrovich's argument out, that in the large cities and the large election districts, that you will find that a very small percentage go to the polls and vote on election day. You take the villages. You find that if there are 80 people eligible to vote, there will be 80 votes cast in that village. They are very proud of their heritage to take part in the government. I might bring out the thought that was placed in the White House Conference on Education for Alaska. It was spelled out straight that in one section here, it says, "Second was the idea of more parent participation in education in the school system. This was brought about more emphatically by the Native and Eskimo villages as the teachers in these areas are faced with the problem of teaching first and second generation children. These aborigines know that their aged tradition and forms of economy are being engulfed by our modern way of life in which to learn these ways so as to live a free and healthy life among us. Thus they have emphasized night adult classes." That came right from the small villages. That was not put in this report by any one of us that participated in it. We took and sent out questionnaires and got that. They are interested in government, they are interested in the new way of life and in order for them to obtain anything they must participate, and if you are going to shut them off, why that will set that area back probably 20 years until your generations that are being educated now obtain an understanding.

PRESIDENT EGAN: Mr. Smith.

SMITH: I merely want to reiterate what Mr. Peratrovich has said and add that I have had the privilege of knowing a good many people who were not able to read, yet had a thorough knowledge of affairs of the Territory. They had an instinctive knowledge of the right and wrong of issues and for that reason and a good many other reasons, I must oppose the amendment.

PRESIDENT EGAN: Mr. B. D. Stewart.

STEWART: I just merely want to argue further, because I think Mr. Peratrovich and Mr. Marston have very well covered the ground, but from my experience in Southeastern Alaska and in the Eskimo country I have found that individuals that would be allowed to vote under this provision as it stands, are perfectly capable of passing judgments on issues, and I would support the idea that it be left just as it is.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, it seems to me that by the very nature of the mechanics of voting, regardless of whether they are intelligent, informed, the very nature of the mechanics by which we set up our means of voting, which is by the written word, that they must be able to read what that written word is. It seems to me that no matter how they would be prepared, if they could not read, how could they vote intelligently? No matter how intelligent they are, if they don't know how to read, they can't tell what they are voting for. It seems to be basic that they might be entirely well informed, be very intelligent and practical in handling their affairs but they could not carry out the mechanics of actually voting their wishes unless they were able to read what the ballot said.

PRESIDENT EGAN: Mr. Marston?

MARSTON: During the war when the enemy submarines were in the Bering Sea, I went to those people representing the United armed forces and asked them to join the colors. Thirty seven hundred men joined the colors with enemy submarines in the Bering Sea. Not one man ever refused to join the colors while the war was on, and 3700 joined, and I could not and nobody could turn down a loyal patriotic group of men like that who were our frontier men, armed and stood between us and the enemy during that time. They picked up 27 Jap balloons, they had weekly drill, and they built 21 armories without pay, and they received no pay as the Alaska Territorial Guard. They are loyal, patriotic, and we cannot turn them down.

V. RIVERS: I would like to ask how many of the 3700 could read a name, Mr. Marston?

MARSTON: The first man I swore in came in from the Kuskokwim

off the Bering Sea and I told him that Uncle Sam wanted him to join with us together and fight the common enemy. They said they would be happy to be Uncle Sam's man and I said I was ready to sign them up and here a man stood before me, a solid citizen, five feet tall and four feet broad with his parka on and I said, "How old are you?" He said, "I don't know. I old enough and not too old. What you want done?"

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: One thing that is very, very interesting here is that they are arguing that it should be left as is because we would be discriminating if we support the amendment. Now as I read line 9, we are discriminating right now. It says that they at least have to read or speak, they can choose which they will, so what does it mean to speak? Saying hello? We have not defined it at all. If they have one word of English then they can speak, so I would say then that we have our standard down pretty low as far as that is concerned. Would speaking alone be such a great virtue that we could allow just voting on that alone? I think it should be as we have it in the Session Laws of Alaska right now, where I believe there is a "read and write" clause in it -- not just speak or read, whichever they may choose. I would like to call your attention to another thing that we have mentioned before. There is going to have to be some very clever manipulating of the laws to provide a way of selecting juries if we divert from the present law as far as qualifications for voting. I think we ought to give that due consideration. I don't think that our answer is lowering the voting standards but bringing the people up to the standards so they can vote intelligently. Reference was made to our excellent school system. I have here a report from the Alaska Native Service where there are 1592 children still without a school. That is something for us to think about also. We of Alaska have a job to do, not lowering voting standards but bringing the people up to the standards.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: One thing I want to remark to Delegate Londborg. I think he is worrying unnecessarily about jury duty. I mean if he has ever watched a civil or criminal trial, there is such a thing known as a more dere in which both counsel and court have unlimited opportunity at examination. There is such a thing as challenges and if any juror is not capable of understanding or following the evidence he is dismissed so there would be more tests for jury duty than there would be for voting. If it was a highly technical case it would be up to the counsel and the court. I think that both counsel and court could certainly protect the public or the plaintiffs or the defendant in any particular given matter.

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

PRESIDENT EGAN: Mr. Londborg, if there is no objection.

LONDBORG: I am not particularly worried about it. I just say there is going to have to be some way to do it. I don't know if we can discriminate against them and say they cannot at least be summoned for jury duty. I wonder if everyone is aware of the fact that to summon someone for jury duty from Hooper Bay to Nome for a while costs round trip about \$230 and it makes a nice trip to go to Nome for awhile and then be refused for jury duty. You add that up a few times and you have a great state bill just getting people eliminated from jury duty.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: One of the delegates in arguing against my proposed amendment apparently misread the article itself because it won't be "read and write". It will be "read and speak" if my amendment is adopted. I am like Delegate Victor Rivers. I can't see how a person can intelligently vote by secret ballot if he is not able to read. I think to read and speak the English language is the very minimum of qualifications. We are not challenging the loyalty of the Eskimo or the Indians or anyone else. We are simply trying to put something into our law so a person can intelligently vote the secret ballot.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: There are two points I wish to bring out, and reference has been made many times to the wonderful educational system that we have here in Alaska. If that is true we should have no objection and no worry about adopting Mr. Robertson's amendment, if that is true. Point number two, when we get our constitution bill constructed there will no doubt be provision for the initiative and referendum which we have had very little of that under our Territorial setup such as they have had in the states. Many of those initiative and referendum measures are going to be measures covering half a page in length, and therefore a person, in order to vote intelligently is going to have to be able to read.

PRESIDENT EGAN: Mr. Cross.

CROSS: There is one question that has been brought up I think honestly stating that it is necessary for a voter to read in order to vote. I would like to state that I have seen a great many voters turned down by reading tests when they were perfectly able to read a ballot and know who they were voting for.

RESIDENT EGAN: Mrs. Nordale.

NORDALE: Is there not a provision in the law that allows the election board to cast a ballot for a blind person? I am quite sure there is. I don't see any reason why an election board could not also assist a person who couldn't read but who could speak and very definitely make his wishes known in casting his vote.

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

JOHNSON: I request a roll call.

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

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

Yeas: 18 - Armstrong, Barr, Collins, Cooper, Hinckel, Hurley, Johnson, Laws, Londborg, Metcalf, Nerland, Reader, V. Rivers, Robertson, Sweeney, Taylor, Walsh, Mr. President.

Nays: 36 - Awes, Boswell, Buckalew, Coghill, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nolan, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Smith, Stewart, Sundborg, VanderLeest, White, Wien.

Absent: 1 - R. Rivers.)

CHIEF CLERK: 18 yeas, 36 nays and 1 absent.

PRESIDENT EGAN: The "noes" have it and so the amendment has failed. Mrs. Hermann.

HERMANN: At this time I wish to make a motion that the Committee Proposal No. 1 be referred to the committee for specific amendment, the committee that produced it, for specific amendment.

SWEENEY: I second the motion.

PRESIDENT EGAN: Do you have a specific amendment that you want to offer to the body?

HERMANN: No, Mr. President. I will speak on the subject now that it has been seconded.

PRESIDENT EGAN: If there is no objection.

TAYLOR: Mr. Speaker, I rise to a point of order. I think that

the specific amendment must be placed in the Clerk's hand at the time they make the motion and before returning it.

HERMANN: I am going to make that, I'm going to tell what it is right now.

TAYLOR: I have a motion here, an amendment that I would like to move to have considered.

PRESIDENT EGAN: Mrs. Hermann has the floor, Mr. Taylor, she still has it. She has made that motion and it has been seconded and she can state what her specific amendment is.

HERMANN: I will state what my reasons are so the body will know what I am thinking about and then if they want to turn me down, they certainly have the privilege. I think this whole thing from beginning to end is a matter that should be for the consideration of the legislature. and if I had come here, I came here with one specific pledge, and made that to myself and nobody else, and that was that I would stand up and oppose every single proposal, every single article for the constitution that properly was the function of the legislative body to ordain and that is exactly why I want to put this back in specific amendment now for.

TAYLOR: Will you yield for a moment?

HERMANN: For one moment only.

TAYLOR: That is my amendment that I have offered. I am going to make a motion to adopt it. That is to reduce that down to one paragraph that the legislature may provide by law for the qualifications and age of electors.

HERMANN: Well, for the whole section is what I want. I will withdraw with the consent of my second and let Mr. Taylor present his motion.

PRESIDENT EGAN: Mrs. Hermann asks unanimous consent that her proposed motion be withdrawn.

SWEENEY: As second, I want to be sure if it is not just exactly what Mrs. Hermann has in mind that she be privileged to enter her motion again.

PRESIDENT EGAN: Is that the understanding, Mr. Taylor?

TAYLOR: That is right. I move that my amendment submitted this morning in the hands of the Clerk providing that this be placed in the hands of the legislature be read and move its adoption.

PRESIDENT EGAN: If there is no objection the Convention will

will stand at recess for two minutes. The Convention is at recess.

RECESS

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

RILEY: Mr. President, I know of several committees that are pretty well in a bind and have been all week because of their not being able to keep their commitments. We have visitors from out of town and so far have not appeared before the committees and for that reason I ask that we recess until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the Convention stand at recess until 1:30 p.m. Is there objection?

MCCUTCHEON: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

COGHILL: I second the motion.

PRESIDENT EGAN: Mr. Coghill seconds the motion. The question is, "Shall the Convention stand at recess until 1:30 p.m.?" Mr. Coghill, did you have a committee announcement?

COGHILL: Pending the outcome of the recess the Administration Committee will meet immediately following, upstairs.

PRESIDENT EGAN: Miss Awes?

AWES: If we recess, the Bill of Rights Committee will meet immediately upon adjournment.

PRESIDENT EGAN: The Bill of Rights Committee will meet immediately upon adjournment. Are there other committee announcements? Mr. Rosswog?

ROSSWOG: The Local Government Committee, all members that can attend, will meet immediately after recess.

PRESIDENT EGAN: Mr. Smith?

SMITH: Mr. President, I don't know whether it is in order to simply make committee announcements or to go into the need for time for committee meetings, is that proper at this time?

PRESIDENT EGAN: Mr. Smith, it would be really in order just to make your committee announcements.

SMITH: I will bring it up later.

PRESIDENT EGAN: Mr. Cross?

CROSS: I would like to announce a brief meeting of the Resolutions and Recommendations Committee immediately following the recess.

PRESIDENT EGAN: Mr. Nerland?

NERLAND: The Finance Committee will huddle immediately following the recess.

PRESIDENT EGAN: Mr. Victor Rivers?

V. RIVERS: If there is a recess the Executive Committee will meet at 11:30.

PRESIDENT EGAN: Mr. Hellenthal?

HELLENTHAL: Mr. President, if we recess the subcommittee of the Administration Committee should meet immediately after recess.

PRESIDENT EGAN: Mr. Hellenthal's committee will meet immediately upon any recess. Mr. Smith?

SMITH: The Resources Committee will meet at the first time available.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Parliamentary inquiry. Does the President plan to call a meeting of the committee chairmen to discuss whether or not we should chop off plenary sessions in order for the committees to do some work?

PRESIDENT EGAN: Mr. McLaughlin, there will be a meeting of committee chairmen at 1:00 p.m. upstairs. If there are no further committee announcements, the question is, "Shall the Convention recess until 1:30 p.m.: All those in favor of recessing until 1:30 p.m. will signify by saying "aye", all opposed by saying no . The Chief Clerk will call the roll.

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

Yeas: 36 - Armstrong, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, Gray, Hilscher, Hinckel, Hurley, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, Rosswog, Smith, Stewart, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 18 - Awes, Cooper, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Johnson, Kilcher, McCutcheon, McNees, Metcalf, Nolan, V. Rivers, Robertson, Sundborg, Sweeney, Taylor.

Absent: 1 - R. Rivers.)

CHIEF CLERK: 36 yeas, 18 nays and 1 absent.

PRESIDENT EGAN: So the motion has carried, and the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair notes a large group of students in the gallery from the Fairbanks Public Schools are with us this afternoon, and we hope that they will enjoy the proceedings that they will see here this afternoon. We have before us a motion by Mr. Taylor.

CHIEF CLERK: I don't think he moved.

PRESIDENT EGAN: The motion has not been placed on the floor as yet. Mrs. Hermann withdrew her motion in favor of Mr. Taylor's motion.

V. FISCHER: For your information, Mr. Taylor is on his way down.

PRESIDENT EGAN: We might then for the time being pass over that question and continue with Article No. 1 of Proposal No. 1. We have Section 1 of Proposal No. 1. Are there other amendments?

HINCKEL: I have an amendment to offer but if we don't intend to wait for Mr. Taylor, Mr. Taylor's amendment should be read first.

PRESIDENT EGAN: Well, Mr. Taylor is going to be here in a minute.

SWEENEY: Mr. Chairman, I move that we be at ease here for about five minutes to let Mr. Taylor get here.

PRESIDENT EGAN: The Convention will be at ease for about five minutes to wait for Mr. Taylor. (Mr. Taylor enters Convention Hall.)

PRESIDENT EGAN: The Convention will come to order. Mr. Taylor, did you have a motion to make?

TAYLOR: I have a motion in the hands of the Clerk and I wish it to be read.

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

CHIEF CLERK: "Proposal No. 1 be amended as follows: 'Strike Sections 1, 2 and 3 and insert in lieu thereof, Section 1 which shall read as follows: Section 1. The legislature of the State may provide by law the age and qualifications of voters of the State.'"

TAYLOR: I ask unanimous consent that it be adopted.

COGHILL: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Taylor?

TAYLOR: I so move.

METCALF: I second the motion.

PRESIDENT EGAN: Mr. Taylor so moves, Mr. Metcalf seconded the motion that the amendment be adopted. The amendment is open for discussion. Mr. Hellenenthal?

HELLENTHAL: Mr. President, I should like to be heard on this matter because it goes to the heart of the constitution. There are many matters that would be stricken by this motion that are constitutional matters in essence. For example, this motion would provide that matters such as absentee voting would be handled purely by the legislature, the same with registration, the same with contested elections. These are matters which nowhere are left to the legislature alone. In some instances unless there is a constitutional authorization for the matters they cannot be treated by the legislature. On those particular matters which generally constitute Sections 2, 3, and 4 there is in many instances a direct requirement for constitutional provisions in connection with them and they cannot be left to the legislature, but primarily I wanted to vote my remarks on behalf of the committee which dealt with this matter to the proposition that the qualifications of electors is not a constitutional matter, and that is the heart of Mr. Taylor's motion. Now, some, not all of those who support this motion are seeking, since they have been unable to fix the voting age at 21, they seek to throw it to the legislature hoping that in that manner they can assert their will. Now I am not saying that all those who favor this think that way but those who do are thinking in a most superficial manner. It would be a shocking thing if every time a delegate was unable to assert his will on a constitutional matter that he said, "We will leave that constitutional matter to the

legislature so that I can get a second crack at it." That is exactly what some of the supporters of this motion would feel and think and what they are trying to do. But aside from that, let us assume that this was to be properly considered on its merits and this was not a hidden attempt to change the voting age in the legislature whereas it failed on the floor. Let us assume that that is not the reason, but I will not admit that is anything more than a bare assumption. If we take the matter of the qualifications of electors out of the constitution we shall be the only state in the Union that so does, the only state. Every state of the Union provides for the qualifications of its voters in its constitution. The reason for that is that it is at the heart of a democratic government that the suffrage be spelled out -- carefully, unambiguously. If you leave such an important matter to the whim of the legislature, nothing but confusion, almost anarchy would result. Those 48 states that set out in clear, fundamental language the rights of suffrage knew what they were doing. It is a state problem, and it is a constitutional problem, not a legislative problem. If you follow the argument that suffrage is a legislative problem to its conclusion, we have wasted the past two days of dealing with the judiciary article. We could have very simply said that the legislature shall prescribe the judiciary in such manner as it sees fit. If we follow the argument further when we discuss the bill of rights, those of us who do not agree with a particular section of the bill of rights should then logically propose that matters involving fundamental civil rights such as are normally treated in a constitutional bill of rights, be left to the legislature. The same can be said of the executive, the same could be said of local government. The same can be said of almost every provision of the constitution. If we adopt this motion, we are putting ourselves in the shape and in the form of the English system of government where there is no written constitution and where the will of the legislature is supreme. Now had Congress intended that we should adopt such a constitution they would not have restricted us to the republican form of government, and I can assure you that if such a legislative form of government is adopted by this body that the United States Congress will not approve our efforts here, and I would be greatly surprised if the people of Alaska .approved them. This is the beginning, from now on if this motion carries, the disgruntled few, instead of bowing gracefully to the will of the majority will seek to throw everything, fundamental or otherwise, to the will of the legislature. Suffrage again, it is fundamental, it is basic. If there is one thing in the constitution that should be definite, certain, crystal clear, holding out a promise to the youth of the state, it should be qualifications of the electors, and I suggest, and I say so strongly, that this motion and all similar motions should be voted down.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I am glad this amendment was introduced frankly and so early in the Convention. I think it exposed a lot of hands and I think it will expose a lot more before the vote is completed. I think it is a matter too, as Mr. Hellenthal so ably stated, a matter of a disgruntled few unwilling to abide by the will of the majority, trying to impose a restriction which they could not otherwise gain on the floor in open session. Therefore I will vote against the amendment even though I was glad to see it introduced.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Personally, I am not one of the disgruntled few. I have been more or less lukewarm in this matter because it is immaterial to me whether 18, 19, 20, or 21 year old goes in, but I think this is just as much a legislative matter as it is a constitutional matter if we, by just a short statement say that we are going to let the legislature write the election laws and if the members of the delegation or the delegates to this Convention will look into the Session Laws of Alaska, you will see a lot of the election laws have been written by the legislature from time to time and established the qualifications. The qualifications have been set by Congress, alright the Enabling Act, but now we are told to step out and do something new and bold. But Mr. Hellenthal says, "No, let's do the things that are old and historical and traditional." But then with the next breath he destroys that old and historical and traditional way of doing things because he ridicules the English way of doing things upon which our government was founded, their system of law, the common law that we have still today. So I do not see where it would be any more danger to the government of Alaska whether we said that a 21-year-old person could vote or the legislature said an 18-year-old person could vote and that we would be doing ourselves a disservice and we would be doing the Territory a disservice by so finding. Perhaps I chose a wrong time to introduce this motion or ask for its approval because I see it brought on quite a flurry of oratory because there is a gallery full of young people here, and possibly Mr. Hellenthal and Mr. McNees are perhaps playing for the vote of these young people. I am not saying they are. It is just an assumption that they might be. So I think the assumptions can be indulged in by either one side or the other. I am not saying that as a fact but I say they can assume. We have spent now over one day on whether it is going to be 18, 19, 20, or 21, and we are no nearer to the solution right now than we were then. And if this Convention with all the work ahead of us cannot agree in 24 hours what the age of the voters is going to be, I think it is about time to pass it on to the legislature that can agree and most likely will agree, and I think as far as a disgruntled few -- why doesn't the other side sacrifice a few of their convictions too and meet in the middle ground, if they will. Of course it is always the person that is desirous of achieving

a certain result -- they are the stubborn ones, they are the disgruntled ones that are going to see the thing die rather than to go along. But the other side then, they are vigorous and they are aggressive and they are trying to put forth legislation to defeat these disgruntled people who are going to tear down our traditions and are going to destroy our Territory by the matter of two years of a person's voting age, and I think we had better pass this thing right now and get it down to the legislature because I think we can't get it over with.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I would like to address a question to Mrs. Hermann through the Chair. Mrs. Hermann, does the motion before us now satisfy the condition to your withdrawing of your motion to recommit?

HERMANN: No, Mr. President, it does not. I still have in mind certain things I would like to have the committee do to the proposal. I don't go quite as far as Mr. Taylor does, and I won't be able to support his motion for that reason. I don't have any intention, for instance, of disturbing the voting age that has been arrived at or will be arrived at by this Convention. The matters that I wish to refer to the Committee were of another nature entirely.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I was unavoidably detained. I wonder if I could ask to have the motion read.

PRESIDENT EGAN: Would the Chief Clerk please read the motion by Mr. Taylor?

CHIEF CLERK: "Strike Sections 1, 2 and 3 and insert in lieu thereof, Section 1 which shall read as follows: Section 1. The legislature of the State may provide by law the age and qualifications of voters of the State.'"

PRESIDENT EGAN: Mr. Buckalew?

BUCKALEW: The only observation I can make, and I want to give Mr. Hellenthal credit for one thing, if he was playing to the gallery he is looking at least five or ten years in the future, and I am impressed with his looking that far ahead, but it seems to me that if we are going to follow Mr. Taylor's line of reason to its logical conclusion, I think we ought to adjourn sine die now and present the people of Alaska with a blank piece of paper and following the English system of an unwritten constitution.

PRESIDENT EGAN: Mr. White.

WHITE: I am going to vote against this motion on the principle embodied in the motion, but I dislike hearing it said again and again and again that such and such an action should be attributed to the motives of the disgruntled few. I think that the matter of whether a particular proposal is a constitutional matter or not is a very live question, and I hope we won't try to end one discussion after another by a pat statement that this is or is not a matter for the constitution. I sometime in the future might like to vote for a similar motion, and I would not like to have it ascribed to ulterior motives of any kind. I think it is a completely open question.

PRESIDENT EGAN: Mr. Hilscher?

HILSCHER: Point of order. Do we have a public address system so the people can hear or do we not have?

PRESIDENT EGAN: They attempted to put one in yesterday Mr. Hilscher, but it fed back so much that it was not of much use. The Chair at the moment does not know what the situation is. Evidently there is no PA system at the present time. Is there further discussion? Mr. Taylor.

TAYLOR: In view of the remarks of Mrs. Hermann, that she would like to have that go back to the Committee for specific amendment, I would have no objection to that because we might get some results out of it, and I don't know if we will get it out of the way the way things are at the present time.

PRESIDENT EGAN: If there is no further discussion the question is, "Shall Mr. Taylor's motion be adopted by the Convention?" All in favor of adoption of Mr. Taylor's motion will signify by saying "aye", all opposed by saying "no". The noes have it and the motion has failed. Are there other amendments to Committee Proposal No. 1? Mr. Metcalf?

METCALF: I have one.

PRESIDENT EGAN: The Chief Clerk will read the amendment.

CHIEF CLERK: "Page 1, line 12, beginning after the comma following the word 'only' insert the following" 'And shall have reached their legal majority for proposes of being sued in State courts on actions of contract.

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

MR. METCALF: I move the adoption of this amendment.

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

ROBERTSON: I second the motion.

SUNDBORG: Question.

PRESIDENT EGAN: If there is no discussion, the question is -- will the Chief Clerk please read the amendment again?

CHIEF CLERK: "Page 1, line 12, beginning after the comma following the word 'only' insert the following: 'And shall have reached their legal majority for purposes of being sued in State courts on actions of contract.'"

SUNDBORG: Question.

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

HINCKEL: I have an amendment on the Secretary's desk.

PRESIDENT EGAN: Will the Chief Clerk please read Mr. Hinckel's proposed amendment.

CHIEF CLERK: "Substitute the following for Section 1: 'Every citizen of the United States, having other qualifications prescribed by law, shall be qualified to vote in any State or local election.'"

HINCKEL: I move the adoption.

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

MCLAUGHLIN: Point of order, Mr. Chairman. Mr. President, in substance the net result of this is merely reduplicating the same legal effect of Mr. Taylor's motion which lost, and I believe that under such circumstances the motion is out of order. In substance what it is, is a motion to reconsider. He is asking that the legislature prescribe the qualifications.

PRESIDENT EGAN: We don't have any motion before us at present.

HINCKEL: I move the adoption of it.

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Hinckel moves the adoption, Mrs. Hermann seconds. Mr. McLaughlin has raised a point of order.

BARR: Point of information, Mr. President. I wonder what is meant by "law" there? Wouldn't that necessarily have to comply with the Federal Constitution then? Wouldn't that law apply?

PRESIDENT EGAN: The Chair would have to hold that it would almost have to comply with laws as set up with the state legislature of the State of Alaska, and consequently, Mr. Hinckel, while you probably did not intend it that way, Mr. Taylor's motion said in effect the same thing.

HINCKEL: If I'm not out of order, may I call to your attention that Mr. Taylor's motion struck Sections 1, 2 and 3, which I do not consider to be the same at all. I am asking to only strike Section 1 and substitute another section.

PRESIDENT EGAN: Of course the effect of that motion would put the voting requirements up to the legislature. The Chair would have to hold that for that reason, even though Sections 2 and 3 which is related matter relative to the voting qualifications and registration, that it would be the same and would have to be declared out of order, Mr. Hinckel, at this time. Mrs. Hermann.

HERMANN: I have an amendment. Before presenting this amendment, Mr. President, I would like to say that my motion this morning to recommit the matter for specific amendment had, as I say, no intent to destroy the main effect of the proposal as it had been presented by the Committee. My principal purpose was to have some, what I call quite serious defects corrected, but it is quite possible that I can do that by means of separate amendments and not have to return it to the Committee since it might save a little time in that way, and this amendment which I have presented now is the first of a series that I wish to make.

PRESIDENT EGAN: The Chief Clerk may read the amendment as submitted by Mrs. Hermann.

CHIEF CLERK: "Add to Section 1 the following: 'The right of secrecy of ballot shall be preserved.'"

HERMANN: I move the adoption of the amendment.

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

MCNEALY: I second the motion.

PRESIDENT EGAN: The motion is open for discussion.

JOHNSON: Mr. President, a point of inquiry.

PRESIDENT EGAN: Mr. Johnson, your point of inquiry.

JOHNSON: Is that not a matter that is more properly included in the bill of rights?

HERMANN: It properly could be included in the bill of rights. I think if we get everything in the bill of rights that everyone is going to put in, we won't have any room for the rest of the constitution. It seems to me that if we are going to bring along sections about suffrage and elections, which I think is far too long as it is, this properly belongs in there too, and I can't see any harm in putting it there, because I am quite sure that the Committee on Style and Drafting, as Mr. Sundborg is Chairman of, will put it in its proper place when the time comes for the arrangement part of the program.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I would just like to suggest so that there is not too much rearranging to do that this amendment be more proper to Section 4 which deals with elections rather than amending the section dealing with the qualifications of voters.

HERMANN: I accept that change.

PRESIDENT EGAN: Mrs. Hermann, then you would request that this sentence be added to Section 4?

HERMANN: Either that or made into a Section 5.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I am also a member of the Committee on Bill of Rights, and Mrs. Hermann is correct that the Bill of Rights Committee has made no recommendation with regard to sanctifying the secrecy of elections in the democratic state. Our committee considered it and thought that it was a matter for legislation. However, I think I can speak on behalf of all the members of the committee that they have no objection to preserving this fundamental democratic right some place in the constitution.

PRESIDENT EGAN: Mrs. Hermann's proposed amendment is offered as a new Section 5 to Committee Proposal No. 1. Mr. Sundborg.

SUNDBORG: Mr. President, may I address a question to Mr. Hellenthal?

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

SUNDBORG: Mr. Hellenthal, you just said that you were sure your committee would have no objection to a provision such as Mrs. Hermann's being included somewhere in the constitution. Would your committee have any objections to having it included at the point suggested by Mrs. Hermann, I think the final thing was a new section, Section 5?

HELLANTHAL: I, of course, can't say without consulting them, but I can say positively that they would have no objection, and if any of them do they should feel free to bring it to our attention, and I am sure they have not.

PRESIDENT EGAN: Then the question is, "Shall Mrs. Hermann's proposed amendment adding a new Section 5 to Committee Proposal No. 1, be adopted by the Convention?"

DAVIS: I would like to have the proposed section read please. PRESIDENT EGAN: The Chief Clerk will please read it.

CHIEF CLERK: "Section 5. The right of secrecy of ballot shall be preserved."

PRESIDENT EGAN: The question is, "Shall Mrs. Hermann's proposed amendment be adopted?" Mr. Kilcher?

KILCHER: I just wonder if the section is adopted in its present wording, if it might have retroactive effects on that "read or write" clause in Section 1. How can secrecy be guaranteed if, as in the case of a blind person, in the case of a person who can't read, the election judges might have to assist? Can Mrs. Hermann answer my question?

PRESIDENT EGAN: Mr. Hellenthal, if you care to answer.

HELLENTHAL: I think that question can be answered quite simply, that the right to secrecy is not an absolutely unqualified right. It is like the right of freedom of speech. The classic example is that the right of freedom of speech does not give one the right to yell "fire" in a crowded theatre.

PRESIDENT EGAN: The question is, "Shall Mrs. Hermann's proposed amendment be adopted by the Convention?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments to Committee Proposal No. 1? Mr. Johnson.

JOHNSON: I have an amendment on the Chief Clerk's desk. I would like to have it read and then will move its adoption.

PRESIDENT EGAN: Please read the amendment as offered by Mr. Johnson.

SWEENEY: Mr. Chairman, have you passed No. 1? Are you going back?

PRESIDENT EGAN: No. 1 will still be open, Mrs. Sweeney.

CHIEF CLERK: "Section 4, line 16, page 2, strike the word 'second' at beginning of line and insert the word 'first',

after the word 'Tuesday' add the following: 'after the first Monday', strike the word 'October' and insert the word 'November'.

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

JOHNSON: I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second?

METCALF: I second the motion.

PRESIDENT EGAN: Mr. Metcalf seconds the motion. Mr. Johnson.

JOHNSON: I should like to point out, Mr. President, that the purpose of the amendment is simply to make our general election coincide with the date throughout the United States, that is generally prevalent throughout the United States in a presidential election.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, there is little to be said with having a state election fall on the same day as a national election for the same reason that in a state election we are electing officers at state level. Frequently the confusion that arises in national or foreign politics at our nation's level are confused with the state level issues, and they do not properly have a place there. Consequently, it seems ill-advised to have confused in the elections, our state officers with our national officers or national policies. Consequently, I feel that the way this document is written at the current time is much more preferable because when we are having purely state elections we will be consequently voting on purely state issues and not whether we have to carry on a police action in Korea or the South Pacific or elsewhere.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I merely wanted to point out the background in the Committee's recommendation in this regard. The present requirement of Section 4 is taken verbatim from the present Territorial law on the subject which was adopted in 1946. "A general election for members of the legislature, the delegate to Congress and other officers of the Territory shall be held on the second Tuesday in October, 1946, and every second year thereafter on the second Tuesday in October." Then it goes on to say, "provided the legislature shall have power from time to time as the need therefore may arise, to change the date of general elections in the Territory." No good reason was advanced in the committee hearings why the present Territorial law which had been in effect since 1946 should be departed from and hence it was adhered to without change.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I address a question to Mr. Hellenthal?

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

SUNDBORG: Mr. Hellenthal, what will be the situation with respect to the people of Alaska voting for electors for the office of president if we have our general election in October? Can we at that election vote for those electors or will there be of necessity another election in November?

HELLENTHAL: There will have to be another election in November.

SUNDBORG: Then I certainly support Mr. Johnson's proposed amendment. I think it would be expensive and unworkable and confusing to have to have two elections within a month of one another, and the second one be one where all we did was to vote for the President of the United States.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I hesitate to change the date of our elections. That subject has come up in practically every session of the legislature that I attended, and there was always some good reason advanced, but then when it was talked over it was found that it would be very inconvenient to some group of people. This date we have in October seems to be a good compromise. The fishermen in Southeastern Alaska are better able to vote and the miners come in from the creeks at that time, and most of the construction work is shutting down, and therefore it makes it easier for a larger group of people to vote. I want to point out too that our legislature meets in January. If we have an election in November it takes a certain amount of time to canvass these votes and to ascertain the results, and that would be too short a time. Also, if a new governor is elected he won't have any time when he takes office to acquaint himself with a job before the legislature meets. This is really a pretty complicated question too, and we need to look into all phases of it.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I would like to ask Mr. Hellenthal a question.

PRESIDENT EGAN: If there is no objection, ask the question.

COGHILL: Mr. Hellenthal, isn't it true that in other states they hold their election prior to the national election?

HELLENTHAL: Those are primary elections as I understand it, preferential primaries. They don't vote for the President of

the United States on any other day but on November second, I believe it is, but it is always one day. The others I am sure are primaries.

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

TAYLOR: Mr. President, I believe that I have read over many years that Maine elects their senators and representatives to Congress and their state officials considerably in advance of the usual time set for the voting on presidential elections.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, it seems to me that we are losing sight of the fact that this proposal will not take effect unless this constitution is adopted and we become a state. It is not in any way going to change the present setup or affect the election of our legislature or anything else. I am quite certain that if this matter is adopted that when we do become a state, the legislature can meet a sufficient time beyond the election date to accommodate any discrepancies in the matter of the shortness of time. As far as being a practical matter, Mr. Barr points out that it might be better for some miners or some construction workers or perhaps some fishermen to vote in October rather than in November. That does not seem to me to hold water because we have provided in Section 1 that if it stands up, for absentee voting, and there is a great deal of absentee voting going on right now, and I think as we become a state and start development that we will have more reasons why people will spend all year in Alaska rather than go outside in the winter time, as they do now, and it certainly seems incongruous to me to think that we would be attempting to hold our elections a month ahead of the national date, and I have provided the wording in this proposal which is set up by the Congress of the United States, that is if the amendment is adopted, the Section 4 would read, "General elections shall be held on the first Tuesday after the first Monday in November of every second year." That is the way the Congress has adopted the election date and I don't know why we should be at variance with them if we want to be one of the sisterhood of states.

PRESIDENT EGAN: Mr. Londborg?

LONDBORG: May I ask for a minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there further discussion of Mr. Johnson's proposed amendment. Mr.

Sundborg.

SUNDBORG: Mr. President, during the recess I was advised on what I consider good authority that it is not necessary to elect presidential electors at an election in November, on the date which would be specified by Mr. Johnson's amendment, but that we could at our single election in October, if we leave the section of the article as it is as submitted by our committee, elect the presidential electors and all the officials of the state, the senators and representatives, and take care of the whole election process on one date, and in view of that advice I would oppose Mr. Johnson's proposed amendment

PRESIDENT EGAN: Mr. Emberg?

EMBERG: I wish to speak against the amendment too, and purely for reasons that are local within the area which I represent in Bristol Bay. In November the rivers are freezing up, the slews are full of overflow ice and water. It is impossible for the trapper to get around the country. He can't even get to a post office to send in an absentee ballot. It does not fit with that part of the country, and I am pretty sure that will hold true for the lower Kuskokwim and probably the lower Yukon.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the amendment has failed of adoption. Mr. Fischer.

V. FISCHER: Mr. Chairman, I have an amendment to Section 4 which is close to the subject.

PRESIDENT EGAN: The Chief Clerk may read Mr. Fischer's proposed amendment.

CHIEF CLERK: "Section 4, page 2, lines 16 and 17 delete the words 'and every second year thereafter on the same day' and substitute 'of every even-numbered year'."

V. FISCHER: I move and ask unanimous consent for the adoption of this amendment.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent for the adoption of this motion. Is there objection?

JOHNSON: I object.

V. FISCHER: I so move.

SUNDBORG: I second the motion.

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

V. FISCHER: Mr. President, I would like to point out that the language as it now stands does not specify whether we hold general elections in even-or odd-numbered years, and I think it is very important that if we are going to elect senators and representatives on the same basis as other states elect them we will have to elect them in even-numbered years.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: That is one of the things I was wanting the amendment sent back for was to clarify that a little, because it does not say when the first one was going to be held even, and there were several other things that were wrong with it. I will vote for the amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: The reason the language is present in the amendment as it appears is that the experts on these matters who advised the Committee stated that that would be a matter for the transitory measures group to take care of, for the simple reason that we do not know when Congress will approve the constitution, whether it will be in an odd year or even year, and that there will have to be of necessity further election times taken care of by the transitory matters group.

MCCUTCHEON: Question.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I agree with Mr. Hellenthal that for the first election we certainly want to leave it open so that we might have it at whatever time would be convenient and consistent with the date of adoption of a bill admitting Alaska as a state, but won't Mr. Hellenthal agree that for subsequent elections and at this place in the constitution it is advisable to provide that the elections will be held in even numbered years?

HELLENTHAL: I do think so, but I think that belongs in your transitory department because such a rule or such a law will be of temporary duration, will only last for a very limited period of time and has no business in the permanent constitution of Alaska.

SUNDBORG: The part of it having to do with even-numbered years is not of a transitory nature, is it? Isn't that something we want forever? The only thing we want to handle in the transition ordinance is the one setting up the first election.

HELLENTHAL: That could very well be, and we thought also

that the legislature is empowered to change the date would take care of that, but if you want to enshrine it in the constitution that could very well be done.

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

STEWART: May we have it read?

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

CHIEF CLERK: "Section 4, page 2, lines 16 and 17 delete the words 'and every second year thereafter on the same day' and substitute 'of every even-numbered year'." So that the section would read, "General elections shall be held on the second Tuesday in October of every even-numbered year, but the legislature is empowered to change said date.

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

SWEENEY: I have an amendment for the first section.

PRESIDENT EGAN: Would the Chief Clerk proceed with the reading of Mrs. Sweeney's proposed amendment.

CHIEF CLERK: "Page 1, line 2, change '19' to '20'." SWEENEY: Mr. President, I move the adoption of this amendment.

SUNDBORG: Point of order. We have already voted on this very matter and have voted it down, and so I say we can't vote on it again because it is out of order.

SWEENEY: Mr. President, you did permit a vote on it from 19 to 21. We have never had an opportunity to vote on whether we would like to have it at 20, and I believe I am right in asking that we vote on age 20.

PRESIDENT EGAN: Mrs. Sweeney, the Chair recognizes your feeling on it, but in the opinion of the Chair when the Convention accepted the age of 19 after the 20-year qualification as already in the proposal, they signified that the 20-year requirement was not acceptable to them. Then they voted again on the 21_year amendment which was in proper order, but a motion to vote on the 20-year requirement inasmuch as it was originally in the proposal and changed, the Chair would have to rule out of order because it has in effect already been considered.

SWEENEY: Then was it possible this morning before the 21-year vote to have had my motion in? This is an amendment that I held over from yesterday because of Mr. McNealy's reconsideration notice.

PRESIDENT EGAN: Mrs. Sweeney, the moment the Convention, in the opinion of the Chair, the moment the Convention adopted the 19-year requirement, or it would have been impossible then to have offered an amendment to go back to the 20-year requirement because it is already in the proposal to begin with, and it was not necessary for any amendment. The fact that the body did amend the vote, that the body did not favor the 20-year requirement that was already in the proposal, that is why the Chair has to rule that way. Mr. Taylor.

TAYLOR: Mr. President, I would move that the rules be suspended and let Mrs. Sweeney be allowed to move the adoption of her amendment.

MCNEALY: I second the motion.

BUCKALEW: I object.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair had quite a doubt as to the motion to suspend the rules even being in order, but after thinking it over, Mr. Taylor, did you move for a suspension of the rules?

TAYLOR: Yes, I moved the suspension of the rules.

SWEENEY: I seconded the motion.

PRESIDENT EGAN: The question is, "Shall the rules be suspended in order that this matter be taken up once more?"

DAVIS: It will have to be a roll call vote.

SUNDBORG: Is this debatable?

PRESIDENT EGAN: A suspension of the rules is not debatable. The Chief Clerk will call the roll.

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

Yeas: 33 - Armstrong, Barr, Boswell, Collins, Cooper, Doogan, Gray, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Londborg, McNealy, Metcalf, Nolan, Nordale, Reader,

Riley, Robertson, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 21 - Awes, Buckalew, Coghill, Cross, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hilscher, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Peratrovich, Poulsen, V. Rivers, Rosswog.

Absent: 1 - R. Rivers.)

GRAY: I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Gray wants to change his vote to "yes".

BUCKALEW: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Buckalew changes his vote to "no".

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

PRESIDENT EGAN: And so the rules have failed to have been suspended. Mr. Knight.

KNIGHT: Mr. President, I have an amendment to offer. The Sergeant at Arms has it.

HILSCHER: Might we ask how many proposals that the Chief Clerk has on her desk, how many amendments at the present time she has not gotten around to.

CHIEF CLERK: Four.

PRESIDENT EGAN: Mr. Knight has the floor right now and asks that his proposed amendment be read. The Chief Clerk may proceed with the reading of the proposed amendment.

CHIEF CLERK: "Section 2, page 2, line 3' delete the .figures '2,500' and insert the figures '1,000'.

KNIGHT: Mr. President, the way the proposal reads now it would only affect four towns in the Territory, Ketchikan, Anchorage, Juneau and Fairbanks. It is a little unfair. I think it should take in towns of 1,000 or more. I ask unanimous consent that it be adopted.

MCCUTCHEON: Objection.

BUCKALEW: I second the motion.

COOPER: Mr. President, I ask for a one-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Knight's proposed amendment on line 3, page 2, strike "2,500" and insert "1,000". Mr. Walsh.

WALSH: Mr. Chairman, as a member of the Committee on Suffrage, this was my proposal. There was some discussion that all voters should be registered. We should have a permanent registration throughout the Territory. My objection to a permanent registration was that in the smaller communities, we say Native villages up to maybe 700, the materials for registration might not reach there in time prior to an election. As very often the material for general elections does not reach there maybe until election day, due to adverse weather, flying, etc., and we raised it up to 2500 so that the incorporated town or the community with a larger population where they have access and plane service practically daily, why we thought the registration should be compulsory there. Now I would like to direct a question to Mr. Knight and to ask him if his motion should prevail, what towns would be benefited by it?

KNIGHT: Seward, Petersburg, Wrangell, Sitka, Cordova, Valdez, Barrow, Kodiak, all towns of at least 1,000 population.

PRESIDENT EGAN: Mr. Cooper?

COOPER: With the consent of Mr. Knight and his second I would like to amend his amendment. Is that in order at this time?

KNIGHT: I am in favor.

PRESIDENT EGAN: I will listen to the amendment first.

COOPER: "The legislature shall establish a system of permanent voter registration."

KNIGHT: I am in favor of that.

GRAY: Has the motion been seconded?

COOPER: I offered that as an amendment to Mr. Knight's amendment. I ask unanimous consent.

MCCUTCHEON: Objection.

PRESIDENT EGAN: Objection is heard. Your point of order, Mr. Hurley.

HURLEY: Point of order. If I understand where he puts the period it does away with the entire sense of the amendment. It is out of order. We could hardly consider both of them.

PRESIDENT EGAN: Mr. Knight's proposed amendment changed the population relative to registration. Mr. Cooper's proposed amendment would let the legislature set up that permanent voter registration. In the light of your point of order, Mr. Hurley, it would be, as an amendment to Mr. Knight's proposed amendment, it would be out of order at this time. Mr. Riley.

RILEY: Mr. President, I believe that it might bear on Mr. Cooper's amendment that Mr. Knight did consent to it and I believe spoke also for his second. Perhaps it might be more properly accomplished if Mr. Knight would withdraw.

PRESIDENT EGAN: If you would ask to withdraw your original amendment, Mr. Knight, it could then be accomplished.

KNIGHT: I so do.

PRESIDENT EGAN: Mr. Knight asks, with the consent of his second, to withdraw his original amendment. Is there objection? Now an amendment in the nature that you suggested would be in order, Mr. Cooper.

COOPER: I ask for a one-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order.

COOPER: I yield the floor to Mr. White.

WHITE: Mr. President, I have a proposed amendment on the Secretary's desk.

COOPER: I yield my amendment to Mr. White.

PRESIDENT EGAN: Mr. White has an amendment on the Secretary's desk. The Chief Clerk may read the amendment.

CHIEF CLERK: "Section 2, lines 2 and 3, delete the words 'in municipalities with populations over 2,500'."

WHITE: Mr. President, I move and ask unanimous consent that the amendment be adopted.

MCCUTCHEON: I object.

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. Hellenenthal.

HELLENTHAL: I think if we give a history of the Committee's discussion on this matter it might help. It was the belief of the Committee that some mention need be made in the constitution to remove constitutional objections should a registration law be passed by the legislature and remove any question in other words of whether the authority to require voter registration existed, although frankly, I don't think that under the light of the decisions of the Ninth Circuit in Alaska, particularly the case involving Francis Bowden and the Mayor and Councilman of Anchorage that that is necessary, but anyway they felt that there should be something in the constitution to remove the objection. The first draft provided as follows: "The legislature may establish a system of voter registration." In other words, it incorporated merely the principle that the constitutional objection be removed leaving it entirely as a matter of legislative discretion as to whether there would be any registration law, what kind of a law there should be, to what extent it should apply. In the Committee it was finally agreed -- there was considerable discussion about it one group felt that it would be utterly impractical to require voter registration in the outlying areas and that it would not work and that it would actually discourage voting, and they testified to their experience in this regard for many years in Alaska and pointed out that registration was confined to the very large cities of Alaska. At present only Anchorage, Fairbanks and Juneau and perhaps Ketchikan --

SUNDBORG: Not Juneau.

HELLENTHAL: Very few large cities anyway that have it in Alaska, and it is confined only to cities, so it was the agreement of the Committee following this discussion that it be amended to its present language and you will notice that in the letter accompanying the report it was stated that the Committee believes that permanent registration should be required in urban areas, municipalities with population over 2,500, leaving the matter in other areas for legislative decision. I just give this so you can understand the background of the present language.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, it seems to me that the Committee's objective would not be carried out by leaving the present language. I am not an attorney but it would appear to me that if you specified that the legislature shall establish a system of permanent voter registration in municipalities with population over 2,500, the constitutional intent there seems to be that those communities that have a population under 2,500 do not have permanent registration. That is just my opinion. Aside from that, I can see the objection to requiring everybody to register in some of these outlying communities due to the difficulty of everybody coming in from some place far removed and registering at a specified time prior to,

say the first election. Now it seems to me that that objection could be removed by having a transitional measure or an ordinance which would specify that all those who vote at the first state election shall automatically be put upon the permanent voter registration list of the state and that will give everyone an opportunity to be automatically registered and under standard registration procedure. If they keep voting from then on, then they would remain on permanent roll. Now I assume the motion to refer such a request to the Committee on Ordinances and Transitional Measures would be out of place now, but I certainly would intend to make that kind of a motion or submit that proposal to carry out the intention if the language, "in municipalities with population over 2,500" is removed. As it stands now, I think it is extremely prejudicial against communities with populations over 2,500, and I can see no excuse for this kind of language.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I don't know whether this nation will long endure if we continue to pile up restrictions against voting. If we don't vote, we are going to lose our way of life and these are fundamental things we're into here and our Committee, as our Chairman said, went thoroughly into this for three weeks. I know a village, when the box came for voting, there was nobody there. They built a store over in Igloo and they all moved to Igloo. That happened a very short time ago. People come in in boats, these people live in the fishing areas and are told, "Election today. Well, I didn't register." "Well, you don't have to register, come on and vote." And they'll walk in and vote. I think this is fundamental. Let's quit piling up these papers and restrictions and let the people vote. This is fundamental, and I think you are touching the very vital system of our government. The time has come to quit putting these restrictions on and be free American citizens, and we know who belongs here and who doesn't, we definitely know. It would be a very big detriment against the outlying districts, the men in the boondocks, the men in the tundra if you put this requirement on. I vote against it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to ask Mr. Marston whether he feels however, that this restrictions should apply to people in municipalities with a population over 2,500.

PRESIDENT EGAN: Do you care to answer that, Mr. Marston?

MARSTON: That is your white people, you go ahead. T

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

TAYLOR: I have an amendment to the amendment on the Clerk's

desk in which is very short, it changes the word "shall" to "may". The legislature "may".

PRESIDENT EGAN: The Chief Clerk will read the amendment by Mr. White.

CHIEF CLERK: Mr. White's amendment: "Delete the words 'in municipalities with populations over 2,500'." It has nothing to do with it.

PRESIDENT EGAN: Mr. Taylor your amendment that you offered does not amend the particular amendment that is before us at this time. It will be in order, your amendment, after we consider this one.

TAYLOR: It would, Mr. Speaker, because theirs is in the imperative. It "shall" establish and mine says "may" establish.

PRESIDENT EGAN: Do you intend it to go right along into the full section with this other proposal?

TAYLOR: It will have to be voted on first, the amendment to the amendment, Mr. President.

PRESIDENT EGAN: It is not actually an amendment to the amendment.

TAYLOR: I will hold it up.

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

CHIEF CLERK: "Section 2, lines 2 and 3, delete the words 'in municipalities with populations over 2,500'."

PRESIDENT EGAN: The question is then, "Shall Mr. White's amendment be adopted by the Convention?" All those in favor of the adoption of Mr. White's amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 29 - Awes, Boswell, Cooper, Davis, Doogan, H. Fischer, V. Fischer, Gray, Hinckel, Hurley, Johnson, King, Knight, Laws, .Lee, Nerland, Nolan, Nordale, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, White.

Nays: 25 - Armstrong, Barr, Buckalew, Coghill, Collins, Cross, Emberg, Harris, Hellenthal, Hermann,

Hilscher, Kilcher, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Peratrovich. Riley, Taylor, Walsh, Wien, Mr. President.

Absent: 1 - R. Rivers.)

TAYLOR: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Taylor asks that his vote be changed to "no".

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

PRESIDENT EGAN: And so the "ayes" have it, and the amendment is ordered adopted. Mr. Gray?

GRAY: Mr. President, I have the same amendment as you, Mr. Taylor. Do you have your amendment ready?

TAYLOR: Mine is on the desk, and I move its adoption.

PRESIDENT EGAN: The Chief Clerk will read the amendment, Mr. Taylor's proposed amendment.

CHIEF CLERK: "Section 2, page 2, line 1, change 'shall' to 'may'."

TAYLOR: I move the adoption and ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that his proposed amendment be adopted. Is there objection?

V. FISCHER: I object.

GRAY: I second the motion.

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

AWES: May I ask Mr. Taylor a question. I was wondering about the legal effect of this provision. Do you think with the word "may" that the legislature would be authorized to provide permanent voter registration just for certain areas, or would it have to provide for the whole Territory if it provided at all?

TAYLOR: No, I do not believe so, Miss Awes. I think it might be able to include the larger areas because they have official -- and they practically all have a system of registration which they could apply or use for the registration of voters in Territorial election. I think it would entail a great amount of work and a great amount of expense if you tried to spread

this thing into every outlying area because many times it is a little difficult to get the people to do it, and when you can see that every little precinct would have to have some registrar there and they get 25 cents or 50 cents a registration, it is going to run the state into a lot of expense, but I think if we change the word to "may" I think they will have the right to end those places where they have no machinery for registering.

PRESIDENT EGAN: You mean to change the word "shall" to "may"?

TAYLOR: Yes.

NORDALE: It seems to me that we are sort of overlooking the fact that at present everybody who votes registers. The only difference is that he registers just before he votes, and I don't see any reason why the legislature could not use that registration for a permanent registration record but leave it somewhat the same as it is for the small towns and rural areas. I don't see that it presents any particular problem at all.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, my feeling on this particular registration is that permanent voter registration is the purpose of the mechanics of voting, to avoid fraud and to be sure that the right people get a right to vote and not vote twice. Now those become problems of the moment. You have at this time we will say you have a problem at Anchorage, you have a large population, nobody knows everyone. On the other hand, we have a small population at Klawock where everybody knows every sister and brother, and the relatives. As long as we have a great country here and as long as we have conditions that change from extremes as much as our weather does, that a problem like this and a problem of permanent voter registration, a problem of identifying your voters is too broad a subject, and with a change in time to be incorporated in the constitution as spelled out in a particular number like 2,500. And we have to protect our election procedure. The only way that we can take care of change in time and change in conditions is through our legislature. That is why to empower the legislature to take such action as necessary, we will have the door open for permanent registration for those conditions that are necessary.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, I want to say a few words since I was on a committee that proposed this 2,500 limitation. Now the Committee, as our Chairman very ably stated, was very considerate in trying to consider all sections of the country in making this provision. Under that, the smaller outlying population represented by two or three on the committee submitted their problems, and on through the recommendation of one

of our delegates from Fairbanks, this provision for permanent registration was considered. If I may mention the name, it was Mr. Cooper. He insisted that this was a procedure we should follow. It was not fair to the larger towns if we did not have permanent registration. For that reason the smaller community representation compromised and arrived at this figure. I don't see where it presents such a problem. I think if it is left to the legislature I don't doubt but what they will come up with something satisfactory with everyone. I just want to make this point that the Committee did not try to pull anything, if I may use that language, but we were only trying to arrive at a point where both sides would be satisfied, the larger cities through the statements provided by Mr. Cooper and the smaller communities as represented by the other faction.

PRESIDENT EGAN: Miss Awes.

AWES: I just wanted to make a comment or two in response to Mrs. Nordale's statement. It is my understanding that in some states the legislature would pass a statute providing for registration and the state supreme court would hold it unconstitutional, so I think that for that reason I think this should be a mention of registration in the constitution, but I think the provision should be broad enough that the legislature can provide for areas as they feel is necessary, because in the first 50 years after we get statehood there is going to be quite a change in conditions and I think the legislature should have quite a bit of leeway.

PRESIDENT EGAN: Mr. Knight?

KNIGHT: I think it would be in error to change the word "shall" to "may". By putting in the word "may" there is a chance for the legislature to "pass the buck" you might call it. Where "shall" means they are ordered to do that very thing, I think "shall" should remain in there.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I was prepared to ask for unanimous consent for suspension of the rules so that I could make a motion and an explanation.

PRESIDENT EGAN: Mr. McLaughlin, the Chair would have to hold that the motion would not be in order at this time while this particular motion is before us. Mr. McNealy?

MCNEALY: Mr. President, I wish to speak in favor of the amendment for this reason, that I think this is a prime example with all due respect to the Committees of commencing to write legislation into the constitution, and when the legislation comes out on to the floor we are going to have these sorts of hassles about it. The reason that I prefer the word "may"

is the fact that I think a number of us here in the Convention, from some of the remarks that have been made in regard to the legislature, have feelings of necessity to spell so many things out for them and this is only the beginning. I think we should realize that the legislature of the Territory of Alaska and the legislature of the future State of Alaska has not been and is not going to be a common enemy. They are not an enemy of the people. They are even as you and I, and we are the ones who have elected them, and I think that we don't have to spell out all the work for them. I think that if there is an indication in this article here that the legislature may establish this system, I think that future legislatures will consider that, and based upon that setup the kind of registration system which will work, and like Colonel Marston, I too am thinking about the mandate here that is going to require registration which would possibly call for setting up some special type or a special time for registration. However, I will go further, that I still have the faith in the legislature, and I know exactly what is happening. If we pass this, the legislature shall establish this permanent system then the legislature is going to use its prerogative and skim it down until the kind of registration that is given will be a registration of the bare minimum to merely comply with the constitution because that is the only way that the people in these small villages down the river can have protection.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, the reason I objected to the substitution of "may" is that I feel that we are amending the wrong word in the sentence. By saying "may" we say nothing about having some system of registration. Now, if flexibility is desired, and I certainly go along with every argument that has been expressed on behalf of the problems that would exist in the small outlying communities, but if that is the case, let us eliminate the word "permanent" and leave in the "legislature shall establish a system of voter registration" so that we at least have what we have today. This will leave it open so that there may be no registration. There will be no record of who voted. You could never check out on anybody, and I don't think that is right. I think the minimum we should have in the State in Alaska is what we have today. And let's leave the door open by leaving in "shall" and if you want to amend, eliminate "permanent".

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, as Delegate Peratrovich stated, I am on this committee, and I was all for hanging on to some form of permanent voter registration. In Delegate Proposal No. 35, which has now lost its identity, it states, and be a voter registered in accordance with law". That "be" in this case I could use as the legislature shall establish a system of

permanent voter registration. As the population increases, as the impact of economics happens and moves into Alaska, these areas that are now friendly villages where everybody knows everyone else's relations, could over night become a center of population of increasing by the thousands per month. There would be only a decennial census to establish reapportionment or a basis for the legislature to establish permanent registration. I can't help but think that if the ordinance could be drawn as Mr. Fischer stated, that would handle the registration at the time of voting, initially, that there would be no one that would be persecuted in attempting to later carry out their voting rights. Now, as I say, I was all prepared to hang tough for a permanent voting registration act, and I think it is best or could best be accomplished by the legislature. The legislature could take into consideration certain areas at this time that are a very minimum population, but I do believe there would be some loopholes left open if that were the case. The present day registration is not adequate. I know that at the election held for this Constitutional Convention, in one instance out of seven voters, three were illegal voters right in the town of Fairbanks. That is merely in one instance out of seven, and there must be something done to police our voting. The only place where the voters can be policed is at the point of registration. You cannot argue with a voter when he walks through the door and asks for his ballot. The registration is a method of policing the vote.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I move for a 15-minute recess.

COGHILL: I object. I want to rise to a point of personal privilege.

PRESIDENT EGAN: Mr. Coghill objects.

HARRIS: I so move.

SWEENEY: I second the motion.

PRESIDENT EGAN: All those in favor of standing at recess for 15 minutes will signify by saying "aye", all opposed by "no". The "ayes" have it. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

COGHILL: Mr. President, rising to a point of personal privilege --

PRESIDENT EGAN: Is there objection to Mr. Coghill's request for personal privilege. If not, Mr. Coghill.

COGHILL: I would like to call the delegates' attention to the notice that was placed upon the Convention Hall by the Committee on Administration, the sign that says, "It is later than you think". In the mail boxes you will find a financial report that will bring you up to date on finances of the Convention through the recess. In lieu of this we have four or five experts here for consultation with the committees for work. We have only five working days left before we will leave to go on our hearing recess, and I think that we should hold our plenary sessions short so, Mr. Chairman, if I am permitted, I would like to move and ask unanimous consent that this body, upon the completion of the motion on hand, that we adjourn until 1:30 tomorrow afternoon.

PRESIDENT EGAN: Mr. Coghill, I think the Chair feels that you would have to get out from under your point of personal privilege before you make that motion.

COGHILL: Mr. President, I move and ask unanimous consent that we adjourn at 4 o'clock this afternoon to again take up plenary session at 1:30 tomorrow afternoon and ask unanimous consent.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the Convention stand adjourned beginning at 4 p.m. until 1:30 p.m. tomorrow afternoon in order that the committees might function and most of them be able to get their proposals ready to present to the Convention.

HERMANN: I would like to amend the motion to say that the plenary session, when it adjourns today at whatever hour, not to meet again in plenary session until Thursday morning, giving all of tomorrow.

PRESIDENT EGAN: Mrs. Hermann is asking if you would be acceptable to an amendment of that nature?

COGHILL: I will yield for the purpose of an amendment of that kind. However, my stating at 4 o'clock I felt that would give us ample time to get rid of the business that is on hand, this particular part that we all have fresh in our mind, and upon the completion of the adoption or rejection of the motion, then to adjourn until your time is fine with me.

PRESIDENT EGAN: Nine o'clock Thursday morning?

HERMANN: Yes, Mr. President. My purpose in that is to give tomorrow completely over to committee meetings.

PRESIDENT EGAN: Mr. Sundborg?

SUNDBORG: May I be recognized on a question of personal privilege.

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

SUNDBORG: As the President and a good many others here know, this matter was discussed today at the meeting of committee chairmen, and the proposal which Mrs. Hermann just made was discussed, and after considerable discussion was discarded in favor of a plan that for the next few days and until the committee work is completed, we should hold only afternoon meetings of the plenary session and not come out here at all for a day or two because we felt that perhaps some of the members just would not show up. We thought if we came out and had a plenary session each day, that that would be insurance that everyone would be on hand. It was the suggestion of the committee chairmen that until further notice we should each day dispense with the morning plenary session and have plenary sessions from 1:30 o'clock in the afternoon until such hour as may be required in order to give the committees a chance to function at the other times during the day.

HERMANN: I request special privilege too.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: The reason I suggested that all day tomorrow be given over to committee meetings was that it is my impression that we have Mrs. Jones' class invited here for Thursday - am I correct in that -- Thursday morning that is, and we certainly should not be having just committee meetings while that class is here, so I had felt that if we gave you all day tomorrow to hold committee meetings why it will take in practically all your committees, and I will come out I assure you whether I need to or not, so can Mr. Sundborg if he is worried about it, and I think that it would be a much better arrangement if we did it that way in view of the fact we have issued that invitation to Mrs. Jones and her pupils.

PRESIDENT EGAN: That is correct. We have issued the invitation to Mrs. Jones to have her class here. Mr. Sundborg?

SUNDBORG: May I be recognized again under the same heading? It has been mentioned to me that the Convention has extended an invitation to Dr. Ira Gabrielson to appear before us and he will be available tomorrow only. It was my thought and the thought of others that we would hear him during an afternoon plenary session tomorrow.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I would like to say I agree with the committee chairmen on that, except I do not agree we should overlook this class. However, I would not want to see any bona fide Convention day go by without having a roll call at sometime

during the day. That was also discussed, so if we were to recess until tomorrow afternoon and then tomorrow afternoon recess until Thursday morning and have a short plenary session, at such time as that class would be here I believe it is one hour, we could then go ahead with our committee work after that. It would seem to me to fulfill the requirements of this invitation that we have extended.

PRESIDENT EGAN: On this particular invitation, if the delegates will recall, we are going to take these children to lunch with us on Thursday. We will each have someone to take with us to lunch. And on the question of Dr. Gabrielson, we have extended him an invitation to appear here also, and it would be almost mandatory upon the body that possibly tomorrow afternoon we hear from him. Mrs. Hermann.

HERMANN: Mr. President, I would like personal privilege again.

PRESIDENT EGAN: You may, Mrs. Hermann.

HERMANN: Why not meet in the morning and hear Dr. Gabrielson, if he is available then, and then turn the afternoon over to committee sessions, or turn the whole morning and afternoon too, that is left over and then in that manner it will be much more convenient for those who do not have committee meetings.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, on the same subject matter, there are four committees that have not made their reports as yet. They are Apportionment, Local Government, Resources and Finance. The Bill of Rights report, all the matters were carefully discussed. There are three committees that will report tomorrow, and they do not need additional time for committee meetings. The only four that need additional time for committee meetings is Apportionment, Local Government, Resources and Finance. Three will meet tomorrow morning, which is their normal schedule and the proposal was that they meet tomorrow. The other committee Finance -- is going to be somewhat inconvenienced, but I believe the committee chairman said that he could fit in, rather than inconvenience everybody, by holding the afternoon open for the committee's sole benefit. Therefore, also the committee chairmen believe that in a couple of days they would be able to have their reports. So the thought was that if they devoted all tomorrow morning, all the next morning to committee meetings and then the afternoons and evenings if necessary, to plenary sessions, that we could get our work done far more expeditiously than closing up for two days or more, which would be unnecessary because a lot of people would be idle during that time. I see no reason why this good lady with her class can't come and have lunch with the committee that has been picked, then at 1:30 participate in the revelry.

PRESIDENT EGAN: Mr. Hellenthal, an invitation has been sent to Mrs. Jones requesting that she come here in the morning. It just entered the mind of the Chair that it probably would be possible to call her and suggest such a method to her. Mr. King?

KING: Mr. Chairman, we have had several conversations referring to Dr. Gabrielson. The last few days it was thought by the President of the Resources Committee that he would appear tomorrow morning, and that has been the schedule to date. Of course, he is going to leave day after tomorrow as he has a very tight schedule, but so far he has been scheduled to appear before this Convention tomorrow morning. It could probably be arranged that he would appear in the afternoon, but surely if it is going to be adjourned until day after tomorrow, we are not even going to see him. He will be gone.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I ask the President whether any hour was mentioned in the invitation to Mrs. Jones's class?

PRESIDENT EGAN: It was mentioned a couple of days ago that we would undoubtedly be in session in the morning and that at some time in the morning it probably would be interesting to her class to be here. However, Mr. Sundborg, the Chair feels it might well accomplish a change in that by a telephone call to Mrs. Jones.

SUNDBORG: It occurs to me the class is probably over for the day and they must have made some arrangements to bring the children out here.

PRESIDENT EGAN: That would not be until Thursday, Mr. Sundborg. Mr. Marston?

MARSTON: A suggestion, if Dr. Gabrielson is here, I understand he is, could we hear him now?

PRESIDENT EGAN: I do not believe that Dr. Gabrielson is here on the campus at the present time, Mr. Marston. Mr. Johnson.

JOHNSON: I agree with Mr. Rivers that it is important that during the week on each day we should meet and call the roll. I think we should bear that in mind.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: In making the motion, Mr. Chairman, it was not my intention to place any burden on the Convention as far as social obligations are concerned but we have only five days, and we have these consultants here and we should use them to the fullest and the maximum extent for those five days. As

far as the teacher and her class are concerned, possibly postpone it for awhile. I think we are going to have to get down, otherwise we are going to wake up and find some of these committees are not coming through with their proposals and the experts are going to have to go home.

PRESIDENT EGAN: Mr. Riley.

RILEY: How does the motion before us read?

PRESIDENT EGAN: The motion before us at the present time reads that the adjournment would be until 9 o'clock, Thursday.

CHIEF CLERK: No. There is none.

PRESIDENT EGAN: There is no motion that has been seconded. It was a unanimous consent request by Mr. Coghill, and he agreed to Mrs. Hermann's suggestion.

HERMANN: I withdraw that, if it is going to throw the Convention into such turmoil.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: It seems to me that this suggestion we meet at 9 o'clock in the morning and have roll call and listen to Dr. Gabrielson would take care of that situation and if we could invite the class out for lunch Thursday and have a plenary session at 1:30 for a short while, that would take care of that situation, and I would so move.

PRESIDENT EGAN: It would seem to the Chair that possibly an adjournment until 9 a.m. tomorrow with the understanding of the delegates that we would just have our preliminary business and hear from Dr. Gabrielson and then adjourn until 1:30 the following afternoon, under the circumstance of these difficulties, might be the answer. Is that your motion?

BUCKALEW: I will second the motion.

PRESIDENT EGAN: Mr. Boswell moves and seconded by Mr. Buckalew that the Convention that as soon as we decide to adjourn this afternoon that the Convention stand adjourned until 9 a.m. tomorrow, that we complete our preliminary orders of the day and hear from Dr. Gabrielson and then adjourn until 1:30 p.m. on Thursday.

SUNDBORG: Question.

PRESIDENT EGAN: The question is, "Shall the Convention adjourn under those conditions?" Mrs. Hermann?

HERMANN: Mr. President, suppose you are not able to arrange

with that switch with Mrs. Jones?

PRESIDENT EGAN: If we are not, we will have to bring that to the attention of the delegates tomorrow. Miss Awes?

AWES: May we make committee announcements before that is in effect?

PRESIDENT EGAN: That would not be necessary, Miss Awes, inasmuch as this is hinged not right at this moment but at such time as we might adjourn this afternoon. Mr. Victor Rivers.

V. RIVERS: I would like to say we might express our suggestion and opinion on the 1:30 the next day, Thursday, but we leave that open, that we set our date for adjournment until tomorrow morning for the very reason brought up.

PRESIDENT EGAN: If there is no objection then the agreed adjournment at adjournment time this afternoon will be until 9 o'clock tomorrow morning subject to the conditions stated. Is there objection to that? If not, that will be the general understanding as to the adjournment time when we adjourn this evening. We now have before us Proposal No. 1, page 2, line 1, "strike the word 'shall' and insert the word 'may' in its place." The question is, "Shall the proposed amendment be adopted by the Convention?"

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

V. RIVERS: Read the amendment please.

PRESIDENT EGAN: The Chief Clerk will read the amendment.

CHIEF CLERK: "Section 2, line 1, change 'shall' to 'may'."

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

Yeas: 38 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, King, Lee, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Taylor, VanderLeest, Walsh.

Nays: 16 - Barr, Cooper, Doogan, V. Fischer, Hinckel, Johnson, Knight, Laws, Londborg, McNees, Poulsen, Reader, Sweeney, White, Wien, Mr. President.

Absent: 1 - R. Rivers.)

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

PRESIDENT EGAN: So the amendment has been adopted. Are there other amendments?

V. RIVERS: I have one.

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

CHIEF CLERK: "Page 1, line 16, after the word 'voted' strike the balance of lines 16 and 17 and insert in lieu thereof 'in Alaska prior to its becoming a State'."

V. RIVERS: I will move and ask unanimous consent.

MCCUTCHEON: Second the motion.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that the proposed amendment be adopted. Is there objection?

V. FISCHER: I would like to object for purposes of a question. May I address a question to Mr. Rivers?

BUCKALEW: Excuse me, Mr. President, may we have that read again.

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

CHIEF CLERK: "Page 1, line 16, after the word 'voted' strike the balance of lines 16 and 17 and insert in lieu thereof 'in Alaska prior to its becoming a State'."

V. FISCHER: Mr. President, I would like to ask Mr. Rivers whether his intent would be to authorize the waiving of the residence requirement so that any person who voted, say 1930 or so, and then left Alaska would be eligible to vote without meeting the residence requirement?

PRESIDENT EGAN: If there is no objection, would you like to have the Chair declare a recess for a minute or two?

V. RIVERS: Well, my intent there was that any person who legally voted in Alaska prior to the time it became a state would still legally be qualified.

HELLENTHAL: Mr. President, I ask for a one-minute recess.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, after discussion with the Chairman of the Committee on Suffrage I will withdraw my amendment, my motion for an amendment, with the understanding that that will be offered in a similar manner or form to be included in transitory provisions. I have placed on the Secretary's desk another amendment which I wish to introduce.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that his proposed amendment be withdrawn with the understanding that it be included in the subjects under transitory matters. Mr. Victor Rivers asked that another amendment of his be read by the Chief Clerk at this time.

HELLENTHAL: Would you yield, Mr. Rivers, in the presentation of your second amendment so we can take care of this matter?

V. RIVERS: I yield.

HELLENTHAL: Mr. President, I move and ask unanimous consent that the last sentence of section 1 be stricken and the following substituted in its place, to be included in the transitory provisions of the constitution --

PRESIDENT EGAN: Would you mind reading that proposal?

HELLENTHAL: "Those citizens who legally voted in the general election of November 4, 1924, shall not be deprived of their voting rights by any provision of this section of the constitution.

PRESIDENT EGAN: Mr. Hellenenthal, are you asking that this section, this phrase be withdrawn because you feel that the subject matter properly belongs in transitory measures rather than in this section?

HELLANTHAL: Yes, and let the new phrase be placed in the transitory measures.

MCCUTCHEON: I believe that is a compound motion. I don't believe it is in order. We are not under a matter of consideration of transitory measures at this time. It would be proper it appears that if Mr. Hellenenthal would seek to strike the section, but that a time will arise when our transitory matters will be taken under consideration and at that time it should be offered.

PRESIDENT EGAN: Mr. McCutcheon, the Chair feels that that is what Mr. Hellenenthal intends but the Chair asked that he

explain the reason for asking that this phrase to be deleted from this section in order that at some future time he will offer it as an amendment or one of the transitory questions.

HELLENTHAL: I wish to confine the motion then to the substitution of the words I dictated for the last sentence of the section and drop all reference to transitory matters and take that up later. I move and ask unanimous consent that the last sentence of Section 1 be stricken and the following sentence substituted in its place: "Those citizens who legally voted in the general election of November 4, 1924, shall not be deprived of their voting rights by any provision of this section of the constitution."

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent for the adoption of the amendment. Mr. Metcalf.

METCALF: May I ask Mr. Hellenthal a question? How about those who did not vote at the general election -- would they be deprived of their rights?

HELLENTHAL: Congress, for the last 30 years has felt that those who did not vote at that general election should not have voted, and none of them have, unless they were otherwise qualified of course. It is one of those things where you have to draw the line somewhere. Congress drew the line there 30 years ago, and I think it is a good place.

COOPER: I object.

HELLENTHAL: I so move.

GRAY: I second the motion.

PRESIDENT EGAN: Mr. Cooper objects, Mr. Hellenthal so moves, seconded by Mr. Gray. Mr. Victor Fischer.

V. FISCHER: I would like to point out to the mover that again we have this problem of a citizen who may not meet the residence requirements. Would it not be better to substitute a sentence "in residence". Do you mean to waive the residency requirement at the time of voting?

HELLANTHAL: Congress did. This is the exact language of the Act of Congress.

V. FISCHER: Residency in Alaska?

HELLENTHAL: Yes.

V. FISCHER: In other words, they can vote even if at the first state election they have not been a resident of Alaska for one year?

HELLENTHAL: Yes, there are about 40 people in Alaska that that will apply to. Old people, all of them have to be over 52 years old, the youngest could only be 52.

V. FISCHER: Mr. President, I don't quite understand this section. Does this Act apply only to Alaska?

HELLENTHAL: Yes, Mr. Fischer. Let me give you the history. In 1924 the Native people of Alaska were awarded citizenship for the first time. Prior to that they were not citizens of the United States. In 1924 they were granted this privilege, and at that time it was stated, and I believe in advance, that every Native person who voted at that November 4 election in 1924 would automatically be qualified to vote thereafter, and that has been perpetuated since 1924, and now those people who say they were 21 then, now they are 52 years old now. There are very few of them.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I would like to ask Mr. Hellenenthal a question. His answer does not indicate to me that he understood the question that I thought Mr. Fischer asked. Supposing we have a person who voted -- not necessarily a Native -- a person who voted in the year 1924 who then left Alaska and who now comes back to Alaska after this constitution is adopted. Is the fact that he voted in 1924 sufficient to allow him to vote in elections thereafter whether he is a resident or whether he isn't, that's the point.

HELLENTHAL: Yes. That is the law today and that is the law that will exist up until the moment we become a state. That is an Act of Congress. I have never heard it criticized, only praised.

PRESIDENT EGAN: An Act which has been in effect for 32 years. Mr. Cooper?

COOPER: Mr. President, to support my objection, as I understand it, this is a Federal law which guarantees the people a right to vote whether we are a territory or state. I believe it has no particular bearing to be contained in the constitution in this Section 1. They are guaranteed the right to vote forever, is that right or is that wrong?

HELLENTHAL: By its very terms that law will go out of effect with statehood. It applies only to general elections held in the Territory of Alaska.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to pursue a little further the line of questioning that Mr. Davis pursued for a

way. What about a man who might have voted in the election of 1924 and left Alaska in the next year and does not even come back now to vote but sends in his vote and demands the right of voting up here even though he has not been a resident of Alaska for 30 years? I believe under the language you are now suggesting, he could do so.

HELLENTHAL: He could do it today. He could have done it for the last 25 years. He can do it up until the moment statehood is granted to the people of Alaska. Why should we in the constitution anticipate all these fantastic possibilities? We have to draw the line somewhere Mr. Sundborg.

SUNDBORG: There is nothing fantastic about that. I think there are probably thousands of individuals who lived in Alaska and voted at that time and who are now not residents of our Territory and who, under this language, could vote in our elections. I don't think it is right. I think we can so draw the language that we will be talking about and permitting election by the specific group which Congress had in mind in making this enactment and that we could debar from voting all others who are not in that group. I don't think we ought to include sloppy language like this which would open our elections to hundreds and maybe thousands of residents of the 48 states.

HELLENTHAL: Well, I don't think the language is sloppy. I think the Act of Congress is clear. A man has to prove, before he gets the ballot, that he legally voted in the general election, November, 1924. If he is in Mexico he is going to have a little trouble doing that and I don't think people are that fiendish.

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall Mr. Helleenthal's proposed amendment be adopted by the Convention?" All those in favor of the adoption will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments?

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

PRESIDENT EGAN: The Chief Clerk will please read the amendment. Mr. Victor Rivers had yielded to Mr. Helleenthal so he could introduce his amendment. If you would not mind yielding to Mr. Rivers, Mr. Buckalew.

BUCKALEW: I don't mind yielding, Mr. President.

PRESIDENT EGAN: Mr. Rivers' proposed amendment may be read by the Chief Clerk.

CHIEF CLERK: "Page 1, line 9, after the words 'votes and'

strike the balance of the line, strike lines 10 and 11 and the first part of line 12 up to and including 'only, and'. Is this all one amendment?

V. RIVERS: All one amendment.

CHIEF CLERK: "Line 15 after 'election' insert the following" line, 'Additional qualifications may be established by law.'

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

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the adoption of the amendment.

BUCKALEW: I object.

V. RIVERS: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: The motion is open for discussion.

ROBERTSON: May we have it read please.

CHIEF CLERK: "Page 1, line 9, after the words 'votes and' strike the balance of the line, strike lines 10 and 11 and the first part of line 12 up to and including 'only, and' and on line 15 after 'election' insert the following line 'Additional qualifications may be established by law.'"

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: The intent of that amendment is that we have established under the previous part of this section the citizenship, the age, the bona fide residence, the local residence required and that sets up their qualifications under this amendment they will be able to vote unless they have been otherwise disqualified. That would leave then, in the hands of the legislature, the matter to establish additional qualifications -- whether they are able to speak, read, write or unless they were physically incapacitated such as being blind -- the legislature could then provide the manner in which they could vote if they were so handicapped. With the amendment the line starting on line 6 would read, "... and who has been such resident continuously for 30 days next preceding the election in the election district in which he votes and who is not barred from voting by any other provision of law, shall be qualified to vote in any state or location election. Additional qualifications may be established by law." That is to allow freedom of the legislature in meeting any changing conditions that might occur in the requirements such as to literacy or as to those people who are physically handicapped.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, the present wording of Section 1 on lines 12 and 13 takes care of the principal reason for Mr. Rivers' amendment. The language "and who is not barred from voting by any other provision of law", that takes care of your intoxicant man who attempts to vote, that takes care it was argued, and successfully, in the Bowden case, that that took care of the registration system imposed by the City of Anchorage. I can't think of other illustrations, but it has been clearly established that those words take care of what Mr. Rivers would take care of by the words "additional qualifications may be established by law", so I feel that portion of the amendment is unnecessary. The second part of his amendment which would eliminate entirely any form

PRESIDENT EGAN: The Convention is at ease. (Lights have gone out.)

RILEY: Mr. President, may it be held that the Convention is in the dark.

PRESIDENT EGAN: The Chairman will accede to the conviction of the Rules Committee. (Laughter) Mr. Hellenthal, you may proceed.

KILCHER: Point of order, Mr. Chairman, I think it is no use to go ahead because the tape is out of order.

BUCKALEW: Mr. President, I submit Mr. Hellenthal has got his money's worth on the tape -- he might as well proceed.

MARSTON: No. Hold it.

MCCUTCHEON: Mr. President, a point of information. I would like to raise a question as to what would happen if our stenotypist short circuited. (Laughter)

PRESIDENT EGAN: The stenotypist is getting this all down for posterity.

DAVIS: Mr. President, I move that we recess until the lights go on again.

MCLAUGHLIN: I move we adjourn until 9 o'clock tomorrow morning.

V. RIVERS: I second it.

PRESIDENT EGAN: It has been moved by Mr. McLaughlin, seconded by Mr. Rivers, that the Convention stand at recess until 9 a.m. tomorrow. Is there objection?

METCALF: Roll call. (Laughter)

PRESIDENT EGAN: The Convention stands adjourned until 9 a.m. tomorrow.
(The Convention adjourned in the dark.)

ALASKA CONSTITUTIONAL CONVENTION

December 14, 1955

THIRTY-SEVENTH DAY

PRESIDENT EGAN: The Convention will come to order. Chaplain Swaffer of Ladd Air Force Base is here with us this morning. Chaplain Swaffer will give the daily invocation.

CHAPLAIN SWAFFER: Almighty God, Creator of our universe, we invoke the blessing of Thy spirit on this assembly today. Bless each one with creativeness of mind, with uprightness of purpose and spirit. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: All present.

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

HILSCHER: Mr. President, I do not particularly wish to clutter up the daily journal, but Mr. Marston and I believe that this morning's prayer was a concise job well done and well said and we would ask unanimous consent to have it spread upon the journal of the day.

PRESIDENT EGAN: If there is no objection this morning's prayer will be spread upon the journal of the day. Does the special Committee to read the journal have a report to make at this time? Mr. Doogan.

DOOGAN: Mr. President, I have the journals for the 32nd and 33rd Convention days. In the journal of the 32nd day on page 3, under general orders of the day where it states Committee

Proposal No. 2, strike the word "first" and put in the word second. On the journal for the 33rd day, page 4, second paragraph, line 2, after "12:15" insert "o'clock p.m." I move and ask unanimous consent that both journals as corrected be adopted.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that the journals of both days, the 32nd and 33rd Convention days, be approved as corrected. Is there objection? Hearing no objections it is so ordered. Mr. King.

KING: Mr. President, this morning we have with us Dr. Ira N. Gabrielson who as you all know is one of the foremost authorities in the United States on wildlife and resources. Dr. Gabrielson for eleven years was Director of the Fish and Wildlife and the Biological Survey for the United States. He is presently President of the Wildlife Management Institute.

He came from Washington, D. C., and especially to address this Convention and to appear before the Resources Committee. I would like to introduce Dr. Ira N. Gabrielson.

PRESIDENT EGAN: Dr. Gabrielson, we are happy to have you with us. We would like to have you come forward at this time and address the Convention. (Applause)

DR. GABRIELSON: Ladies and gentlemen, members of this Convention, it is a pleasure to be back in Alaska again and a privilege to talk to you, a privilege in more ways than one because I happen to be very fond of Alaska and during the 31 years that I was in the Federal service, and since I left I have been in the Territory many times and have managed to cover it pretty well, so I am not only fascinated by the country and by the wildlife that it has but I have some personal knowledge of most of it. You are here for a very serious job, and I might say that I have heard nothing but compliments for the way this group has been working since they started their deliberations. What you do here today and tomorrow and in the succeeding days will have a profound influence upon the type of government that you have in this Territory when it becomes a state, and if I can contribute anything to your deliberations or any information that will help you in your deliberations, I will feel that my trip has been very much worthwhile. Before I start to talk about it, I would like to tell you very briefly why I have the temerity to come in as an outsider to talk to a group like this. I have had a unique privilege I think that is not accorded to many Americans to study the organizations that are handling the national resources in the various states. When I went with the Wildlife Management Institute, one of the jobs that that organization undertook was to study and see if there were ways of improving the administration of the renewable resources, particularly the wildlife resources. And as a beginning for that we made a factual survey of all of the states in the Union, of their basic laws, of the type of organization that they had and the kind of work that they were doing. This was done by taking the material in their basic laws and in the annual reports of the various departments, the factual material, and after we had assembled a sheet for each state we sent it to the Department for checking and for correction. And from that we built a basic analysis of the type of organization and the type of work that was being done. Needless to say, in a country as varied as the United States, and its varied background and experience, we found all kinds of organizations and all kinds of attempts to get at the problems of managing the resources. Since that time I have been invited by 26 states and one province in Canada to make careful analytical surveys of their basic laws, their organization for carrying out the purposes of those basic laws and the programs they were working on, so that I have had the opportunity that I don't think that has been accorded to many

people to really have open to their inspection and study the records of 26 state conservation departments. Out of that I have at least distilled a personal philosophy of some of the things that I think are essential in a good wildlife resources or any resource management program. I might say that these departments that I have studied have varied all the way from conservation departments that had fish and wildlife, forests, parks and in some cases minerals and oils and some authority over waters, to those that were only fish and game organizations. Through all of them that were doing a reasonably good job we found that there were certain things always present, and I can outline those to you very briefly. The first one was an adequate authority to do the job, the authority to do a management job in managing a resource that became more complicated because of human use of the land and human activities. The second one was the ability to establish a program and stay with it. Nothing that we can do can quickly influence for good a thing as extended and as complicated as a wildlife population. We can destroy it very quickly. The efforts to build it back sometimes are much more complicated. Efforts to maintain it become more complicated as there are more people in a community. The third is a provision by some method of the ability to attract and keep good people, trained people, experienced people. You can in one of these resource management fields, and I don't think it makes any difference whether you are talking about forests, or fish, or wildlife, or something else, the value of even a trained man grows very much as he becomes familiar with the territory in which he is working and with its problems, and the ability to attract good men and to hold them is one of the essentials. The fourth one is adequate financing to do a job. And those are the four things that were nearly always present or were always present in all organizations that were doing a reasonably good job. Needless to say, some of them were not. There were all degrees between those that you would rank, the half dozen states you would rank at the top and those at the bottom and a lot of them in varying degrees of successful operation between. The most common device that has been developed and is in use for giving adequate authority is the establishment of some kind of an organization within the state government framework to which the legislature has given the authority to manage this resource. It has been given in two ways in the various states. In some cases there are very broad general grants. They have set up an organization and given it the authority to manage those resources with very few limitations. The more common one and one that has been very successful, the basic legislation closes all seasons on all sorts of living things that are protected by the basic laws and then grants to the organization established to handle that program the authority to open seasons and to establish methods and means by which game or fur or fish may be taken in accordance with broad rules that are established in the legislation itself. That is the pattern that was followed in the enabling act for the

migratory bird treaty. It has a lot of advantages and has been used very successfully. So far as the mechanism is concerned for doing that, the one that has been most successful has been the establishment of a commission. Those commissions have varied authority and varied responsibility. Some of them are commissions that handle forests, parks, fish and game, are a fairly common combination in those states where you have a broad conservation establishment. In some states they have added others to it. The majority of them are confined to fish and game, of those that I have studied. Those commissions are successful wherever the basic legislation is the right type of legislation. The best piece of legislation I think that is so regarded by most of the people who have studied it, as far as providing flexible administration and also limitations on what may be done, is the basic Missouri legislation. It has become more or less the model on which many states have revised their game setup as they have outgrown the laws under which they were previously operating. That legislation has stood the test better than any other that has been experimented with, and it was put into effect by profiting by the mistakes of a lot of other states and by the mistakes that have been made in Missouri previously. I hope that out of this Constitutional Convention you can do something that has not to my knowledge ever been done before in America -- you can set up a program before you have practically destroyed the resource. In most states there has never been an adequate management program instituted until the wildlife resources and fishery resources have been very sadly depleted. It became a question of having to do something before anything very adequate was done. That was more true in the older states than in some of the Western states, and you now have the opportunity of profiting by a lot of the mistakes that were made in the trial and error that went on for many years in developing the present type of administration and management of these resources that they have. The continuity of program has been provided pretty largely in the states by this commission type of government with staggered definite terms for the commissioners so that always on the commission there were some experienced people who knew the background, who knew why they were doing some things, and had some knowledge of the program. That type of a system has the advantage of bringing new blood and new points of view in and still not disrupting completely the program that is under way. In states where that has been successful their programs have been, let's say evolutionary. They have developed gradually as they had more knowledge and more information. They have developed programs that have stood up and have been in effect long enough to accomplish something. There is no state department that I have yet studied that has money enough and man power enough to go out and do in a short period of time the things that are necessary to influence for the better, a population of wildlife that they are responsible for, and I use wildlife in a very broad way, including all of the living creatures that we

put under the term of fish and game and fur and various other more restrictive terms. Those have been the most successful. To my surprise when they inaugurated the system of a small commission of equal numbers from both political parties, that has worked better in actual administration than any other system that I have studied. I assumed when they set up a commission of four or six people, half of them from each of the major political parties, that there would be a deadlock over very many issues. The very fact that they might deadlock over them soon convinced them that they had to forget any partisan politics and go to work at looking after the resource, and it has worked wonderfully well. I would like to say this, that I have known a great person in nearly all of the people who have served on these commissions in all of the states in the Union. I think I have known every man who has served on the Alaska Game Commission up to the present time, and by and large those are all people who want to do a job. Where they fail it is because of lack of resources to do a job or lack of authority to do an adequate job. I have found very few of them who did not want to do the best possible job that they could do. These commissions have worked best and have provided continuity of program where they have been established and maintained as broad policy-making bodies -- where they establish the policies which finally determine the regulations for the management of the resources and then have a staff to carry out the program. They fall down most where the commissioners get to dabbling in the day-to-day affairs of the department. I recall sitting in one commission office when I was making a study and hearing one person get three different orders from three different commissioners. He could not possibly have carried them all out, and when I told the commission about it in a private meeting they asked me, "What did he do?" I said "If he was smart he did not do anything because he was going to get in wrong with someone of you no matter what he did. The truth of the matter is you fellows should not be issuing him orders. His orders should come from whoever you select as a director to handle that department." Wherever they have established those commissions as policy determining bodies within the framework of the legislation that they are operating under, they have been successful. Their greatest weakness has been the other. Continuity of employment has been provided most successfully in all of the states I have studied by some sort of a merit system. Sometimes those are state-wide merit systems. The strongest I have happened to study is the civil service setup in the State of New York. It perhaps goes, in some respects, too far in protecting employees because it is difficult to get rid of even an incompetent or bad actor under their laws, but all of the departments that are doing a good job have a merit system of some kind whereby they select the men in competitive examination and set up a promotion system that enables them not only to recruit good people but to keep them. A man who has worked in a territory for ten years and knows that territory

is infinitely more valuable to the people of that community than he would be as a stranger coming in, no matter how competent he might be. There are many different kinds of systems in use. Many of them are not adequate, but in every case where we have found a good management program going on there has been an adequate and satisfactory merit system that was enforced to provide, and a way of attracting and keeping the most competent people that they could get. The fourth one, adequate financing, there is very little difference of opinion among the states. All of them have been financed, are now financed by one device, in most states entirely by license fees which are set aside in an earmarked fund for the use of the agency which is administering that resource. That started many years ago when it was impossible in competition with many other things to get any adequate funds for the enforcement of wild life laws and for the management of wildlife population. I believe the first state that used that as a device for financing the resource management was North Dakota, but it succeeded in raising so much money and North Dakota became apparently so well off in the program that that example was quickly followed by every state in the Union, and there is no state that does not now charge or earmark and segregate the license funds for the use of the department. I know that every budget officer and every accountant that I ever talked to is opposed to that kind of procedure for reasons which seem sufficient to them, but I also know that of the state agencies, the fish and game agencies are always the best financed of any of them. State forestry departments, park departments and others that depend upon legislative appropriations from general funds are relatively much less adequately financed. The people who hunt and fish look upon it as an added tax. They pay the same taxes as others do to the general fund in proportion to their means and under the laws. They look upon this as a tax which they bear willingly to provide for the recreation that they get out of hunting and fishing. I have never seen an equal, and I might say that the movements for the establishment of licenses and the earmarking of license funds have almost invariably come from the people who would pay for those licenses. In almost every case the increased license fees that have been established in states from time to time have been established because of the efforts of the organized sportsmen and license buyers of those states who saw a need for more money and who are willing to provide it. We have a similar system in spite of the objections of budget officers in most states for the financing and maintenance of public roads. by special taxes that are levied through gasoline taxes on people who use the public roads. In most states those are earmarked. Every state earmarks in one way or another the license funds and some other miscellaneous funds are frequently used. Very few states contribute anything out of the general fund for the management of the wildlife resources. In a few states they have at times made special appropriations for what they chose to call capital investments in wildlife.

I recall that some years ago the state of Iowa for example appropriated two and three-quarter million dollars for building artificial lakes for recreation and fishing purposes in a part of the state where there were no lakes. That was not financed out of the game funds. That was from general funds. The maintenance of those lakes is financed out of the earmarked funds. I know of no state that appropriates any money out of general funds for the operations of the fish and game setup, whatever it may be, or for the maintenance of their projects. So that the experience in the various states I have studied all points in one direction that adequate financing can be obtained in that way, rather painlessly, it does not have to come out of general taxes, it comes from the people who use the resource and who are usually quite willing to pay a reasonable fee for that privilege. This fish and wildlife management becomes more complicated, and I am not going to take a lot more of your time. I would like to present to you the things that I have found that are important and not spend a lot of time talking about the bad things because you are interested in developing a program for Alaska which I hope will be better than any program that has ever been started in any state at the beginning of their existence as a state. And you are more dependent in more ways than most states upon these natural resources. They are more important to the average citizen in Alaska by far than they are to the average citizens in a state like New York, for example. They deserve a lot of consideration, and it will depend upon you and what you do in their management whether or not you can preserve the very remarkable and unique wildlife resource you have in this Territory. I would like to point out one other series of things before I stop. I told you that the Missouri setup was as far as basic law was concerned, the best one that I have seen. I think that is the consensus of opinion of all of the wildlife people who have studied the basic laws. It is relatively simple, it grants definite authorities, it sets up certain standards that must be followed and it has worked well. It was put into the constitution because it was impossible to get through the legislature in that state any improvement in the basic laws that governed the administration of that resource, and the people got finally so fed up with it that they put this thing on the initiative and put it in the constitution as one way of getting some change for the better, and it worked. It brought Missouri from the position of one of the three or four worst states from the standpoint of administration of its resources, right to the top. I could not say that any state had the best department because they are working under too many varied conditions to be comparable, but Missouri is one of the top states, in the program that is carried out, in the continuity that it has been able to put into its program, and in the results they have obtained in building back some of the resources that were destroyed, and in improving and maintaining some of those that were still in existence. This problem has gotten more complicated as

years go by, and I would like to tell you very briefly what the limited things are that we can do to influence for the better the wildlife resources. After all, there are many natural factors over which we have no control that determine in the long run how much and what kind of wildlife that can exist in a given territory. Those that are there are there because they can exist under those handicaps and conditions that they must contend with. Historically, we have had four or five things that we have tried to use to influence for the better these wildlife populations. The oldest, let me say wildlife management practice historically is the practice of limiting the human harvest that is taken out of the crop. The very oldest laws that we have governing game and fishing go back to colonial days when they commenced to limit the time or the number that could be taken close to the settlements. Those laws were good only to the extent that they could be enforced. The making of laws and enforcement of them is still an important part of wildlife management. It probably always will be, and those laws serve two functions. They should serve primarily for the protection and maintenance of the resource, but many of our laws are written for the purpose of distributing the utilization of that resource between different groups or different purposes, and that is where much of the controversy comes. Wildlife management, if you could deal only with the wild populations and their problems, would be relatively simple, but in my opinion most wildlife management consists of five per cent dealing with wildlife things and 95 per cent dealing with wild people, and most of the problems and most of the headaches in wildlife administration come from human attitudes and human problems not from the wildlife problems. For a long time that making of laws and their more or less adequate enforcement was the only management device we had. The next one in sequence was predator control. We developed a philosophy that if we could kill off enough predators we would have the deers or quail or pheasants nine feet deep all over the landscape. It did not work. Predator control is a useful tool where predators are a limiting factor on the game. Twenty years of my field experience were spent in that type of work. I can tell you honestly in many cases our predator control programs resulted in direct and immediate increases in the game population. I can also tell you with equal honesty that for every case of that kind we had many dozens where it showed no appreciable results in better game population. The answer is of course that predators were not always the limiting factor on the number of other wild creatures that were there. Where they were, the reduction of predator population brought very quick response. The next phobia we had that was going to solve all problems was making refuges. We made refuges by the thousands and covering millions of acres. Many of them were paper refuges with no boundary markers or no enforcement and they did no good. Refuges again, we found had their value and they also had their limits. They were not the answer to all the problems.

They are chiefly valuable in many cases as a way of preserving suitable habitat for a game or fish or wildlife population and they have their place in the picture. They are not a cure-all. They do not solve anywhere near all the problems. The next great delusion we had was imported from Europe from where we brought the system of artificial propagation and distribution of wildlife over. It works in Europe. It works in this country where cost is not a factor. You can't raise pheasants and quail and certain other things and liberate them right ahead of the guns and get a lot of shooting. Where you have to do it on limited public funds it is one of the best ways to waste money that I know of as a general practice. You have not gotten into that in Alaska. I hope that you don't. It has its use in limited ways. It has been very useful in establishing populations in areas where habitat has become suitable again and where the population has long been exterminated or expatriated from that area. For example, the Pennsylvania deer herd which is one of the great deer herds that any state has built so far as anyone knows entirely from deer that were trapped and brought in there and released. At the time that program was started in 1902, as far as anyone knew there were no deer left in the State of Pennsylvania. They purchased and brought in there many hundreds of deer, released them, protected them and built the present herd that way, so this propagation and release has its place in the picture. Again it did not prove to be a cure-all, and we have one other tool which is becoming increasingly important in the states, in the more densely populated states, and that is this question of habitat management of taking the land that is still available for the production of wildlife that is not demanded exclusively for human use and developing it to produce the maximum amount of wildlife that can be produced on that land, and that has been a very successful program. It again has its limitations. It will work where the question of suitable shelter and suitable food is the limiting factor on the wildlife population. That is true in many places, and it has been a successful program where it meets the problems. My reason for reviewing this is to point out to you just one thing. We are all Americans, we like to express our opinions, and I know of no group that expresses their opinions more violently or forcibly than the fellows who hunt and fish. You can get more argument and more heat and less light on a given subject by bringing up something in a sportsmen's meeting than in any place that I know. That is our great American privilege. We have these techniques. They are all useful if they are used at the time and place where they are needed, but to sit down and try to draft laws or to say to an organization, "You have to use this particular tool, you have to spend your money for this particular tool", is comparable in my mind to my hiring a carpenter to build a house according to some blue prints I have drawn and say, "But I don't want you to use anything but a hammer when you build it". The carpenter should be the man who knows which tool he can use most efficiently in building a

house. We have these tools. We have developed within these tremendous broad categories of management tools I have outlined, many ways of applying them. They are useless unless they are applied at the time and place where they are needed. And we have developed more and more in this country in the last 40 years a group of trained men who are trained to know when and how to use those tools, just as an expert machinist knows when and how to use his tools. A man can go to school and study carpentry and go to a trade school, but he is not a good carpenter when he comes out of the trade school. He becomes a good carpenter by using those tools, by learning how and when to use them. The same thing is true in this wildlife field. The only way we have found in the states to get good administration of these resources is to set up an organization of some kind that consists of men who make it their business to find out the facts and to determine which tool to use and how to use it and to the extent that the departments have been given that authority and that ability we have good game departments. I made a study of one department to show you the other extreme where over two elections they had a 185 per cent turnover in the personnel, and that went for everything in the office, both ways. Now it is not possible to manage a resource on that kind of a basis. The only reason it had not been a 200 per cent turnover was because there were a few people who had drifted into that department that had civil service status in some other departments and they could not take it away from them, and the second reason was that the new governor had not been there quite long enough to get rid of all of them at the time I made the study. Needless to say, they had no program in that state except to spend the money that was turned in from the license fees. There is no appreciable result from it and there cannot be. Those that went in, some of them, developed into good people. About the time they were getting to know what they were doing they got fired to make way for another fellow who had to do the learning job all over again. There is no instance in the history of the state where that kind of management of wildlife or forest or any other renewable resource has been productive. That is one of the reasons I think for the spreading movement in states to write into the constitutions basic laws which theoretically should not be in the constitution, but it has been one way of preventing that kind of management or lack of management. There are now I believe five states that have written it into their constitution and there are two states which will probably be voting on it at the next election, and it is a popular way of expressing their disapproval at least of the use of the earmarked funds for purely partisan political purposes for building for personal political machines, and it has been wasteful of the resource which is much more important than the wastefulness that has come from the money. It has been wasteful of the resources themselves, and it is not possible to manage any renewable natural resource under that kind of a system, so I present that, personally I can see lots

of objections to putting that kind of legislation into a constitution. Theoretically it does not belong there, but I am telling you practically, that it has produced the most results of anything I have seen in the way of good administration. It's just like the budget officer's objection to earmarked funds, I can understand that from an accounting standpoint it is bad business, but it has produced results that were never produced by any other system, so you have to balance in your thinking or at least should try to balance in your thinking the theoretical as against the practical results that you will get in managing this resource that means so much to all of you. I know of no place under the American flag where the wildlife resources are so important to the average citizen and will continue to be for a long time as they are in this Territory. I wish you luck in your deliberations. I understand I am going to meet with your Resources Committee, and I hope to try to answer some of the questions they may ask. I thank you very much for the privilege of appearing before you and hope I have at least given you something to think about. (Applause)

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, would it be possible to ask Dr. Gabrielson a question or two?

PRESIDENT EGAN: If there is no objection, Mr. Barr, you may ask a question.

BARR: I would like to have you make a brief statement on the Dingell-Johnson Act or any similar act in which the state gets federal aid and particularly whether or not it is possible to obtain that aid other than by earmarked funds. For instance, we have it in the laws that we should appropriate a like amount to the funds received from license fees.

DR. GABRIELSON: I don't know that I understand just the purpose of the question, but both the Dingell-Johnson Act and the Pittman-Robinson Act, in both federal aid acts for the states, are earmarked funds based upon the excise taxes on sporting arms and ammunition in the one case and on sport fishing tackle in the other. Historically, about 1936 or 1937 a great many of the emergency taxes that were placed during the beginning of the depression on various, and some went back to the first world war, were repealed. At the request of the sportsmen of the country and of the manufacturers themselves, the excise tax on sporting arms and ammunition was continued at the time they repealed all of the others and earmarked for wildlife management purposes. That bill provided the method by which those funds would be distributed and the formulas under which they would be distributed and also provided that the states had to match them, put in 25 per cent or one-third of the amount that the federal allocation amounted to in order

to be available for that. The Dingell-Johnson Act has similar provisions. It was enacted much later, and the tax that was then in existence on sport fishing tackles was continued as a special excise tax. Again, a form of self-assessment that was promoted by the sportsmen of the country, and under those laws I don't know whether you would get very far if you repealed that earmarked funds, whether you would get Congress to appropriate that much money for that purpose. Those are rather sizeable funds. My experience in eleven years of trying to get money out of Congress was not very encouraging. There is too much competition for the amount of money that is available and a lot of other things that are to the general public seemingly much more important, and I have found it very difficult to convince the Congress that they should give me any money for the wildlife program and I think that has been the experience in the various states. Theoretically, I suppose it could be done. Practically, it would be an uphill battle.

TAYLOR: Could you give us the name of the four or five states that have the best system of game conservation so that we can look these matters up.

DR. GABRIELSON: It is hard to say they have the best system. There are several that are doing outstanding jobs. Some of them are doing good jobs in spite of poor laws because they have exceptionally good people. My observation has been that good people can make most any kind of a system work, but people can do a lot better job with a good system. Poor people can't make any kind of a system work, it all goes back in the long run, but the states in my opinion who are doing outstanding jobs are states like Oregon, Washington, Missouri, Michigan, Iowa. Their systems vary, their emphasis on their programs vary, but they are doing a good job in managing what resources they have.

TAYLOR: What about Missouri?

DR. GABRIELSON: I did mention Missouri. Missouri, Michigan, Pennsylvania, which has very poor laws but a fine organization and fine staff, Oregon, Washington, Iowa are among those that are doing a top job with resources. I might add California. You find every variation that is conceivable in them. Basically they are doing good jobs for one reason or another.

SMITH: Mr. President, also in the gallery this morning we have Mr. Arthur W. Greeley, Regional Forester for Alaska, who has rendered invaluable assistance to the Resources Committee, and I would like to ask unanimous consent that Mr. Greeley be given an opportunity to say a few words at this time.

PRESIDENT EGAN: If there is no objection, Mr. Greeley, would you like to come in and say a few words to the Convention. (Applause)

MR. GREELEY: Mr. President, ladies and gentlemen, this comes as very much of a surprise to me. I have really no comments to pass on. I do want to say that Dr. Gabrielson spoke for resources in general even though he was referring specifically to the wildlife resource. When I was coming up here to appear before the Resources Committee I made quite a list of items that I thought it was important to call to the attention of the Resources Committee, and at the top of the list I had the need for competent people. Well Dr. Gabrielson certainly covered that point. Also on the list I had the need for nonpartisan or at least nonpolitical boards to the extent boards are needed. Again Dr. Gabrielson covered that point, and actually just about all of the features which result in a good wildlife program in individual states have their counterpart in features which result in a good forestry program in individual states. I think the future of the State of Alaska depends in large measure on what can be done with the forest resource certainly as much as with the wildlife resource. I think the wisdom of the program which is evolved, both through the constitutional provisions and the subsequent provisions of a resource code, will in large measure indicate the success of the type of program. In fact, it is more than just the success of a resource management program, the success of our statehood ambitions depends in large measure on what we are able to do with our resources. I know you are pressed for time. Thank you very much for this opportunity. I greatly appreciate the chance to appear before you.

PRESIDENT EGAN: Thank you. (Applause) The Convention will come to order. Are there any communications from outside the Convention?

CHIEF CLERK: No.

PRESIDENT EGAN: Is there any other business to come before the Convention at this time? Are there reports of standing or select committees? Mr. Cross?

CROSS: I have a report from the Resolutions and Recommendations Committee.

PRESIDENT EGAN: Mr. Cross has a report of the Resolutions and Recommendations Committee.

CROSS: We have a proposal which is a compromise, a consolidation of three proposals and one resolution which was submitted to this Committee. It has been consolidated. The Committee report is really an ordinance, but we are recommending an ordinance which I would like to place on the Secretary's desk.

PRESIDENT EGAN: Are you recommending, Mr. Cross, that your resolution be, that your proposal be referred to the Ordinance Committee? Is that it?

CROSS: We are placing this as a proposal. It is in reality an ordinance but we are placing it on the Secretary's desk as a proposal to go through.

PRESIDENT EGAN: The Sergeant at Arms may place the proposal on the Secretary's desk. The proposal may be read for the second time.

ROBERTSON: Mr. President, the proposal has not yet been mimeographed. I think that Mr. Cross just wants to introduce the proposal at this time.

PRESIDENT EGAN: Well the Chair misunderstood, Mr. Cross. The Chair thought that you were introducing a committee proposal which combined several proposals which had been sent to your Committee, but if that is the case, the proposal, did you want it read for the second time as a committee proposal? Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the proposal just introduced by the Resolutions and Recommendations Committee be read for the first time by title only and referred to the Rules Committee for placement on the calendar.

ROBERTSON: I second the motion.

PRESIDENT EGAN: If there is no objection the proposal will be read for the first time and referred to the Rules Committee for placement on the calendar. The Convention will stand at recess for one or two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will read the proposal for the first time.

CHIEF CLERK: "Committee Proposal No. 4, by Committee on Recommendations and Resolutions, LOCATION OF STATE CAPITAL, AND PROCEDURE FOR CHANGE THEREOF."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for placement on the calendar. Are there other proposals? Mr. Metcalf.

METCALF: Mr. Chairman, I have a proposal.

PRESIDENT EGAN: The Sergeant at Arms will please bring the proposal forward. The Chief Clerk may read the proposal for the first time.

CHIEF CLERK: "Delegate Proposal No. 43, by Mr. Metcalf, BILL OF RIGHTS."

PRESIDENT EGAN: The proposal is referred to the Committee on Preamble and Bill of Rights. Is there any other unfinished business? Are there reports of any committees at this time? Mr. Smith.

SMITH: Mr. President, I would like to announce that the Resources Committee will meet to hear Dr. Gabrielson immediately following the recess if a recess is had before noon, and I think that under the present circumstances it would be advisable to hold the meeting in this room due to the fact there are probably a large number of delegates and probably quite a number of people in the gallery who would like to hear what Dr. Gabrielson has to present to the Committee.

HELLENTHAL: There will be a meeting of Committee VI, ten minutes following the recess.

AWES: The Committee on Bill of Rights will meet for just a few minutes immediately after recess.

NEWLAND: The Finance Committee will meet immediately after recess for a short time.

PRESIDENT EGAN: Are there other committee announcements? Mr. Rosswog.

ROSSWOG: Local Government Committee No. XII will meet at 10:30 following this session in their committee room.

PRESIDENT EGAN: The Chair would like to -- Mr. McNealy?

MCNEALY: Committee announcement, Mr. President. The Committee on Ordinances will meet about ten minutes after the recess.

PRESIDENT EGAN: The Committee on Ordinances will meet about ten minutes after the recess. The Chair was going to suggest in line with conversations that were held with all committee chairmen yesterday that perhaps it might be well if the Elections, Resources, and Local Government Committees could meet now and if necessary until 3 o'clock or 3:20 this afternoon and those committees that normally meet in the afternoon then at that time would have a clear way ahead of them without any interference with these other committees. Do the committee chairmen recall the manner in which we discussed this yesterday? What is the opinion of the chairmen and the delegates?

NERLAND: Mr. President, I think the Finance Committee was the only committee that our membership had representation on the other committees, so I can see from the standpoint of the other committees that is the most satisfactory manner. If it would be possible to allot the time a little bit differently than 3 o'clock or later for the final meeting. I think it would be better.

PRESIDENT EGAN: Perhaps if there is no objection the Convention could stand at recess for two or three minutes and the Committee Chairmen and members of the committees can get together here on the Convention floor and come to some agreement on meeting times so there will be no conflicts. If there is no objection the Convention is at recess.

RECESS

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

JOHNSON: Mr. President, it is my understanding that Mrs. Jones will be here shortly before noon tomorrow, and in order to permit the class to attend the plenary session after lunch, I understand we are to be hosts to the class during the lunch. It seems that on that basis that when we do adjourn now we should adjourn until 1:30 tomorrow afternoon, and subject to any committee announcements I so move.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand adjourned until 1:30 p.m. tomorrow. Mr. Victor Rivers.

V. RIVERS: The Committee on Executive will meet at 2:00 this afternoon in the committee room.

PRESIDENT EGAN: The Committee on the Executive will meet at 2:00 this afternoon in the committee room. Mrs. Hermann.

HERMANN: Has the committee that was in charge of this luncheon sorted the children out to the different delegates?

PRESIDENT EGAN: Mrs. Hermann, we are going to do that today and we will say that prior to the arrival of the children that you will have the names.

HERMANN: I was just a little bit afraid some delegates might not come before lunch if the meeting is not called until 1:30.

PRESIDENT EGAN: It will be understood by all delegates that we are duty bound to be there and live up to the obligation that we have proposed on ourselves in requesting that these children come and be our guests at luncheon tomorrow.

HERMANN: I would like a further question Mr. President, in regard to the bus service we will have to cancel for in the morning apparently, or not. I do not know.

PRESIDENT EGAN: Mrs. Hermann, the Chair would feel that all the delegates would probably catch the same bus in order to be here for the committee meetings or most of them would.

HELLENTHAL: Is there a motion before the house?

PRESIDENT EGAN: Mr. Johnson moved. The Chair did not hear a second as yet that the Convention stand adjourned until 1:30 p.m. tomorrow.

JOHNSON: I ask unanimous consent.

HELLENTHAL: I object for the moment.

ROBERTSON: I second the motion.

HELLENTHAL: I would like to propose that we meet tonight at 8 o'clock in plenary session to discuss the pending proposals before the body.

METCALF: I second the motion.

PRESIDENT EGAN: We already have a motion for adjournment before us and an amendment would not be in order. Mr. Sundborg?

SUNDBORG: Had Mr. Hellenthal been recognized?

PRESIDENT EGAN: Mr. Robertson seconded the motion.

SUNDBORG: As I heard it though Mr. Robertson seconded it after. It seems to me Mr. Hellenthal's motion is on the floor.

PRESIDENT EGAN: It could not be, Mr. Sundborg, because the motion to amend the adjournment would not be in order.

SUNDBORG: Well it would not be if it was seconded.

PRESIDENT EGAN: His motion stated that he was attempting to amend the motion. We have before us the question of adjournment until 1:30 p.m. tomorrow. The committee announcements are open. Are there other committee announcements to be made at this time? Mr. Ralph Rivers.

R. RIVERS: If we are going to host these school children I think we ought to have a roll call about 12 o'clock tomorrow. Then I suppose we will be taking them up at 12:30 around the usual time. I think we are going to get balled up if we are going to find out which children we are supposed to host and if the committee has to chase us down individually we are going to get all balled up if we don't get together about 12 o'clock.

PRESIDENT EGAN: Would that be satisfactory to you, Mr. Johnson?

JOHNSON: Entirely.

PRESIDENT EGAN: If there is no objection the maker of the motion has acceded to the suggestion to make the adjournment until 12 o'clock noon tomorrow. Mr. Taylor.

TAYLOR: Mr. President, was there not an amendment to that motion?

PRESIDENT EGAN: There can't be an amendment to that motion. It is out of order.

ROSSWOG: May I make another committee announcement? The Local Government Committee will meet at 9 o'clock tomorrow morning.

PRESIDENT EGAN: The Local Government Committee will meet at 9 o'clock tomorrow morning.

COGHILL: Mr. Chairman, in line with Mr. Hellenthal's idea, I would like to ask through the Chair if the maker of the motion would accede to having his motion changed to 8 o'clock this evening.

TAYLOR: Mr. President, I think Mr. Hellenthal's motion was in order according to Robert's Rules of Order. A motion that fixes the time to be adjourned can be amended.

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

RECESS

PRESIDENT EGAN: The Convention will come to order.

METCALF: Mr. Chairman, may I ask a question.

PRESIDENT EGAN: If there is no objection you may ask a question, Mr. Metcalf.

METCALF: Will all the committee proposals be submitted by the end of the week so when we go home for our Christmas vacation we can have a complete list of proposals so we can think and talk intelligently on all sections of the constitution?

PRESIDENT EGAN: Mr. Metcalf that is the purpose of course in attempting to adjourn for a longer length of time than is ordinarily the case, in order to allow the committees that are just now practically in the process of reporting their proposals to do so, and we hope that all committees will have reported their proposals back to the convention by the time we are ready to take the hearings recess. Mr. Barr.

BARR: There seems to be a tendency on the part of some of the members to insist on the plenary sessions. These plenary sessions are not important now. The committee reports are. A man holding a hearing or attending a hearing isn't properly equipped unless he has a stack of all of the mimeographed

copies of the committee reports to refer to, and he can't answer questions from the public, and the most important thing right now is committee reports to have them out and have them mimeographed before the recess. If we do work in the evening it should not be in plenary sessions, but should be on committees.

PRESIDENT EGAN: The Chair has been allowing discussion but of course under this motion it is not debatable, and the question is, "Shall the Convention stand adjourned until 12 noon tomorrow?" All those in favor of the motion will signify by saying "aye", all opposed "no". The "ayes" have it and the Convention stands adjourned until 12 noon tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

December 15, 1955

THIRTY-EIGHTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this afternoon Reverend Robert Sheppard of First Church of the Nazarene. Reverend Sheppard will give the daily invocation.

REVEREND SHEPPARD: Almighty God and Heavenly Father, we acknowledge Thee, we worship Thee. It is not absolutely mandatory that any of us be here for our place could be taken, but Lord we feel in our hearts that it is necessary that Thou be here. Thou hast revealed the extent of Thy concern toward nations and toward individuals in the gift of Thy Son Jesus to us at the first Christmas time, and in the light of that we ask Thee for Thy blessing upon our Constitutional Convention; that Thou shalt be with those in committee activities, in debate and in all the affairs and activities that center around this formation of a document for the governing of a great state and a great people. O Lord, bless we pray. Give insight as to the right and give courage to men to do the right as their insights have indicated to them. Make this a good day in all of the work that is before this group. May they bear their responsibilities as unto God, and when the day comes to a close may they be satisfied with the work of their hands. In Christ's name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: All present.

PRESIDENT EGAN: Does the special Committee to read the journal have a report to make at this time?

DOOGAN: No journal today.

PRESIDENT EGAN: If there is no objection the report of the special Committee to read the journal will be postponed until tomorrow. At this time the Chair would like to announce that copies of the speech by Ernest Gruening, "Let Us End American Colonialism!", are available and each delegate who would like to have copies of that speech, if they will notify the people at the message center, may receive such copies, such numbers as they would so desire. At this time the Chair would like to announce also that we have with us today Mrs. Laura Jones and her 7th and 8th grade class of students from the Fairbanks Public Schools. If the president of the class, Marjorie Thomas would come forward at this time we would certainly be pleased to hear from her. (Applause)

MARJORIE THOMAS: Mr. President and delegates of the Constitutional Convention, I would like to take this opportunity to thank you for letting us come out here today to sit in on the Constitutional Convention and the writing of the laws of our future State of Alaska and on behalf of my fellow classmates I would like to thank you for giving us this opportunity to be able to tell our children and our grandchildren that we have attended the Constitutional Convention. I would like to present my class now.

PRESIDENT EGAN: Miss Thomas, if you would not mind, the Chair does not mean to interrupt, but as each of the children as they are named, if the two delegates who have been so kind as to ask this particular child to eat dinner with them will rise so that the boy or girl may know who is going to take them to dinner. The Chair feels that would be the proper way to find out just who is who, so Miss Thomas would you proceed again. (Miss Thomas introduced her class.) The Convention will come to order and thank you, Miss Thomas. At this time the Chair would entertain a motion for recess until 1:30 unless someone has an announcement. Mrs. Hermann.

HERMANN: Before we have a motion for recess, I would like to have the record show that the booklet, "Let Us End American Colonialism!" has been printed by the Alaska Statehood Committee which has assumed responsibility for wide distribution of the same, and now I move that we recess until 1:30.

NORDALE: May I speak on a question of personal privilege? One of our delegates is celebrating his birthday today and I think we should all wish him many happy returns -- Mr. Ed Davis. (Convention stood up and applauded and sang "Happy Birthday".)

PRESIDENT EGAN: If there is no objection the Convention will stand at recess until 1:30 p.m. The Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any petitions, memorials or communications from outside the Convention? The Chief Clerk will please proceed with the reading of communications.

CHIEF CLERK: Telegram from Lester Bronson, Second Division, Nome. (The Chief Clerk read the telegram stating that a majority was in favor of four divisions in Alaska as now existing.)

PRESIDENT EGAN: The communication will be filed.

CHIEF CLERK: "You are invited to attend the Christmas program

of the music department of the University tomorrow night at 8 o'clock in the gym."

PRESIDENT EGAN: The communication will be filed, and the delegates will keep the particular date in mind. Are there reports of standing committees? Mr. Riley.

RILEY: Mr. President, not a report. I would like to ask to speak to a matter of personal privilege for a moment.

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

RILEY: This afternoon the Resources Committee consultant is leaving Fairbanks and it is desirable that some members of the Committee spend as much time as possible with him this afternoon. We would like to ask therefore, that three or four be excused from the deliberations down here. It has been noted that we seldom vote together, so I don't think there will be any fatal consequences.

PRESIDENT EGAN: If there is no objection, Mr. Riley, those members of the Resources Committee who want to confer with Mr. Ostrom before his departure will be excused. Are you going to be in this building?

RILEY: We will be in the building on the third floor.

PRESIDENT EGAN: It might be necessary to ask for you to be present on some controversial roll call. Are there any reports of standing committees? Mrs. Sweeney.

SWEENEY: Mr. Chairman, your Committee on Engrossment and Enrollment to whom was referred Proposal No. 2, has compared it to the original and found it correctly engrossed.

PRESIDENT EGAN: Mrs. Sweeney reports that Proposal No. 2 has been found to be correctly engrossed by the Committee on Engrossment and Enrollment.

MCCUTCHEON: The Committee on the Legislative Branch, having concluded their work, have presented for consideration of the Constitutional Convention that matter which was delegated to them, and we hereby report back to the constitution, the device for the legislative branch.

PRESIDENT EGAN: The proposal may be read for the first time.

CHIEF CLERK: "Committee Proposal No. 5, introduced by the Committee on the Legislative Branch, LEGISLATIVE POWERS AND DUTIES."

PRESIDENT EGAN: The proposal is referred to the Rules Committee

for assignment to the calendar. Committee Proposal No. 2, taking its normal course, will be referred to the Committee on Style and Drafting, the proposal relating to the Judiciary Branch. Are there any other reports of standing committees? Are there reports of select committees? Are there any proposals to be introduced at this time? Are there any motions or resolutions? Is there any unfinished business? If not, we will proceed. Mrs. Hermann.

HERMANN: Mr. President, I wish to rise to a question of privilege.

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

HERMANN: I think it is particularly important that we of the Constitutional Convention pause a moment from our regular duties to recognize the fact that this is a very important anniversary in the history of America. This is the 164th anniversary of the ratification of the Bill of Rights which was accomplished in 1791 when the tenth of the thirteen states to whom it had been submitted finally ratified it. I was in hopes that our own Bill of Rights might make the floor on this day, and I am going to request that it be dated as of this day in commemoration of the fact that our national Bill of Rights was finally ratified as of this date. I think we should turn back and remember some of the struggles of these early founding fathers as they sought to draft a Constitution and the subsequent Bill of Rights. Their condition was somewhat like ours, but it was also vastly different because they had no example upon which to found their work. They were without precedent. They did not have great universities spotting the land from which they could draw on the consultants and the advice that they had to give, as we have been able to do today. They had literally nothing to guide them. They simply reached down into their own great hearts and souls and minds and produced the document that Gladstone was later to call the most magnificent document ever struck off by the mind of man. And then, not satisfied that it had given all the liberties and freedoms that we should have, it produced the ten amendments that constitute the Bill of Rights after some more years of struggling. There can be no doubt that there was squabbling and compromise and frustration all through the course of writing that great Constitution and writing the Bill of Rights that followed after it. But the fact of the matter is that they did come up with a document that formed the implements of government for that Atlantic coastline of thirteen states and that from there it became, not a localized government, but it crossed the Alleghenies into the great region that was known as the Northwest Territory, on across the great plains, over the Rockies and the Cascades to the Pacific Ocean and northward to Alaska. And so I think it is particularly important today that we who are assembled here at the site of

the farthest north University under the American flag, in Constitution Hall, that may in time become as much of a shrine to Alaskans as Independence Hall has become to Americans, that we should take time and, in the presence of these boys and girls, who will probably be among those who will write future amendments to this constitution, to rededicate ourselves to the principles of government that made our American Constitution and our Bill of Rights the greatest charter of freedom that the world has ever known. I ask that we date our own Bill of Rights, which we are to produce at this time and for which we have had the example not only of our Federal Constitution and the Constitution of our 48 states, including Hawaii, but also the help of great students of governmental matters, I think we should date it as of this day, in commemoration of the ratification of the Bill of Rights." "We may, in this way, in all gratitude and honesty say, Thank God for a job well done in 1789 and 1791." (Applause)

PRESIDENT EGAN: Thank you, Mrs. Hermann. Miss Awes.

AWES: Mr. Chairman, as Chairman of the Bill of Rights Committee I just wanted to say that the Bill of Rights Committee has completed its work and the Bill of Rights is now in the boiler room, and we requested them to date it today and they agreed to do that.

PRESIDENT EGAN: If there is no objection it will be dated as of today. If there is no further objection the record can show that the proposal came before us as Committee Proposal No. -- what? The Secretariat can take care of the numbering of the Proposal. Mr. Ralph Rivers?

R. RIVERS: I would like to ask unanimous consent that that speech be spread upon the journal. I would like to read it again some day. It was very inspiring.

PRESIDENT EGAN: We can get it from the stenotypist's notes. If there is no objection it will be so ordered. Mr. King?

KING: Mr. President, for the sake of the transcribed record it should be "1791".

HERMANN: That was the year I was born and I just sort of misspoke myself.

KILCHER: I think Mrs. Hermann took another license with the figures and calculated it to be 155 years instead of 164.

PRESIDENT EGAN: Mrs. Hermann stated that it was 164 years. The Convention will come to order, and the Chair would like to correct a statement made prior to the recess in which the Chair stated that we had with us in the gallery the 7th and 8th grades of the Fairbanks Public Schools. We have with us the

8th grade of the Fairbanks Public Schools. We have no other unfinished business. Mr. White.

WHITE: Mr. President, I rise to a point of order. Time has gone by but in looking over Rule 44 it appears to me that action on the report of the Committee on Engrossment and Enrollment is necessary before Committee Proposal No. 2 can be forwarded to Style and Drafting.

PRESIDENT EGAN: The Committee on Engrossment and Enrollment reported it back to the Convention, Mr. White, as being in proper order, and at that time the Chair referred it to the Committee on Style and Drafting after that report was made. Would you mean that you felt the body should act upon that report?

WHITE: I am posing a question, Mr. President. Rule 44, Section C, says, "Action on reports of Committee of Engrossment and Enrollment." May I ask a question of the Chair? When a committee proposal goes to Style and Drafting and returns therefrom, does the body then vote on the proposal in substance or merely upon the report of Style and Drafting?

PRESIDENT EGAN: Now your question is when the Style and Drafting Committee brings this back to us, does the body vote then on the proposal in final action. Is that your question, Mr. White?

WHITE: That is my question. Will we be voting only on the report of the Committee on Style and Drafting or are we at that point for the first time voting upon the proposal and its substance in second reading?

PRESIDENT EGAN: It is the opinion of the Chair that when the Style and Drafting Committee brings the report back it is up to the body to accept or reject the report of the Style and Drafting Committee at that time. Is that your impression? That is not, however, the final vote on the proposal. The proposal then would go to third reading.

WHITE: But that vote at that time is still in second reading?

PRESIDENT EGAN: Right, Mr. White, but it cannot at that time be put back into second reading for regular amendment except by a two-thirds majority vote of the Convention.

WHITE: Then I raise a point of order that we have not voted on Committee Proposal No. 2.

PRESIDENT EGAN: It is just now on its way to Style and Drafting Committee, Mr. White. If there is no objection, perhaps the Convention can stand at recess for two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would ask that at this time the Rules Committee have a brief meeting and that the Engrossment Committee meet with the Rules Committee for purposes of clarifying particularly the insert that we adopted the other day with relation to the engrossing and enrolling of the proposal. If there is no objection the Convention will stand at recess until such time as the Rules Committee reports back.

RECESS

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

SWEENEY: Mr. Chairman, I would like to ask unanimous consent that the report of the Engrossing and the Enrollment Committee as concerns Committee Proposal No. 2 be returned to the Committee at this time.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the report previously made by the Committee on Engrossment and Enrollment be withdrawn at this time. The Chair would ask that reference to the motion be stricken from the record. Mr. Rosswog.

ROSSWOG: I would like to make a report for the Rules Committee.

R. RIVERS: Did the Chair order that withdrawn? Point of order.

PRESIDENT EGAN: There was no objection, Mr. Rivers. The report is ordered withdrawn. Mr. Rosswog.

ROSSWOG: The Rules Committee would like to recommend that in Rule 16 the words on the second to the last line after "proposal", delete --

PRESIDENT EGAN: It is then the insert that was voted upon here a few days ago. It is a loose page unless you have affixed it to the permanent rules. Does every one have a copy of the insert? Mr. Rosswog, you may proceed then.

ROSSWOG: The recommendation is that these words be deleted in the second to the last line under Rule 16, after the word "proposal", these are the words "in completed form after" and replace them with the words "as amended in".

PRESIDENT EGAN: Delete the words "in completed form after" and insert the words "as amended in". Mr. Rosswog.

ROSSWOG: I so move and ask unanimous consent.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the proposed amendment be adopted. Is there objection?

ROBERTSON: Question. What is the effect of that? PRESIDENT EGAN: Mr. Rosswog, could you explain that?

ROSSWOG: I would like Mr. Rivers, he is a member of the Committee, if he would explain.

R. RIVERS: Mr. Chairman and members, there was an ambiguity in the language before. We were talking about engrossment and when we said "in completed form" some people interpreted that to mean that we would put on your desks a copy that showed the brackets for deletions and the underscorings for new material, and all that sort of thing. The intent of the Rules Committee was that we would come back to this body with a mimeographed copy of the proposal as amended, a clean copy. In other words, what we would put before you and then that clean copy would go to Style and Drafting and that would give us something to compare with the work of Style and Drafting and the changes made by Style and Drafting later. Now time presses and there is a lot of mimeographing to do. If this body will take the word or trust the Engrossment Committee to study the engrossed copy which shows the brackets and the caps and the underscoring so that we can file that engrossed copy with the Chief Clerk and be contented with a clean copy of the way an article looks after it has been amended, then that is what we are going to distribute to the body. That was the intent and purpose of the rule so that when we say as the wording now is "as amended in second reading" that means you are going to get a clean copy instead of a completed engrossed copy showing all the underscoring and the deletions.

PRESIDENT EGAN: And the amended engrossed copy will be available at any time to any delegate on the Chief Clerk's desk. Is that right?

R. RIVERS: That is right. Rather than go through the whole mimeographing process and coming along with a clean copy immediately afterwards, we are just going to give you the clean copy and at that time when the clean copy has been put on your desks our Chairman, Dora Sweeney, I am speaking for Engrossment at this point, will then make her report and at that stage of the game you will have your clean copy. Delegate Sweeney withdrew what he had reported this afternoon because it was premature, because we had not quite understood the setup ourselves. Now we are all clear on that. That explains the significance of the change in the rule.

PERATROVICH: A point of information. Does that mean, Mr.

Rivers, that when the Engrossment Committee returns a bill, the bill will still be in second reading?

R. RIVERS: I can explain that too, but at the moment we have a request for unanimous consent to adopt this change in the rules which does not change the intent, Frank, it just changes the words and clarifies it. After that is acted upon I will be very glad to discuss what you ask.

PERATROVICH: I thought maybe we should know that before we take a vote.

PRESIDENT EGAN: You might answer that question, Mr. Rivers.

R. RIVERS: You have asked then to when it ceases to be in second reading?

PERATROVICH: No. My question is that when the bill is returned by the Engrossment Committee is it still in second reading?

R. RIVERS: We have our own rules. A bill stays in second reading until it is put into third reading, but our rules provide that after all persons have had a chance to make amendments and no one else has any more amendments to make and the Chair refers the matter to the Engrossment Committee, that at that point it is in the custody of the Engrossment Committee. It is out of the hands of the body and that no more amendments or proposals for amendments on substance are in order after that under the majority rule, but it does remain in second reading all through the time it is in the hands of the Engrossment Committee and all through the time it is in the hands of Style and Drafting, but it remains in second reading for a limited purpose only. The wording is that an action on report of Committee on Style and Drafting or action on the report of the Committee on Style and Drafting and action on amendments as to phraseology only, so that after Style and Drafting brings back its work we can change their work as to phraseology and perhaps any sentence structures by majority vote, but if you want to put it back for further amendments on substance, then that takes a suspension of the rules and two-thirds vote. So as far as the delegates here wanting to make further amendments on substance is concerned, I mean so far as their wanting to make further amendment by a majority vote is concerned, that ends when the Chair turns the proposal over to Engrossment and Enrollment. Does that answer the question?

PERATROVICH: Well, the reason I ask that question is that if you don't make that point clearly I can foresee conflicting statements on the floor again that will take up a great deal of our time. I was under the impression and perhaps there are some here too, that as long as it was in second reading it would be subject to amendment, but your explanation answers

the point I was trying to make.

R. RIVERS: Yes, it stays in second reading, but there are two phases to second reading. One is the second reading when everybody proposes amendments. From then on it is in second reading for a limited purpose only and that is for checking the work of Style and Drafting for phraseology only. Then after we have approved the Style and Drafting's report, then we put it through a full third reading.

PRESIDENT EGAN: The Chair feels this particular question is so important that the Chair would like to ask if there is any delegate who is in the dark or is not quite clear on this particular subject. Mr. Knight?

KNIGHT: Mr. President, would it be in order before the measure is sent to the Engrossment Committee for the Chair to ask if any more amendments are to be discussed?

PRESIDENT EGAN: Mr. Knight, that is the duty of the Chair and the Chair will attempt at all times to ask if there are any further amendments before, the Chair does not feel that it has allowed anything to go out of the jurisdiction of the body without asking that question possibly once or two or three times, but it will certainly be the policy of the Chair to give ample opportunity that you will know whether or not a proposal is on its way to the Engrossment Committee.

WHITE: I was just going to rise to say that I have a motion to make.

PRESIDENT EGAN: There is a motion on the floor. WHITE: After we dispose of that?

PRESIDENT EGAN: Mr. Rosswog has asked unanimous consent that the proposed amendment of the Rules Committee in changing Rule 16 on the second line from the bottom, deleting the words "in completed form after" and inserting in place of those words the words "as amended in" be adopted by the Convention. Is there objection? Hearing no objection it is so ordered.

WHITE: Mr. President, I ask for the privilege of the floor.

PRESIDENT EGAN: If there is no objection, Mr. White, you are granted the privilege of the floor.

WHITE: Mr. President, I feel that this is an important matter and I get the distinct feeling that a number of the delegates have not understood that when Committee Proposal No. 2 was referred to the Committee on Engrossment and Enrollment, that although it was still in second reading it was no longer amendable by a simple majority. I think it is a question that we

should decide on and for that purpose I would like to make a motion.

PRESIDENT EGAN: Are you now rising just as a delegate, Mr. White?

WHITE: Mr. President, I move and ask unanimous consent that the rules be suspended and that Committee Proposal No. 2 be withdrawn from the Committee on Engrossment and Enrollment and be continued in second reading until after the recess for hearings and then placed on the calendar for further action under the rules of the Convention.

SUNDBORG: I object.

PRESIDENT EGAN: Objection is heard.

WHITE: I so move.

R. RIVERS: Point of order.

COGHILL: Second the motion.

R. RIVERS: The point of order is that the matter has been referred to Engrossment and has been in the hands of Engrossment for 24 hours, so I think this motion is out of order.

V. RIVERS: Point of order, Mr. President. Before Committee Proposal No. 2 was submitted to the Committee on Engrossment and Enrollment and I asked at that time, and it will so show in the journal, that it be continued in second reading, if the Chair recalls, and I was told at that time that it would.

R. RIVERS: I missed a day, I wasn't here that day.

PRESIDENT EGAN: That was day before yesterday, wasn't it, Mr. Rivers? If there is no objection the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The record shows that Mr. Victor Rivers asked that if the Proposal No. 2 would still be in second reading, and the Chair said that the Chair felt that the proposal would be in second reading through the engrossment through its consideration in the Engrossment and Enrollment Committee. Now whether the question of whether it was there for majority vote on amendments or not is something that we took up in the Rules Committee meeting today, and it was decided that a proposal when it goes to Engrossment and Enrollment is still in second reading all right but that it has left the floor for the purposes of amendment just by majority action. Mr. White.

WHITE: Mr. President, after consulting with the Committee on Engrossment and Enrollment I would like to ask unanimous consent to withdraw the motion I have on the table.

PRESIDENT EGAN: Mr. White asks unanimous consent to withdraw his motion as previously made by him. Mr. White.

WHITE: I move and ask unanimous consent that when Committee Proposal No. 2 is reported by the Committee on Engrossment and Enrollment that it be considered still in second reading for the purposes of amendment.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that when Committee Proposal No. 2 is reported back to the Convention by the Engrossment and Enrollment Committee it still be before us for second reading for purposes of amendment. Is there a second?

DAVIS: I object.

WHITE: I so move.

V. RIVERS: Point of order. When I asked that it be continued in second reading two days ago I did not have any envisionment of a limited interpretation of second reading. It was my understanding it would stay in second reading for all action in that reading, not for limited action.

PRESIDENT EGAN: Would the Chief Clerk please read what happened.

CHIEF CLERK: There was no motion.

PRESIDENT EGAN: Will the Chief Clerk please read the motion.

PERATROVICH: I second the motion of Mr. White.

PRESIDENT EGAN: Will the Chief Clerk please read what occurred as to the reference of Mr. Rivers.

CHIEF CLERK: It was just a question Mr. Rivers asked of the Chair whether the proposal would be continued in second reading and there was no motion at all, and the Chair said that he felt it would be in second reading on through referral to Engrossment and Enrollment.

PRESIDENT EGAN: There is no question in the Chair's mind but at that time the Chair felt that we would not lose the proposal for purposes of amendment until it had been referred to the Committee on Style and Drafting. Of course, upon hearing the interpretation of the rules in the Rules Committee meeting today and speaking of this matter, as it has been brought to the attention of the Chair, that it was the intent

and is actually the wording of the rules, if you follow them closely, that such is not the case. However, the Chair feels that there was general feeling that such was the case at that time and Mr. White's motion then is -- Mr. Nolan?

NOLAN: Mr. President, I think Mr. White's motion is wrong then. I think the proper motion should be that the proposal be taken from the Committee on Engrossment and Enrollment and be returned to the custody of the Clerk. What would be the use of leaving it in Engrossment if it is now going to come back for amendment again. It is their work to bring it out in proper form to take its course in third reading. If we are going to bring it out now for amendment and then go back to Style and Drafting it is just duplicating the work.

PRESIDENT EGAN: What is your feeling Mr. White, as to your motion?

WHITE: My motion, Mr. Nolan, is clearly expressed in my first motion. However, the Committee on Engrossment and Enrollment, as I understand it, would like an opportunity to place before the Convention the clean copy before we recess. My further intent would be that when they come in with their report that the motion would then be made to continue the proposal in second reading over the recess for hearings because I feel that we should present these things during hearings in recess in an amendable form by a simple majority if we are going to hold hearings at all.

KILCHER: Point of information. I address a question to Mr. White. Would you consent to include into your motion the words, "to keep it in second reading for purposes not of amendment but of substantive amendment"? Is that what you mean?

R. RIVERS: He means for all purposes.

PRESIDENT EGAN: He means amendments by a majority vote. Nolan. Mr.

NOLAN: This is going to be an unusual case, it is not the regular procedure, is it?

PRESIDENT EGAN: That is correct, Mr. Nolan. Mr. Peratrovich, will you take the Chair.

(Mr. Peratrovich came forward and took the Chair at this time.)

EGAN: Mr. President, as President of the Convention, I would like to state that I certainly have no desire to hold up anything that it is possible to get to working on and get completed, but it is also my feeling at this point with relation to this particular motion that many of the delegates, including

possibly the President of the Convention, did not have in his mind too clearly exactly what this procedure would be and as has been read by the Chief Clerk with relation to the question asked by Mr. Victor Rivers on Monday and answered by the President, the direct implication could have been at that time to many many delegates that the particular proposal in question, Proposal No. 2 would still be open to the Convention for amendment in second reading after the Committee on Engrossment reported back, because of the interpretation that would have been lent at that time. Consequently, I think that with reference to this particular proposal that it would behoove the membership to allow the passage of Mr. White's particular motion, in this case because I don't believe that the delegates had a proper understanding of the matter at the time that it went to the Engrossment and Enrollment Committee. I think that it is clear now that from here on out that when a proposal goes to the Engrossment and Enrollment Committee it can then not be amended again unless by a two-thirds action vote of the delegates, but I feel that I will have to vote to sustain Mr. White's motion in this case.

VICE PRESIDENT PERATROVICH: Mr. Davis

DAVIS: Mr. President, I think what Mr. Egan has said is absolutely true. There has been some confusion on this particular point. However, I think that the suggestion made by Mr. Nolan awhile ago is the correct way to handle this if we are going to handle it, and so far as I am concerned if there is anybody in this Convention that has not had his say on Proposal No. 2 and wants to make some amendments, I would be in favor of allowing, even by a simple majority, allowing the amendments to be made, but I would like to have them made at this time. I see no reason at all why the matter should be held over until after the hearings. Now the result of this thing is this. I believe it was Monday that we finished action on this particular proposal, possibly it was Tuesday, anyway early this week. The matter has gone to Engrossment and Enrollment. We have gone to other matters. The matter has come back today. I am a member of Style and Drafting and I want to get to work on these things. Now if we hold this proposal until after we come back, that means that it will go to Engrossment and enrollment after January 4. Sometime after that time Engrossment and Enrollment will bring back their report. The report will be acted upon. Assuming that it is acted upon favorably, then it goes to Style and Drafting, then we have certainly lost some needless time. The matter has been fully and completely argued I am sure. I doubt that any of the delegates have any amendments they want to offer today, and I don't believe that we are doing right to say we are going to hold everything in second reading and for further amendments of substance until after January 4..

WHITE: Mr. President, I am very sensitive of the feelings of the Committee on Style and Drafting. I understand their problem completely. However, here we are on Thursday. We are

going to adjourn on Monday. Not many proposals will go through this procedure, and I think it is important that if we are going to hold hearings, since the hearings are so close, that such proposals as we consider here be kept open in second reading for amendment by simple majority, if we are going to go home and hold hearings. I think that in this particular case it is clear that the proposal in question has the overwhelming majority opinion behind it in the Convention, and its chances of being amended after recess are very slight, and in the light of that I think Style and Drafting can informally do a great deal of work on it between now and the time we adjourn.

VICE PRESIDENT PERATROVICH: Mr. Fischer.

V. FISCHER: Mr. President, I would like to address a question to Mr. White. Would it be your intent that the same procedure be followed on any other articles that may come up and go through the amendment process prior to recess for hearings?

WHITE: It would be my intent, and the reason for it is that if the Convention is so in doubt, that the weight of opinion behind passing certain proposals is so slim that we are afraid it might be changed by going home and holding hearings, I think we ought to hold it open anyway.

VICE PRESIDENT PERATROVICH: Mr. Doogan.

DOOGAN: Mr. President, I feel I am going to have to object to this procedure. We set up some rules and this matter has gone through all of the debate I think that is necessary. It is true that we are going to return to our respective communities for public hearings. I question whether very much will come out of those public hearings in regard to this particular proposal that has not already been discussed here on the floor. But if anything substantial comes out of the hearings and is brought back to this floor, I have no doubt in my mind that it can't be returned to second reading in the usual procedure and in light of that I firmly believe that the proposal should continue in its natural course.

VICE PRESIDENT PERATROVICH: Mr. Johnson.

JOHNSON: Mr. President, I have a point of inquiry. The question before us is in the nature of a suspension of our established rules. My inquiry is will it take a two-thirds vote to carry that motion?

VICE PRESIDENT PERATROVICH: Mr. Johnson, I think I should let your chairman answer that inasmuch as he was in the Chair when this motion was made, not that I want to pass the buck, ladies and gentlemen. I have my interpretation but I think out of courtesy he should make that decision.

(Mr. Egan took the Chair at this time.)

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson, in answer to your question, it will require a suspension of the rules, it will take a two-thirds vote. Mr. Sundborg.

SUNDBORG: Mr. Chairman, before we vote on that I think I should say here that there is a little history behind this. And the history is that along about a week ago or maybe ten days ago, at the meeting of committee chairmen, it was proposed one day that we should hold all proposals in second reading until after the recess for hearings. The committee chairmen after some discussion voted to do that, and they referred the matter to the Rules Committee with the request that the Rules Committee bring in a proper resolution to that effect. The Rules Committee discussed it and decided unanimously against the procedure and reported back to the committee chairmen, and the committee chairmen, after hearing the point of view of the Rules Committee, went along with them and decided that the matter would not be presented on the floor and that we would not adopt such a resolution. Now some of the considerations that went into that decision are as follows: The major consideration is that we have a Committee on Style and Drafting which before this constitution can be completed has to go over every single word, every period, comma, and paragraph of the thing with a fine-tooth comb. That would be a big job even if we had something like 60 days in which to do it. Today at noon we passed the halfway mark in the allotted 75 days that we have to draw this constitution, and the Style and Drafting Committee does not have yet one single proposal before it on which it can work. Now, as Chairman of the Style and Drafting Committee, and on behalf of the other members of my Committee, I ask all of you to please have a little consideration for us. We are going to have a terrible job ahead of us even if the thing goes through its natural course and we get Proposal No. 2, as I hoped we would, tomorrow. If we have to wait until what I think will be probably along about the middle of January if we are going to consider any amendments at all, as a result of these hearings before any of these things can come to us, we are going to be faced with what I am afraid is going to be a superhuman task, because there just won't be time. Now as an individual member and not as Chairman of the Style and Drafting Committee, I will say that when anybody comes back here after the hearings with anything that is a reasonable suggestion for an amendment, I am going to vote to suspend the rules to put any proposal back in second reading for the purpose of amendment but I feel at this time that we ought to let them take the regular course and let the Committees get on with their work rather than to make everything stand stock-still until so very late in our session.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I second the motion, and I should say something on that. I personally don't have any improvements or anything that I could add to the Committee report. However, under the present circumstances I do not think that Mr. White or perhaps others too, did not have the opportunity to perhaps submit their ideas. I think the fault lies in the fact that we created this Engrossment Committee without having a clear understanding. We just brought it up on the floor and voted for the committee and we did not know what the duties were going to be. Now we interpret the thing that once it is referred to the Engrossment Committee then there is no opportunity for amendment. I think that is what confused the issue. For that reason I think that if the mover of this motion has something in mind that perhaps could improve this report I think he should have an opportunity to present it, whether it is good or bad, under these circumstances.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I spoke a minute ago and probably should not speak again. I would have no objection at all to what Mr. Peratrovich has just said. In fact, I would agree to doing it on a majority vote. If anybody has any amendment to make here and now, let's make it. I am objecting to hold it over until after January 4.

PRESIDENT EGAN: The Question is, "Shall Mr. White's motion be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

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

Absent: 4 - Boswell, Riley, Stewart, Taylor.)

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

PRESIDENT EGAN: So the motion has failed. We have before us Committee Proposal No. 1. Will the Chief Clerk please read the pending amendment to Section 1 of Committee Proposal No. 1.

CHIEF CLERK: Page 1, line 9, --

JOHNSON: May we have a 15-minute recess.

PRESIDENT EGAN: If there is no objection, BUCKALEW: I object.

JOHNSON: I so move.

BARR: I second it.

PRESIDENT EGAN: Mr. Johnson moves, seconded by Mr. Barr, that we have a 15-minute recess. All in favor of the motion will signify by saying "aye", all opposed "no". The "ayes" have it and the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the proposed amendment to Committee Proposal No. 1, Section 1. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 1, line 9, after the words 'votes and' strike the balance of the line, strike lines 10 and 11 and first part of line 12 up to and including 'only and'; on line 15 after 'election' insert the following: 'Additional qualifications may be established by law.'"

PRESIDENT EGAN: Has that motion been moved and seconded?

CHIEF CLERK: Yes.

SUNDBORG: Question.

PRESIDENT EGAN: Is there any further discussion? If not, (Mr. McNealy just entered Convention Hall) Mr. McNealy, do you know the amendment that is before us?

GRAY: Will the Chief Clerk read the question again.

PRESIDENT EGAN: The Chief Clerk might hold up the reading for about one minute. There is another delegate coming in. The proposed amendment is to Committee Proposal No. 1. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Page 1, line 9, after the words 'votes and'

strike the balance of the line. Strike lines 10 and 11 and the first part of line 12 up to and including the words 'only and'. On line 15 after 'election' insert the following: 'Additional qualifications may be established by law.'

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

METCALF: Roll call.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, I would like to say a few words on that. I know it is a losing cause but I just want to remind the Convention that it is one of the legislative procedures, you might say, to defeat a cause. I don't want to carry this any too far. I realize my responsibilities here as a delegate, and I have tried hard to put just what I thought would be a good thing for a certain group of people, and it seems as though I am on the verge of a failure. I will accept that as a good citizen of the United States, but I am happy to have this on the record to let the delegates know the condition that is existing right at your next door, you might say, and I have tried to remedy that situation so that you could benefit from this instrument you are preparing here. That is all I have to say.

SUNDBORG: I would certainly like to urge Delegate Peratrovich to be of good cheer. He is not even close to being on the verge of a failure. I think that this motion is going to be voted down and it properly should be and that Mr. Peratrovich is on the verge of another brilliant success.

MARSTON: I don't understand this statesman from Southeastern taking this negative attitude. I am very much discouraged the way the body of people are working here. We have worked this over twice. We have voted, we passed it, and men of good will, will stay men of good will, and those who voted for it under convictions will again vote for it. There are 18,000 people right out here between us and the great enemy of the world, Russia, and they are armed and they are defending our shores now. The general out here said that one-fifth of all the information comes from the Native Guard on enemy operations, and I don't see under any expanse of the imagination why you want to obliterate that group of people, and I do not believe you will. I believe you will keep this in as we voted before and not change your minds. There has been work on this to change it. It is the third time we have had it up, and I am depending on the good will of the people to keep together the great Native people of Alaska. Senator Peratrovich, the delegate from Southeastern, he want the Indians to stay with us. We want the Eskimos in the North to stay with us. It is their country. They own it, we are just visitors here.

Let us keep them with us. I urge you to stand by your good will and your first vote.

METCALF: I asked for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the proposed amendment.

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

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

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

Absent: 5 - Boswell, Riley, Stewart, Taylor, White.)

VANDERLEEST: Mr. President, I voted "yes" and I meant "no".

PRESIDENT EGAN: Mr. VanderLeest wishes to change his vote from "yes" to "no".

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

PRESIDENT EGAN: And so the proposed amendment has failed of adoption. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment.

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

CHIEF CLERK: "Section 3, lines 10 and 11, strike all language down through word 'mind' and insert the following: 'No person who is non compos mentis'."

PRESIDENT EGAN: What is your pleasure, Mr. Buckalew? Non compos mentis -

BUCKALEW: Did you accuse me of being non compos mentis?

PRESIDENT EGAN: The Chair was just wondering if that was the amendment?

BUCKALEW: That is the amendment. I move the adoption of the proposed amendment.

BARR: I object.

MCNEALY: I second the motion.

BUCKALEW: I want to direct the body's attention to Section 3. You will see that it provides for a restoration of a civil disability in the case of a convicted felon, and it makes no provision for a person who has been judicially determined to be of unsound mind. Now as I understand this provision, that is an absolute constitutional disability, and there is no provision for a person who has been adjudicated an insane person to take away this civil disability and the effect of my amendment, the test is that a man has to be of sound mind at the time he votes. Another objection I have, I think that probably ten years from now we probably won't even be using the judicial procedure to determine whether a person is sane or insane, and I think probably in ten years it will be meaningless. The effect of my provision is to require that when a person votes he be of a sound mind. This provision here would prevent any person, 20 years ago, if a commissioner at Klawock found him insane they could never vote again, and there is no provision for a restoration of that civil disability.

PRESIDENT EGAN: Does that give them the right later, Mr. Buckalew?

BUCKALEW: "Non compos mentis" means a present state of mental illness.

MCLAUGHLIN: Mr. Chairman, I have another expression. "Montes murientur mus nascetur -- The mountains are in labor, and a mouse is born." Mr. President, the substitution of a Latin phrase which has no specific and definite meaning would be unwise. I think this phraseology is the one that is normally used, and if we didn't use the expression "judicially determine" you might be subject to the interpretation right at the polls, that they decide whether or not the elector were an idiot or no. So the judicial determination would cover all types of commitment and certainly it was never intended and it would never be interpreted by any court that the judicial determination, that if at any one time you were found of unsound mind by judicial determination, that the fact is you could not vote thereafter. The obvious intent here is that while you are under the disability of being insane and so judicially determined you not vote. I don't feel that the amendment would add anything. It would hopelessly confuse the article.

DAVIS: I was going to ask Mr. Buckalew, Mr. President, if instead of using a Latin phrase he would accept "no person of

unsound mind".

BUCKALEW: I did not realize that this Latin phrase was going to cause a furor. It is a common expression and it has a meaning in the courts. I would certainly accept Mr. Davis's amendment. I would ask then with the consent of my second that we strike the "non compos mentis" and insert "unsound mind".

PRESIDENT EGAN: Then it would read "no person" delete "judicially".

CHIEF CLERK: He does not have that in now.

DAVIS: I just suggested "no person of unsound mind" to try to say the same thing he was saying.

PRESIDENT EGAN: And leave out the "judicially determined", is that right?

BUCKALEW: It would have to be "no person of unsound mind".

PRESIDENT EGAN: Is there objection to Mr. Buckalew's changing his motion to read that way? Mr. Hellenthal.

HELLENTHAL: Mr. President, if a man is to be adjudged of unsound mind somebody must make the adjudication. Now even I, like Mr. Buckalew, believe that the present method of incarcerating and proceeding criminally against insane people or, better still, persons mentally disturbed, I think that method is inhuman just as violently as Mr. Buckalew does. However, under no system that has yet been advocated by the most violent critics of the present method would a judicial determination of mental capacity be done away with. It would be an appalling thing if a board or if a group or a psychiatrist could determine one to be of unsound mind. There must be a standard. We have faith in our courts. In all civilized countries the courts or a judicial body makes the determination of whether you are capable of distinguishing between right and wrong, whether you are capable of voting, whether you are capable of taking care of your children and your home. Mr. Buckalew's amendment would throw this right up in the air, and it was for this reason that after careful thought the Committee felt that the language should read "no person judicially determined to be of unsound mind". That does not mean we have to preserve our inhuman method now of treatment of the insane, or the inhuman method of proceeding against them in a criminal proceedings. It doesn't mean that, but it means that before you can be stripped of your civil rights because of mental aberrations some court somewhere must pass on it, and that is the way our government was founded and that is the way it ought to be, and that is the reason that the words "judicially determined" were inserted in the article.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I think we all have seen how binding rules are and I think the constitution once adopted and is in effect is going to be binding. The courts are going to make their interpretation, and a person coming under there for a question will not have any chance. Now as I read it, a person that is judicially determined to be of unsound mind loses thereafter their vote right according to the way this reads.

HELLENTHAL: No, Mr. Londborg, it qualified by the language, "unless restored to his civil rights".

BUCKALEW: It is not in there. Read it.

HELLENTHAL: "No person judicially determined to be of unsound mind, unless restored to his civil rights, shall be qualified to vote in any state or local election.

LONDBORG: I would like to have that clear, because it says here, in referring to the person of unsound mind, and you have the words "pardoned and restored". I don't know of a person in an insane institution being pardoned. It says they are to be "pardoned and restored", as if they have done something criminally violent. I think that could be cleaned up a bit as far as the language. I think I see your intent and go along with your intent. May I have the floor, Mr. President?

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

LONDBORG: I see the intent and go along with your intent, but I do believe it could be cleared up a little bit so there would be specifically in our constitution that a person that has been in an insane institution, has been released, is of sound mind, can go to the polls. According to this it sounds that a person judicially determined to be of unsound mind loses his vote right unless they are "pardoned and restored", and I don't think pardoning has anything to do with it. There is something that needs to be straightened out.

PRESIDENT EGAN: Would you be acceptable to a two or three minute recess so you attorneys can get together on this?

HELLENTHAL: I think there is no question but that if we substitute the word "or" for "and" and I know I have the unanimous approval of the Committee for that, that the objection will be obviated.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to point out that actually that would not remove a very valid objection raised by Mr. Londborg because even if it says, "unless restored to his civil rights",

nowhere does it say, even if that person is judicially determined to be of unsound mind, he is deprived of his civil rights. He is deprived of his voting rights but not of civil rights.

BARR: This does not say that "no person who has been or who has ever been judicially determined." It says "no person judicially determined to be of unsound mind", meaning at the present or at the time of the election. Therefore, if he has been discharged from an asylum, after of course going before a board of psychiatrists, which they always do, then he is of sound mind because they say so. It is a matter of record that he is sane. In fact, he has a great advantage over us. It is not a matter of record that any of us are sane. Therefore, he is judicially determined to be of unsound mind when he goes into the asylum, not at any other time.

PRESIDENT EGAN: If there is no objection the Chair will declare a two-or three-minute recess so the attorneys and others can get together and talk this over. The Convention is at recess.

RECESS

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

SUNDBORG: Mr. President, during the recess I was informed by Mr. Buckalew that he would permit me to ask unanimous consent that his pending amendment be withdrawn and that the following amendment be submitted in its place.

BUCKALEW: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Sundborg that Mr. Buckalew's amendment be withdrawn. Is there objection? If there is no objection Mr. Buckalew's original amendment is ordered withdrawn. Mr. Sundborg.

SUNDBORG: I now move and ask unanimous consent for the adoption of the following amendment: "Section 3, strike all of lines 10, 11, 12, and 13 and insert in lieu thereof the following" 'Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be'."

DAVIS: Will you read the last line of that again?

SUNDBORG: Here is the insert: "Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be", and then it would pick up "qualified to vote in any state

or local election."

PRESIDENT EGAN: Mr. Sundborg moves

V. RIVERS: You have "judicially determined" in that have you, Mr. Sundborg? I was fearful of that because in the future if somebody looked over some of the proceedings of this Convention that we might disenfranchise ourselves.

SUNDBORG: Yes, they are in there.

HERMANN: I wish to offer an amendment to the amendment. I had it as a major amendment that I meant to offer.

PRESIDENT EGAN: Mrs. Hermann, would you wait please until the Chief Clerk reads the proposed amendment once more.

CHIEF CLERK: "Section 3. Strike lines 10, 11, 12, and 13 and insert in lieu thereof the following: 'Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be'."

HERMANN: My amendment would be to strike after the word "felony", strike the three words "involving moral turpitude". I ask unanimous consent.

PRESIDENT EGAN: Mrs. Hermann moves an amendment to the amendment striking the words "involving moral turpitude". Mrs. Hermann asks unanimous consent.

SUNDBORG: I object.

HERMANN: I so move.

KILCHER: I second the motion.

SUNDBORG: I would like to ask Mrs. Hermann what the effect of her amendment would be and how it would change this in substance.

HERMANN: I don't think there is such a thing as a felony that does not involve moral turpitude, so I don't see the necessity of the three words. I say conviction of a felony is inclusive enough to cover the whole situation.

BUCKALEW: That is what a felony means so it is superfluous.

HELLENTHAL: The reason that the qualifying language was used was that not all felonies involve moral turpitude, not all. There are some felonies that do not and the term moral turpitude" is a generally accepted word. Now we adopted this

language on the advice of the adviser who agreed with that contention and who felt that we should not require all persons convicted of any felony to have to go before the pardon board. Now that was the reason for the language. Other language that was rejected was "a felony of serious nature". Another suggestion was "convicted of an infamous crime". There was one group in the Committee who felt that any person who served his time should automatically be restored to his civil rights. The majority definitely felt, and later the unanimous opinion of the Committee was that construction would not be sound. But they felt that not all convicted felons should have to go before the pardon board but only those of the more serious felonies. Now, Alaska has a fairly good criminal code, but throughout the United States there are many many offenses which in Alaska are misdemeanors, are considered felonies, and vice versa, and that is why the moral connotation was added and only that.

PRESIDENT EGAN: Is there further discussion of the amendment to the amendment? Mr. Buckalew.

BUCKALEW: I would just like to ask Mr. Hellenenthal a question through the Chair. Did this expert tell you what felonies did not involve moral turpitude?

HELLENTHAL: Yes, assault in some cases does not involve moral turpitude. It comes under the decisions of courts.

BUCKALEW: Assault is not a felony.

HELLENTHAL: Many assaults are felonies.

DAVIS: Mr. President, I might suggest that involuntary manslaughter is a case in point of a felony not involving moral turpitude.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment as offered by Mrs. Hermann? Mr. Gray.

GRAY: Mr. Chairman, if there is a question of whether a felony involves moral turpitude or not, we should leave the phrase in. It seems to be the one point whether it does or does not. If we leave the three words in there it conclusively clears up any misunderstanding on that particular subject.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: On the other hand, I suggest we strike it because even if a felon has committed a crime involving the technicality of moral turpitude, I don't see why that should impair his voting capacity. As to a felon that has committed a crime equally serious but technically not involving moral turpitude,

take assault -- assault with a dangerous weapon -- I don't know whether that would be moral turpitude. Assuming it is, I don't see how a man can vote. I don't see that a man might be not smart, but not a coward.

PRESIDENT EGAN: Is there further discussion? The question is, "Shall Mrs. Hermann's proposed amendment to the amendment be adopted by the Convention?" All those in favor of the proposed amendment as offered by Mrs. Hermann will signify by saying "aye", all opposed "no". The "noes" have it and the amendment has failed. Mr. Kilcher.

KILCHER: Mr. President, I offer another amendment to this amendment, to strike "until the disability is removed". I don't think it makes any sense because it says "judicially determined to be" -- not "to have been". If the man is determined to be of unsound mind then the disability is not removed. At the time of voting the man has to be determined to be judicially of unsound mind.

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

KILCHER: I move the adoption of the amendment to strike "until such disability is removed". There is no need for too much wordage in the constitution.

PRESIDENT EGAN: Is there a second to Mr. Kilcher's motion?

ROBERTSON: Can we have the motion read as it would read?

PRESIDENT EGAN: Mr. Kilcher has offered a motion; it has not been seconded yet.

LEE: I second the motion.

PRESIDENT EGAN: The motion is to strike the words in the proposed amendment. Would the Chief Clerk read those words please.

CHIEF CLERK: "Until the disability is removed".

PRESIDENT EGAN: How would that leave the proposed amendment reading then?

CHIEF CLERK: "No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind shall be".

PRESIDENT EGAN: That is the way it would be if Mr. Kilcher's motion was adopted. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I was in on some of the huddles

during the recess. It originally read "no person judicially determined to be of unsound mind . Now then Mr. Kilcher's amendment would put us exactly back where we started from. Mr. Buckalew wanted it made absolutely clear that after the disability was removed the person could then vote. So I think the only way to go along with Mr. Buckalew's amendment and to be positive on that point is to turn down Mr. Kilcher's amendment.

KILCHER: I hate to waste any more time about a few words, but the general tenor seems to have been that we are going to make this instrument as simple as possible. If we say in there, "any person determined to be of unsound mind cannot vote", he must be of sound mind to be permitted to vote, and if he has been of unsound mind that means he has been judicially declared to not to be any more whatsoever. Naturally the person that goes to the polls is as normal as any of us, presumably. As Mr. Barr says he may be more. He only may not vote if determined to be of unsound mind. The rest is unnecessary.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment as offered by Mr. Kilcher? If not, the question is, "Shall Mr. Kilcher's proposed amendment to the amendment be adopted by the Convention? All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment to the amendment has failed. Now we have the proposed amendment to Section 3 as offered by Mr. Sundborg. The Chief Clerk will please read that proposed amendment again.

CHIEF CLERK: "Section 3. Strike lines 10, 11, 12, and 13 and insert in lieu thereof the following: 'Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be'."

HINCKEL: Mr. President, point of information. It occurs to me that the pronoun "his" is superfluous. I will leave it to Style and Drafting and I withdraw my objection.

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

METCALF: I have one.

PRESIDENT EGAN: We have an amendment first by Mr. Metcalf.

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

PRESIDENT EGAN: We have already added a Section 5, is that correct?

SUNDBORG: I second the motion.

METCALF: I move the adoption of the amendment.

SUNDBORG: Question.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I speak briefly on this matter. I don't want to appear as one of the disgruntled few or minority we talked about yesterday. I believe there are a segment of the people probably who would disagree with our decision. I am going to vote for whatever constitution is coming out of this Convention, regardless of whether it is in accord with my personal beliefs or not. I felt that this would make a better feeling of the populace choosing for themselves the age limit that they should have for voting, and there are going to be objections, and I believe the people as a whole, and the folks we are working for, should have the last say in this matter. I might be wrong and probably I am many, many times, but in this instance I want to go on record that I have submitted this amendment to the constitution referring this very highly controversial matter to the people at the time this constitution is submitted to them. That is the democratic way. That is all I have to say.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I am not convinced that this matter is one that should be in this particular section of the constitution. It appears to me that the matter of a referendum establishing age at something other than the constitution has set forth, would be a transitory measure rather than a matter of inclusion in this particular article.

PRESIDENT EGAN: The Chair, as long as you have raised the question, that question has been mulling around in the mind of the Chairman, and the Chair is unable to decide as to whether or not this proposed amendment is in order in this particular proposal, and the Chair would ask to declare a few minutes recess so that the Rules Committee could come up with some determination as to the propriety of this particular amendment in this proposal. The Convention is at recess for a few minutes while the Rules Committee studies the question.

RECESS

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

RILEY: Mr. President, with respect to the matter referred to the Rules Committee, it is the opinion of the Committee that the amendment proposed by Mr. Metcalf is not in order with respect to the proposal before us. Now to amplify that a little for its bearing on the proposal we are considering, various of the Committee have volunteered to assist in putting Mr. Metcalf's amendment in other form in order that it may be considered by the Convention.

PRESIDENT EGAN: Pending the arrival of Mr. Metcalf, Mr. Ralph Rivers, and Mr. Rosswog, are there any other amendments?

HERMANN: I have an amendment on the desk.

MCCUTCHEON: Mr. President, have you declared that amendment out of order?

PRESIDENT EGAN: The Chair has declared that amendment out of order in the order that it was presented to the Convention. Mr. Robertson.

ROBERTSON: May I ask Mr. Riley, is it the intent to put this other form of an amendment to this particular article?

RILEY: It is my impression, Mr. Robertson, that that is not the intention, that it is not to come forward as an amendment to this proposal.

METCALF: Mr. Chairman, I submit an amendment to the Convention.

PRESIDENT EGAN: Mrs. Hermann, inasmuch as Mr. Metcalf has offered the previous amendment, do you object to his amendment being read first?

HERMANN: I will yield, Mr. President.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading of Mr. Metcalf's proposed amendment.

METCALF: Mr. Chairman, may I withdraw my other amendment. PRESIDENT EGAN: It has been taken care of, Mr. Metcalf.

CHIEF CLERK: "Page 1, line 2, after the word 'years' insert, 'unless otherwise determined by a referendum vote of the electors at the time this constitution is submitted for ratification'."

METCALF: Mr. Chairman, I move for the adoption of this

amendment.

COGHILL: I object.

HINCKEL: I second the motion.

RILEY: I don't wish to speak to the motion, Mr. President, but I regret that I misinformed you, Mr. Robertson. I had not realized it was coming forward in quite this manner.

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

CHIEF CLERK: "Page 1, line 2, after the word 'years' insert, 'unless otherwise determined by a referendum vote of the electors at the time this constitution is submitted for ratification'."

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Briefly speaking on this highly controversial subject, I believe if we leave it this way it will remove one of the present barriers to ratification by the people. Goodness knows there are very apt to be a number of barriers to small segments of the people when we get through writing this constitution, and I want to reduce these barriers to a minimum so to be certain of ratification and have a constitution that will be an example for years to come. I believe it is the democratic way of handling this highly controversial matter and I urge each and everyone of you to vote for the amendment.

SUNDBORG: Question.

PRESIDENT EGAN: If there is no further discussion the question is, "Shall the proposed amendment as offered by Mr. Metcalf be adopted by the Convention?"

METCALF: I ask for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas:	12	-	Armstrong, Barr, Collins, Hinckel, Johnson, Laws, Londborg, McNealy, Metcalf, Nolan, Reader, Robertson.
Nays:	39	-	Awes, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale,

Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

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

CHIEF CLERK: 12 yeas, 39 nays and 4 absent.

PRESIDENT EGAN: So the proposed amendment has failed of adoption. The Chief Clerk may read the proposed amendment that has been offered by Mrs. Hermann.

CHIEF CLERK: "Section 2, page 2, line 7, strike the word 'that' and insert 'the manner of determining', add period after 'elections' and strike the rest of the sentence."

PRESIDENT EGAN: What is your pleasure, Mrs. Hermann?

HERMANN: I move the adoption of the amendment.

RILEY: I second the motion.

PRESIDENT EGAN: The proposed amendment is open for discussion.

ROBERTSON: Please read the motion.

HERMANN: Read the paragraph as amended.

PRESIDENT EGAN: Read the paragraph as amended, is that what you want?

CHIEF CLERK: "After the semicolon in line 7 strike the word 'that', then 'it shall provide the manner of determining contested elections.' Strike the rest of the sentence."

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mrs. Hermann.

HERMANN: Mr. President, the purpose of this amendment is to spare the order to the legislature to provide that contested elections be determined by the courts of competent jurisdiction. I doubt very much if the constitution has any right to order a command performance by the legislature. I think it must leave something to the discretion of the legislature, and if it is proper and the body feels that contested elections should be determined by courts, I think we should put that in the constitution and not tell the legislature to pass a law to that effect. This is practically a mandate to the legislature to rule, to pass a law saying that courts must determine contested elections. Well, it is probably a very good thing that courts do determine them, but the legislature might prefer to determine it themselves or might prefer to set up a commission, etc. There is the further fact that it has no

importance because if the legislature does not want to do it, it would not have to even if it were ordered to. There is no machinery that can compel a legislature to follow any order that is given, and I think that in view of that fact we will then have it that we will give to the legislature the authority to determine the manner in which contested elections shall be settled, and that seems to me to be a much wiser plan than the one that is provided in the section itself.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTAL: Just a word as to why the wording is as it is presented in the proposal. It is precisely the wording of the Hawaiian Constitution in this regard. The legislature - may we pass that for a moment. The reason for it is that throughout the constitution the Committee was well aware that in many many places there will be statements to the effect that the legislature shall do this or shall not do this. They are found throughout the judiciary act that has been approved by this body and they will be found in many many other acts, and it is not uncommon in any constitution to so provide. The Committee was well aware that you cannot mandamus the legislature to do anything unless the constitution expressly provides that you can, and they are well aware of that, but it was felt, we all know, as Alaskans, what happens when an election contest develops. The party in power generally hesitates to take action to unseat one of its own members, and it is generally one of the party in power whose office is contested, because most elections are landslides of one sort or another. They hesitate to take action to unseat their members. They shilly-shally around, they delay. They don't do anything, so all of the writers recommend that the matter should be taken care of in courts and not by the body to which the member, and not by the body to which belongs the man whose right is being contested, and with that in mind it was the Committee's recommendation that the legislature be directed to place it in the courts. The Hawaiian provision on that is -- I shall read it. "Contested elections shall be determined by a court of competent jurisdiction in such manner as shall be provided by law." We could perhaps set out the manner of the contest in detail in the constitution. I am sure Mrs. Hermann would not want that either. About all you can do in a practical world is to say, "The legislature shall do it." I have enough faith in the legislature that they won't ignore any of these provisions in the constitution and they are typical provisions. This is not unusual.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I favor Mrs. Hermann's amendment. Mr. Hellenthal has said that something that influenced the Committee in providing that contests should be determined by a court, is that it is possible that a legislator for example,

would be the complaining party or one who is appealing in the case of a contested election. It is just as possible that one of these judges that we have set up in the judiciary article when he comes up for election is going to be one of the party who may want to make some kind of appeal in a contested election and if the legislature is forced, as it would be here, to have the court settle that, we might find a man sitting on the bench deciding his own case. So I say, let's leave something for our poor old legislature to do in the future and not just spell out in our constitution exactly how it shall do everything.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I follow the Delegate Hermann's argument that we should not make it mandatory that every election contest should be thrown' into court, but I think it would be well if we said something to this effect, in determining election contests or in providing the method of determining election contests appeals to the courts shall be allowed. That would leave it then up to any contesting party to appeal if he saw fit. That should not necessarily throw every contest into court. So I think I shall sit down and start writing a proposal.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I ask that we stand at recess for two minutes.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mrs. Hermann's proposed amendment to Section 2. Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I got balled up here, but I am going to move to amend Mrs. Hermann's amendment by adding at the end thereof the following words: "which shall include the right of appeal to a court of competent jurisdiction."

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the amendment.

R. RIVERS: I move that as an amendment to Mrs. Hermann's amendment

PRESIDENT EGAN: Is there a second to the motion to amend the amendment?

KNIGHT: I second it.

R. RIVERS: I would ask if the mover of the proposed amendment would accede to my adding those words?

HERMANN: I would like to have it read as it now sounds, Mr. Rivers.

PRESIDENT EGAN: The Chief Clerk will please read it as it now sounds.

CHIEF CLERK: "It shall provide the manner of determining contested elections which shall include the right of appeal to a court of competent jurisdiction."

HERMANN: That is satisfactory, Mr. President.

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

HELLENTHAL: I hesitate to speak for the members of the Committee, but I am sure they have no objection to the proposed amendment as amended.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I don't know. It seems to me we are getting into matters that could very easily be handled by the legislature. It seems to me that in the province of the legislature they could handle it very easily without making a constitutional matter out of it. It will be something awfully hard to change if it does not work.

PRESIDENT EGAN: Mr. Doogan, the proposed amendment to the amendment is already adopted, so now you will be voting on whether to leave it as it was or as amended by the motion before us.

SUNDBORG: Question.

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

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, I have submitted an amendment.

PRESIDENT EGAN: The Chief Clerk will please read Miss Awes' proposed amendment.

CHIEF CLERK: "Strike Section 5 and substitute the following: 'Section 5. Secrecy of voting shall be preserved.'"

AWES: I move the adoption of that amendment.

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

BUCKALEW: I second the motion.

PRESIDENT EGAN: Miss Awes.

AWES: The reason I proposed this amendment, Section 5 previously provided that the secrecy of the ballot should be preserved." That is the wording that is found in some of the older constitutions, and when those states attempted to adopt the voting machine, the supreme court in some of those states held that the ballot itself was preserved and voting machines would not be allowed. This would preserve secrecy of the voting and would still allow us to adopt voting machines without question if the Territory ever wants to do so.

CHIEF CLERK: This was Section 5 before read: "The right of secrecy of ballot shall be preserved." She is asking to strike that and say, "Secrecy of voting shall be preserved.

PRESIDENT EGAN: It has been moved and seconded that the proposed amendment be adopted.

MCCUTCHEON: Question.

PRESIDENT EGAN: All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes have it and the amendment is ordered adopted. Mr. Victor Fischer.

V. FISCHER: Mr. President, I have an amendment. This amendment has been agreed to by the Committee on Suffrage and Election.

CHIEF CLERK: "In the amended language of the last sentence of Section 1, after the year '1924' insert the following: 'and meet the residence requirements of this section'."

HELLENTHAL: I ask unanimous consent that the amendment be adopted.

PRESIDENT EGAN: Mr. Hellenenthal moves and asks unanimous consent that the proposed amendment be adopted. Is there objection?

ROBERTSON: How does it read now?

PRESIDENT EGAN: Will the Chief Clerk --

CHIEF CLERK: I don't have that amended language right here.

SUNDBORG: I have it, Mr. President. Let me ask first was it

in the singular "residence requirement"?

CHIEF CLERK: "Requirements".

SUNDBORG: "Those citizens who legally voted at the general election of November 4, 1924, and meet the residence requirements of this section shall not be deprived of their voting rights by any provisions of this section or the constitution.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment? If there is no objection it is so ordered and the amendment has been adopted. Mr. Barr.

BARR: I have an amendment.

PRESIDENT EGAN: Please read the amendment, the proposed amendment.

CHIEF CLERK: "Strike Section 2."

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

MCCUTCHEON: I object.

BARR: I so move.

PRESIDENT EGAN: It seems to the Chair that there had already been an amendment offered striking Section 2 and it had been voted down by the Convention. 1, 2 and 3 had been ordered stricken.

BARR: I so move then.

CHIEF CLERK: 1, 2 and 3 were voted down.

PRESIDENT EGAN: Mr. Hinckel's proposed motion the other day to strike Section 1, the Chair held that that was the meat of the whole proposal and that inasmuch as that amendment striking Sections 1, 2 and 3 had been offered previously and voted down, that Mr. Hinckel's motion was out of order. Mr. Hinckel was going to attempt to insert in Section 1 almost the identical language that Mr. Taylor had offered to Section 1 and which had been defeated. But whether or not the deletion of Section 2, the Chair does not feel that Section 2 is really the meat of this proposal in the sense that Section 1 is.

BARR: Mr. President, that is my contention. Section 1 deals with the qualification of voters. Section 2 is only a detailed list of the things that the legislature shall provide.

PRESIDENT EGAN: Mr. Barr, the Chair will hold that your amendment is in order.

BARR: I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second?

LAWS: I second the motion.

ROSSWOG: What is the amendment?

PRESIDENT EGAN: Mr. Barr's amendment calls for the deletion of Section 2 from Committee Proposal No. 1. Mr. Barr.

BARR: Mr. President, the reason for this amendment is that it deals with details which the legislature shall take care of in regard to our voting laws. It provides for registration, precincts, absentee voting, method of voting at election and contested elections. The legislature has authority to do all that, and I don't believe that it has a place in the constitution. The constitution should not go into such details. Therefore, I would like to have it stricken. We know that the legislature will take care of it.

SUNDBORG: Mr. President, I do not believe it is true that if we strike Section 2 that the legislature has the authority to do these things, and I do not believe that it is true that we say in Section 2 how these things will be set up. All that Section 2 says is the legislature may do so and so and shall do so and so, and without Section 2 I think it is a very serious question that the legislature could do these things. By what right could it do them? This is the authority to the legislature to do them.

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

BARR: It is a well-known fact that the legislature has authority to do anything which is not named in the constitution. The constitution is a restriction on the legislature for the protection of the people. If there is nothing mentioned in the constitution then of course the legislature has the authority.

MCCUTCHEON: Mr. President, I alleged the same fact here several days ago and I was quite thoroughly challenged on the floor by the various attorneys. I am still not convinced whether or not the legislature does have the right to act if the authority is not so delegated in the constitution.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I would like to ask Mr. Hellenthal a question. I thought he stated the other day that in looking

up the authorities he had ascertained that unless the constitution did provide for absentee voting it is very questionable whether it can be legally done.

HELLENTHAL: That is correct, and Mr. Sundborg correctly stated the main reason for these insertions in Section 2.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Barr's proposed amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". So the "noes" have it and the amendment has failed of adoption. Are there other amendments to Committee Proposal No. 1?

LONDBORG: Mr. President, I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment by Mr. Londborg.

CHIEF CLERK: "Page 2, Section 3, strike 'judicially determined to be of unsound mind' and insert after 'person', 'found, in manner provided by law, to be of unsound mind.'"

LONDBORG: I move the adoption.

PRESIDENT EGAN: Is there a second?

BUCKALEW: I second the motion.

PRESIDENT EGAN: Is there discussion? Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "Page 2, Section 3, strike 'judicially determined to be of unsound mind' and insert after 'person', 'found, in manner provided by law, to be of unsound mind.'"

LONDBORG: I don't know if any discussion is needed. The reason for the amendment is to make it possible in case the legislature should want to set up some other method of determining insanity, such as a board or anything of that nature, they would be at liberty to do so and would take away the mandate that it should be judicially determined, which of course, the legislature can provide that method if they choose.

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

GRAY: Mr. Chairman, I wonder if that is covered by the Bill of Rights? Do we not have something that no one shall be deprived of life, liberty without due process of law? Regardless of how a person is judged unsound it must be by due process of law, and I believe myself "judicially determined"

means by due process of law. The wording is the same as far as I can see.

LONDBORG: I think it is obvious that the wording is not the same. The one states that it must be judicially determined and this makes it possible for the legislature to either have it judicially determined or by some other method.

PRESIDENT EGAN: The question is, "Shall Mr. Londborg's proposed amendment be adopted by the Convention.?" All those in favor signify by saying "aye", all opposed, "no". The "noes" have it and so the proposed amendment has failed of adoption. Are there other amendments to Committee Proposal No. 1?

KILCHER: I move and ask unanimous consent that the Chair as a general practice in the future will entertain a motion to the effect that a certain proposal will be forwarded to the Committee on Enrollment and Engrossment.

PRESIDENT EGAN: You mean when a proposal is, are you asking that a new rule be adopted?

MCCUTCHEON: Point of order. That appears to me to be strictly the prerogative of the Chair.

PRESIDENT EGAN: Of course, if Mr. Kilcher wants to offer a new rule that is fine. The Chair will always give ample notice that any matter that is being referred to the Committee on Engrossment and Enrollment, but if you ask unanimous consent that it be adopted as a rule of the Convention, that is your prerogative, Mr. Kilcher.

MCCUTCHEON: I object.

KILCHER: I so move.

PRESIDENT EGAN: Mr. Kilcher so moves that the permanent rules be amended and a new rule which would be numbered 61 be adopted that a motion be entertained by the Chair prior to the referral of a proposal to the Committee on Engrossment and Enrollment. Mr. Davis.

DAVIS: I would like to suggest that Mr. Kilcher's motion is out of order at this time. We are concerned in working on another matter here. It has nothing to do with this at all. I think it is out of order at this time.

PRESIDENT EGAN: There is no second.

MCNEES: I would second it made under the proper circumstances.

PRESIDENT EGAN: Mr. Kilcher, it might be well if you would hold that until we are at the proper time. It would seem to

the Chair that Mr. Davis's objection is in order in that we have a particular subject before us.

KILCHER: Would the Chair instruct me as to what it considers the proper time?

PRESIDENT EGAN: Between the time that we would be referring Mr. Davis, would you suggest the proper time, what it would be?

DAVIS: I suspect that what Mr. Kilcher really wanted to do at the moment was to move that this particular proposition be sent to Enrollment and Engrossment.

KILCHER: No.

DAVIS: Then if I am wrong on that I would say the proper time would be as soon as we have finished working on this particular proposition.

PRESIDENT EGAN: I would say that too and the President will call that to your attention at that time, as soon as there are no amendments to be offered to this proposal, then you would be in order to offer the motion. Mr. Harris.

HARRIS: Mr. President. I would like to move that the Convention stand adjourned until tomorrow morning at 9 o'clock.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Are there any committee announcements? Mr. Hellenthal.

HELLENTHAL: Committee VI will meet at 8 o'clock at Room 1009 in the Polaris Building.

PRESIDENT EGAN: Committee VI on Suffrage will meet at 8 p.m. in Room 1009 of the Polaris Building. Are there other committee announcements? If not, we have a motion before us that the Convention stand adjourned until 9 o'clock tomorrow morning. The question is, "Shall the Convention stand adjourned until 9 a.m. tomorrow?" All those in favor of the motion will signify by saying "aye", all opposed by saying "no". The "noes have it and the Convention has not adjourned.

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The vote has been announced. Do we have an amendment now before us?

COGHILL: I move that the Convention stand adjourned until 9:05 tomorrow morning.

PRESIDENT EGAN: Mr. Coghill, you will have to have some business transpire first.

HERMANN: Mr. President, I wish to rise on a matter of personal privilege. I wish to congratulate the Judiciary, the Committee on the Judicial Branch, for being the only committee in the Convention that managed to hit its target date in producing its committee proposal and to remind them that it is later than you think and we still have no reports in from some of the very important committees.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I would like to rise on a similar matter of personal privilege. I would like to point out that there are a number of other committees that have finished work upon their proposals and they are in the mill, and it is not their fault that they have not been able to come on the floor for an actual formal report.

DOOGAN. I would like to point out that this body took some action here awhile ago that every time personal privilege was granted that the soundscriber and stenotypist would be shut off, and to date there has been about four or five personal privileges and everything has gone on as usual.

PRESIDENT EGAN: If the Chair could have the personal privilege for just a moment, the Chair would like to congratulate the chairmen of all the committees for the long and hard hours that they have put in on committee work. Mr. Davis?

DAVIS: Mr. President, at this time I would move that Committee Proposal No. 1 as submitted be sent to the Committee on Engrossment and Enrollment.

SUNDBORG: Point of order. I believe that Mr. Kilcher attempted to make a motion and that the Chair said he would advise Mr. Kilcher.

PRESIDENT EGAN: Mr. Sundborg, your point of order is well taken. Mr. Ralph Rivers.

R. RIVERS: Point of order. I am not sure but what there might be still some amendments pending.

PRESIDENT EGAN: The Chair had informed Mr. Kilcher with the apparent consent of the body, because there was no objection, that he would allow Mr. Kilcher to make such a motion as he had attempted to offer at a time prior to the time that the proposal should be sent to the Committee on Engrossment.

DAVIS: Aren't we on exactly the same business now as we were then? That was what I was trying to do was to dispose of it.

PRESIDENT EGAN: Mr. Davis, that would probably be in line with the idea that the reason that Mr. Kilcher was asking for permission to offer the motion that he had offered.

R. RIVERS: Point of inquiry. Is there any other proposed amendments on the Clerk's desk?

HELLENTHAL: There are two amendments on the Clerk's desk, both of which were presented yesterday by Mr. Taylor, who is absent today. I have scanned the amendments and both of them I believe, have been taken care of by the action taken care of today. They are similar to other amendments that have been considered. However, in the absence of Mr. Taylor, although I don't think the amendments are of any consequence any more since today's action, I would hesitate to ask that we refer the matter to Engrossment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I am not an expert on rules, but I believe it has always been the custom for the President to move these different measures on after they have been acted on on the floor to committee or to Engrossment and Enrollment, and I don't believe Mr. Davis's motion is in order. That would have the effect of cutting off debate.

PRESIDENT EGAN: Mr. Barr, you are correct that that has been the general procedure but the Chair had given Mr. Kilcher to understand that he could offer a motion to amend these permanent rules at such time as it was decided that amendments had been completed to Committee Proposal No. 1. Mr. Ralph Rivers.

R. RIVERS: Point of inquiry. I understand we have not reached that stage, that there is still a proposed amendment on the Clerk's desk.

PRESIDENT EGAN: Then we have not reached that stage, Mr. Rivers. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that Committee Proposal No. 1 be continued in second reading.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that Committee Proposal No. 1 be continued in second reading. Is there objection?

BUCKALEW: I object.

MCNEALY: I second the motion.

SUNDBORG: I so move.

PRESIDENT EGAN: Mr. Sundborg so moves, Mr. McNealy seconds the

motion that Committee Proposal No. 1 be continued in second reading. Mr. Sundborg.

SUNDBORG: Mr. President, the purpose of my offering this motion is to give us a chance tomorrow when Mr. Taylor, who is the author of several amendments, is present to consider the amendments which he would propose, and I would say that another purpose of it is to get Committee Proposal No. 1 from in front of us so that it may be the proper time for Mr. Kilcher to make his proposed motion for a change in the rules.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think it is extremely foolish to hold this matter up because one of the delegates is not here. He is not ill and so I think it is poor policy to start because some member does not show up to hold up the whole proceedings of the Convention. That is the reason I object.

MCNEALY: It appears to me from the talk and without any reflection on anyone that the type of amendments and discussions and the various things here are to a point where a good many of the delegates who apparently worked hard all day and are getting very tired, and if we had a playback on some of this, I have been sitting back here listening and not talking, I think it would reflect the tired thoughts of the delegates, and I believe that leaving Mr. Taylor out of it, even it would be well to consider this in the morning and after a good night's sleep. That's the reason I seconded the motion.

MCCUTCHEON: Mr. President, I would be disinclined to vote for the motion as set forth by Mr. Sundborg by virtue of the fact that it might be establishing a precedent in the fashion in which we could hold back any material before this house. In other words, some delegate could write out a string of amendments to something and disappear for several days and we would have to hold it up in deference to the one delegate who wasn't here in order to take care of those amendments. I am in sympathy for Mr. Sundborg's attitude, but I dislike the way he has put it for the record.

METCALF: May I withdraw my second for Mr. Sundborg's motion?

PRESIDENT EGAN: Actually the motion is not debatable because it is a suspension of the rules and the question is, "Shall Committee Proposal No. 1 be held over in second reading?" All those in favor of the motion will signify by saying "aye", all opposed by saying "no". The "noes have it and the proposal has not been carried over. Mr. Gray.

GREY: Mr. President, I move we adjourn until 9:05 tomorrow morning.

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Gray moves and Mr. Victor Rivers seconds the motion that the Convention adjourn until 9:05 tomorrow morning.

GRAY: I ask for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

Nays: 23 - Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Hermann, llilscher, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Riley, Sundborg, Mr. President.

Absent: 3 - Boswell, Stewart, Taylor.)

DOOGAN: Mr. President, may I change my vote to "no"?

PRESIDENT EGAN: Mr. Doogan changes his vote to "no".

CHIEF CLERK: 29 yeas, 23 nays and 3 absent.

PRESIDENT EGAN: So the Convention stands adjourned until 9:05 a.m. tomorrow. The Convention is adjourned.

ALASKA CONSTITUTIONAL CONVENTION

December 16, 1955

THIRTY-NINTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Victor Alfsen of the Presbyterian Church of Fairbanks. Reverend Alfsen will give our daily invocation.

REV. ALFSEN: Let us pray. Almighty God Who does hold us to account for the use and the abuse of our powers and privileges, grant we pray Thee to these delegates this day integrity of purpose and unfailing devotion to the cause of righteousness for Thy name's sake. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

CHIEF CLERK: Three absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special committee to read the journal have a report to make today?

DOOGAN: I ask that it be deferred until tomorrow.

PRESIDENT EGAN: If there is no objection the report will be deferred until tomorrow. Are there any petitions or communications from outside the Convention? The Chair would like to state that Reverend Armstrong will have a set of 50 pictures. They will be available for the delegates if you will give your name to Mr. Dave Brown, Mr. Armstrong could arrange to have these pictures kept for you. The Chief Clerk will proceed with the communication.

CHIEF CLERK: Letter from Ron Nerland, Co-chairman of the Dance Committee at College, Business Administration Fraternity, the Christmas dance to be held Friday, December 16, immediately following the Christmas music program, an invitation for the delegates to attend.

PRESIDENT EGAN: That is tonight, is it not?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The communication may be filed. Are there other communications?

CHIEF CLERK: I have none.

PRESIDENT EGAN: Are there any reports of standing committees? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to report for the Local Government Committee that we have completed our proposed section of the constitution and it was approved by all members of our committee. The report is being prepared and as soon as it is mimeographed we will have it ready to present to the Convention. We intend to continue work as a Committee or as members of the Committee with Mr. Cooper as long as he is here, and we hope to have this in not later than Monday morning.

PRESIDENT EGAN: Thank you, Mr. Rosswog. Are there other committee reports? If not, are there any proposals to be introduced at this time? Are there any motions or resolutions? Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess for ten minutes for the purpose of allowing the committees which will be holding hearings in cities throughout Alaska to organize and to send out letters or telegrams to the places of those hearings in an attempt to establish time and place of the hearings.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for ten minutes in order that the suggestions as made by Mr. Sundborg can be accomplished. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce that there will be a meeting of committee chairmen at 12:30 in the luncheon room off the main dining room. The Chair would also like to request that all amendments be presented to the Chief Clerk's desk in writing. In other words, if you are about to offer an amendment please put it in writing or call for a brief enough time that you can put it in writing. Is there other unfinished business? Mr. Rosswog?

ROSSWOG: Mr. Chairman, referring to reports of committees, there will be a meeting of the Rules Committee at noon. We will get together on a time.

PRESIDENT EGAN: There will be a meeting of the Rules Committee at noon. Mr. Smith.

SMITH: Mr. President, unless something intervenes, the Resources Committee will hold a luncheon meeting in the cafeteria.

SUNDBORG: Mr. President, I call your attention to the large chart at the front right corner of the room which was prepared by a subcommittee of the Committee on Style and Drafting of which Mr. Hurley was the chairman. In fact, I think Mr.

Hurley in person did the painting, and I don't understand it completely myself. I wonder if we could have unanimous consent for him to just briefly describe what that chart is about.

HURLEY: Mr. President, I disclaim any right to having painted it. I don't paint that well. The chart was asked for or suggested by the Style and Drafting Committee and by others as a sort of scheduling and picture in one look as to where the Convention stood in its various proposals. It was simply intended to represent the location of any particular proposal at any particular time, at least by weeks. I hope that the thing is reasonably self-explanatory. It is not completely filled in as to our present status. We have not had time to. I simply peg those on to demonstrate that the Judiciary Committee has had its first and second reading but has not been completed. The black cards represent being completed and the white cards represent target dates. It's not very complicated, I hope it will do some good.

PRESIDENT EGAN: The Convention will be at ease for a few minutes. Reverend Armstrong.

ARMSTRONG: I wanted to inform the delegates that these pictures will have at least 50 in the set, and what I want to do is leave a set in the Anchorage Library, one set here at the University and one at the Territorial Museum. They are not professional photography but I think they do have some interest and others will have pictures here to distribute. For the entire set I thought that \$5.00 would cover the cost of mailing and film and reproduction, and I will be glad to see that you get these if you give your name to Dave Brown, then after recess we should have the set assembled and ready for you.

MCLAUGHLIN: May I inquire of Delegate Armstrong if these pictures are acceptable in the home. (Laughter)

PRESIDENT EGAN: I am sure they are, Mr. McLaughlin. Mr. Sundborg.

SUNDBORG: Mr. President, I wonder if it would not be in order now to have reports from the Hearing Committee, that is the committees for hearings during recess, who they select for chairman in each case and what arrangements, if any, for setting hearing dates.

PRESIDENT EGAN: Are there such reports forthcoming at this time? Mr. Gray.

GRAY: Mr. President, for the benefit of the committee and for a few requests to make for the delegation, the Juneau division has planned to have a panel discussion at probably the

Senate chambers in Juneau on the 27th and 28th at 2 p.m. We are going to ask for radio participation. At least we will be able with the radio to reach out to a larger medium throughout the people of the Juneau area, and the Juneau delegation is fairly broad through the group, but we need a little help. We had a couple of voids, so we have delegated one of our members, Mr. Armstrong, to look into the finance group and be able to handle the problems of finance through Mr. Armstrong, so he will be contacting the finance group and probably Chairman Nerland, and if you can brief them up so he can be sure to answer all questions that Juneau may have on finance. The other is Local Government and we have designated Dora Sweeney to represent the Convention as far as the answers to Local Government is concerned, and I would ask Local Government to give Dora Sweeney all the inside dope as well as what you put out on the publication. Otherwise, we will have Gray in Apportionment and Robertson on Judiciary and Sweeney on Legislation and VanderLeest on Executive. Burke Riley and B. D. Stewart may or may not be on Resources, if they are in Juneau at that time, so George Sundborg is going to try to stand by on Resources which is going to be a very important committee. We may have as many as three on Resources. Armstrong will be on Bill of Rights and VanderLeest on Ordinances. I think we have a good setup for panel discussion, and I have every reason to believe that it will be worthwhile in the Juneau area.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, the delegation from the Anchorage area for the Third met and elected Helen Fischer President and Dorothy Awes Secretary. It was a tie vote so we flipped a coin to see who would be which. They are going to arrange meetings in Anchorage, and probably starting the 27th we will have two and maybe three days of meetings. The general idea was informal discussions with answers to questions, would be the approach.

BOSWELL: The Fairbanks delegation has elected myself Chairman, Ada Wien, Secretary, and appointed a committee consisting of George Cooper, Ralph Rivers, and James Doogan, to act as officers on arrangement. We felt that one day of hearings would suffice here because the Fairbanks people have had a good opportunity to keep up with Convention happenings, and we are setting tentative dates of the 28th or 29th, depending on what the committee can arrange for a meeting place.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, Mr. Gray modestly neglected to state that he had been elected Chairman of the Juneau Committee.

HURLEY: Mr. President, the Palmer Committee of one elected

the Palmer Committee of one as President and Secretary, is pleased to announce that public hearings for constitutional discussions are scheduled at Wasilla on December 21, Palmer, December 29, Grange Hall, the 27th, and at the Kiwanis Luncheon on the 27th.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the committee representing the Ketchikan area will hold hearings on the 27th or 28th at a place to be named later. Mr. Smith will act as Chairman, Mr. Smith will act as Secretary, Mr. Smith will discuss all of the proposed articles, and in view of the duties involved I am sure that Mr. Smith will be rather confused when it is all over.

HINCKEL: I erroneously informed the President that the Kodiak hearing would be on the 24th. It is on the 22nd, a Thursday afternoon at the Elks Club, the Elks Club being the only hall in Kodiak that is of adequate size. I wrote over there asking that the Chamber of Commerce arrange the hearing and they showed enough interest so they phoned me back so I expect that I will have considerable interest and quite a group there. Of course I will be along with Bo Smith I will probably be completely confused too. I hope I can gather enough information so I can answer some questions anyway.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, the Nome delegation consisting of Mr. McNeese and myself has elected Mr. McNeese President though he does not know it yet, and Mrs. Hermann Secretary, and we will hold meetings beginning on the 28th of December and continuing until they run us out of town. We don't know whether they will do it or not, but we do know there is a little bit of unhappiness in Nome that we hope to overcome, and we are going to have to do all of this various committee work ourselves, and like Mr. Smith, I am sure we are going to be very much confused, but I do hope that we will have available to us before we leave for the recess, reports and committee proposals from all the committees so that we can spend one week boning up on what has been suggested and having it ready for presentation after we start the hearings on the 28th of December. And I am sorry Mr. McNeese is not here today because I would like to have him report any other plans he may have made. We also have made arrangements to speak before various local groups like the Chamber of Commerce and the Womens Club, organizations of that sort, and I know of course a whole lot is going to depend on what brand of weather Nome turns loose on us at that time. We hope to get the whole town interested at least and have their viewpoints to present to the Convention when we return.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: The Nenana hearing will be held in the Civic Center at 8 p.m. on the 27th. We will hold hearings for approximately two hours and have a smorgasbord and Tom-and-Jerry party afterwards, and all the delegates are very welcome to attend.

KNIGHT: Mr. President, I will do the best I can to carry the ball down at Sitka, and I am holding a special meeting on the 27th in the school auditorium. After that is all over we will adjourn to the Elks Club.

PRESIDENT EGAN: Mr. Lee.

LEE: The Petersburg delegation will hold hearings on the 27th and 28th in the high school auditorium, and I have an idea there will be other hearings conducted at the Elks Club, and if it is possible I intend to go to Kake at my own expense to hold hearings over there at some time.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Bristol Bay delegation will hold hearings at Dillingham on or about the 27th or 28th and on the way back after recess I will hold hearings at Naknek. If possible I might get down to Egegik and Ugashik if the schedule permits.

METCALF: Mr. Chairman, speaking from the Seward area, the city council chambers are available, and a tentative hearing is set for Friday, December 23. After the hearings we may adjourn to the Elks Club.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, the Cordova hearings will be held on either the 27th or 28th, probably in the city hall, but possibly at the Elks Club.

PRESIDENT EGAN: Mr. Harris.

HARRIS: The Valdez hearings will be held on the 27th or 28th. It depends on when the hall is available there for our use and that will consist of President Bill Egan and myself.

PRESIDENT EGAN: The delegation will show Mr. Harris as Chairman of that. Mr. King.

KING: The Haines delegation consisting of King, Secretary, and King, President, tentatively established the 27th in Haines as a hearing. We had hoped that Mr. Riley might participate in this, but I have noticed by the former report that the Juneau delegation has stolen my right-hand man, so I will probably conduct the hearings alone.

GRAY: On account of the unusual conditions that prevail in

Southeastern, I wish to extend an invitation to the Haines and Petersburg delegates and Sitka delegation to attend our meeting in Juneau, if you are still there at that time.

PRESIDENT EGAN: Are there other delegates who wish to report? Mr. Londborg.

LONDBORG: The Unalakleet hearings will be held in the public school social room, the tentative date is the 27th.

KILCHER: I am still awaiting news from home. My wife might decide to come up here, in which case I would be unable to attend hearings in Homer. However, if this is not the case, I intend to hold hearings in the school house in Homer on the 27th.

PRESIDENT EGAN: Does anyone else wish to report? If not, we will proceed with the regular order of business which would be Committee Proposal No. 1 which is still before us. Mr. Taylor?

TAYLOR: Mr. President, day before yesterday I offered two amendments to Committee Proposal No. 1, and in my absence yesterday, the matters of these amendments have been taken care of, so I would like to withdraw.

PRESIDENT EGAN: If there is no objection, Mr. Taylor's proposed amendments will be withdrawn.

CHIEF CLERK: They were not even read. They had just been placed on my desk.

PRESIDENT EGAN: The Chair would like to announce that we have with us this morning a part of the sophomore and freshman class of the Fairbanks High School. We are very happy to have you with us and hope you enjoy the proceedings with us. We also have in the gallery, Alaska's Commissioner of Agriculture, Mr. James E. Wilson. (Applause) We are pleased to have you with us, Mr. Wilson. Are there other amendments to Committee Proposal No. 1? Are there any more amendments to the proposal? If there is no objection, the proposal -- Mr. Ralph Rivers.

R. RIVERS: Mr. President, I now suggest that this is the time for Delegate Kilcher to make his motion.

PRESIDENT EGAN: Delegate Kilcher.

KILCHER: I have not had time to prepare the motion in writing and I would like to have the privilege of postponing the matter.

PRESIDENT EGAN: If there is no objection, the matter will be postponed. If there is no objection and if there are no further amendments to Committee Proposal No. 1 it is referred to the Committee on Engrossment and Enrollment to take its regular course. We have before us then Committee Proposal No. 5 as the first proposal on the calendar. Mr. Smith.

SMITH: Mr. President, just as a matter of information, I noticed the calendar on December 13, Committee Proposal No. 1 followed by Committee Proposal No. 3 and then the calendar for December 16 has Committee Proposal No. 5 followed by No. 3. I am just a little bit confused here.

PRESIDENT EGAN: Is there an explanation for that? Mr. Davis.

DAVIS: No sir, I was wondering how that happened myself. So far as I know the Rules Committee did not meet.

SWEENEY: I am concerned about the same question.

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

RECESS

PRESIDENT EGAN: The Convention will come to order.

RILEY: Mr. President, I ask unanimous consent that we stand at recess for a few minutes for the Rules Committee to meet.

HELLENTHAL: Can the recess be set for a fixed time so we can leave this chamber with impunity.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for 15 minutes. That will mean at 10:10 a.m. the Convention will convene again. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. .The Chair would like to ask at this time if Dennis Cook, Vice President of the Sophomore Class of the Fairbanks High School, could come forward. (Mr. Cook came forward.) (Applause) Dennis, this is the gavel that was loaned to the Convention in the early days of the Convention by the Fairbanks High School. We appreciate it very much and we hope that you will return it safely to them. (Applause)

DENNIS COOK: Thank you.

PRESIDENT EGAN: Does the Rules Committee have a report to make at this time? Mrs. Hermann.

HERMANN: Mr. President, the Rules Committee has decided to reverse the decision of the position of the proposal that is contained on the calendar for December 16 and recommends that we take up Committee Proposal No. 3 to be followed by Committee Proposal No. 5.

PRESIDENT EGAN: That would mean then that we have before us at this time Committee Proposal No. 3. Mr. Hurley.

HURLEY: Mr. President, I ask unanimous consent for a matter of personal privilege for a short moment or two. It occurs to me in our consideration of these proposals as they come before us, a great amount of time is taken up in the plenary session in amendments and discussion which could be solved by a sort of a question and answer period or perhaps a committee of the whole interrogating and answering questions of the committee itself. I don't know whether the procedure is available or what but certainly it would be more conducive to getting the facts of the thinking of the Committee if we were able to more freely ask questions of the Committee than I think that we are in the formality of the plenary session, and again as I say, I hesitate to go through the parliamentary procedures of moving that the Rules Committee change the rules or set up a rule to take care of this problem, but talking to other delegates I find they have a similar opinion and perhaps ten or fifteen minutes of panel discussion or cross examination would save us many hours in the final analysis. Perhaps it is too late to do anything now, but I bring the matter up for consideration.

PRESIDENT EGAN: Mr. Barr.

BARR: I heartily concur with Mr. Hurley in what he says. For instance, I notice one thing in this proposal that I would like to change, but when I realized how long these committees have labored over these problems and how extensively they have delved into them, I naturally assume they know more about it than I do. So I would like to hear the reason for the Committee's decision before I would suggest an amendment. If we could hear that, it would save us a lot of time, there would be a lot of amendments that would not be submitted.

PRESIDENT EGAN: Mr. Barr, would you then feel that a motion should be made at this time to revert to a Committee of the Whole on this Proposal No. 3?

BARR: Either that or some other plan. I think it would be a good idea.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I do not feel at first that that is the proper approach to this because I believe we are tied up with

some valuable information going over the tape that might be eliminated in the Committee of the Whole. I feel that we can move that the Chairman of the Committee report on his activities, a preliminary report on the activities of his Committee and he can start the discussion and we can question his group. Would that be parliamentary procedure? Just in the motion that the Chairman of the Committee report on his Committee activities and then it will take out the second motion of changes, amendments, etc. We can get the discussion and the record will stand both on the stenotype and on the tape.

PRESIDENT EGAN: Whatever procedure you feel would be best. Mr. Rivers.

V. RIVERS: Do you have a motion for Committee of the Whole or is the matter open for discussion?

PRESIDENT EGAN: Just for information purposes the Chair will allow a discussion on just how we should proceed.

V. RIVERS: I wanted to say that as we get farther into the second reading I also notice the cumbersomeness of which we proceed, and I feel that Hawaii solved the situation quite well by resolving itself into a Committee of the Whole for discussion in second reading. I have here a copy of the proceedings of the Executive Committee in connection with the preparation and also the Committee of the Whole hearings which they conducted and held. They took a complete record of the Committee of the Whole both on stenotype and tape, and then after the Committee of the Whole rose, they appointed two or three people to make notes and to condense down the gist of what took place so that becomes a part of the journal, that Committee of the Whole report in a condensed form and it is therefore easy to see what the intent of the whole body was after the act is passed out of second reading. We have talked about this a number of times before but I believe that the proper handling without observing the nonsoundscribing rule which we have adopted, the proper handling in the Committee of the Whole would be most expeditious and would probably be the most satisfactory for the handling of this second reading and the amendment period and discussion period.

PRESIDENT EGAN: Mr. Hinckel, did you have something to say on the matter?

HINCKEL: I think that Mr. Rivers said what I had in mind. I rather object to anything other than a Committee of the Whole because I am afraid that some of the more experienced legislators would not let us accomplish what some of us would like to have, and that is more or less an informal discussion so we could find out what the facts are.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I would be in favor of Mr. Barr's motion. I would like to amend it to limit to say 45 minutes and try this new method and see if we can't make a little faster progress.

PRESIDENT EGAN: Did Mr. Barr so move?

BARR: No, I did not make any motion.

PRESIDENT EGAN: The Chair was allowing this discussion just for information purposes.

BARR: I merely made a suggestion that we learn more about the proposals before we submit amendments. It could be done very well in a Committee of the Whole. There is one other method that occurs to me. The Chairman of the Committee could take the floor and make a verbal report and then any member who had doubts about a particular section could ask him to make a further report on that section, so either way would suit me. I will leave it up to someone else to make a motion to which method we should use.

SUNDBORG: I move and ask unanimous consent that we proceed by first having the proposal read by the Chief Clerk in plenary session, as I think is required by our rules, and then becoming a Committee of the Whole for a discussion at which the Chairman, or if he designates other members of his Committee, may explain the provisions of the proposal and answer the questions of the delegates and that the Committee of the Whole then rise and report its findings, whatever they are, to the Convention for such action as may be appropriate.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Point of order. Inasmuch as this will be an amendment to the rules I suggest that it be offered in writing and be dealt with at the 2 o'clock session in the afternoon when the Rules Committee has met.

PRESIDENT EGAN: Mr. Kilcher, would it actually be an amendment to the rules inasmuch as Committee of the Whole is allowed under the procedure that Mr. Sundborg suggested?

KILCHER: It makes no difference to me, but I had thought that since the procedure is tied in with what the rules prescribe for having it read by the Chief Clerk, and then it looks to me that is another official step that the proposal will have to go through and I am all in favor of it, but as such a step it should be part of the rules.

PRESIDENT EGAN: Well, Mr. Kilcher, the proposal would have to be read in any event in second reading first before it went into the Committee of the Whole in order to give the body

an opportunity to make certain they had heard it read. Mr. Victor Rivers.

V. RIVERS: I would like to see us try the Committee of the Whole proceedings but I would have to oppose it if we did not keep a transcript of the records a transcript of the proceedings of the Committee of the Whole under the suspension of that rule I mentioned and that we did also have available among our membership at least two or three members to get together and produce the report of the Committee of the Whole in condensed form, generally condensing the subject matter which we have discussed in showing our final decisions and that would be for the journal and the record.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would consent to adding to my request for unanimous consent the provisions that the proceedings within the Committee of the Whole be soundscribed and also preserved by stenotype record and that at the beginning of the Committee of the Whole session the Chairman of the Committee appoint one or more members to keep a report on the proceedings.

V. RIVERS: I would agree to that amendment, except that the Chairman of the Committee would not necessarily have to appoint members. For instance, I was thinking of Mr. Sady or somebody like him or Mr. Rogers, might be men who could very materially assist in helping to prepare the report.

SUNDBORG: I would agree to that.

PRESIDENT EGAN: The Chair would like to state that Mr. Rogers is not here and Mr. Sady has had some unfortunate news from home and will probably leave here Saturday evening, not to return until January 4. It would as of necessity entail a great deal of work by those members who would be delegated to make the report as has been suggested.

V. RIVERS: As I said, I have here copies of the report of Hawaii, but we do have to have two or three competent people to condense this meeting and intent and our final decisions into a report form. It wouldn't matter who it was as long as they could handle the work.

HERMANN: Is there any indication on the part of Public Administration Service that anyone will be sent to replace Mr. Sady?

PRESIDENT EGAN: Owing to the fact, Mrs. Hermann, that the Convention will be in recess on Monday it was the feeling of the President that at this time it would probably not be necessary for that one day that we might be in session to have another man come from the states and then go back again.

Mr. Sady will return. But Mr. Kilcher, if the suggestion as offered by Mr. Victor Rivers is the suggestion we proceed under, rather than the suggestion that Mr. Sundborg first mentioned, then it would take, the Chair would feel, an amendment to the rules or a suspension of the rules in order that that be accomplished. There is actually nothing before us on the floor.

SUNDBORG: I asked unanimous consent and that would carry a suspension of the rules, would it not?

PRESIDENT EGAN: Yes, Mr. Sundborg, that would carry a suspension of the rules. You asked unanimous consent, now could you state it?

SUNDBORG: I asked unanimous consent that we proceed to consider Committee Proposal No. 3 by first having it read by the Chief Clerk and then becoming a Committee of the Whole for a discussion of the proposal with the soundscribing to continue through the Committee of the Whole session, a record of which would also be kept by a stenotype, and that at the beginning of the Committee of the Whole session the Chairman of the Committee of the Whole appoint one or more persons to prepare a report of the Committee of the Whole to the main body on what transpired in the committee.

PRESIDENT EGAN: Is there objection? Mr. Kilcher.

KILCHER: Point of information. I would like to ask Mr. Victor Rivers a question and Mr. Sundborg, too. In order to make the benefits of such a Committee of the Whole reciprocal to the Convention and the Committee itself, would it not be rather good thing if we incorporated in your general idea the following one namely, that those proposals that are luckily not in yet should be brought into the Committee of the Whole before their final form is reached by their corresponding committees in order that that committee, in case they learn something by the Committee of the Whole, then could go back and do necessary changes without having to reverse too much machinery -- a thought that might have been very beneficial two weeks ago but yet it is not too late I think. The Committee of the whole idea is a very good one, and it should be possibly reached with those proposals which are not finally jelled yet, before they are in a form that experience has shown, is hard to correct.

SUNDBORG: Mr. President, it is my understanding that all, or at least practically all of the committees have actually turned their reports and their proposals into the boiler room and they are now being reproduced, and I don't think it would serve any good purpose to discuss them before we have those proposals in the form that the committees have decided upon before us, and so I object to having Mr. Kilcher's suggestion

incorporated in my unanimous consent request.

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

METCALF: I object.

SUNDBORG: I so move that we suspend the rules to follow the procedure I have suggested.

KNIGHT: I second the motion.

BOSWELL: I am not objecting to Mr. Sundborg's amendment except that I am wondering where this report from the subcommittee that is going to report to the Committee of the Whole, when that is going to come into the picture. It would seem to me there is going to be considerable time necessary to get this intent ready and during that time the proposal is going to be lying idle, and I just wondered if we could clear up that point.

SUNDBORG: It was my thought, Mr. Boswell, that that could be handled overnight or after hours by the few people who would be designated to prepare the report and then on the following day the Committee of the Whole could form again to hear and adopt the report. I would suggest we try it once and let's see if it would be a good procedure.

TAYLOR: I don't like it.

PRESIDENT EGAN: Actually, Mr. Taylor, the question involves a suspension of the rules and while the Chair has, for information, allowed previous discussion, now that the motion has been made, a suspension of the rules is not debatable.

DAVIS: Why does this involve a suspension of the rules?

PRESIDENT EGAN: Because it is a different manner of procedure or proceedings than the rules call for.

DAVIS: I thought the rules called for going into a Committee of the Whole at any time that we wanted to do so. The only thing different about this is whether we do or do not tape or record. That was not a rule but something the Convention adopted here.

PRESIDENT EGAN: Mr. Davis, that is generally in the Committee of the Whole, the reason is that it is not a matter of the record. The Committee of the Whole proceedings are not a matter of the record, an informal discussion can be entertained in the Committee of the Whole without being on the record. That is one of the main reasons for a Committee of the Whole session. Now the procedure we are attempting to adopt here

would make them a matter of the record and would be a diversion from the ordinary parliamentary procedure and necessarily becomes a suspension of the rules.

KILCHER: In order not to repeat this same performance, I had suggested that we make a rule that all proposals get the same treatment, not just the one here experimentally, and then in the future save time. We lost two hours yesterday. I can see us losing an hour now, and maybe on the next proposal, so if we referred it to the Rules Committee, let them set it up, it is cut and dried, and we save time in the future.

PRESIDENT EGAN: The question is, "Shall Mr. Sundborg's motion be adopted by the Convention with relation to the procedure in the Committee of the Whole?" The Chief Clerk will call the roll.

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

Yeas: 40 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Knight, Lee, Londborg, McCutcheon, McLaughlin, Marston, Nerland, Nordale, Peratrovich, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 10 - Cooper, Johnson, Kilcher, Laws, McNealy, Metcalf, Nolan, Poulsen, Reader, R. Rivers.

Absent: 5 - Hilscher, King, McNees, Riley, Robertson.

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

PRESIDENT EGAN: So the motion has been adopted by the Convention. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am going to renew my request for information. If we did not stay in Committee of the Whole or we didn't go into Committee of the Whole -- everything we say and do would be a matter of our permanent record. Some day this may be printed as it was in New Jersey with several volumes of things. What happens now? We have decided to keep transcriptions of this thing and have the stenotypist take the whole proceedings of the Committee of the Whole. Then we get a report from the Committee of the Whole, then we go back into the regular session and then we take up the matter of formal amendments and that sort of thing. Well is this stenographic record we are making and this tape we are making going to appear in those printed volumes for the archives and for

history, and why are we in the Committee of the Whole unless the whole thing goes into the record?

SUNDBORG: Mr. President, no action so far as I know has been taken by the convention or anybody else of printing a verbatim record of everything that happens at this Convention. It really would be a very thick volume and 90 per cent would be utterly useless. I have gone along with the idea of having this soundscribed and having the stenotypist keep a record, but I do not think we ought to have it published in several volumes, and if we did we could at that time decide whether we wanted to include perhaps as a supplement the report or transcription of what happened in this Committee of the Whole. In any event, I think that Mr. Rivers' statement is probably out of order. We have already decided this question and have decided upon a procedure.

PRESIDENT EGAN: Mr. Rivers stated that he was rising to a point of information. Would the Chief Clerk please read the proposal for the second time.

(The Chief Clerk read Committee Proposal No. 3 at this time.)

PRESIDENT EGAN: What is the pleasure of the Convention? Is it the desire that we resolve ourselves into a Committee of the Whole at this time? Mr. Smith?

SMITH: Mr. President, I would like to move and ask unanimous consent that the Convention stand adjourned until 1:30 this afternoon.

PRESIDENT EGAN: Mr. Smith moves and asks unanimous consent that the Convention stand at recess until 1:30 this afternoon. Is there objection?

SUNDBORG: I object.

MARSTON: I second the motion.

SMITH: Mr. President, the reason for the motion was that there are two committees who have need for another hour's work, and while it is possible that a part of that work could be done during the luncheon hour, there is a very great conflict between several committees. I believe the Rules Committee has a meeting scheduled for the luncheon hour. The Resources Committee would like to meet; I believe the Executive Committee needs another meeting, and I feel that the two committees, the Resources Committee and Executive Committee could, if the time was allowed, possibly complete to a large extent the work which they must complete, and I feel that the time lost here would be regained many fold by taking this time now.

PRESIDENT EGAN: Are there other committee announcements? The question is, "Shall the Convention stand at recess until 1:30 p.m.?"

DOOGAN: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 29 - Armstrong, Barr, Boswell, Coghill, Collins, Cross, Doogan, Emberg, Harris, Hellenthal, Johnson, Knight, Laws, Londborg, McLaughlin, Marston, Nerland, Nordale, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 21 - Awes, Buckalew, Cooper, Davis, H. Fischer, V. Fischer, Gray, Hermann, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNealy, Metcalf, Nolan, Peratrovich, Poulsen, Sundborg, Taylor, VanderLeest.

Absent: 5 - Hilscher, King, McNees, Riley, Robertson.)

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

PRESIDENT EGAN: And so the Convention is at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Committee Proposal No. 3. The Chair would like to announce that we have visiting us this afternoon part of the freshman class of the Fairbanks Public Schools, and we are happy to have you with us. The Chair will entertain a motion to resolve into a Committee of the Whole.

SMITH: Mr. Chairman, might I ask unanimous consent to revert to committee reports for a moment.

PRESIDENT EGAN: If there is no objection we may revert to committee reports.

SMITH: I simply want to state that the article on resources is ready for the boiler room. A committee report, after slight alterations and proof reading, will be ready for the boiler room, and I am sure it will be ready for all delegates before the recess.

PRESIDENT EGAN: Are there other committee reports? If not,

the Chair will entertain a motion to resolve ourselves into a Committee of the Whole. Mr. Sundborg.

SUNDBORG: Mr. President, I so move and ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention resolve itself into a Committee of the Whole. Is there objection? Hearing no objection it is so ordered. Mr. Ralph Rivers, would you take the Chair please. (Mr. Ralph Rivers took the Chair at this time.)

COMMITTEE OF THE WHOLE

CHAIRMAN R. RIVERS: The Committee will come to order. Would it be the pleasure of the delegates that the Chairman of the Committee, the Proposal No. 3, give us the explanatory remarks? If there is no objection, Mr. Collins.

SUNDBORG: Mr. Chairman, I believe that under the unanimous consent request of this morning that the Chairman of the Committee of the Whole would appoint several delegates or persons to keep record of what transpires here and make a report thereon.

CHAIRMAN R. RIVERS: Yes. I think three would be an adequate number to do that. Is there any objection to making three the number of that committee? I appoint Mr. Sundborg, Mr. Victor Rivers, Katherine Nordale. Now, Mr. Collins.

COLLINS: Mr. Chairlan and fellow members of the Convention, at this time I do not desire to take any more time of the Convention, for I know time is the essence, but I think you will agree with me that heretofore I have not occupied a great deal of attention or time of the Convention, but I am very much concerned with the Committee's report on Direct Legislation, Amendment and Revision. This report has been read in its entirety by the Chief Clerk here this morning. I might make a few comments, and I think it is in order that as Chairman of this Committee, that I should take over the comments of the committee. We had submitted to us in the beginning, Proposals No. 29 and 34 for consideration of this Committee. Together with that we had the individual opinion of the different members of the Committee. For some time we were stymied on progress of the report of this Committee. There seemed to be two or three lines of thought on the various principles that were incorporated with this proposal. Not getting anywhere, it was decided that we consider the different lines of thought and the Committee come in with a committee proposal. We have submitted that to you, a committee report. It was okayed by the seven members of this Committee. Yet perhaps there was some individual feeling of members that their idea was not properly expressed in this report, and it was decided to place this report back to the Convention for the consideration

of each individual member here for a full expression of his opinion, and we want to hear his opinion, and the Committee itself will not feel bad about any amendment that is germane to the principles that are set forth in this report. I would like to have the different articles, I would like to read the comments of the Committee. Perhaps it might give some enlightenment into the questions that you would ask about that report. It will take very little time. Now on the commentary of the Committee on the Article of Initiative, Referendum and Recall.

"(Section 1 Initiative) The initiative is the power of the people to initiate laws themselves and to provide for a referendum on such laws without action by the legislature. This section reserves the authority of the people to initiate laws by petition and vote of the people directly.

(Section 2 Referendum) This section permits the people to require that laws passed by the Legislature be referred to a vote of the people before taking effect. This power is known as the Referendum.

(Section 3 Procedure) Many constitutions, in the states which make provision for the use of the initiative and referendum, contain a great degree of detail relating to the exercise of the initiative and referendum. This section permits the legislature to provide by law for some details, but provides that the Legislature may not restrict the substantive rights guaranteed in Section 4, nor to require procedures more difficult than provided in Section 4.

(Section 4 Petition, ballot title; election; vote required) This section sets forth certain substantive provisions and minimum procedures affecting the exercise of the initiative and referendum. To prevent waste of money on elections for laws that are unconstitutional, sponsors are required to submit a proposed law to the Attorney General for certification of its constitutionality, subject to court review, prior to the circulation of petitions. The provision is intended to stop, at the initial stage, the circulation of petitions for laws that would, even if approved by the voters, result in expensive court action.

If the legislature adopts a measure that is the subject of the initiative, the measure does not have to be submitted to the people.

Additional details of procedure may be provided by the legislature subject to the limits imposed by this section. The procedure outlined has the advantage of brevity while insuring the substantive rights to the people.

(Section 5 Restrictions) The exercise of the initiative is a fundamental right of the people, but special

interest groups should not be permitted to unduly hamper the operation of the government. The restrictions in Section 5 will prevent the abuses and problems that have sometimes arisen in the states permitting initiative and referendum. Neither the initiative nor referendum can be used with regard to emergency legislation, appropriations, or measures earmarking taxes and other revenues, or for special or local laws that are of interest to only one group of people or people in only one portion of the state.

(Section 6 Recall) The right of the people to remove elected officials is preserved. The Legislature is directed to provide the methods to be used.

Commentary on the Article on Amendment and Revision

(Section 1 Methods) This section outlines three methods by which the constitution may be amended or revised. By action of two separate legislatures directly; (2) by action of one legislature and referral to the people; and (3) by constitutional convention.

(Section 2 Proposals by Legislature) The Legislature, by a two-thirds vote, may submit a proposed amendment to a vote at a general election. Use of general election is intended to insure a substantial vote on the question.

An alternate method is provided which permits the legislature, by a two-thirds vote, to submit a proposed amendment to the next legislature, but not to a succeeding session of the same legislature. If the second legislature adopts the amendment by a two-thirds vote it becomes part of the constitution without referring it to a vote of the people.

(Section 3 Constitutional Convention) The legislature is empowered to call a convention, but if the legislature does not provide for a convention each ten years, the question is submitted to the people at the following general election.

The legislature is authorized to prescribe the procedures and powers of a convention; but if it does not make such provisions, the law calling this convention will be followed insofar as practical."

That is the commentary on the articles which your Committee has put before you in the substitute report. Now on December 4, to settle the line of the Committee itself, we have drafted this as short as possible, as plain as possible, and if there is any amendments to come forth, the Committee will have no feeling. We have seven on our Committee and the Committee will answer the questions that might be put forth to members of this Committee.

CHAIRMAN R. RIVERS: Mr. Victor Rivers.

V. RIVERS: I would like to direct a question to Mr. Collins. Mr. Collins, there seems to be some difference of opinion as to whether or not the principle of the initiative and the referendum is a desirable and necessary one. I would like to have the comments or through you the comments of your Committee as to whether or not you feel the use of the initiative and referendum in any way circumscribes the idea of republican form of government, and if so is the principle of the initiative and referendum a desirable one for inclusion in the constitution as your Committee sees it.

COLLINS: I tried to infer that the draft that submitted this report would come to one thought on the matter, and I think we got together on that, and to prevent a minority report, and I think the Committee itself is pretty well satisfied with this report as presented. Now to give the individual thought of the members on this, we spent hours on it, and I don't think that the Convention would gain a great deal by that, but it would take up a lot of time. This is plain English language and to the point, and Mr. Taylor is the Vice Chairman of that. If you wish to make an explanation, Mr. Taylor, I would be glad for you to.

TAYLOR: Mr. Rivers, I might say we, the Committee, went into the historical background of the initiative and referendum. North Dakota was the first state to adopt the initiative and referendum so as to reserve to the people the power of initiating laws or either accepting or rejecting laws that have been passed by the legislature. Now, in our deliberations, I believe that we went through the laws, the constitutions of various states that have the initiative and referendum of which there are 19, and it was between about 1898 and 1928, I believe it was, that the states, practically all of the states that now have the initiative and referendum adopted the same. And in reviewing the history of the use of the referendum, I think the Committee members had differences of opinion as to whether or not the initiative and referendum should be included in the constitution. Although it has not been used a great deal in the last few years in some of the states that did use it before, the initiative and referendum is there and it serves a useful purpose in this way that the legislature does know that the people have reserved to them the right to initiate legislation and the right to pass upon legislation that has been passed by the legislature, so that ultimately they can, if they deem fit, can guide the legislature or guide the lawmaking in certain particulars. Now in practically all the states that have the initiative and referendum there are certain limitations put upon the matters that can be acted upon by those measures. Now appropriations are not subject to the initiative or the referendum. Some states made a great mistake by not restricting the initiative measures and allowed

pressure groups to gather great numbers of signatures to a petition and that petition would require the expenditure of large amounts of money, perhaps a great deal more than the state could possibly afford and sometimes they would also initiate some legislation to raise money, a revenue measure and then directed that the proceeds of that measure would be utilized for a particular purpose. In other words, it took the making of revenue measures and expenditure of the funds away from the legislature and in some instances the governmental functions and governmental institutions suffered a great deal. And it was necessary within as short a time as possible to undo the damage that has been done. Now in this present proposal as the Committee returned it, and I might say as Mr. Collins, our Chairman has said, that this does constitute, you may say, the compromise thought of the Committee. We were several weeks. We had differences of opinion. Some of the members of the Committee thought that all the details of the proposal, or all the details of the matter, should be spelled out to the minute degree, and others felt that they should have the bare outline of granting the right to reserve powers to the people and then letting the legislature set up the machinery for implementing, so we have included in this proposal the least number of details that we could. Now of course our first sections there is the right of the people.

V. RIVERS: May I ask a question. Before I go into the sections I was trying to determine, I think it is absolutely essential before we include anything in the constitution or in the laws that we determine three things: first, the desirability; second, the need; and third, the workability. Now I have gathered from what you said that your Committee considers the initiative and referendum desirable in the constitution.

TAYLOR: Well, I think on the matter that we have it in here now it is, because it is in a way that it cannot do any harm. It cannot interfere with the appropriations or raising of revenue. It cannot affect the disbursements of state funds.

V. RIVERS: Could I ask this? You say it cannot do any harm. Is it good and is it actually needed in this particular approach?

TAYLOR: I might say, Mr. Rivers, I went into that quite carefully. I find out that all initiative and referendum bills, or states that adopted that method of direct legislation, there has been none since 1928. Some of those states have attempted to repeal that provision of their constitution, and others have used it little if any. Now there was quite a fine treatise on that subject by a professor of political science and he reviewed the history of the initiative and referendum in Oregon over a period of ten years, 1938-1948. He took the measures one by one which had been either initiated or which had been

referred, and when he summed up his opinion after a very long study and a thorough study of the proposition, he said in all probability the legislature would have done the same things that the initiative and referendum accomplished. Of course, now we know in some states the exercise of the initiative and referendum was perhaps warranted by one act maybe that it put through. One of them was in California. The Civil Service Act for state employees was put through by means of the initiative measure. The legislature had been importuned for year after year for civil service status of the employees, and it was only in that way that they finally got it. Of course, if the proper safeguards are not put around the type of legislation that can be initiated by the people, as I said before, they can do a lot of harm. There was one in California that within a year they found out it was bankrupting the state, and they had to get out another initiative and do away with the first one. Colorado had the same experience, and the State of Washington, because they were levying taxes under those bills and directing where these taxes were going, and the State of Washington in a period of about eighteen months found themselves with not only losing a 60,000,000 dollar surplus that it had in the treasury but also 120,000,000 dollars in the hole. Colorado was about the same way.

V. RIVERS: With certain safeguards the Committee considers it useful and desirable. Now what about the workability? Do you figure it is workable in a territory like Alaska, of this size and widespread population? I would like some comments on that.

TAYLOR: We took that into consideration, Mr. Rivers, in drawing this up. I might say in our initiative we have left a small percentage of the voters who voted for the governor in the previous election for the amount necessary to initiate a petition. So then I might say in another way that we have tried to protect the voters and state from pressure groups is the fact that before a petition can be circulated, ten sponsors of that petition must have it up and submit it to the attorney general not only as certifying as to whether the proposition is set out properly on the ballot but also as to its constitutionality, and if he does not give that certificate .as to its constitutionality and the proper setting out of the ballot on that, they cannot circulate it and that will overcome the arguments against the initiative and referendum. In some states due to the .fact that pressure groups could get the required signatures and they could file it with the secretary of state regardless of whether it had the proper designation of the matter that was to be acted on, regardless of the constitutionality of it, even if it did pass, the court could throw it out, so we have that for safeguards.

V. RIVERS: Your Committee, I assume, thinks it is workable for the Territory in its present form?

TAYLOR: I believe it would.

V. RIVERS: One other question, on the basis of the general application of this act, before we go into detail, do you think that in our Organic Act it says, "We shall have a republican form of government." Does this in any way circumscribe the idea the republican form of government which is legislation through the elected representative rather than direct from the people?

TAYLOR: I know that argument has been advanced. It might be the exception that if our republican form of government did perhaps fall down, that the general public will have a vast interest in it with their reserve powers, if the powers to exercise, if the right to exercise that power is restricted to certain things, I don't believe it is a departure from our republican form of government.

JOHNSON: Mr. Chairman, may I address a question to Mr. Taylor? In this connection, Mr. Taylor, it is my understanding from looking at Committee Proposal No. 5 that the Committee on Legislation recommended that we hold meetings of the legislature each year. Now with the legislature meeting that frequently, do you think it is still necessary to have some safeguards such as this as you propose, or would there be a sufficient check on the legislative procedure meeting once a year?

TAYLOR: I believe it would be, Mr. Johnson, in this way. It might be some very badly needed legislation but which the legislature would refuse to act upon. I could see a number of reasons which we don't have to elaborate on that but there might be some pressure groups. Well, if that was the case, and the people had the right to initiate this legislation they could possibly cure the ills that were existing by reason of the legislature not working.

JOHNSON: Don't you think these so-called pressure groups might exercise just as much influence on the legislature?

TAYLOR: Absolutely they might, but if the legislature did not act, after the legislature adjourned at any time in the future, then they could initiate the legislation which the legislature had refused maybe even if they had been petitioned, not initiative petition but other petitions.

EGAN: Mr. Chairman, may I address a question to Mr. Taylor?

CHAIRMAN R. RIVERS: You may, Mr. Egan.

EGAN: Mr. Taylor, in the article on Direct Legislation, Section 1, it says, "The people reserve the power by petition to propose laws and to enact or reject such laws at the polls." Now the reading of that section would imply that the people

through the power of the initiative would not have the right to reject any laws that they themselves had not already put on the books, in that order.

TAYLOR: That would come under Section 2, Mr. Egan. That is the referendum, after a law is passed, then they could by a petition have a vote upon that.

EGAN: My question was, Mr. Taylor, that under this particular provision of the initiative with relation to the initiative power of the people, they could not attempt to reject a law that was already on the books. They could only attempt to reject a law that had been passed by the initiative provision.

TAYLOR: That is right, that would be the only thing, now I think in that first section, Mr. Egan, is the fact that they can petition, they file this petition. It then is referred to the people, and the people can reject it or adopt it.

EGAN: Then, Mr. Taylor, if a law is passed by the people through the use of the proposed initiative when would the law become a law?

TAYLOR: In 120 days I believe we have in here no, 90 days, and any referendum petition would necessarily have to be filed with the secretary of state within the 90 days after the law is enacted.

EGAN: Where does it say that?

TAYLOR: Page 2, line 6. The first part of the word "referendum" starts at the end of that line. Referendum petitions shall be filed within 90 days after adjournment of the legislative session at which the measure was passed."

EGAN: That does not say that is when the law will become enacted through the initiative. It just says that is when they shall be filed.

TAYLOR: If that is filed, that suspends them, but, .it does not suspend an emergency act. If there is an emergency clause upon a bill, the referendum is not operable.

EGAN: In Section 5 it says, "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation." But it says nothing in there denying the people the right to go to the polls and do away with a particular tax, say, that had been levied by the legislature. Did you mean that the people could, through the use of the initiative, go to the polls and nullify any act that they might so choose? I am thinking if that is true what might happen in some cases where a certain appropriation had been made but you

would not be voting against the appropriation, but if the people went to the polls, if there was not some restriction there, and did away with the tax measure that the legislature had deemed absolutely necessary to provide the revenues, it could cause chaos until that situation was corrected.

TAYLOR: If the use of those moneys was so imperative, Mr. Egan, I think the legislature could very easily attach an emergency measure on that and take it out of the provisions of the referendum.

EGAN: Could the legislature do that or would it be necessary to add some wording in Section 5 in order to be certain that through the action of the general public at the polls that they might do away with enough revenue that would cripple some program that they had no intention of crippling?

TAYLOR: I don't believe they would have the right to take away revenue unless they could show some methods of raising the same amount of revenue from different matters. As your question states, it might be to clarify this matter that if we could amend this to show, to carry out the intent you ask, that it could not impair the revenue structure that had been passed by the legislature.

CHAIRMAN R. RIVERS: Mr. Doogan.

DOOGAN: I would like to ask Mr. Taylor a question. I would like to carry Mr. Egan's thought just a little bit further, Mr. Taylor, and I would like to carry it where one legislature has imposed, say the property tax and then another legislature comes along and abolishes that property tax. I notice according to your Section 1 and Section 5 that I don't consider that there is anything in there that would allow the people either, through the initiative, to oppose the abolishing of that property tax by the legislature.

TAYLOR: Not unless it indirectly affected the appropriations.

CHAIRMAN R. RIVERS: Mr. Marston has been trying to .get the floor.

MARSTON: I don't rise to ask questions. When Mr. Taylor is through I would like to talk on the subject, if I may.

CHAIRMAN R. RIVERS: We will stick to the asking of questions. Mr. Davis.

DAVIS: I would like to ask some questions of Mr. Taylor. Would you refer to the last sentence of Section 4 in line 19 of the proposal, "No law passed by the initiative may be vetoed by the Governor nor amended or repealed by the legislature for a period of three years." As I read that, it is possible to

infer there that the governor might have a right to veto such a law after three years, and I wonder if that is what you intended or if you meant that the governor would have no right to veto it at all, but the legislature might have a right to amend or repeal after three years?

TAYLOR: I think Mr. Davis that all legislatures, the governor must veto a bill within a certain number of days, and he couldn't wait for another year and the legislature for a period of three years would not be able to repeal that law by an act of the legislature, but there would be nothing to prevent the people, if they felt that the act that they had initiated was wrong, why they can then by the appropriate petition can repeal it.

DAVIS: The thing I was trying to make clear was your intent here. I think it can be read the way I read it, and I think if it is intended that the governor have no right to veto at that it might be fixed up by in line 20 after the word "nor", say, "nor may it be amended or repealed by the legislature, etc."

TAYLOR: It might be in going over these matters so much for about three weeks that they seem very plain and apparent to us as to the meaning, but if we could add anything to clarify the meaning, why I think the Committee would go right along.

DAVIS: It isn't your intention in any event, that the governor shall have any right to veto any matter that is initiative?

TAYLOR: No, sir. It is only the people that can do it and the legislature after three years.

DAVIS: Well, as long as I'm on my feet, then let me ask a question on a couple of other sections about the same place. Section 5, line 24. has to do with restrictions on the use of the initiative. It says that the initiative may not be used for various things including, "as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation." Now I take it that what you intended there was rather than defeating or earmarking of revenues, that the initiative may not earmark revenues?

TAYLOR: They cannot.

DAVIS: That was your intention?

TAYLOR: That is right.

DAVIS: It was suggested in conversations among some of us this morning that it might be possible since you have listed various things that cannot be initiated and have not included an amendment of the constitution, that it might be inferred that then one could amend the constitution by initiative. It was also

argued along that line that since you have along with this put in a bill concerning amendments to the constitution, which does not include an initiative procedure, that the Committee did not intend that the constitution should be amended by initiative.

TAYLOR: We have specifically excluded that, Mr. Davis. We felt that the initiative was not the proper way to amend the constitution. We took a shorter and perhaps a less expensive way of amending the constitution.

DAVIS: The reason then that you have not included the amending of the constitution in this Section 5 among the things which the initiative may not do is the fact that you have covered that subject in the section on the amendment of the constitution?

TAYLOR: That is right.

MCLAUGHLIN: I have a question, Mr. Taylor. Regarding your attention to Section 4, the first two sentences: Prior to general circulation, an initiative petition shall be signed by ten qualified electors as sponsors and have the constitutionality certified by the Attorney General. Certification shall be reviewable by the courts." First, sir, is that provision found in any one of the 19 states that have initiative and referendum?

TAYLOR: No, I think this is the first one I have run across. We felt that should be to prevent, you might say cycloramic groups from, putting these petitions out, and we know it has been done in many states. We put that on there and the attorney general passed on it, but they have the right to go to the courts to test the validity of the petition that they are going to get out.

MCLAUGHLIN: May I ask another question? Mr. Taylor, assuming that ten electors get together and present this petition to the attorney general and the attorney general makes a ruling that the act sought to be certified is constitutional, does that preclude the courts thereafter from finding it unconstitutional?

TAYLOR: I think any interested taxpayer could have it reviewed, and I think whether the certification was unfavorable or favorable, I think that an interested taxpayer could review that.

MCLAUGHLIN: Mr. Taylor, would there be more of a saving to the government if it were required that the eight per cent sign the petition before they submit it to the attorney general rather than having any ten persons submit it to the attorney general for an opinion? Would the government suffer any loss if it required the eight per cent of the total voters to secure the petition before they present it to the attorney general?

TAYLOR: Mr. McLaughlin, in this particular instance we went over all the states that have the initiative and referendum and

some of them require considerable percentage of the number of votes that were cast for the governor at the preceding election, and this eight per cent that we arbitrarily set was put at that figure. It is low, it is among the lowest. Because of the size of the Territory, the limited population in proportion of the size, we felt an eight per cent after it is certified as to its constitutionality is okay and also that the ballot is properly described.

MCLAUGHLIN: Had the Committee discussed how many states in the Union authorized their highest appellate courts to give advisory opinions on constitutionality where the question hasn't arisen?

TAYLOR: I don't know. Some of them were referred to the secretary of state who no doubt, we felt would certify the question to the attorney general for an opinion. Unless the secretary of state was an attorney he would be a little hard put to pass upon the constitutionality, but I suppose he would do that through the attorney general of the state.

CHAIRMAN R. RIVERS: Point of clarification. This says the attorney general shall pass upon that.

TAYLOR: That is right in here, but a lot of states have said just the secretary of state, so we put it the attorney general who is the law officer of the state and he passes on it without having to go to somebody else.

MCLAUGHLIN: Did the Committee consider how long normally, assuming that this process went into immediate operation, how long it would take for the supreme court of Alaska or the superior court, after an appeal from the superior court, to determine the constitutionality of an abstract question presented by ten citizens?

TAYLOR: Well, it might take some little time. It might be given a priority, like if it was something that affected the entire electorate of the state.

MCLAUGHLIN: Mr. Taylor, may I inquire of you personally if it's proper, in your experience in determination of constitutionality of questions presented and appealed to the highest courts of any states, what is the average time lapse from the time the question is first presented until the time it is determined?

TAYLOR: I would say if it went through the superior court, the supreme court would take at least six months.

MCLAUGHLIN: That would be under extremely ideal conditions.

TAYLOR: That would be without any particular brakes being put

on it.

MCLAUGHLIN: What is the meaning in Section 5, last sentence, "Emergency acts are not subject to referendum." What are emergency acts?

TAYLOR: Well, if an act that has passed the legislature and is of such a nature that the legislature feels that it should be passed immediately, they can, by two-thirds majority, declare that an emergency exists and that law shall become effective immediately upon its passage and approval, which means that as soon as the governor signed it, that became a law of the state.

MCLAUGHLIN: Could you tell me offhand, Mr. Taylor, how many of the acts of the Territorial legislature normally are emergencies? What percentage?

TAYLOR: It would be a guess, but I would say half or more of them are declared emergency legislation.

MCLAUGHLIN: How many states in their initiative and referendum proposals provide that emergency acts are exempted?

TAYLOR: Most of them.

CHAIRMAN R. RIVERS: Mr. Hinckel.

HINCKEL: I would like to answer one of the questions Mr. McLaughlin asked of Mr. Taylor which I think was answered incorrectly. He asked if there were any state that had such a provision as this small number of people asking for certification, sponsoring, and this will not be the first state to have it. The State of Massachusetts has it, and the object of it in the article that I read regarding that, aside from the fact I knew it to be a fact, was that it would prevent people, prevent one person from circulating a petition which would have no real value and possibly be unconstitutional at the same time, and bothering people with getting this thing circulated and signed and presented and causing nothing but trouble, and if it was done this way it would eliminate that and also it would prevent the circulation of petitions in a secret manner that as soon as the petition was submitted to the attorney general, why it would become a public matter and it has considerable advantage in my opinion. I was the person on the Committee that suggested it be included and our advisory group concurred. They thought it a very good idea. He asked another question that I wanted to answer too, but I can't think right now.

TAYLOR: Mr. Speaker, I am glad Mr. Hinckel brought that up. He might have misunderstood me. I said this was one of the lower. Some are ten, some are fifteen, some twenty per cent. I think the higher brackets make it impossible.

CHAIRMAN R. RIVERS: Mr. Hinckel was talking about the ten sponsors, Mr. Taylor, and pointing out that Massachusetts requires a certain number of sponsors before the petition is circulated.

TAYLOR: Oh yes, that is right. I did not mean to say none of them have it. None of them I knew of at the time. We were putting a safeguard around people being importuned by these groups who wanted signatures and they had to get quite a number of them, and if it was an unconstitutional proposition they were advancing or if they did not have the proposition properly set out on the ballot, they could not circulate it.

CHAIRMAN R. RIVERS: The point is clear now. Mr. White.

WHITE: I would like to direct a question to the Chairman of the Committee on Direct Legislation.

TAYLOR: I am not the Chairman, but Mr. Collins has asked me.

WHITE: In that case, Mr. Taylor, referring again to Section 5, it says that the referendum may not be used as a means of making appropriations of public funds. Could that be construed as saying that the legislature could not put to the people by a referendum, a bond issue proposition?

TAYLOR: No. They could approve the bond, but I think they could possibly require a bond but they could not direct where the money went to.

WHIIE: In passing a bond issue it is inherent under the situation that appropriation of public funds must subsequently be made to retire the bonds. It would seem to me that in the sense of this section it would forbid the legislature from putting bond issues to the public referendum.

CHAIRMAN R. RIVERS: Bonding would be to borrow, Mr. White. Appropriating would be taking money presently available.

TAYLOR: It would be pledging the credit of the state. I doubt very much whether a bond issue could possibly be because the bond issue would necessarily have to be for a particular purpose. Now in many of the states the provisions in regard to initiative and referendum do not apply to any moneys of the state for the purpose of carrying on the function of government. The universities, school systems, orphan homes, penitentiaries, those are all exempt because those are functions of the government that have to be carried on, so they don't get, you might say, some chance of trying to nullify those institutions by cutting off appropriations for them, and that is the reason that the safeguard is put in here, the same as it is in practically all the states.

BUCKALEW: Mr. Taylor, is it not true that only 19 states have adopted this?

TAYLOR: I believe that is all there is at the present time.

BUCKALEW: Is it also not true that the last state to adopt such measures was some 30 years ago?

TAYLOR: 1928 I believe it was.

BUCKALEW: Do you know what state?

TAYLOR: No I don't. Practically all of the initiative referendum was adopted in a period around 20 years, between 1898 and 1918 was the time they were in popular favor of the states at that time.

DOOGAN: I would like to ask Mr. Taylor, you provided for the initiative and referendum, but don't you feel that the power that is left to the people as provided by this article is only in what you might call minor lawmaking?

TAYLOR: No, I would not think so.

DOOGAN: The reason I point that out is that you allow no initiative or referendum for raising money. You don't allow them to prevent the legislature at times, as they have done, to stop them from removing some of the taxes that they have already applied, when it might be felt by the people that the legislature was subject to a great deal of pressure to do so, and consequently my particular feeling is that what is left for the people to do is very minor legislation, and something that would hardly be worth their while to go into anyhow.

TAYLOR: What particular part of this proposal, Mr. Doogan, are you referring to?

DOOGAN: Section 1 and Section 5 which seem to me to be most of the meat of the proposal as it is.

TAYLOR: Well, there is a lot of local legislation, like if the legislature, or some people up here wanted to have money appropriated by the legislature to put another bridge across the Chena River, and they got an initiative addition out, that would not be acted upon because it is strictly expenditure of money for local purposes. That would only apply to particular subjects or particular people or particular areas, so then they would not be allowed to circulate petitions.

CHAIRMAN R. RIVERS: Mrs. Sweeney.

SWEENEY: I would like to ask Mr. Taylor a question. On Section 4, the last line on page 1 and going to the top of page 2 it

provides that you will have eight per cent of the number of votes cast for governor in the preceding general election, at which the governor was elected. I am wondering if your Committee considered the possibility of a restriction in there similar to the one that is in the model constitution requiring that only a certain percentage of those signatures .can come from a certain district. That is, that the petition must represent a large area rather than a restricted area.

TAYLOR: We did talk that over. We gave it consideration. We felt that with the geographical limitations of the state of Alaska, we felt that in view of the size of Alaska, the geographical size of it in proportion to the population, that if we put a limitation upon the number of voters that could come from any political subdivision or of any particular area, that it would make it very difficult up here by reason of the great sparsely populated areas, we did not hold that up. We felt it would make it very difficult if 25 per cent of, say 25 or 30 per cent of the petitions had to be from one division or one part of a division. Well, you could go in there and get those all right, but it is so difficult to circulate those petitions in the outlying precincts.

SWEENEY: On the other hand, I feel that, if just speaking of divisions now, if one division, for instance the Southeast, had a bit of legislation they wanted passed, they could get the eight per cent of the votes very easily and yet we would be imposing, if the legislature then passed whatever it was we wanted, we would be imposing our will on the whole of Alaska, and it seems to me that a portion should be required to come from another division, perhaps a third or even half from another section.

CHAIRMAN R. RIVERS: The Committee will be at ease for a moment while our guests pass out. (Guests left gallery.) The Committee will come to order.

TAYLOR: Mr. Chairman, I would like to answer Mrs. Sweeney's question in this way. Although as she states the eight per cent of the voters, of the number of voters that cast their votes for the governor at the previous election was secured in one division, that does not make it a law because that then is submitted, if they get the sufficient number of signatures on there, then it is submitted to the entire electorate and then it can be defeated by the voters of other divisions or political subdivisions whichever they might be, because the entire electorate then votes upon what eight per cent of the electorate initiated.

CHAIRMAN R. RIVERS: Mr. McNealy.

MCNEALY: I would like to ask Mr. Taylor a question. As I understand it, Mr. Taylor, there are two procedures to put into

effect on the initiative. One is written in the bill here, and the other form is for the people to petition the legislature by initiative to enact certain laws. I was wondering if your Committee had considered the one I just mentioned by the people petitioning the legislature to enact laws rather than taking it direct as set out in the bill.

TAYLOR: I think the right of the people to petition the legislature is one of our rights as guaranteed us by the Constitution and requires no special law for that purpose. We can all petition the legislature.

CHAIRMAN R. RIVERS: Mr. Barr.

BARR: I would like to ask Mr. Taylor two or three questions on the initiative. I can see for the recall and referendum, but the initiative seems to me to be a very cumbersome and unnecessary procedure. Will you please convince me that it is necessary. And I would like to point out to you as a member of the legislature, over 200 bills were introduced, and many of them were introduced by request. It is a very easy matter to ask a member of the legislature to introduce a bill. Why is this cumbersome procedure necessary?

TAYLOR: Well, this is not for the legislature to do it. This is to have the questions submitted to the voters as to whether that becomes a law or not -- to vote on it.

BARR: Providing the legislature does not pass the act before that time?

TAYLOR: Yes.

BARR: In other words, if the legislature refuses to act, then it goes for a referendum. Well, in our present form of government the people elect the legislators to represent them, and I have never known a case where they did not do what they thought the people wanted. I don't think they ever would.

TAYLOR: Did you read the history of the State of California and the Southern Pacific Railroad, Mr. Barr?

BARR: You mean some special group wanted something done?

TAYLOR: And they got it.

BARR: Don't you believe that with all these restrictions even, that it is still easy to have a petition signed and that any special group could have a petition of this sort signed very easily and submitted?

TAYLOR: I think eight per cent of the voters would be quite a sizeable petition, especially if say 15,000 votes were cast

for the governor in the governor's election, this last one we had 27,000 votes. It would take eight per cent of those 27,000 votes that were cast for a particular man. How many were cast for the candidates that were running for governor, the entire election for governor?

CHAIRMAN R. RIVERS: Did we have an election for governor?

TAYLOR: I mean if we did.

BARR: Mr. Taylor, eight per cent would take a large number of petitioners. If there was some little group in one town who wanted something on some question, something that was Territorial wide, such as fish traps, statehood or groups representing one type of school against another type of school, don't you think eight per cent would be a fairly small number of petitioners?

TAYLOR: I do not believe it would be a very small number, and then another thing, Mr. Barr, carrying your arguments further, you say a small group in a particular locality that wanted something, they are barred because that would be local legislation.

BARR: That is what I pointed out. But I am speaking of something now that is Territorial wide, some question, and there are a large group of people on both sides of the question, and eight per cent would not be many signatures.

TAYLOR: No, that is only to say whether an election is going to be held, Mr. Barr. I don't think we should put undue restrictions upon having an election because then the whole electorate has got to come out and say whether or not that proposition is going to prevail or whether it is to go down in defeat.

CHAIRMAN R. RIVERS: Mr. Smith.

SMITH: I would like to call attention to the fact that we have had a perfect illustration here of the fact that in considering any proposal, or section by section, we are apt to see only the section before us and not take into consideration that every preceding section may also affect those following. Now I refer specifically to the fact that Section 1 and Section 5 have been said to be the meat of this proposal. Actually Section 3 is fully as significant as any of the others. Section 3 says, "The legislature shall prescribe the procedures to be followed in the exercise of the powers of initiative and referendum, subject to the specific authority reserved herein." Now going back to the questions raised several times as to the percentage of the number of votes required to initiate a measure and the fact that they might all originate in one certain district, we have left the power with the legislature to provide that those signatures may be required within the various districts, may require that they may be scattered throughout

the various districts.

CHAIRMAN R. RIVERS: The Committee will be at ease while the stenotypist puts on a new tape. The Committee will come to order. Mr. Smith has the floor.

SMITH: Mr. Chairman, there are a lot of questions that have been brought up, and I am just going to touch on some of them very briefly. Referring back to the survey of Oregon's experience, the report states that the measures initiated were on the whole not much better or worse than the products of the legislature. The people of Oregon had been considerably burdened with decisions on all manner of measures, some of them nuisance proposals that kept reappearing time after time. The people were not notably better educated politically than before. However, they had exercised their responsibility in a fairly conservative manner. They had been rather free to alter the structure of the government, had not been financially irresponsible and had been rather conservative on policies in the general field of public welfare. Now I think Mr. Victor Rivers brought up a question as to whether, if the initiative were included in the constitution we would then have a republican form of government. I think it would take a constitutional lawyer to answer that question, but I imagine that the people in the states who do have this provision feel they do have a republican form of government. We go back to the question as to the accomplishments of the initiative and referendum which have been covered to a certain extent. I go back, possibly because it is more realistic to me, to the fact that Washington and Oregon for many years tried to get their legislatures to eliminate fish traps with no success. Through the initiative measure they were both successful. Now Mr. Barr's suggestion that it would be easy to get the legislature to take action if they were asked goes back to the fact that California again tried for years to get their state legislature to set up a civil service system. They were unsuccessful. Through the initiative right the people of California instituted a civil service system. Now I believe Mr. Doogan asked a question. I am not sure. Someone brought up the point -- I believe it was Mr. Davis that the right of the initiative as outlined here might be construed as allowing the people to amend the constitution. I would call your attention to Section 1 which is preceded by the word "initiative" and following, "The people reserve the power by petition to propose laws and to enact or reject such laws at the polls." And I don't think that could be construed as amendments to the constitution.

V. RIVERS: Do you yield for a question, Mr. Smith? In your study of Oregon, did you find that by referendum the people of Oregon had defeated a statewide sales tax seven times?

SMITH: Yes, now that you call it to mind, I do very distinctly.

V. RIVERS: Do you also believe that if we had this clause in here which says, "emergency action not be subject to referendum", that we would eliminate practically nine-tenths of all the acts of the legislature including such as things as sales tax if it carried that clause?

SMITH: I have had considerable worry over that fact, Mr. Rivers, and I think it is a thing which is very open to question.

V. RIVERS: Do you believe that if we have the initiative and referendum in the constitution it will make it more palatable from the point of view of some of the legislators or senators in Congress for approving this act?

SMITH: That is one of the chief reasons why I support very strongly the inclusion of the initiative process in the constitution, even though it is not used, it is there. I think that the legislators, if they know it is there, they will be very careful in ignoring the will of the people.

V. RIVERS: Do you believe that approval of the act subject to referendum, any of those emergency acts shall not be subject to referendum, could be covered by a different clause such as the acts that are necessary for the immediate preservation of the public peace, health, safety, etc., would that be better than just saying those that carry an emergency clause?

SMITH: I feel it would, Mr. Rivers.

CHAIRMAN R. RIVERS: Mr. Hinckel.

HINCKEL: I would like to speak on that subject. We had numerous drafts of this article and among them we had somewhere the wording I thought was better, and it is quite possible that in trying to condense it that we went a little too far, and some of the things we originally had written in the article and took out in condensing may have to be put back in. Mr. McNealy asked a question which has been incorrectly answered. He asked had we considered the indirect method of putting through a bill, and you will notice that on lines 13 and 14, page 2, that is says that these conditions shall exist, "unless the legislature enacts the measure initiated during the session. So we did include the indirect method of approach which we thought was the economical way to do it.

CHAIRMAN R. RIVERS: Mr. Hellenenthal.

HELLENTHAL: A question of Mr. Taylor. Mr. Taylor, is it not possible that the California fiasco where the legislature was dominated by the railroad could have been due to the fact that the California Legislature as then constituted was not truly representative of the people?

TAYLOR: That is entirely possible, Mr. Hellenthal.

HELLENTHAL: Is it not possible that some of the domination of the Alaska Territorial Legislature in ancient times might have been due to the fact that it also was not representative of the people?

TAYLOR: That is true.

LONDBORG: Mr. Chairman, may I direct a question to Mr. Taylor? According to statistics I believe the other states require from eight to fifteen per cent of the qualified electorate to initiate. Is that not true?

TAYLOR: They have different ways. I think the majority of them that have it there is a percentage of the votes cast for the governorship at the previous election.

LONDBORG: The votes cast? I was referring to the report where it said that eight to fifteen per cent of the qualified electorate, and I wanted to have it clarified. Here we have eight per cent of the votes cast which would be a considerable lower percentage of the qualified electorate than eight per cent. I thought we might have that open for consideration.

TAYLOR: That would be the number of votes cast for the governorship, not the particular man who won the race.

LONDBORG: That would still be a considerable amount less than eight per cent of the qualified electorate, and I am wondering if other states do have it reading the governor.

TAYLOR: There is quite a few of them who have it. I might state why that is, because it's ordinary, there might be instances where three people would be running for the governorship, usually it is two. Most people who go to the polls would vote for one of those two candidates for governor so they take the combined vote for governor and then eight per cent if it is in the law or fifteen per cent if it is in the law. Now there is one state I think that has only five per cent.

LONDBORG: I see that. That is eight per cent of the total number of votes cast, but I was wondering about that if the states used that or if they used the percentage of qualified electors as was referred. Perhaps the PAS report was in error on that.

CHAIRMAN R. RIVERS: Mr. Fischer, could you throw some light on that?

V. FISCHER: I might read from the Hawaiian Manual. "Six states require a number of signatures to be based on previous vote for governor. Two states require number of signatures to be based

on previous vote for supreme court justice. One state requires number of signatures to be based on previous vote for secretary of state, one state requires number of signatures to be based on state office which receives the highest vote at previous election, and then a few leave it up to the legislature to determine and two states specify in the constitution the exact number of signatures required.

LONDBORG: They did not give the percentages at all there, did they?

V. FISCHER: Yes, they do. Arizona ten per cent based on governor; Arkansas eight per cent on governor; California eight per cent on governor. Eight per cent is the most common.

CHAIRMAN R. RIVERS: Mr. Gray.

GRAY: I would like to ask Mr. Taylor a question. In my own mind, what do you mean by "an emergency act of the legislature"? Is that on any act that has an emergency clause? An emergency clause is called by a separate vote, is it not?

TAYLOR: Oh yes, because the passing an act with an emergency clause is actually a suspension of the rules. So it takes a two-thirds vote to pass the emergency clause, although it only takes a bare majority to pass the bill itself.

GRAY: Can any act have attached to it an emergency clause, any act that should come out of the legislature?

TAYLOR: Yes, you could put them on there, but it is doubtful as to whether every act would be passed with an emergency clause. I know we see in the legislature many acts that carry an emergency clause that we turn down.

GRAY: I was not sure in my own mind what an emergency act was, but I refer to Section 2. "The people reserve the power to require, by petition, that laws enacted by the legislature be submitted to the voters for approval or rejection." In Section 5 we have a sentence, "Emergency acts are not subject to referendum." It seems to me that you put a tool in the hands of the legislature that removes that particular act for the referendum. It takes a two-thirds vote I understand, but it does remove the referendum from being a check on the legislature.

TAYLOR: I will tell you why, Mr. Gray. The fact that if an act is passed as an emergency the supposition is that the act should go into effect immediately. Well, then if you will read the section regarding the referendum, they would have 90 days in which to file a petition for a vote upon an act and that 90 days, if they waited that time, might defeat something that was very essential that should be passed and become law

immediately, so that would suspend that for 90 days and so then after the 90 days, then there is the time that is fixed for the special elections as to whether this act is going to stay on the books or whether it is going to be defeated, so by that time your emergency might be over.

EGAN: Mr. Chairman, may I ask Mr. Taylor, Mr. Taylor, I don't read that as having anything to do with 90 days as to when relating to an emergency clause. Are you referring to the 90- day clause in Section 4, Mr. Taylor?

TAYLOR: I was referring to it in the event that if they had the right to refer an emergency measure to the people and that section was in there, there was 90 days before they would even had to file their petition.

EGAN: That wouldn't have anything to do with whether or not there had been an emergency to the law when it passed the legislature.

TAYLOR: With an emergency clause on it you can't do it.

CHAIRMAN R. RIVERS: Mr. Johnson.

JOHNSON: Mr. Chairman, it occurs to me that we are confusing the issue a little here by the fact that once we become a state this matter of emergency clause will no longer be present because the minute the legislature passes the law and it is signed by the governor, it becomes valid immediately, unless it has some restraining clause within its own provisions. This emergency clause procedure was set up strictly for the Territory of Alaska, because any law that is passed by the legislature without an emergency clause does not become effective until 90 days after the adjournment, and it is to overcome that procedure that this emergency clause was inserted in the Organic Act and does give the Territorial Legislature the right to pass laws with an emergency clause whereby they become effective immediately upon passage and approval. Once we become a state, the legislature would have the right to pass laws that would become effective immediately upon signature by the governor, so I don't see the necessity for such a law.

CHAIRMAN R. RIVERS: Unless, Mr. Johnson, the legislative provisions of our constitution imposes similar --

TAYLOR: I would like to answer Mr. Johnson, that practically all the states I have been to have a provision that the legislature may tack an emergency upon any act that they pass. If they don't put that on there it takes 90 days, just exactly as it does in Alaska before the act becomes effective.

CHAIRMAN R. RIVERS: Mrs. Sweeney.

SWEENEY: Mr. Chairman, I seem to be confused, and I think maybe some of the others are. We are talking about two different things here -- an emergency clause and an emergency act. If I read correctly Section 5. Emergency acts are not subject to referendum." I think you are talking about an act which must be passed right now to take care of some grave emergency. Now the emergency clause concerning which Mr. Taylor spoke a little while ago, he said in answer to Mr. Victor Rivers' question as to how many laws in the legislature carry the emergency clause, Mr. Taylor said "probably half". Now that does not indicate that half of the bills were emergency acts because they are not. In many instances you have deficiency bills, say \$200 due some individual who has not been paid and the legislature pays that instead of making her wait 90 days to get her check, we put an emergency clause on there, the governor signs the bill. That is not an emergency act, that is simply an emergency clause on the bill. I want to say in answer to a statement Mr. Barr made, he said that if we could get bills introduced by request, why should we go through this cumbersome system of initiative. It has been a general practice or at least my feeling and the feeling of others that bills introduced by request were not pushed. When you say that Sweeney introduced a bill by request it was an indication that Sweeney was not going to be too anxious to fight for it and consequently you were not expected to put too much effort on it either. But a bill that is brought to you by initiative is going to mean you had better get on it and do something about it, it is the will of the people. So I believe there is a need for the initiative and not to go back to the old system of introducing bills by request. I go along with Victor Rivers' statement about making a better emergency clause there to clear that thing up.

HELLENTHAL: How much, Mr. Taylor, did the Committee estimate it would cost to hold a special election?

TAYLOR: Forty thousand dollars.

HELLENTHAL: Now if the legislature, and I understand it will meet annually or it is proposed that it will, if they meet for a period of three months, and then there is 90 days, another three months following that in which to file petitions for referendums, that's six months, then 180 after that--that would be another six months. I can see where no harm would be done, but if the legislature only met for two months would it not be possible that we would have to call 30 successive special elections, depending upon the date?

TAYLOR: That is right, Mr. Hellenenthal. It is going to run up into quite a bit of money.

HELLENTHAL: That would be \$1,200,000, wouldn't it?

TAYLOR: Of course, you could hold three elections at one time if you have three laws.

HELLENTHAL: If you had three laws but if they were filed on three successive days you could not.

TAYLOR: That is right. I would like to point out to Mrs. Sweeney that an emergency act and emergency clause are the same thing. It is not always an emergency but the legislature will say, Emergency is hereby declared to exist and this act shall take effect immediately upon its passage and approval." "Approval" means signing by the governor, so that is the emergency. The legislature declares it is emergency whether it is or not. So it is an emergency at law. So there is absolutely no difference in an act carrying an emergency clause and an emergency act.

CHAIRMAN R. RIVERS: You would not mind if this was clarified would you, Mr. Taylor?

TAYLOR: It is so obvious I don't see it could be clarified.

DOOGAN: Mr. Chairman, I approve of the initiative and referendum but after reading this over and listening to the debate, it has entered my mind that the Committee that proposed this bill was not very much sold on the initiative and referendum. It seems to me to be full of contradictions that tie the hands of the people so they can do practically nothing, and therefore, I would like to move and ask unanimous consent that this section of the committee proposal be referred back to the Convention and with the recommendation that it be referred back to the Committee to either make up their minds, do they want an initiative and referendum or they don't and if they do, to provide one that will work.

TAYLOR: Mr. Chairman, I think Mr. Doogan is out of order.

CHAIRMAN R. RIVERS: Yes, I would rule that out of order, because when this Committee reports, the whole thing goes back to the Convention, and we are only here now for explanation and discussion.

DOOGAN: Point of order, Mr. Chairman. In a sense what I am doing is precluding any more debate on this because I think we are wasting time and I don't think I am out of order in making that motion.

CHAIRMAN R. RIVERS: I am willing to hear from better parliamentarians than I. Mr. Cooper.

COOPER: I will have to sit down then. I make a motion and ask unanimous consent that the Committee of the Whole rise and report progress.

TAYLOR: I think we have quite a bit more to this bill. We have the revision and amendment of the constitution, also recall here which is part of our article.

CHAIRMAN R. RIVERS: Mr. Cooper's motion dies for lack of a second. Mr. Egan.

EGAN: With relation to the type of motion that Mr. Doogan made and with no relation to whether or not it is a good motion, I wonder if we should get it straightened out right here as to under the motion that we went into this type of Committee of the Whole on, that type of motion would be a recommendation. We can also make motions in this type of Committee of the Whole under the terms that we came into this Committee of the Whole on. It was my understanding any way that this is a different type of the Committee of the Whole than we ordinarily work under, and motions can be made of any nature relative to how it will be reported back to the Convention.

CHAIRMAN R. RIVERS: Did someone second Mr. Doogan's motion?

DOOGAN: I asked for unanimous consent.

DAVIS: I object.

DOOGAN: I so move.

HERMANN: I second the motion.

CHAIRMAN H. RIVERS: The question is, "Shall the subject of this section" -- will you specify?

DOOGAN: The Sections on Initiative, Referendum and Recall.

CHAIRMAN R. RIVERS: "The Initiative, Referendum and Recall Sections be referred back to the Constitutional Convention for rereferral to the Committee, to the standing committee?"

ARMSTRONG: Mr. Chairman, how do we know we want this included in that final motion when it comes back on the floor? How do we know the Convention even wants to vote for the initiative?

EGAN: Wasn't it with the recommendation to the plenary session that they send it back? It is just recommending to the plenary session.

CHAIRMAN R. RIVERS: I meant to say that. Mrs. Hermann. HERMANN: Mr. Chairman, it is an article rather than a section.

CHAIRMAN R. RIVERS: Let us call it the article on initiative, referendum and recall. Mr. Victor Rivers.

V. RIVERS: I wanted to say, I merely wanted to point out that the motion we went into the Committee of the Whole on was that we would proceed to discuss this in a general way and then take it up in specific sections was my understanding as was done in Hawaii, in which specific amendments were made and then the substance of the amendments was reported out by the Committee of the Whole. The procedure used and quite successfully, was to have such a general discussion as we have had as to the merits and if they wanted a general idea, and then to proceed into section by section, reading and amendment. It seems to me that that is in order now. We have had something of a general discussion, and it appears from the statements of many members here that there is a desire on the part of many members of the body to have the initiative and referendum. It seems to me that at this time we should take it section by section and amend it in the manner we want it to come out of this Committee. Then we will be ready to kick it back into its regular place on the calendar for it to carry on to the next order on the agenda. I think it would be unwise now, we would have wasted this general time, unless we do not want the initiative and referendum in the constitution, to rise from this Committee of the Whole. We can proceed with the business here and get this out of the way now. I think everybody has a general idea of what their thinking is. I think the work of the Committee, maybe a few changes we want, but on the whole, I think it can without too much amendment, be made very adoptable.

CHAIRMAN R. RIVERS: The Chair will insist on disposing of Mr. Doogan's motion. Mr. Fischer?

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

CHAIRMAN R. RIVERS: Is there any objection to a 15-minute recess? If not, we recess for 15 minutes.

RECESS

CHAIRMAN R. RIVERS: The Committee will come to order. Mr. Doogan.

DOOGAN: Mr. Chairman, I feel that after listening to some conversation, I proposed the wrong motion. So I would like to withdraw that motion and substitute another. I think that before much more is done on this initiative and referendum, I consider this bill worthless, and I consider before we go any further that possibly the thing we should do is to have a vote or a poll of the delegates.

CHAIRMAN R. RIVERS: Let's act on your request. Is there any objection to Mr. Doogan withdrawing the motion he previously made?

HERMANN: I consent.

CHAIRMAN R. RIVERS: In that case the motion is withdrawn. Now Mr. Doogan.

DOOGAN: I would move then that a poll, house vote, that you get everybody in the house --

SUNDBORG: Call of the house, or call of the committee.

DOOGAN: Is that in order?

CHAIRMAN R. RIVERS: I know of one at least who has gone to Fairbanks. We may be through for the week if you ask for a call of the house. I think on request we should just round up the delegates in the building without a formal call.

DOOGAN: Well, that's what I wanted to do so that everybody gets a chance to express themselves on it and first, take a vote on the initiative and then on the referendum to decide whether we're going to go on with this or not.

MARSTON: There have been seven people speak on this and I want to make a speech in favor of the initiative and referendum and recall before you vote on it.

CHAIRMAN R. RIVERS: Would you wait until the motion has been made? We shall clue you when it is ready. The motion isn't made but there is a suggestion we should try to round -- and then there was another factor involved. Mr. Doogan has asked that we try to round up the members of this body, which are in this building. Is there any objection to having a recess for two or three minutes until we round up the absent delegates?

SWEENEY: I object for just a moment, Mr. Chairman. When we had a Committee of the Whole on the question of bicameral or unicameral legislature, we were not permitted to get a poll. We said that was not an issue and we weren't to have it. We are setting precedent here if we are going to have a poll in the Committee of the Whole. If we're going to do that on everything that comes up before us in the Committee of the Whole, I don't think we ought to start that.

CHAIRMAN R. RIVERS: May we get the delegates, before that is acted on, that are not in the house but in the building? Mr. Doogan, do you want to pursue your suggestion? We can discuss whether or not this motion is in order. Mrs. Sweeney, were you making a point of order?

SWEENEY: I was just registering an objection to having a poll in the Committee of the Whole, if we are going to have this same procedure at every Committee of the Whole meeting.

V. FISCHER: Mr. President, I agree with the intent of the motion which is to decide whether we want to have the initiative,

whether we want to have the referendum before we go and start discussing amendments only to possibly later vote the whole thing down. However, in line with Mrs. Sweeney's suggestion, it probably would be more proper to make a motion that this Committee recommend to the Convention to have no provision in the constitution on the initiative first, and take a poll on that, and then whichever way that goes then we can have another motion made that this Committee recommend to the Convention that we have no provision on referendum in the constitution. Then, if both of those motions carry, then there is no need for amendments. If those motions are defeated then we can go ahead and start amending and we won't have to go at length, as we have been, into any further discussion of the pros and cons of the initiative and referendum.

CHAIRMAN R. RIVERS: Mr. Taylor.

TAYLOR: Mr. Chairman, I believe that Mr. Fischer is right in his remarks, although I believe it should be handled just a little bit different by a motion that the Committee rise and report to the plenary session that Sections 1, 2, 3, 4 and 5 of the Article on Initiative and Referendum be stricken and then when we vote that, if we vote that, we will know the sentiment of the Convention as to whether they want it or not. If we vote that and find out it is so, when we got into plenary session we take the vote and know just what it is.

EGAN: Mr. Chairman, I think to clear something up here that everyone should realize that we came into this particular Committee of the Whole in a different fashion than what we have entered any other Committee of the Whole. We came in here with the power to make amendments that could be recommended back to the plenary session or do anything else in this Committee of the Whole that we would do in plenary session, other than actually act on the amendments and have them become part of the record so far as the final vote was concerned, that this action was done by a suspension of the rules and is entirely different from the particular Committee of the Whole we were in the night that we debated the unicameral and bicameral legislature.

CHAIRMAN R. RIVERS: Would the Clerk please read the motion as it is now stated.

CHIEF CLERK: I am not sure that I got Mr. Doogan's whole intent, but he moved to "Call the members in so that we could take a poll on what the Convention wants as to this bill", is that it?

DOOGAN: I feel that there is a division here and that they should take a vote on the initiative first and the referendum. They may want one and not the other or they may want both or they may want to throw them all out.

CHAIRMAN R. RIVERS: And that would be for the purpose of recommending to the plenary session?

DOOGAN: That is right.

CHAIRMAN R. RIVERS: Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that the motion as phrased by Mr. Fischer be substituted for that suggested by Mr. Doogan, if Mr. Doogan approves. My belief is that Mr. Fischer stated the motion in what would be the proper manner to achieve the intention of Mr. Doogan, but I don't want to say that if Mr. Doogan does not also agree with me on it. Do you recall?

DOOGAN: I don't recall.

SUNDBORG: The Clerk has it.

CHAIRMAN R. RIVERS: If there is no objection we will have the Clerk read the language proposed by Mr. Fischer.

CHIEF CLERK: "That this Committee recommend to the Convention to have no provision in the constitution on the initiative", and then the other one would be, "That this Committee recommend to the Convention that we have no provision on referendum in the constitution."

SUNDBORG: To be taken up one by one and of course only the first one to be before this body at this time.

CHAIRMAN R. RIVERS: Mr. Doogan, what is your pleasure?

DOOGAN: That was not my intent. As Mr. Egan stated, we came into this Committee under suspension of the rules with the power to amend and everything in this Committee so that when we did report back to the floor we would report back specific amendments and would not take up the time of the plenary session to do it. The only way we can actually carry through on that is to decide first whether we want the initiative and then decide whether we want the referendum and if they are decided in favor of both of those we can go ahead and amend as we started out to do in this Committee.

CHAIRMAN R. RIVERS: Mr. Doogan, wouldn't Mr. Fischer's language arrive at that exact result?

DOOGAN: He says report back to the Convention.

CHAIRMAN R. RIVERS: That is all we can do and that's what you're trying to achieve, and we will test the two viewpoints by those motions that Mr. Fischer has suggested.

DOOGAN: Okay.

KILCHER: Mr. Chairman, it is my opinion that the motion that two gentlemen are advocating is proper material for an amendment and should be brought in on plenary session and then we will have something to act upon. If the motion should carry that we strike these five sections, then we forget about it. That is simple. If it does not carry, then we amend.

CHAIRMAN R. RIVERS: It is clear that we can get the poll we are after right here in this Committee and that we can report that result to the plenary session when this Committee arises. Mr. Hurley?

HURLEY: If Mr. Doogan has withdrawn his motion, I will second Mr. Fischer's motion.

CHAIRMAN R. RIVERS: I have not declared that Mr. Doogan has withdrawn his motion.

DOOGAN: I withdraw.

CHAIRMAN R. RIVERS: In the absence of objection, Mr. Doogan's motion has been withdrawn. Mr. Fischer.

V. FISCHER: I move the adoption of the first motion I previously made.

CHIEF CLERK: "That this committee recommend to the Convention to have no provision in the constitution on the initiative and referendum.

SWEENEY: Point of order Mr. Chairman. I believe that the motion should be in the affirmative -- that we do have. It is going to be very hard to vote on and I think it should be stated that we do have the initiative and referendum.

V. FISCHER: I accept the change.

HURLEY: I accept it.

CHAIRMAN R. RIVERS: If there is no objection it shall be couched in the affirmative. Mr. Victor Rivers.

V. RIVERS: I think the motion should read that we should strike the paragraph in relation to the initiative. - mean" recommend. I want the affirmative vote on the word "strike .

TAYLOR: I think that is the proper way to do it, as I urged before, that we should strike those particular sections if we don't want the initiative.

CHAIRMAN R. RIVERS: The two subject matters of initiative and referendum are intertwined throughout this document. If you vote on striking the sections you are combining those two. If you want to separate the subject matters you have to take it the way Mr. Fischer has proposed it. Is there a second to Mr. Fischer's motion?

CHIEF CLERK: Mr. Hurley seconded it.

CHAIRMAN R. RIVERS: Are you ready for the question? Mr. Marston.

MARSTON: Are you going to let me talk now?

CHAIRMAN R. RIVERS: Now is the time to make that speech, Mr. Marston.

MARSTON: I am going to make a speech in favor of the initiative, referendum and recall which has not been made yet, and you have made up your minds practically here without the thing being properly presented, and don't let for one minute, gentlemen and ladies, this kind of talk you heard make up your minds on so vital a piece of legislation. Delegates who make a remark about this foolish piece of work", I think it is unbecoming to this audience and this group of people to talk that way about a thing so fundamental as we have here. If you don't trust the people I don't know where you are going. That means if you vote down the initiative, referendum and recall you do not trust the people, and the people are the people, and that is the only reason we are here, and if you can't trust them I would hesitate to go back home before your committees and talk to them. I think the passage of the initiative, referendum and recall will sell a lot of these constitutions. When a man says "I don't like that", you can say "You have a right." The people themselves can go into the courts of the land to have your word made law by a certain procedure. I hope that we pass the initiative, referendum and recall, and I hope we never have the occasion to use it. I think it is a great thing to have it in the hands of the people, and you will notice that the Western states are the ones that passed and used the initiative, referendum and recall, and we are Western and Northern, the same kind of people. We are explosive people. We like to express ourselves, and I can see miners back in the camps thinking over things that have not been right, and fishermen in their little boats wondering why. Now they can say, "We can correct that thing", and though they never use it it is a great healthy thing to have in the hands of the people. It has been used in some 15 states, and they have it in their constitutions. It is constitutional, fundamental law, and I hope that you people keep an open mind here and don't let this talking on here affect you because it is vital. You are sent here with a great duty to carry out the wishes of the people back home, and if you turn down this kind of legislation you are going to be in for a lot of embarrassment and a lot of criticism, and I don't like the way it has been carried on here. This Committee was not in agreement that made this document, and it was said so here, and I think all the members of the Committee should be heard on this before you make up your minds. I am for the initiative, referendum and recall, and I hope that you people open your minds again which you had it practically closed up

here and were ready to close off by a certain group of people here, and think very seriously on this matter. It is fundamental law and I am going to ask the Chair right now to call on the rest of the Committee that worked on this direct legislation. That is all I have to say.

CHAIRMAN R. RIVERS: Committee members and others may be heard.

Mr. Cross.

CROSS: I have been thinking quite seriously on this. I made up my mind that if you can't trust your legislature this cumbersome machinery is not going to help it very much, and I don't think we are going to help matters by taking a more cumbersome way of deciding things. We are here to set up machinery for legislation. And if we can't set up machinery that will work, I doubt very much if we can find any other way of doing it.

CHAIRMAN R. RIVERS: Mr. Taylor.

TAYLOR: Mr. Chairman, I agree with Colonel Marston. I believe he has stated it perhaps more eloquently than I can, about the desirability of having the initiative and referendum. I can not go along with Mr. Cross's statement that if the legislature doesn't do something there is no use trying to let anybody else do anything, but I believe if we do have this additional safeguard that worthwhile legislation will be enacted in case the legislature did not, that we are only saving to the people a power which they may never exercise, but the mere fact that the power is there and is available for the electorate to initiate some measure for the benefit of all the people, they should have the right to do it. Now perhaps Mr. Doogan says this is a silly piece of work. I wish Mr. Doogan would have been on the Committee because there were seven of us on there and we worked for three weeks and we met practically every day, and as I said before, we had studied and examined the initiative and referendum provisions of practically all the states that have the initiative and referendum, and to come into this Convention with a recommended article on those particular provisions, some of us sacrificed our convictions that all the details of the law should be spelled out in the Convention. Some of us sacrificed our convictions that just the framework should be drawn up by this Convention and the details filled in entirely by the legislature, and we finally met upon the common grounds which is here before us. And with the study that I have given to this and I think the other six members have given to it, that the cry of "silly" or "ill-advised legislation" or "ill-advised article" doesn't sound too good. If Mr. Doogan had been on that Committee perhaps we would have come up with a masterly article which we could pass without any amendments, without any discussion, but the men of limited mentality who composed this Committee were not able to do so. I feel that we should have as a curb, if nothing else, a power that might never be used but is still there. We should have

that in the constitution. And a power that can be implemented by the legislature to whatever extent they wish, subject to the limitations that this Committee has put in the bill.

CHAIRMAN R. RIVERS: Mr. Coghill.

COGHILL: Mr. Chairman, I feel along the same lines that were just spoken. I think that probably the biggest majority of people here had to run to be elected for this Constitutional Convention, and probably if they were faced with the issue from the voters, and I believe a poll was taken, that a majority of the delegates was in favor of the initiative, referendum and recall. Was it a vote-getter? Were you fooling the people when you told them? Are you standing up to your convictions? I think that the people of the Territory need assurance that they are going to have individual rights restored to them. We under Territorial status have seen some awful reckless things happen during the realm of Secretary Ickes, Chapman, and now McKay. I think that you will find that under this form of government, a non-representative form of government, that the people are quite sensitive to their individual rights, their individual thoughts, as far as government is concerned. Woodrow Wilson put the phrase quite masterfully when he said that, "These three forms of controlling your government are the gun behind the door assuring direct legislation for the people." - think it is basic and I admire the work that was done on the Committee.

CHAIRMAN R. RIVERS: Mr. Knight.

KNIGHT: Mr. President, I agree with Mr. Marston and Mr. Taylor and also Mr. Coghill. Why should we take any power away from the people? The people put us here. However, Mr. Marston is wrong when he said there were 15 states that had this on their books now, there are 19. The last one was the State of Maine, January of this year, and I am going to favor this act.

CHAIRMAN R. RIVERS: Mr. Hinckel.

HINCKEL: I would like to state that it is not a clumsy procedure, that it is a very simple procedure up to at least the point where the legislature may or may not act upon it, and they are in the end of it, they pass it and if it goes beyond that point why it may become a little bit complicated and expensive, but I don't think that very many times it will. I think that with the provisions as set up in this article that probably the legislature will handle the subject of the initiative due to the fact that they will be convinced that they are a large number of the people who desire that it be taken care of and probably that will be about as far as it will go in most cases.

MCNEALY: I had not intended to speak here, but there have been one or two things said that probably require a little clarification.

I would like first to mention that there are 19 and only 19 states that have the initiative and out of the 19 there are only 11 of them with the direct initiative. The other eight have their initiative to the legislature. And as to what we promised the voters, one of my statements, that there were not many things that were conflicted here among the candidates, but here in the Fourth Division in Fairbanks, maybe I should confine it out of respect to Delegate Coghill here, but that was one of the issues of initiative and referendum, and I came out strongly opposed to the initiative and at quite a large meeting held in the public high school here, every candidate who was running for this Convention, whether this means anything or not but all the candidates who stood up and said they were for the initiative are not present in this body today, whether that means anything or not. The point is I think it is a cumbersome system and outmoded system. It was popular 50 years ago, and I don't feel too strongly on it because in looking back, outside of the expense that it has cost the states in a lot of elections that came to naught, and far more of the propositions advanced on the initiative were defeated by the voters at great expense to the public than were ever passed, and that goes without contradiction. I feel that the proponents of this measure felt that in the early days it would cure everything, and those who were opposed to it thought it would be the end of government. Neither instance has happened. You might put it this way, it is not particularly good constitutional material and it is not particularly bad. For that reason, at least as to the initiative, I am opposed to it.

KILCHER: I have to disagree with Mr. McNealy on more than one point. For one thing, there are luckily quite a few of the candidates present here who in the campaign have advocated initiative and referendum. I might say in a lot of respects they have proven to be the more progressive ones. This referendum and initiative can only, with a stretch of the imagination, be called something outmoded, or you would have to call democracy itself outmoded. If we look at the history of the thing we can see that it coincides very closely with a whole series of progressive political movement of the late 19th century extending into the early part of the 20th century. If we look at the little map of the United States and see, here we can see which states they are. They are preferably the Northern and Western states and not the others. Some are known as the more progressive of our states, so consequently I think we have very good precedence, and we have nothing to worry about if we adopt initiative and referendum. Also the cost involved in an occasional election I think is cheap money for political education. It will in my opinion tend to decrease what Governor Gruening has called "the political illiteracy". It will greatly increase the interests of the people and the faith in themselves and their laws.

DOOGAN: Mr. Chairman, if I trod on the feelings of the

integrity of any members of the Committee that drafted this thing individually, I am sorry. To say that the initiative and referendum is outmoded, I consider this impossible. As I read this, to be specific, a man brought up the suggestion of fish traps. If the legislature wanted to provide for the abolition of fish traps by referendum, it could not be done. You could not initiate for it either. I don't think it will work. I was one of the candidates that was asked whether I was for the initiative and referendum and I said "yes" and I am here. The thing is, the reason I changed my motion is just in general conversation I find that there is quite a difference of opinion, which I did not know before, and so as far as I am concerned the thing to settle first is, do we want the initiative and referendum, before we go on amending a bill we might later throw out, and I will abide by the decision.

CHAIRMAN R. RIVERS: Mr. Metcalf.

METCALF: Mr. Chairman, if I may make a few brief remarks on this matter, I was one of the Committee members that worked with Mr. Collins and Mr. Taylor, and we worked out this compromise on the initiative and referendum. It is far from perfect I know, but personally speaking I am in favor of the initiative and the referendum. Missouri saw fit in its revision in 1945 to spell it out pretty much. We copied or took some of our provisions from the Missouri article, and that was the 1945 revision. Another reason that makes me strongly in favor of the initiative and referendum is the fact, so I am told, that you are having a strongly centralized executive department. He is going to appoint administrative officers, much stronger than the average, and so in adjusting our system of checks and balances I feel the people should have an extra hold in this system of checks and balances. Speaking about the legislature, I believe Mr. Cross mentioned that why can't the legislature take care of everything. This talk about the legislature frankly has me confused here. Some people on one day say, "You can trust the legislature." The next day they say "You can't trust the legislature." Then there is the old man, Public Enemy No. 1, the lobbyist. So I am confused what to think about the legislature, and I think this system of the people having their hold on the checks and balances should be just as accurate and just as perfect as when you go to the bank to borrow some money on a homestead, you don't expect the banker to hand you out some money without you signing up the mortgage, as a matter of banking routine. He gives you the money and you sign up, and it is just the same way with the initiative and referendum here. The people ought to have it in black and white, just what the rights are and not leave it to guesswork. I believe as Mr. Kilcher does, that if these matters, the initiative and referendum, are left to the people to study, it would reduce the political illiteracy that we now have, and I wish and urge everyone too vote to keep the initiative and referendum.

CHAIRMAN R. RIVERS: Mrs. Hermann.

HERMANN: I merely want to ask a question and that is, could any of the members of the Committee that formulated this committee proposal tell me how many of the 19 states that do have the initiative and referendum, have provided for such in the constitution, as opposed by the legislature?

CHAIRMAN R. RIVERS: Miss Awes.

AWES: I think perhaps I can answer Mrs. Hermann's question. I have before me the PAS pamphlet. It says that, "Altogether there are 19 state constitutions which provide for some form of statutory initiative." So evidently it is provided for by the constitution in all the 19 states.

BARR: Since Mr. Metcalf is a bit confused about the legislature, I might be able to clear up a few points for him. The legislature is elected by the people and the legislature is what the people make it. If you vote for the right people you have the right kind of a legislature. Therefore, it goes directly back to the people, and Mr. Marston says, "Can't we trust the people?" Well, certainly, but the question is, "Can the people trust the legislature? If they can, there is no need for any initiative, and they still have the referendum, and that is their check on the actions of the legislature. Now we do not have a democracy here. This is a republican form of government. If we had a democracy, of course the people would do everything directly. Since we have chosen the republican form of government, in which the legislation is taken care of by representatives chosen directly by the people, I think we should retain that form of government. It has worked out pretty well so far. Of course, I believe the referendum is necessary, but the initiative is not necessary. It is cumbersome, at least it is more so than our usual method of introducing bills in the legislature, and I know there are lots of them introduced by request. I have introduced some and have fought for them. Of course, if one is introduced by Sweeney and Sweeney does not fight for it that is a different proposition, but I think they should be fought for or not introduced in the first place. I am concerned about the initiative for several reasons. One, bringing up the old bugaboo of lobbyists again. There have been legislatures that have been dominated by lobbyists. I suppose in Alaska and other states also, but that is because perhaps the people did not vote for the right men. I do know for a fact, that a good many years ago the people of Alaska were more politically illiterate than they are today, and things are improving steadily, and as they improve, we will have better people in the legislature, And of course there will be an added cost if we have the initiative and have elections, and I am sure that we will have many elections because it is so easy to get a petition signed and it is not always a little group that wants to initiate some particular

piece of legislation. It is usually eight or ten per cent of the people or more. And I believe that under our present system when the people elect certain representatives they try to pick out, I won't say a better man than they are, but one who is experienced and one who has good judgment, and when you group these people together in a legislature, if they approve of a certain bill, it is generally a pretty good one. I have seen some bum ones passed, but when you take in all the people of the Territory, counting the lobbyists, crackpots and individuals with special interests, etc., we can have any type of legislation we want. Of course, there are restrictions under this Committee report here which would tend to alleviate that condition somewhat, but I don't believe that it would correct the matter altogether. So I believe that under our present system we are getting along very well, and I was reading the model state constitution here, and I noticed on their commentary on it that was the sentiment there too, although there is a provision in the model constitution for both referendum and initiative, if I could find it I would like to read it.

METCALF: Page 29.

BARR: Page 29. In one paragraph in the right-hand side of page 30 it says, "Recent experiments in several states with the attempts of certain groups to employ these agencies to place in the constitution controversial matters". Now "controversial matters" of course does not necessarily mean that it might be promoted by a certain industry. "Controversial matters of an economic nature have led to a wave of criticism of direct legislation and to numerous suggestions for restrictions on the use of the initiative and referendum." We have the restrictions in this report, but I don't think that restrictions cure it altogether. I just don't believe in the basic principles of the initiative, not under the republican form of government where everything is as streamlined and as efficient as we have it today to promote legislation.

CHAIRMAN R. RIVERS: Mr. Collins.

COLLINS: I would like to speak in behalf of the report of the Committee. This Committee was appointed, seven men from various sections of the Territory of Alaska. Two propositions covering the questions that were sent to our Committee was considered. We brought in for consultation the advisors that we brought here, Mr. Elliott and others. We went over this report of ours with them, trying to unify the different thoughts that the members had, and I want to say in behalf of that Committee that their work, their endeavor, a result of their study, was not "foolish legislation". I resent that statement. I am not going to get personal. Supposing I were taking the floor and had thrown that at the report of the Judiciary Committee - "foolish legislation". Any member of this Convention has the right to express his own individual opinion. He has the right to

vote that opinion and I want to say in behalf of the members of this Committee that in submitting this report they have given the study, have gone over all questions you have heard here today, and we met on a common ground and we don't consider it "foolish legislation". We come back to you people to the Convention to see whether you are going to accept our report. You have the right to submit amendments, this is true. This is no gag rule nor is it no starchamber proceedings, and I think the quicker we get back into Convention and let the members express their individual views by appropriate amendments, and let this body pass on it, the quicker we will get the result of our endeavors.

UNIDENTIFIED DELEGATE: question.

CHAIRMAN R. RIVERS: May I address a question to Mr. Egan? Must the question be put when called for? When somebody who wants to talk further, may he have the floor?

EGAN: He may have the floor.

CHAIRMAN R. RIVERS: Mr. Victor Rivers was trying here several times.

V. RIVERS: I merely wanted to say that I would like to be sure of the form in which the question is put because if we say, "Will the question of initiative be considered?" it means that it takes 28 votes to say it will be. Actually, we have it before us, so the question should be, "Will the consideration of the initiative be stricken?" and that is the way I want to be sure the motion is made. "Will we strike the consideration of the initiative?"

CHAIRMAN R. RIVERS: Well, I make a point of order that the motion before us is worded in the manner previously read and that the delegates may consider your interpretation of it. Mr. Londborg.

LONDBORG: I would just like to bring this up. I feel that after a committee has made a long study of it and come up with something there must be some merit in it. Now in about two hours we hear the whole story and have to be rushed to a decision on it. I will have to admit that on this particular item I would like to hear more or have a little time to think about it. I have been on both sides of the question myself, and I don't feel qualified to vote on it yet. I would rather abstain from voting myself right now.

CHAIRMAN R. RIVERS: Mr. McCutcheon.

MCCUTCHEON: Mr. Chairman, I would like to point out that insofar

as I personally am concerned, the initiative was a device that was created some years back for specific situations. The outline of our new legislature makes that need much less imperative than it was 35 years ago. There are several devices in the legislative article here which I think would preclude the necessity of having an initiative. Bills can be introduced into the legislature by request, and even though they fail, assuming that this article is adopted substantially in its form as it is presented, even though those bills fail it may go out to referendum, so it does not preclude the possibility of people initiating some type of legislation without going through the cumbersome form of an election.

BUCKALEW: I am just going to take a second. I want to tell Mr. Collins that I think he and his Committee did a good job of presenting their material. I am going to vote against it, not because I have any objections as to the way the work was done, but I don't think the initiative is necessary. I was interested in Colonel Marston's speech about the people. I remember in the Third Division there was not any issue at all that any of the candidates campaigned on. Most of the candidates came out that they were for a constitution and it should confine itself to fundamental law and that was the only comments that I recall any of the candidates making. I think I am the only candidate that came out for an 18-year-old franchise, and that was defeated, and for myself I got a lot of criticism in the Third Division because I said that the constitution should be in the English language and in readable form. There were no issues before the people in the Third Division. Forty or fifty years ago this type of legislation was considered progressive. I don't think it is considered progressive legislation any more. I think it is costly. I don't think we need it, and that is the reason I am going to vote against it. Now as far as the referendum, I am in favor of an optional referendum as drawn in the legislative article which provides if the legislature wants to they can refer a vote to the people. I am going to vote against it.

HURLEY: Mr. Chairman, I did not realize that people would be against this, so I am forced to speak by saying in very simple language I am in favor of the initiative, referendum and recall. I have always been in favor of it, I could stay here for 24 hours and I'd still be in favor of it. I think it is a basis of democracy, even if we have a republican form of government. My thinking is summed up completely in section 1, "The people reserve the power by petition to propose laws and to enact or reject such laws at the polls." I do think that some of the items in here need amending to meet my full approval, but I am in favor of the initiative.

CHAIRMAN R. RIVERS: Mr. Gray.

GRAY: I feel much like Mr. Londborg. I agree with everybody.

I say that from the point that I am agreeing in principle with one faction and I am agreeing in practice with the other faction. I believe that the real value of the initiative is not in its use. It is in the fact it is there. It is a threat. That is the real value of the initiative. I will say that I believe that the initiative is expensive and it probably will not have the due consideration that the same bill will be put through legislature. I will say that an initiative that is precipitated by one per cent of the voters would be a great nuisance. On the other hand, I will say that the initiative that had 50 per cent of your electoral voters, these are maximum, there is no question about it -- the legislature would have to do it. It seems to me that if we can find limitations that preclude uselessness and cumbersome of minor matters and make your requirements such that we will say that if 25 per cent of the electors desired a particular measure, I doubt very, very much whether any legislature would hesitate about passing it. I believe that in the articles of the constitution that the initiative is a positive part of our government, but it is not a desirable part of legislation, and I would like to see the qualifications of numbers. I don't know why we have eight or ten per cent. Maybe some person on the Committee could explain why the particular ten per cent. But before it was thrown out I would like to see the percentage raised and keep the initiative.

CHAIRMAN R. RIVERS: I think we should stick to the main question and take up the details later.

UNIDENTIFIED DELEGATE: Question.

SUNDBORG: Read the question.

CHAIRMAN R. RIVERS: Read the question please.

CHIEF CLERK: In line with Mrs. Sweeney's suggestion which was accepted the question now reads, "That this Committee recommend to the Convention to have the provision in the constitution on initiative." And then there was a second half.

CHAIRMAN R. RIVERS: Let us stick to the initiative in the first half. The referendum will follow.

WALSH: Are we discussing Mr. Fischer's motion?

NORDALE: No.

CHAIRMAN R. RIVERS: Katherine, speak up. Let us hear what you have got -

CHIEF CLERK: "That this committee recommend to the Convention --

V. RIVERS: Point of order. That is not an affirmative motion.

We already have consideration before this Committee in the form of a Committee report stating that it embodies the initiative, the referendum. Therefore, the recommendation should be "Shall we strike it?"

CHAIRMAN R. RIVERS: An amendment to the motion I take it would be in order, if you people want to clarify the wording of the motion.

V. RIVERS: It is an improper motion, Mr. President.

TAYLOR: Mr. President, Mr. Fischer moved, and after some discussion here he moved that that part of the proposal relating to the initiative and referendum be stricken so that if you vote "yes" you vote the initiative out. If you vote "no you leave it in.

CHAIRMAN R. RIVERS: Mrs. Sweeney suggested that we put it in the affirmative and we move that we retain the initiative in the constitution, and then everybody agreed to Mrs. Sweeney's proposition. May I hear from Mr. Fischer as to how he wants his motion.

V. FISCHER: Mr. President, as I remember the motion as I made it, it was first stated to the effect that we would not include the initiative. Then the point was brought up and the point of order or otherwise, by Mrs. Sweeney that we should have a positive motion and with general consent as I remember, that was changed to be a positive motion to read that the constitution shall provide for the initiative.

V. RIVERS: Point of order, Mr. President. I said "shall strike" and I so made the point on the floor. It was not that we would vote on whether or not we provided in the constitution, it was whether we should strike it from this consideration or not.

CHAIRMAN R. RIVERS: It got before us in the form of, "Shall we retain an initiative in the constitution?"

MCCUTCHEON: I move and ask unanimous consent that the motion be laid on the table.

V. RIVERS: Second the motion.

MCCUTCHEON: The motion as now stated before us, we have this matter before us, Mr. Chairman. It is a matter of whether we are going to strike it. The matter is positive. It is to be included. The motion must be to strike, to take it out.

CHAIRMAN R. RIVERS: I have said that the motion as now stated is subject to amendment. Will somebody please make an amendment?

TAYLOR: I move that the motion be amended to read that the

sections of the proposal now before us relating to the initiative and referendum, be stricken. That is in the affirmative. That is on the initiative, just the initiative.

V. RIVERS: I second the motion.

BARR: There is a motion before the house to lay it on the table. I believe it was seconded.

TAYLOR: There was no agreement as to what the motion was at that time.

CHAIRMAN R. RIVERS: At that time there was not. That was the trouble and I was wondering if we couldn't get some place with this. Mr. McCutcheon.

MCCUTCHEON: Mr. Chairman, I am not above retracting my offer of the motion to lay on the table, but you were about to put the question that Mrs. Sweeney had offered and that was why I interrupted with the motion to lay on the table because if you put that motion you would not be voting on it correctly. I withdraw with the consent of my second.

V. FISCHER: I stated my convictions very clearly in the beginning, that the purpose of my motion was to have a decision on the principle of the initiative. It makes no difference to me which way the motion is worded, even though it might make a difference in terms of carrying by one vote one way or another. If somebody wants to suggest it be put back the way it was stated originally, I am agreeable to it.

CHAIRMAN R. RIVERS: Mr. Taylor's motion is before the house. It has been seconded by Mr. Victor Rivers. At this point I will ask the Secretary to read to us the motion now before us.

CHIEF CLERK: Mr. Taylor moved to amend the motion to read, "That sections of the proposal regarding the initiative be stricken."

BUCKALEW: The reason I asked unanimous consent was on the amendment so we can vote on it today.

CHAIRMAN R. RIVERS: Mr. Buckalew asked unanimous consent on the amendment. Do I hear any objections?

SUNDBORG: I object to it and for a particular reason. Sections of the proposal relating to the initiative is practically every section in here. It starts out in the first section and includes both the initiative and referendum. I hoped we could confine this just to the principle, do we want an initiative provided for in the constitution? If you start striking sections that mention the initiative you are going to strike out everything that's here, and I think we just want to decide, do we want an

initiative? Strike all reference to initiative but don't strike the whole section.

HERMANN: Point of order. I don't think the motion has been properly made because at the time it was made there was another motion before us. I think we will have to start over and make another motion before we can get anywhere.

CHAIRMAN R. RIVERS: That might clear the air.

SWEENEY: I would like to clear my point of order a little while ago. Mr. Fischer's motion was to have no provision in the constitution on the initiative, and all I wanted to do was to suggest it read something like this, "To have provisions in the constitution on the initiative." That is all I want. Then you can vote "yes" or "no". You will have or won't have.

CHAIRMAN RIVERS: Yes, Mrs. Sweeney, we have been over that, and Mr. Victor Rivers pointed out we already have it before us, and therefore it has been rephrased to now include the idea of striking something which is already before us. Mrs. Hermann has pointed out that Mr. McCutcheon had not withdrawn his motion at the time that this was submitted so there is nothing before us, so I rule us out of order. I would like to have Mr. Taylor rephrase his motion.

V. RIVERS: I will make a motion. I move that all reference to the matter relating to the initiative in the present act be stricken in the article before us.

BUCKALEW: I second it.

CHAIRMAN R. RIVERS: You have heard the motion, are you ready for the question.

CHAIRMAN R. RIVERS: We started all over because there was a motion to table and I ruled Mr. Taylor's motion out of order and we started all over and this is a motion. Mr. Egan.

EGAN: Mr. Chairman, I think that Mr. Victor Rivers would mean that his motion would read that all reference to initiative in this proposal be deleted and that such be reported to the Convention, to the plenary session of the Convention.

CHAIRMAN R. RIVERS: Do you consent to that phraseology?

V. RIVERS: Yes.

CHAIRMAN R. RIVERS: Let us not get confused, so let us try to understand what we're going to vote on. Mr. Smith.

SMITH: I was simply going to ask that the Chair state clearly what the effect of the motion would be.

CHAIRMAN R. RIVERS: I was first going to have the Clerk read the motion as stated by Mr. Egan, which was the phraseology being consented to by Mr. Victor Rivers.

CHIEF CLERK: "Moved that all reference to the matter relating to the initiative be deleted and such be reported to the Convention."

CHAIRMAN R. RIVERS: The effect of that would be that if you vote "yes" you would be voting to delete all reference to initiative. If you vote you are voting to retain initiative. Will the Clerk call the roll.

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

CHIEF CLERK: 16 yeas, 34 nays and 5 absent.

CHAIRMAN R. RIVERS: So the motion has been lost and a similar motion with regard to referendum is now in order. Mr. Sundborg.

SUNDBORG: I would ask, Mr. President, that exactly the same motion simply substituting the word "referendum" for the word "initiative" in the motion we have just considered be adopted by the Committee of the Whole.

KILCHER: I second it.

CHAIRMAN R. RIVERS: Will the Clerk please read it as it would apply to the present subject.

CHIEF CLERK: "That all reference to the matter relating to the referendum be stricken and such be reported to the Convention."

BUCKALEW: Could I ask one question? Now if we vote to strike in this section it does not have any effect on the provision for referendum in the legislative part?

CHAIRMAN R. RIVERS: No, the legislature can always call for an advisory referendum. This is talking about a compulsory referendum brought on by petition. Now if you vote in favor of this motion you are voting to delete all reference to a referendum in our constitution. Mr. Emberg.

EMBERG: I would like to ask a question if possible through the Chair to the Legislative Committee in regard to this last sentence of Section 5 which says, "Emergency acts are not subject to referendum. It appears to me there is a question here of just what will constitute the requirements of an act becoming an emergency act. I would like to know if there is anything in that legislative article.

MCCUTCHEON: An emergency act may be any act, but the emergency must be set forth in the bill and stipulate what an emergency

is. It is not a qualification that is currently used in order to make a bill become immediate law.

EMBERG: Is there anything that says it would have to be two thirds of the legislature?

MCCUTCHEON: Yes, it does. Two-thirds.

EGAN: Mr. Chairman, while maybe this subject is not open for discussion, I still don't think that is the proper use of the explanation of the use of the word in here. I think it means just what it says -- emergency acts -- not that the legislature declared it an emergency in order that the bill would become law within 90 days but something that was classed generally as becoming an emergency. As Mrs. Sweeney already explained, hardly any member of the legislature would vote not to pay someone an amount of money that was justly owing to that person and put an emergency on that particular act because of the fact that they might already have been waiting a long time and wanting them to get the money, but I think that the explanation here is not right -- that it means an emergency act something that is an emergency in the Territory.

CHAIRMAN R. RIVERS: May the Chair put it this way, that we are talking about whether we shall retain a referendum procedure in this article. The details are going to be taken up later. We can rephrase that and amend this business and clarify what's meant, later. Let's stay away from the details. Are you ready for the question? If you vote in favor of this motion you are voting to delete any reference to a referendum procedure as outlined in this article. If you vote against the motion you are voting in favor of having a referendum in our constitution. Call the roll.

(The Chief Clerk called the roll.)

V. FISCHER: Mr. Chairman, I want to change my vote to "yes".

CHAIRMAN R. RIVERS: Mr. Fischer changes his vote to "yes".

CHIEF CLERK: 8 yeas, 42 nays and 5 absent.

CHAIRMAN R. RIVERS: So the motion has been lost. Now, ladies and gentlemen of the Committee, we have arrived at the point now where it would be in order to proceed section by section for the amendatory process. It has been suggested that we explore that and start working on that in Committee of the Whole. It has also been suggested that we arise and handle the amendatory process by the plenary session. What would the expression be from the body?

COGHILL: Mr. Chairman, I move and ask unanimous consent that the Committee of the Whole rise and report progress.

KNIGHT: I second the motion.

HERMANN: Is the report to be progress or the recommendation that we have made?

EGAN: Mr. Chairman, I believe Mrs. Hermann's question is proper inasmuch as in this particular Committee of the Whole a committee of three was appointed to render a report to the plenary session, so it would be more than progress.

CHAIRMAN R. RIVERS: Yes, I would say that I had not anticipated that we would hold up the proceedings while that committee submitted a report. We all know the status of this thing right now. For the records and for posterity this committee is going to write a report but I think we can go back into plenary session now and continue working on the amendatory process. Mr. Coghill, would you say that the committee report?

COGHILL: Yes, just report progress.

DOOGAN: Point of information. We have another article or another part of the article from this same Committee to work on, and I believe it was the intent that this Committee would settle most of this before we report back.

CHAIRMAN R. RIVERS: Ladies and gentlemen, this next article is on a totally different subject, and I was hopeful that we would now go right on and complete the article on initiative, referendum, and recall before we forgot all we learned here this afternoon and before we got into a totally new subject. Are you ready for the question? All in favor of rising and reporting say aye", all opposed "no". The "ayes" have it and the Committee rises.

(The Committee of the Whole rose and returned to plenary session.)

PRESIDENT EGAN: The Convention will come to order. The Chair would like to ask whether the roll calls that were taken should be turned over to the committee of three by the Chief Clerk and other pertinent information. Does the Chief Clerk have some other questions?

CHIEF CLERK: I just wanted to know because ordinarily the Committee of the Whole that is just a statement. Is this to go in the report?

V. RIVERS: The only thing the body is interested in is the conclusion of the Committee of the Whole as to the general consideration and I think they are not necessary and should be destroyed.

CHAIRMAN R. RIVERS: The Committee of the Whole wishes to report

that a subcommittee of three will reduce the consensus of the work of the Committee of the Whole into a written report to be submitted later.

PRESIDENT EGAN: Is it the desire of the Convention that inasmuch as the action of the membership during the Committee of the Whole, is it quite clear to everyone that regardless of the report that will be forthcoming, that we will go ahead with second reading and amendment of Committee Proposal No. 3? If that is your wish, that is how we will proceed. Mr. Davis.

DAVIS: Mr. Chairman, I have two proposed amendments to the section I have written.

JOHNSON: I have five proposed amendments.

PRESIDENT EGAN: Then we have two proposals by Mr. Davis on the Chief Clerk's desk and five proposals by Mr. Johnson on the Chief Clerk's desk. Are there other amendments to be proposed?

COOPER: I have one.

PRESIDENT EGAN: Mr. Cooper has one. Would you rather that we take them one at a time or put them all on the Chief Clerk's desk?

DAVIS: I might state that both proposed amendments that I suggested -- one has to do with Section 4 and one with 5.

PRESIDENT EGAN: Please read Mr. Davis's first amendment.

CHIEF CLERK: "Section 4, page 2, line 20, insert after the word 'nor' the words 'may it be'"

SUNDBORG: I move the adoption of the amendment, Mr. President, and ask unanimous consent.

PRESIDENT EGAN: "Section 4, page 2, line 20." Mr. Sundborg moves the adoption of the proposed amendment. Would the Chief Clerk please read the amendment again.

CHIEF CLERK: "Insert after the word 'nor' the words 'may it be'."

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption of the proposed amendment? If not, the amendment is ordered adopted. The Chief Clerk will please read Mr. Davis's amendment.

CHIEF CLERK: "Section 5, page 2, line 24, insert a comma after the word 'funds', delete the word 'or' and insert 'of' in lieu thereof, change the word 'nor', the next to last word in the line, to 'or'."

DAVIS: Mr. President, I move the adoption of the proposed amendment and ask unanimous consent.

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

SUNDBORG: May we have it read as it will read if the amendment is adopted, as it will read?

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

CHIEF CLERK: "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds, of earmarking of revenues or for local or special legislation."

TAYLOR: I think the amendment provided for the insertion of a comma after the word "funds".

PRESIDENT EGAN: That is right.

R. RIVERS: May the word after "earmarking" be deleted?

PRESIDENT EGAN: The word "of" will still be there under this amendment. Is there objection to the adoption of the proposed amendment? Objection is heard until the delegates get it clear in their minds. It would read "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds, of earmarking of revenues or for local or special legislation." Is there objection to the adoption of the proposed amendment? If there is no objection the proposed amendment is ordered adopted. Mr. Johnson, did you have an amendment?

JOHNSON: Yes, I do.

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

CHIEF CLERK: "Page 1, Section 4, line 18. Strike word 'eight' at the end of the line and insert in lieu thereof the word 'fifteen'."

JOHNSON: I move the adoption of the amendment.

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

MCNEALY: I second the motion.

GRAY: I would like to ask the mover how he arrived at the figure "fifteen". I had in mind "twenty-five" but I don't know what

the difference is between eight, ten, or fifteen per cent.

JOHNSON: I suppose I arrived at my fifteen like you arrived at your twenty-five. It was simply an estimate of what I thought would be a far better percentage of the electorate needed to initiate a proposal under this act. It seemed to me that eight per cent was a little bit low.

SUNDBORG: I think we should all be clear that all that this figure refers to is the percentage of the electors or of those voting at the last election who would have to sign a petition in order to get it voted upon. It does not mean that eight or fifteen percentage means it goes into effect. It just puts it on the ballot. I venture if we change this to fifteen there would be very few initiative measures would ever get on the ballot. That is quite a high percentage to get when you carry petitions around.

LONDBORG: If you can't get fifteen per cent to put it on the ballot they certainly would not get enough to pass it when it does come out. I think it should be a little bit higher than eight per cent because its not eight per cent of the qualified electors, it's only eight per cent of the ones that voted and I think we ought to have it a little bit higher to preclude any possibility of throwing in legislation that might also call for special elections and a lot of expense.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I am not an authority on the subject, but I understand there are other states who have as high a percentage as 15 and I believe one has as high as 20 per cent. I can't quote the number of states. I would like to hear from some of the Committee that has investigated that.

MARSTON: Mr. Chairman, the average requirement is eight per cent of the states that have this form of law. The average is eight per cent.

PRESIDENT EGAN: Mr. Kilcher, did you want the floor?

KILCHER: Yes. I advise that this amendment be defeated. It is exorbitantly high and I intend to suggest an amendment at a much lower figure than this. The average is slightly less than eight per cent, as for as my figures show. Considering the distance and geography of Alaska, we should rather have a figure lower than eight or leave it as it is. That defeats the purpose of the measure.

GRAY: I feel that this is an important figure. I feel that this is the one place, if this is a constitutional measure, to insure that the people want the measure rather than some small

group in one locality. I believe that this figure should be sufficiently high. Under a republican form of government we are going to legislate through our legislature. We want to keep the principle of the law ultimately belongs to the people, and I think the figure should denote and be used only at a time that the legislature is not conforming to the wishes of the people, and that is why I believe this figure is very important, and by this figure I think we save the initiative for the constitution or we lose it due to the cumbersome expenses of practice of possibly poor legislation.

PRESIDENT EGAN: If there is no further discussion -- Mr. Barr?

BARR: Mr. President, as I stated before, I am against the basic idea of an initiative but I realize it has some value if it is in the constitution. In fact it may be a deterrent on the actions of legislature if they know it is there and could be used, but my main fear was it would be used too often for no good purpose. I may change my mind and vote for it if this figure of fifteen per cent is adopted.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I think that possibly the adoption of this 15 per cent motion would make the program of the initiative unworkable. I notice that the states that used the initiative for statutory purposes, there are none of them that are above ten. Now I will grant that for purposes of amending the constitution there are some states that go as high, I believe, as thirty. I think it would be an error to adopt this fifteen per cent because of the fact it would be practically impossible to get that number of signatures on the petition required to initiate an initiative.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, now they call this a petition by the voters, how to get a certain per cent of it. Now in looking at it another way, it is a motion by a certain percentage of the electors that they would like to have something voted on. Now you say eight per cent is too much, but as important as this session is, less than two per cent of the body of this house can initiate anything they want to before this body and have it voted on, so why should you have to have the electors, eight per cent or fifteen per cent more. Eight per cent I think is a fair compromise. We discussed that considerably in the Committee, but when you figure that less than two per cent in here can start something, all a man has to do is to make a motion. That one man is less than two per cent and everybody considers it, so I think if we have eight per cent on this initiative, that is plenty.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Eight per cent is a little higher than the average state that uses this law. Now we know how hard it was to go out and get 250 names on a paper to get the chance to run for this Constitutional Convention. It was a lot of work for most of us to go out and do it ourselves. To get one of these initiative measures before the people it takes over 2,000 people to sign up. You would not get any place if you had to get 2,000. You would not be here and neither would I. It's a hurdle high enough if they feel that 2,000 votes to get on the ballot is what you have to get, they have a cause and then the people have a chance to say "yes or "no". I think eight per cent is right.

BOSWELL: I wondered if the Committee had studied the statistics of voting and about what eight per cent would require. Is that the figure -
- 2,000?

MARSTON: My recollection is 27,000 votes here all over Alaska. Eight per cent of that is 2,160.

BOSWELL: I would speak in favor of a higher figure than eight per cent. It seems to me that one of the things, one of the abuses is that a number of bills could get introduced with a few voters and with only 2,000 it seems to me that it would be very easy for one locality to get 2,000 votes on a particular issue. That is why I would favor a higher figure, and I think fifteen per cent is about right.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: If Alaska had a static population I would be inclined to agree, but I feel we have an expanding population, and by the time we become a state, the people that are concerned with introducing proposals, our population and our voting population will be such that eight per cent will be a reasonable figure.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, talking about the difficulty of getting that number of signatures to a petition, I maintain it is pretty easy to get a petition signed. I know of one candidate to this Constitutional Convention who merely typed up some petitions and mailed them to friends and he got 800 signatures with no effort on the part of himself.

PRESIDENT EGAN: Mr. Gray.

GRAY: I have to rise a second time because of that 200-vote deal. The gentleman on that pointed directly at me. I wish to cite right now the principle of the thing. On the extraneous, unimportant matters, we don't care what the percentage is, two per cent, but on these important matters we must raise it to a higher value.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would just like to say that the effect of the amendment, if it is adopted, would be that in Alaska right now in order to get any measure up before the people on an initiative basis, it would require 4,050 signatures on petitions. That is a lot of signatures to try to go out and get in Alaska. That is what fifteen per cent of 27,000 is. This is not going to carry the proposition. This is what is required to simply get it on the ballot so the people can have a chance to vote on it. The eight per cent now in there, as Mr. Marston said, would require slightly over 2,000, so that is what we are voting on.

ROSSWOG: Mr. Chairman, I would like to say a few words.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I think it should be hard to get these petitions out and have them filled out, and I would be in favor of a little higher figure than the eight per cent.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am recalling the other arguments that have been made prior to this particular question. And if you will recall various people stated "Well, when the legislature fails to enact some necessary legislation the people can put the blocks to them. If the legislature has fallen down that much, it is not going to be any trouble at all to get fifteen per cent because they are all going to be up in arms. If the legislature has fallen down that much and they have to resort to the initiative, I think you can get fifteen per cent, if it's that important.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I take my second turn here. I still believe it should be a lot higher. If that small percentage can throw the wheels in motion and perhaps calls for a special election and have \$40,000 every time a few people get together and want it if it does not happen to fall on a primary or general election, I think it should be relatively hard to do it because if it is something that that many people want, I am sure you can get the signatures. There have been various experiments performed on the idea of getting people to sign their names, and they say in cities that one out of ten will refuse to sign their signatures on a petition and perhaps not even look at the petition.

COOPER: I would like to point out that the figure fifteen per cent as used in the proposal, the figures that were presented on the floor were fifteen percent of 27,000 votes, and the last general election, as I recall I am not letter perfect on these figures -- was over 40,000. Is that correct? Might I ask if any of the delegates know?

PRESIDENT EGAN: Twenty seven thousand the Chair believes, or something like that.

COOPER: Of the general election?

PRESIDENT EGAN: Twenty seven thousand, six hundred and something.

COOPER: I just wanted to point out in argument that the delegate that was elected at large with the greatest number of votes, Territory wide, received 7,000 votes, which in effect would be a signature. The 15 per cent of the 27,000 votes then would be over 4,000 signatures. I believe it is a little high.

R. RIVERS: That delegate was running in a field of seven candidates. The 27,000 reflects the number of votes cast per delegate, I believe.

HILSCHER: According to the report of PAS slightly less than eight per cent seems to be the average in the states where this provision applies. Those states have a far more static population than we have. They are closely allied through transportation, through numerous radio stations, telephones, and it is much easier to get your message across. Here in Alaska where we have such a large area, the great distances between our towns and communities, our lack of communications comparable to those in the states places an additional penalty upon our people. So if we are to adopt the fifteen per cent, we might in essence from the standpoint of inconvenience, be setting it up almost at 25 per cent. I am in favor of the figure as it stands at the present time in Section 4, at eight per cent.

HINCKEL: I originally proposed or composed an article in which I set forth fifteen per cent. In Committee they changed my mind and I agreed to the eight per cent. In view of the fact that we have now removed all restrictions on the voters, a voter does not have to be able to read, etc., the qualified elector who would be permitted to sign this petition, I now favor that we raise the percentage back to a higher figure than eight -- possibly as high as fifteen.

UNIDENTIFIED DELAGATE: Question.

TAYLOR: I would like to say too that some of the states don't favor too large petitions. New York with three or four million voters, you can't present a petition that has more than 50,000 signatures, so it is a very small percentage of the voters that are on the petition because they are too bulky, there is too much trouble checking them. So in New York State you can't get more than 50,000 people on which would be a small percentage.

MCNEALY: I had not intended to speak on this, but everybody is taking a turn. The point is that I have some amendments to offer here which if the fifteen per cent went through I would be inclined to go along with the initiative and not offer my proposed amendments. Mr. Taylor speaks of New York. I think there are others here in the body who talked with Congressman O'Brien from New York. He said in one of his last words of parting from a little meeting, he said, "Don't get stuck like the State of New York with an initiative system or you will be spending out a good percentage of the Territory's money. You will find that your initiative elections will cost you far more than your regular elections. As a Congressman from New York I sincerely hope you do not write the initiative into the constitution." I think this fifteen per cent would be somewhat of a safeguard against too many elections at least.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" That is changing "eight per cent" to read "fifteen per cent". All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no".

SWEENEY: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 25 - Armstrong, Awes, Barr, Boswell, Buckalew, Cross, Doogan, V. Fischer, Gray, Hinckel, Johnson, Laws, Londborg, McCutcheon, McNealy, Nerland, Nolan, Poulsen, Reader, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 23 - Coghill, Collins, Cooper, Davis, Emberg, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor..

Absent: 7 - H. Fischer, Hellenthal, King, Riley, Robertson, Sundborg, VanderLeest.)

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

PRESIDENT EGAN: And so the motion has carried and the amendment is ordered adopted.

V. RIVERS: It takes a majority of all of the members to which the body is entitled for final action.

PRESIDENT EGAN: The Chair will declare a two-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would hold that the amendment carried, not with relation so much to this amendment but if such would not be the ruling, we will very likely on through the session, could be in considering questions not the final passage of the proposals, but in considering these proposals, we could be in trouble at various times. Now, Rule No. 49, and the Chair feels that it is important to bring that to the attention of everyone, specifically sets out that on the question of agreement on any proposal on third reading the vote shall be taken by roll call and entered on the journal of the Convention. No proposal shall be declared adopted unless at least 28 delegates had voted in favor of its adoption. Now Robert's Rules and the rules of almost any assembly that you can find will say that it only takes a majority of the members voting and present to amend or to conduct other business of the body. It does, however, in most other bodies require the same requirement that is stated in Rule No. 49.

DAVIS: Mr. President, I would suggest that Rule 11 covers the present situation.

PRESIDENT EGAN: Rule 11, Mr. Davis? Yes, that says just what I said. I had not found that. So the amendment is ordered adopted. Mrs. Hermann.

HERMANN: I think we ought to do something about excessive absenteeism when votes are coming up.

SWEENEY: I would like to report that Mr. King is ill. He left in the middle of the morning and so he should be excused.

CHIEF CLERK: Mr. Robertson is ill.

KNIGHT: Mr. VanderLeest is ill.

PRESIDENT EGAN: We don't have much absenteeism that is not accounted for. Mr. Knight.

KNIGHT: I move that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Knight moves that the Convention stand adjourned until 9 a.m. tomorrow morning. Is there a second?

BUCKALEW: Objection.

COGHILL: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9 a.m. tomorrow? All those in favor of the motion will signify by saying "aye", all opposed "no". The

Chief Clerk will call the roll.

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

Yeas: 29 - Awes, Barr, Boswell, Coghill, Collins, Cross, Davis, Doogan, Hellenthal, Hilscher, Johnson, Knight, Laws, McLaughlin, McNees, Marston, Nerland, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Smith, Stewart, Sweeney, Taylor, Walsh, Wien.

Nays: 17 - Armstrong, Buckalew, Cooper, Emberg, V. Fischer, Gray, Hermann, Hinckel, Hurley, Kilcher, Lee, McCutcheon, Metcalf, Peratrovich, Rosswog, Sundborg, Mr. President.

Absent: 9 - H. Fischer, Harris, King, Londborg, McNealy, Riley, Robertson, VanderLeest, White.)

CHIEF CLERK: 29 yeas, 17 nays and 9 absent.

PRESIDENT EGAN: The "ayes" have it and the Convention stands adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

December 17, 1955

FORTIETH DAY

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

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

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

CHIEF CLERK: Two absent.

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

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

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

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

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

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

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

MARSTON: That would be perfectly all right.

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

TAYLOR: To whom is that to be directed?

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

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

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

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

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

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

CHIEF CLERK: Shall I read it?

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

CHIEF CLERK: That is all.

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

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

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

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

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

V. RIVERS: What day is the recommendation for?

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

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

JOHNSON: I object.

HERMANN: I so move.

ROSSWOG: I second the motion.

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

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

HERMANN: No, individual proposals.

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

PRESIDENT EGAN: Mr. Sundborg.

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

through the boiler room.

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

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

PRESIDENT EGAN: Mr. Davis.

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

PRESIDENT EGAN: Mr. Johnson.

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

PRESIDENT EGAN: Mr. Buckalew?

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

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

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

PRESIDENT EGAN: Mr. Barr.

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

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

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

MCLAUGHLIN: I move the previous question.

HERMANN: I second the motion.

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

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

TAYLOR: A two-thirds vote?

PRESIDENT EGAN: No, a majority vote.

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

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

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

Absent: 3 - Doogan, McCutcheon, Nerland.)

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

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

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

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

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

TAYLOR: I second the motion.

R. RIVERS: I ask unanimous consent.

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

RECESS

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

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

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

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

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

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

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

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

SUNDBORG: The first one read, No. 11.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

JOHNSON: I move the adoption of the amendment.

MCLAUGHLIN: I second it.

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Barr.

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

PRESIDENT EGAN: Mr. McLaughlin.

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

JOHNSON: I have no, objection to that.

MCLAUGHLIN: I ask unanimous consent.

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

TAYLOR: I object.

MCLAUGHLIN: I so move.

STEWART: I second the motion.

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

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

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

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

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

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

R. RIVERS: Oh, no.

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

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

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

PRESIDENT EGAN: Mr. McNealy.

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

PRESIDENT EGAN: Mr. Sundborg.

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

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

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

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

TAYLOR: I object to someone prompting a vote.

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

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

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

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

(The Chief Clerk continued the roll call:

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Barr has been recognized.

JOHNSON: I understand that.

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

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

BARR: Yes.

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

BARR: I move for the adoption of the amendment.

ROBERTSON: May we have it re-read please?

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

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

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

RECESS

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

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

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

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

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

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

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

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

PERATROVICH: I second the motion.

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

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

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

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

PRESIDENT EGAN: Mr. Taylor.

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

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

PRESIDENT EGAN: Mr. Barr.

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

PRESIDENT EGAN: Mr. Sundborg.

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

PRESIDENT EGAN: Mr. Barr.

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

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

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

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

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

TAYLOR: The speaker just spelled out too many times.

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

RECESS

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

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

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

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

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

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

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

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

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

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

JOHNSON: I have some amendments.

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

R. RIVERS: You might work on one more.

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

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

JOHNSON: Yes, please.

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

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

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

JOHNSON: Of course it would be from the state.

PRESIDENT EGAN: The Chair stands corrected.

CHIEF CLERK: Do you want to add that?

JOHNSON: It is not necessary.

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

JOHNSON: I do.

ROBERTSON: I second the motion.

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

PRESIDENT EGAN: Mr. Marston.

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

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

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

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

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

DAVIS: Yes.

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

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

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

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

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

PRESIDENT EGAN: Mr. Cooper.

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

PRESIDENT EGAN: Mr. Londborg.

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

PRESIDENT EGAN: Mr. Metcalf.

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

a hardship on the people with the initiative.

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

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

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

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

MCNEALY: I object.

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

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

JOHNSON: I second.

MCNEALY: I withdraw my objection.

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

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

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

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

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

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

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

ROBERTSON: I second it.

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

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

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

PRESIDENT EGAN: Mr. Hinckel.

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

amendment.

PRESIDENT EGAN: Mr. Cooper.

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

PRESIDENT EGAN: Mr. Londborg.

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

PRESIDENT EGAN: Mrs. Hermann.

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

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

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

PRESIDENT EGAN: Mr. Buckalew.

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

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

PRESIDENT EGAN: Mr. Smith.

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

PRESIDENT EGAN: Mr. Taylor.

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

PRESIDENT EGAN: Mr. Davis.

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

PRESIDENT EGAN: Mr. Johnson.

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

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

PRESIDENT EGAN: Mr. McNealy.

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

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

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

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

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

PRESIDENT EGAN: Mr. Kilcher.

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

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

BOSWELL: I move the previous question.

HERMANN: I second the motion.

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

TAYLOR: Roll call.

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

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

the State.' "

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

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

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

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

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

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

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

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

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

HELLENTHAL: I would be happy to.

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

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

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

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

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

BARR: I second the motion.

BUCKALEW: Objection.

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

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

JOHNSON: May I ask Mr. Rivers a question?

PRESIDENT EGAN: If there is no objection.

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

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

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

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

GRAY: I will agree with Mr. Buckalew.

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

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

PRESIDENT EGAN: Mr. Riley.

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

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

RECESS

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

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

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

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

RILEY: Objection.

PRESIDENT EGAN: Objection is heard.

KNIGHT: I second the motion.

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

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

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

RILEY: I second the motion.

BUCKALEW: Question.

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

PRESIDENT EGAN: Mr. Taylor.

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

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

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

PRESIDENT EGAN: Mr. Riley.

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

PRESIDENT EGAN: Mr. Gray.

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

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

PRESIDENT EGAN: Mr. McNees.

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

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

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

PRESIDENT EGAN: Mr. White.

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

PRESIDENT EGAN: Mr. Kilcher.

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

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

PRESIDENT EGAN: Mrs. Nordale.

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

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

PRESIDENT EGAN: Mr. McLaughlin.

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

PRESIDENT EGAN: Mr. Marston.

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

PRESIDENT EGAN: Mr. Barr.

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

PRESIDENT EGAN: Mr. Hellenthal.

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

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

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

SUNDBORG: I move the previous question.

BUCKALEW: I second the motion.

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

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

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

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

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

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

KILCHER: Yes.

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

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

PRESIDENT EGAN: Mr. Sundborg withdraws his motion.

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

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

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

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

SUNDBORG: Question.

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

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

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

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

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

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

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

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

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

LAWS: I object.

SUNDBORG: I second the motion.

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

RECESS

PRESIDENT EGAN: The Convention will come to order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BARR: I second the motion.

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

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

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

TAYLOR: Amending the amendment though.

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

MARSTON: I second the motion.

SWEENEY: I object.

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Londborg.

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

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

PRESIDENT EGAN: Mrs. Sweeney.

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Harris.

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

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

SUNDBORG: Question.

COOPER: I move the previous question.

PRESIDENT EGAN: Mr. Cooper moves the previous question.

BUCKALEW: I second the motion.

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

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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

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

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

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

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

CHIEF CLERK: Yes, it was.

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

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

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

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

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

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

V. RIVERS: I second the motion.

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

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

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

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

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

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

R. RIVERS: Mr. President

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

R. RIVERS: I am sorry.

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

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

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

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

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

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

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

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

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

GRAY: No, the reconsideration vote.

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

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

PRESIDENT EGAN: That is right. Mr. Hellenthal.

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

PRESIDENT EGAN: Mr. White.

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

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

BUCKALEW: No, I did not.

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

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

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

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

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

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

COGHILL: I rise to a point of order.

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

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

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

RECESS

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

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

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

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

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

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

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

ROBERTSON: I have an amendment to this particular section.

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

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

ROBERTSON: I move the amendment be adopted.

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

JOHNSON: I second the motion.

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

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

PRESIDENT EGAN: Mr. Taylor.

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

UNIDENTIFIED DELEGATE: Question.

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

PRESIDENT EGAN: Mr. Barr.

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

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

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

ROBERTSON: Roll call.

STEWART: May we have the amendment read.

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

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

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

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

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

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

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

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

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

BUCKALEW: I have an amendment to offer.

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

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

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

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

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

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

R. RIVERS: I have an amendment to offer.

PRESIDENT EGAN: The Chief Clerk may read the amendment.

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

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

I would like to explain it.

PRESIDENT EGAN: What was the line?

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

PRESIDENT EGAN: Strike the words "authority reserved"?

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

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

R. RIVERS: I asked for unanimous consent.

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

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

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

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

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

BUCKALEW: Objection.

SMITH: I second the motion.

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

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

PRESIDENT EGAN: The motion is open for discussion.

SWEENEY: May we have the last half again?

(The Chief Clerk reread the proposed amendment.)

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

PRESIDENT EGAN: You may, Mr. Robertson.

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

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

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

RECESS

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

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

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

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

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

V. RIVERS: I accept the amendment.

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

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

PRESIDENT EGAN: Is there objection?

BUCKALEW: For what?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Hellenthal.

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

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

PRESIDENT EGAN: Mr. Barr.

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

PRESIDENT EGAN: Mr. Gray.

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

PRESIDENT EGAN: Mrs. Sweeney.

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

PRESIDENT EGAN: Mr. Taylor.

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

PRESIDENT EGAN: Miss Awes.

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

PRESIDENT EGAN: Mr. McLaughlin.

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

MCLAUGHLIN: I say I merely suggest.

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

HELLENTHAL: May I speak a minute?

PRESIDENT EGAN: Mr. Hellenenthal.

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

UNIDENTIFIED DELEGATE: Question.

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

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

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

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

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

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

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

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

ROBERTSON: Mr. President, I have an amendment.

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

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

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

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. Sundborg.

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

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

PRESIDENT EGAN: Mr. McLaughlin.

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

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

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

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

ROBERTSON: Very well, Mr. President.

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

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

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

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

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

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

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

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

PRESIDENT EGAN: Mr. Hinckel.

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

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

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

R. RIVERS: Yes, that is right.

BARR: That answers my objections.

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

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Buckalew.

BUCKALEW: I move for a 15-minute recess.

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

RECESS

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

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

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

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

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

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

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

PRESIDENT EGAN: Would you like to read it again?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HERMANN: As long as we get the copies also.

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

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

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

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

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

CHIEF CLERK: Yes.

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

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

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

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

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

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

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

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

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

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

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

KILCHER: I object for purpose of further clarification.

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

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

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

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

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

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

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

accomplishes the purpose.

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

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

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

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

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

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

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

MCLAUGHLIN: I withdraw any suggestion.

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

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

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

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

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

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

AWES: Yes, I did.

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

BUCKALEW: I second it.

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

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

PRESIDENT EGAN: Mr. Ralph Rivers.

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

PRESIDENT EGAN: Mr. Sundborg.

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

CHIEF CLERK: No, it says sentence.

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

CHIEF CLERK: That is not what it says.

AWES: I meant the balance of the section.

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

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

PRESIDENT EGAN: Mr. Coghill.

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

PRESIDENT EGAN: Mr. Gray.

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

PRESIDENT EGAN: Is there further discussion? Miss Awes.

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

BUCKALEW: Question.

PRESIDENT EGAN: Mr. Smith.

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

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I might tell Mr. Smith that there is no objection to leaving in the words "subject to the specific provisions herein." There is no objection to that at all. Miss Awes just moved to strike that part because she thought it was unnecessary because naturally the legislature is circumscribed by the specific provisions herein, but I would be perfectly glad to see the words, "subject to the specific provisions herein" remain, but it is this part, "No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people" which could cause trouble, because whatever the legislature spells out as to the registration of voters for election purposes, etc., could be regarded as a restriction upon their rights and that would only cause trouble, and the legislature must not veto the powers reserved by the people here, so we don't have to say that, and we are better off, as Miss Awes says, if that last sentence is stricken, but I don't care about the other.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I want to speak in behalf of attorney Awes' amendment, and I want to point out to the members of this Convention that a lot of us attorneys have been "shooting from the hips" on legal opinions, in fact there has probably been a million dollars worth of legal advice has gone out in this body, but I wish to point out to this Convention that when attorney Awes gives an opinion and writes and offers an amendment she has usually given a lot of thought and consideration to it. I respect her legal ability, and I know she has given it a lot of thought, and I concur in her opinion, and I am of the firm opinion that this language would hurt the people more than it would help them. It might appeal to them in some way, I don't know. Maybe it looks easy in the constitution, but it is a troublemaker and it should be deleted.

PRESIDENT EGAN: Mr. Barr.

BARR: I agree that the last sentence should be eliminated. As

far as the remainder of the previous sentence, it does not make any difference to me, and it might help the laymen who read it. It might lead him to believe that his rights are being preserved by the constitution. I sort of favor leaving it in, but it does not make much difference. I might say in answer to Mr. Buckalew here regarding a million dollars worth of attorneys' advice, we will agree as to the amount of advice, but as to the value of it, why there may be a difference of opinion.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I am amazed that we see so little opposition to leaving seven words in our constitution, admittedly, to clutter it up. I am referring to the last part of the first sentence in Section 3. We are willing to compromise on something that does not matter. We are willing to leave seven words there that we practically all admit by a short little amendment could be deleted, it is self-explanatory. All legislation is subject to the specific provisions of the constitution. We agree to that, but I don't think we should likely amend or rather strike the last sentence in Section 3, because it is in my opinion a crucial section. In my opinion, and the lawyers may correct me if I am wrong there, this sentence will determine upon whom the burden of proof shall be. It is like the court, the difference between judicial systems. Is the accused assumed innocent until proved guilty or guilty until proved innocent? If we strike the sentence out of Section 3 we will have a situation whereby in a law enacted by the legislature that prescribes procedures the people will have to get up if they have an initiative and go to court, and the burden of proof is the people's to prove that this particular law is impairing their rights. They have the burden of proof, the expense and the time involved. In other words, it is a further impairment of the right of initiative. If we leave this section as it is, then the legislature in enacting laws will have to be very careful in enacting a law that does not impair or restrict the exercise of the powers of the people reserved herein. The burden of the proof then is there. They will have to prove, if they are called upon, that they are not impairing. It is quite important. I am in favor of leaving it as it is.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I borrowed this map. There are 19 great states there. I can name them from Maine to Ohio, across the State of Washington, that use the language very much like we have in this document. (Holding up map) I am going to defend the people against the legislature and not defend the legislature against the people. They have a lot of lawyers down in the legislature who can take care of themselves, and I am going to lean over on the side of the people and vote "no" on this proposition, as much as I hate to vote against Dorothy right beside me.

PRESIDENT EGAN: Mr. Davis.

DAVIS: As a matter of personal privilege, I resent seriously all that has been said and is being said here about the lawyers as a class. The lawyers are people just the same as anybody else, and whether we are here in this Convention or in the legislature we do what we think is right for the people and not for the lawyers. (Applause)

PRESIDENT EGAN: Mr. Davis, the Chair would like to say that the Chair feels that each and every delegate is attempting to look out for the interests of the people, regardless of how he feels on any question. Is there any further discussion? Mr. McNealy.

MCNEALY: Mr. President, speaking just briefly on this, I would like to agree with Mr. Rivers there and others. I can see no objection to leaving in the words "subject to the specific provisions". However, I agree with Miss Awes that it is not necessary. Speaking now, when we speak continually about the people, and as to the initiative and the initiative only, the initiative section of this particular piece of the article that is apparently going in the constitution, is over the years is going to cost the people of this Territory millions and millions of dollars holding elections over the courses of years. It is borne out by the costs in other states, and I don't like to add any more to the burden of the people by leaving this open here to hamper or restrict, because that is going to bring in even more lawsuits. It is going to cost the people more money, and the people are going to remember us on those things when they have to start paying the bill in years to come. Therefore, I am going to have to vote in favor of the amendment, and I particularly favor it as to the last sentence and purely from the cost angle and the cost angle alone.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I move and ask unanimous consent that the question be divided.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the question be divided.

BUCKALEW: I second it. I would object to it subject to whatever Miss Awes thinks about it. I second the motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I question very seriously whether Mrs. Sweeney's motion is in order. She is not proposing to divide the question, but what she is really proposing I believe is that either the last six words of the first sentence involved here or the second sentence should be stricken from Miss Awes' amendment by an

amendment thereto. I don't believe a question of this kind is divisible. There is only one question here and the question is, "Shall we strike the following words?" Now if you want to divide that, at what point do you divide it, at the period?

SWEENEY: Perhaps my procedure is wrong. I was hoping we could have a vote on the last six words of the first sentence and then have a vote on the final sentence of the section.

PRESIDENT EGAN: Mrs. Sweeney, you could ask then that that part of the amendment be amended to delete the last sentence, but you would have to first ask to withdraw. If there is no objection, the Convention will stand at recess for about 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, I withdraw my motion with the consent of my second.

PRESIDENT EGAN: Mrs. Sweeney asks to withdraw her motion with the consent of her second. Hearing no objection it is so ordered. Miss Awes, did you have something, the Chair understood --

AWES: May I ask a question? I still think that my amendment is good. I think the whole thing is objectionable. If that should be voted down, that would not preclude the submission of another amendment as to the part of it, would it?

PRESIDENT EGAN: It should not. Actually there are two subjects involved there, it would seem.

AWES: Then I prefer to have it voted on this way.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that Miss Awes' amendment be amended by changing the word "section" in her amendment to the word sentence and I would ask the Chief Clerk then to read how Miss Awes' amendment would read under those circumstances.

AWES: I don't think that is what you mean.

SUNDBORG: See if it is not right.

CHIEF CLERK: Section 3, line 9, delete comma after 'referendum and insert period. Delete remainder of sentence.'

SUNDBORG: That is what I would propose as my amendment to Miss

Awes' amendment. My intention is that after we vote on that then we may take up the other sentence which some delegates feel is a different subject.

AWES: I will accept that amendment under those circumstances.

PRESIDENT EGAN: If there is no objection, the amendment to the proposed amendment is ordered adopted. The question is, "Shall the amendment be adopted by the Convention?" All in favor of the amendment signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 3?

AWES: I have another amendment to Section 3 I am just writing out.

PRESIDENT EGAN: The Convention will be at ease. The Chief Clerk will please read the proposed amendment as offered by Miss Awes.

CHIEF CLERK: "Section 3, line 10, delete the words 'No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people.'"

AWES: I move the adoption of that amendment.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I am going to vote against that amendment. After all, there are only two reservations of power in the people, the initiative and the referendum with regards to law. We do have the recall. Now I can readily conceive that if this particular amendment is passed that if there was a legislature that might be hostile to the exercise of the initiative or the referendum, they could very easily pass a bill that would perhaps emasculate the entire constitutional article by making it impossible for the initiative to be called. So by reason of it being the only reserve powers of the people in regard to legislation, I think we should say that the legislature shall not enact a law that will impair the right of the people in initiating law or shall restrict it or shall impair the exercise, not the power, but the exercising of the power. They might throw the lack of appropriation in the way of having an election. They might have a cost for filing a petition so prohibitive that you could not, and if you did not have this in here there is nothing you could do about it. But if you have it in here it guides the legislature in passing any law affecting the initiative and referendum, that when they do put the provisions and procedure and manner and mode of holding an election in here, the legislature has got to consider at each time, "Will this impair or restrict or hamper the exercise of

the power by the people?". We should leave it in here. If it goes out I will then work and vote against the passage of the proposal because they don't mean a thing.

PRESIDENT EGAN: If the Chair may, I wonder if I could ask a question without leaving the Chair. I wonder, is there some such statement in the proposed bill of rights, and if it was in there would it not have the over-all effect for everything in the constitution?

TAYLOR: I don't know, but I know that every one of the constitutional provisions on initiative and referendum have a statement that means just that same thing.

PRESIDENT EGAN: Miss Awes.

AWES: What I said before is applicable now, so I won't say much. I would like to say a few words in answer to Mr. Taylor. What we have here is a proposal which sets up pretty well the whole procedure for the initiative and referendum. In fact, there has been some objection that it is legislative in nature. Beyond this point I can't see any law that could possibly be passed by the legislature that would not in some respect hamper, restrict or impair the exercise of powers, and if you are going to have this in here it covers so much ground that I think the practical effect is to nullify the whole Section 3.

PRESIDENT EGAN: The question is, "Shall Miss Awes' proposed amendment be adopted by the Convention?"

KILCHER: Read the amendment please.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 3, line 10, delete the words 'No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people.'"

COGHILL: I move and ask unanimous consent that the motion be postponed indefinitely.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Coghill moves, seconded by Mr. Taylor, that the motion be postponed indefinitely.

MCNEES: I object.

COGHILL: I so move.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be indefinitely postponed?" Is there discussion on the motion? If not, the question is, "Shall the proposed motion be indefinitely postponed?"

HERMANN: I think that the assembly should be advised, for the sake of those who may not know it, that a motion to indefinitely postpone is a motion to kill.

PRESIDENT EGAN: Mrs. Wien.

WIEN: Mr. President, does that not take a two-thirds vote?

PRESIDENT EGAN: It takes a majority vote, that is the Chair's remembrance. The question is, "Shall the proposed motion by Miss Awes be indefinitely postponed?"

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

GRAY: Can I abstain?

HERMANN: On what grounds are you abstaining?

PRESIDENT EGAN: Mrs. Hermann desires you explain why you abstain.

GRAY: The reason I don't know how to vote on this.

HELLENTHAL: Point of order. I don't think an explanation can be called for by any one delegate here.

LONDBORG: Point of order. I believe that the decision to abstain must be made before the voting starts.

PRESIDENT EGAN: You are correct, Mr. Londborg.

GRAY: I vote "no" then.

Yeas: 13 - Coghill, Collins, Emberg, King, Knight, Laws, Marston, Metcalf, Peratrovich, Smith, Sweeney, Taylor, VanderLeest.

Nays: 38 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Davis, Doogan, H. Fischer, Gray, Harris, Helleenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Lee, Londborg, McLaughlin, McNealy, McNees, Nolan, Nordale, Poulsen, Reader, Riley,

R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Sundborg, Walsh, White, Wien, Mr. President.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 13 yeas, 38 nays and 4 absent.

PRESIDENT EGAN: And so the motion to indefinitely postpone has failed of passage. We have before us Miss Awes' motion. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent for the previous question.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent for the previous question to be ordered. Is there objection?

COGHILL: I object.

METCALF: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous will signify by saying "aye", all opposed by saying "no." The "ayes" have it and the previous question has been ordered. The question is, "Shall Miss Awes' amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 32 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Davis, Doogan, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Lee, Londborg, McLaughlin, McNealy, Nolan, Poulsen, Reader, Riley, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Walsh, White, Wien, Mr. President.

Nays: 19 - Coghill, Collins, Emberg, Gray, Hinckel, Kilcher, King, Knight, Laws, McNees, Marston, Metcalf, Nordale, Peratrovich, V. Rivers, Smith, Sweeney, Taylor, VanderLeest.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 32 yeas, 19 nays and 4 absent.

PRESIDENT EGAN: And so the "ayes" have it and the amendment is ordered adopted. Are there other amendments? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I have an amendment on Section 4 on

the Secretary's desk.

PRESIDENT EGAN: The Chief Clerk may read the amendment. Barr. Mr.

BARR: Mr. President, I have an amendment still to Section 3.

PRESIDENT EGAN: If you have an amendment to Section 3 --

BARR: I don't have it written out but I will in just one minute.

KILCHER: I also have an amendment to Section 3 that is written out.

PRESIDENT EGAN: The Chair will accept the amendments to Section 3. The Chair felt that all the amendments had been made to Section 3. I am sorry, Mr. Rivers. The Convention will come to order. The Chief Clerk will please read the amendment as offered by Mr. Barr to Section 3.

CHIEF CLERK: "Line 9, after the word 'referendum' insert, 'No law shall be enacted to nullify the exercise of powers reserved herein by the people.'"

BARR: Mr. President, I move that this amendment be adopted.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I object for the moment. Mr. President, I wonder if Mr. Barr would use the word "prevent" instead of "nullify"? "Nullify" imports that something has already been done. The word "prevent", I think, is what you are driving at.

LAWS: I second the motion.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, there was some question in my mind at the time, and if the word "prevent" would take care of the situation. I have no objection to amending the amendment to the word "prevent" instead of "nullify".

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, Mr. Barr's proposed amendment in my view is totally unnecessary. Here we say that the people reserve certain powers and that is right in our constitution, and we go down a few more sentences and say, "No law shall be enacted" or that the legislature shall not do anything to

prevent their exercise of the powers. It is obvious that the legislature cannot adopt a law that would prevent the exercise of their powers if the powers are reserved for them by the constitution. If the legislature attempted to enact such a law, it would be unconstitutional.

BUCKALEW: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Barr's proposed amendment be adopted by the Convention?" All in favor of the adoption of the proposed amendment will signify by saying "aye", all apposed "no". The "noes have it and the amendment has failed of adoption.

KILCHER: Roll call. I said "roll call" before it was announced. I said "roll call" before a second person also said "roll call".

PRESIDENT EGAN: The Chair did not hear a call for a roll call until after he announced the decision.

ROBERTSON: Mr. President, was there not a request made for roll call after you had announced your decision on the vote?

PRESIDENT EGAN: You are right, Mr. Robertson, but after the vote is announced, it has been announced and it cannot be undone. The Chair is not attempting to take any prerogative that is not the Chair's or attempting to do that, but so far as the Chair is concerned there was no call for a roll call until the vote had been announced, and under the rules that is how the Chair has proceeded. The Chair has no other alternative but to say on that particular amendment the vote had been announced. Is there another amendment to Section 3?

KILCHER: Point of order, Mr. President. I think my neighbors around here will verify the fact that I said "roll call" fairly loud before it was announced, and as the President went on speaking I said it a second time.

MCNEES: I would confirm that fact even though we voted on opposite sides of the question.

JOHNSON: Point of order, Mr. President, wouldn't the proper procedure be an appeal from the ruling of the Chair?

PRESIDENT EGAN: That is right. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that we suspend the rules and have a roll call on the proposed amendment by Mr. Barr.

BARR: I second the motion.

PRESIDENT EGAN: The Chair does not want to prevent a roll call

under the statement that was made by Mr. McNees. If the Chair has the authority after he has announced to reverse himself on a question of that kind, the Chair would be willing to do so. If there is no objection, the Chair will do so and order a roll call. It was not the idea of the Chair to cut off anyone's right to call for the roll, but the Chair had announced before the Chair had heard this cry for a roll call back here.

KILCHER: May we have Mr. Barr's amendment read again.

CHIEF CLERK: What happens to Mr. Sundborg's motion?

SUNDBORG: Since the President has made a ruling which makes my motion superfluous, I ask unanimous consent to withdraw it.

PRESIDENT EGAN: Without objection, the Chair would certainly like to ask if a roll call is going to be called for, rather than waiting to see what the outcome is, that if the delegates could try to ask for the roll call previously it would be helpful, and this kind of situation would not arise. Mr. Davis.

DAVIS: It appears to me, Mr. President, that this would be taken care of if the delegate who wants a roll call would stand up and be recognized as the rules require.

SWEENEY: Mr. President, there has been no appeal from the decision of the Chair, has there?

PRESIDENT EGAN: There seems to be a feeling that we should have a roll call, and the Chair is not adverse to having a roll call, Mrs. Sweeney.

SWEENEY: I think we are going to set a precedent here.

PRESIDENT EGAN: If there is no objection, the Chief Clerk will call the roll on Mr. Barr's amendment. Mr. Buckalew.

BUCKALEW: Before we call the roll, may I ask a question? Does it require a vote of five members to demand a roll call?

PRESIDENT EGAN: Not here, Mr. Buckalew. It says one person, and Mr. McNees stated that Mr. Kilcher had been asking for a roll call before the roll was announced. The Chair is willing to take the word of the delegates that the Chair was in error, and if there is no objection, the Chief Clerk will call the roll.

RILEY: If you are calling for another objection, I am pleased to object to put it on the road and put it through properly by an appeal from the Chair's ruling. For that purpose I object.

SUNDBORG: Is it not the ruling of the Chair that a roll call is in order.

PRESIDENT EGAN: It could not be the ruling. The Chair merely stated that if there was no objection the Chair was not adverse to allowing a roll call.

SUNDBORG: It is to that that Mr. Riley objects?

RILEY: Correct.

NOLAN: I move that the ruling of the Chair be sustained.

PRESIDENT EGAN: Mr. Nolan moves that the ruling of the Chair be sustained. Mr. Armstrong.

ARMSTRONG: I second the motion. May I ask for information? When you see that a vote is on the losing end of it, say that you are losing, is that the time for calling for a roll call?

PRESIDENT EGAN: If they are heard.

ARMSTRONG: Aren't you supposed to ask for a roll call before we could move into the motion?

PRESIDENT EGAN: Generally a person should ask before we go into the subject. Whether or not the rules say that a person should be recognized when he asks for a roll call, the Chair cannot quite remember, but the question is, "Shall the ruling of the Chair be sustained?" Mr. Barr.

BARR: Mr. President, as I remember the events as they happened, I am certain that Mr. Kilcher was the first one to call for a roll call and as I remember he was speaking at approximately the same time you were. In other words, you might have started before he started to speak, but he had called for the roll call before you had ended your announcement.

PRESIDENT EGAN: The Chair is not arguing with the question. Mr. Sundborg.

SUNDBORG: Is this matter debatable? As I understand the motion is to sustain the Chair. Is that debatable?

PRESIDENT EGAN: The question has to be put.

LONDBORG: May I ask what is your decision on that roll call, so what are we sustaining?

PRESIDENT EGAN: If you sustain the ruling of the Chair, then the question on Mr. Barr's motion is decided without further action. If you do not sustain the decision of the Chair, then we will vote by roll call on Mr. Barr's amendment. The question is, "Shall the ruling of the Chair be sustained?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

DOOGAN: I have to pass. I forgot the question.

KILCHER: I don't understand the effect of this motion, Mr. President. I can't vote.

MR. PRESIDENT: Not voting.

HERMANN: Point of order, Mr. President. I think we had three people who did not vote and did not announce in advance that they were not going to.

PRESIDENT EGAN: For two of them anyway the Chair felt they really did not understand the question that was being put. Mr. Londborg.

LONDBORG: Is that going to be the question then, that whenever we want to abstain from voting we just say we don't understand?

PRESIDENT EGAN: It isn't going to be the policy, no, Mr. Londborg. But on this particular situation it was the first time it came up, and the Chair feels that the particular people did not for some reason realize what they were being asked to vote upon.

DOOGAN: Mr. Chairman, I had no reason for abstaining other than I had forgotten the question. If it will help any I will vote.

KILCHER: Mr. Chairman, if at any time it is in order to ask for information, I would like to do so when it was my time to vote.

PRESIDENT EGAN: After the roll starts there can be no information asked for.

Yeas: 39 - Armstrong, Awes, Boswell, Cooper, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 9 - Barr, Buckalew, Coghill, Collins, Davis, Knight, Laws, Peratrovich, R. Rivers.

Not Voting: 3 - Doogan, Kilcher, Mr. President.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 39 yeas, 9 nays, 3 not voting, 4 absent.

PRESIDENT EGAN: So the ruling of the Chair has been sustained. Mr. Kilcher.

KILCHER: Point of information. Is it in order that the Chief Clerk announces the roll that while somebody on the floor is speaking for a point of information that might have bearing on the announcement of the roll call, in case they wanted to change it?

PRESIDENT EGAN: Mr. Kilcher, actually no one can be recognized and be in order until the roll call is announced, except a person who wishes to change his vote from one side to the other. Until that time, from the time the roll starts and until the roll ends, nothing is in order.

KILCHER: You would not be allowed either to vote after you had not voted, the same as if you changed? By implication if I understood finally what the motion meant by seeing who voted how?

PRESIDENT EGAN: No. The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, may I be recognized briefly on a point of personal privilege? I feel that perhaps the time has come when we should implore all the delegates to pay close attention to the matters which are before the body. The people of Alaska have spent 300,000 dollars to send us here to try to write and organize a constitution for the state, and these are most important questions that are before us. I cannot see any possible reason why a delegate who has been sitting in this room would not understand for instance what that question was about. It was the simplest kind of a question and it was explained at some length what it was about. The question was, "Shall the Chair be sustained in his ruling?" and it was asked on the floor what the effect would be, and that was explained and then we get into the middle of the roll call and find that several delegates don't even know what the question is. The time to find out what the question is, is before the roll call starts. I would like to say further that on this matter of calling for a roll call, it is perfectly proper for members to call for a roll call, but as Mr. Davis has pointed out, the member who desires a roll call should rise before there has been a voice vote, obtain the recognition of the Chair and say, "Mr. President, I ask for a roll call." That is proper. It is not proper after there has been a voice vote to say "roll call". The only person who then may say "roll call" is the President who might say that the Chair is in doubt. That would be in the case of a voice vote where he really cannot tell on which side the balance lay and then he may say, "The Chair is in

doubt, the Chief Clerk will call the roll." Then we'll have a roll call. The purpose of the roll call is not to change what appears to be the voice vote results. The purpose of the roll call is just to find out on which sides are the delegates voting.

PRESIDENT EGAN: In closing this whole thing, the Chair would like to say that the Chair would have had no compunction at all to call for a roll call immediately except that the Chair had announced before he realized they were calling for the roll call. Mr. Barr.

BARR: On a point of information on procedure. In case there is a roll call and a man does not know what the question is or doubts whether he knows it, if he passes, is it not in order for him to rise after the roll call is taken and before it is announced and ask for instruction so he can vote at that time?

PRESIDENT EGAN: Ordinarily it is not in order, Mr. Barr, and probably why in the regular rules governing parliamentary bodies it is not in order is that it might be that someone might be attempting to figure the question at this time or something, but unless it would be the special rule in this body, it is not the general manner of procedure. Mr. Buckalew?

BUCKALEW: With the President's permission, I think it would be helpful to read Rule 30 again. It states that, "No member shall be entitled to abstain from voting on any roll call unless he shall have stated his intention to abstain before the voting starts."

PRESIDENT EGAN: Then it goes on to say, "Upon any announcement of intention to abstain the Delegate making such announcement upon request of five Delegates may be required to state his reasons. Mr. Buckalew, the Chair would like to ask: what is the Chair going to do when you come down to a roll call and someone does abstain from voting? We had that situation here the other day, and how are you going to make them vote even though the rule says so?

BUCKALEW: You have a Sergeant at Arms; that's the only thing I can think of.

SUNDBORG: Mr. President, I believe this is a practical solution to that problem, and the solution is that the member should vote. It does not matter if he says "yes" or "no". And then, if he can find out what the question is about before the end of the list is reached, he still has the privilege before the result is announced to change his vote. Say he voted "yes", and he finds out that he voted the wrong way. He can get up and

say, "I ask that my vote be changed to 'no'." I think that is the only practical way we can get around that, but our rules do not permit a member to pass unless he announces it before the roll is called.

PRESIDENT EGAN: The Convention will come to order. It might be well to announce that on the per diem (Mr. Harris, if you would not mind waiting a moment) you won't get your per diem checks for the day or so that it takes you to get home and the day or two it might take you to get back until after you do come back. You will be paid your per diem and compensation up through Monday. That will be sent to you in the mail. Mr. Harris.

HARRIS: I move that we adjourn until Monday morning at 9 o'clock.

V. RIVERS: I second the motion.

BUCKALEW: I object.

COGHILL: Question.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until Monday morning." Are there committee announcements.

POULSEN: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

ROSSWOG: I have a committee announcement. The Local Government Committee will meet whenever we adjourn.

PRESIDENT EGAN: The Local Government Committee will meet upon adjournment. Mr. Coghill.

COGHILL: The Committee on Administration will meet upon adjournment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Is it possible to amend this motion to adjourn specifying the time?

PRESIDENT EGAN: Not under our rules, Mr. Hilscher.

HILSCHER: I was merely going to suggest that we said something about the Traveler's Inn the other day and today is open house down at the Traveler's Inn.

HELLENTHAL: It is open house in the Convention too.

PRESIDENT EGAN: Are there other committee announcements to be made at this time? The question is, "Shall the Convention adjourn until 9 a.m. Monday? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Armstrong, Barr, Collins, Harris, Johnson, Londborg, McLaughlin, Marston, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sweeney, Walsh.

Nays: 34 - Awes, Boswell, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, McNealy, McNees, Metcalf, Nordale, Peratrovich, Riley, Rosswog, Smith, Sundborg, Taylor, VanderLeest, White, Wien, Mr. President.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 17 yeas, 34 nays and 4 absent.

PRESIDENT EGAN: The "nays" have it and the adjournment has failed. Mr. Kilcher.

KILCHER: Mr. President, I would like to make a suggestion that I don't think it would apply to any rule except a different practice so far, that committee chairman announcements be made after the vote for an adjournment and before the results are announced, so leave it up to the Chair before the Convention is recessed, because we have seen it several times in the past that quite a bit of time has been spent on committee announcements. I have seen it announced now, and later you hardly remember, so actually the question could be disposed of much quicker if the adjournment motion were dealt with, and then before the hammer goes down on the table that the committee chairmen be given their time to make announcements.

PRESIDENT EGAN: It might be a good idea but it would be pretty hard to do. Mr. Hellenthal.

HELLENTHAL: May I suggest that we discuss the constitution, at least indirectly?

COOPER: Mr. President, I move and ask unanimous consent that no motion for adjournment be presented until at least 5:50 p.m.

PRESIDENT EGAN: Mr. Cooper moves and asks unanimous consent that no motion for adjournment be made until at least 5:50 p.m. It might be better, Mr. Cooper, if you would say 5:45.

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COOPER: I amend it to 5:45.

RILEY: Point of order. Motion to adjourn is always in order.

PRESIDENT EGAN: It is always in order unless the body would rule otherwise. We have before us Committee Proposal No. 3. Does Mr. Kilcher have an amendment on the table?

CHIEF CLERK: "Section 3, amendment by Mr. Kilcher, strike the first sentence."

PRESIDENT EGAN: Mr. Kilcher, what is your pleasure regarding this proposal?

KILCHER: I move that this amendment be adopted.

COOPER: I object.

JOHNSON: Point of order. Isn't this a matter which has already been acted upon by previous motion to strike the entire Sections 1, 2, and 3?

PRESIDENT EGAN: I believe so, Mr. Johnson. Is there a second to the motion? Mr. Smith.

SMITH: I would like to ask that the proposed amendment be read again.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 3, strike the first sentence."

SMITH: I second the motion.

SUNDBORG: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Kilcher's proposed amendment be adopted by the Convention?" Mr. Kilcher.

KILCHER: I would like to speak in favor of this amendment. The Section 3 has become in my opinion meaningless with the last sentence deleted. I was going to make this amendment even if the last sentence had stood its ground. Much more so I move this amendment after the last sentence has been defeated. The first sentence in my opinion does not make sense any more.

PRESIDENT EGAN: Mr. Kilcher, that is all there is in Section 3. isn't it? Your motion should probably read, "Delete Section 3 and renumber all the other sections." The question is, "Shall Mr. Kilcher's proposed amendment be adopted by the Convention?" All those in favor of the adoption will signify

by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 3? Section 4?

DAVIS: Mr. President, I have a proposed amendment to Section 4, to that portion of Section 4 that has been amended, as amended by Mr. Rivers' previous amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "After the word 'general' on line 4 of Mr. Rivers' amendment insert the following sentence: 'The same procedure, so far as applicable, shall apply to referendum petitions.'"

DAVIS: I move the adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Davis moves the adoption of the proposed amendment.

TAYLOR: I ask unanimous consent.

R. RIVERS: I second the motion.

SWEENEY: I object. Can we hear it again?

PRESIDENT EGAN: The Chief Clerk will please read the amendment once more.

CHIEF CLERK: "Section 4, after the word 'general' on line 4, insert the following sentence: 'The same procedure, so far as applicable, shall apply to referendum petitions.'"

DAVIS: Mr. President, the purpose of the proposed amendment is that we insert a sentence which will make the procedure as to presentation of petitions for referendum the same insofar as you can make it the same as for initiative petitions so that we won't have to repeat that at a later time.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: I have an amendment on the Secretary's desk on Section 4.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 4, amendment to R. Rivers amendment. change 'two-thirds of the election districts of the State' to 'one-half of the election districts of the State'."

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

V. RIVERS: I move and ask unanimous consent that we adopt that amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves that the proposed amendment be adopted.

JOHNSON: I object.

V. RIVERS: I so move.

SMITH: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me in view of the geographical distribution of the country and in view of the varied interests, economic and otherwise, that we would be defeating practically the purpose of the initiative and referendum if we require two-thirds of the districts to be represented on this petition. I think that half is a fair figure. It seems to me that if you were going to have an initiative or referendum on mining matters that in all probability it would be very hard to get votes for that initiative in two-thirds of the districts where their main interests perhaps would lie in fish, or fur, or timber. I put this amendment in in all sincerity, because I think it will make the initiative and referendum more workable and more fair if we allow it to go through.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to say that we are talking not about precincts here, which at the present time there are something like 400 in the Territory, but about election districts under the constitution, and my understanding is that the Committee on Apportionment will bring in a proposal which will specify there will be 24 election districts. That would mean if we leave it the way it is that it would require at least one person's signature only from 16 of the districts to be among either ten or fifteen per cent as we may vote tomorrow on Mr. McNealy's motion to reconsider. The way Mr. Rivers would propose to change it, it would be necessary to get signatures from only 12 different districts, that is 12 signatures would be necessary, one from each district, making up a total of around 4,000 at the present time. I feel that as it is it is not at all cumbersome or difficult. If we had required that

a large number had to be obtained from the districts, it might be, but all that is necessary is one lone signature from each district.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, I hope that most of you are more aware of this issue that is getting more and more confused than I am. As I have shown on the last vote, and I want to be well aware that those among you who are in favor of the initiative in principle should see that any other attempt to emasculate the initiative as such should be voted down, and I see that Mr. Rivers' amendment is in favor of reinjecting some strength in the initiative. Since Section 3 has been amended to take more rights away from the people, since the first sentence will give the legislature the right to prescribe procedures, it is only fair that we reduce the "two-thirds" to onehalf" because if those that are opposed now and in the future to the initiative will have their way, they will have the legislature immediately to go about and have strict procedures established, for instance that in two-thirds of all the election districts we will have to have the full 15 per cent of signatures prorated in each district. I think the legislature will try to do that, and if they try to do it, if it is unconstitutional, it will have to be the people who go to the court and prove that such an act by the legislature would be unconstitutional. I think the legislature would get away with it and I wouldn't blame them for trying. It is not true that it will take only eleven signatures, one signature from each of the other eleven districts, and the one that tries to "railroad" something, I have no doubt whatsoever that those elements opposed to the initiative in the legislature will circumscribe the necessary procedure where we would end up by having two thirds of all the election districts required to furnish 15 per cent of the signatures. They would not rest quiet before they have that. Consequently, they will make the initiative unworkable. Consequently I am in favor of Mr. Rivers' amendment that only half of the election districts be required to furnish signatures. I have no doubt that before long they will be required to furnish each 16 per cent of the signatures, and be well aware of that, that attempt will be made, and all in favor of the initiative in principle should vote in favor of Mr. Rivers' amendment.

PRESIDENT EGAN: The question is -- Mr. Victor Rivers. V.

RIVERS: I ask that the roll be called.

PRESIDENT EGAN: The question is, "Shall the proposed amendment offered by Mr. Victor Rivers be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following

result:

Yeas: 26 - Awes, Coghill, Doogan, Emberg, H. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McNees, Marston, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest.

Nays: 26 - Armstrong, Barr, Boswell, Buckalew, Collins, Cooper, Davis, V. Fischer, Hellenthal, Johnson, Laws, Londborg. McLaughlin, McNealy, Metcalf, Nolan, Poulsen, Reader, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 26 yeas, 26 nays and 4 absent.

PRESIDENT EGAN: So the motion has failed of adoption. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment to offer to Mr. Rivers' amendment.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Buckalew's proposed amendment.

CHIEF CLERK: "Strike the entire sentence of R. Rivers' amendment beginning with 'The petition shall, etc.,' and substitute, 'The petition shall contain signatures of qualified electors resident in at least two-thirds of the election districts of the State.'"

BUCKALEW: I move its adoption.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the proposed amendment.

AWES: I second it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" Will the Chief Clerk please read the amendment once more.

CHIEF CLERK: This is an amendment to Mr. Rivers' amendment on Section 4. "Strike the entire sentence beginning with 'The petition shall, etc.,' and substitute 'The petition shall contain signatures of qualified electors resident in at least two-thirds of the election districts of the State.'"

BUCKALEW: I will ask unanimous consent. The only reason I

offered this amendment is the way it is drawn, it is ambiguous. What they meant, in the preceding sentence they refer to qualified electors and then they get down and refer to only signatures and what they mean is qualified electors resident in the districts, and I think it clears the ambiguity.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Point of information. That affects just the one sentence? I think it is a good improvement.

PRESIDENT EGAN: Unanimous consent has been asked. Is there objection? Hearing no objection it is ordered adopted. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment to Section 4.

PRESIDENT EGAN: Would the Chief Clerk please read Mr. Robertson's amendment.

CHIEF CLERK: It was to the old Section 4 which has been stricken.

ROBERTSON: That has not been changed any. It is still in the law. It is line 19, page 2, Section 4.

PRESIDENT EGAN: Would the Chief Clerk please read it.

CHIEF CLERK: "Section 4, page 2, lines 19, 20 and 21, strike all of lines 19, 20 and 21 except the word 'referred'."

ROBERTSON: Mr. President, I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Robertson moves that his proposed amendment be adopted. Is there a second?

HILSCHER: Could we have that read again?

POULSEN: I second the motion.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "Lines 19, 20 and 21. Strike all of lines 19, 20 and 21 except the word 'referred'." Strike the last sentence.

ROBERTSON: In other words, it is to strike the last sentence of Section 4. Mr. President, my point is that I fear again that this is an interference with our form of government as depriving one of our three checks, the governor from the power of veto. Maybe there should be some restrictions upon the manner in which he could veto the initiative, and furthermore it seems to me to say that because an initiative measure is passed, no matter how bad it is, as may be proved within a very few

months that it cannot be amended or appealed by the legislature for a period of three years, might very possibly put a great burden upon the Territory. It seems to me we should not have that provision in our constitution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I oppose the proposed amendment. In the first place, this is not a part of the checks and balances. It is not the legislature that has enacted this law, it is the people and the people embodied themselves the powers of all three of the coordinated branches of government, and there is no practical way that there could be a provision for the people, for instance, to override the veto of a governor. They are going to spend 40,000 dollars here in an election, and they go through all that and the governor vetoes it. I don't believe that is proper. If the majority of the people voting in an election are in favor of enacting some matter, it should be the law. Now, as for the second part of it, about the prohibiting its being amended or repealed by the legislature for a period of three years, I think that is something that every voter will take into consideration at the time he goes to the polls, and if he is in doubt perhaps he will vote against it or maybe he won't vote, but every voter should know that when he goes to the polls on an initiative or referendum matter that the thing is going to be on the law books for three years. If we did not have a restriction such as this in here we would again go through this whole lengthy process, have a special election costing all this money, get something on the books perhaps, and have the very next legislature repeal it, and I believe it is a good safeguard and ought to stay in there.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask Mr. Taylor a question, please? Mr. Taylor, is this type of provision contained in most initiative and referendum laws?

TAYLOR: Yes, Mrs. Nordale it is, because with that out the act is entirely emasculated, and we might as well lay it on the table or postpone it indefinitely or forget about it, because we have no initiative or referendum with that restriction.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Taylor, as I understand the general initiative law, the way you get your veto is another petition through the people and your veto can come in during the time it takes to initiate.

TAYLOR: That is right. I might say that if this part is stricken, the vote of the people would only be in advisory capacity, because it would not mean it is a law, because it

would be subject to repeal by the legislature or vetoed by the governor, so there would be no use of passing this act. You might as well indefinitely postpone it if you strike this part out.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I again suggest that that is a far departure from the representative form of government and that no governor who has been elected by the people is going to veto any initiative measure unless it is clearly demonstrated that that is bad legislation for the Territory. Now so far as the second part of this particular sentence is concerned, it goes clear by one legislature, as I understand the provisions that have been put in here, it will be they have a legislature meet every two years or at least that frequently. By putting that three year provision in here, one legislature would have to sit idly by after this legislation became law, no matter what its effect upon the Territory and could not possibly repeal it, could not amend it or repeal it, and I say the expenditure of 40,000 dollars for an election does not insure good legislation.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to point out that the purpose of the various restrictions which have been placed upon the use of the initiative were designed to prevent insofar as it is possible a situation arising which Mr. Robertson has described. Therefore, I oppose the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" Mr. Marston.

MARSTON: I would like to leave something to the people. If they put a law on the books that's not good, the legislature puts up a law that is not good, they'll take it off. Let's let the people take it off if they don't want it. Let a little something stay in the hands of the people. I think we are getting down a little enough now. I am not happy here with the castigation of this great law. It is continuing and continuing and I am going to try to stop it again, and if the people put in a law that is not good they will take it off. Let the people have a decision on their laws.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: The book, and I am quoting from the Hawaiian Manual, says that with respect to the governor's veto power, "Fourteen states explicitly exempt such measures from the veto power. In regard to the power of the legislature to repeal or amend, only one state entirely forbids subsequent action." I want to point out that we have several problems in this

sentence, and you must distinguish between veto and amending and repealing.

ROBERTSON: Roll call, Mr. President.

PRESIDENT EGAN: The question is, "Shall Mr. Robertson's proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 7 - Johnson, Laws, Londborg, McNealy, Poulsen, Reader, Robertson.

Nays: 45 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooler, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 7 yeas, 45 nays, and 3 absent.

PRESIDENT EGAN: The "nays" have it and the amendment has failed of adoption. Are there other amendments? Mr. Hurley.

HURLEY: Mr. President, I have what I hope will be a constructive amendment.

PRESIDENT EGAN: Mr. Hurley, you may present your amendment. The Convention will come to order. The Chief Clerk may read the amendment proposed by Mr. Hurley.

CHIEF CLERK: "Section 4, page 2, line 10, after the word 'at' strike the balance of the line and strike line 11 to and including the word 'of' and insert therefor 'The first state election after'."

PRESIDENT EGAN: Mr. Hurley, with this new amendment that was adopted of Mr. Rivers, it changes the --

HURLEY: I believe it only went down to line 5.

R. RIVERS: This is later material. Mine did not cover this phase. Mr. President, I might add that several of us have been working on a rewrite of this last half of page 2. We

will have embodied some subject matter that is on the same point as Mr. Hurley's, and perhaps we could get together.

MCLAUGHLIN: I move for a five-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment.

PRESIDENT EGAN: We have an amendment here. Mr. Hurley.

HURLEY: Mr. President, bowing to more proper and more verbiage, I ask that my amendment be withdrawn in favor of one to be presented by Mr. Davis and Mr. Hellenthal.

PRESIDENT EGAN: If there is no objection, Mr. Hurley withdraws his motion. If there is no objection, then the amendment takes the place of the amendment Mr. Hurley had offered. It is offered by Mr. Ralph Rivers and Mr. Hellenthal. Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 2, line 9 (beginning with the word 'Laws') to 17 (ending with the word 'sure') be stricken and the following substituted: 'Laws proposed by the initiative shall be submitted to the voters by ballot title at the first statewide election which occurs more than one hundred twenty (120) days after adjournment of the legislative session following the filing of the initiative petition, unless the legislature at said session shall have enacted substantially the same measure. Questions on referendum shall also be submitted to the voters by ballot title at the first statewide election occurring more than one hundred twenty (120) days after adjournment of the legislature which passed the law being referred.'"

PRESIDENT EGAN: That is quite a long amendment to expect 55 delegates to digest. Mrs. Sweeney.

SWEENEY: I move that we adjourn until 9 o'clock Monday morning.

PRESIDENT EGAN: Mrs. Sweeney moves that the Convention adjourn until 9 o'clock Monday morning.

STEWART: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9 a.m. on Monday?" Mr. Victor Fischer.

V. FISCHER: Point of information. Can this motion be amended as to time?

PRESIDENT EGAN: Under the rules of the Convention it cannot be amended.
Mr. Ralph Rivers.

R. RIVERS: The proposers will have copies of the proposed amendment.
They will be on the delegates' desks on Monday morning.

V. RIVERS: I ask for roll call, Mr. President.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned
until 9 a.m. on Monday?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Barr, Boswell, Collins, H. Fischer, Harris,
Johnson, Knight, Laws, Londborg, McLaughlin, McNealy,
Marston, Nolan, Poulsen, Reader, R. Rivers, V. Rivers,
Robertson, Rosswog, Stewart, Sweeney, VanderLeest,
Walsh, Wien.

Nays: 27 - Awes, Buckalew, Coghill, Cooper, Davis, Doogan,
Emberg, V. Fischer, Gray, Hellenthal, Hermann,
Hilscher, Hinckel, Hurley, Kilcher, King, Lee, McNees,
Metcalf, Nordale, Peratrovich, Riley, Smith, Sundborg,
Taylor, White, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 25 yeas, 27 nays and 3 absent.

PRESIDENT EGAN: So the motion has failed of adoption.

HELLENTHAL: I don't believe anyone will object to letting the long
amendment go until the next session.

PRESIDENT EGAN: You are asking it be held over until Monday?

HELLENTHAL: Yes.

PRESIDENT EGAN: If there is no objection the long amendment will be held
over until Monday. Mr. Hellenthal.

HELLENTHAL: I have an amendment on this topic that was under discussion
a minute ago. It is on the Clerk's desk. It will strike all the words
following the word "Governor" in the last sentence of Section 4, that is
in lines 20 and 21, and I move that that amendment be passed.

PRESIDENT EGAN: The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 4, strike all words after 'Governor' on lines 20 and 21."

PRESIDENT EGAN: Do you so move.

HELLENTHAL: I so move.

BUCKALEW: I second it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I make this motion because although Alaskans should not be afraid to be unique, they would be rather unique if they retained that language, inasmuch as only one other state has it, and it is true that the people propose matters through the initiative, but it is likewise true that the same people elect legislators, and I don't think the people are any less negligent in proposing a matter by the initiative than they are otherwise when they elect their legislators, and any device or any system which would prevent us in this rapidly growing state from keeping pace with progress and from adapting ourselves to changing conditions as they occur would have no place in our constitution. Now it is perfectly proper that a one man, a governor, should be forbidden to veto a matter passed through the use of the initiative. In a fit of petulance he might do that and cause trouble, but amendments are an entirely different thing, and we have just got to keep pace with the progress that I know the state is going to have, and no harm will come. It would take a very evil and a very, very corrupt group of Alaskans, of our own fellows, to attempt to violate and to brush aside the will of the people recently expressed in an initiative, and I know that no harm would come in forbidding change in keeping with progress.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I had the identical amendment. There is only one thing I would like to add to what Mr. Hellenthal has said. I think that we have been talking about this fellow, the people all the while. I think if we are going to protect the people we ought to take that out because they might pass some law that had some little legal defect in it and the legislature would be forbidden to amend it, and the people might go off on a tangent and pass a piece of frightful legislation which might bankrupt the state and yet the legislature could not amend it or repeal it, and the legislature after all represents the people, and I think it is a necessary safeguard.

PRESIDENT EGAN: The question is -- Mr. Smith.

SMITH: Mr. President, I believe that we have already restricted

the people in passing initiative measures in regard to appropriations, and while I don't see any great thing to fear here, I don't see the necessity of the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I decided I was not going to talk any more on this bill. I thought I had said enough, but things happen to look now it's like we had quite a nice looking tree here so the farmer started to trim the limbs and he cut off this and that, and then he got some bigger limbs off, and now I see he is cutting the roots, and the tree will be dead. Of course, it has been slowly dying all afternoon, but this and the amendment awhile ago in which they actually took the teeth out of it I think was the finishing touches, because I think you got a couple of the main roots now severed. and if this amendment passes, it might as well be thrown in the Clerk's waste basket for all the good it is going to do the Territory of Alaska or the people.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Am I right, was not the word "amendment" taken out of that section?

PRESIDENT EGAN: No, three words, "may it be" were added before "amended". The question is, "Shall the proposed amendment as offered by Mr. Hellenthal and Mr. Buckalew be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following results:

Yeas: 27 - Armstrong, Awes, Boswell, Buckalew, V. Fischer, Hellenthal, Hermann, Hilscher, Johnson, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Nolan, Poulsen, Reader, Riley, Robertson, Rosswog, Sundborg, VanderLeest, Walsh, White, Mr. President.

Nays: 25 - Barr, Coghill, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hinckel, Hurley, Kilcher, King, Marston, Metcalf, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Sweeney, Taylor, Wien.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 25 yeas, 27 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption.* Are there other amendments?

R. RIVERS: I have an amendment.

PRESIDENT EGAN: The Chief Clerk may please read the proposed amendment.

CHIEF CLERK: "Line 20, page 2, delete the words 'amended or'."

PRESIDENT EGAN: Line 20, page 2, it is.

R. RIVERS: I move the adoption of the amendment.

DOOGAN: I second the motion.

COGHILL: I object.

R. RIVERS: Now, Mr. President, the fear was well expressed by both Mr. Hellenthal and Mr. Buckalew that some defects in the draftsmanship of a bill which has been enacted by the initiative might prove to be a bad stumbling block, some very bad complications might arise, and to say that the legislature for a period of three years could not amend it, which might be something which the public generally would very much approve, just because the legislature be barred from amending it, might put the new state in a precarious position. The effect of what I propose here is that the legislature may not repeal such an act as was enacted by the initiative but the legislature would be trusted to amend it if necessary.

MCNEES: May I ask Mr. Rivers a question?

PRESIDENT EGAN: Mr. McNees you may, if there is no objection.

MCNEES: I prefer an explanatory answer rather than an unqualified "yes" or "no". Is not the power to amend also the power to kill?

R. RIVERS: I am glad you asked for something more than a "yes" or "no" answer. If you wanted to amend it by taking out some very basic section I suppose in the pursuit of such skulduggery the legislature could practically nullify it. But on

* The Convention voted on December 19, (pages 1115 through 1116) to expunge the announcement of this vote from the record. The correct vote was announced on December 19, page 1119.

the other hand, if the legislature is barred during that period from repealing it, showing constitutional intent that the work of the people shall be honored, then I think you will be trusting your legislature only to make such minor amendments or reasonable and proper amendments as the public need might require.

PRESIDENT EGAN: Mr. Marston.

MARSTON: May I ask Mr. Rivers a question? If things are so bad that you are going to go to hell with some law that the people put in to power, can't they withdraw that? Have they not the good judgment to withdraw that?

R. RIVERS: I don't know how.

MARSTON: By another referendum or initiative?

R. RIVERS: They could perhaps institute an initiative which takes a matter of a year over the whole operative period, and as Mr. Buckalew says, you might bankrupt the state during that year. That procedure is so cumbersome that we might be in trouble. The average legislature that is prevented from repealing a law which was put through by popular vote is going to emasculate it completely but you would save the legislature the power to protect the public by making reasonable amendments if the development so indicated.

MARSTON: If it is so hard to repeal a law and it would be so hard to get it on there, I don't think it would work either way. I think the people would repeal a law if they don't like it.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I should like to speak in favor of this amendment, thinking back a few years to an experience in the State of Washington, which many of us will recall. It was featured in their daily press, almost daily for the greater part of a biennium following the adoption of what I believe was called Initiative 177. It was wholly irresponsible from a fiscal standpoint, unrealistic from the standpoint of the state's finances and it resulted I believe in that one biennium in the calling of some three special sessions before finally their machinery through the initiative enabled the State to reconsider and repeal or to modify substantially the original initiative, by which time the State had incurred an enormous deficit, and it is still suffering from that. I think this is a proper safeguard.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I for one have no objection to the power to amend if

it is used judiciously, but I think it is well illustrated that the power to amend can be the power to destroy, as we have seen illustrated today.

PRESIDENT EGAN: Miss Awes.

AWES: I was just going to remark that there seems to be a great deal of fear that the legislature would destroy this legislation by amendment under the proposed amendment before us now, but I think we should remember that as a practical matter, the legislature is elected by the same people that vote on the initiative and the referendum, and enough of the legislators are going to have their eye on re-election that they are not going to deliberately destroy something the people have shown they want.

PRESIDENT EGAN: Mr. Barr.

BARR: I was going to say practically the same thing. Several times the members have shown distrust of the legislature in that they are trying to protect the people from it. They don't seem to realize that the legislature is the people, the legislature is a section of Alaskan people who are elected by other Alaskan people, and they are there to help the State out, and when a law has been passed by the people under this initiative I am certain they are not going to do anything to destroy it. They may wish to amend it to correct a situation in case the state is going broke under this law. While I am on my feet, I might point out that I voted against the amendment striking the provision against repealing by the legislature. I do not believe they should have the right to repeal it. There are other ways. For instance, the people can start another initiative to repeal it which would take time and is a little cumbersome, or if the legislature was in session and through their investigations found out it was not going to work for certain reasons, they could initiate a referendum and refer it to the people. So I do not think the repeal is necessary to the legislature, but the power of amendment is.

METCALF: Is a motion for adjournment in order?

SUNDBORG: We called for the question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those who are in favor of the adoption of the proposed amendment --

STEWART: May we have it read, please.

CHIEF CLERK: "Line 20, page 2, delete the words 'amended or'."

PRESIDENT EGAN: All those in favor of the adoption of the

proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Doogan, V. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Knight, Lee, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Smith, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien.

Nays: 13 - Coghill, Collins, Davis, Emberg, H. Fischer, Gray, Kilcher, King, Laws, McNees, Marston, Peratrovich, Mr. President.

Absent: 4 - Cross, McCutcheon, Nerland, Taylor.)

CHIEF CLERK: 38 yeas, 13 nays, and 4 absent.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment has been adopted.* Mr. Sundborg.

SUNDBORG: Mr. President, I move that we adjourn until 2 o'clock tomorrow afternoon.

ARMSTRONG: Objection.

V. FISCHER: Second.

PRESIDENT EGAN: Mr. Sundborg moves, Mr. Victor Fischer seconds the motion, that the Convention adjourn until 2 o'clock tomorrow afternoon. The question is shall the Convention stand adjourned until 2 p.m. tomorrow?"

V. RIVERS: Roll call please.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Awes, Boswell, Buckalew, Coghill, Collins, Doogan, Emberg, V. Fischer, Gray, Hinckel,

* The Convention rescinded its action on this amendment on December 19.
(Page 1116)

Hurley, Kilcher, Knight, McNees, Marston, Metcalf, Peratrovich, Riley, Smith, Sundborg, VanderLeest, White, Mr. President.

Nays: 28 - Armstrong, Barr, Cooper, Davis, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Johnson, King, Laws, Lee, Londborg, McLaughlin, McNealy, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Sweeney, Walsh, Wien.

Absent: 4 - Cross, McCutcheon, Nerland, Taylor.)

CHIEF CLERK: 23 yeas, 28 nays, and 4 absent.

PRESIDENT EGAN: And so the "nays" have it and the motion has failed.

V. RIVERS: I move that we adjourn until 9:05 a.m. Monday.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. Victor Rivers moves, seconded by Mr. Robertson, that the Convention adjourn until 9:05 Monday morning. The question is, "Shall the Convention stand adjourned until 9:05 Monday morning?" All those in favor will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the Convention is adjourned until 9:05 Monday morning.

ALASKA CONSTITUTIONAL CONVENTION

December 19, 1955

FORTY-SECOND DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Reverend A. E. Purviance of the First Methodist Church. Reverend Purviance will give the daily invocation.

REVEREND PURVIANCE: Gracious God, our Heavenly Father, we praise Thy Name for bringing us back together and giving us rest over the weekend. We thank Thee now that we may call upon Thy Name for Thy guidance and Thy wisdom. We do not trust our own strength. We call upon Thee now to be with us during the sessions of this day and that if it be Thy will take us safely to our homes and bring us back together again that we may complete the work that is before us. May Thou hear us in this moment of Thy invocation, for we ask these things with humility of thought and in the Name of the Master of us all. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: Seven absent.

PRESIDENT EGAN: A quorum is present. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: I have not had a chance to read it. I would like to suspend it.

PRESIDENT EGAN: Mr. Knight has not had a chance to read the journal and asks permission to suspend it. If there is no objection, the reading of the journal will be suspended until the Committee reports. Are there any memorials or communications from outside the Convention? Are there reports of standing committees? Mr. Smith.

SMITH: Mr. President, I understand that the Committee Proposal on Resources is now available for distribution. I wonder if we might have a minute's recess while they are distributed. I understand they are here.

PRESIDENT EGAN: Have they been distributed, Committee Proposal No. 9? It is available.

SMITH: I fail to see it on my desk.

PRESIDENT EGAN: Would the messenger please bring a copy of Proposal No. 9 to Mr. Smith. Mr. Johnson.

JOHNSON: No. 9 is the report of the Committee on Finance and Taxation.

PRESIDENT EGAN: The Chairman stands corrected. It is another number.

CHIEF CLERK: Yes, it is here. It has not been distributed.

BUCKALEW: Mr. President, I move for a two-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for a brief time.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Smith, is it satisfactory with you if we pass your report until later and have it submitted at a later time?

SMITH: Perfectly satisfactory.

WHITE: Mr. President, in the absence of the Chairman of the Committee on Finance and Taxation, I would like to report that Committee Proposal No. 9 has been prepared and distributed to the delegates, and I ask that it be read for the first time.

PRESIDENT EGAN: If there is no objection, the Chief Clerk will read Committee Proposal No. 9 for the first time.

CHIEF CLERK: "Committee Proposal No. 9, introduced by the Committee on Finance and Taxation, ARTICLE ON FINANCE AND TAXATION."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mr. Riley.

RILEY: Mr. President, about a week ago the question of Rule 35 on the previous question was referred for study to the Rules Committee, and the Rules Committee has on a number of occasions discussed the matter and I am empowered to report that they have no recommendation to make.

PRESIDENT EGAN: The Rules Committee reports that they have no recommendation to make as to Rule No. 35. Are there other committee reports? Are there any proposals to be introduced at this time? Motions or resolutions? The Chair would feel at this time that it would be proper to take up the reports by the chairmen of the various committees, the summaries as to what the meaning of their reports are as we discussed the other day, and we agreed to have those brief summaries from the chairmen or members of the various committees at this time. Is it the wish of the body that this would be a proper time to consider that? Mr. Marston.

MARSTON: Mr. President, I think this is a good time to do that. I would like the suggestion very much. I move and ask unanimous consent that we proceed on that basis.

PRESIDENT EGAN: If there is no objection, we will proceed on that basis. And we might have the first report then come from the Chairman of the Preamble and Bill of Rights Committee, Committee No. V, if you would so desire, Miss Awes.

AWES: All right. I will not attempt to discuss the bill of rights provision section by section. There are about 19 of them, and each of them deal with a different subject. I will point out a few things about the bill of rights in general and then mention a few of the more controversial provisions. I may mention in the beginning that there were quite a number of proposals referred to our Committee, and in our forwarding letter we took up those proposals one by one and mentioned how we disposed of them and usually gave our reasons for our action, so I don't think I have to say anything more on those. The bill of rights - - we considered the various provisions. We usually also considered the pertinent provisions from the Federal Bill of Rights.

PRESIDENT EGAN: Would the people please let Miss Awes continue.

AWES: In some instances we felt that the Federal Bill of Rights, the particular provisions, as long as we have had it that it has served its purpose well and was suited to the needs of Alaska. Some of those provisions already apply to Alaska through the interpretation of the Supreme Court. In those cases we just used the federal provision, and in a report we have noted which of those provisions are identical with the Federal Constitution. Others were changed either because of the peculiar conditions of Alaska or because we felt due to conditions changing in the 150 years or so that we have had the Federal Constitution that some modification should be made. Usually we have noted the modification and often given our reason for it. There are a few provisions which are in addition to those which appeared in the federal bill. One of those is the Section 3, which is denominated to civil rights. That is one that took up quite a bit of time and consideration of the Committee. We finally decided that a general provision with an additional provision, "that the Legislature shall provide appropriate legislation", was the best way to handle it because we felt that it was just impossible to enumerate all the conditions and all the places where people should not be discriminated against because of race, color and origin. If we could do it today, by next year it would be out of date anyway. Section 7 which pertains to grand juries is also different from the Federal. We preserved the grand jury, but we changed the number of grand jurors from 23 to 12, and we also modified the use of it somewhat. We are not substituting something entirely new but something which has been tried in

other states and is found to be more efficient and economical without in any way taking away any protection which the people have or should have. The same is true of Sections 12 and 13 dealing with the juries in criminal and civil cases. Again we tried to provide a procedure which would protect the right to a jury but still to do it more economically and efficiently without sacrificing any rights of individuals, and again the provisions that we have adopted have been tried and found satisfactory in other jurisdictions. Section 18 is also something that does not appear in the Federal Constitution but appears in a number of state constitutions. An explanation of that, which should be sufficient, is found in the report which we submitted. I think perhaps I should mention too, matters which we considered and did not include in the bill of rights. One is wire tapping. That is quite controversial as shown by the fact that we reached a four to three decision and there is a minority report signed by three of the members. I think I can speak for the majority on saying that the reason we did not include it is that we feel that it is a matter that to a certain extent is prohibited by the Federal Constitution and our bill of rights as proposed, that to a certain extent, both due to the fact that perhaps there are circumstances when it should not be prohibited and the fact that science is making so many new developments in that particular area that it is perhaps impossible to treat it in the bill of rights and any additional legislation needed should be handled by the legislature rather than by the constitution. Then another controversial issue -- there is the correlated provision for the right-to-work. The Committee I believe was unanimous in the feeling that there should be no right-to-work provision. One of the members filed a minority report saying that he thought there should be a collective bargaining provision and another member tended that way but not sufficiently to sign a report on it. The other five were agreed that collective bargaining did not belong in the constitution that it is purely a matter of legislative consideration. I think I may point out in that connection, we had several letters from labor unions saying that they did not want a right-to-work provision but we had no communication at all which even intimated that they were interested in seeing a collective bargaining provision in it, which perhaps indicated labor organizations felt the way we do. There again we feel that collective bargaining is also you might say, in a state of evolution, and anything that we put in probably would not have any enduring value, and it is a matter that undoubtedly the legislature will take care of. We also submitted another article on health, welfare and education. The first section is on public education, and except for the last sentence, it is taken almost verbatim from the Enabling Act. We added the one sentence, "No money shall be paid from public funds for the direct benefit of any religious or other private institution." Sections 2 and 3 are just general sections giving the legislature the authority to take the necessary action with reference to public health and public welfare. At first glance

Section 4 may not appear to be necessary in a constitution. But we have found that in other states the courts have sometimes held that the legislature had no authority in the matter of slum clearance and low cost housing unless there was specific authority granted by the constitution. Section 4 grants that authority to the legislature.

PRESIDENT EGAN: Thank you, Miss Awes. Are there any questions that the delegates would like to ask of Miss Awes? If not, I wonder if there is someone present who could report on the report of the Committee on Suffrage, Election, and Apportionment? Mr. Cooper.

COOPER: I am vice chairman of that Committee. As you know, the elections have been through the mill on the floor, so I have nothing to report except on the apportionment. The apportionment of the house and senate was a job, a hard job, and it required a lot of work. The Apportionment Committee, until four days ago, had no concrete proposal. At that time all the delegates who had been to the meeting, as well as the delegates on the Committee, reached I might say almost unanimous decision on the following: "RESOLVED that the house shall be a 40-member house." The reapportionment of the house is set up in the schedule so that at the end of every decennial census within a limited period of time the governor shall appoint a reapportionment board and by mandamus shall act on the findings of that board. In addition to the membership of the house and the reapportionment, the membership of the senate was set at 20. To arrive at the areas which the house and senate districts would represent, your Committee, you might say, redistricted and reapportioned Alaska as of this date but using the 1950 census which were the only sure figures we had to work with. We have redistricted 24 election districts out of the Territory of Alaska. Of these 24 election districts, they are combined to make 12 senatorial districts, and in addition to that we have four senatorial regions which very closely bound the old judicial divisions but not exactly. I don't want to go into it too far because without a map it gets to be very misleading. We will have at the end of the recess a photostat copy of the districting map for every member. The apportionment board that is provided for in the act shall be a nonpartisan board of five members from the general public. They will be appointed by the governor and will act in an advisory capacity, and he is ordered within a limited period of time after their findings to reapportion Alaska which should give the State an up-to-date representation at all times in the house and the senate.

PRESIDENT EGAN: Thank you, Mr. Cooper. The Chair would like to note that we do not as yet have copies of that report. However, it will be available before the day is out. Mr. Davis.

DAVIS: I was going to ask a question about if that report would

be available before we went home.

PRESIDENT EGAN: It will be, Mr. Davis. Mr. Hurley.

HURLEY: I would like to ask a question. Will one of these reapportionment maps be available in the building, or is it now so that we could look at it?

COOPER: I don't know. The one man who has the map is not here this morning, and later on in the day I will find out if the map is upstairs.

PRESIDENT EGAN: Mr. Coghill is going to be here.

COOPER: Then the map will be available today.

GRAY: Along that line, I wonder as long as this is the last day, if the Vice-chairman could have the map placed on the wall or available down here so they can look over it, and any of the Committees would be very glad to answer any of the 10,000 questions on how we reached this map.

PRESIDENT EGAN: The map will be available and placed on the wall as quickly as possible. Mr. Cooper.

COOPER: The Committee through the aid of consultants really went into the redistricting of apportionment of Alaska. Every election district is an individual district within itself based on geographical, social economic basis of the people that live within that district, and I believe that it is a very fine job and that when the Convention as a whole sees this map they will agree, and as Mr. Davis said, the majority of the members are here and I know that the map does require some explanation, but during the day the Committee would be glad to answer some questions because this is a controversial issue that should be brought up during the public hearings.

PRESIDENT EGAN: Mr. Smith.

SMITH: Along that same line, I would like to ask if it would be possible to secure photostatic copies of the map in time to mail them to the delegates before the public hearings are held?

COOPER: We will also attempt to do that.

PRESIDENT EGAN: Would it be asking too much, Mr. Cooper, if you could attempt to see that those maps are mailed?

COOPER: No sir, that is not asking too much. We will do it as soon as we get the photostatic copies made and printed.

PRESIDENT EGAN: Thank you, Mr. Cooper. Mrs. Sweeney.

SWEENEY: I was wondering if we could be at ease so the class could come in and the last proposal may be passed out. They are ready here.

PRESIDENT EGAN: The Convention will be at ease so the school class can come in and the proposal will be passed out. The Convention will come to order. Mr. Cooper.

COOPER: Mr. President, in talking to the members of the Apportionment Committee, it was suggested that a very brief outline be given as to the method of obtaining the apportionment within the 24 election districts that Alaska now consists of. We used the method of equal proportionment. Mr. Gray seems to be an expert on that. It is a system used by the United States House of Representatives, the house consisting of the total population, civilian population of Alaska divided by a house consisting of 40 gives you a quotient, a minimum population. Any election district containing that population has one representative. Now to further guarantee various election districts, representation, we used the method of the major fraction of that quotient, the major fraction being the quotient divided by two plus one. Every election district within Alaska at this time has the minimum population for representation. In later years, as the population increases and the reapportionment board meets, any district falling below the minimum population will be joined to its nearest social economic district. Those two districts, then combined, will have the minimum population and still have their representation. I believe that was all.

GRAY: Additional districts, subdistricts --

PRESIDENT EGAN: Mr. Gray, would you like to talk?

GRAY: I was just going to carry on that these are economic areas. Some of them are rather large. We will just take for instance Skagway -- if it should have a project come in that puts in a population of five to ten thousand. Out of the election districts, if there is a sufficient number in there equal to this quotient, you can set up a district within a district assuring this smaller locale a full delegate in the house of representatives, the idea principally being in this method of equal proportions, the fact that the population divided by the house members, makes each member responsible to an exact number of people. We worked on a 1950 census. I believe the figure was 2,746, and any time that you have 2,746 people in an absolute geographic area they are entitled to one representative, and that was the principle we worked out on these election districts. Now in some places like your municipalities, like Anchorage and so one, they are lumped together. You have multiples of that quotient. Something like Anchorage would get eight because they are right within a district and Fairbanks would get five because those are multiples. Each representative

represents exactly that amount. In any case that you have, we will take Bristol Bay which is one district, but if the time should come where there is a quotient and this quotient varies with every dicennial, but we will say that Bristol Bay has 4,000 people on the north side of the Bay and 4,000 people on the south side of the Bay, each with sufficient number to have one exact representative, then you would subdivide your districts so that each locality that is entitled to a whole member in the house would get it or any multiple thereof. I have asked the boiler room to mimeograph a little typed sample of this that I hope to have this afternoon, so that you are able to study this problem and take it home with you.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I would like to ask one question of Mr. Gray. You have 24 legislative districts then, and you have combined certain of these to make senatorial districts. If you split one of these legislative districts, are you going to have to count each sub as a unit in connection with your senatorial division?

GRAY: No, it is not my understanding of that. The house is based on population, absolutely on population. As your population varies, your representatives follow the population, but in the senate, whatever senate lines are drawn is in my opinion, your senate lines remain permanent regardless of population shift.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I happen to be on this Committee. I don't want to underrate the IQ of this organization, but I do not believe we can all grasp it here without a map and a chart, and this a vital piece of this Convention is in this apportionment and reapportionment, and I think if Mr. Gray and Mr. Cooper, who is Vice-president of this Committee, should have their maps here, and this organization could well afford to give them a major part of an hour some time today. Otherwise, we will just be confused with this on the issue.

PRESIDENT EGAN: Mr. Marston, they have signified that they will have that map here, and we will give them the time if there is no objection. Mr. Smith.

SMITH: I should have waited until we were sure that we were through with the questions. If there are further questions, I would rather wait.

PRESIDENT EGAN: Are there further questions of Mr. Cooper and Mr. Gray? Mrs. Hermann.

HERMANN: Mr. President, I would like to know just what was the

basis for apportionment of senators. That is going to be a very important question in the area where I am going to hold hearings, and I would like to know what the thinking was in apportioning the senators.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. Chairman, Mr. Marston is exactly right. This will get so confusing without a map and without the figures to work from that I am afraid that the Committee will lose the support that we now have, and I would like to, if it is all right with Mrs. Hermann and the other delegates, to withhold until we have the map, and then we can explain it. The major way of choosing a senatorial district is to have your geographic location and yet contain in that limit your economic and social standards that would form a senatorial district. But we do have to have the map.

PRESIDENT EGAN: Is that satisfactory, Mrs. Hermann?

HERMANN: I just want to make sure it is not according to population.

COOPER: No, it is not.

PRESIDENT EGAN: Mr. Cooper will have that information this afternoon. Mr. McNees.

MCNEES: Another very important and contributing factor in this I think is Doug Gray's blackboard explanation of the method of equal apportionment. Would it be possible to have that blackboard down here at the same time?

GRAY: Yes.

PRESIDENT EGAN: The Chair would like to announce at this time that there is a part of the sophomore and part of the freshman class of the Fairbanks High School with us this morning. We are very happy to have you here. Also, we have two visitors from Nome, Mr. Frank Morris who is the district engineer for the Alaska Road Commission there and his wife. We are happy to have you here with us this morning, also. Mr. Smith.

SMITH: I would like to ask unanimous consent to revert to committee reports.

PRESIDENT EGAN: If there is no objection, the Convention will revert to introduction of committee reports at this time. Mr. Smith.

SMITH: I would like to present Committee Proposal No. 8 introduced by the Committee on Resources and ask unanimous consent that it be read for the first time and given a place on the

calendar.

PRESIDENT EGAN: If there is no objection Committee Proposal No. 8 will be read for the first time. The Chief Clerk may read the proposal.

CHIEF CLERK: "Committee Proposal No. 8, introduced by the Committee on Resources, STATE LANDS AND NATURAL RESOURCES."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mr. Victor Rivers.

V. RIVERS: Mr. President, while we are on this order of business, I would like to submit to the Convention, Committee Proposal No. 10 and ask it be read for the first time and placed on the calendar. It is the report of the Committee on the Executive Branch.

PRESIDENT EGAN: Mr. Victor Rivers requests that Committee Proposal No. 10 be read for the first time and placed on the calendar. Mr. Victor Rivers.

V. RIVERS: Mr. President, along that line, I have been advised that our Committee Reports No. 11 and No. 12 supplementing the article on the Executive are also ready, and I would like to have them included in my motion. They are passing them out now.

CHIEF CLERK: No. 11 and 12 have already been introduced. PRESIDENT EGAN: They were read for the first time, Mr. Rivers. V. RIVERS: That is right. Yes, thank you.

PRESIDENT EGAN: The Chief Clerk will read Proposal No. 10 for the first time.

CHIEF CLERK: "Committee Proposal No. 10, report of the Committee on the Executive Branch, ARTICLE ON THE EXECUTIVE."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Are there other committee reports at this time? If not, we will proceed, and could we have a report from Committee No. VII, the Committee on the Legislative Branch. Would some member wish to summarize that proposal? Mrs. Sweeney.

SWEENEY: As vice Chairman I can go over it quickly. The legislature is going to be composed of 20 members in the senate, 40 in the house. Senators must be at least 25 years of age, representatives, 21. They are required to be in Alaska at least three years and in the legislative district from which

they file at least one year immediately preceding their filing. They shall be elected at a time to be specified and their term of office will begin on the fourth Monday of January. Representatives will serve for two years, senators for four years, half of them elected every two years. Vacancies will be filled in a manner to be prescribed or else by the governor. There is a provision which provides that no legislator or other elective or appointive officer can hold any other office or file for reelection except to some other office. There is also an immunity clause which provides a legislator will not be held liable for anything that he says during the session. He is also free from arrest on his way to and from the Convention. We have a salary provision which will say the salary of the legislature will be one-third of the salary of the governor, and the salary of the governor is to be set by the legislature. And also, there is a provision that the legislators may receive per diem so that is a matter that is left to the legislators. From this you will see that the legislators will be paid annually which means they can serve for maybe 60 days and come back and serve another session, but they will receive an annual salary, and there will not be additional pay for those extra sessions. Special sessions can be called either through a poll conducted by the Legislative Council or by the governor and there is also a provision stating that nothing can be brought up at the special session except those things listed by the governor or requested of him to introduce. There is also a provision for the Legislative Council and such other interim committees that the legislature may want to set up. We have a Legislative Council now, and in discussion in the Committee it was felt that it should be stated in the constitution so there won't be any questions later as to whether the Legislative Council was permitted or not. And the interim committees would be such committees as appropriation or finance committee or taxation committee that we want to study problems during an interim period. There is a provision for adoption of uniform rules which I think is not different than what it has been. And also a new provision that the legislature shall direct by law in what manner and what court suits might be brought against state or agencies thereof. We have an impeachment provision which is a little different than that found in other constitutions in that in this article it is proposed that the impeachment will be brought by the senate and heard in the house. And there will also be a justice of the supreme court presiding and two-thirds of the members of the house will be required to carry out the impeachment. Then all civil officers except the governor may be removed for causes other than those which fall in the impeachment bracket. We have a veto by the governor. This is a little different also. The bill is returned by the governor if vetoed to the house. Then the legislature sits as a body, as one body, and then it requires two-thirds of the total number of the legislators to override. There is a provision there dealing with the veto of general appropriation bills which would require three-fourths of the total number. Also,

the governor is given 15 days while the legislature is in session, 15 days time to either sign or veto the bill. If the legislature is not in session he has 20 days in which to either sign or veto the bill. Otherwise it will be law. There is a procedure for the enactment of bills which is not too difficult to understand and also the provision regarding time of taking effect. The time will run from the time the session ends, 90 days after the adjournment of the session rather than 90 days after the time the bill has been approved, which is the case at the present time. There is a section on local and special acts which are prohibited, and also a new section on the remission of taxes. This is prohibited. "No obligation or liability of any person, association, or corporation held or owned by the state or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed or in any way diminished by the legislature, nor shall such liability or obligation be extinguished except by the payment thereof into the proper treasury." That is the main clause and we felt that should be in there. There is also a new section on referendum which states that any bill that fails of passage in the legislature can be put to the people through a referendum by the governor either in its original form or with some of the amendments that had been considered. Bills may also be put to referendum by the legislature by meeting certain requirements, so if they want they can do that. Then, we have a freedom of religion section, and the native land section is practically lifted from the Enabling Act. And the taxes on nonresidents I believe was also lifted from the Enabling Act, one that is required to be in there. And then we set up a board of apportionment which I think you will find not too hard to understand but which we felt should be in there. On the whole I think it is a fine bill and easy to understand.

PRESIDENT EGAN: Are there any questions? Mr. Gray.

GRAY: I would like to ask Mrs. Sweeney a question. We ran into somewhat similar groups. I want to call everyone's attention to it that there will be two apportionment sections and we will only use one.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, our Committee recognizes and I believe other committees recognize their proposals will contain sections which might be a duplication of a section in another proposal, and we felt that when the proposal comes on the floor, if it is not in the proper proposal the section will be lifted and put into some other proposal or it will be cut out entirely. We recognize that duplication and know that some parts will have to be lifted or eliminated.

GRAY: That explains it. I just wanted to call everybody's attention to the fact. They are practically the same except

there is a difference. How did the Legislative Committee arrive at the figures of 40 and 20?

SWEENEY: I believe that was decided at a meeting I was not able to attend. Perhaps Mr. McNees can tell you that.

MCNEES: I might state in that connection that roughly the old rule of thumb that the senate should be smaller than the house. There was some of the Committee felt that we should have a senate of 24, some a senate of 16, and I believe the figure 20 was more or less a compromise figure between those two extremes. It is rather interesting I think that Apportionment and Legislative both should have come up with the same figures. I was going to counter and ask Mr. Gray how his Committee arrived at theirs. Then, in the house we felt that 40 should be a maximum limit and not necessarily an arbitrary figure, and we are willing to give in to Apportionment though on their basis there, I think. We would have no quarrel with the figure "40" in the house being an arbitrary figure rather than an arbitrary maximum, so actually, Mr. Gray, in answer to your question, you might say that the senate figure of 20 was a compromise figure. The figure of 40 was set as a maximum figure.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I would be interested in an explanation of the thinking of the changing of the impeachment process from what is normally used.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. Chairman, you will note that I have some sections I do not concur in, which I purposely did not mention or dwell on that, because I felt that was something that will come up in discussion on the bill at the time we have the bill in second reading. That is one of the things that I am opposed to and I hardly think it has a place here.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, inasmuch as Mrs. Sweeney has filed, in effect, a minority report pertaining to that particular section, it sort of puts her on the spot. I wonder if I might answer that for Mr. Boswell.

PRESIDENT EGAN: Mr. Cooper.

COOPER: The idea of the impeachment proceedings --

SWEENEY: I rise to a point of order. If Mr. Cooper is going to argue or tell why they think it should be in, then I would want to get up and argue the point. I hardly think this is the place or time for it.

BOSWELL: I withdraw my question.

PRESIDENT EGAN: The Convention will come to order. Mr. McNees.

MCNEES: May I call Mr. Boswell's attention to the explanatory article in our commentary relative to the section on impeachment. I think that will explain the situation and get us completely away from any controversy at the present time.

PRESIDENT EGAN: Are there other questions relative to the report of the legislative branch? Mr. Victor Rivers, as Chairman of the Executive Committee, would you like to give a summary of your particular proposal?

V. RIVERS: Yes, Mr. President. As I think all delegates have heard, the Executive Committee has worked on the theory of the strong executive. That was the intention throughout the article to centralize authority and responsibility for the administration of government, enforcement of laws, in a single elective official. Now there is the ideal which is set up by the model constitution. We have some variations on that. We have an elected governor and also an elected secretary of state. The procedure to be followed there would be to elect both of these officials on the same ballot as is done in the State of New York and as is done nationally. The governor's qualifications would be a minimum of 30 years of age, 20 years a citizen of the United States, seven years a resident of the Territory of Alaska. The term of the governor would be for four years, and he could hold office for two successive terms. At the end of that time he would have to have a four year break before he would again be eligible to run for the governorship. We have provided for the governor's replacement in case of a vacancy or in the case of his temporary absence from the state. His powers would be taken over by the secretary of state. We felt the second elected official was necessary in order that when there was a vacancy, an individual who was elected by all the voters of the whole Territory would still be eligible as his successor, both if a permanent vacancy occurred or if the absence was a temporary one. The secretary of state would not sit, under our proposal, as a president of the senate. He would have duties prescribed to him by law and by the legislature. The succession was one thing we had considerable discussion about. The succession would run from the governor to the secretary of state, to the president of the senate, to the speaker of the house, in that order. In the latter two, of course, they would be elected by a segment only of the electorate of the state. In regard to compensation for the governor, it was to be fixed by law. The governor would have the strong power, power of appointing all his department heads. They would also be removable at the governor's will. He would also make the appointments for the multiheaded boards in case there are such, and some there probably will be. The executive secretary of any of the regulatory or quasi-judicial boards

could not be removed by the governor but removed in a manner provided by law. The purpose of that is that in a regulatory board, regulating the power rates, telephone rates, etc., the power of removal might be the power to make the office ineffective so that removal would be prescribed by the legislature. There are set up a maximum of 20 single department heads. The major departments would be limited to 20. That is similar, in parallel to the Hawaiian situation. Those departments were not named, the departments would fall into the classification or in a category set up in an organization chart of the state government. We have covered some other clauses that have to do with related matters, such as a civil service establishment under the administrative department of the state government, and we have included the necessary qualifications for disqualification for disloyalty and for taking oath of office which are more or less mandatory and probably not controversial. I think that covers generally the approach we have made to the executive. I might say that our Committee is not in entire agreement on certain points, but on the major approach however the Committee is in agreement. The other points that we are in disagreement on will probably come out more than once on the floor during the time that our proposal is being studied.

PRESIDENT EGAN: Thank you, Mr. Rivers. Are there any questions? Mr. Davis.

DAVIS: Awhile ago Mr. Rivers mentioned some other portions of this Executive Article. I thought it was said they had been passed out, but I don't seem to have them.

PRESIDENT EGAN: On Saturday they were read for the first time.

DAVIS: I do remember something being done with them, but I don't have them here.

HERMANN: It was referred to the Committee on Ordinances, and the other to the Rules Committee.

PRESIDENT EGAN: That is right, but the copies should have been made available for the delegates. Would the messenger see that Proposals No. 11 and 12 are made available to the delegates, copies of them. Mr. Buckalew?

BUCKALEW: What is Proposal No. 6. I don't have it.

CHIEF CLERK: Local government.

PRESIDENT EGAN: Local government. It will be out in just a few minutes. If there are no further questions at this time on the Executive Branch, we will proceed with the report of the Chairman of the Resources Committee. Mr. Smith.

SMITH: Mr. President, I would like to say first that a letter

of transmittal accompanying the report was hurriedly drawn at 6 o'clock in the evening, and a corrected letter showing the disposal of delegate proposals referred to the Committee will be presented at a later date. I would like to suggest further that anyone who has a suggestion for change or an amendment to offer after the Christmas recess, get in touch with the Committee so that we can thrash that out before the matter comes on the floor. Now, in order to understand the problems with which this Committee has been confronted, in fact in order to be able to understand some of the provisions of the proposal, it is necessary to understand the provisions of the latest enabling act, House Resolution 2535 and Senate Bills 49 and 50. The lack of a general knowledge of these bills has led to some fantastic rumors. Apparently mining representatives throughout the Territory were not familiar with these provisions and had considered the suggested article which had appeared in the original staff paper as something dreamed up by a professor or something dreamed up here at this Convention. Comments of a like nature have come in from as far as California and Texas. In fact, one letter from Texas had it that Texas would oppose the formation of a state with state monopolies on all minerals. The facts are that the latest enabling acts have contained a clause granting to the State of Alaska all mineral rights on all lands granted to the state. This is in itself an unusual provision. During the years when the public land states of the West were being admitted into the Union it was the general policy of Congress to include only nonmineral lands within the grants customarily made to new states. In the case of the United States vs. Sweet in 1918, the Supreme Court said, "It has been the policy of the government at all times in disposition of public lands to reserve the mines for the use of the United States." A material change in this attitude was advanced in 1927 when Congress provided in effect that all grants of school lands should encompass lands that were mineral in character equally with nonmineral lands. The Act of 1927 provided that the states must preserve the mineral deposits from any disposition of title to the lands, that the mineral deposits should be subject to lease as the state legislature might direct, and that the income derived from the leasing of mineral deposits must be utilized for public school purposes only. The incorporation in the latest enabling bills of a provision identical to that contained in the Act of 1927 presumably reflected a desire on the part of Congress to achieve so far as practical, parity of treatment between Alaska and the existing states having congressional land grants. In other words, the thought was that Alaska should be allowed to obtain mineral rights on all its lands only if it would administer them in substantially the same manner that states now having mineral land grants are required to administer the lands obtained by them under grants from the United States. A decision by Congress not to earmark for public school purposes any of the land grants proposed for Alaska coupled with a desire to get the new state off to a flying start towards

self-support probably induced Congress to grant to Alaska mineral deposits on all its lands subject to the restrictions imposed by the Act of 1927, which are identical to the restrictions imposed in the latest enabling bill. This resulted in the inclusion of Section 205, subsection J of the present enabling bill, which reads as follows: "The grants of mineral lands to the State of Alaska under this section are made upon the express condition that all sales, grants, deeds or patents for any of the mineral lands shall be subject to and contain a reservation to the State of all the minerals in the lands so sold, granted, deeded or patented, together with the right to prospect for, mine and remove the same. Mineral deposits in such lands shall be subject to lease by the State as the state legislature may direct, provided that any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States." With this background your Committee could only proceed on the presumption that the Act admitting Alaska as a state would contain a provision of this kind. The problem then was to attempt to find a way in which the mining industry, including the small operator, the large operator and the prospector could continue to operate insofar as is possible under conditions at least equal to and in a manner closely paralleling those under which they now operate. In devising such a system it was necessary to consider the operations of those now operating under a leasing system, such as oil, gas, coal, etc. This attempt called for the devising of a completely new approach, something entirely different from anything ever attempted before. In devising this new approach your Committee was fortunate in having the assistance of a good many people, including of course, Professors Bartley and Ostrom and a goodly number of Alaskans to whom I feel the Committee will be forever grateful. The entire proposed article probably goes further than anything of a like nature in attempting to foresee future developments and to properly safeguard the public interest and in the natural resources of the future state. However, every general principle embodied in this proposed article has ample precedence. This proposal has been submitted in its initial stages to the scrutiny of such men as Mr. Greeley, Regional Forester for Alaska, Mr. Holdsworth, Commissioner of Mines, Mr. Brown, Commissioner of Agriculture, Mr. Barnes of Shell Oil Company, as well as to the scrutiny of a goodly number of other people. It is probably far too early to say just what their verdict will be, but the comment has so far been all favorable. Each of these people has been asked, "Do you see anything in this proposed article which might be unduly restrictive on private industry?" answer has been almost unanimously "no". The provisions of the enabling bills covering lands and resources have been summarized by the Senate Committee which has initiated and carried these provisions through the various enabling acts in the report of the Senate Committee on Interior and Insular affairs. Now this Senate Committee report is available in the library upstairs. Copies can be had by writing to Delegate Bartlett, House

Building, Washington, D. C. Now in explaining or commenting on the proposed article itself, I would like to call upon Mr. Burke Riley who has acted ably as the Secretary of this Committee. Mr. Riley, would you take over?

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I don't think there is particular occasion to enlarge on Mr. Smith's remarks too fully. One thing we have is a detailed commentary which I trust every delegate will take with him and read over the recess. Mr. Smith remarked about a somewhat doctrinaire proposed article with which the Committee was once rather unpopularly tagged. It drew a great deal of fire and some interests were somewhat gun shy for good and sufficient reason, but I think to get the basic idea of our present article one need only refer to the first paragraph, a statement of purpose in the nature of a preamble which states, "It is the policy of the State to foster and encourage settlement and development through the maximum use and availability of its resources consistent with the public interest and the avoidance of waste and to that end it is the intent of this article to extend to all peoples the opportunity of participating in Alaska's heritage . The Committee has had to break new ground all the way on this, largely for the reason that this particular subject matter has had very little attention in constitutional coverage in the past. And for that reason the Committee has worked right up to this moment interviewing people and drafting and redrafting, and I am sure I express the view of the entire Committee when I suggest that we are not yet pleased with the content from the standpoint of style and full coverage. And no one has any pride of authorship here, and we hope to enlist the aid of anyone so disposed over the recess to assist in its perfection, so that a finished article may be put on the floor early after the recess. I will go down the commentary very briefly just to indicate what the main portions cover. The first section recites generally what the State's authority in the field is over natural resources, their utilization and development; and recites them by name as including game, fish, wildlife, fisheries, waters, lands, mineral rights, and other interests in the lands. The second section is a general statement that the sustained yield principle, not sustained yield by any limited usage or application of sustained yield but the sustained yield principle will be followed and will be the policy of the state as to all replenishable resources. The third section sets forth a general reservation to the people covering such matters as game, fish, wildlife, fisheries, and waters. That is amplified, or each of those is amplified in part throughout the article. The forest section is a general authorization for aid to users of the lands and other resources, aid in the nature of that provided by farm agents as to utilization of lands, by the forest service as to the best utilization of timber stands. The fifth section is one of uniform application which requires no comment at the time. The sixth

section is one taken from a delegate proposal or I believe from several, whereby the state is authorized to reserve scenic, historic, cultural or scientific sites of interest from those standpoints and to administer them. The seventh section is simply a definition of the state public domain, which would eliminate from that definition the sites just mentioned, put aside for historical, cultural, scenic, etc., purposes. It would also eliminate those random parcels of real estate around the country which might be held for strictly governmental purposes in the nature of office buildings, etc. This section also grants to the legislature, general authority for the selection of lands and their administration, those lands to be granted to the state by the United States in the enabling act. The eighth section covers generally a provision for leases, authorizes the leasing of state lands, and the ninth section, the same coverage on sales and grants. The tenth section is very brief. I think that has merit as compared with most state constitutions I have checked on this point, and it simply sets up safeguards for observing the public interests in the disposal of all the public domain. Such matters as advertising, sales, competitive auctions, competitive bidding, where the sales will be held and under what conditions, we believe can all be spelled out amply by the legislature without its enlarging this article in the constitution. Section 11 I think is perhaps one of the most important in the entire article. It touches on the one matter which has been highly controversial throughout the Convention to this point, and that was the attitude of the Committee and of the state to be with respect to mineral interests in the lands granted by the United States. As Mr. Smith has suggested, the Committee has been mindful throughout of the apparent Congressional directive we will be operating under should present language in the enabling bills be retained and contained in the final enabling act. That language reserving mineral rights in all granted lands to the state has been something of a poser, and we have met that in two ways. First, we have tried to set up a procedure parallel but on a leasing basis to the present disposal system under the Federal Mining Law, reserving patent but in all other respects maintaining the familiar concepts which all the mining industry and prospectors are accustomed to discovery, appropriations, filing of location notices, etc., right on through. That is one section, I might add, which I consider to be still imperfect, and I would certainly be pleased to have any comments over the recess and on our return in that respect. Section 12 has to do with water rights. It is spelled out that we shall use the appropriation system in the State of Alaska, the old concept of first in time, first in right. Section 13 has to do with access to navigable waters; Section 14, no exclusive right or special privilege of fishery. Section 15 is something of a poser. It is new ground for many of us, and it too may require some blue penciling and clarification. It has to do with the concept of beneficial use and also with concurrent use of lands. In short, we seek to authorize one piece of property as being

available for more than one purpose, if that may be done consistent with the primary use, and that is a point where a scale must be set up indicating orders of preference in beneficial use. Normally the highest beneficial use in water, for example, is considered to be domestic or industrial consumption. Others are irrigation, fisheries, and hydroelectric. I won't go further into that except to indicate that that is one of the matters which may be a departure from our thinking in the past and which I believe the delegates should familiarize themselves with insofar as possible in the next few days. Section 16 is an eminent domain section. Where the term, "private ways of necessity" is featured it has been lifted from other constitutions and appears in a number of them and is aimed at providing a means of access for the utilization in transportation of resources, forest products, or is an eminent domain section which may duplicate one elsewhere in the constitution, but is aimed at the resource field entirely. Section 17 is simply a restatement of the enabling Bill's boundary provision, and Section 18 is a statement, "Common place residual powers indicating that the coverage giving in the constitution is not necessarily a limitation on the legislature."

PRESIDENT EGAN: Are there any questions of Mr. Riley? Mr. Peratrovich.

PERATROVICH: I would like to ask one question on Section 2. I know this question is going to be asked of perhaps a few of the delegates that are interested in fisheries. Now this sustained yield, did the Committee take under consideration the conservation of fisheries, etc., under this section?

RILEY: That was certainly our purpose, Mr. Peratrovich, in tying this language to all replenishable resources. Perhaps one of our two specialists in that field on the Committee could give you a fuller statement, but it was very much in the Committee's mind.

PERATROVICH: Does this mean then it will be left to the State legislature to determine whether it will be a sustained yield program?

RILEY: It would seem to me the legislature would have to set up an administrative agency which in turn would conduct biological studies and meet with the fishermen in the establishment of regulations, seasons, and that sort of thing.

PRESIDENT EGAN: Mr. Lee.

LEE: May I ask a question, Mr. Riley? Mr. Riley, is the wording of this similar to Washington's and Oregon's constitutions as far as controlling the regulation of the fisheries?

RILEY: I can't answer that, I am sorry, Mr. Lee.

LEE: I was just wondering, for instance, in the matter of fish traps, I'll bring that up. It was necessary for Washington and Oregon to use the initiative in order to use that form of conservation. Does it appear to you that that may be the method necessary here?

RILEY: Don't let me suggest, but I can't answer that. When you first rose I thought I would have a direct question on that because theirs is provided by initiative, threw me off in your first question. The Committee has considered at length the matter of fish trap coverage in the constitution, or I should say, fish trap abolition. They had considered it on several occasions before Delegate Lee's proposal came in. I should therefore say there is unanimity in the Committee, all favoring vigorously Delegate Lee's proposal, but the feeling was after a rather searching consideration, that there was probably not occasion for its being given treatment in the constitution as such. Now this thought may be subject to change, but the Committee itself, in issuing a proposal, felt there were other and equally effective means that would be available just as soon as the constitution was enforced. In short, we could offer something in the constitution here which would have no more meaning than the first act of the first legislature might have, the first state legislature that is, and it was our rather, shall we say, high level thinking that there was no need to impose any economic sanctions in the constitution itself. It should not surprise me if the article as it comes out the other end of the horn will be a little different in that respect.

PRESIDENT EGAN: Are there any other questions? The Convention will be at ease. The Convention will come to order. Does the Vice President of the Committee on Finance have a summarizing report to make at this time? Mr. Barr.

BARR: The Committee on Finance and Taxation has a report ready, and a copy is on each member's desk. I will ask our Secretary, Mr. White, to go over the commentary for us.

WHITE: Mr. President, Committee Proposal No. 9, Article on Finance and Taxation. I think I will just run briefly through it section by section and preface it by saying that I believe as far as the Committee is concerned, the Committee feels that this is as brief and straightforward an article on finance and taxation we could arrive at. It is aimed to assure a sound system of finance and taxation and leave as much leeway to the state as possible and the sound practices to be carried out in the future. Section 1 is a rather routine statement that the power of taxation shall never be surrendered or contracted away. The reason for the division of the thought there and the addition of the words, "except as provided herein" is to remove doubt as to what we might mean later on down in the article by providing exceptions. Section 2 is a requirement

of the enabling act which the Committee felt belonged in the Article on Finance and Taxation. It is a standard provision. Section 3 is a provision for the legislature to provide the standards of assessments, uniform standards of assessment to be used throughout the state. This is not found in most constitutions, but the Committee felt that it would be to the interest of the state if some sort of standard of assessment could be set up essentially and be made available to the local taxing unit for their use, in that it would save cost and result in higher standards of assessment being used. Quite a bit of discretion is left to the legislature in setting that up, however. Section 4 deals with exemptions from taxation, most of it is pretty standard. The reason in the first sentence for the words, "with such exceptions as the legislature may direct" in referring to taxation of real and personal properties of the state and of its political subdivisions, is to leave to future legislatures the decision as to whether normally business enterprises of the state or political subdivision should or should not be taxable. The exemption given to religious, charitable, cemetery, or educational purposes is pretty standard. These are the only ones we have attempted to spell out here. And then in the last paragraph of that section it provides that other exemptions may be provided by general law. This would allow for, among other things, for a granting of tax incentives to new industries. Section 5 has come from the enabling act and it provides that no tax should be imposed upon the property of the United States except as allowed by federal law. The last two sentences in that section have been adopted almost verbatim from the enabling act. Section 6 gives to the state the power to tax lease holds, contracts, or other interests of land or property owned or held by the state. Sometimes that matter is in doubt if it is not spelled out. Section 7 is a standard provision of which I think needs no further explanation here. Section 8 states that all revenue shall be deposited in the state treasury without allocations for special purposes, with two exceptions. The Committee found it necessary to add the words, except where state participation in Federal programs would thereby be denied." Certain Federal programs of aid to states now demand that certain funds be earmarked for the purposes stated, and of course it is always possible that in the future, additional Federal laws might so state. The last sentence allows for the continuation of such earmarked funds as the Territory now has or will have upon the date of ratification. That is one place where there was some difference of opinion within the Committee, and this sentence represents the majority view. If I might digress for a moment, the Territory of Alaska now has approximately 27 per cent of its funds earmarked for special purposes, and those are the ones which would be continued or allowed to be continued under this section. The legislature could eliminate them in the future if they want to. As you all know, those are primarily the tobacco tax for school purposes, the motor fuel tax for roads, highways, airports and harbors. Section 9 deals with the

contraction of debt, and it is a provision that ordinary debt shall be for capital improvements and must be approved by the voters of the state by referendum with certain standard exceptions which are repelling invasion, suppressing insurrection, defending the state in war, meeting national catastrophes, or redeeming outstanding indebtedness of the state at the time the constitution becomes effective. Section 10 allows the state to borrow money in anticipation of the collection of the revenues for a period of one year without the referendum provision applying. Section 11 in its first part allows for refunding of debt by the calling of current bonds and issuing of new ones at lower interest rates without the referendum. And in the last part it provides that the public enterprise or public corporation may incur indebtedness and the only security for such indebtedness is the revenues of the enterprise or the public corporation, or indebtedness incurred under special improvement statutes when the only security for such indebtedness is the properties benefited or improved or the assessments thereon. There actually is no way of getting around this. Most states have found that with severe debt restrictions that they wind up with this kind of enterprise any way, and the courts hold that debts incurred by this type of enterprise do not come under the standard debt restrictions, so we have made this provision here to spell it out clearly and avoid litigation in court. Section 12 has a rather standard provision of requiring the governor to submit a budget to the legislature along with appropriation bills and bills covering revenue measures that the executive department might desire to cover later. Section 13 is a standard section providing that money shall not be withdrawn from the treasury except in accordance with appropriations made by law and providing in its last sentence for the recapture of unexpended funds which have been appropriated at intervals that can be specified by the legislature so as to enable the state to clean up its books periodically and start afresh. Section 14 provides for the appointment of a postaudit by the legislature and allows the legislature to prescribe its duties, provides that he will conduct a postaudit and report to the governor and legislature. We felt it unnecessary to go into any further detail than that because the legislature in hiring such an auditor should have full rein to prescribe its duties. Section 15 merely provides that the state shall assume the debts and liabilities of the Territory and the debts owed to the Territory and the assets of the Territory.

PRESIDENT EGAN: Thank you, Mr. White. Are there any questions? Mr. Cooper.

COOPER: Mr. President, I have a question I would like to ask. In your Section 4, right at the last of page 1, "All or any portion of property used exclusively for nonprofit religious, charitable, cemetery, or educational purposes as defined by law, is exempt from taxation." How was it taken into

consideration the fact that a charitable institution might own ten acres of revenue-producing ground in a locality other than the ground on which the institution itself existed?

WHITE: Mr. President, in answer to Mr. Cooper's question, the intent of the Committee here is to allow for tax exemptions on property used for religious, charitable, cemetery, or educational purposes, to be exempt from taxation, but to provide for taxation of income-producing property, and furthermore, to allow for proration of such income-producing property. For example, if a religious organization should own an office building, a part of which is rented out, a part of which is used for its own purposes, the intent here is to allow the taxation of the income-producing part of that office building and exemption on the non-income producing part.

JOHNSON: May I ask Mr. White a question please.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. White, in Section 9 and 10 there seems to be a limitation on the right of the state to borrow money. However, on just a cursory examination, I don't see anything spelled out about a debt limitation. Did the Committee consider that matter? For instance, the United States government, to use an example, has a debt limitation fixed periodically. Is anything of that nature contemplated by this section?

WHITE: Mr. President, as to Mr. Johnson's question, there is no dollar debt limitation set forth here. The Committee considered various dollar or percentage limitation, decided that it was undesirable to restrict the state in such a way, and furthermore that where such restrictions had been tried in other states they had not resulted in the intended purpose. In other words, the credit of most states where strict limitations are in effect is generally no better than the credit of states that have no debt limitations. The only limitations here are that ordinary debts be submitted to the voters for approval, that debt may be incurred without referendum by the people where the enterprise financed by the debt will be self-sustaining and that the state may borrow short terms of money one year on anticipation of revenues. We considered other limitations and discarded them.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I might add to that a little bit. The Committee did consider for a time allowing the legislature to provide for a debt up to a certain limit, but that was decided against, so at the present time the only debt of the state now which can be allowed is a debt to be paid out of anticipated revenues, that is from year to year, except a debt which must be approved by the people on referendum. In other words, the people are the ones that put the limit on any public debt, any large amount.

PRESIDENT EGAN: Mr. Rosswog, do you have a report on the Committee on Local Government?

ROSSWOG: The proposed article has been distributed, and I would like to ask at this time to return to the introduction of committee proposals, and I ask unanimous consent.

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business introduction of committee proposals. The Chief Clerk may read the proposal for the first time.

CHIEF CLERK: "Committee Proposal No. 6, introduced by the Committee on Local Government, LOCAL GOVERNMENT."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mr. Rosswog.

ROSSWOG: Mr. Chairman, the commentary on this proposal is not quite completed, and as some of the members in the Committee worked with Mr. Cooper yesterday to finish it up, and it will be distributed before this session is over today, but at this time I would like to make some explanation of our work on this proposal. Now when this problem of local government structure, where the State of Alaska was placed before the Local Government Committee, we first considered whether local government units as we have them in the Territory were sufficient to take care of our needs as a state. It was our conclusion that the three classes of cities and the service areas we have now were not sufficient. For a growing state the framework of some form of intermediate government was needed. Without this framework, the orderly creation of local government units, there was a great possibility that we could have a hodgepodge of different local units that would be almost impossible to untangle at some later date. Now, in our considerations we can do two things, we can simply state that we should have cities and then some other unit between the cities and the state, or we could outline a plan on which such units could be built. The Committee felt that the first possibility we would be shirking our responsibility. We felt that in drawing up a plan we should keep in mind that we should not disrupt the present local government units any more than it was just possible to do so. We approached the problem with three basic rules in mind, one, that the unit should have as much local home rule as possible. Second, that the overlapping of authority and taxing power should be held to a minimum, and third, that any form of local units should be adaptable to different sections of Alaska. If you will take the proposed article we will go to Section 1, and I believe that is self-explanatory. That states our purpose and also allows for liberal interpretation. Section 2 provides for two primary units of local government. These are the cities and the boroughs. The name "borough" was selected because it had a meaning of local government and still was broad enough to cover a large

area and also that it would be immediately recognized as pertaining to government and would not be confused with anything else. The city and the borough would be independent but also would be integrated. If each were a completely independent unit we would have the same problems and abuses as in most of the states who are divided into counties, parishes or townships. The difference between this unit and the county, as usually created, is that the county is usually set up to work from the upper level down and to handle functions that are sometimes handled by the state, such as police, the lower courts, the roads, and recordings, etc. Our purpose in creating this local unit was to build from below and up and give local home rule where these units could take on these duties, and up to the amount that the local people were able to carry. Section 3 provides that the borough or intermediate unit should be set up in three classes. The first would have almost complete home rule, the second would have limited home rule and the third would have only basic government or be unorganized. Section 5 sets up the governing body of the borough. We have put it in as an assembly composed of members of city councils and members from the rest of the area. Section 6 provides for service areas within the boundaries of the other units. Section 7 provides for the authority of the city and its governing body. Both the city and the borough can be municipal corporations. Section 8 establishes the jurisdiction of the two units and the separation of their functions. Section 9 establishes the taxing power of the two units and prohibits delegating this to other units. Sections 10 and 11 establish a principle of home rule, and Section 12 provides for operational forms of government to be set up by the legislature. Section 13 makes provisions for establishment and change of boundaries and the way they shall be determined. On boundaries we felt that the units should have assistance and supervision from the state level. Now, under ordinary home rule charters, the unit sets up its own boundaries and authority, but under our proposal the boundaries would be under a commission or agency established by the legislature and also a department or agency in the state government would provide assistance to the local unit. Articles 15, 16, 17 and 18 cover and review the setting up of special districts and financial burdens, etc. I think we have not too much comment to make on those, but I would like to say that this plan, as proposed, is new in lots of ways as far as the Territory is concerned, but it is based actually on experience in local government in not only the states but in other countries and also on the studies that have been made for combining the smaller local units, particularly in the states. We feel that it has a base and experience behind it.

PRESIDENT EGAN: Mr. Rosswog, did the Chair understand also that it is your intention when the Convention comes back from its hearings recess to call the proposal back for a brief time to rearrange certain sections?

ROSSWOG: We thought it might be necessary after our recess that this proposal should be put out, and we would be glad to receive any suggestions. The Committee will remain active and if necessary we may call the proposal back for any changes necessary, and we hope any of the delegates that have questions or suggestions will come to us in the meantime.

PRESIDENT EGAN: Thank you, Mr. Rosswog. At this time, the normal order of business, we would come back to Committee Proposal No. 3, the proposal relating to the question of initiative and referendum. Mr. Ralph Rivers.

R. RIVERS: Section 4, the last half of Section 4, has been submitted as an amendment which would be along very soon, and I thought we might take up Mr. McNealy's reconsideration.

PRESIDENT EGAN: The Chair would like to make a statement before we proceed at all, and that is that the Chief Clerk informed the Chair not long after the adjournment on Saturday night that an error had been made in totaling the roll call tabulation of the amendment, one of the last amendments that was offered to Committee Proposal No. 3. Others who had been totaling the particular amendment had caught it in their totals and the Chief Clerk also had caught that particular error. Would the Chief Clerk please explain that particular thing to the delegates at this time.

CHIEF CLERK: Well, I announced 25 yeas and 27 nays, and it should have been the other way around -- 27 yeas and 25 nays. It was striking all the matter after the word "governor" on line 20 and striking line 21. It was putting a period after the word "governor" actually.

PRESIDENT EGAN: The Chief Clerk read the totals, as the Chair understands it, as being 27 nays and 25 yeas. As a matter of fact it should have been just the other way around, and that error that was found by the Chief Clerk has been corroborated by others who were keeping a total at their desks at the time of the voting on the proposed amendment. Mrs. Sweeney.

SWEENEY: I think then it is in order that I move and ask unanimous consent that we rescind all action back to that point.

PRESIDENT EGAN: The Chair would feel that that would be probably the thing to do or to expunge it and possibly vote on whether the motion to expunge from the record or rescind would be better in this case? The Chair is not quite clear.

SWEENEY: Possibly "expunge" is correct.

PRESIDENT EGAN: Then take another vote on the particular amendment or just to have it read into the record differently?

SWEENEY: I think it is probably better to expunge it up to the point where the roll call is called again.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for about one minute while we confer with the Chairman of the Rules Committee.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, I withdraw that previous motion that I made.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that she withdraw the previous motion she made. If there is no objection the previous motion is withdrawn. Mrs. Sweeney.

SWEENEY: Mr. President, I move and ask unanimous consent that we rescind our action on the amendment on line 20, page 2 which called to strike the words "amended or".

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that we rescind the action taken on line 20 which deletes the words "amended or". Now the reason she is asking that is that after this wrong total was reported to the Convention, another amendment was offered. The only other amendment we acted upon Saturday evening was offered to strike the words "amended or". Now, actually, that was all stricken in the previous amendment except that the majority was read as having been 27 nays instead of having been 27 ayes. So in adopting Mrs. Sweeney's unanimous consent amendment we would have then reverted back to the point where the Chair could correct the announcement that was made as to the vote on the previous amendment Saturday afternoon. Mrs. Hermann.

HERMANN: That would not rescind the vote?

PRESIDENT EGAN: This particular motion would rescind the vote on the amendment that followed that but not the original vote. Is there objection? Hearing no objection the action has been rescinded relative to striking the words "amended or" relative to that amendment. Mrs. Sweeney.

SWEENEY: Now Mr. President, I move and ask unanimous consent that we expunge from the record the President's announcement of the vote on the amendment which would have stricken all of the words on line 20 after the word "governor", which is the amendment that is in question now.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that we expunge from the record that part of the record wherein

the President announced the vote on the particular amendment that we are now considering or that we are back to. Mr. Robertson.

ROBERTSON: Mr. President, I think Mrs. Sweeney should include in it line 21 -- she just said after the word "governor" in line 20.

PRESIDENT EGAN: Mr. Robertson, in the particular motion that Mrs. Sweeney made she was referring not to the amendment that we are back to now but to the amendment that followed that which did, as the Chair remembers it, only include those words "amended on line 20. But we have rescinded our action on that. Now we are back to the original announcement of the vote. Mr. Hurley.

HURLEY: Mr. Robertson I think is right. When she wanted to expunge the record she only made reference to line 20, but she meant also line 21.

SWEENEY: Yes, I just said that everything beyond the word "governor" on line 20, which would take on into line 21, the balance of the sentence.

PRESIDENT EGAN: Then the motion will stand as corrected, if there is no objection. Mr. Riley.

RILEY: Mr. President, I will object only for clarification. It occurs to me that if we expunge all this matter from the record after having rescinded, what meaning does that give our action? Does it show in the journal this morning?

PRESIDENT EGAN: That was what the Chair felt too, Mr. Riley, that the only thing we are expunging from the record is the announcement of the Chair as to what the voting result was and not anything with relation to lines 20 and 21 in this particular motion.

SWEENEY: That is right. I was just sort of clarifying my statement. I just wanted to expunge that part that says, "that the motion failed".

PRESIDENT EGAN: If we expunge this from the record then, it would be in order for the Chair to state that the result of the vote was 27 ayes and 25 nays. That would be the effect of the adoption of Mrs. Sweeney's unanimous consent request. It would then put the Chair in the position of being able to announce the correct vote. Does everyone have that clear? Is there objection to the motion to expunge from the record? Mr. Doogan.

DOOGAN: I object. It would appear to me, Mr. President, that if you are going to expunge that portion from the record, then you should expunge any reference to the amendment that followed,

because actually it was clear out of order.

PRESIDENT EGAN: We rescinded the action.

DOOGAN: It will show on the journal that you rescinded, so if you expunge the announcement of the vote as it was announced in error, then you should go on into the journal and it says that you rescinded your action and it would be kind of confusing would it not?

RILEY: Mr. President, that is what I am thinking of. The journal today I think speaks for itself.

SWEENEY: We have an objection. We have no motion before us. I suggest Mr. Riley start from scratch.

PRESIDENT EGAN: Do you so move?

SWEENEY: No, I don't move, so we don't have anything before us.

PRESIDENT EGAN: Mrs. Sweeney withdraws her unanimous consent request. Mr. Riley.

RILEY: Mr. President, if we may defer this, perhaps a few of us might get together at the first opportunity and consider various aspects of it from that point.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Sergeant at arms has informed the Chair that when he went to get the blackboard that someone was there to get the blackboard to take it back to where it had originally been borrowed from, saying that they needed it again, but they left it. The engineer left it there and went back to find out how urgently it was needed, so that is still up in the air as far as the blackboard is concerned. Mr. Cooper.

COOPER: If two of us can be excused we could go up and get the information.

PRESIDENT EGAN: That seems that it might be considerable length of time, and with us having this question and motion hanging here it might be best to take up the subject we are on first. Mr. Riley.

RILEY: Mr. President, I move and ask unanimous consent that to expunge from Saturday's record the Chair's erroneous announcement covering the vote under consideration and show the corrected

announcement to reflect the vote, that we expunge all further reference in Saturday's journal to any remaining portions of that sentence since at that time there was no remainder.

PRESIDENT EGAN: You have heard Mr. Riley's motion. Did the Chief Clerk get the motion?

RILEY: I have it.

PRESIDENT EGAN: Is there objection to Mr. Riley's unanimous consent request? If there is no objection, it is so ordered, and that matter is all deleted up to the point where the amendment had been voted upon by the Convention. Mr. Riley.

RILEY: I would like to make a further motion and ask unanimous consent that the time for reconsideration be extended on that particular vote which was announced erroneously to the first Convention day following recess with the requirement, of course, that if reconsideration is desired that notice must be given today, this for the reason that --

PRESIDENT EGAN: The Chair first had better announce the vote. The Chair will announce the result of the vote. The result was 27 ayes and 25 nays, the result of the vote on the amendment and therefore the proposed amendment is ordered adopted. Now, Mr. Riley.

RILEY: Because of the possibility that those on the prevailing side were unaware of the fact that they were on the prevailing side and vice versa, it is possible someone has been denied the opportunity to reconsider who might otherwise have given notice that day. For that reason I ask that the rules be suspended and that anyone disposed to reconsider be allowed to give notice today and that reconsideration come up on the first day following recess.

PRESIDENT EGAN: Is there objection to Mr. Riley's request? Mr. Kilcher.

KILCHER: I want more information. If so much time has elapsed on so many amendments, and I would like to have that particular roll call vote result read, if that is in order, by the Chief Clerk so that I may be able to recall exactly who voted how.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment and then the vote by "ayes" and "nays" on the particular amendment.

CHIEF CLERK: "Line 20, page 2, strike all matter after the word on line 20 and strike line 21." (The clerk read the "ayes" and "nays".)

KILCHER: Mr. President, I think that if the roll call had been

announced correctly this particular day I would have changed my vote in order to be on the prevailing side. Now can that still be done?

R. RIVERS: Mr. Riley has asked that the period for reconsideration be kept open now in view of this change, but it can only be by someone who voted on the prevailing side.

COOPER: Point of order. Does a man have to change his vote before the announcement is made?

PRESIDENT EGAN: That is right. It would take someone who voted "aye" to serve notice of a reconsideration, if there is one. Mr. Riley.

RILEY: I will renew my motion and ask unanimous consent, Mr. President.

PRESIDENT EGAN: There was no objection to it as the Chair remembers it, to the unanimous consent request. So if anyone who voted "aye" wishes to reconsider that vote he may do so at any time before we adjourn today. Mr. Collins.

COLLINS: In view of the discussion, we have consumed a great deal of time of this Convention expressing our own individual ideas in regard to this amendment. Now the Committee, in view of what has transpired, so many amendments to our report, the Committee met during the recess and we have about come to the conclusion that we can agree on a proposed amendment that might prevent a lot of discussion on other amendments and the question involving Section 4. First, we thought we would ask for a continuation of this after the recess, holding our same right on the calendar to be heard and not losing our right as it has been set. I think if we proceed, Mr. Davis might throw some solution on this. I think we have virtually agreed and met the objections. I think we can arrive at some conclusion and save time and finish this report.

PRESIDENT EGAN: You mean that during the dinner recess you can come together? Mr. Taylor.

TAYLOR: We did during the recess. A number of those who have been pro and con on this proposition met, and I think that it is possible some of us who are interested in getting this bill through, can during the noon recess, if we are given a little time, come up with an amendment that will properly resolve the differences suggested by those who are opposing the matter, so instead of putting it over until after our recess

PRESIDENT EGAN: Are you asking that it be held over until after our noon recess?

TAYLOR: Yes, sir.

PRESIDENT EGAN: If there is no objection, Committee Proposal No. 3 will be held for consideration until after the noon recess. Mr. Davis.

DAVIS: Mr. President, there is one thing hanging fire that will prevent any final work in connection with this and that is Mr. McNealy's motion for reconsideration. I think we ought to take that up before noon recess. It won't affect what the Committee is going to try to do.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I move and ask unanimous consent that my reconsideration of last Saturday be voted upon at this time.

PRESIDENT EGAN: Mr. McNealy moves that his reconsideration be acted upon at this time. The motion in itself opens the proposed amendment to debate. Mr. Riley.

RILEY: Just to be consistent with the rule. I would ask unanimous consent that it may be allowed. It has been encountered before, as you recall.

MCLAUGHLIN: Could the question be fully stated prior to debate so we will know?

PRESIDENT EGAN: Do our rules say it is not debatable, Mr. Riley?

RILEY: It has to be under the suspension of the rules.

PRESIDENT EGAN: Then if there is no objection, it may be open to debate. Mr. McLaughlin?

MCLAUGHLIN: Mr. President, may the full question be stated so the delegates will know what it is about?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: I didn't bring it down but I think it was the one changing fifteen per cent to ten.

PRESIDENT EGAN: The proposed amendment that changed fifteen per cent of the voters to read "ten per cent of the number of votes."

CHIEF CLERK: No, it was to change "eight" to "fifteen".

PRESIDENT EGAN: No, it was changing "fifteen" to "ten".

TAYLOR: It was changed to "fifteen" and upon my amendment which carried it was reduced to "ten per cent". The question now is whether the ten per cent is going to remain or whether it goes

back up to fifteen per cent. I think we have had sufficient argument on this. I think I have pointed out several times, and others too, that due to our geographical circumstances that fifteen per cent would possibly be an undue burden upon the people who wanted to launch an initiative proposition and that ten per cent would be more in line with the proportion of the voters in the other states, some of them as low as five per cent and a great many eight per cent, and the fact that eight per cent seems to be the prevailing percentage in a great many of the states, that to practically double that would place, as I say, an undue burden upon the voters, and I feel that since the majority of the Convention yesterday felt that ten per cent was the proper amount, I believe that we should retain that figure.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I won't take up time in debate on this. When we had it at fifteen per cent it removed largely any objections that I had, and several others that I talked to, it removed our objection to the initiative system because we felt it would not be misused. I think possibly I am going to vote to retain the fifteen per cent but possibly somewhere between ten and fifteen per cent would be common ground. I feel that ten per cent, however, is too low, and that the bill then, and with one or two other proposed amendments as to the dates of holding election, would make this one of the finest bills in the Convention. If we cut the requirement down too low it will not do us any particular good.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think if you hold that to where Mr. McNealy moves it, it removes the possibility of the law ever functioning. It is too high. Nineteen states have it averaged under eight per cent. We had one of our main parts taken out by the delegate on my left here and it threw it back to protect the legislature. The lady will have to stand responsible to the people for that and answer that question, why they took it away from the people. Now when you go into a bill before the legislature, and its vital corporations have a lobby which goes in and protects those corporations, the people do not have a lobby and cannot go down and work and defend their bills. I am for holding that at not one point above ten per cent. If you do, the law is practically unworkable, and I am on the side of the people and I am going to stay on the side of the people, and they are not going to take the laws away from the people too far. This initiative and referendum is important. It is a wholesome law, and the people should have it. And the amendments shoved in here have surprised me, and I am surprised at the people that would do that, attack a law of the people as viciously as they have and made it so difficult to work. I think the law should be workable. We should take up the pattern after the nineteen

states who have adopted them. I believe that men of good will toward the initiative and referendum by the people will keep that at ten per cent because they have no chance, the people have no chance to go down and lobby. They have not the money or the ability to do it; while big corporations can and others can go down and lobby and take care of themselves. I hope I never have to talk on this again.

BUACKALEW: I was going to suggest (this is no reflection on Colonel Marston) I was going to suggest that we get a record, "Battle Hymn of the Republic and we'll play it at this time. According to Delegate Marston anybody who votes for fifteen per cent are against the people. I am going to vote for fifteen per cent and I think I am protecting the people. I think I am protecting the people from a costly machine that is going to bog down and perhaps might even destroy the State of Alaska. Sometimes I think some of the delegates think maybe we ought to abolish the legislature and do everything by initiative. That would be one way to do it, and it might work. I am going to vote for fifteen per cent.

PRESIDENT EGAN: Mr. White.

WHITE: I was going to talk on much the same vein, so I'll be brief. I wish to point out that the delegates who supported most of these motions, amendments to the proposed article, do so because they think they are protecting the interests of the people, and I would like further to say that the motion made by the lady at Delegate Marston's left was concurred in by the majority of the Convention. I am one of the majority and I'll support it along with her.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: It seems to me one feature we have not considered in this percentage deal is the number that it is the percentage of. We are comparing a number of states that perhaps have several million voters. One per cent of that vote would be equivalent to fifteen per cent of our Alaskan vote. It does not seem to me that the argument holds just because nineteen other states' average is eight per cent that that is a valid reason for setting our figure at that percentage, because we are dealing with an entirely different figure. Fifteen per cent when Alaska gets several million people would certainly not be a good figure, but until we reach that time and I would think we should hold it at fifteen per cent, and when we have another Constitutional Convention if Alaska has three or four million people, then we would naturally lower it, but until that time I think it should remain somewhere between ten and fifteen per cent.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, along that line I might point out

that the states when they adopted their initiative and referendum in their constitutions many of them, seventeen states, had less population than Alaska has at this time. We have seen no drastic abuse with the safeguards we have in this act. I also want to point out that regardless of the thinness of our population, now requiring signatures from two-thirds of the districts would require that our people at a minimum cover an area of approximately 300,000 square miles, which is somewhat about three times of the area of the average state, which is in the neighborhood of 80,000 square miles. We have placed handicaps here in the matter of getting signatures so great that when the fifteen or even a lesser figure, I feel we have robbed the initiative and referendum of a good deal of its usefulness. I think ten should be an absolute maximum, and I feel also that it could well go below that and not be abused but a useful instrument in the hands of the voting populace.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I do not concur that ten per cent is an absolute maximum. The percentage of people initiating an initiative or referendum on the fifteen per cent basis, based on the last general election, would be 2.12 per cent of the total population in Alaska. That is based on a figure of estimated population of 180,000. I have those figures from Mr. George Rogers who has served here as a consultant. The ten per cent would mean that seven-tenths of one per cent of the people, the total population of Alaska, could bring about legislation through an initiative or referendum, and I believe that the small percentage of people that could affect the over-all population should be at least 2.12 per cent, the fifteen per cent required.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall fifteen per cent be changed to read ten per cent?"

TAYLOR: I think you put that wrong. The vote passed and put it to ten per cent. Now Mr. McNealy is trying to get it changed.

PRESIDENT EGAN: That brings us back to the original question, Mr. Taylor. The question is to the delegates, Shall we change 'fifteen per cent' to read 'ten per cent'?" Mr. Harris.

HARRIS: Mr. President, I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Coghill, Collins, Davis, Doogan, Emberg, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston,

Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest.

Nays: 23 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, V. Fischer, Gray, Johnson, Laws, Londborg, McNealy, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 5 - H. Fischer, Hellenthal, McCutcheon, Nerland, Sundborg.)

CHIEF CLERK: 27 yeas, 23 nays and 5 absent.

PRESIDENT EGAN: So the motion has carried and the amendment is ordered adopted. Are there other amendments? Mr. Hurley.

HURLEY: Mr. President, I would like to ask for a point of information, if I may. I am sorry to have to revert to this, but I did not have clearly in my mind. The matter was when we expunged the record and we subsequently adopted by unanimous consent an agreement whereby a person could move for reconsideration by announcing it today and following the recess -- I wonder what the Rules Committee had suggested, if anything, on the matter of announcing a motion to rescind the action?

RILEY: Mr. President, it is my memory that we have done nothing on that matter to rescind. Are you speaking of a prospective rescinding?

HURLEY: I wish to move to rescind the action and the difference between the two-thirds and the majority would be the difference on whether I announce it.

RILEY: I believe you would have no problem by filing notice today, it would automatically carry over to the next Convention day.

PRESIDENT EGAN: That is correct, Mr. Hurley, and if you serve notice, a notice to rescind the action today, it would be on the next Convention day it could be rescinded by a majority vote.

HURLEY: Would it be proper at this time to give such notice?

PRESIDENT EGAN: It would be proper I think. Mr. Peratrovich.

PERATROVICH: I would like to have a little information on that. Is it necessary to give notice?

PRESIDENT EGAN: If you wish to have it rescinded by less than a two-thirds majority vote.

PERATROVICH: Is that our own rules?

PRESIDENT EGAN: No, that is Robert's Rules. It is not mentioned in our own rules as the Chair recalls it. It is the Chair's recollection that it is not mentioned in our own rules. Mr. Peratrovich.

PERATROVICH: I was under the impression, Mr. Chairman, that the only time you give notice of such a motion is on a reconsideration. If it is rescinding it seems to me we have to act on it now.

PRESIDENT EGAN: No, Robert's Rules says on the motion to rescind also that you can take up the action right then, and it takes a two-thirds majority vote. If there is previous notice given, it takes a majority vote, much the same as notice of reconsideration, except on the notice of reconsideration, you don't necessarily wipe out the action taken. Mr. Hurley.

HURLEY: I was not so worried about the two-thirds vote. I understand they are going to reconsider the whole situation, and it may be that it would take care of the whole situation.

PRESIDENT EGAN: You can make that motion any time before we adjourn if you so choose to do so. Mr. Davis.

DAVIS: I move now that we recess until 1:30 today.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess until 1:30 p.m. Is there objection? Objection is heard. There is nothing before us. Mrs. Sweeney.

SWEENEY: I am wondering if we can't go on to the discussion by the Apportionment Committee at this time and just finish that?

PRESIDENT EGAN: That might take hours.

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds Mr. Davis's motion to recess until 1:30 today. Mr. Rosswog.

ROSSWOG: I have a committee announcement. May I make it at this time? The Local Government Committee will meet at 1:15 upstairs.

PRESIDENT EGAN: The Local Government Committee will meet upstairs at 1:15 this afternoon. Mr. Boswell.

BOSWELL: I would like to call a meeting of the delegates who are going to remain in Fairbanks, immediately following adjournment, in the gallery to discuss for just a few minutes our plans.

PRESIDENT EGAN: Mr. Boswell announces a meeting of the delegates who are going to remain in Fairbanks in the gallery immediately following adjournment. Mr. Coghill.

COGHILL: Your Committee on Administration would like to meet in the regular committee room at 1 o'clock with the President of the Convention.

PRESIDENT EGAN: The President will meet with the Committee of the Administration Committee at 1 o'clock if he can. Mr. Robertson.

ROBERTSON: Saturday there was referred to the proposed letter of Delegate Marston to the recommendation of the Rules Committee, but we have not received the letter yet. I would ask our Chairman if he would hold a meeting on that letter immediately following the recess at that time.

PRESIDENT EGAN: Mr. Cross, is it your wish to hold such a meeting?

CROSS: Yes, I would like to call a meeting immediately after recess.

PRESIDENT EGAN: There will be a meeting of the Resolutions Committee immediately upon recess. Mr. Gray.

GRAY: This might be the last opportunity, but the hearings in Juneau, the Committee going back to Juneau, we will probably hold our meeting on the airplane ride, and we will be sure to conduct the meeting on a high plane.

AWES: Is there a meeting of the chairmen today?

PRESIDENT EGAN: No, not today. Mrs. Hermann.

HERMANN: I wanted to ask Mr. Riley if it is his intention to hold a regular meeting of the Rules Committee on recess?

RILEY: It would be my thought that the Rules Committee will set the next day's calendar perhaps that morning.

PRESIDENT EGAN: The next day's calendar will be set upon the return from the hearings recess. Mr. Barr.

BARR: It seemed that several committees want to meet briefly during the noon hour, so I move for recess until 2 o'clock this afternoon.

PRESIDENT EGAN: We have a motion before the Convention to recess until 1:30 this afternoon, Mr. Barr.

DAVIS: I will have no objection to changing it to 2 o'clock if

that is what the group wants.

PRESIDENT EGAN: If there is no objection then, the original motion shall be that the Convention stand at recess until 2 p.m. Those in favor of the Convention standing at recess until 2 o'clock this afternoon will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. Chairman, your Committee on Administration met during the lunch hour and there were several problems that were brought up. One of them is the problem of having someone here or at the message center during the time of recess. For the information of all delegates, if they do need any of the committee proposals or individual proposals, any material that is here at the Convention Hall, they are to address their requests by wire or phone or letter to the Convention Hall, the secretariat at the Convention Hall, and they will receive attention to the matters which they are requesting. Another one of the matters that was brought up before the matter of Committee on Administration was the clearing of personal effects from the tables on the plenary session floor. This door cannot be locked and probably during the 15-day recess the University staff might wish to use this hall for certain activities, and it will be open to the public. So, therefore, if you will pile all of the stuff that you wish to leave here at Convention Hall, the Sergeant at Arms and the messengers and secretariat will remove personal effects to the Committee room upstairs and lock it up. Upon reconvening after recess the material will be back in the places on your desk.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Point of information. When Mr. Coghill says personal effects, does he mean our working papers?

COGHILL: That is what I refer to, your own working material.

PRESIDENT EGAN: The Chair notes that in the gallery is a group of Fairbanks High School students. We are happy to have you with us, and we hope you enjoy the afternoon session. Mr. Davis, did you have something to bring before the Convention?

DAVIS: I think, Mr. President, the other day Mr. Rivers filed a proposed amendment to a portion of Committee Proposal No. 3. That amendment was proposed by Mr. Rivers, Mr. Hellenthal, Mr. Smith, Mr. Sundborg and myself, and we would now like to have that matter considered, if it is the pleasure of the Convention.

PRESIDENT EGAN: What is the pleasure of the Convention relating to the particular amendment as offered by Mr. Hellenthal, Smith, Davis and Ralph Rivers? Mr. Ralph Rivers.

R. RIVERS: I want to call attention to the fact that the mimeographed copy of that proposed amendment is on the desk of each delegate. It pertains to the last half of Section 4 of Proposal No. 3. Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Page 2, line 9. beginning with the word 'laws', to 17 ending with the word 'sure' should be stricken and the following substituted: "Laws proposed by the initiative shall be submitted to the voters by ballot title at the first statewide election which occurs more than one hundred twenty (120) days after adjournment of the legislative session following the filing of the initiative petition, unless the legislature at said session shall have enacted substantially the same measure. Questions on referendum shall also be submitted to the voters by ballot title at the first statewide election occurring more than one hundred twenty (120) days after adjournment of the legislature which passed the law being referred."

PRESIDENT EGAN: What is the pleasure of the Convention? Mr. Ralph Rivers.

R. RIVERS: Mr. President. I move the adoption of that amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the amendment.

DAVIS: I second the motion. I would like to point out that the effect of the proposed amendment would be to do away with the special elections for initiative or referendum matters, putting the matter on the ballot at the next statewide election whether it be a primary election, a general election or a statewide or a special election called for another purpose, which we feel would have the effect of doing away with the tremendous cost that could occur by reason of numerous special elections on these matters. We think that the amendment, if adopted, will keep the essence of the Committee's proposal but clear it up a little bit so that the election procedure would be more workable. I also would like to suggest that there is some wording in the proposed amendment that possibly is surplus, but we felt that rather than getting into an argument here over words that we would put it in the way we have it and let Style and Drafting go to work on clearing the language up to put it in better form than it now is.

KILCHER: I would like to address a question to Mr. Davis.

PRESIDENT EGAN: If there is no objection, Mr. Kilcher.

KILCHER: Could you tell me what maximum time should elapse between the start of an initiative that is not acted upon voluntarily then by the next legislature? If I understand correctly, 120 days after such legislature, when would the next general election be? How much time could possibly elapse at worst?

DAVIS: Mr. Kilcher, I have not read to this time the setup on state elections as proposed by the Legislative Committee. But assuming, for the purpose of argument, that they have elections only every two years, it would be possible, the longest time that would be possible would be two years less 180 days. On the other hand, if the primary elections are held, or if special elections are held for some other reason, it would be much sooner. I don't believe I can answer it any closer than that at this time.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Could somebody from the Legislative Committee give me the additional information on what they have proposed so I will know where I stand on this amendment?

PRESIDENT EGAN: Mrs. Sweeney, could you answer that question?

SWEENEY: I don't believe there will be an election more often than once every two years, but special elections can be called by the governor or by the representatives themselves if they wish to initiate the procedure, and the poll would be made by the Legislative Council, but it is possible that with an annual session that the matter under consideration might be taken care of at an interim session.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, since I sat down Mr. Nolan has pointed out something to me that might partially answer this thing. The primary election is held substantially ahead of the general election. It works out to be a little bit over a year I believe and after the legislature adjourns, so if you would take 180 days off of that and it would probably be something under a year before the next election would occur.

KILCHER: In any case?

DAVIS: It would appear.

PRESIDENT EGAN: Is there further discussion? If there is no other discussion, the question is, "Shall the proposed amendment as offered by Mr. Hellenthal, Mr. Ralph Rivers, Mr. Smith. Mr. Davis and Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes"

have it and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 3?

ROBERTSON: Are we now through Section 4?

PRESIDENT EGAN: At this moment we are, Mr. Robertson.

ROBERTSON: I would like to ask a question relative to Section 5, Mr. President, which one or two other members have the same doubt in their minds. It was amended I understand by changing line 24 so to put a comma after "public funds" and then inserting "in lieu of" instead of "or", so it reads "of earmarking of revenues", and what I am interested in knowing is whether or not that means now that funds can't be earmarked by either initiative or referendum, and I know some of the other delegates wonder if that is the thought of the language.

PRESIDENT EGAN: It probably was not the thought. Mr. Davis.

DAVIS: I put it in and what I had in mind was that earmarking the funds could not be done by initiative. That is what I had in mind.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I have on the Chief Clerk's desk an amendment to Section 5, which I think will clear this matter up. The sentence still leaves me in some doubt, and I would ask that it be read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 2, Section 5, line 22-25, strike the first sentence and insert in lieu thereof: 'The initiative and referendum may not be used as a means of earmarking revenues, for making or defeating appropriations of public funds, or for local or special legislation.

PRESIDENT EGAN: What is your pleasure? Mr. White.

WHITE: I move the adoption of the amendment.

BUCKALEW: I second it.

PRESIDENT EGAN: The proposed amendment is open for discussion. Mr. White.

WHITE: Mr. President, the reason for the amendment -- I discussed the matter with the Committee, and I understood their intent to be that the initiative could not be used as a means of initiating or earmarking of funds. As written now it is a little unclear, and it might possibly be construed to mean it

could not be used as a means of defeating earmarking of funds, which I think is not the intent of the Committee.

PRESIDENT EGAN: Mr. Smith.

SMITH: I concur in what Mr. White has said.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I ask for unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent.

DAVIS: I don't want to object, but I would like to have it read again.

PRESIDENT EGAN: The Chief Clerk will please read the amendment once more.

CHIEF CLERK: "Page 2, Section 5, lines 22-25, strike the first sentence and insert in lieu thereof: 'The initiative and referendum may not be used as a means of earmarking revenues, for making or defeating appropriations of public funds, or for local or special legislation.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I guess it would be in the nature of a question that I have. The thought occurs to me, and I could be wrong, but it is serious if I am right. Could that be interpreted as eliminating the possibility for an initiative on a local level, that last phrase there?

PRESIDENT EGAN: Mr. White.

WHITE: Not in my mind, but I have not changed the Committee's wording in that respect at all. I would refer you to the Committee.

PRESIDENT EGAN: Mr. Smith.

SMITH: I might say that it was not the intent of the Committee to prohibit the right of initiative to any local government. The Committee intent was to prevent the initiation of legislation affecting local areas wherein the people of the state as a whole would be allowed to vote on issues which concerned only one locality.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Without even consulting with the Committee on Local Government, that word "local and special legislation" has a specific meaning in the law and in fact it is the expressed

intent of the local government article that no local laws, that is laws of special and local effect shall be passed, but only general laws applicable to all communities shall be passed, so it does not confuse or contradict any article.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers asked unanimous consent for the adoption of this amendment. Mr. Barr?

BARR: I would like to ask Mr. White a question on this amendment. Maybe it is an oversight. The wording of this amendment says that the initiative shall not be used for earmarking funds", but it does not say anything about being used for defeating earmarking of funds which the original amendment did contain.

PRESIDENT EGAN: Mr. White.

WHITE: I feel this is entirely in keeping with my usual moment, and I would like to see the initiative left open for the defeating of earmarking of funds. I understand that was the Committee's intent. I just wanted to clear it up.

PRESIDENT EGAN: Mr. Gray.

GRAY: Going back to the original Committee, what they mean by "special legislation". It occurs to me that all legislation is special. I wonder if the Committee could report on that.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: The same explanation that Mr. McLaughlin just gave on the other local legislation, answers the question. It is something that has already been established by law and defines exactly what we mean. Perhaps I had better let Mr. McLaughlin explain the legal definition, but it is used in every article on this subject and it is specific.

MCLAUGHLIN: The best example of special legislation which is usually prohibitive is one you find in our Organic Act prohibiting the legislature from granting a divorce, which was a common device many years ago. When I say special legislation I mean the granting of a specific divorce would be special legislation. Special legislation would also constitute the direct incorporation by legislative act of a corporation with special privileges. All of that is special legislation which is here denominated.

R. RIVERS: As a member of the Judiciary Committee, I would like to amplify what Mr. McLaughlin said, and this goes back to experience in the legislature when I was down there. If the legislature should appropriate 50,000 dollars for a school house at North Pole, that would not be legal because that is an appropriation of a general public fund for a specific locality.

If the legislature appropriates 50,000 dollars for the use of schools of the cities of the third class, and that money to be allotted by the Commissioner of Education as the need may arise, then any city of the third class, which happens to be North Pole, could get the 50,000 dollars. If you would say that if we had jurisdiction over fish traps that a particular fish trap at a certain cove shall be abolished or closed, as an act of the legislature, that would be special, but if you say all fish traps of a certain classification shall be closed, that is general legislation. So local and special laws have that particular meaning in all the books in all the constitutions.

PRESIDENT EGAN: Is there objection at this time to Mr. Ralph Rivers' unanimous consent request for the adoption of the proposed amendment? If there is no objection, the amendment is ordered adopted. Mrs. Wien.

WIEN: Mr. President, in the gallery is Mr. R. H. Derr, and at this time I would like to move and ask unanimous consent that he be given the privilege of the floor. He is Manager of the Fairbanks Chamber of Commerce.

PRESIDENT EGAN: Mrs. Wien moves and asks unanimous consent that Mr. Derr be granted the privilege of the floor. Mr. Gray.

GRAY: I object for a minute -- just as long as he does not tell that lemon-squeezing story. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Derr, we are happy to have you with us. Will you come forward. (Applause)

MR. R. H. DERR: Members of this wonderful body. I would like to use a few minutes of your time for something very precious, a Christmas message. There is an old story of a new, rich American being shown about the Vatican gallery in Rome wherein is hung some of the most famous art treasures of the world. This American had never learned to appreciate or thrill to the messages of great paintings or thrill to their innate wonders. So he listened in bored silence to the ecstasies of his guide and finally said, "You may be right, but I would not give you ten dollars for a whole carload of them." The guide replied, "Sir, you are not judging these masterpieces, they are judging you." Of the last generation a very famous preacher was reading a criticism of one of his sermons by a newspaper reporter who did not understand and couldn't comprehend, and when he was asked to refute it he said, "I am sorry -- I could give him a careful statement of the case and a reasonable interpretation of the facts, but I could not give him the ability to understand it." It has been the world's misfortune, not the Christ child's, that it has never fully comprehended the light He brought into the world. If the world fully understood the vastness of His

message we would be rid of woe, bloodshed, hardship, strife, poverty, ignorance, and hunger. Every hearer listening to a thoughtful sermon is judged by that sermon; listening to great music, he is judged by the music; and reading a serious book, he is judged by the book. In a sense it can be said that any person is in a dangerous position who exposes himself to the light. He will forever after be judged by that light. To man and man alone has been given the power to become. The hummingbird that built a nest outside of your window last spring achieved something of a wonder. Rare indeed would be the man who could match it either in delicacy or in craftsmanship, but the important thing to note is that from time to time it builds other nests but never shows any improvement, either in its concept of what a nest should be or in its skill as a builder, but man made in the image of God is never satisfied with his building. He begins with a mud hut along a far stream or a cave far up in the mountains, and goes on from there to build either a cathedral of St. John the Divine or a Taj Mahal. Every generation of man undertakes to improve upon the works of its father. Every class graduating from our universities has been exposed to a little more light than his predecessor. You may be wondering how this is a Christmas message. So do we wonder how old is Christmas. Viewed as a festival it is only 1600 years old. Most of us would say that Christmas being the birthday of Jesus Christ dates from about 4 B.C. But its beginning may be calculated as one calculates the beginning of this new constitution you are writing. You might say it was on the day this building was first entered for organization, or the date you will affix your names to the completed document, or going further back, we may justifiably say that this constitution began when the first Alaskans felt the need for a new form of government. So it is with the age of Christmas. As a festival of worship it was entered in the fourth century, but the cornerstone was laid in a manger at Bethlehem and back at Bethlehem were the dreams of a Deliverer cherished by the people of Israel. Even the Greek philosopher, Plato, expected it when he wrote, "Only by way of some divine disclosure coming in to life from outside it could men find the way of truth and freedom." So to you wonderful people who would write a constitution for Alaska, who by your earnestness of purpose, your ability to labor hard and long, and above all, your willingness to being exposed to the light have endeared yourselves to the people of Fairbanks and all Alaska. We wish you a most enjoyable Christmas season, and may you return imbued with those gifts from the manger -- love beyond our love, wisdom beyond our wisdom, and a power beyond our power. The hinge of history is on the stable door at Bethlehem. God bless all of you. A merry Christmas and from your labors here will come a happy new year for all Alaska. Thank you very much.

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: I yield to Mr. Londborg.

LONDBORG: I have an amendment here to the Rivers' amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as offered by Mr. Londborg.

CHIEF CLERK: "Section 3, page 2, after the word 'signatures' in the next to the last sentence of the Rivers amendment, delete the rest of the sentence and substitute the following:" It's that mimeographed sheet, is that right?

PRESIDENT EGAN: The Convention will be at ease for a moment. It would be to Section 4, Mr. Londborg. Was it an amendment offered on Saturday? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "After the word 'signatures' in the next to the last sentence of the Rivers amendment, delete the rest of the sentence and substitute the following: 'from each of two thirds of the election districts of the state with signatures equaling not less than 3% of the number of voters casting ballots for governor in each such district in the preceding general election at which a governor was elected.

PRESIDENT EGAN: What is the pleasure of the Convention as regards Mr. Londborg's amendment?

LONDBORG: I move the adoption of the amendment.

WHITE: I object.

JOHNSON: I second the motion.

PRESIDENT EGAN: The motion is open for discussion.

R. RIVERS: May I have the privilege of the floor?

PRESIDENT EGAN: If there is no objection, Mr. Ralph Rivers, you may have the privilege of the floor.

R. RIVERS: I have discussed this with Mr. Collins and other members of the Committee that brought in Proposal No. 3 and various others of us who have worked on it, and we have thought that it would be well to keep Proposal No. 3 in second reading for all purposes until after the recess. This amendment presently introduced by Mr. Londborg is controversial. There are many members who should get away from here by about 3:30 this afternoon. There will be expressions from the public on the initiative and the referendum, and so my thought is that it would be well now if we agreed to leave the whole proposal in second reading for all purposes until after the recess and do no more with it until then.

BUCKALEW: Objection.

R. RIVERS: I won't make a motion. That is my thought.

DOOGAN: Question. I would like to ask Mr. Rivers, does that include the recall section too?

R. RIVERS: That would include the whole proposal in second reading.

PRESIDENT EGAN: Under his question of privilege, Mr. Rivers suggested perhaps that Proposal No. 3 remain in second reading until after the recess. Mr. Collins.

COLLINS: Amplifying, Mr. Rivers, at the recess, the Committee in conjunction with other members that were interested in the passing of this report agreed and thought it advisable to hold the matter over until after the recess in second reading and prevent it from getting into any controversial discussion here this afternoon when many other things have to be taken up.

PRESIDENT EGAN: We have, Mr. Collins, at this time a motion to adopt an amendment to this particular proposal. Are you requesting the author of that proposal or asking him whether or not he would accede to

COLLINS: I thought it was agreed on that we would do that and give them a chance after the recess and have a chance to come in then and give them time to think it over until we reconvene. I thought it was generally understood.

PRESIDENT EGAN: There is nothing before us except the particular motion relative to this amendment. Mr. Riley.

RILEY: I may be out of order. I had thought it was in the process of being withdrawn. I'll defer to Mr. Londborg.

HURLEY: I will second the motion.

PRESIDENT EGAN: The motion has been seconded. Mr. Johnson seconded Mr. Londborg's motion.

RILEY: It has been seconded? May I have the floor on a matter of personal privilege for a moment?

PRESIDENT EGAN: If there is no objection, Mr. Riley, you may have the floor on question of personal privilege.

RILEY: I should like to serve notice of reconsideration of the vote cast on the controversial matter this morning.

PRESIDENT EGAN: Pardon, Mr. Riley.

RILEY: I should like to serve notice of reconsideration concerning the matter of the vote cast on the controversial matter this morning, relating back to last Saturday's journal.

PRESIDENT EGAN: You don't do that under a motion of personal privilege.

RILEY: I am just indicating now I am going to do it.

PRESIDENT EGAN: Mr. Smith.

SMITH: If it is in order I would like to move that consideration of Mr. Londborg's amendment be postponed until January 4.

PRESIDENT EGAN: The Convention will be at ease for a moment or two. The Convention will come to order. Mr. Taylor.

TAYLOR: I rise to a point of order. I think Mr. Smith's proposal is out of order.

PRESIDENT EGAN: Mr. Taylor, whether it is out of order or not, the Chair was going to ask Mr. Smith if he would hold his motion inasmuch as Mr. Londborg has signified an intent of withdrawing the original motion for the time being.

TAYLOR: I would like to make a motion that it be laid on the table.

COGHILL: I will second the motion.

PRESIDENT EGAN: Mr. Taylor, did you offer a motion then?

TAYLOR: Yes, to lay on the table.

PRESIDENT EGAN: The question is, "Shall the motion as offered by Mr. Londborg be laid on the table?" All those in favor of saying the particular motion on the table will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll. Mr. Fischer.

V. FISCHER: Point of information.

PRESIDENT EGAN: What is your point of information?

V. FISCHER: If the amendment is laid on the table, does that lay the proposal on the table?

PRESIDENT EGAN: No, just that particular amendment, Mr. Fischer, not the proposal with it.

JOHNSON: Point of information, Mr. President. Mr. President, is the motion to lay on the table subject to an amendment to lay it on the table for a specific time?

PRESIDENT EGAN: Not at this time, Mr. Johnson, it is not. The Chief Clerk will please call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 24 - Boswell, Coghill, Collins, Cross, Emberg, Gray, Hilscher, Hinckel, Hurley, King, Knight, Lee, McLaughlin, Marston, Metcalf, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor, Wien, Mr. President.

Nays: 25 - Armstrong, Awes, Barr, Buckalew, Cooper, Davis, Doogan, V. Fischer, Harris, Hermann, Johnson, Kilcher, Laws, Londborg, McNealy, McNees, Nolan, Poulsen, Reader, Riley, Robertson, Rosswog, Sweeney, Walsh, White.

Absent: 6 - H. Fischer, Hellenthal, McCutcheon, Nerland, Sundborg, VanderLeest.)

CHIEF CLERK: 24 yeas, 25 nays and 6 absent.

PRESIDENT EGAN: So the motion has failed, and we still have the motion before us.

LONDBORG: Did you have a motion to hold it all over in second reading? If you don't have, I would like to have the privilege of withdrawing the motion for amendment until later date, and ask unanimous consent.

PRESIDENT EGAN: Mr. Londborg asks unanimous consent that his proposed amendment be withdrawn for submission at a later date. Mr. Riley.

RILEY: At this time I would like to serve notice that I should like to reconsider my vote. I recall that I was on the prevailing side considering a period after the word "governor" on line 20, page 2.

PRESIDENT EGAN: Mr. Riley serves notice that he will move a reconsideration of his vote on that particular amendment. The notice by Mr. Riley has the effect of keeping, will keep Proposal No. 3 before us until after the hearings' recess. Mr. Robertson.

ROBERTSON: Mr. President, I thought that we agreed by unanimous consent to expunge the Chair's erroneous ruling. I assume that is the matter that Mr. Riley is now referring to.

PRESIDENT EGAN: That question was expunged, Mr. Robertson, but it is not the particular thing that Mr. Riley is referring to. Later than that, if the Chair recalls correctly, Mr. Riley asked unanimous consent that a motion to reconsider on that particular

vote would be in order during the balance of today, and he has now served his notice that he will reconsider.

RILEY: For Mr. Robertson's information, there is no motivation in my earlier request of this morning. This was not anticipated.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Point of information. Would a motion to forego any further action at this time on Proposal No. 3 and to have Proposal No. 3 retained in second reading for all purposes until after the recess call for a suspension of the rules?

PRESIDENT EGAN: The Chair -- whether that would call for a suspension of the rules or not -- a suspension of the rules, if you made such a motion now, yes, Mr. Rivers.

SWEENEY: I thought it could be settled by just moving for adjournment until January 3 at 9 o'clock.

PRESIDENT EGAN: That would settle it, Mrs. Sweeney. Mr. Ralph Rivers.

R. RIVERS: We have allotted time now for a briefing on this political subdivision question, and I move then that we forego any further action on Proposal No. 3 and go into the briefing on political subdivisions.

PRESIDENT EGAN: Mr. Ralph Rivers moves and asks unanimous consent that the Convention forego any further action on Committee Proposal No. 3 until after the hearings' recess and that Committee Proposal No. 3 be placed before the Convention in its present form for all purposes on January 4, 1956. Is there objection? Mr. Buckalew?

BUCKALEW: I wanted to ask a question. When he says "present form", does that mean the Chief Clerk will have a copy of Proposal No. 3 as it now stands with the amendments on our desk when we come back? Is that what Mr. Rivers means?

PRESIDENT EGAN: Mr. Ralph Rivers was probably hoping it would be possible to have all those amendments incorporated in some manner that it would be easier for delegates to see just what the present standing is. Whether that would be possible under the circumstances, with the help being pressed at this time

CHIEF CLERK: We can do it.

PRESIDENT EGAN: It will be possible and that is the way it will be.

BUCKALEW: I was going to say that unless it was in that form - I don't think there is any delegate including the people on the

Committee who know what form this Proposal No. 3 is in now.

PRESIDENT EGAN: The Chair agrees with you Mr. Buckalew. Mr. Coghill.

COGHILL: In order to keep in conformity, I move and ask unanimous consent that the Convention stand at recess until January 4, 1956.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the Convention stand at its hearings' recess until January 4, 1956, at 9 a.m. Is there objection? Mr. Davis.

DAVIS: I object. Mr. President, I would like to hear this briefing we have been talking about.

COGHILL: I so move.

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Coghill, it is not debatable.

COGHILL: May I make a statement?

PRESIDENT EGAN: If there is no objection Mr. Coghill may for information purposes make a statement.

COGHILL: The reason that we are not endeavoring to explain this map is because the schedule has not been mimeographed yet, and before it can be intelligently explained, each delegate should have the schedule before him.

JOHNSON: I request a roll call.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9 a.m., January 1956?" The Chief Clerk will call the roll.

ARMSTRONG: Before you announce the results, Mr. President, there is a matter I think that if we are going to adjourn that we as a body should give our vote of thanks and our greetings to those who have worked so faithfully in the boiler room and the secretariat. I think we all understand the tremendous job that they have done. They have been very capable, and I think we should be in position to extend that thanks to them.

PRESIDENT EGAN: Let the record show that.

BUCKALEW: Do you think we could let the record show that the body feels the same way about Mr. President?

MARSTON: Mr. President, the body feels the same way about the City of Fairbanks.

PRESIDENT EGAN: The Convention will come to order so the Chief Clerk can announce the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 28 - Awes, Barr, Coghill, Collins, Cross, Emberg, Hinckel, Hurley, Johnson, King, Knight, Laws, Londborg, McLaughlin, Marston, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sweeney, Taylor, Walsh, Wien, Mr. President.

Nays: 21 - Armstrong, Bosweil, Buckalew, Cooper, Davis, Doogan, V. Fischer, Gray, Harris, Hermann, Hilscher, Kilcher, Lee, McNealy, McNees, Metcalf, Peratrovich, Riley, Rosswog, Smith, White.

Absent: 6 - H. Fischer, Hellenthal. McCutcheon, Nerland, Sundborg, VanderLeest.)

CHIEF CLERK: 28 yeas, 21 nays and 6 absent.

PRESIDENT EGAN: So the Convention stands adjourned until 9 a.m. on January 4, 1956.

ALASKA CONSTITUTIONAL CONVENTION

January 4, 1956

FORTY-THIRD DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Alwyn Reiners, of St. George's in the Arctic, the Episcopal Church of Kotzebue. The Reverend Reiners will bring our daily invocation.

REVEREND REINERS: Let us pray. Almighty God who has given us this good land for our heritage, we humbly beseech that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning and pure manners. Save us from pride and arrogance and from every evil way. Defend our liberties and fashion into one united people the multitudes brought here out of many kindreds and tongues. Imbue with the spirit of wisdom those to whom in Thy name we entrust the authority of government that there may be justice and peace at home and that through obedience to Thy law we may show forth Thy praise among the nations of the earth. In the time of prosperity fill our hearts with thankfulness and in the day of trouble suffer not our trust in Thee to fail. All which we ask through Jesus Christ our Lord.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: Seven absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. The President would like to state that the President regrets the delay. Are there any petitions, memorials or communications? Are there reports of standing committees?

AWES: Shortly before we recessed the Committee proposal of the Bill of Rights Committee was passed out. I am now told that some of those were incomplete, that in some of those proposals the article on Health, Welfare and Education was omitted and that the two minority reports were omitted. So if the members want to check their reports and if they are incomplete, they can turn them in and get others.

PRESIDENT EGAN: Thank you, Miss Awes. Are there other reports of committee chairmen? If not, are there reports of select committees? Mr. Gray?

GRAY: I imagine the report on the hearings are select committees. Is that correct?

PRESIDENT EGAN: It might be considered that, at this time, if

there is no objection, Mr. Gray.

GRAY: Well, at this time according to our rules of organization on the public hearings, a brief report shall be submitted to the Convention by each committee not later than January 6. The report of the Juneau Committee has been mimeographed and is on your desk. The importance of the Juneau Committee, as I see it, was the very very good reception we received from the people and the increased interest in the Juneau area. I am bringing it to everybody's mind here and for the reason that the Convention is getting credit for doing a good job all the way through -- that is what we heard. The most important thing I found in the hearings is the faith that the Convention has from the people. We covered three public meetings, one Chamber of Commerce meeting, two service club meetings and one high school civic's class between the Juneau delegation. The public hearings were divided into two parts. The first part was a report to the people. That is where the committee members explained their article or particular phase, because we had to assume that the people in the remote areas, (that's Juneau) did not know maybe what had been going on for the past five weeks. We picked the problem up at the beginning and carried the Convention to them in detail, and one of the basic troubles we had, and I think probably every person who held a hearing, the proposals came out just in the last minute, and the people did not have an opportunity to read them. We brought down many spare proposals but were far shy of requests for proposals, and it brought us to reading to the people what the proposals were. That was a matter of public education and it was the initial explanation of the constitutional articles. Part two was a formal hearing. In part one, as we explained it, members of the audience arose at any time and asked questions for clarification or to state their opinions which was really the heart of our meetings in Juneau. Part two, the formal hearing, was definitely called and any member or any person who wished to appear officially before the panel and state his opinion or state his ideas was given the opportunity, and those who wished to file a statement for the official records were invited to do so. Those people, you will find, are listed in our report. The importance of the public hearing to ourselves was the same as the board of equalization in your tax structure. They were given an opportunity, the important thing is that they were given an opportunity to express their opinions to the Convention, and whether they utilized it or not it was well to have it. But the main thing was they did have the opportunity, that was the important thing. The fact that the report of the Juneau committee is on your desk this morning is due to the very fine work of the Secretary of our panel, Dora Sweeney. I thank you, Dora, very much.

SWEENEY: Just one more thing. The statements which are reported in the mimeographed report are on file with the Secretary of the Convention, and so those who wish to see them may see them. I

also received a statement on Proposal No. 6, the Local Government, and this is not mentioned in that report, and I will turn it over now to Mr. Rosswog, and those who are interested in Local Government can contact him.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, similarly as a result of the Juneau hearing I have received a statement from Don Dafoe with respect to the article on the executive, and I have turned that over to Mr. Victor Rivers.

PRESIDENT EGAN: Are there other reports of committee chairmen of those committees? Mr. Rosswog.

ROSSWOG: Mr. President, I can report for the hearings in

Cordova. At the Chamber of Commerce luncheon on the 27th there were about 15 members present and I gave a little talk on apportionment. They were very satisfied but of course, the boundary questions came up there. On the Thursday of that week I did set a hearing but we were stormed out and so our hearing was held on January 1 in the evening of New Year's day. They had a very fine turnout of about 53 people and a lively discussion. I have some suggestions that I will pass on to different committees, and I too found a lot of interest, more interest than I had thought and more people that are following this Convention and stated that they were very pleased with our work here but of course they had suggestions on the different articles.

PRESIDENT EGAN: If there are no further reports, the reports can be made at a later time. Are there any other reports? Mr. Boswell?

BOSWELL: Hearings were held here in Fairbanks on the 29th in the Federal District Courtroom between 2 and 5 p.m. in the afternoon and 7:30 and 10:00 in the evening. We had about 60 to 70 in the afternoon and about 50 in the evening. We had 16 delegates on our panel, four of whom were committee chairmen, so we were able to give the people a good explanation of everything. Our agenda covered the eleven substantive parts of the constitution, and we were able to get through all of them in two sessions, five in the afternoon and the balance in the evening. Two hours of the afternoon session were broadcast by KFRB and KFAR soundscribed two hours for later broadcast. We have complete minutes of these hearings, and they will be on file shortly.

PRESIDENT EGAN: Mrs. Fischer.

H. FISCHER: Mr. President, the report of the Anchorage delegation is being typed at this time, but I would like to say that other than the hearings there were many television programs at which all of the Anchorage delegates took part. I think perhaps

they were the most informative for the greatest number of people because of the snowbound conditions of Anchorage.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, the Valdez committee hearings were held on the 27th of December. They were well attended and it was held more or less on an informal basis, letting the people ask questions. We attempted to explain the proposals from the time that the Convention started up to the work that we are intending to do, and we had very lively discussion, a very good group of interested people, and I think the committee hearings were very well received.

PRESIDENT EGAN: Thank you, Mr. Harris. Mr. Knight.

KNIGHT: Mr. President, I was unable to arrange for a public meeting in Sitka. However, I did appear before the Chamber of Commerce luncheon on the 30th. In view of the fact we were not able to have a public hearing I arranged for a radio broadcast, and I was on that for 45 minutes and explained to the general public the procedure we had developed, and gave them a resume of the Tennessee Plan. It was very well received. I was complimented the following day. It kindled their interest so I am happy to report that.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, Mr. McNees really should make this report but I have been communicating with him in deaf and dumb language and he has indicated beyond doubt that he prefers to have me make it, probably in deaf and dumb language also. I held the hearings at Nome with Mr. McNees's very able assistance on the 28th of December. We also had the coldest day of the year for the occasion, but I am very proud to state that I think we had the largest meeting held anywhere in Alaska because we had over one hundred out and a great deal of interest was shown. Participation, audience participation in discussion was had, and we had another very fortunate occurrence -- we had the services of a stenotypist who donated them and a complete report will be available for all members of the Convention in time. The principal things that I learned myself from this meeting were that Nome does not like the apportionment plan and that they are against the 19-year-old voting age, and they are not too happy with the judiciary article. I suppose that everybody who conducted hearings found similar differences of opinion, but like the others who have reported, I am happy to say that the people of Nome are distinctly interested in what we are doing over here and have a very friendly attitude toward the Convention as a whole. I have found no criticism of the action of committee members. They did realize that they probably were not in full accord with some of the things we were doing, but it might be necessary to give a little here and take a little

there. I also spoke at a full meeting of the Chamber of Commerce and Mr. McNees could not get there, having been chasing around over the stratosphere for two or three days attempting to land, and likewise at a full meeting of the Rotary Club. By that time I had expected them to be tired of hearing of the Constitutional Convention, but I found that on the contrary, the interest increased rather than diminished as we held the different meetings. If the weather had been a little better we would have tried for some afternoon meetings also, but we were advised against that by the Chamber of Commerce which sponsored our public hearing, and that is another thing I felt very pleased over was the interest in the Chamber in taking charge of and sponsoring the hearings so that everybody could come. We had a mixed audience. We had many Eskimos, and they participated in the discussion quite as much as the whites did and showed as much interest in the Constitutional Convention. We had at least one member who was against most everything, but the rest of them limited their criticisms to one or two articles as written. I think it is most unfortunate that we could not have had the proposals, the committee proposals a little earlier. I had not got them myself in time to feel too proficient in discussing them. I do want to take off my hat in deaf and dumb language to Mr. McNees who explained the apportionment article very ably and carried his audience right along with him in his discussion of it and for the rest of the time we just sort of took turns handling it. I envied the ones who had 14 to hold a hearing, because when it falls upon two or one, as in the case of Mr. Rosswog and some of the others, it becomes sometimes a little frustrating.

PRESIDENT EGAN: Thank you, Mrs. Hermann. Mr. Londborg.

LONDBORG: I would like to follow through with the hearings out along the Bering Sea. I was able to hold our hearing at Unalakleet according to the proposed schedule, and I found the village was very much interested in the Convention. In fact, the first thing they asked me, several of the people, "Are we going to have a report on the Convention?" And I talked with the mayor of the village and told him it was up to them if they really wanted one, and they made arrangements for the school building and the time set and put out the posters and everything else, and I was very pleased to go over there on a stormy night and find over 50 out, a good ten per cent of the population. I do have copies of the statements that were taken down by one of the ladies, and I will try to get them in duplicate form to pass around as soon as possible. The local government proposal, of course, took a great deal of the time. They were very much interested in that, to find out just what they would have as far as local government. We spent some time on the Tennessee Plan and someone suggested even taking a little vote whether they should back such a plan, which they did, and then, of course, being a Native village, the Marston plan was brought up and discussed and as a whole I felt that

they were really interested in the Convention. Then, on Thursday evening, two days later, I was able to be at White Mountain and there we had over a third of the people out on very short notice. A third of the people makes about 35 or 40 in that village, and a very inspiring group to talk to and to hear from. I don't have a set of the statements from that particular group. The person that I thought was taking the statements did not take down as complete as we had at Unalakleet. Then yesterday I had the privilege of being at the Chamber of Commerce meeting in Nome and found that there was not much that could be added to the information that Mrs. Hermann and Mr. McNees had already given them, but they did of course have a chance to think over some things and raise a few questions, and I am sure that the comments in all three places will be profitable to the various committees.

PRESIDENT EGAN: Thank you, Mr. Londborg. Mr. Hinckel.

HINCKEL: I too, addressed a meeting on the 22nd, Thursday afternoon, a comparatively small group, but those people that were there were much interested. The subjects they were most interested in were local government and apportionment. The apportionment plan they were very happy with. The local government plan they could not seem to understand too well, probably due to the fact I was not able to explain it too well. I did considerable study to it myself before attempting to explain it, but I find it appears to me even a little vague. They were afraid that by approving it they would not know exactly what they were approving. Another very definite expression they did make was on the voting age. Of the 35 or 40 people who were at the meeting there were only five who felt that the age should be changed from 21. The rest very definitely stated they disapproved. I can make up a written report and will.

PRESIDENT EGAN: Thank you, Mr. Hinckel. Mr. McNees.

MCNEES: Following the hearing in Nome I went on into the little Arctic village of Kotzebue but we were unable to arrange a general public hearing for the town, but I did speak informally to three different groups there, one of seven, one of nine and another group of fourteen, as well as talking to many, many individuals up there. I did go in there for an afternoon and evening and spent three days trying to get out. Kotzebue will study the proposals. I left two complete sets there, one with Edith Bullock, Representative, and another with Erv Wheeler, the President of the Chamber of Commerce in Kotzebue. They will have formal meetings in Kotzebue sometime during this week and will forward any comments or opinions to this group. I will also make a written report of those hearings at a later date.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: The local hearing at Nenana took place on December 27,

in the Civic Center. Our attendance was not too good. However, we did have a roundtable discussion. We had ten sets of proposals on hand and all of them were placed throughout the community after the meeting, and we did go through all of the 13 proposals and discussed, and I tried to explain each one of them. The comments were brought out mostly on the judiciary. They were very much opposed to the judicial plan. They opposed my personal stand on the 18-year-old voting. They thought that the 21 voting age was logical. They too had a terrific time trying to understand the local government proposal, and we spent quite a lot of time on that. They approved the apportionment plan 100 per cent. They thought it a very fine plan. They knew we would have to give concession to larger populated areas but at least now are assured of some sort of representation. Also, on the bill of rights, we went over that quite thoroughly and it brought some comment. One thing that was brought out in our hearing that the people were quite concerned in having some sort of a guarantee or insurance in our constitution on insurance or social funds, such as the retirement fund or the unemployment security fund, so it cannot be tampered with by each legislature. That was the extent of our Nenana hearing. However, afterwards, why it seemed that every day there were three or four in the store asking or talking about certain parts of proposals, and I had to keep my committee proposal booklet with me at all times because of the comments. I have sent committee proposal packets to McGrath, Aniak, Bethel, Holy Cross, Galena, Ruby, Tanana and Fort Yukon, and I am hoping to hear from them. I have had a letter from Bethel and they are very impressed with the apportionment portion of the Constitutional Convention. However, I think that the thing we have accomplished by our public hearings is the fact that we are letting the public in on our procedure and letting them have their say before it goes into final reading.

MCCUTCHEON: Point of personal privilege. I would like to direct a question to Mr. Coghill through the Chair.

PRESIDENT EGAN: If there is no objection, Mr. McCutcheon.

MCCUTCHEON: I would like to have Mr. Coghill amplify a little bit his remark about tampering with the legislation when they were discussing in regard to unemployment security. I don't quite understand why the legislature should be denied the privilege of tampering with it. I don't quite understand that.

COGHILL: Maybe I misquoted myself on that. The thing they were concerned in was the fact that if they pay into a fund that the fund will be solvent, such as the Teachers' Retirement Fund, or any other retirement fund that might come up or like, some folks down there have been working for four or five years and now that they are unemployed and they apply for unemployment insurance, why they found that all they get is a yellow slip stating the Employment Security owes them that money.

However, the money is forthcoming at some other time. It was a local problem and they were just asking for some sort of assurance in the constitution that retirement or social benefit funds will be safeguarded.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I hesitated quite awhile, did not know whether it was best to make my report first or last, but actually the people with whom I talked in Ketchikan were like all other people in Alaska intensely interested in the work done. I don't think that I heard any criticism, even of any committee proposal. I did have several constructive suggestions made and I will in turn pass them on to the various committees. I will say that the city government in Ketchikan, the City Manager and the City Council approved the local government plan in principle. They made a few suggestions for changes, but they were very thoroughly in accord with the plan, and I think that held all the way through all of the committee proposals. There were naturally things that certain people did not like just as there are things I do not like in some proposals, but I think they will accept the document as a whole rather than to attempt to simply concentrate on what they do not like, and aside from the poor attendance at the hearings, I was very well pleased with the reception of the work of the Convention in Ketchikan.

PRESIDENT EGAN: Thank you. Mr. Smith. Mr. Emberg.

EMBERG: I wish to report in regard to the Bristol Bay hearing. I had a meeting on an informal basis at the Dillingham High School on the evening of the 27th. The weather conditions were very poor at the time, and that was not too good for the attendance. The hearings were informal which constituted mostly a discussion of the various articles. The predominant interest shown there was in the local government division and the resources article, and in the apportionment article. I tried to hold hearings at Naknek on the way back but I was weather bound at King Salmon at the air base there for two days. The roads were not open and there were no small planes flying at the time, so I had to mail out copies of the proposals to the Naknek Village. I have some comments that were made that I can pass along to the proper committees at another time in regard to suggestions. There was a great deal of interest in Bristol Bay in what this Convention is doing and their work, and the thing I would like to report here at this time is the fact that the apportionment article was very well received. They feel that under the divisions of that article that Bristol Bay and lower Kuskokwim will gain representation they have not had in the past from their own areas, and they are pleased.

PRESIDENT EGAN: Thank you Mr. Emberg. Mr. Metcalf.

METCALF: Mr. President, my hearing was a complete failure. It

was advertised before I left here for December 23 on Friday. It happened it was a terrific storm. The men were working on the boat and on the school plays and I had advertising on the radio four or five times and there was not a single soul who showed up except myself, but I did talk to a number of people, I suppose 25 or 30. The interest is mild but for the most part I would say 95 per cent are satisfied with the work that is going on here.

PRESIDENT EGAN: Thank you Mr. Metcalf. Mr. Kilcher.

KILCHER: Mr. President, I will first, what I might forget later, that my main interest in going home to Kenai Peninsula was to find out what the general atmosphere, if it had changed during my absence and if it had changed, how it had changed, and I am glad to report that what cynicism had existed and the negative critical attitude that had existed during the fall months had to a large degree disappeared, and there was a general willingness to face facts and issues objectively and that was a heartening experience in itself. Now as to the meetings themselves, they have been partly successful. The most successful part was a radio interview I had in Homer on the 23rd. The Editor of the Kenai Pioneer has also a little radio station there, and he had gathered a lot of questions from people previously and had nicely worked them into an interview which was a good form to approach the people with, and then there was a meeting scheduled the 29th, but that meeting was not very well attended because it was in the worst snow storm. Actually, only three cars were moving at that time, mine and two others, but a dozen or so other people had walked there. But these people were some of the more interested ones and probably could have been those who would have spoken any way, even if there had been a hundred around, so they represented different groups of interest of people, and we had a very lively discussion in spite of the small number present. And I was hard pressed in several respects and it was very satisfactory in my opinion. To mention specific items, the voting age of 19-year-olds was generally accepted and great satisfaction was also felt about the apportionment plan as it is. Local government I tried to explain as good as possible and with some success, I hope, and they would like to hear more about it however. One of the greatest points of interest was the initiative and referendum. As a matter of fact, one of the more articulate persons in the lower Kenai Peninsula, a critical man, yet fair and analytical in his mind, has been identified in the past as being opposed to statehood on very logical grounds. He has expressed his willingness to consider the constitution as a whole. He had several conditions, one of which was a very good initiative and referendum article, which he has used from his home state of Wisconsin. Also, I am seemingly patting myself on the back, because the same person and some of the others later on in informal statements have also expressed themselves very much in favor of initiative and referendum in what they call a democratic

safeguard but are also in favor of one of my delegate proposals, that automatic convention clause which I will later on bring in as the existing committee proposal. As a whole the venture down there I think was rather successful. I talked to larger groups of people in informal meetings in various places, community halls and street corners and other places where one most likely finds people during the Christmas holidays, and we had a lot of lively discussion, and I expect to hear from the people down there off and on during the next four or five weeks.

PRESIDENT EGAN: Thank you, Mr. Kilcher. Mr. King.

KING: Mr. President, we held our public hearing on the night of the 30th. That date, of course, was due to the fact that Delegate Riley attended the hearings in Juneau and we delayed the hearing until the 30th until Mr. Riley could attend the hearing at Haines. We were glad to have him. There was a lot of interest there and we went through all the proposals and explained them, and Mr. Riley left a complete set of the proposals at the school and they are going to do the same as here. The school is going to study them and work them into their class studies. I think the hearing was a success and it does not stop at the hearing. The fact is that during the holidays we had a lot of opportunity to talk to these people prior to the hearing and they would come in daily into our place and we would be able to talk to them, and I think that there is a great deal of interest, and I don't think there is any doubt that they are well pleased with what is going on here. I wired the Mayor of Skagway on two different occasions and on the night of the hearing he called and said he was unable to attend. The weather in that country was bad, too. He was very well pleased with the Convention here. He said that he had no comments to make other than he was very pleased. I will also have a written report to make.

PRESIDENT EGAN: Thank you, Mr. King. Mr. Hurley.

HURLEY: I simply rise to repeat practically what has been said and have reports of hearings at Palmer and Wasilla which I will place on the file with the Clerk.

PRESIDENT EGAN: Thank you, Mr. Hurley. Mr. Lee.

LEE: Mr. Chairman, I held a hearing in Petersburg on the 28th. We had between 50 and 60 people in attendance, and it was very well received. A great deal of interest was shown. A number of questions were asked and discussed. I found considerable opposition to the present apportionment plan and also in the language regarding fisheries in the resources plan. I will write out the minutes and they will be on file.

PRESIDENT EGAN: Thank you, Mr. Lee. Does anyone else have a

report to make on the hearings? Mr. Johnson.

JOHNSON: May we have a 15-minute recess?

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the Convention stand at recess for 15 minutes. Is there objection? Hearing no objection, it is so ordered. The Convention will stand at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any other hearings reports to be presented at this time? If not, we will -- Mr. Barr.

BARR: Mr. President, I don't have a hearing report. I was a member of Mr. Boswell's committee here but I thought maybe the Convention would like to hear that I was invited to address two different high school classes on the Convention and how we were writing the constitution, and I was amazed at the interest the students took and the variety of questions they asked. Of course, I did not get much of an expression of opinion from the students. However, since they were all young people I did want to find out how they felt about the voting age. So I explained arguments for and against the younger people voting. Of course, you know I am for the older people, but I gave them an equal number of arguments on both sides because I wanted to hear an impartial opinion. It came out this way. We voted on it by ages with the raising of hands and both classes had a very low vote for the 18-year-olds. One class I remember there were two votes out of 30 for 18-year-olds, and the other was a like number -- two or three, something like that. On the 19-year-olds one class had a majority for the 19-year-olds but a very small majority over the 20-year-olds. The other class was about four to one for the 20-year-olds. I will say that the 21-year-olds also lost by about two or three. I would say generally they favored the 20-year-olds.

PRESIDENT EGAN: Thank you, Mr. Barr. Mr. White.

WHITE: The Committee on reading the journal has no report today and would call attention to the delegates to the fact that journals for the 36th, 37th, 39th, 40th, and 42nd days are on the desk for which we will ask approval for tomorrow. I would like to also call attention to the mimeographed correction sheets that have been placed on the desk for the journals of the first, second, third and fourth days, the approval which we will ask for tomorrow.

PRESIDENT EGAN: If there is no objection, the reading of the journals then will be held over until tomorrow. Are there any proposals to be introduced at this time? Are there any motions or resolutions? Unfinished business? Under unfinished business

we are down to the article on the initiative and referendum. The Chair has been wondering if whether or not it would be better to recess now and allow all the delegates to come up to date in their minds as to just where we were when we left off on the initiative and referendum article. It could be taken up immediately following this recess at the afternoon session, and everyone would have had an opportunity to refresh themselves as to just where we were on that subject. The Chair would entertain some discussion on that. Mr. Marston.

MARSTON: I move and ask unanimous consent that we recess until 1:30, at that time to take up the initiative and referendum.

PRESIDENT EGAN: Before the Chair would put any question, the Chair would like to request all the committee chairmen to meet at a luncheon meeting at 12:30 in the luncheon room upstairs. Mr. Riley.

RILEY: Mr. President, I would like to call a meeting of the Rules Committee immediately upon recess in the rear of the gallery.

PRESIDENT EGAN: There will be a meeting of the Rules Committee immediately upon recess in the rear of the gallery. Mr. Rosswog.

ROSSWOG: The Local Government Committee will meet at 11:30 in the committee room.

PRESIDENT EGAN: Local Government Committee will meet at 11:30 in the committee room. Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment immediately upon recess.

PRESIDENT EGAN: The Engrossment and Enrollment Committee will meet immediately upon recess. Mrs. Fischer.

H. FISCHER: Mr. President, the Anchorage delegation that attended the hearings in Anchorage will meet immediately following recess in the gallery.

PRESIDENT EGAN: The Anchorage delegation that attended the hearings will meet immediately following recess in the gallery. Mr. McNealy.

MCNEALY: The Committee on Ordinances will meet immediately upon the recess.

PRESIDENT EGAN: The Committee on Ordinances will meet immediately upon recess. Are there any other announcements to be made by the committees at this time? If not, Mr. Marston moves and asks unanimous consent that the Convention stand at recess until 1:30 p.m. Is there objection? Hearing no objection, it is so ordered and the Convention is at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the Convention the fact that we have with us once again our Secretary who had departed from us because of illness. We are happy to have him back with us. We are also happy to have his wife with us. As you know, the Secretary became a married man during the course of his recuperation. (Laughter)(Applause)

HERMANN: Is that the kind of heart trouble he had?

SMITH: Mr. President, I would like to ask unanimous consent to revert to committee announcements.

PRESIDENT EGAN: If there is no objection, Mr. Smith.

SMITH: There will be a meeting of the Resources Committee this evening and we will meet in the lobby of the Northward Building at 7:30.

PRESIDENT EGAN: There will be a meeting of the Resources Committee in the lobby of the Northward Building at 7:30 this evening. Miss Awes.

AWES: The Bill of Rights Committee will meet at 7:30 this evening at Apartment 1009 in the Polaris Building.

PRESIDENT EGAN: There will be a meeting of the Bill of Rights Committee at 7:30 in Apartment 1009 in the Polaris Building. Mr. Rosswog.

ROSSWOG: The Local Government Committee will meet at Apartment 19 in the Alaskan Inn at 8 o'clock this evening.

PRESIDENT EGAN: There will be a meeting of the Local Government Committee at 8 o'clock this evening in Apartment 19 of the Alaskan Inn. Mr. Coghill.

COGHILL: Your Committee on Administration will meet immediately following adjournment this afternoon.

PRESIDENT EGAN: The Committee on Administration will meet immediately upon adjournment this afternoon. Are there other committee announcements? Are there other reports of committees. Mr. Sundborg.

SUNDBORG: I would like to make a report for the Committee of Committee Chairmen. At the luncheon meeting today the committee chairmen discussed the problem of a working schedule for the next few days and for the balance of the Convention, and it is the recommendation of the committee chairmen that we have no evening sessions of the Convention as a whole until next Monday

and that starting Monday evening we have committee sessions, Convention session nightly as long as may be necessary. The suggestion of the committee chairmen is that for the balance of this week that sessions of the Convention be held from 9 o'clock in the morning until 12 o'clock noon and that we do not run past 12 o'clock for the reason there is only one reporter here representing newspapers of the Territory and she must file daily by 12:20, and if we continue to go, part of the session will not be recorded as it takes a little time to prepare the file before she puts it in the teletype, and then that we take a full hour and one-half for lunch and permit the Rules Committee to meet as it probably will frequently, in order to settle the calendar; to permit the committee chairmen to meet at 12:30 as they have been doing, and to permit other consultation among delegates and among committees. Then that we meet in the afternoon starting at 1:30 o'clock and continue those meetings through this week until the hour of 5:40 daily, and the hour of 5:40 was recommended because there is a bus leaving here at 5:50, and it is thought that there will be fewer personal cars coming out to the Convention now that the weather is colder and now that we are going to be running later hours. The purpose of suggesting that there be no night sessions of the plenary sessions this week is to permit the committees to consider some of the suggestions made during recess at evening meetings, and the committee chairmen hope that the committees can pretty well finish their consideration of those suggestions and of other business which may be before them by Sunday, so that starting Monday we can have plenary sessions nightly. The committee chairmen would also like to suggest that individual delegates in making social engagements for evenings from now on make them only tentatively, as for example, "I will be glad to come unless we have a Convention session for that night". Looking over the body of work, it looks like we're going to have a good many evening sessions. The committee chairmen also suggest that we limit the number of recesses during the day and that we have recognized recesses of 15 minutes each at 10:30 and 3:30 daily. Mr. President, I am not sure whether I should put this in the form of a motion that we follow these suggestions or whether we just discuss it.

PRESIDENT EGAN: Mr. Sundborg, it might be proper in this case to ask if there is any discussion on the particular suggestions. There has been no motion but it is important enough that if there is discussion that perhaps a motion should be held until we allow, it is a little departure from the rules but if you have any suggestions to make to the suggestions as made by Mr. Sundborg, we will be pleased to hear from the floor at this time. Mr. Gray.

GRAY: I was wondering if the Committee had any consideration for the present bus setup. It might be quite possible that we will not get a bus out of Fairbanks until after 9 o'clock. Have you looked into that at all, George?

SUNDBORG: Do you mean a bus leaving for town?

GRAY: No, a bus leaving the town for the University. As I understand it, with the opening of the new school, it has made a problem of bringing all the youngsters in at one time when they used to have a split shift, and there is an extreme shortage of buses, and I believe that is what happened this morning. We had to wait for a school bus to discharge its pupils before it was available to ourselves. I don't doubt that that same circumstance may happen tomorrow too, and unless some clear-cut arrangement was made by the bus company, I am just sure you are not going to have a bus available until after 9 o'clock in the morning, and I think that should be considered by the committee.

SUNDBORG: That was not discussed in the meeting of committee chairmen, and I think most of us did not know about that problem.

PRESIDENT EGAN: Mr. Sundborg, the Committee on Administration is going to have a meeting at the time of adjournment this afternoon. That subject could be discussed and we could find out from the bus company just what the situation is and everyone could be advised of it prior to morning.

SUNDBORG: Perhaps our motion, if we entertain one here, should be only until the hours we met daily instead of the hour when we begin.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I was informed by the bus driver this morning that the reason he was late was that he had two buses in the ditch and he had to send a bus out and pull them out. He did not think that would happen again.

PRESIDENT EGAN: The Administration Committee will determine just exactly what the bus schedule will be for the delegates. Mr. White.

WHITE: I would like to inquire if the committee chairmen discussed a Sunday afternoon meeting?

SUNDBORG: It was not discussed at our meeting today.

PRESIDENT EGAN: It did not come up at the meeting. Is there discussion relative to a Sunday afternoon meeting this weekend? Mr. Coghill.

COGHILL: At the committee meeting it was the intention of the chairmen that this period up until we come into session Monday morning would be for having committee work completed. Apparently several of the committees are revamping their proposals and it was my understanding that that and only that was the purpose of

having the night sessions withheld or long session withheld until that time.

PRESIDENT EGAN: That is correct, Mr. Coghill. Does that answer your question, Mr. White, inasmuch as it might be that some of the committees, Resources, or Executive or Local Government, it might be necessary for them to have a meeting on Sunday afternoon. That particular time was not discussed, but Mr. Coghill was correct in stating that that was the reason for the recommendation.

WHITE: The unspoken intention was then to leave Sunday afternoon open for further disposition?

PRESIDENT EGAN: That is right. Is there further discussion? Mr. Sundborg?

SUNDBORG: If there is no further discussion, Mr. President, I would like to move and ask unanimous consent that, for the balance of this week, plenary sessions be held daily from 9 o'clock in the morning until 12 noon, that we recess from 12 to 1:30 for luncheon, then resume from 1:30 to 5:40 p.m., and that recesses of 15 minutes each be held at 10:30 a.m. and 3:30.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I question the right of the assembly to adopt such a course of action by a motion since a motion to adjourn or a motion to recess is always in order, and I think we might express approval of the committee's report and leave it as a matter of personal responsibility not to call for recesses at other times, but I question the wisdom of putting it in a motion.

PRESIDENT EGAN: Perhaps, Mrs. Hermann, you have a good point there. It might be just that there be a general understanding among the delegates, if there is not a majority objection that the suggestions as contained in the statement of Mr. Sundborg, be the manner in which the Convention will conduct its meetings until next Monday morning. Is there objection to that? Mr. Ralph Rivers.

R. RIVERS: I object. The basis of my objection is that, or I should say a different approach would be that I approve of the whole plan of the committee with the exception of Saturday afternoon this week. The various standing committees are going to be working on suggestions and sort of reappraising their situation after the public hearings. Style and Drafting has not gotten started yet and could possibly do some work on Saturday afternoon and a good many of these delegates have other arrangements in Fairbanks on Saturday afternoon, and by general understanding perhaps we can leave Saturday afternoon open for standing committee operations and other purposes. With that understanding I think we should all try to adhere to the schedule and

then set up as vigorous a schedule as necessary for the ensuing weeks. I would like to ask a question of Mr. Sundborg, however. That is how the staff is going to carry through from 9 in the morning until 5:40 at night and then also night sessions and how can the stenotypist stand that kind of marathon, and how can the secretaries keep up with all the journals, and why should we start night sessions next week?

PRESIDENT EGAN: Mr. Rivers, would you be acceptable to a two minute recess at this time? If there is no objection the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill, could you answer the question of Mr. Ralph Rivers relative to the help problem?

COGHILL: On the stenotypist, just before the two-minute recess was declared, it was asked about, in concern to having so much time for the stenotypist and the clerical help and upstairs, well, we have arrangements made to get another stenotypist to relieve the present one and also I don't believe that the boiler room will have to be fully staffed in the evening. I think they can catch up on their work during the day. As far as help, I think it has no bearing on how late we meet in the evening.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I think there is something we are all conscious of, and I think if some investigation was made and that is the heating situation. If this cold weather keeps up, it is going to be disagreeable working here unless we come with our mukluks and our parkas and what have you. Now I have looked this thing over, and the windows all along the upper part there are windows that open inward. They are loose in there. I think the engineer in charge of this building, if he would have those weather-stripped and shut off this door back here, it might be possible that those radiators would furnish enough heat. I think possibly the President can feel that cold air on the back of his neck. I think if we have the weather stripping there we will get away from some of this cold, because if it gets any colder, it is going to get very disagreeable.

PRESIDENT EGAN: I believe the Chairman of the Committee on Administration will take this up this afternoon.

TAYLOR: I sure hope he does.

PRESIDENT EGAN: If there is no objection, the suggestions as generally outlined by Mr. Sundborg then will be adopted as the general manner in which we will proceed until Monday morning with our meetings here. Are there any communications? Mr.

Victor Rivers.

V. RIVERS: Before we leave that order of business on committees I would like to ask if the committee proposal on the Executive be recommitted to committee for some slight reconsideration due to the information received during the recess.

PRESIDENT EGAN: If there is no objection, the proposal of the Committee on the Executive will be rereferred to the Committee. Is there objection? Mr. Riley.

RILEY: Mr. President, this is not an objection but the Rules Committee met this morning and the calendar will shortly be published and will be distributed this afternoon reflecting all proposals that Rules had in its custody at that time. Now there may be other matters recommitted, but the thinking of the Rules Committee was that if the Convention could see the entire roster of work before it at this time, it could better budget its time. Now this is being recommitted to Executive and perhaps there will be others, but insofar as possible to arrange with the several committees, it would be the view of the Rules Committee that the calendar to be distributed this afternoon will be in force with the slight chance of some revision from time to time as seems necessary.

PRESIDENT EGAN: That subject was brought up in the meeting of the committee chairmen, and it was more or less determined that by the time the Executive Committee, for instance, gets its proposal back on the calendar it would not have interfered with the calendar as it will be submitted by the Rules Committee, and the same will go for the other two committees at least that indicated that they might want to have their proposals back for some slight revision, so it will not interfere so far as we know with the calendar that will be presented by the Rules Committee. Mr. Hellenthal.

HELLENTHAL: Mr. President, at the last meeting held prior to the Christmas holiday Proposal No. 14 was not technically presented to the Convention for first reading, and I ask at this time that it be so presented and considered in first reading so that the technical objection can be met. It had not been mimeographed at the time when presentations were to be made, so I ask unanimous consent that Proposal No. 14 be considered in first reading.

PRESIDENT EGAN: If there is no objection, Committee Proposal No. 14 may be considered before us in first reading at this time. Is there objection? The Chief Clerk will read the proposal for the first time.

CHIEF CLERK: "Committee Proposal No. 14, by the Committee on Suffrage, Elections and Apportionment, LEGISLATIVE APPORTIONMENT."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mr. Rosswog.

ROSSWOG: Mr. President, I am not talking on this subject, but I want to request for the Local Government Committee that Proposal No. 6 be returned to the Committee for further revision, and I would also like to ask at this time that if any of the delegates have suggestions that they received at their hearings for the Local Government Committee, if possible, would have them in writing by tomorrow and if not possible, we would like to hear from them in our meetings.

PRESIDENT EGAN: Is there objection to having Committee Proposal No. 6, the Proposal on Local Government, returned to the Committee for revision? Hearing no objection, it is so ordered and the proposal is ordered returned to the Committee. The Chief Clerk may proceed with the reading or summarizing of communications.

SECRETARY: Mr. President, there is a telegram from Mr. Adlai E. Stevenson conveying his best wishes to the Convention and another one expressing his disappointment in not being able to accept our invitation to speak at our Convention.

PRESIDENT EGAN: The President would at this time like to state that he was at home when this wire came from Mr. Stevenson and took it upon himself to send Mr. Stevenson a message thanking him for the message and telling him we would be very happy to have him address the Convention if he could find time to do so, and this second telegram was the message in which he explained it would be impossible to come before us.

SECRETARY: Mr. President, there is a letter from Senator Warren G. Magnuson of the United States Senate commending the Convention on the effort it is undertaking. A letter from Colonel Ray J. Will of the Eielson Air Force Base thanking the Convention for its resolution expressing sympathy in the tragedy at Eielson Field.

PRESIDENT EGAN: And the donations of the delegates towards that tragedy.

SECRETARY: A communication from citizens of the Bristol Bay area wishing to point out that the area should be fully represented in any future legislative body in the state.

PRESIDENT EGAN: The communication from Bristol Bay mentions their desire for proper apportionment. The communications can be filed. Mrs. Hermann.

HERMANN: Mr. President, I think the communications should be repeated in the journal, particularly the one from the Eielson people, so they can be in our own private journals instead of

just on file.

PRESIDENT EGAN: Would you like to have the communications summarized in the journal?

HERMANN: I would really like to have them spread on the journal.

PRESIDENT EGAN: Mrs. Hermann asks unanimous consent that the communications that have just been read and summarized be spread upon the pages of the journal. Is there objection? Mr. Sundborg?

SUNDBORG: I object tentatively. I would like to ask the Secretary if they are very lengthy communications.

SECRETARY: No longer than a single spaced page letter. There are four or five.

SUNDBORG: I don't object then.

NORDALE: I object. We have not done that with the other communications. I don't see why when they are on file in the Secretary's office it is necessary. However, I would like to move that the telegram from Adlai Stevenson be spread on the record.

HERMANN: There still is objection. I so move and if I get a second I will explain why they should be in the journal.

TAYLOR: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mrs. Hermann.

HERMANN: Mr. President, my principal reason in asking they be spread upon the journal was so we would get the telegrams from Mr. Stevenson on our official records and also the letter from Senator Magnuson, and I think since all of us contributed to the fund for Eielson relief that we should have that on the record also. I am not sure but what we should go back and have a copy of our own letter in the record in that case. I don't insist on that. I don't think that will unduly encumber the record. Those are matters of somewhat important historical interest in the handling of the Convention's business.

PRESIDENT EGAN: The Chair believes that it might be well to state that so far as the Chair feels that if a letter came from Vice President Nixon or President Eisenhower or any other outstanding figure should be received that it should receive the same consideration of being at least read before the Convention and possibly placed in the journal. Mr. Coghill.

COGHILL: Point of information. Are the telegrams sent by Vice President Nixon spread upon the journal in full in the beginning

of the session?

PRESIDENT EGAN: So far as the Chair knows, they were. Did Vice President Nixon send a communication?

COGHILL: Right at the first part.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I am going to vote against the measure not because I don't appreciate the sentiment, but we have had many, many communications that were really worthy of being spread on the record, and we have not done so, and we are implying that these are more important than the previous ones. Tomorrow we are going to have some other ones. The very fact we have proceeded in this manner and have tried to maintain it a working journal, I believe we ought to follow the system we have used in the past 43 days and not change it at this time. It has nothing to do with the worthiness of the project, but I do believe we are setting up a criterion of shall it or shall it not go in that will have to be handled with every single communication to come before us, and it is going to be hard to call the points.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I tend to agree with those comments. I am particularly concerned with the inclusion of the communication from Bristol Bay. It might be a very worthy suggestion, but here is an outstanding breach of our past practice where we have had a good many suggestions made to us in various forms, either to the committee or the Convention as a whole and none of them to my knowledge have been spread upon the record. I particularly object to the inclusion of that one in the journal.

HELLENTHAL: Question.

PRESIDENT EGAN: The question is, "Shall the communications be spread upon the pages of the journal?"

V. RIVERS: Has the Secretary read all the communications yet?

SECRETARY: There is one from the Attorney General.

PRESIDENT EGAN: The only other communication is a communication from the Attorney General giving an opinion as to the date we have to adjourn. That, the Chair felt should be read in its entirety in any event and possibly mimeographed for all the members of the Convention at a later date, but we did not come to that particular communication as yet. At the present time we are speaking of the communications that related to other things and the official business of the Convention. Mrs. Hermann.

HERMANN: I might say, Mr. President, that I think this is quite a line of demarcation on the type of communications we have had here, and many of them have been for the information of members of the group in regard to the work they are doing. I think they were very properly referred to committees, and it was not necessary they be considered by the body as a whole. But certainly I do feel that communications from any person of prominence in the country wishing us success and what not in the writing of a state constitution belong in a journal for their historic interest if for no other reason.

PRESIDENT EGAN: The question is, "Shall the communications be spread upon the pages of the journal?" Mr. Poulsen.

POULSEN: I request a roll call please.

PRESIDENT EGAN: The Chief Clerk will call the roll. Mr. Marston.

MARSTON: Would this mean now all the communications received now would be put on the journal or just starting now?

PRESIDENT EGAN: The motion pertains to these particular communications before us at the present time, Mr. Marston. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following results:

Yeas: 17 - Cross, H. Fischer, Hermann, Hilscher, Knight, McCutcheon, McNees, Nordale, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest, Walsh, Mr. President.

Nays: 32 - Awes, Barr, Boswell, Coghill, Collins, Cooper, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hinckel, Hurley, Johnson, Kilcher, King, Laws, Lee, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Poulsen, Reader, Rosswog, Sundborg, Sweeney, White, Wien.

Absent: 6 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson.)

CHIEF CLERK: 17 yeas, 32 nays and 6 absent.

PRESIDENT EGAN: And so the motion has failed and the communications will not be spread upon the pages of the journal. Mr. Victor Fischer.

V. FISCHER: Mr. President, I would like to suggest that if this matter of inclusion of certain communications is considered of sufficient importance by the Administration Committee, they

might devise a method where at the end of the Convention, all of the communications could be included in a separate report which could be attached to the journals upon adjournment.

PRESIDENT EGAN: If there is no objection, the Administration Committee can take that matter under consideration. Mrs. Hermann.

HERMANN: I now move and ask unanimous consent that the Secretary read the communications in full.

PRESIDENT EGAN: Mrs. Hermann moves and asks unanimous consent that the Secretary read the communications in full. Is there objection?

METCALF: I object. We are taking too much time here, and we should get on with our business, at the rate of \$10.00 per minute.

H. FISCHER: I second the motion.

SUNDBORG: Question.

PRESIDENT EGAN: The question is, "Shall the Secretary read the foregoing communications in full?" Mr. Victor Rivers.

V. RIVERS: Mr. President. it seems to me we have one communication here from a man who has a good possibility of becoming the future President of the United States. It seems he would necessarily have something to say in regard not only to his wishes to us but perhaps in regard to his stand on statehood. It seems to me there is going to be other communications of like nature. In fact, I have a copy of one in my pocket now that will be gunning through the Convention shortly. It seems it would be a good thing to have them on record, and I think it is short-sighted and very thoughtless of this group not to have the communications of that type on the record in full in the journal and I notice that Delegate Hermann's position is definitely to get the communication in their entirety on the record because it could be a valuable implement to us in getting statehood or perhaps, keeping the support of a lot of statehood people in Congress and in the national administration at some future date.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I go along with Mr. Fischer's talk and Mr. Rivers', and Delegate Mildred Hermann's. I think that all the communications should be printed and we should have them. We shut them off here. Why should the outside world communicate with us? The only reason I would vote against your motion was that you only took part of it. If you take them all, I'll go right down the line with you and fight for it.

PRESIDENT EGAN: The question is, "Shall the communications be read in their entirety?" All those in favor of having the communications read in their entirety will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll'.

(The Chief Clerk called the roll with the following result:

Yeas: 31 - Awes, Boswell, Coghill, Cooper, Doogan,Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, Knight, McCutcheon, McNees, Nordale, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 18 - Barr, Collins, Cross, Harris, Hinckel, Johnson, King, Laws, Lee, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Poulsen, Reader, Rosswog.

Absent: 6 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson.)

CHIEF CLERK: 31 yeas, 18 nays and 6 absent.

PRESIDENT EGAN: So the motion has carried and the Secretary will please read the communications in full.

(At this time Secretary Stewart read in full the communications from Adlai E. Stevenson, Warren G. Magnuson, Colonel Ray J. Will, and petition from 22 residents of Bristol Bay.)

SECRETARY: The communication from the Attorney General, do you wish, Mr. President?

PRESIDENT EGAN: Proceed to read the communication from the Attorney General.

(The Secretary read the communication from the Attorney General.)

PRESIDENT EGAN: Do the delegates feel that it would be necessary to mimeograph copies of that decision or is it sufficiently clear to you just what the decision is without having copies mimeographed? Mr. Sundborg.

SUNDBORG: Mr. President, I wonder if the attached opinion of an earlier date did not state that we would in fact be entitled to meet until 10 o'clock of the 76th day, that is until the hour of the 76th day on which we started on the first day?

PRESIDENT EGAN: That would be the natural presumption, Mr. Sundborg. I believe that in a news article the Attorney General stated that but that would be the natural presumption. Mr. Ralph Rivers, I believe a decision by you stated that previously.

R. RIVERS: As I remember.

PRESIDENT EGAN: The Secretary can read the opinion that was handed down in 1953.

(The Secretary read the 1953 opinion at this time.)

PRESIDENT EGAN: The time will have run out on this Convention at 10 o'clock a.m. on February 6. Mrs. Hermann.

HERMANN: Mr. President, I want to express my appreciation for having heard those letters. I got a lift out of them. I don't know whether the rest of you did or not, but I don't think we should ever decry the importance of getting a little inspiration into the journal.

R. RIVERS: I suggest that we are all clear on the subject matter of the Attorney General's letter and that it will be filed.

PRESIDENT EGAN: If there is no objection the letter will be filed along with the other letters. We have before us now Committee Proposal No. 3 on the initiative, referendum and recall. It is the recollection of the Chair that we held over on the last day before we recessed, consideration of an action. Mr. Riley.

RILEY: Mr. President, in order to resume discussion on a point given considerable treatment when last we met, I move now to bring on my reconsideration, touching on the amendment of line 20, page 2.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Riley moved, Mr. Doogan seconded the motion that the reconsideration of the matter that related to line 20, page 2, be before us at this time. Mr. Riley.

RILEY: At this point, Mr. President, I will ask unanimous consent that the rules be suspended in order that it be debatable.

PRESIDENT EGAN: If there is no objection, Mr. Riley asks unanimous consent that this reconsideration motion be debatable. Is there objection? If there is no objection it is so ordered. Mr. Riley.

RILEY: Let me preface my remarks by stating that in serving notice on the last Convention day that I wished to reconsider this matter, but today I do not have in mind any particular discussion of it but had thought that it would be the most expeditious means of holding it open, bearing in mind that earlier that week, or previous week, more or less discussion had occurred as to holding anything deliberately in second reading. It

was the final day before our recess and it seemed the simpler means of accomplishing the purpose of holding it open. At that time I had not given particular thought to the effect of the earlier amendment. You will all recall that this amendment was the one on which the vote was erroneously announced a day or two earlier. The effect of the matter as it stands now is that line 20 contains but three words, and I am referring to the original Article 3, if you have that one before you. I believe you all have a corrected copy before you and my reference to the corrected one would be on page 3, line 7, ending with the word "governor", but actually, to follow what I have in mind, reference should be made to the original Proposal No. 3 on page 2, line 20. After having served notice to reconsider, I gave this some thought to see if there were any substantive implications. Now as this article first hit the floor about three or four weeks ago, line 20 read, "by the governor nor amended or repealed by the legislature for a period of three years." This has to do with action which may be taken on an initiative measure once adopted by the people, following its adoption, what action may be taken by the governor or the legislature. Now, as all will recall, after the erroneous announcement of the vote on an amendment which proposed to end that sentence with the word "governor", the Convention continued consideration of that sentence and amended it so as to read "no law passed by the initiative may be vetoed by the governor nor may it be repealed by the legislature for a period of three years." The language prohibiting amendment by the legislature was stricken. The language remaining would allow the legislature to amend but would not allow the legislature to repeal an initiative measure for a period of three years. Later it was found that we had actually adopted the earlier amendment and had stricken all of that language after the word "governor". I have done a little checking as to the implications of leaving the matter as it stands now with a period after the word "governor" and find that if there is no language in the constitution regarding amendment or repeal of initiated laws that we are left in a state of uncertainty and that its meaning would be subject to construction in the courts. I find that 97 ALR 1046 states there is no general rule. It goes on to say that, "Courts are not agreed on the question whether in the absence of expressed constitutional or other provision prohibiting the amendment or repeal by the legislature of measures adopted by the people, such measures may be so amended or repealed. Most state constitutions do contain some provision for amendment and repeal or a prohibition against actions by the legislature. Silence in the constitution will mean that we will not know what powers, if any, the legislature will have with regard to initiated laws. The result would depend upon interpretation by the courts, and it is noted that the Washington and Oregon supreme courts have reached opposite results on this single question." Now I feel in pursuing this matter that if it is the wish of the entire Convention or a majority of the Convention to reopen the subject by favoring my motion to reconsider that

we will then be faced with a two step process. If my motion should prevail, it will restore the language as it was originally, as it appears in print on your mimeographed original, and the second step would then be to consider whether further modification is desired in the language which has been restored. That language was modified, mistakenly the other day. It was modified to read, "nor may it be repealed by the legislature for a period of three years", leaving the door open, as I see it, for amendment by the legislature in the event runaway initiative measures proved a hazard to the state or to the state's solvency.

PRESIDENT EGAN: Mr. Riley, if the Chair might ask a question here, were not the words may it be" inserted before this particular motion to change the rest of it was made?

CHIEF CLERK: Yes.

RILEY: It is my impression that that may have been the case. Now I would have to check with the Clerk on that.

CHIEF CLERK: That is right. It was prior to the one putting the period after "governor". That was taken several days before.

RILEY: In that event I stand corrected. It would not restore it to the original language but it would restore it to "nor may it be repealed". My own view in that event would be we might wish to still consider retention of the word "amended" or striking it as we did later that afternoon. I don't wish to get ahead of myself in this respect, but I do wish to state very clearly that if we feel that we are closing the door to legislative consideration of any sort, if we feel we are putting the matter up to the courts for interpretation, I think our only course is to reconsider our action taken, in short to support this motion, and then from that point to consider the following language.

PRESIDENT EGAN: The question is actually at this time, "Shall the motion that was made" -- who made the motion for the adoption of the particular amendment?

RILEY: Mr. Hellenthal, as I recall.

HELLENTHAL: I don't think any mistakes were made in this matter.

PRESIDENT EGAN: Mr. Hellenthal, in order to clarify what is going on here, I believe you were not here the following day, but what happened was that in totaling the results of that vote on your particular amendment, on the official total it was written "27 nays and 25 yeas". Actually it was reported that way and the Chair stated the result as it appeared on the

totals, but actually it was in reverse, and it was "27 yeas and 25 nays".

HELLENTHAL: Which amendment was it though? There were three amendments to that particular sentence?

CHIEF CLERK: It was "Strike all the words after 'governor' in line 20 and strike line 21." And that was announced as having failed, and so another amendment came up and on Monday they expunged the rest of it.

HELLENTHAL: The first amendment had passed so it was all stricken. Was not that same result accomplished in another method, regardless?

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for two or three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall all the words after the word 'governor' on lines 20 and 21 be stricken?" Mr. Riley.

RILEY: Mr. President, the effect of my motion as you have just stated it, if my motion carries, will be to restore us to the position we were in before that deletion occurred and before the period was put after the word "governor". It will open the way for further attention to that language.

PRESIDENT EGAN: We are back once more to the vote to that particular amendment. Mr. Hellenthal.

HELLENTHAL: We have no objection on that as long as the manifest intent of the body is preserved after all the maneuvering is over with, namely that when it all winds up that it will be impossible for the governor to veto a law passed by the initiative. It will be impossible for the legislature to repeal it for a period of three years, but it will be possible for the legislature to amend such a law.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, point of information. Now to accomplish this result, a "no" vote will be necessary.

PRESIDENT EGAN: A "no" vote would accomplish the result that has been spoken of here on the floor, that is if you are inclined to cast a "no" vote. Mr. Victor Fischer.

V. FISCHER: Mr. President, if a "yes" vote carries, Mr. Riley has made the statement we would be exactly where we were before and then could amend it.

PRESIDENT EGAN: No, Mr. Riley, you might explain.

RILEY: Mr. President, I expect to vote "no" on this proposal in the hope that the negative side will prevail in order to open up the subject of further amendment of that language.

PRESIDENT EGAN: If a "no" vote prevails, the way the Chair understands it then, the whole sentence will read, "No law passed by the initiative may be vetoed by the governor nor may it be amended or repealed by the legislature for a period of three years." That is what a "no" vote on this particular motion will do. If a "yes" vote prevails a period will be stricken after the word "governor" on line 20.

R. RIVERS: No -- put.

PRESIDENT EGAN: A period will be put. Mr. Fischer.

V. FISCHER: I am straightened out from that standpoint. Then going back to Mr. Riley's statement -- if the "noes" carry we will be in the same position where we were the other day before we started amending except for one thing. If the body then does not approve the deletion of "amended in the original sentence you cannot again strike the remainder of the sentence after "governor". In other words, I am just throwing this out whether there is not a danger that the intent of the reconsideration would not be accomplished.

PRESIDENT EGAN: Mr. Fischer, the intent of the reconsideration would be to nullify the action taken in deleting the rest of that sentence. You are correct, and it would leave it as it is at the present time. No one else could offer a motion after that if the "noes" prevail to delete all the wording after "governor" again.

MCCUTCHEON: Question.

PRESIDENT EGAN: It could be amended in various ways but could not completely be deleted. Mr. Londborg.

LONDBORG: Did you not say if the "noes" prevail all will be deleted after the word "governor"?

PRESIDENT EGAN: If the "noes" prevail it leaves with the proposal all the words. Mr. Kilcher.

KILCHER: Mr. President, maybe I am retroverting to my post November state of mind, but I am still not clear in my mind about what is going on here. Could we please hear the motion? It has been almost a half hour ago that we have heard it. I am told that "no" accomplishes this, "yes" accomplishes that.

PRESIDENT EGAN: Here is the question. The question is, "Shall

the words 'nor it be amended or repealed by the legislature for a period of three years', shall those words be deleted from the proposal?" That is the question that is before us at this time.

UNIDENTIFIED DELEGATE: Question.

LONDBORG: Mr. President, I request a roll call.

PRESIDENT EGAN: Is everyone clear now what they are voting on? They are voting on the question, "Shall the words 'nor may it be amended or repealed by the legislature for a period of three years', shall these words be deleted from the proposal?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 9 - Barr, V. Fischer, Johnson, Londborg, McLaughlin, McNealy, Poulsen, Reader, Rosswog.

Nays: 39 - Awes, Boswell, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, McCutcheon, McNees, Marston, Metcalf, Nerland, Nordale, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 7 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson, Taylor.)

CHIEF CLERK: 9 yeas, 39 nays and 7 absent.

PRESIDENT EGAN: The "noes" have it and so the amendment has not been adopted. Mr. Ralph Rivers.

R. RIVERS: To follow up, Mr. President, Mr. Riley's purpose, I have prepared an amendment to Section 4.

PRESIDENT EGAN: Mr. Rivers offers an amendment to Section 4. The Chief Clerk may read the amendment.

CHIEF CLERK: "Line 20, page 2, delete 'amended or' and on the last line of Section 4 after the word 'years' change the period to a comma and add 'but may be amended at any time'."

PRESIDENT EGAN: Are you offering this as one amendment, Mr. Rivers? It is a related amendment?

R. RIVERS: They are two segments of the same amendment, Mr. President.

PRESIDENT EGAN: What is your pleasure?

R. RIVERS: I ask unanimous consent for the adoption of this.

WHITE: I object.

R. RIVERS: I so move.

MCCUTCHEON: Second it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. Riley has pointed out that the right of the legislature to amend an initiated measure is not clear unless the constitution specifically authorizes the legislature to amend an initiated measure. The usual power of the legislature includes the power to amend. Oregon and Washington on the identical question have differed. One of those courts said that if you do not mention the power to amend an initiated measure, the legislature may not amend it. The other court says that if you don't mention amending an initiated measure that the legislature may amend it. Now we have the law before us, the division in the courts on this identical question, so we should be guided by this previous experience and keep our government out of court and make it perfectly clear when it is so easy to do by specifically saying that the legislature may amend at any time. We don't want to prohibit amendments, that is the reason for the first part in my motion. The first part is to delete the words "amended or" because that has to do with prohibitions imposed upon the legislature. So if we adopt this motion we will delete the words "amended or" and we would add the words "but may be amended at any time" at the very end of the sentence, and then the way it would read would be as follows, "No law passed by the initiative may be vetoed by the governor nor may it be repealed by the legislature for a period of three years but may be amended at any time."

PRESIDENT EGAN: Mr. White.

WHITE: By way of an explanation of my objection, I had an amendment on the Secretary's desk at the same time which I will give in opposition to this amendment. My amendment would read, "Strike all the words after 'governor' and say 'but may be amended or repealed by the legislature'." The intent of that is that I believe mine will take us back to the intent of the body when we originally struck all the words after "governor". In other words, at the time we adopted that amendment it was our intention to allow amendment or repeal by the legislature. I think it has become clear to the proceedings here that it would be desirable to spell that out. I think we should spell it out but it was our intent when we passed the amendment before, to allow amendment or repeal by the legislature without any reference to three years. I voted for that amendment at the

time. To be consistent I will vote against this one today.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I do not personally favor an initiative or referendum of this type for the initiation of law. However, if we do adopt such an initiative then certainly we must put some particular date line on it to give the law a valid opportunity to be ascertained whether or not it is going to be a good law, and by putting a limitation on the legislature it will prohibit the legislature from probably repealing it immediately. I do not think the legislature should be prohibited from rectifying such mistakes as may develop in the law after it has been put to practical utility.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I agree with Mr. Rivers and Mr. McCutcheon, and it is true that the first amendment passed which would put the period after the word "governor", as Mr. White said, but in a very few minutes thereafter, this body decided they would let the legislature amend matters passed by the initiative within the time limit but they would not permit the repeal within the time limit, and I think that we should follow the most recent demonstration of the intent of this body rather than the earlier demonstration that Mr. White refers to, and for that reason I support Mr. Rivers' amendment and I agree wholeheartedly with Mr. McCutcheon that if we are going to have an initiative and referendum law let's make it a workable law.

KILCHER: I do not think it wise to refer to this body's intention after a mistaken poll there, that the intention is after this mistaken result has been announced, or any other intentions before Christmas should have any bearing at all upon this body's consideration now. We have been home to get new ideas. I have some. It has been brought to my forceful attention in my part of the country that the people were specifically dissatisfied with most of the intentions that were shown in the poll here on initiative and referendum, dissatisfaction with those who were outright opposed to it, dissatisfaction with the way it was weakened and dissatisfaction with the majority of the Convention's opinions before Christmas. I hope this very majority has changed now. I don't see where Mr. Rivers' amendment will essentially satisfy these people who have expressed dissatisfaction along the lines mentioned. I would like to be able to confer with Mr. Rivers or suggest an amendment to the amendment or have a chance at least that after we voted on this that should it be accepted, that we can amend it or possibly bring it up now, actually I still think it would be not a bad idea to consider it as a committee, but probably that would not hold.

PRESIDENT EGAN: Would you ask for a two- or three-minute recess to confer with Mr. Ralph Rivers?

KILCHER: I would like that very much.

MCLAUGHLIN: I might point out to you that we already have a statement of policy on the subject of recesses.

PRESIDENT EGAN: The Chair feels that it did not pertain to recesses that might be an attempt to iron out certain difficulties where on the floor we might absorb more time than the recess might take. Mr. Ralph Rivers.

R. RIVERS: Perhaps I can expedite matters by saying that any proposed amendment that Mr. Kilcher would have to make after my amendment is adopted, if it is adopted, would be in order, if it is not absolutely paraphrasing some former factor that has been acted upon. So I think the orderly procedure, Mr. Kilcher, would be for you to come in with your amendment after you see what happens to mine, because I don't want to change what I have submitted.

KILCHER: What I am afraid is that, past experience has shown me that if I should have an amendment that is essentially not only contributory or opposed to yours, after yours has passed, my chances are slim. We might reach a better compromise privately. There is no reason why we should not ask questions on the floor. What I had in mind, Mr. Rivers, if I may ask this question, we have seen what amending can do on this floor and in the legislature. If we want the initiative law at all it is little consolation that it cannot be repealed by the legislature for three years. It can be crippled badly enough any time, according to your amendment, so that it might just as well be dead. It can be crippled sufficiently to make repealing seem merciful, so I would suggest that we make the amending more difficult. I would be willing to compromise on the three years, make two years for repealing or one year for amending or make it amendable by two-thirds majority of each house. Why not? The initiative and referendum is supposed to be the voice of the people, stronger than the legislature. If the legislature should really find that an obnoxious law has been passed by the populace, well fine. We certainly would be right in assuming that two-thirds of the legislature could be aroused to repeal this evil law. If it is not an evil law, it has reason to stand, the people put it there. I will make an amendment to your amendment, you can accept it now or later, that the two thirds majority be added right after your sentence.

R. RIVERS: That would be entirely in order after he sees what has happened to my amendment.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Just a point of information. Before we left for the recess, we had this Committee Proposal No. 3, the portion we are working on, on the initiative and referendum and recall, remimeographed with the amendments made up to date, and I just wonder if any amendments that aren't submitted now should not be submitted to that amended form because for one thing the lines are different, the line numbers I should say in which you are submitting your amendments are different.

PRESIDENT EGAN: Mr. Doogan, that form was made for the information of the delegates and will not be officially the amended form until we are through amending. Mr. White.

WHITE: Just briefly to correct something that was said previously. I refer to the copy for clarification in which it distinctly shows a period following the word "governor" which is the last action taken by the body. In other words, the last action taken by this body was to allow by inference, amendment or repeal by the legislature. I merely rose before to say that I have not changed my mind and therefore will vote against this amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I agree with Mr. White. I think that before the Convention recessed for the holiday we had adopted a plan which would permit the legislature by reason of the amendment, as it was finally determined, to be correct, would give the legislature a right to amend or repeal these laws as they were initiated by the vote of the people. Now it develops there is some question as to whether or not that intent could be specifically inferred from the fact that there was no specific language to that effect in the provisions as it then stood. I think that certainly it is just as dangerous to say that a law could be passed by the people and could not be repealed for three years. If this happened to be a very bad law, which could happen, then we are, as the saying goes, stuck with it for a period of three years and nothing could be done about it. However, if the matter were left to the legislature to determine they can by inaction allow the matter to have a good run and see whether or not it is workable, but if it should be demonstrated in six months or a year that the law was bad or ought to be repealed, then you are hampered by the three-year limitation just as seriously as you would be the other way, so I think Mr. McCutcheon's argument works both ways. What is good on one side certainly ought to apply on the other. I am not in favor of the amendment as offered by Mr. Rivers. I certainly would be in favor of some amendment as suggested by Mr. White.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I rise to close the debate unless someone else wishes to be heard and that is to the effect that if you allow the legislature to repeal an initiated measure right away, that you are making the initiative meaningless as Mr. Hellenthal pointed out, but if something were wrong the amendatory process would be sufficient to protect the state.

MCCUTCHEON: Question.

PRESIDENT EGAN: If there is no further discussion the question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" Mr. B. D. Stewart.

STEWART: May we have it read?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Line 20, page 2, delete the words 'amended or' and on the last line of Section 4 after the word 'years', change period to a comma and add 'but may be amended at any time'."

JOHNSON: May we have a roll call?

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 40 - Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Nays: 8 - Hurley, Johnson, Laws, Londborg, McLaughlin, Poulsen, Reader, White.

Absent: 7 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson, Taylor.)

CHIEF CLERK: 40 yeas, 8 nays and 7 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Kilcher.

KILCHER: I would like to request a two-minute recess to have time to write up my amendment.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher, do you have your proposed amendment?

KILCHER: Yes.

PRESIDENT EGAN: The Chief Clerk may read the amendment as proposed by Mr. Kilcher.

CHIEF CLERK: "Section 4, page 2, line 21 add the following, 'by an affirmative vote of two-thirds of the members elected to each house'."

PRESIDENT EGAN: Mr. Kilcher, what is your pleasure?

KILCHER: I move the amendment be adopted.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the amendment.

MARSTON: I second the motion.

PRESIDENT EGAN: The question is, "Shall Mr. Kilcher's proposed amendment be adopted? Is there discussion? Mr. Barr.

BARR: Mr. President, I don't think we should set up any such rules for the legislature here. The usual system is for the legislature to pass any bill by a majority vote, and of course they can change their rules by a two-thirds majority. If we put things like this in the constitution, we will have to run back through the constitution to see whether or not each bill passes that they vote on, etc. I don't think that we should restrict the legislature on their power to make amendments anyhow or even to repeal such a law. When a law is enacted some of them are supposed to be more or less permanent. Others are temporary measures to take care of emergency conditions or temporary conditions, and if the people initiate the law, it passes, the following year conditions may be entirely different. The people themselves might want that law repealed and the quickest way to have it done is by the legislature. It seems that it is the feeling of a few of the people here that they are trying to protect the people from their legislature thinking that the legislature through stubbornness or some other reason will immediately repeal a law the people have passed. I can't imagine that happening. A group of the people in the legislature are elected by the people to represent them. I don't see how they can turn around and go against a clear-cut expression of the will of the people. But if we put such things as this in the constitution they are restricted from correcting a bad condition.

MARSTON: I had some information, quite a lot while I was out in this period of time. I found some people who said, "I won't vote for that constitution you fellows are writing there on this one point. I took care of this man. I said, "You are going to have a right to speak up and correct that. If there is only one point that is worrying you, and you are going to turn it down, you can do it. We are making a provision so you can make a correction." I agree with Mr. Barr that the legislature is not going to go in reverse to the people, but if the people go out and pass a law they say, "Those fellows can upset that if they want to." The very feeling is there. They like to have the power in the people to initiate a law and know that we will be protected and be abided by the legislature. This is not too strong at all. I am going along with Mr. Kilcher's amendment because it puts the power in the hands of the people and I can sell this constitution to the people a lot more by having this initiative and referendum a workable clause so that the legislature, if we do something wrong to the people, then they can do it and the legislature is the thing that is wrong. On the story of the initiative and referendum, they have passed more good laws than they have bad laws and that is as good as you can say for any legislature. I would like to see this amendment put through to keep the power in the hands of the people, and if we have done a wrong thing the people can correct it by a two-thirds vote. I am going to vote for this.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted?"

COLLINS: I ask to have that amendment read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 2, line 21, after the last word of Section 4 as amended, add the following: 'by an affirmative vote of two-thirds of the members elected to each house'."

PRESIDENT EGAN: Would the Chief Clerk please read the two sentences as they would now read.

CHIEF CLERK: "No law passed by the initiative may be vetoed by the governor nor may it be repealed by the legislature for a period of three years but may be amended at any time by an affirmative vote of two-thirds of the members elected to each house."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of the adoption will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 22 - Coghill, Cooper, Emberg, H. Fischer, Harris, Hilscher, Hurley, Johnson, Kilcher, Knight, Lee, McNees, Marston, Metcalf, Nerland, Nordale, R. Rivers, Smith, Stewart, Sundborg, VanderLeest, Wien.

Nays: 26 - Awes, Barr, Boswell, Collins, Cross, Doogan, V. Fischer, Gray, llellenthal, Hermann, Hinckel, King, Laws, Londborg, McCutcheon, McLaughlin, McNealy, Poulson, Reader, Riley, V. Rivers, Rosswog, Sweeney, Walsh, White, Mr. President.

Absent: 7 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson, Taylor.)

CHIEF CLERK: 22 yeas, 26 nays and 7 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of passage. Mr. Londborg.

LONDBORG: I have an amendment. It is the one I submitted before the recess. I would like to resubmit it.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment. The amendment was not voted upon, is that right?

LONDBORG: It was not voted upon, I had asked that it be withdrawn.

CHIEF CLERK: This was to Section 4, is that right?

LONDBORG: I believe so. It is in the Ralph Rivers amendment. I think you will find it better on page 2, line 8 of the changed copy, although I can't legally attach it to that.

CHIEF CLERK: "After the word 'signatures' in the next to the last sentence of the Ralph Rivers amendment, delete the rest of the sentence and substitute the following: 'from each of two-thirds of the election districts of the State with signatures equalling not less than 3% of the number of voters casting ballots for governor in each such district in the preceding general election at which a governor was elected'."

PRESIDENT EGAN: What is your pleasure, Mr. Londborg?

LONDBORG: I move the adoption of the amendment.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is open for discussion and the Chief Clerk might read the proposed amendment once more.

CHIEF CLERK: You can find it on page 5 of the journal of the 42nd day, next to the last paragraph, it is the bottom of the page.

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Londborg.

LONDBORG: The reason for this proposed amendment is to make it a little more clear that there should be at least more than one signature in each of these two-thirds of the districts. As the proposal now reads, they are to obtain signatures in at least two-thirds of the election districts of the state. Now, as I take it, that would mean that a person wanting to start an initiative, if he would get ten per cent of the total votes cast in one city, then he could send out or go out, either way, and just get one signature in each of two-thirds remaining districts and that would make the petition valid. Probably he would get two or three to play safe, but he would only have to get one. He would get a signature in each of the two-thirds districts and I believe that when we have such an important thing as an initiative and if the legislature has failed to the great extent that initiative is necessary, then that initiative should be a vital interest over all the state and not just in one area, and I believe that that interest will be best shown if we have at least three per cent of the voters in each of those two-thirds districts signing. Now three per cent is not very high. I put that purposely low so that it would not make it hard to get the signatures in any one of those areas, but at least it should be more than one signature in two-thirds of the election districts. That is not going to make the initiative, I don't believe, any harder to work but it will at least show and prove that that proposed bill or that proposed law is gaining interest over the whole state, not just a local affair that the ten per cent would indicate if they were taken from one city or one locality and just go out and get one signature to comply with our initiative.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am going to support the amendment because I think it makes good sense.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I am going to vote against the amendment because I don't think it makes good sense. The reasoning behind it sounds perfectly logical but I call attention to the fact that in this proposal that we have so far, we have at least three types of initiative which are not possible. We have put safeguards on it as far as the people are concerned so that the Territorial legislature will not be faced with a law they do not want. I think we also should remember that the initiative petition is just the beginning, that it will still be referred to the people for a vote throughout the Territory of Alaska, and I am sure by that time there will be sufficient discussion of it so it will be taken up, but I have the feeling we have gone to too large an extent in legislating this matter of initiative and referendum in the first place. We are continually getting into numbers.

We are getting into things that are subject to critical glances from the people that are trying to get the job done, and I think generally that the less restrictions that we put on this thing the better off we are going to be, and I don't think the amendment will serve the purpose that the proposer thinks it will.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I believe I agree with Mr. Hurley's position on this. Even though the signatures originate in one area I want you to note that in Section 5 it states, "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation." Well, if there is no special local interest in the legislation, even though the signatures should come from a local area, if it is an overall general legislation, it would be my assumption that they would probably try to get as widespread number of signatures as possible to get as widespread interest as possible. I see no reason to impose some other percentage figure now. I don't see we gain a thing by it. I think it is an extra handicap and does not add to but detracts from the initiative and referendum as we now have it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to close this short debate. In answer to the last objection, I don't believe Section 5 is a safeguard at all. It just merely says that they may not be used for means of earmarking revenues, etc., but there still may be a law that one locality might particularly want, maybe it isn't pertaining to them, but it may pertain to the whole state, but the state may not be particularly interested in it, and the initiative may spring out of a populous area and they could get the ten per cent in just an overnight campaign and get the one signature out around, and then in answer to the former objection where we should not make it hard or things of that nature, let us remember that the initiative is not enacting laws by an apportionment representation. We are enacting laws by popular vote, and we have set up a machinery in the legislature to make our laws and they are sitting representing the various areas of the country, but when it comes to a popular vote, then you will find that it is where the people are that is going to count, and I think as a safeguard, and again I say it is not a high safeguard but very low, if you get three per cent of the qualified voters in these two-thirds districts you will have a good indication of whether it is of statewide interest.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Londborg be adopted by the Convention?"

LONDBORG: Mr. President, I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the

proposed amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Barr, Boswell, Cross, Hinckel, Johnson, Kilcher, Laws, Londborg, McNealy, Metcalf, Nerland, Poulsen, Reader, R. Rivers, Stewart, Sweeney, Walsh.

Nays: 31 - Barr, Coghill, Collins, Cooper, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nordale, Riley, V. Rivers, Rosswog, Smith, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 7 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson, Taylor.)

CHIEF CLERK: 17 yeas, 31 nays and 7 absent.

PRESIDENT EGAN: The "nays" have it, and the proposed amendment has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the Convention stand at recess until 3:45 o'clock today.

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Committee Proposal No. 3? Mr. Smith.

SMITH: I would like to ask unanimous consent to revert to Committee announcements again.

PRESIDENT EGAN: If there is no objection Mr. Smith.

SMITH: I have been requested to postpone the meeting of the Resources Committee until tomorrow night due to the fact that there are quite a number of suggestions that have been made, at 7:30, and we will still meet in the lobby of the Northward Building.

PRESIDENT EGAN: The meeting of the Resources Committee has been postponed until tomorrow evening at 7:30 p.m. in the lobby of the Northward Building. Are there amendments to Committee Proposal No. 3? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I have an amendment on the Secretary's desk.

CHIEF CLERK: "Section 4, line 21, change the word 'three' to 'two'."

PRESIDENT EGAN: What is your pleasure, Mr. Rosswog?

ROSSWOG: I would like to move that this amendment be adopted.

WHITE: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. That is an amendment on line 21, page 2, the word "three" be changed to the word "two". In other words, it could not be repealed by the legislature for a period less than two years rather than three years. The proposed amendment is open for discussion. Mr. Rosswog.

ROSSWOG: I might like to say that I believe that just in the possibility that we should have a law we should not wait three years to have it repealed. I believe that two years would carry over one session of the legislature and the following session would be able to repeal it, where three years, possibly with a two-year session there would have to wait.

NORDALE: Mr. President, I would like to address a question to Mr. Taylor.

PRESIDENT EGAN: Mrs. Nordale, you may address your question if there is no objection.

NORDALE: Mr. Taylor, I would like to know how the Committee arrived at the figure "three".

TAYLOR: That figure was arrived at with the fact that it would not let the same legislature act upon the matter. The next legislature would perhaps be quite a change in body. At least half of them would be new ones. I don't believe the Committee has any objection to changing it to two years especially if we have every biennium a meeting of the legislature. Otherwise, it would go four years anyway.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? If not the question is, "Shall the amendment as proposed by Mr. Rosswog be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Awes, Barr, Boswell, Collins, Cooper, Cross, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg,

McCutcheon, McLaughlin, McNealy, McNees, Marston, Nordale, Reader, Riley, R. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 10 - Coghill, Doogan, Emberg, H. Fischer, Hurley, Metcalf, Nerland, Poulsen, V. Rivers, Mr. President.

Absent: 6 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson.)

CHIEF CLERK: 39 yeas, 10 nays and 6 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 3? Mr. Smith.

SMITH: I have two amendments on the Chief Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the first amendment as offered by Mr. Smith. Now, first, are we through with amendments to Section 4? Mr. Smith, would you hold your proposed amendments to Section 3 until we are completed with Section 4?

SMITH: I will be very glad to do that.

PRESIDENT EGAN: You bring it to the attention of the Chair the minute we come to that. Mr. Kilcher, do you have a proposed amendment to Section 4? We will not go back to other sections until we have completed Section 4, 5, and 6. The Chief Clerk may read the proposed amendment as offered by Mr. Kilcher to Section 4.

CHIEF CLERK: "Section 4, page 2, line 20, after the word 'governor' delete the balance and substitute the following: 'nor may it be amended or repealed by the legislature within a period of two years except by a two-thirds majority vote of the members to which each house is entitled'.

HELLENTHAL: Point of order. I think this matter has already been before the body once and possibly twice and that the motion is out of order.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed motion again.

CHIEF CLERK: "Section 4, page 2, line 20, after the word 'governor' delete the balance and substitute the following: 'nor may it be amended or repealed by the legislature within a period of two years except by a two-thirds majority vote of the members to which each house is entitled'."

PRESIDENT EGAN: The Chair would have to hold it changes the three years to read "two years" and whether or not the Convention has considered the question of a two-thirds majority vote in a two-year period of time the Chair does not recall that the Convention has considered it. Changing it to two years changes the complete substance.

TAYLOR: I think Mr. Hellenthal's point of order is well taken because we have already, by the adoption of our previous motion, made it two years so the motion to amend as proposed by Mr. Kilcher moves to strike all this and then only adding a few words.

PRESIDENT EGAN: That is correct, Mr. Taylor, but the question I believe Mr. Hellenthal was thinking of was the fact that Mr. Kilcher had previously offered an amendment that called for a two-thirds majority vote of both houses, "but at that time the wording of the section said "three years instead of "two years". Now there is a difference there.

KILCHER: Mr. President, I have to add something to your explanation. If it were only that, I would agree it would just be a matter of taking advantage of a possible technicality and be a loss of time, and that was not the intention. I think the amendment is in order for a different reason. This is the first time that the amendment includes repealing, even before two years. It includes repealing and amending. In that respect it is a new amendment. The other one had a two-thirds majority for amending. I had this amendment written before the decision had been reached as to whether it was going to be two or three years. Irregardless of the three years I would like to see it repealable, not only amendable within two or three years.

HELLENTHAL: I withdraw my point of order.

KILCHER: I would like to grant the legislature the right to repeal before two years and to amend it before two years, both with the two-thirds majority.

PRESIDENT EGAN: The meaning of the proposed amendment is entirely different than the meaning of the previous amendment. The amendment is in order.

KILCHER: I move this amendment.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the proposed amendment. Is there a second?

BARR: I'll second it.

PRESIDENT EGAN: Mr. Barr seconds the motion. The question is open for discussion. Mrs. Hermann.

HERMANN: This is another attempt not only to write legislation into what should be merely fundamental law but also to write rule-making powers of the legislation into fundamental law. I don't think that majority by which the vote should be passed has any place whatever in a constitution, and I am not adverse to the initiative and referendum but I think that is a great breach of constitution writing to include a proposition in it that should be a subject for the rules of the legislature, not even the laws that the legislature passes, but the rules which they adopt.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I should feel elated with Mrs. Hermann's remarks because they are contrary to her past performance, and is very weak in my opinion, her logic. However, I don't want to become too optimistic about my amendment because of this, but in rebuttal to her points there I would like to say that if this two-thirds majority were not matter to be included in the constitution, how could we include the ten and three per cent and all the other matters in the constitution. This initiative and referendum as such is part of the body of the constitution and is in no way in relationship whatsoever with the legislature. The legislature has no more relationship to the initiative and referendum stemming from the people than the judicial council has in its relation to the legislature. That is debatable maybe but that is the way I see it. So the two-thirds majority I am glad to discover here in the model constitution, for whatever it's worth. It also says no measure adopted by vote of qualified voters under the initiative and referendum provision of this constitution shall be repealed or amended by the legislature within a period of three years. We have it too, except as a two-thirds vote of all the members. That is the model constitution. So I am not entirely on wild ground and I think by having it down to two years, which I think is reasonable, and by making it amendable as well as repealable within two years, with the two-thirds majority I don't think we are stepping into the sanctum of the legislature's prerogatives. Either we believe in the initiative and referendum or we don't. If something entirely dangerous should come up, not only the people would repeal their own mistakes, but even more efficiently than that, the legislature would be there to repeal its mistakes. The same as we have rules here in this Convention I was told, "If something really bad comes up, don't be afraid of a two-thirds majority. You'll easily get it if something is drastically wrong." Mrs. Hermann has mentioned that several times in the past and the same rule would apply to the legislature. I don't see why they should be afraid to have a two-thirds ruling and I don't think that matter should not be included in the constitution. I think in my obligations towards the people whom I have promised a few last ditch fights in this matter and who will be decisive maybe, maybe 50 or 100 votes may be decisive.

In that respect I think it will not be a loss of time to give this a little bit more thought and I strongly urge that true friends of the initiative and referendum system give it some consideration and accept this amendment.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I am a true friend of the initiative and referendum, and I don't know just what we are voting on here, and I'd like to know before the vote.

PRESIDENT EGAN: The Chief Clerk will read the amendment once more.

KILCHER: May I request the Chief Clerk to read it as the paragraph would read, including the amendment.

CHIEF CLERK: "No law passed by the initiative may be vetoed by the Governor nor may it be amended or repealed by the legislature within a period of two years except by a two-thirds majority vote of the members to which each house is entitled."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am a little bit puzzled. Delegate Kilcher has contended for the strongest possible initiative. At the present time, the way we have it now written, there is no repeal by the legislature allowed at all for two years. Now he wants to whack it down and say the legislature may repeal some law which was initiated by a two-thirds vote of both houses. We have already fought the battle out that we were not in favor of having the legislature repeal something that was initiated within a period of two years. I contended that they should have the power to amend at any time to protect the state against ill-advised financial drains upon the treasury or something that might bankrupt the state, but the amendatory process could protect the state in almost any event. I am going to vote against the amendment because I think it reflects the way we worked it out to this point and this represents a reversal of Mr. Kilcher's previous position.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Would you have the Chief Clerk read that just once more?

CHIEF CLERK: "Section 4, page 2, line 20, after the word 'governor' delete the balance and substitute the following: nor may it be amended or repealed by the legislature within a period of two years except by a two-thirds majority vote of the members to which each house is entitled."

HERMANN: May I ask a question of Mr. Kilcher?

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Does he mean that in joint session or single session?

KILCHER: Single session.

PRESIDENT EGAN: The question is, "Shall the amendment as proposed by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 4? Mr. Smith.

SMITH: I believe my second amendment I have on the Chief Clerk's desk does relate to Section 4.

CHIEF CLERK: It does not say what page. Is it after the word "chosen"?

SMITH: Line 3, page 2 of the original.

CHIEF CLERK: That is taken out already I think.

SMITH: Go back to the amendment.

CHIEF CLERK: That has already been deleted by Mr. Rivers' amendment which revamped that first part.

SMITH: Go back to Mr. Rivers' amendment then. It would be probably better to go back to the amended version. It would be on page 2, line 7. It would come after the word "chosen".

CHIEF CLERK: It has to be to amend Mr. Rivers' amendment because we can't refer to this. It is after the word "chosen", add the words "but not to exceed eight thousand signatures in any event."

PRESIDENT EGAN: What is your pleasure, Mr. Smith?

SMITH: I move the adoption of the amendment to Mr. Rivers' amendment.

PRESIDENT EGAN: Mr. Smith moves the adoption of the amendment.

SMITH: I ask unanimous consent.

SUNDBORG: I object.

EMBERG: I second the motion.

PRESIDENT EGAN: Mr. Emberg seconded the motion. Mr. Smith.

SMITH: The reason for the amendment is that as the population

increases in Alaska it would require more and more signatures to initiate a petition, that is to make a petition valid. After you reach a certain number of signatures it naturally will become more and more difficult and the purpose of the amendment is to hold the obtaining of signatures to at least what I would call a reasonable level. It would not affect the initiative procedure in any way until the population of the Territory reached a rather large figure, and I am sorry that I did not bring my reference material. I know that a like provision does occur in some state constitutions and I cannot refer to those due to lack of material.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, it is true that the proposal or the article as we now have it amended would require that a larger number of signatures be obtained as the population of the state grew, and I think it should. I think it would be dangerous to put in this limit of only 8,000. I hope this constitution will still be in effect and still governing the State of Alaska when population may be a million or two million people, and to make it possible at that time for a mere 8,000 people, which would be an infinitesimal proportion of the people of the state, to saddle the state with all of the bother of going through an initiative or referendum election, I think would be very bad and very dangerous.

PRESIDENT EGAN: Mr. Marston.

MARSTON: There is one state, I think California, has set a limit, and down there in Long Beach, California, they have a lot of clubs and they can get a bunch of people most any time they want on a question. I know the feelings back of this. It sounds good, but it works out wrong. I am going to vote against this, and I am going to vote against any more amendments that come up here.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: In regard to the remarks that were made by Delegate Sundborg, with the population of a future state of a million or two million, these signatures have to be by qualified electors. They will have to be checked. If you get 100,000 signatures to a petition, it would take practically the entire period between the two sessions of the legislature to get through that part of the procedure. I don't think we should require in the future that 50,000 signatures are required for a petition.

PRESIDENT EGAN: Mr. Barr.

BARR: I am against putting any definite figures in the constitution like 8,000 for instance. We don't know what Alaska will

be like 100 years from now. I don't suppose the population will grow as fast as it will in some other areas, but the Indians who sold the Island of Manhattan did not imagine there would be as many pale faces on that island as there are now. If there is a large population of two or three or four million here, that means a large population consisting of reasonable people, but also a larger percentage of crackpots who will want to put over their own ideas. Therefore we should require the same percentage of signatures and those signatures should be checked for that very reason.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe if we adopted this amendment we would be indulging in mere conjecture or guess work as to trying to establish a limitation upon a number of signatures that could possibly be on a petition. Now the State of New York saw fit in adopting the initiative and referendum that possibly 10,000,000 votes in the State of New York, that they only require not more than 50,000 signatures on an initiative petition. Perhaps they felt too it was quite burdensome to require more than that for the reason it would be very difficult to check. How can we say now 8,000 is the maximum we can use? Why not leave that to the future generation because I don't think in the next 10 or 20 years, in case the initiative is used, that we are going to have a population that is going to require any 8,000 signatures. We are going to have a phenomenal increase in population if we do, and I think we should not guess on these things. I think the next Constitutional Convention will possibly have a little better idea than we have now.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to add to Mr. Taylor and to detract from Mr. Barr's picturesque speech about Manhattan Island that these same Indians could not foresee what was going to happen, that there was going to be a Constitutional Convention in a hundred years, so we should not project these matters into a hundred years. We should realize that such minor matters should be taken up in the next Constitutional Convention. It is really not so spectacular as Mr. Barr likes to think.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Smith be adopted by the Convention?" All in favor will signify by saying aye, all opposed by saying "no". The "noes have it and the proposed amendment has failed of adoption. Are there other amendments to Section 4, Proposal No. 3? Mr. Hellenthal.

HELLENTHAL: I have an amendment I have not quite finished writing up.

PRESIDENT EGAN: If there is no objection the Convention will

stand at recess for 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will read the amendment as proposed by Mr. Hellenthal.

TAYLOR: Just before you read that, I would like to know which one the Clerk is reading from. We have what we originally called here the revised one.

PRESIDENT EGAN: The Chief Clerk cannot very well read from the revised proposal because as yet there is no real revised proposal. That is for information purposes only. You can refer your original proposal to the revision of amendments up to this time, but she has to read on the proposal before her, the official proposal with the amendments. Those amendments are just tentative, naturally until we are through second reading.

CHIEF CLERK: This is an amendment to the Rivers amendment. It is that part of Section 4, so you can follow it on the amended copy. It is on line 5 of the amended copy.

PRESIDENT EGAN: Actually this reference to the Rivers amendment, the amendment is not anyone's any more. It is part of the original proposal. There is nothing separate about it.

CHIEF CLERK: There is no line to refer to it, so it has to be referred to that way. It is line 5 of the amended copy, page 2, add the following words --

HELLENTHAL: The amendment is in line 5, strike "qualified electors equal to 10% of the number of votes cast for governor" and substitute the words, "10% of the voters who cast votes for governor".

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal, if that is your amendment.

HELLENTHAL: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hellenthal moves the adoption of his amendment. Is there a second?

SMITH: I second it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: The reason I make this amendment is that it struck me to check a petition will be very difficult because you have to determine in each case whether a person is a qualified elector and where you have 7,000 or 8,000 names that is going

to be an enormous and very, very expensive job. If you tie it in with 10 per cent of the voters who cast votes for the governor in the preceding general election at which there will be a poll book kept and the names will be there, it will eliminate the very costly and very expensive checking process that would be necessary if the present language is retained. I thought that was worthy of consideration by the body.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: It does not appear to me that is a valid reason for changing the language. Even if you checked the poll book and saw the name "John Jones" listed as having voted in that election, it does not indicate from his signing the book whether he voted for the governor. He could have voted for only one or two offices. The fact that he signed the poll book is no indication that he voted for governor or anyone else. I don't see that possibly could be a check. Under the wording as Mr. Hellenthal has offered that would be the implication, and it would be an impossibility.

HELLENTHAL: Mr. President, I had overlooked that, and I should ask with the permission of my second that the words "governor" be stricken in the amendment so it will read "at which the governor was chosen."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Johnson stated my point of view.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, if that amendment was adopted it would deprive perhaps many people who are qualified voters in the state from signing a petition for an initiative due to the fact that through circumstances beyond their control they might not have been in their home precinct, might not have been able to vote and therefore would be deprived of the right of participating in the initiative. I think it should be 10 per cent of the number who voted in that preceding election, not those of the actual people who did vote but 10 per cent of the number.

PRESIDENT EGAN: Mr. Taylor, are you saying that the proposal as it reads right now does not require that the qualified voter actually voted in the election? It only requires that a number of qualified voters equal to the 10 per cent signing these petitions, is that right?

TAYLOR: Now under the amendment those people must have voted in the preceding election. What if they were not in the state and had been voting for years?

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think it would be a good thing for more than one reason. As Mr. Hellenthal stated, it would be about the best way to check because you would have the records to go by in checking. Then, also, I don't think that anyone is going to be denied the privilege of voting whether he's home or not, with our absentee ballot system. If they have not taken the interest to vote, I don't think it is too serious to deny them the right of initiation.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: There is a proposal that has been on this floor in which there is a system of registration of voters that is going to be set up. You at all times from one year to the next, you have a list of the qualified voters in the state. So you will know by the number of votes cast in any one election what percentage of the number of qualified voters did vote in an election.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I believe Section 3 would take care of Mr. Hellenthal's objection. It says the legislature shall prescribe the procedure to be followed in exercising the powers.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: No, it would not, because if we adopt the present language. In other words, the check is tied in with a check of qualified electors, we are bound by it. That is covered by the constitution and that would be the rule that would have to be followed in checking the petitions, so I do this merely for practical reasons. It is much cheaper and much easier to check a list of voters that voted at the preceding election at which the governor was chosen. It is true, as Mr. Taylor said, that people, newcomers, would not be able to sign the petition nor would people who were through no fault of their own, "outside", but we have to balance the thing out and sometimes it is best to deprive them of their right to sign the initiative petition because a greater good would result by making it more practical and cheaper and easier to check. Now, as I understand it, the Legislative Committee will recommend a governor will be chosen every four years, so very, very few people would be hurt by Mr. Taylor's suggestion, and it might put a premium on voting. There would be more reason to vote at the general election.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Point of inquiry to Mr. Hellenthal. Mr. Hellenthal, now if we adopt a system of registration of legally qualified voters, a young fellow who becomes of voting age, he immediately goes up and registers and as a qualified voter, does that not

take care of the objection to the present language?

HELLENTHAL: The section on elections and suffrage that was adopted in second reading did not subscribe a system of voter registration. It merely said that the legislature might do it if they saw fit and you will recall from the debate, that many, many delegates felt that there should be no registration at all from the hinterland areas because it would be impractical so I don't think your point is very well taken in that regard, because there is no requirement of registration.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think Mr. Taylor's point is extremely well taken. The mention of the voters of the hinterlands has strengthened Mr. Taylor's argument for the same reason that some of the delegates in the past debate have been opposed to registration of votes. Let's not forget that some have been for it, and if because of the objection of Mr. Hellenenthal, in five or ten years from now we should find that it is cumbersome to define qualified voters, provided this amendment is not adopted, then the legislature will have an added reason to devise some system of registering the voters which I would be in favor personally, so I think we can leave that matter up to the legislature and have trust in it, and I am not in favor of the amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: A point of inquiry. Have we officially changed Mr. Hellenenthal's original proposed amendment?

PRESIDENT EGAN: Mr. Hellenenthal asked unanimous consent, but the Chair does not recall whether the Chair stated that there is no objection to the proposed amendment to the amendment of Mr. Hellenenthal. What was that?

HELLENTHAL: Striking the words "for governor".

PRESIDENT EGAN: Is there objection to that?

TAYLOR: I object.

HELLENTHAL: I so move.

PRESIDENT EGAN: Mr. Hellenenthal so moves.

HELLENTHAL: As a point of order, I wonder just why anyone should object to that when the moving party and my second agreed to the deletion.

PRESIDENT EGAN: You offered the motion originally, Mr. Hellenenthal. You had to offer the amendment to the motion as

an amendment.

HELLENTHAL: I merely offered it as a deletion from the motion with the consent of the second.

PRESIDENT EGAN: If members of the delegation objected then it would require the same amendment as if it came from some other member of the Convention. Is there a second to your motion to amend the amendment, the original motion?

SMITH: I second it.

PRESIDENT EGAN: The question is, "Shall the "original motion be amended to strike the words "for governor"?"

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: All those in favor of the proposed amendment to the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes have it and the proposed amendment has been adopted. Mr. Cooper.

COOPER: Now we are back on the original amendment?

SWEENEY: Excuse me. Will you yield for a moment? May we have something read here? I don't know what we're discussing, I did not get it clearly the first time.

CHIEF CLERK: "Strike 'qualified electors equal to 10% of the number of votes cast for governor'"

PRESIDENT EGAN: That has been stricken now.

CHIEF CLERK: "And insert '10% of the voters who cast votes'."

PRESIDENT EGAN: Read the amendment as it is now before the Convention, the proposed amendment.

CHIEF CLERK: "Strike 'qualified electors equal to 10% of the number of votes cast for governor' and substitute '10% of the voters who cast votes.'"

PRESIDENT EGAN: That is right. Mr. Cooper.

COOPER: Mr. President, in line with this, I am not particularly in favor of tying the 10% of the voters who cast votes for the governor for this reason -- 27,000 votes were cast for this particular election to the Constitutional Convention, which is representative of 13 per cent, roughly, of the estimated 1954 population of Alaska. Now there would be a four-year time lag not reflecting the increased population in Alaska. When you take 10 per cent of the voters who cast votes for governor, I personally would be in favor of 10 per cent of the voters

who cast votes in the preceding general election period.

PRESIDENT EGAN: That is the way it is now.

COOPER: No, sir. The words "cast votes in the preceding general election at which the governor was chosen" is the way it states right now. The only two words that were eliminated were "governor nor".

HELLENTHAL: They were eliminated from the first amendment, so --

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for a minute. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper, you had the floor.

COOPER: I yield to Mr. Hellenthal.

HELLENTHAL: I hate to burden the assembly here, but this thought occurred rather rapidly and my motion was predicated on a notion that I had that there would be one general election every four years, but there will be a general election every two years, so I would like to ask permission of my second again to amend my motion by also deleting the words "at which the governor was chosen" from line 7.

PRESIDENT EGAN: You offer that as a proposed amendment to the proposed amendment?

HELLENTHAL: Yes.

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal asks unanimous consent.

V. RIVERS: I object.

HELLENTHAL: I so move.

COOPER: I second the motion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The proposed amendment is open for discussion. Does everyone have the question clearly in mind? Would the Chief Clerk read the proposed amendment to the amendment again.

CHIEF CLERK: "Strike the words 'at which the governor was chosen' and insert a period after 'election', on line 7."

V. RIVERS: How will it then read?

PRESIDENT EGAN: The Chief Clerk will please read it as it would read if the proposed amendment were adopted.

CHIEF CLERK: "... prepared by the attorney general may be circulated and must be signed by 10 per cent of the voters who cast votes in the preceding general election."

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be adopted by the Convention?" All those in favor of the adoption to the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment to the amendment has been adopted. Now we have the original amendment before us.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Chairman, I am quite impressed with this amendment. It seems that this is really going to make it very much more difficult for an initiative to be put on the ballot. To only have 27,000 people, as an example, that can sign a petition is going to make it very difficult with the other restrictions that we also have. I am going to vote against it.

PRESIDENT EGAN: Mr. Riley.

RILEY: A little earlier Mr. Johnson called attention to one point, namely one of uncertainty as to precisely who these people were who cast votes for governor. I don't see that it is yet corrected, and I would like to check Mr. Hellenenthal through the Chair, if I may. As I heard the language last read it states, "Ten per cent of the voters who cast votes in the preceding general election." Do you mean ten per cent of those people who cast votes?

HELLENTHAL: Ten per cent of the total vote is my understanding of that language.

RILEY: They must actually have cast votes in the last general election - - signatories. That was the way I would read it, and it seemed to me a weakness.

PRESIDENT EGAN: Mr. Gray.

GRAY: I am going to vote against this measure and probably all other measures that come up, but what I see about this is you are disenfranchising some 70 per cent of the people by changing it as far as the initiative is concerned. The way it reads right now is better than anything that I have seen right now as far as the true purpose of the initiative. By changing the words, as I see it, you are disenfranchising the

greater majority of the people, and that is not the purpose of this initiative.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I think Mr. Lee's statement was correct. He says it is going to make it extremely difficult. In fact, if this amendment passes, it is going to emasculate the entire article, and there is absolutely no use of having it in the constitution because it is just so much verbiage in there without any possibility of action being taken under an initiative, because if you are going to make it 10 per cent of those people you have got to find out those people who vote in a certain election and hunt those people down. There might be thousands who did not vote in that election for some reason or another, but they can't sign. Now this is the finest way that has come up yet to actually kill this article. You are not going to have an initiative if this goes through.

MCLAUGHLIN: Point of order. I think --

PRESIDENT EGAN: Mr. Hellenthal.

MCLAUGHLIN: Mr. Hellenthal already has had the floor.

PRESIDENT EGAN: Is there anyone else who wishes to speak prior to anyone who closes the debate? Mr. Cooper.

COOPER: I am not in favor of the actual wording at this time. However, I am in favor of the idea that is trying to be put across here. If you will bear with me on the revised form that we are using temporarily, starting in line 4, "may then be circulated and must be signed by a number equal to 10 per cent of the voters who cast votes in the preceding general election". I believe that was the intent. That is not the way it exists right now. I don't particularly care or even believe that 10 per cent of the people that voted in the last election should be the only people that have the right to initiate the initiative, but a number equal to 10 per cent if they are qualified electors.

PRESIDENT EGAN: Mr. Marston.

MARSTON: We went over this carefully in the Committee, and this language is one the experts passed, and as I said before, I am going to vote no and continue to on all amendments on this thing.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Taylor's guess as to my motives is incorrect. This amendment was made in a sincere effort to tie in the checking of the petition with an easily ascertainable list of people rather than to have to examine the qualifications of

each person whose name appears on the petition. I speak with a little experience on this ground. As a lawyer we are often engaged to check petitions for liquor licenses. People who protest the issuance of a license will want to check the petition. Very deserving people will come in the office and they say, "This is a petition. It is a phony. Those are not qualified electors whose names appear on the petition. Will you check it?" And I think there are others here that have checked those petitions and to check a liquor petition with 5,000 names on it to determine if there are actually 5,000 qualified voters can cost the people who are making the intelligent inquiry in the neighborhood of 3,000 or 4,000 dollars, it is an immense job. It makes it virtually impossible in large areas to check liquor petitions. It likewise, if we tie in the initiative petition with qualified electors it will make it virtually impossible to check it. Now that should give consolation to the people who are fanatically in favor of an initiative and a referendum. But regardless of that, if we are going to have the initiative and referendum we should make it easy to check those petitions, and practical. This way no one is going to check the petition. When you come in with a whole bunch of petitions, there is no one who is going to have the money or the time to do it, but if you tie it in with the list of people who voted at the last election then it makes sense, but qualified electors, no.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?"

HILSCHER: May we have it again?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment once more.

CHIEF CLERK: "Line 5, strike 'qualified electors equal to 10 per cent of the number of votes cast for governor' and substitute '10 per cent of the voters who cast votes' and strike everything after 'election' on that sentence on line 7."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 4?

COOPER: Mr. President, I have an amendment to Section 4.

PRESIDENT EGAN: You have the amendment ready to submit, Mr. Cooper? The Chief Clerk may read the proposed amendment as submitted by Mr. Cooper.

CHIEF CLERK: "Line 6 of the amended Proposal No. 3, after 'cast' delete 'for governor' and insert a period after 'election' in line 7."

PRESIDENT EGAN: What is the proposed amendment?

CHIEF CLERK: "Delete the words 'for governor' on line 6 and insert a period after 'election'."

COOPER: Mr. President, I move the adoption of that by unanimous consent.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent that the amendment be adopted. Is there objection?

GRAY: I object.

SUNDBORG: I second it.

PRESIDENT EGAN: Mr. Cooper.

COOPER: It would then read: "If certified to be sufficient, the initiative or referendum petition containing a summary of the subject matter prepared by the attorney general may then be circulated and must be signed by qualified electors equal to 10 per cent of the number of votes cast in the preceding general election."

TAYLOR: May I rise to a point of information?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to ask Mr. Cooper as to whether that number of votes cast in the preceding election would be all those votes cast for the governor, the secretary of state and all the senators and all the representatives? There are going to be a lot of votes cast in those elections, maybe a hundred thousand of them. I think they should be for some particular office. They should be the guiding star in this thing and not leave it to "the votes cast" because if there are votes cast by a hundred thousand people in Alaska.

PRESIDENT EGAN: Mr. Gray.

GRAY: We are back to the purpose of the original writing. We might have two elections, the governor's election where everybody votes and then a side election where a minority group because the national names are not on the ballot. That is why they poll the governor's vote to give a true representation of the voting populace which is the reason they poll the governor's vote. Your other elections may be very, very minor. You never know but they may be very minor and that's the purpose of this particular deal.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, as I pointed out earlier when I first discussed this matter, had there been a general election in 1950 in Alaska, the population at that time was 108,000. Using the percentage of voters that cast votes for the Constitutional Convention, 13 per cent of an estimated 185,000 people voted in Alaska. Now if you tie this 10 per cent to the last preceding general election at which the governor was elected, there can be a four-year time lag. For instance, since 1950 through 1954, there was an increase of 80,000 people in Alaska, and I do not like this time lag. It is estimated in 1955 the population went over 200,000 in Alaska which is an increase of 20,000 in one year. Your general elections when we become a state will be elections at which you elect your representatives and your U. S. representatives, not just the governor or U. S. senators, so I believe that in the future, the forthcoming state of Alaska, the general elections, once every two years, will poll a larger number of votes, and the 10 per cent to initiate the initiative will be a better cross section of the people than the qualified voters of Alaska.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I believe Mr. Taylor is right in the terminology of what would be left. The number of votes cast, that leaves it up in the air, but if I might address a question to Mr. Cooper, I wonder if it would not clarify it if you would have 10 per cent of the number of voters voting at the last general election. That is what you mean, but the words "votes cast" --

COOPER: I thought when a voter voted he cast a vote.

LONDBORG: I think Mr. Taylor brought up the plurality of the situation and it would clarify it by putting "the voters voting".

TAYLOR: I might suggest he might word it "ballots cast at the preceding election".

COOPER: Yes, I see. That would be all right.

PRESIDENT EGAN: Are you asking that your amendment be amended, Mr. Cooper? What would you like the amendment to be? If there is no objection the Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper.

COOPER: In lieu of the word "votes", delete the word "votes" and insert "ballots". It would now read "qualified electors equal to ten per cent of the number of ballots cast in the preceding general election."

PRESIDENT EGAN: Delete the word "votes" and insert the word "ballots".

COOPER: I ask unanimous consent. Mr. Victor Rivers.

V. RIVERS: Is the matter open for discussion?

COOPER: I so move.

V. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I rise to ask a question. What if we have a special referendum or a special ballot in which ballots are cast not for individuals, but on a point at issue, such as a referendum or initiative ballot or another ballot entirely separate from the vote in which an individual is elected? This matter of ballots could cover too wide a scope and could extend somewhat considerably beyond the actual number of voters.

LONDBORG: That is why I addressed a question to Mr. Cooper asking if it wouldn't be better to put "voters who voted". Now in every division at present you can write and ask the clerk of the court how many people voted at the last general election and they will tell you exactly and you have the number.

PRESIDENT EGAN: Mr. Cooper.

COOPER: After thinking it over, the words, "ballots cast in the preceding general election" in Committee Report No. 1, the general elections were established in October of an even numbered year and held every two years thereafter. That is a definition of general election.

PRESIDENT EGAN: The words "general election" still appear in this section?

COOPER: Yes, they do. "Ten per cent of the number of ballots cast in the preceding general election."

PRESIDENT EGAN: Is there further discussion? Mr. Kilcher.

KILCHER: Can't one of our experts here on the floor say whether a person at a given time can cast more than one ballot as well as more than one vote?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Certainly, if you have a separate ballot on a referendum to go along with the general election ballot, each voter is casting two ballots.

KILCHER: This wording then is inaccurate?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: On the other hand, you could have as many as 50 times the total number of voters because you may make 50 votes on one ballot.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I still believe that the number of voters who voted, how many times they made an "x" doesn't matter.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be, as offered by Mr. Cooper, be adopted by the Convention?" All those in favor of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment to the amendment has failed of adoption. We now have the original amendment as offered by Mr. Cooper. Mr. Londborg.

LONDBORG: I would like to move to amend that amendment to read, "voters who voted".

TAYLOR: I rise to a point of order. There is no amendment before the house.

PRESIDENT EGAN: The proposed amendment is still before us in its original form, Mr. Taylor.

LONDBORG: Strike the words "vote cast" and put in "voters who voted" or "voters voting", "ten per cent of the number of voters who voted in the preceding general election."

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I move the amendment be tabled.

METCALF: I second the motion.

PRESIDENT EGAN: Mr. McNealy moved, seconded by Mr. Metcalf, that the amendment be tabled. The question is, "Shall the proposed amendment as offered by Mr. Cooper be laid on the table?" All those in favor of laying the proposed amendment on the table will signify by saying "aye", all opposed by saying "no".

KILCHER: Point of order. I don't think there was an amendment by Mr. Cooper on the table. It was the original amendment.

PRESIDENT EGAN: It was the original amendment as offered by Mr. Cooper. The Chief Clerk will call the roll on the question as to whether or not to lay the amendment on the table. Mr. Stewart.

STEWART: May we have the amendment read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Line 6 of the revised proposal No. 3, after the word 'cast' delete the words 'for governor' and insert a period after the word 'election' on line 7."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be laid on the table? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 15 - Collins, Gray, Kilcher, Knight, McNealy, Marston, Metcalf, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Taylor, VanderLeest, White.

Nays: 33 - Awes, Barr, Boswell, Coghill, Cooper, Cross, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Nerland, Nordale, Reader, Smith, Stewart, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Absent: 7 - Armstrong, Buckalew, Davis, Doogan, Nolan, Peratrovich, Robertson.)

CHIEF CLERK: 15 yeas, 33 nays and 7 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has not been laid on the table. Mr. Londborg.

LONDBORG: I believe my motion for amendment is in order now, to delete the words "votes cast" on that particular line and insert "voters who voted". I so move.

PRESIDENT EGAN: Mr. Londborg moves the adoption of the amendment.

BARR: Second.

LONDBORG: I ask unanimous consent.

TAYLOR: I object.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Objection is heard. Mr. Riley.

RILEY: Mr. President, this is, I beg your pardon, this is just on the amendment to the amendment?

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment to the amendment once more.

CHIEF CLERK: "On line 6 strike the words 'votes cast' and insert the words 'voters who voted'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Londborg be adopted?" All in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted, the amendment to the amendment. Now we are back to the original amendment as amended. Mr. Riley.

RILEY: Mr. President, just a point of information to Mr. Cooper. Did you include in your original amendment that the words following "election" in line 7 in that sentence be stricken?

COOPER: Yes, a period after the word "election".

PRESIDENT EGAN: Would the Chief Clerk please read that particular section as it will read if the proposed amendment would be adopted.

CHIEF CLERK: "If certified to be sufficient, the initiative or referendum petition containing a summary of the subject matter prepared by the attorney general may then be circulated and must be signed by qualified electors equal to ten per cent of the number of voters who voted in the preceding general election."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?" All those in favor of the adoption of the proposed amendment as amended will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 28 - Awes, Barr, Boswell, Coghill, Cooper, Cross, Emberg, H. Fischer, V. Fischer, Hinckel, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McNees, Nerland, Poulsen, Reader, Riley, R. Rivers, Stewart, Sundborg, VanderLeest, Walsh, Wien, Mr. President.

Nays: 20 - Collins, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, King, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nordale, V. Rivers, Rosswog, Smith, Sweeney, Taylor, White.

Absent: 7 - Armstrong, Buckalew, Davis, Doogan, Nolan, Peratrovich, Robertson.)

CHIEF CLERK: 28 yeas, 20 nays and 7 absent.

PRESIDENT EGAN: The "yeas" have it and so the proposed amendment as amended has been adopted by the Convention. Are there other amendments to Section 4, Committee Proposal No. 3? Are there amendments to Section 5 of the Committee Proposal No. 3? Are there amendments to Section 6 of the Committee Proposal No. 3?

CHIEF CLERK: Yes, I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment to Section 6 of Committee Proposal No. 3.

CHIEF CLERK: We are back to the original proposal, page 3, line 6, strike the words "involving moral turpitude". Whose amendment is that?

CHIEF CLERK: Mr. Hellenthal's.

HELLENTHAL: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Hellenthal.

HELLENTHAL: Briefly, the reason for this is that a public official unlike an ordinary citizen should be beyond reproach, and irrespective of the nature of the crime he should be subject to recall. That does not mean he has to be recalled if he commits a crime, but he should be subject to recall. The way it reads now he is only subject to recall for crimes involving moral turpitude. Now I can think of many cases not involving moral turpitude where I would sign a recall petition. For example, if a hypocrite in public office voted one way and then pursued a course of conduct in his private life exactly the opposite of the way he voted in order to appease people, I would like to see that man recalled even though the offense might be very slight. And for that reason, and primarily because the public official must be irreproachable, I think he should be subject to recall for the slightest offense.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I am just wondering about the definition of the words "crime" there. I am wondering now if we are going to recall a public official for going through a red light or parking overtime.

What is the definition of the word "crime" according to the legal definition?

PRESIDENT EGAN: Mr. Hellenthal, can you answer that?

HELLENTHAL: I would under certain circumstances sign a recall petition for a public official who went through a red light, especially if that official was a director of public safety or had led a big newspaper campaign to protect people's lives and health and safety. I would sign a petition, but perhaps somebody else would not, and the petition might fail but the door should be open. "Moral turpitude" is too high a standard. It is going to protect too many inefficient people. Maybe it is a poor illustration but I can recall a group of legislators who violated the fishing laws. In a sense they were recalled, they were not re-elected. Those circumstances did not involve moral turpitude, but any legislator who would vote to prohibit people from fishing at certain times, at certain places, and then turn around and violate that same law within a few months should be recalled whether it involves moral turpitude or not.

V. RIVERS: I still have no definition for "crime", as I requested.

HELLENTHAL: Any crime should be the grounds for recall and then leave it to the good judgment of the people to determine whether the crime was severe enough for them to warrant signing the petition.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: If I might answer Mr. Rivers, generally a crime is any offense which may be punishable by the state and generally crimes are divided into felonies and misdemeanors, but literally, even what we call now petty offenses -- traffic tickets, could be defined to be crimes under an act of the legislature so in effect, if you knocked out the words "moral turpitude", if a legislature decided to describe all parking violations as crimes, then in substance you would have a technical right upon legislative definition to recall a public official for having violated some minor petty traffic law. The crime of its nature varies in each state of the Union. Normally crimes are divided into felonies and misdemeanors, and they pick up a third category, or second, however you think of it, as petty offenses, that is traffic tickets. But in fact the legislature could define everything, all offenses against municipalities or the state as crimes.

V. RIVERS: Don't you think the word "crime" should be qualified by some degree, such as a felony in this matter? We have moral turpitude involved here at the present time. What degree of qualification should we put in front of the word "crime"?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Merely to clarify it, a felony is what the legislature makes it. In most states the legislature defines (this is an offhand opinion) the legislature defines as felonies those things which are capable of imprisonment. In some other states they determine what a felony is by describing the amount of imprisonment you can receive from it. The legislature can again define any act in violation of a state law as either a felony or misdemeanor.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I am quite in accord with Mr. Hellenthal's sympathies on this matter of recall. I think, however, his efforts to amend here has not gone far enough. It appears to me it should include all of the stated reasons here. A person is subject, or any official should be subject to recall he should be subject to recall period. It doesn't make any difference whether there are grounds or not, if there is a change in the public sympathy with respect to their politics or their attitude in office or anything else, they should be subject to recall. I don't see why there should be any grounds stated whatsoever.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: What is before the house?

PRESIDENT EGAN: It involves the striking of the words "involving moral turpitude" on line 6, page 3, of Committee Proposal No.

R. RIVERS: I know that. I can't remember if the motion was put and seconded.

PRESIDENT EGAN: It was, Mr. Rivers.

R. RIVERS: Very well, Mr. McLaughlin has adequately stated that every violation whereby you can be fined or punished by either long or short incarceration is a crime. So all these little traffic matters are not crimes in the broad sense of the

word. The words "moral turpitude" embody something that is dishonest, such as malappropriation of somebody's property, purposely inflicting pain on people. Those are things known as malum in se. You can take regulations and laws which are malum prohibitum, they are bad only because they are prohibited by a town ordinance or statute. Those do not involve moral turpitude. The council might pass an ordinance to the effect that people shall not cross the street between intersections. There is nothing morally wrong about crossing a street between intersections but if the council passes such an ordinance, then that is malum prohibitum. Now I cannot see subjecting public officials to recall or even being eligible to be recalled as Mr. Hellenthal suggests, because they cross the streets between intersections or violate some minor regulation or ordinance which was malum prohibitum. We might also say that many misdemeanors involve moral turpitude. Petty larceny involves moral turpitude even if it is under \$35.00, which distinguishes between a misdemeanor and a felony. Embezzlement of very minor amounts involve moral turpitude whether classified as a misdemeanor or a felony, so I don't think we can modify this language by saying that they should be subject to recall for any felony that they commit such as Mr. Victor Rivers suggested, because there are too many misdemeanors involving moral turpitude which should be the subject matter of recall. But neither can I see knocking out the words "moral turpitude" here because every public official is subject to recall for the most minor misdemeanor. I think it should be left exactly the way it is.

HELLENTHAL: One of those minor little things might be total neglect to pay your Territorial taxes for example. That does not involve moral turpitude, but I think any public official who refused to pay his taxes should be recalled. It does not involve moral turpitude. I will go farther than that, I have faith in the people. I don't think the people are going to sign recall petitions for people who walk against red lights, I am sure they are not going to but I don't want to put the people in the position where they can not even have a chance to recall a man for example, who has failed to pay his state income taxes but yet who voted for them in the legislature. I know of no reason in logic or morality or common decency which requires us to protect legislators to the extent that they can only be recalled for heinous crimes or those involving moral turpitude. They should be like Caesar's wife, and the sooner they realize it, the better.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am compelled to disagree with Mr. Hellenthal that failure to pay taxes is not a crime or an offense involving moral turpitude. As I understand it, our Territorial income tax law is based primarily on the federal income tax law, and if you fail to pay your federal income tax you are subject to punishment by imprisonment, and therefore, by the same token it would be a crime involving moral turpitude, so I don't think that that argument follows at all. I am against the amendment because I think there ought to be some protection for public officials. I think it would be ridiculous to subject them to recall simply because they happened to violate some minor infraction of traffic regulation or something of that nature, and they certainly would be open to recall on that ground if the amendment as suggested now by Mr. Hellenthal is adopted.

PRESIDENT EGAN: Is there further discussion? Mr. Taylor.

TAYLOR: Mr. Hellenthal gave an illustration as to what would constitute in his opinion the grounds for a recall, that of a public official and he got up and publicly spoke about some measure or something that affected the people and then he acted opposite when he got to be an official, which could be a man who got up and talked very loudly for maybe a prohibition bill, but maybe he gets elected, but he keeps a bottle in his desk and he sets them up to his friends that he knows will take a drink when they come in or something like that, and there are other instances, but I think that Mr. Hellenthal is going to say those are things that will subject an official to recall. We don't have to strike anything in this at all, because he says anything involving moral turpitude or hypocrisy. He has shown that hypocrisy should be grounds for recall of public officials. Public punishment for hypocrisy went out for some time ago it went out with the Spanish Inquisition. I don't think this constitution should be putting anybody that subjects them to something that is the state of mind of a person. I think it should be defeated.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Do you think that those public officials who violated the fishing laws should not be subject to recall? Now I will have to twist the illustration a little because they were not public officials, they were legislators. They voted to put in restrictions on fishing and then turned right around and violated them and pled guilty to the offense. The offense does not involve moral turpitude, but those men who would pass a law and then intentionally violate it are not fit to hold public office.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I think Mr. Hellenthal's illustration is poorly chosen. The fishermen he has in mind violated the regulations of Fish and Wildlife and not any law that the legislature passed.

PRESIDENT EGAN: Mr. Lee.

LEE: That was the point I was going to make.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" all those in favor of the adoption of the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Johnson.

JOHNSON: I move that the Convention stand adjourned until tomorrow morning at 9 o'clock.

PRESIDENT EGAN: The Chair would like to have this particular invitation read before he puts any motion for adjournment.

JOHNSON: I will withdraw the motion then.

PRESIDENT EGAN: The Chief Clerk will please read the invitation.

(The Chief Clerk read the invitation from Pan American World Airways.)

V. RIVERS: Mr. President, I would like to present a question to the Chairman of the Committee who submitted this proposal. We are still on Section 6, are we not?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Point of order. We had a communication on the floor and it is "please reply". That ought to be taken care of first.

PRESIDENT EGAN: Do you object, Mr. Victor Rivers, to disposing of the reply? That ought to be taken care of. The Chief Clerk can call the office here, if there is no objection, and tell them that if it is possible for the members to attend, that they will. That is about all we can tell them because some of you will probably be at committee meetings. Mr. Victor Rivers.

V. RIVERS: Before we adjourn, I would like to ask a question in regard to this recall. It says "every elected public official in the state, etc." Does that apply to the elected officials within the elected corporate municipalities? I assume it would be meant to apply to the council and mayor of the cities as well as to the officers of the state.

PRESIDENT EGAN: Mr. Collins, could you answer that question? COLLINS: Mr. Taylor could probably answer that.

TAYLOR: We probably felt it would be, but the city would have to provide for it by ordinance if they did, and then the legislature would necessarily have to implement this act also by the proper legislative enactment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to address a question to Mr. Taylor, if I may.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: In line with a suggestion made by Mr. McCutcheon before, that recall be authorized without stating any grounds, would it be possible then, if lines 5 and 6 were stricken, then would it be possible for the legislature to establish grounds for recall?

TAYLOR: Yes. It certainly would have to be implemented, and I think you could it by the legislature upon such grounds as may be provided by law and strike the rest of it. Of course, the common grounds for recall of an elected official are malfeasance, misfeasance, and nonfeasance, or conviction of a crime. Practically all the provisions of constitutions that we ran across were very short and to the point, but the legislature has to implement that act.

PRESIDENT EGAN: Mr. Taylor, if the Chair is not out of order, why are the words "except judicial officers" in this recall section?

TAYLOR: Because in the judicial article there is a method for removing judges.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: There is a historical reason for that. I believe that in the case of the application of Arizona to be admitted to the Union, President Taft vetoed the act of admission on the grounds that they had a provision in there asking for the recall of judicial officers. He was so offended by it because it violated the tradition, that he vetoed the act and the people of Arizona promptly took the recall provision out of the constitution and were admitted to the Union, and then under the right to organize their internal affairs, they promptly put it back in.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Our judiciary article provides for a screening of the judges and appointment by the governor subject to approval and removal by the public at subsequent voting procedures. When we speak here of elected public officials, we say "except judicial officers," because they do go on the ballot periodically, but they are not strictly elected public officials so that only clarifies the point.

PRESIDENT EGAN: Are there other proposed amendments to Section 6? Mr. Victor Fischer?

V. FISCHER: I was just in the process of writing out a proposed amendment to delete lines 5 and 6 on page 3.

PRESIDENT EGAN: Do you offer that as an amendment, Mr. Fischer?

V. FISCHER: Mr. President, I offer that as an amendment and ask unanimous consent. .

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that line 5 and 6 on page 3 of Section 6 be deleted from the proposal. Is there objection?

TAYLOR: I object.

V. FISCHER. I so move.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Fischer so moves and Mr. Sundborg seconds the motion. The question is open for discussion. Mr. Victor Fischer.

V. FISCHER: Mr. President, as Mr. McCutcheon has stated the case very well before, and that is that every public official

should be liable to recall for whatever grounds the people feel are justified. Secondly, I also feel that when you specify grounds in the constitution, you will end up in the courts each time to determine, "Now is this really malfeasance, or misfeasance?" It will always be a matter of degree to see whether it fits in. Lets leave it to the people. If they feel a man should be kicked out of his job, let the people do it.

PRESIDENT EGAN: Mr. White.

WHITE: May I direct a question to Mr. Fischer?

PRESIDENT EGAN: You may, Mr. White.

WHITE: Mr. Fischer, do you make this amendment with the understanding that line 7 means that the legislature can't prescribe the grounds for recall?

V. FISCHER: I make the amendment with that in mind as well as with the assumption that even if it were silent on it, the legislature could still decide.

WHITE: The legislature then would still have to provide the grounds, and your argument that each recall petition would wind up in court would not have any bearing because it would wind up in court anyhow.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: . It is not necessary that the legislature establish any grounds whatsoever. It is necessary that they establish the procedure for which a recall may be instituted.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I don't concur with Mr. McCutcheon. I think there have to be grounds prescribed. If we don't prescribe the grounds, the legislature will have to do so. You don't indulge in a penalty proceedings without some grounds or criteria for removal.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: If we should strike the two lines as proposed by the amendment, we have nothing left in the recall section that is of any value. We might just as well delete it entirely and give the legislature authority to set up the recall procedure under such conditions that it deems advisable.

HELLENTHAL: I have been checking the Hawaiian Manual on this, and none of the states prescribe the grounds in the constitution. We are being rather novel in the inclusion of lines 5 and 6, and I would certainly think they should be deleted. If there is any doubt about whether the grounds can be properly prescribed by the legislature, a very simple amendment to line 7 adding the words, "The legislature shall prescribe the recall procedure and grounds" therefore would solve it. I would certainly support the elimination of lines 5 and 6.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to know whether Mr. Fischer has not considered that by striking line 5 and 6 alone, the whole article is still vague as to the procedures. I think we are not interested enough in the procedures here, and if we should vote on this, and I would not feel qualified to vote intelligently because I think the whole section there is too vague as to procedure as to how the voters, is it a form of initiative or referendum? I would like to know that.

V. FISCHER: If I may answer that question, Mr. President, the proposed amendment would not change the vagueness of this section in my opinion in any way. It would not make it any vaguer. It would make it broader and give the people more power in terms of scope of recall, and as was pointed out, if the legislature feels that any grounds should be authorized for recall they could do it. In terms of procedure that would have to be a separate amendment.

KILCHER: What I am trying to stress is this, that if recall is made easier from the people's point of view, if the procedure is left to the legislature, the legislature will constrict the procedure, so what you enlarge in one way, unless the procedure is not defined better in this article, the procedure will be constricted. We win one way and lose another.

COGHILL: I rise to a point of order. We might hold this vote over, the time clock is a little slow, and that bus is going to be coming around pretty quick. I move and ask unanimous consent that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Are there any other committee announcements?

COGHILL: The Administration Committee will meet immediately upon adjournment.

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill asks unanimous consent that the Convention adjourn until 9 o'clock tomorrow morning. Is there objection? Hearing no objection it is so ordered, and the Convention stands adjourned until 9 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 5, 1956

FORTY-FOURTH DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Londborg, would you give our daily invocation?

REVEREND LONDBORG: Our Heavenly Father, we pray that You will bless us in our deliberations this day. We pray for clear minds that we may be able to think through these problems and to decide wisely. We ask in Thy name, Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Seven absent.

DAVIS: Mr. President, Mr. Hellenthal is sick this morning.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Mr. Riley is present also. Does the special Committee to read the journal have a report to make at this time? Mr. White.

WHITE: Mr. President, the Committee to read the journal recommends the approval of the journals for the first, second, third and fourth Convention days with the corrections noted on the mimeographed sheets, provided the delegates agree.

PRESIDENT EGAN: Does everyone have copies of the suggested corrections to the journals for the first, second, third and fourth days? Is there objection to the approval of the minutes to those days as suggested by the special Committee to read the journal? If not, the journals of the first, second, third and fourth days are ordered approved as corrected and read by the special Committee to read the journal. The record will show Mr. Barr as being present. Mr. McCutcheon, also. Are there any petitions, memorials or communications from outside the Convention? Mr. Hilscher.

HILSCHER: I rise to a point of personal privilege. We are short one report from one of our members. We would like to have a report on the hearings held by our member recently returned from Hawaii.

PRESIDENT EGAN: Does the Delegate who was recently from Hawaii have a report to make? We are very happy to have you back with us, Mr. Davis.

DAVIS: Mr. President, I report progress. (Laughter)

PRESIDENT EGAN: We are pleased to see our absent members here with us this morning. The weather has allowed them to be with us again. Are there any communications from outside the Convention? Are there reports of standing committees? Of select committees? Mr. Smith.

SMITH: Mr. President, I would like to ask unanimous consent for the withdrawal of Committee Proposal No. 8 for Committee revision.

PRESIDENT EGAN: Is that the resources?

SMITH: That is the resources article. I would call your attention to the fact that this proposal was marked "No. 8" and to the effect that the withdrawal would not, as I see it, affect its place on the calendar.

PRESIDENT EGAN: Mr. Smith asks unanimous consent that the Committee be allowed to withdraw Committee Proposal No. 8 for suggested revision. If there is no objection, it is so ordered and the proposal will be turned over to the Committee. Are there other reports? Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 1 has compared same with the original and find it correctly engrossed and the first enrolled copy in proper form. Mr. President, I would like to move that the rules be suspended and that Committee Proposal No. 1 be returned to second reading for the purpose of rescinding our action on the voting age and I ask unanimous consent.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that Committee Proposal No. 1, which is the proposal dealing with the election provisions of the suffrage proposal, be returned to second reading for specific amendment.

SWEENEY: We would be rescinding the action on the voting age.

PRESIDENT EGAN: You ask unanimous consent?

COGHILL: I object.

SWEENEY: I so move.

WHITE: I second the motion.

PRESIDENT EGAN: The question is on a suspension of the rules. It is not debatable, Mrs. Sweeney. The question is, "Shall Committee Proposal No. 1 be returned to second reading?" Well, Mrs. Sweeney, as the Chair sees it, and the Chair would stand corrected if the Chair does not see it correctly, the Chair feels that your first motion would have to be the suspension of

the rules to return it to the second reading. A rescinding motion would have to be made in second reading after.

SWEENEY: I just did not want to get tied up with the wrong motion.

PRESIDENT EGAN: Is that the feeling of the delegates, that we would have to suspend the rules first, get it into second reading, then you could offer your motion to rescind if it went to second reading?

SWEENEY: May we have a roll call on that please?

COGHILL: Mr. President, it was my understanding that no proposal has left second reading until after the recess. So therefore it would still be in second reading.

PRESIDENT EGAN: No, Mr. Coghill, when it went to the Engrossment and Enrollment Committee, it is still technically in second reading until the Style and Drafting Committee completes its work on the proposal. However, so far as the rules are concerned, the moment it went to the Engrossment and Enrollment Committee, to get it back into second reading for any amendment or any action whatsoever it would take a suspension of the rules. The question is, "Shall the rules be suspended and Committee Proposal No. 1 be returned to second reading?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 22 - Boswell, Cooper, Gray, Hermann, Hinckel, Johnson, King, Knight, Laws, Londborg, McNealy, Metcalf, Nolan, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Sweeney, Walsh, White, Wien.

Nays: 28 - Awes, Barr, Coghill, Collins, Cross, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hilscher, Hurley, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, Smith, Stewart, Sundborg, VanderLeest, Mr. President.

Absent: 5 - Armstrong, Buckalew, Doogan, Hellenthal, Taylor.)

CHIEF CLERK: 22 yeas, 28 nays, and 5 absent.

PRESIDENT EGAN: The "nays" have it and the proposed motion to suspend the rules has failed of adoption. Mrs. Sweeney.

SWEENEY: Mr. President, I now forward the enrolled copies and I believe that the mimeographed and first enrolled copies have

been placed on the delegates' desks.

PRESIDENT EGAN: Do you ask for the adoption of the report of the Committee?

SWEENEY: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the report of the Committee on Engrossment and Enrollment be adopted by the Convention. Is there objection? Hearing no objection it is so ordered. The proposal will proceed on its regular course to the Style and Drafting Committee. Are there any proposals to be introduced at this time? Are there any motions or resolutions? Miss Awes, did you have something?

AWES: Mr. President, if we could revert to committee reports for a minute.

PRESIDENT EGAN: If there is no objection the Convention will revert to committee reports. Miss Awes.

AWES: I would like to announce a meeting of the Bill of Rights Committee just as soon as we recess for noon.

PRESIDENT EGAN: A meeting of the Bill of Rights Committee will be held immediately upon recess. Are there other committee announcements to be made? The Chair would like to announce that there will be a meeting of the committee chairmen at 12:30. Is there unfinished business? We have before us Committee Proposal No. 3 in second reading. We are on Section 6 of Committee Proposal No. 3. Is there an amendment pending at this time?

CHIEF CLERK: Yes, Mr. Fischer's amendment.

PRESIDENT EGAN: Mr. Fischer's proposed amendment to Committee Proposal No. 3, Section 6. Would the Chief Clerk please read that proposed amendment?

CHIEF CLERK: "Section 6, delete lines 5 and 6 on page 3."

PRESIDENT EGAN: A motion has been made and seconded for the adoption of that amendment. Is that correct?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Just to refresh everyone's memory, the motion to amend was made in order to remove the limitation on the grounds for recall and leave the way open to recall by the voters for any reason that the voters may see fit, as is done in practically every state. In connection with that it should be pointed

out that this recall is not only against state officers but would apply also to elective officers in local government where the grounds may be justifiable or of a different nature.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? If not, the question is, "Shall the amendment as proposed by Mr. Victor Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 6? Mr. Ralph Rivers.

R. RIVERS: Mr. President, now that that amendment has passed, I propose an amendment to line 7 on page 3. Line 7 on page 3 now reads as follows: "The legislature shall prescribe the recall procedures." I move to amend that by adding to the end of that sentence "and grounds for recall".

PRESIDENT EGAN: Do you strike the period?

R. RIVERS: Yes, strike the period at the end.

PRESIDENT EGAN: And add the words "and grounds for recall".

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent for the adoption of the proposed amendment. Mr. Fischer.

V. FISCHER: I would like to check, Mr. President, for the purpose of possibly making a little further amendment in a few minutes, and I would like to ask Mr. Rivers' consent to possibly go on to some other amendments that are pending and then we might be able to work out a more comprehensive amendment to this section.

PRESIDENT EGAN: Would it take you very long, Mr. Fischer?

V. FISCHER: About five minutes.

PRESIDENT EGAN: Do the delegates feel we should have a five minute recess to get this cleared up before we do proceed? If there is no objection, the Convention will stand at recess while Mr. Fischer and Mr. Rivers get together.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: Mr. Chairman, I could well see that the amendment I proposed would hinge on whether or not Mr. Fischer's amendment carries, so I wish to have mine suspended or withheld until

Mr. Fischer's amendment is acted upon.

PRESIDENT EGAN: If there is no objection, we will hold Mr. Ralph Rivers' amendment in abeyance until the amendment that will be proposed by Mr. Victor Fischer can be mimeographed. Mr. Victor Fischer.

V. FISCHER: Mr. President, could I have permission to have this mimeographed since it consists of several sentences?

PRESIDENT EGAN: The Chair has seen the proposed amendment and feels that a copy should be in the hands of each delegate. You have permission to have it mimeographed. Are there other amendments to Proposal No. 3 on the initiative and referendum? Does Mr. Smith have an amendment to Section 3? Mr. Londborg.

LONDBORG: I have one on the Clerk's desk.

PRESIDENT EGAN: Mr. Londborg has an amendment to Section 6 which has nothing to do with the proposed amendment we are holding in abeyance. The Chief Clerk will please read the proposed amendment by Mr. Londborg.

CHIEF CLERK: "Page 3, line 3, strike the words 'except judicial officers'."

PRESIDENT EGAN: What is your pleasure, Mr. Londborg?

LONDBORG: I move the adoption of that amendment.

PRESIDENT EGAN: Mr. Londborg moves the adoption of the amendment, that is, to strike the three words from line 3, Section 6, "except judicial officers". Is there a second to the motion?

MCCUTCHEON: I object.

COGHILL: I second the motion.

MCCUTCHEON: I will give notice at this time that, if the vote is called on this, I will call the assembly.

PRESIDENT EGAN: Mr. Londborg, were you trying to get the floor?

LONDBORG: I feel that, inasmuch as the Judiciary Committee has taken care of the judges through the fact that they are not elected, that they are already exempt from the recall, and I am thinking of probably the judicial officers down in the lower courts that may be elected by the people. We don't know what will be set up in local governments or anything of that nature, and certainly they should not be protected from the people and have a cloak put around them so that they could not be recalled. I think you will find that there will have to be some substitute made for the present United States Commissioner who is

acting out in places. Now, if they should be elected by the people, if that should be the form set up, then certainly there would have to be some way of recalling them, because they would not come under the impeachment act set up in the Judiciary Committee. As far as the judges under the judiciary proposal, I do not believe this affects them in any way. It is not necessarily intended to because they are not elected officials to begin with, and this article of Section 6 only pertains to elected officials, but I think all elected ones should be included, and I am thinking particularly of the judges in the lower courts.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, the historical precedent for Mr. Londborg, as I mentioned yesterday -- in 1911, President Taft turned down, vetoed the admission of Arizona into the Union because specifically in their constitution they had a provision providing for the recall of the judiciary. It was solely on that grounds that President Taft turned down the admission of Arizona into the Union. The fact is that it does have that provision in its constitution now. But historically that was the only reason and true reason given by President Taft for rejecting the whole proposed constitution of the State of Arizona, because to him, and it does exist in other constitutions. but to him at that time, the provision for recall was so offensive that he in substance turned down the whole constitution. In substance what you are doing by this recall petition is you are providing for a recall or an election. You are amending the judiciary article to provide that an election, in substance, can be held at any time to recall any judicial officer. That means that, if his decision is unpopular at any given time, that promptly he can be reversed. It is roughly equivalent to one other provision that was at one time in one state constitution providing that by referendum, it is a rough equivalent of that where the state supreme court determined that something was in violation of the constitution, that people by referendum could reverse the supreme court and declare it constitutional. In substance you are doing the same thing by permitting a recall, you could recall every one of the supreme court justices because of the fact you felt that their decision was improper, they could be recalled and another panel substituted immediately for them. You would be getting reversal of decisions by recalling your judicial officers. That is the offensive part of the article. I believe the Convention voted in substance that we had adequate provisions in our judiciary article for the removal of incompetent or inadequate personnel. The recall provision, as I say, historically might be grounds for the rejection of this constitution, and I feel that we are moving on very dangerous grounds when we consider the proposal.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I must have misunderstood Mr. Londborg's motion if Mr. McLaughlin is talking to the point, because I thought he was making an exception of judicial officers. They should not be recalled.

PRESIDENT EGAN: He was striking the three words "except judicial officers". Mr. Ralph Rivers.

R. RIVERS: I would like to say, too, that all judicial officers are under the general impeachment clause and the legislature will be providing for these courts of limited jurisdiction, like juvenile justices and justices of the peace courts and all that sort of thing. Those courts will be set up as the legislature shall prescribe, and I think the legislature should take care of the hiring and the firing. If the legislature chooses to call for elective justices of the peace, then they can be under the impeachment clause. They are under the early retirement based on recommendation of the judicial council. They are subject to being removed for being incapacitated or infirm under the procedure set up in the judiciary, so I believe we have got that very well covered the way it is. I might also say that Mr. Londborg does not think that his language would be construed to apply to the justices of the supreme court or the judges of the superior courts, but the fact remains that they are elective officials in the sense that their names go on the ballot, so then you are starting up another argument as to whether judges are elected or not. We know they are screened and appointed, but they are still subject to the approval of the voters periodically, so you are just fouling it up.

LONDBORG: May I direct one or two questions through the Chair? First, I would like to ask Mr. Rivers if a governor appoints someone and a senate confirms it, then we don't say they are elected by the senate and the same way if the judges are appointed they serve awhile and the people confirm their appointment in three years. This is not an election is it?

R. RIVERS: No, you are talking strictly of appointive officers confirmed by the senate and they wouldn't come under this at all, but the very fact that you subject your judges to approval or rejection at the polls raises the argument whether they are elected or not.

LONDBORG: I would like to ask Mr. McLaughlin, he mentions a state that was refused admission. How were they selecting their judges at that time? Was that by your present setup or were they elected judges?

MCLAUGHLIN: I frankly do not know, Mr. Londborg.

LONDBORG: That puts it in an entirely different situation than we have here. I don't think we should operate on the fear we are going to be rejected by the United States or not, it is

whether we feel it is right or not. I am just throwing that out that that should govern us, not pick a state that has a different situation and use that as a basis for argument.

MCLAUGHLIN: Mr. Londborg, I feel that \$300,000 and three months of work, that if it is going to be turned down by the Congress of the United States, it is a matter of great concern to the Convention.

LONDBORG: I agree with you entirely on that, but we can use that same argument in many other instances and pick something that may not be entirely related and use it as a threat to the voting.

PRESIDENT EGAN: Mr. McLaughlin, do you have the floor?

MCLAUGHLIN: Forgive me, I do not, I am out of order.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: In order to allay Mr. Londborg's fears, assuming that at least a portion of the legislative branch article shall be adopted, we have in that two different devices which should protect the public from any type of an officer that Mr. Londborg fears might remain in office. One is by method of impeachment by the legislature and another is by joint address wherein any civil officer may be removed from office by the legislature. It would appear to me that there would be no need to strike these particular words that Mr. Londborg objects to at this particular time in view of the fact that we have other devices in other sections of the proposed constitution which would give ample public protection.

PRESIDENT EGAN: Is there further discussion? Mrs. Sweeney.

SWEENEY: Mr. President, just a point of information. Since we have had the threat once already of calling of the assembly, I would like to know under what rules we are operating on a call of the house.

PRESIDENT EGAN: The Chair would feel that we are operating under the Robert's Rules of Order and any rule that might be in the proposed rules relative to the call of the assembly which--is there a specific number who has to call under the rules?

RILEY: Mr. President, our own rules do not specify. They say the house may take such means as it feels necessary.

SWEENEY: That is what I am wondering. If we have a call of the house, does that mean we are going to have to sit and wait until 55 come or are we going to suspend operation on the issue and go on with other things?

PRESIDENT EGAN: Mrs. Sweeney, that would have to be decided by the assembly. If Mr. McCutcheon did call the assembly, it would mean that we would either have to sit here until all delegates arrived here or by general agreement suspend further action on this proposal until they were all present.

SWEENEY: That is something we take care of at that time? We don't have any rules yet?

PRESIDENT EGAN: The rule is there, that any number may make a call of the assembly. It would take a suspension of the rules to overrule any motion of that nature, but we are operating under Robert's Rules of Order and our own rules which mention the call of the assembly.

SWEENEY: It seems to me that we ought to have something definite on it because we certainly don't want to have to sit here on one issue and wait until we have a full house. We ought to have some rule whereby we can definitely know that we can suspend or go on with other things.

PRESIDENT EGAN: The feeling of the Chair is that we have a rule in Robert's Rules that relates to a call of the assembly and a call of the house, and it takes just one person to make a call.

SWEENEY: I understand that, Mr. President, but I don't believe that Robert's Rules of Order say we can go on with other business by holding this one issue in suspension.

PRESIDENT EGAN: By general agreement which would be suspension of all rules, it can be done, of course. Mr. Sundborg.

SUNDBORG: At the time the rules were being drafted by the Rules Committee I recall we consulted Robert's Rules on this point to see what it did provide, and what it does provide is something quite different from what those who have served in Alaska legislatures may be accustomed to. In other words, all business of the house does not stop. I think Robert's provide that when there is a call of the house, that a vote on the measure in connection with which the call is made shall be withheld until the absent members have been summoned, but the house may go on with other business.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: As a matter of information, I do not intend to call the house if you bring this matter to issue.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I believe about the only thing about the judiciary bill that I agree with is that we should not subject the judges

to recall. However, I don't believe either that the legislative proposal, for example, if justices of the peace are to be elected and that sort of procedure set up at a later time, I don't believe we should have to wait until the time that the legislature met in order to endeavor to impeach a justice of the peace in some far-flung community, and I believe that probably would be a matter of separate amendment and possibly somewhere else in the constitution.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, I raised this same question sometime ago and discussed it with Mr. McLaughlin and then I had proposed to make the same amendment as Mr. Londborg made. After discussing it with Mr. McLaughlin I tore it up. But now that Mr. Londborg has raised a question and there seems to be an objection, I am just wondering, and I will ask somebody a question. Maybe they can answer it. Instead of striking the three words "except judicial officers", I am wondering about adding to that except judicial officers of the superior and supreme courts" and then if that would not protect the judiciary article, and at the same time provide for the fear that Mr. Londborg seems to have. We have discussed in Local Government, particularly under the home rule charters where we have most of our officials elected, etc., that there should be some provision for setting up justices of the peace, and then being able to recall them if necessary.

PRESIDENT EGAN: Mr. Doogan, we have this proposed amendment by Mr. Londborg. Unless he would desire to amend his proposed amendment, the other discussion would be in order later after this has been dispensed with. Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me that while I am not especially fearful of the need for the recall for the judiciary at the lower levels, it seems to me there should be a little amplification for perhaps some of the members, the delegates who may want to vote for this amendment. It seems that the historical precedent cited to us, that of Arizona and the rejection of their constitution by Taft, on account of it would not be in the nature of a majority historical precedent. The Hawaiian Handbook says, Constitutional and statutory provisions of twelve states have made the recall applicable to state officers, judges being specifically excluded in four of these states, which are Idaho, Louisiana, Michigan and Washington." Now as the Chairman of the Judiciary Branch stated the other day, they put that clause back in, that they could recall the state judiciary in Arizona after their constitution was approved, but it seems to me that the historical precedent would be that there are a greater number that allow the recall of judicial officers than the number that do not so allow, and it seems to me that for the benefit of those who want to vote for this amendment they should have that information rather than the one case

of Arizona.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Londborg be adopted by the Convention?"

ROBERTSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 7 - Kilcher, Laws, Londborg, Poulsen, Reader, Sweeney, Walsh.

Nays: 44 - Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 4 - Armstrong, Buckalew, Hellenthal, Taylor.)

CHIEF CLERK: 7 yeas, 44 nays and 4 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Doogan, do you have an amendment to Section 6, a proposed amendment?

DOOGAN: Yes. I brought it to the desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Doogan.

CHIEF CLERK: "Section 6, page 3, line 3, add after the word 'officers' the following, 'of the Superior and Supreme Courts'."

PRESIDENT EGAN: What is your pleasure, Mr. Doogan?

DOOGAN: I move and ask unanimous consent.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent for his proposed amendment.

MCCUTCHEON: Objection.

DOOGAN: I so move.

MCNEALY: I second the motion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, Section 16 of the article on the judiciary which we have going into third reading, "Impeachment of any justice or judge for malfeasance or misfeasance may be carried on." In case there was some question in minds as to whether the local judges would be subject to impeachment, I think they would be subject to it regardless of what the legislature did if we adopt our present judiciary article.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I have that sentence read as it would be?

PRESIDENT EGAN: Would the Chief Clerk please read the sentence as it would appear if the proposed amendment is adopted.

CHIEF CLERK: "Every elected public official in the state except elected judicial officers of superior or supreme courts is subject to recall", etc.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? If not, the question is, "Shall the proposed amendment as offered by Mr. Doogan be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye," all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 6? If not, the Chief Clerk may read the proposed amendment to Section 3 as offered by Mr. Smith.

CHIEF CLERK: "Page 1, line 9, strike the period after 'referendum' and insert a comma and add 'except as herein provided'."

PRESIDENT EGAN: What is your pleasure, Mr. Smith?

SMITH: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Smith moves the adoption of the proposed amendment. Is there a second?

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion. Mr. Smith.

SMITH: I would like to say that the addition of those words is merely for the purposes of clarifying the intent. This section as I see it makes it mandatory that the legislature prescribe the procedures to be followed in the exercise of the powers of initiative and referendum, then the article goes

ahead and prescribes those procedures so I think that it might save confusion by the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think it would not save any confusion at all. Of course, if we provide in the constitution conditions under which these things must be done, those things are mandatory. You don't have to say "except as provided herein". It's already in there. It is just unnecessary.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I differ with Mr. Sundborg. We have spelled in enough procedure here so that this could be self-executing if we say "except" as provided herein. Otherwise, we say "the legislature shall", but we have practically done the job, and it makes better sense to persons who are not familiar with constitutional interpretations if we put those three words in there, and in the absence of action by the legislature you still have got a self-executing procedure here. So I strongly advocate Mr. Smith's amendment.

SUNDBORG: May I address a question to Mr. Ralph Rivers?

PRESIDENT EGAN: You may, Mr. Sundborg, if there is no objection.

SUNDBORG: Mr. Rivers, would you contend that if we defeat this amendment and do not put in those words that the legislature would not be governed by the specific provisions later appearing in Sections 4 and 5?

R. RIVERS: This says, "The legislature shall prescribe the procedure". Now the legislature might pass an act that is just simply declaratory of the procedure that is set in here. If the legislature did not pass an act that is declaratory of this language here, then it could be argued that there is no initiative or referendum until the legislature passes that kind of act. Mr. Sundborg doesn't object to those words except he thinks they are surplus verbiage, but I think they do serve a useful purpose. I don't want to say a legislature's going to fail its duty but it might be several sessions before the legislature gets around to it. It simply helps matters.

SUNDBORG: May I hear from some other learned attorney on this point, perhaps Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I am not learned on the point.

PRESIDENT EGAN: Is there further discussion? If not the question is, "Shall the proposed amendment as offered by Mr. Smith be adopted by the Convention?" All those in favor of the

adoption of the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following results)

MARSTON: I wish to change my vote here.

PRESIDENT EGAN: You will have to wait to the end.

MARSTON: I wish to change it to "yes".

CHIEF CLERK: That is what it is.

PRESIDENT EGAN: Do you wish to leave it at "yes"?

MARSTON: Yes, I do.

(The following is the result of the roll call:

Yeas: 33 - Boswell, Collins, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Marston, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 18 - Awes, Barr, Coghill, Cooper, Cross, Johnson, Laws, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Poulsen, Reader, Robertson, Sundborg, VanderLeest.

Absent: 4 - Armstrong, Buckalew, Hellenthal, Taylor.)

CHIEF CLERK: 33 yeas, 18 nays, and 4 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted by the Convention. Mr. Victor Fischer.

V. FISCHER: Mr. President, an amendment proposed by me has been mimeographed and distributed. Before it is read I would like to make two grammatical corrections. In the fifth line, after "recall petition" insert a comma. Also in the fifth line, after "recall" change a comma to a period, change the "t" to a capital "T".

PRESIDENT EGAN: Mr. Fischer, the Chair would wonder if you would have any objection, we are on Section 3 now, and had Mr. Smith offered another amendment to Section 3?

CHIEF CLERK: No.

PRESIDENT EGAN: Then you may proceed, Mr. Fischer.

V. FISCHER: Does this have to be read or can I move its adoption?

PRESIDENT EGAN: The Chief Clerk should read the proposed amendment before you move its adoption. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Insert the following before the last sentence of Sec. 6: 'Such number of such voters as shall equal twenty per cent of the number of votes cast at the preceding general election for all of the candidates for the office held by such official, may, by petition which shall be known as a recall petition, demand his recall. The petition shall contain a statement in not more than 200 words of the grounds for recall. If the official concerned shall not have resigned within 5 days after the required number of voters have signed a recall petition, a special election shall be ordered to be held within the state or political subdivision as the case may be, not less than 60 nor more than 90 days after such order, to determine whether such official shall be recalled.'"

PRESIDENT EGAN: What is your pleasure, Mr. Fischer?

V. FISCHER: I move the adoption of this amendment and ask unanimous consent.

MCCUTCHEON: I object.

PRESIDENT EGAN: Objection is heard to the unanimous consent request. Is there a second to the proposed motion?

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Kilcher seconds Mr. Fischer's motion. Mr. Victor Fischer.

V. FISCHER: Mr. President, the recall power is a means of direct participation of the voters in their government just as the initiative and referendum. The initiative and referendum would be useless if you say, "The voters may enact laws by the initiative and may vote upon referred laws according" to such procedures as may be established by the legislature. We have spelled the procedures out at length. The same thing must be done in the case of recall if it is to be effective. I would like to refer to the Hawaiian Manual in which you will find that out of twelve states that authorize the recall, ten provide for the procedure. Also, in those ten the grounds for the recall are left to the statement of the petitioners as is provided here in the second sentence which says that, "The petition shall contain a statement in not more than two hundred words of the grounds for recall." That is where the grounds will be found. The procedure as set up here, you will note, would set up a special election held within the state or the political

subdivision, as the case may be. This is so that in case a petition is filed against an official who may have another year or two or three to serve, that he can be recalled before the next general election which may be two years away. I believe that if we are to have the recall section included in this article we should adopt this amendment.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I would like to direct a question to Mr. Fischer, if I may. Mr. Fischer, when you proposed your amendment yesterday which was passed today, deleting lines 5 and 6, I asked you if you did that with the understanding that line 7 would allow the legislature to prescribe the grounds for recall. As I recall, your answer was "yes". Now, if I understand correctly, you maintain that this sentence in your proposed amendment would allow the grounds to be set forth there on the further assumption that the grounds outlined would be legal grounds for recall. It seems to me that is contradictory. It seems to me the legislature can still probably prescribe the grounds for recall and that, if they can, your whole amendment is contradictory with the deletion of lines 5 and 6 because the grounds, it seems to me, are the most important factor to set forth, if you wish to spell this out.

V. FISCHER: When I rose yesterday to move the deletion of 5 and 6 I stated that I agreed with Mr. McCutcheon's remarks to the effect that the voters should be able to recall for any reason that the voters deemed proper. If I gave the impression that I felt the legislature should establish the grounds, I may have given the wrong impression. I did not fully intend that. I might say in this connection that if this amendment is adopted the last sentence should then of course be amended to read, "The legislature may then provide additional recall procedures." I feel that the grounds should be left up to the people.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, would you please look at this book I have in my hand. That is the Constitution of the State of California. It is about five times as thick as any other state constitution. It is full of legislative matters such as this long detailed procedure for recall which is now proposed as an amendment. Another reason for its length is that it has been amended some 500 times. The reason that had to be amended was because it was full of long involved procedures such as this. The only way I could vote for an amendment like this is that at the same time we abolish the legislature. Some of us forget that we were sent here to write a constitution, not to make detailed laws.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. Barr practically took the words out of my mouth. I just wanted to add that if we continue we may not have the best constitution in the United States but we will sure have the longest.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Our trip out to the Ladd Air Force Base should have taught us a lesson, when we see one of these million dollar jets where it is modern today and outmoded tomorrow. I for one am going to vote against this amendment and leave it to the legislature.

PRESIDENT EGAN: Mr. Gray.

GRAY: I probably would agree with the process by Mr. Fischer but I look with askance at 20 per cent, 200 words within five days, 60 or 90 days. It will take us about four days to get through this recall because everyone has a different idea on the exact figure. I believe the authority for the recall is all that is necessary, and the legislature can take care of this affair. I just feel that putting through another recall will take another three or four days in this delegation. I will vote against the amendment.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I am in agreement with Mr. Fischer's amendment, most of it anyway. I seconded it. I think the arguments brought against it are valid only in part. Especially those among us here who have been legislators, we fail to grasp the sense of truth that this is an article about direct legislation. It is something that is parallel, and maybe, if you look at it the way I do, superseding in some instance the legislature. It is an article that should not be subject to the legislature. You can't harp on that enough. It is the very nature of direct legislation that it has to be described in all of its aspects in the constitution. This amendment would certainly add about 10 more lines to the constitution. It won't add 100 pages or 10 pages but 10 lines. If we want to include the whole article on direct legislation, we have spent more than 10 lines to describe the procedure for initiative and referendum. Recall is the triplicate brother of the same article. We have to give as much space and certainly as much consideration as Mr. Fischer justly said. The article actually stands and falls with the recall as much as it would have stood and fallen with the initiative and referendum. They are three integral parts and they all have the same weight and should all get the same treatment. It is not a loss of time and much less a loss of space in that constitution of ours if we take 10 more lines to include it. It is in the nature of direct legislation, that which you can spell in the constitution. That is the only recourse people have in direct legislation and it should not be subject to the

legislature, that is the fallacy involved. I strongly urge that you give this consideration.

PRESIDENT EGAN: If there is no further discussion, the question -- Mr. Fischer.

V. FISCHER: I would just again like to say that you are not giving the power of recall to the people unless you establish the procedure in this, and, if we have to put a few more words in the constitution, that is why we are writing a constitution. It is just as important here as it is in the initiative and referendum.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I just want to say very briefly that I support this amendment. I feel that a provision of this type is necessary in our constitution. I don't think that anyone here can deny the fact that we do want to give the public some consideration in drawing up this constitution, and the object of the initiative, referendum and recall I think is to give that power to the voters. We have gone over the first two parts, and it seems to me that, if we are going to have this privilege extended to the voters, this provision here adequately covers it. I think the people are entitled to have this provision in the constitution for their own safety. I don't think it is a question of mistrusting their legislature. We have had very good men down there, and of course some of us have failed in a good many respects while we were public servants. However, we should not assume that we are going to have a perfect body of legislators all the time, and I think the people are entitled to some protection. I, therefore, support this amendment, and I think it is a good provision.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I feel there is all the difference in the words between the subjects covered in the previous sections of this article and the one on which we are now dwelling. In the case of the initiative, it is a provision whereby the people may do something that a legislature has failed to do or that a legislature has refused to do, and in that case it would not be proper to leave it to the legislature to set up the provisions. You have to have the provisions in the constitution. In the second case, the case of the referendum, it is a provision whereby the people may have their say on something they feel the legislature has done wrong and may want to override. The recall is something different, it doesn't deal with the legislature, it deals with public officials and I think it is proper, and the way to do it is to leave the procedure to the legislature. There is nothing permissive about this language. It says, "The legislature shall provide the recall procedures." I say let them do it and let them have the right to

change it from time to time to meet conditions which cannot be done if we write into the constitution a provision which I don't think is very well thought out and might require amendment in a very short time.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. White.

WHITE: Mr. President, I have a proposed amendment to Section 6.

PRESIDENT EGAN: Can we hold the other amendment of yours, Mr. Ralph Rivers?

R. RIVERS: I consent to have it held, pending this.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. White.

CHIEF CLERK: "Insert before the last line of Section 6 'Grounds for recall shall be set forth in a recall petition'."

WHITE: Mr. President, I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. White moves the adoption of the proposed amendment and asks unanimous consent.

MCCUTCHEON: Objection.

WHITE: I so move.

GRAY: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. White.

WHITE: Mr. President, it appeared to me that the desirable part of the amendment as offered by Mr. Fischer was that it would allow the grounds for recall to be set forth by the people demanding the recall. As it stands now, without my proposed amendment I feel that the legislature is to prescribe the grounds for recall. In fact, with this bill we will probably have an amendment to set that forth clearly. The vital part of the recall movement it seems to me is that the people retain not only the right to recall a public official but to name the reasons for instituting such action and let the action itself stand or fall on the merits of the case. I think this logically follows removing of lines 5 and 6 as we did previously.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, the reason I was willing to have my proposed amendment withheld is that Mr. White's amendment gives us a clear-cut issue. If his language is adopted here then I will withdraw my amendment because we are to decide now whether the voters shall decide the grounds for recall to be stated in a petition or whether you wish to vote down this amendment and leave it to the legislature to prescribe the grounds for recall. I think that a good clear-cut issue is to be desired and here we have a good clear-cut issue. I am going to hold for having the legislature prescribe the grounds for recall as well as the procedures, but I approve of the way this is presented.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I am a little at sea here on one point. I can see some merit in both positions. It seems to me that the legislature may prescribe the area within which a recall may occur, that we struck lines 5 and 6 in order to leave that open to the legislature. But Mr. White's amendment calls for a petition which will state an individual case. What grounds within that area prescribed by the legislature shall apply in a particular recall? If I am on the track here I would like to suggest a two-minute recess to discuss the matter with Mr. Rivers and Mr. White to see if these matters are not readily reconciled.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for just two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White.

WHITE: Mr. President, I think the two points of view as set forth in the two proposed amendments are not reconcilable. Should my amendment pass, Mr. Ralph Rivers' proposed amendment could logically also be passed, but it would limit the meaning of mine. I intend through my amendment to leave it to the people to establish the grounds, the basis of recall, be it as frivolous as it may, and let the case stand or fall on its merits. I feel that that really carries out the intent we had in striking lines 5 and 6. I feel it is not the intent of the body not to limit the grounds of recall.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I was against the elimination of lines 5 and 6 and I am also against the adoption of this amendment because I feel that it does create a nuisance value to which public officials should not be subjected. I recognize that they should be subject to recall, but I think that the grounds should be sincere and they should be. I think it is fair to

leave it to the legislature to prescribe the grounds under which a recall petition should be circulated so as to prevent circulation of recall petitions for petty grounds in local jurisdictions by some recalcitrant officer who was not elected, which I have seen happen in my own community.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it would appear to me that a petition for a recall certainly could have no merit or stand by itself without stating some ground in it. It appears to me that the addition of these words is merely loading the constitution up with things that are not necessarily pertinent. I don't see how anyone can circulate a petition for recall unless there were substantial grounds stated in it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I am way behind the parade here, but did we pass an amendment adding "and grounds for recall" to the last sentence?

PRESIDENT EGAN: That was the proposed amendment that Mr. Ralph Rivers has. Mr. White.

WHITE: I am speaking for the third time, Mr. President. If there is objection I will sit down. I just wanted to point out that the last sentence will still remain, "that the legislature shall prescribe recall procedures". It does not necessarily follow that they would say that any two voters could initiate a recall petition.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. We now have before us the proposed amendment as offered by Mr. Ralph Rivers. The Chief Clerk may read that proposed amendment.

CHIEF CLERK: "Line 7, page 3, strike the period and add to the end of that sentence 'and grounds for recall'."

PRESIDENT EGAN: Was that moved and seconded?

CHIEF CLERK: Yes, it was. No, it was not seconded.

R. RIVERS: Now I ask unanimous consent. I so move.

METCALF: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Is there discussion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Is there discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Awes, Boswell, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, Londborg, McLaughlin, McNealy, Metcalf, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Nays: 11 - Barr, V. Fischer, Johnson, Kilcher, Laws, McCutcheon, McNees, Marston, Peratrovich, Poulsen, White.

Absent: 5 - Armstrong, Buckalew, Doogan, Hellenthal, Taylor.)

CHIEF CLERK: 39 yeas, 11 nays and 5 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted by the Convention. Are there other amendments to Proposal No. 3? Mr. Barr.

BARR: Mr. President, may I have the floor on a point of personal privilege."

PRESIDENT EGAN: Mr. Barr requests the floor on a point of personal privilege. If there is no objection, Mr. Barr.

(Mr. Barr spoke on a matter of personal privilege.)

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess until 10:45 a.m.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess until 10:45 a.m. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, when there are no further amendments to the first article of the proposal now before us, because there are two articles in that proposal, I should like to ask unanimous

consent that the first article be referred separately to Engrossment and Enrollment so that they may commence work on it, only because we may spend some time on the next article.

PRESIDENT EGAN: That is right, Mr. Riley, but that question came into the mind of the President and both of these articles are a part of Committee Proposal No. 3. We can't segregate them to the extent that they can be taken out of second reading until both articles are ready to go, but if the body wishes to give the first article to the Committee on Engrossment and Enrollment for the purposes that they can start working on the amendments, but it would still, if a member of the delegation offered an amendment after we consider Article 2, the article on revision and amendment, it would still be in order in second reading.

RILEY: That is my entire purpose, Mr. President. I wish simply to ask a suspension of the rules in order to start the process in Engrossment and Enrollment with that understanding.

PRESIDENT EGAN: That does not preclude the further amendment of the article on initiative and referendum if, after we have considered Article No. 2, anyone wishes to do so. In other words, someone who is strongly for the initiative and referendum might wish to offer some amendment after we get through with this second article. If there is no objection, the article will be referred to the Engrossment and Enrollment Committee under those circumstances. If there is no objection, it is so ordered. Are there further amendments? If not, we will proceed with the article on revision and amendment. Mr. Cooper.

COOPER: Mr. President, I have an amendment.

R. RIVERS: Are we taking these section by section now?

PRESIDENT EGAN: We will start with Section 1.

R. RIVERS: Mr. President, I was wondering if the Clerk might not read this entire thing for us to review our minds before we start amending.

PRESIDENT EGAN: Have we had it read previously?

CHIEF CLERK: I don't recall.

PRESIDENT EGAN: The Chief Clerk may read the entire article before we start any amendments if that is the wish of the delegates.

(Clerk read article on revision and amendment.)

PRESIDENT EGAN: Are there amendments to the article on revision and amendment? Mr. Cooper.

COOPER: Mr. President, I have an amendment on the Secretary's desk to Section 1 and also Section 2 because it is tied in with the section.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading of the amendment.

CHIEF CLERK: "Strike Section 1 in its entirety and insert in lieu thereof a new Section 1: 'Revisions of this constitution may be adopted by a two-thirds affirmative vote of two successive legislatures, a constitutional convention, or by a three fourths affirmative vote of the legislature. Amendments to this constitution may be adopted by the affirmative vote of three-fifths of all votes cast by qualified voters, voting on such amendment'." "Section 2, line 5, delete 'two-thirds' and insert 'three-fourths'." "Section 2, line 9, after the word 'a' before 'majority' insert 'three-fifths'.

COOPER: I move the adoption of this amendment.

HELLENTHAL: I object.

COGHILL: I second the motion.

PRESIDENT EGAN: Mr. Coghill seconds the motion. Mr. Cooper.

COOPER: Mr. President, I have this in mind. It should not be so easy as outlined in this article at present to amend or revise the constitution. We have been told we were doing a good job with it. I felt quite sure when the constitution leaves this Convention and goes to the people it will be good. The revisions of the constitution as provided in Section 1 says, "may be adopted by two succeeding legislatures, or be proposed by constitutional convention or by the legislature." It does not make itself clear. My amendment would be revisions of the constitution may be adopted by a two-thirds vote of two successive legislatures, a constitutional convention, or by a three-fourths affirmative vote of a legislature. The amendments to the constitution which would be voted on by the people would be by a three-fifths majority of all votes cast in the affirmative for such an amendment. In Section 2, line 5, is merely inserting the fractions as outlined in Section 1.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to point out that, under Section 1 as outlined here, it is not possible for one legislature to amend the constitution. It is only possible for them to propose amendment and then submit that to the people, and it provides further for amendment by constitutional convention. It is not possible for one legislature to amend the constitution.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask a question of perhaps someone on the Committee. Does Section 1 as now written mean that the amendments can be adopted by the two succeeding legislatures without any referral to the people?

SMITH: Mr. President, I am certain that that is the intent of Section 1 that an amendment may be adopted if it is proposed by one legislature and approved by the second legislature.

PRESIDENT EGAN: Mr. Ralph Rivers, was your question there relating to the clarity of the wording even if that section were adopted as it is?

R. RIVERS: If we kept it the way it was, Section 2 says that, "Any legislature may by a two-thirds vote of each house propose amendments to the constitution." And those proposed amendments may be submitted by ballot title to the voters. That, of course, would be a different procedure than Section 1 which merely says that two legislatures may amend the constitution. But the thing is that it does not seem to register clearly that these are alternative methods. You have got to stop and start analyzing to see just what they mean. Now then on line 12 it says, "Proposed amendments may be submitted to the next legislature . That would mean the proposals set forth in Section 2 I suppose. Up here it says the revision in Section 1, "Revisions of or amendments to this constitution may be adopted by two succeeding legislatures, or be proposed by constitutional convention." The only way you can get a constitutional convention, as set forth on the second line of Section 3, is that the legislature may provide for a constitutional convention.

PRESIDENT EGAN: Can anyone on the Committee answer that? Mr. Marston.

MARSTON: It is clear. We went over it for three weeks. The experts were in there. We adopted from previous states the program, the language is clear. There are two ways of amending the constitution. It is clear as can be, and I don't believe that we can in quick judgment charge in and make it better. I think snap judgment has gone far enough on this thing. I think this should be taken seriously as it is. There are two ways to amend the constitution, by two succeeding legislatures or by request of the legislature for amendment. It is clear and concise and this snap judgment of waiting time to write a new amendment, it is clear.

PRESIDENT EGAN: If the Chair understood correctly, Mr. Ralph Rivers' question was not dealing with the intent of the Committee, it was in dealing with the actual wording as it appears here, whether or not it does in effect do the things that you think it will do.

R. RIVERS: Yes, exactly. I have no quarrel with what is in

here. But what the intent is, I can't quite understand it.

MARSTON: That is the decision of the experts and that is the way they passed on it.

R. RIVERS: Maybe they were so expert that they don't write it so ordinary people can understand it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. Rivers made the remark that up here in this section, "proposed by constitutional convention", then he said that only the legislature can do that. The first sentence in Section 3 states that, "The legislature may provide for constitutional conventions."

R. RIVERS: When they speak of amendments being proposed by constitutional convention, constitutional conventions do the amending, they don't propose amendments.

HERMANN: They have to be ratified.

R. RIVERS: That is more than a proposition though.

BARR: I don't have the floor but I would like to answer that. I think they're using that language, proposed, in reference to a proposal. Everything we put in here is a proposal. We proposed.

R. RIVERS: That is the trouble. We think we mean something but we have not said so.

PRESIDENT EGAN: We have before us Mr. Cooper's proposed amendment. The question is, "Shall the proposed amendment as offered by Mr. Cooper be adopted by the Convention?" Mr. Victor Rivers.

V. RIVERS: I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 5 - Coghill, Cooper, Kilcher, Reader, Rosswog.

Nays: 45 - Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 5 - Armstrong, Buckalew, Hellenthal, Hilscher, Taylor.)

CHIEF CLERK: 5 yeas, 45 nays and 5 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to the article on revision and amendment? Mr. Hurley.

HURLEY: Mr. President, I have an amendment.

PRESIDENT EGAN: You may submit your amendment. Mr. Johnson.

JOHNSON: Mr. President, I also have an amendment on the Secretary's desk.

PRESIDENT EGAN: Mr. Hurley had been recognized and Mr. Johnson's amendment can come after Mr. Hurley's. I am sorry, Mr. Johnson.

CHIEF CLERK: "Section 1, lines 2 and 3, strike 'adopted by two succeeding legislatures, or be', and change 'proposed' to 'adopted' and add 'proposed' after 'or'.

PRESIDENT EGAN: Read that again.

CHIEF CLERK: "Section 1, lines 2 and 3, strike 'adopted by two succeeding legislatures, or be', and change 'proposed' to 'adopted' and add 'proposed' after 'or'". And then Section 2" -- is that a separate amendment?

HURLEY: No, they are together.

CHIEF CLERK: "Section 2, strike lines 12, 13, 14, 15 and 16."

PRESIDENT EGAN: The Chair will hold that we will have to act upon that as being the amendment. If Mr. Hurley proposes to move that, he should move on that as an amendment in its own right.

HURLEY: The last paragraph in Section 2 is surplus verbiage, it refers to something I propose to eliminate.

PRESIDENT EGAN: If there is no objection you might include it, if there is no objection you can include the whole thing in your motion.

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed motion as read.

HARRIS: I second the motion.

COGHILL: Through the Chair, Mr. President, I would like to ask a question of Mr. Hurley.

PRESIDENT EGAN: Mr. Coghill, if there is no objection, you may ask your question.

COGHILL: In the language therefore set, the constitutional convention would not have to have ratification of amendments by the people, is that correct? Under the language that you have now set, it would not be necessary?

HURLEY: Perhaps I too hurriedly changed the word "proposed" to "adopted". There was some discussion on that. My thought was that the constitutional convention would be submitted to the voters. If I changed that, I certainly did not intend to. It was pointed out a little different between proposing a constitutional convention and the convention actually proposing amendments which will be submitted to the people. It was my intention that anything be submitted to the people for referendum, but, if I did it wrong, I regret it and I'll change it.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for a minute to decide that.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hinckel.

HINCKEL: I rise to a point of personal privilege.

PRESIDENT EGAN: Your point of personal privilege, Mr. Hinckel. If there is no objection, you have the floor on personal privilege.

(Mr. Hinckel spoke on a matter of personal privilege.)

DAVIS: Mr. President, may I ask Mr. Hinckel a question?

PRESIDENT EGAN: If there is no objection, Mr. Davis.

DAVIS: I am wondering if Section 1 adds anything at all. Actually, is not everything in Section 1 covered completely by Sections 2 and 3?

PRESIDENT EGAN: Mr. Hinckel, do you care to answer that question?

HINCKEL: I would have to take another look at it to answer that intelligently. The object of Section 1 of course was the statement of the intent and the other sections went into the procedures.

DAVIS: It seems to me that Section 1 is a summary of the whole proposal and Sections 2 and 3 spell it out. If that is the case, it seems to me Section 1 is probably a surplus.

HINCKEL: That may be correct in your opinion, sir. However, it seems to me that most of the articles start out with the intent.

AWES: May I comment that I not only agree with Mr. Davis, but that I found it confusing, and I read it several times to find out what the purpose of it was other than to summarize the later propositions. I found it definitely confusing.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I am inclined to agree with Mr. Hinckel that Section 1 could be eliminated by Style and Drafting if the Committee felt that all the intent was fully stated in the remainder of the sections, and, if I may go on, I think that in some ways the most important thing right now is to find out the intent of the Committee and, if I may, I would like to point out something and ask a question for guidance of the Committee. The way Section 1 reads now, it states that, "Revisions of or amendments to this constitution may be adopted by two succeeding legislatures." There is a big difference between revisions, which implies rewriting the constitution, and making amendments to specific articles or sections of the constitution. In talking to a few of the members of the Committee during the short recess, it appears that the Committee has in mind that revisions be undertaken by constitutional conventions and be adopted by vote of the people rather than by the legislature itself, and I just would like to have confirmation from one or more members of the Committee.

HINCKEL: We discussed that in Committee and we felt that if two separate legislative bodies agreed on the change or revision that it should be adequate, but we did not want one single legislature to make a change of that nature. If two succeeding separate legislatures concurred, we felt that probably that would be satisfactory.

V. FISCHER: If I may continue to ask a question, Mr. Hinckel, is it your intention then that the legislature be authorized in two succeeding sessions to sit as this constitutional convention here and revise the whole constitution from beginning to the end?

HINCKEL: I don't think there is any legislature that would even attempt to do such a thing. They would not want to assume the responsibility and it was not our intention that they do that. I don't think that they would ever try it.

V. FISCHER: Was it your intention that the legislature could

rewrite the whole constitution by the process of revision and submit a completely revised constitution to the voters for adoption or should that process go through constitutional convention?

HINCKEL: As far as I personally am concerned, my personal opinion is that the legislature should not do that and I don't think it was our intent that they be permitted to. If we discussed it at all, as I state, I think we probably figured that they would call a convention for such a purpose.

V. FISCHER: That was my impression of the intent of the Committee.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. Hurley's amendment, or proposed amendment, poses a real question of substance, not just one for Style and Drafting. Mr. Hurley's amendment would require action by a constitutional convention to be ratified by the people, and it would also require action by the state legislature by a two-thirds vote of both houses in two successive sessions to be ratified by the people. The way the thing is now written, the legislature could amend the constitution or revise the constitution by action of two successive sessions without submitting it to the people. So we have more than a matter of Style and Drafting here. I think this body has got to take the responsibility of making these basic substantive decisions, but I for one, if we don't run too late here, would like to meet with the standing committee and various others that are particularly interested and have a conference during the noon hour with the standing committee and perhaps we could all come up with something that would be helpful.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I agree that Mr. Hurley's intention is a matter of substance, something that the Convention is going to have to decide, but it seems to me we are going after it backwards. The substance of his amendment is his motion to strike the last paragraph of Section 2. Since I think it is pretty generally agreed that Section 1 is merely a matter of statement of intent, we could actually drop that whole section without hurting what we're doing, and therefore to move now to amend Section 1 is not getting anywhere. What we are really after here is finding out whether the Convention wants to allow the constitution to be amended by the legislature or not. I wonder if Mr. Hurley or the Chair would object to passing on his motion to strike which is the substance of what we are after here. You see his motion is a two-barrelled motion, it is a motion to strike the last paragraph of Section 2. Now if that should pass, then there is no use of worrying about the wording of Section 1 because it is completely surplus verbiage

or would follow as a matter of course, but what we want to do is to find out whether the group does or does not agree that the constitution can be amended by the legislature.

PRESIDENT EGAN: Your suggestion is that Mr. Hurley's proposed amendment be amended to not say anything about Section 1, is that right, Mr. Davis?

DAVIS: I thought we might pass on the portion of his amendment that had to do with Section 2 first.

PRESIDENT EGAN: Is that in line with your desire, Mr. Hurley?

HURLEY: It would be quite adequate with me if we divide the question into two parts. Vote first on the amendment to Section 2. If the second part carries Section 1 will not be applicable, and then we can either strike it or amend it.

PRESIDENT EGAN: Mr. Hurley asks unanimous consent that his original motion be divided in two parts and that the Convention act first on that.

HURLEY: In order to make it more simple, I will ask that my amendment be amended by striking the reference to Section 1.

PRESIDENT EGAN: If there is no objection, Mr. Hurley asks unanimous consent that his amendment be amended by striking all reference to Section 1. Is there objection?

HINCKEL: I object.

V. RIVERS: I second the motion.

HURLEY: I so move.

PRESIDENT EGAN: It has been moved and seconded that Mr. Hurley's proposed amendment be amended by striking all reference to Section 1. The question is open for discussion. Mr. Hinckel.

HINCKEL: As I stated before, the object is to save the state expenses. If they have a proposed amendment that is urgent and is worthwhile, it can be handled in a manner that is not going to cost the state a lot of money. If you want to spend the money for special elections, you can.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I feel that it is basic that a constitution is a charter handed down by the people.

HURLEY: I rise to a point of order. We are speaking now on the amendment to the amendment. If we are going to speak on the original amendment I would like to have something to say

about it, but the amendment to the amendment is simply to strike this thing and vote on one thing at a time.

PRESIDENT EGAN: Of course in determining just whether a person is in the proper latitude, Mr. Hurley, it might include reference to what the meat of the original amendment was.

HURLEY: I withdraw my point of order.

PRESIDENT EGAN: Mr. Riley.

RILEY: If I understand Mr. Hurley's present suggestion, the pending one, there is a little misunderstanding in that Mr. Hinckel's comments I don't believe are responsive. Mr. Hurley seeks only to strike his reference to Section 1, he does not seek to strike Section 1 in the pending amendment.

PRESIDENT EGAN: That is correct, Mr. Hinckel. If the Chair did not make that clear, Mr. Hurley is not attempting to delete Section 1. He is striking the reference that he originally made to Section 1, asking that that be stricken from his proposed amendment. Section 1 will remain as it is if this amendment is adopted.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Hurley's proposed amendment to the amendment be adopted by the Convention? All those in favor of the adoption of the proposed amendment to the amendment will signify by saying aye, all opposed by saying "no". The "ayes have it and the proposed amendment to the amendment is adopted. Mr. Hurley.

HURLEY: Mr. President, I would just like to give my reasons for proposing the amendment now before us. That is that both myself and the people who attended the hearings which I held felt that any amendment to the constitution should be submitted to a referendum by the people. I recognize that it would be cheaper, by the cost of a ballot at any rate, for the two successive legislatures to amend the constitution, but I think it is somewhat contrary to the general methods of amending constitutions, and I have felt sometimes it would be better to take this matter up of amending the constitution after we have finished the constitution. When we get through I might be quite happy to have two legislatures amend it, but at the present time I think I would prefer to have any proposed amendment to the constitution submitted to the people for the referendum and that is the reason I proposed the amendment.

PRESIDENT EGAN: Is there further discussion? Mr. McCutcheon.

MCCUTCHEON: Mr. President, I feel inclined to support the matter as it stands rather than by amendment to strike out the proposition

of the two legislatures. I feel that some of our group here are a little too suspicious of the legislators. If we will think in terms of the number of people who must be elected to the legislature in order to change the constitution, I think we will be a little less suspicious. It will actually require 110 different people to be elected at large over the Territory in order to change the constitution because it must be submitted to one, assuming that we have a total legislature of 60, then we elect in the next legislature 50, it will be a total of 110 people. That certainly should be a cross section and representation of the whole population of Alaska, and I can't see why two legislatures, if they are in accord by two-thirds, why that shouldn't be sufficient protection for the public.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Many other issues will be before the people when they are considering what men they should elect to their legislature. They will not be thinking primarily of the proposed amendment to the constitution. I feel strongly that the constitution of the State of Alaska should be amended, if at all, only by the people directly, and that their ratification be secured by their own votes and not through electing some man to the legislature whenever an amendment is proposed. So I favor Mr. Hurley's amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, as we all know from the studies we have made, you have to tread a middle ground on amending constitutions. You must not make it so hard that they cannot be amended when amendment is necessary. You must not make it so easy that they can be amended at the whim of any particular segment of the population. It seems to me that the Committee here has done a good job. They have set up three alternative methods for amending the constitution. I am going to propose an amendment on the amount of votes that it will be necessary to carry an amendment in the event it is submitted to the people, but, so far as the methods, I like the way they have set it up.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, it is my opinion here we are, in this amendment, voting on whether we wish to adopt the method of amendment by the legislature, whether it's two, three or four successive legislatures, this does not particularly matter to me. I feel that this being supreme, the charter or law, should be an instrument of the people and they and they alone delegate power to the governing bodies. I do not feel that the legislative power should extend to an ability to change the constitution, no matter how many successive legislatures it may go to. This is a principle that we in this body must decide on. However, in the course of the morning I have heard a number of

incidents brought up that we are being too detailed in our amendments. That is the democratic process and that is the right of every member on this floor and I will defend that right. However, this is a matter that I feel should be given careful consideration. I don't think that we should delegate the supreme power to the legislature to alter the document by which they themselves are constituted and they themselves are governed.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: It was the thought of the Committee, I think, that it is going to be quite difficult for the legislature to amend the constitution by the first method. The first legislature by majority proposes, and the second by two-thirds majority adopts, and it seems to me the odds of a second entirely different group of men that are elected adopting the method by a two-thirds majority would be almost as great as winning the ice pool, and it seems to me that if the need was great enough and a two-thirds could be gotten together, a two-thirds majority, it seems to me it would be a good amendment. Just remember we are living in a jet age, and, as suggested by Mr. Rivers, if you are going to take nine or ten months to put all this before the people, you may need this done quickly, and I think a two-thirds majority is a safe check and balance.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as amended and offered by Mr. Hurley be adopted by the Convention?" Mr. Victor Rivers.

V. RIVERS: I would like to see a roll call on this issue, Mr. President.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Amendment to Section 2, strike lines 12, 13, 14, 15 and 16."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 33 - Barr, Boswell, Coghill, Cooper, H. Fischer, Gray, Harris, Hilscher, Hurley, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McNealy, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Mr. President.

Nays: 18 - Awes, Collins, Cross, Davis, Doogan, Emberg, V. Fischer, Hermann, Hinckel, King, McCutcheon, McLaughlin. McNees, Marston, Metcalf, Nolan, Rosswog, Wien.

Absent: 4 - Armstrong, Buckalew, Hellenthal, Taylor.)

CHIEF CLERK: 33 yeas, 18 nays and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted by the Convention. Mr. Johnson.

JOHNSON: Mr. President, I have an amendment on the Secretary's desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Johnson. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I have one to offer.

CHIEF CLERK: "Section 2, line 7, page 1, strike the word 'may' and insert the word 'shall'."

JOHNSON: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the proposed amendment.

ROBERTSON: I second the motion.

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that the proposed amendment be adopted. Is there objection? Hearing no objection it is so ordered and the proposed amendment is adopted. Are there other amendments? Does Mr. Ralph Rivers have an amendment on the Chief Clerk's desk?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 1, strike Section 1 and substitute the following new Section 1: 'Revisions of or amendments to this constitution may be adopted by the legislature or by constitutional convention as hereinafter authorized subject to ratification by the people.'"

R. RIVERS: I move the adoption of that amendment.

HURLEY: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the proposed

amendment by Mr. Ralph Rivers be adopted. Mr. Ralph Rivers.

R. RIVERS: I won't even ask unanimous consent. Mr. President, this motion is made in conformity with the action we have already taken, that whatever amending is done must be subjected to ratification by the people. It is also made out of respect to the standing committee and the desire of the standing committee that there be an expression of intention as Article 1. The way this would read is that, "Revisions of or amendments to this constitution may be adopted by the legislature or by constitutional convention as hereinafter authorized subject; to ratification by the people." Now I have used the words "adopted by the legislature", and that deals with the voting procedure in any case. Now, you don't want to have to call a constitutional convention every time you want to amend something necessarily. Perhaps the legislature is confronted with an important point, and everybody is generally agreed that there should be an amendment. Nevertheless, if the legislature takes that type of action it is still subject to the ratification by the people. I have used the word "adopted" because what the people ratify is not just something that has been proposed, but what the people ratify is something that has been adopted subject to ratification. The same thing is true of a constitutional convention. The convention does not just propose something, the constitutional convention adopts it but subject to confirmation or ratification by the people. Accordingly, the expression of intention, if this motion is carried, would simply be that our constitution may be revised or amended either by the legislature or by constitutional convention as hereinafter authorized subject to ratification by the people. Now that is clear, and it preserves the intention of our standing committee that they should have an expression of intent as Section 1.

PRESIDENT EGAN: You ask unanimous consent?

R. RIVERS: Now I ask for unanimous consent.

MCCUTCHEON: I object. I think the heart has been stricken from the very authority of it here. I don't see how on one hand he bows down now to the committee by trying to make some amends by adding a bunch of verbiage in the front of it. As far as I can see, just strike Section 1 and be done with it. Section 2 is absolutely plain as far as its intent is concerned. Why do you have to say the same thing twice?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I will close then. He says Section 2 is absolutely plain. It says, "Proposed amendments shall be submitted by ballot title. This does not state in so many words how the amendment is adopted. It imports that the people are adopting the amendment. It does not stack up too well unless we do preserve some expression in Section 1, I think.

PRESIDENT EGAN: The question is, "Shall the amendment as proposed by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Awes, Boswell, Coghill, Collins, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, Marston, Metcalf, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Nays: 13 - Barr, Cooper, Doogan, V. Fischer, Kilcher, McCutcheon, McLaughlin, McNealy, McNees, Nolan, Poulsen, Reader, White.

Absent: 4 - Armstrong, Buckalew, Hellenthal, Taylor.)

CHIEF CLERK: 38 yeas, 13 nays and 4 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Mr. Johnson.

JOHNSON: Mr. President, if further amendments are in order to Section 2, I would like to suggest that in view of the action by the Convention in adopting the amendment just now and in view of Mr. Rivers' explanation of the meaning of the word "adopted", then, perhaps in the lines 10 and 11 in Section 2 on page 1, rather in line 10 where the word "adoption" appears, we ought to "put in the word "ratification" and, in line 11 where the word "adopted" appears, the word "ratified" should be substituted, and I move that the section be amended in line 10 to strike the word "adoption" and insert the word "ratification", and also in line 11 to strike the word "adopted" and insert the word "ratified".

PRESIDENT EGAN: You move the adoption?

JOHNSON: I move the adoption of the amendment.

R. RIVERS: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: There is a question I would like to ask Mr. Johnson. Would it be advisable to change the last word "adopted" to "ratified"? Would it not be better to say "the amendment is adopted"?

JOHNSON: Following out the argument as advanced by Mr. Ralph Rivers, it occurs to me that the word should be changed to "ratified" since the word "adopted" signifies action by the legislature or the constitutional convention and that that action would subsequently be ratified by the people in a vote. I think the word "ratified" should be substituted for the word "adopted".

KILCHER: May I address a question to Mr. Johnson?

PRESIDENT EGAN: If there is no objection, Mr. Kilcher, you may address the question.

KILCHER: Should you not possibly consider in following the logic of Mr. Rivers' statement to substitute in line 6 the word "adopt" for "propose", and in line 7 the word "adopted" for "proposed"? In other words, if the popular vote ratifies, then the legislature has adopted something that has to be ratified not just proposed.

JOHNSON: That is a little outside my amendment then.

KILCHER: If we change the one we should change the whole sequence of it. I can see that a committee in the legislature would propose, and the legislature would adopt it, and then people would ratify. There is probably where the sequence of ratified and adopted comes in. The whole thing should be switched.

PRESIDENT EGAN: It might be best to see what happens to this and then if you felt that was in order, Mr. Kilcher, you could offer an amendment.

KILCHER: I thought maybe we could save time if he wanted to possibly include it and follow it all the way through. It is the same thought.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: This amendment by Mr. Johnson and the comments by Mr. Kilcher I think have to do with what I now think is the clearly expressed opinion of the Convention on what it means by the word "adopted" and what it means by the word "ratified", and I think the intent is perfectly clear. I wonder if Mr. Johnson would consent and then we could have unanimous consent here to make the language conform and, when we get it into the Committee on Style and Drafting, make it conform with the amendment by Mr. Rivers which we have just adopted for Section 1.

JOHNSON: I have no objection to that procedure provided that is permissible under the rules. We are in second reading and the article is subject to amendment and since I believe these

matters are substance rather than form, we would not have a valid right to change it.

PRESIDENT EGAN: If you feel that way, Mr. Johnson, it would be better to go through with your amendment. Mr. Riley.

RILEY: In line with Mr. Johnson's amendment, I would wonder if he would be agreeable to language that might clean up the last sentence by striking the period after the word "election" on line 9 and continuing "a majority of the votes cast on a question shall be necessary to ratification." Just throwing that out, it is a change in construction, but I think it is a little less awkward.

JOHNSON: This I think is a matter for the Committee on Style and Drafting, once we have adopted this substance we have proposed.

PRESIDENT EGAN: Then the question is, "Shall the amendment as proposed by Mr. Johnson be adopted by the Convention?"

SUNDBORG: May I hear it read?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment again.

CHIEF CLERK: "Line 10, strike the word 'adoption' and insert the word 'ratification' and on line 11 strike the word 'adopted' and insert the word 'ratified'."

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Fischer.

KILCHER: There is an amendment on the board.

CHIEF CLERK: I have one to Section 2 here.

PRESIDENT EGAN: The Chair had recognized Mr. Fischer.

V. FISCHER: Mr. President, I would accede to an amendment to Section 2 although I would prefer to --

KILCHER: Mine is on 3.

V. FISCHER: Mine is on 3, but I would like to get it in prior to Mr. Kilcher's because I don't think it would affect his proposal.

R. RIVERS: Point of order. Is Mr. Kilcher's amendment on Section 2?

PRESIDENT EGAN: On Section 3. The Chief Clerk will please read Mr. Fischer's amendment.

CHIEF CLERK: What about the Section 2 amendment?

DAVIS: That is my proposed amendment.

PRESIDENT EGAN: Then it would be in order to recognize Mr. Davis, if it is to Section 2. It may be read at this time.

DAVIS: I offer a proposed amendment to Section 2. The proposed amendment is on the Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as offered by Mr. Davis.

CHIEF CLERK: "Section 2, line 10, strike the words 'tallied on the question' and substitute the words 'cast at the election'." If the amendment is adopted the last sentence of the section will read as follows: "If a majority of the votes cast at the election favor the adoption of the amendment, the amendment is adopted."

PRESIDENT EGAN: What is your pleasure, Mr. Davis?

DAVIS: I move the adoption of the amendment and in making the motion would like to state that I discussed this matter with at least a majority of the members of the Committee, and I think they will have no objection to the proposed amendment. The purpose for the amendment is that I think it is common knowledge that when propositions are on a ballot many people do not vote for propositions that do vote at the election. I think it would be entirely possible as the language is written for a very small minority to carry a constitutional proposition because only a majority of those voting on the question would carry it. I would like to see that changed to a majority of those voting at the election in question.

PRESIDENT EGAN: Mr. Davis moved the adoption of the amendment. Mr. Victor Rivers.

V. RIVERS: Point of order. His statement as to how the last two lines will read, the words "adopted" have been changed to "ratified" and "ratification". I believe that his amendment should so read for the record.

PRESIDENT EGAN: Are you seeking to change those words back again, Mr. Davis?

DAVIS: No, my amendment was in before the last amendment was adopted.

PRESIDENT EGAN: Do you wish that those words be changed in your amendment?

CHIEF CLERK: That is not part of the amendment. That is just a statement that he had down here, how it would read. Does that satisfy your inquiry, Mr. Rivers?

JOHNSON: I ask unanimous consent.

R. RIVERS: I object.

RILEY: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Ralph Rivers.

R. RIVERS: Mr. President, you are going to have these ratification elections take place at a general election, and of course there may be more people vote on the general ballot than actually ballot on the special proposition, on the separate ballot for ratifying a constitutional amendment, but every voter is going to have that separate ballot handed to him, and I think the bulk of the people voting are going to cast their vote on that special ballot. I think that the people that take the trouble to do the thinking, to decide how they are going to cast their ballot on a constitutional amendment, are the people whose ballots should be counted, and the majority of those votes are the ones that should govern. If you take a few hundred additional people who did not even cast a ballot on the business of ratifying our constitution and make a majority of those who did not think about or didn't even cast a ballot on it, determine what the outcome to be on a close election, I don't think you are actually regarding the citizenry who thought about it and who cast a ballot upon it. So I am opposed to Mr. Davis's proposed amendment.

PRESIDENT EGAN: Is there further discussion? Mr. Kilcher.

KILCHER: Mr. President, if Mr. Davis's amendment should be accepted, I think it would be a discrimination against the voters that are only interested in the amendment itself. In a way I would not mind that, to have a restriction put upon the vote, but then we should also put a restriction on line 5, on the two-thirds votes of each house, we should then change it possibly to two-thirds of the votes to which each house is entitled to make sure that they are all there. That would be in the same category of the thought. In other words, not two-thirds majority of a quorum but two-thirds of what each house is entitled to. But I am willing to forego that amendment if Mr. Davis's amendment is defeated, which I suggest should be done.

PRESIDENT EGAN: Mr. Gray.

GRAY: I favor the amendment. In changing the constitution which is the will of the people, I think there should be no question about a clear majority. In a great many cases, people who are satisfied with conditions do not vote, but those people who are for the change will vote. It may not be so much a matter of a lack of interest, it may be that they are acceptable, and the ones who desire the change are the ones who are going to get out to vote. But basically it is the principle of the thing, let's establish a clear majority, let's not have a minority of the electors change the constitution. I am in favor of the amendment.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I am opposed to the amendment, Mr. President. I think the Committee certainly seems to have had in mind that those who are interested in the constitutional amendments, one way or the other, should be the ones to make the decision, and that the Committee recommendation is not something made they thought out, it is the practice in 34 states. Only nine states require a majority of those voting at the election. Thirty-four require a majority of those voting on a specific amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I believe the changes or the amendments to the constitution should be well thought out, and I would like to see a majority voting for it. I would hate to see amendments or changes made by a minority vote.

PRESIDENT EGAN: Mr. Marston.

MARSTON: We have a hard time getting people out to vote. If they are there, I don't think that the people who have a proposition on the ballot should have to carry a lot of dead wood. I think it is a fair proposition that the people express themselves. They are there at the voting booth, they have that proposition. If they are not interested enough to vote on it one way or the other, then there should not be a penalty to those who are out working. I am going to vote against it.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I think I agree with Mr. Marston in substance, but I would like to state that our election laws are rather lax and if we are going to permit the people to cast a negative vote by just not voting due to the fact that they possibly cannot read or understand the proposal, why I don't see that that is very fair, and I am against this proposed amendment.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Davis be adopted by the Convention?" Mr. Victor Rivers.

V. RIVERS: I ask for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the proposed amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Awes, Barr, Boswell, Davis, Gray, Hermann, Hurley, Johnson, Laws, Londborg, McCutcheon, McNealy, McNees, Nerland, Nolan, Nordale, Poulsen, Riley, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, VanderLeest, Walsh.

Nays: 26 - Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McLaughlin, Marston, Metcalf, Peratrovich, Reader, R. Rivers, Smith, Stewart, White, Wien, Mr. President.

Absent: 4 - Armstrong, Buckalew, Hellenthal, Taylor.)

CHIEF CLERK: 25 yeas, 26 nays and 4 absent.

PRESIDENT EGAN: The "nays" have it and so the proposed amendment has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess until 1:30 p.m.

PRESIDENT EGAN: The Chair would like to announce that the meeting of committee chairmen, the luncheon meeting, will be held in this end of the building instead of the regular luncheon room. Are there other committee announcements to be made before we recess? If not, the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the article on the referendum. Before we proceed with this article would the Chief Clerk please read the communications that have been received.

CHIEF CLERK: A telegram from the Juneau Chamber of Commerce. (The Chief Clerk read in full the telegram congratulating the Convention on its accomplishments to date and extending best wishes for success.)

PRESIDENT EGAN: The communication will be filed.

(The Chief Clerk read in full a letter from the Honorable Clair Engle, Chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives, commending

the Convention on the necessary and important work being done, extending good wishes and sincere and vigorous support toward the final objective, statehood for Alaska.,

PRESIDENT EGAN: The communication will be filed. Mr. Rosswog.

ROSSWOG: Mr. Chairman, before proceeding, I would like to refer to committee announcements.

PRESIDENT EGAN: If there is no objection, Mr. Rosswog, the Convention will refer to committee announcements.

ROSSWOG: For the Committee on Local Government, I would like to again ask that if any of the delegates have suggestions for us that they give them to us at the finish of this session and we will have a meeting of the Local Government Committee tonight. at 8 o'clock at Apartment 19, in the Alaskan Inn.

PRESIDENT EGAN: You have heard Mr. Rosswog's announcement. If there are any suggestions for the Local Government Committee, he would like to have them at the earliest possible time. Mr. Smith.

SMITH: I merely wanted to make the same suggestion, that anyone who has suggested amendments to the resources article, I would like to have them and the Committee will meet this evening at 7:30. They will meet in the lobby of the Northward Building at the meeting place to be named later. The object in meeting in the lobby is to have a central place to meet and then we will have to determine where the meeting is to be held.

PRESIDENT EGAN: You will get your committee members together at 7:30 in the lobby of the Northward Building?

SMITH: That is right.

PRESIDENT EGAN: Does anybody else have an announcement? Are there other committee announcements? If not, we will proceed with the amending of the article on revision and amendment. Mr. Kilcher.

KILCHER: There is an amendment on the desk of the Chief Clerk.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as proposed by Mr. Kilcher?

CHIEF CLERK: "Page 1, line 18, strike the word 'if' and all that follows in the first paragraph of Section 3 through line 3 on page 2, and substitute the following: 'After the lapse of fifteen years during which a constitutional convention has not been convened, delegates to a constitutional convention shall be elected at the next regular election.'"

PRESIDENT EGAN: What is your pleasure, Mr. Kilcher?

KILCHER: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Kilcher moves that the proposed amendment be adopted.

HERMANN: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Ralph Rivers .

R. RIVERS: I would like to hear Mr. Kilcher's approach and thinking on this.

KILCHER: I think that we have an amendment here that will surely be in the spirit of a simple constitution in as far as we are saving possibly eight lines in the present proposal, and in the first sentence of Section 3 has given the legislature wide and not specifically defined powers to arrange for a constitutional convention. The legislature may provide for a constitutional convention as they see fit, but if no constitutional convention has been held during a period of 15 or 20 years (that can be amendable) if none has been held then there shall be one, and the last paragraph of Section 3 will be retained in whole and explained in what way this convention should come about unless provided differently by the legislature.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to rise to a point of information. Mr. Kilcher, what would be the reason of just arbitrarily calling a convention, a constitutional convention, unless there was some decided need for it, some public clamor or the legislature certified that there should be a convention called? Why would you call a constitutional convention where there is no apparent need for it?

KILCHER: I have, after speaking the matter over with a number of people, delegates and others, I have come to the conclusion and I for one am certain that in, let's say 15 years, we will have a need for a convention, and whether this convention will last a week, and I hope it might only, or whether there is a need to have it last a month, which only the future will show, I am convinced that there will be some need for a convention at that time. If we have a certainty, a guarantee of having one in 15 years, I think we would expedite a lot of matters in this Convention here. We will feel much less equitable in accepting small compromises, in not haggling over little things and small matters, and we possibly will also save time in the future. For instance, I could foresee within 9, 10 or 11 years after attainment of statehood, there might be some need for an amendment and a slight need for revision. There might be several such

needs for amendment, and they would all be tabled for that convention that will happen no matter how, in 15 years. Instead of having, for instance, four or five or six referendums or amendments for the approval and lengthy legislative debate and arguments, we could refer these matters equitably to the future. I could even see where a thing that seems very important in nine or ten years from now, if it is referred to that convention that is going to happen anyway in 15 years, maybe three years later the need may have changed or is less important, but certainly we can bunch together a small batch of amendments, maybe a lot of important amendments, maybe that in the future are going to bring up. I am convinced that at least the first time in 15 years we will have a good use for the convention, if at that time after having practiced statehood for 15 years and after having had a lot of experience that points to the contrary, if at that time we decide we will not have it repetitious from there on, that could maybe be one of the articles that we change at that time. I would like to have a guaranteed whack at it in 15 years.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: It would appear to me that under this Section 3 as it exists here there is a guaranteed whack at it, and it may not take 15 years.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I would like to ask a question of Mr. Kilcher. The way this is written here this would give us a constitutional convention every 15 years until it was repealed, if they had not had a constitutional convention within that period. In a course of 150 years it would automatically call for 10 constitutional conventions if it was not repealed. Is that right?

KILCHER: That is right. If the need will not occur any more I would expect it to be repealed, so this is rather an academic question. To answer Mr. McCutcheon's question which I think it was, that Section 3 already contains a guarantee of even less than 15 years, I did not want to make my amendment 10 years because there is a greater demand in there on the electorate. Ten years of experience is not enough for a convention, I think, but the automatic convention provision and the automatic referendum for a convention is, in substance, very different. As history has shown in the case of the New York Constitution, where they have a 20-year automatic referendum if I am not mistaken, history has shown there that when the time approaches that the referendum is due, there will for one thing, the people at that time are made tax or budget conscious. We can assume that if changes should be in the wind that are essentially not in the interests of those powers that have it in their hands to handle the referendum, if changes are in the coming that are in the middle to people interested in the status quo, and

as a rule those people of those that hold the actual political power, then they will find ways and means of advising against it. I trust the electorate, if they are given all the facts, but the choice of making all the facts available always has and always will rest with those that have access to the facts and also have the power to publicize these facts. So if a case arises where the people interested in the status quo of any sort are against a change, they will find ways and means to advise against and in such a way influence the otherwise free will of the people. The people will not have a true picture. Whereas, with this provision here, there will be a convention nohow, and I am personally convinced, and, judging by the past performance here and projecting it in the next four weeks, we will make mistakes. We will make compromises. We certainly should say there would be a great need for a first trial of this here method.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I see that, since Mr. Kilcher has reversed his stand, I must now rise in defense of the people. On the beginning of this initiative proposal here, the first part of the article, Mr. Kilcher was afraid the people would not have the right to vote. I am going to have to vote against his amendment because under the present language of the proposal here it gives the people the right to vote every 10 years, and I don't think we should take the right away from the people.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. Kilcher proposed practically the same thing in an individual proposal that was handled by the Committee, and he also addressed the Committee, and we discussed the thing thoroughly and decided against including this proposal. We just could not see that there was much sense in committing the state to the expense of a \$300,000 or better convention whether we needed it or not. We felt there was plenty of opportunity in the article as we presented it to assure the people that they could have a convention if it was needed.

PRESIDENT EGAN: Mr. Barr.

BARR: I will pass, Mr. President, if we are going to vote on the question now.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to reply to both Mr. McNealy's and Mr. Hinckel's arguments there. The sum of \$300,000 should not be in our minds because, as I said, the need for this convention might only be for a short convention, possibly a week or 10 days, which would cut it to 50 or so thousand dollars, which would not be very much more than one or two elections. Actually, it might prove to be a saving. If we, in a short convention, can

bunch together five, six or seven referendum votes or amendments that otherwise would have to come in general elections all along, so I think the cost angle works the other way around. As far as protecting the people is concerned, I think the first sentence in Section 3 will take care of that. It still stands in there, and if they have a convention there will be no automatic convention. It will take 15 years from that. That is evident by the wording. The people can have a convention any time, the legislature can provide for one any time.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" Mr. Kilcher.

KILCHER: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 10 - Emberg, V. Fischer, Harris, Hermann, Hurley, Kilcher, Londborg, McNees, Peratrovich, Poulsen.

Nays: 42 - Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Doogan, H. Fischer, Gray, Hilscher, Hinckel, Johnson, King, Knight, Laws, Lee. McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 3 - Armstrong, Buckalew, Hellenthal.)

CHIEF CLERK: 10 yeas, 42 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: I offer an amendment to Section 3.

PRESIDENT EGAN: Mr. Ralph Rivers offers an amendment to Section 3. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 1, Section 3, line 18, change the words, 'ten-year' to 'twenty-year'."

R. RIVERS: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the

proposed amendment.

ROBERTSON: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Ralph Rivers.

R. RIVERS: Mr. President, having the governor compelled to certify the question to the public every 10 years as to whether the public wants another constitutional convention strikes me as being too frequent. We have the system here whereby the legislature can take care of specific amendments on a two-thirds vote with a ratification of the voters, and if we take care of these little snarls that come up from time to time through that process, there would not be any need for a convention at the end of 10 years, but the trouble is that when the voters go to the polls they are given the regular ballot at the general election. They are given a special referendum ballot and a lot of voters are going to think that there must be some need for it, otherwise it would not be presented to them. A lot of people are going to vote for it, and you might end up with a constitutional convention that is not needed. On the other hand, over a period of 20 years, there could be an accumulation of matters and changes of viewpoint. So I don't mind having the governor certify the question or have it on the special referendum ballot every 20 years, but I think 10 years is too close. That is why I have submitted it to change it to 20.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes have it and the proposed amendment has failed of adoption. Mr. Johnson.

JOHNSON: Mr. President, I have an amendment on the Secretary's desk. It is not to Section 3. It is a new section to be added.

PRESIDENT EGAN: Are there other amendments to Section 3? If not, then Mr. Johnson's proposed amendment is in order. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "New Section 4: 'No amendment to this constitution shall alter the republican form of government established by it or abolish its bill of rights.'"

JOHNSON: I move the adoption of the amendment.

GRAY: May we have it read again, Mr. Chairman?

COOPER: I second the motion.

PRESIDENT EGAN: The question is open for discussion. The Chief

Clerk will read the amendment again.

CHIEF CLERK: "New Section 4: 'No amendment to this Constitution shall alter the republican form of government established by it or abolish its bill of rights.'"

PRESIDENT EGAN: Is there discussion of the proposed amendment. Mr. Taylor.

TAYLOR: Mr. President, that is just a reiteration of what we already have got in the constitution, and it is also a reiteration of a provision of the Federal Constitution which says that we must maintain the republican form of government, so as I say that would only be a further reiteration of the Federal Constitution and what we have already got because we could not legally change the form of government from a republican form of government. I think it would just be gilding the lily.

RILL.Y: Mr. President, I would like to address a question to Mr. Johnson. I am not sure how effective this language would be unless carried to its logical conclusion that this sentence itself be preserved intact by any future amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Well, Mr. President, I borrowed the section from the constitution of the government of Puerto Rico which is contained in their section on amendments and as a separate section, and I thought that it was an added safeguard that we probably had just overlooked. This constitution, I might add, has been approved by the Congress of the United States. While it may be in the sense somewhat a duplication, there is no language that I have seen anywhere in the constitution yet or any of the proposals, and certainly not in this amending process, that would prohibit a possible amendment to change our form of government from the republican form to some other form or to abolish the bill of rights, and in order to spell it out in a separate section of this kind seemed to me just an added safeguard.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, there is no way that we can tell another constitutional convention that they can't change anything that we do because they have the same authority. Now, our bill of rights is a little different from the others. We can say, "You can't change our bill of rights." They may want to improve it but there is no way we can protect our own writing from future delegations. Actually, it has no place in this group.

JOHNSON: Mr. President, this amendment does not seek to prevent an amendment of the bill of rights. It simply seeks to prevent the abolishment of the bill of rights.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Would it be possible for a convention to abolish the bill of rights under the Federal Constitution?

JOHNSON: I think they certainly could try it.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the amendment as proposed by Mr. Johnson be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to the article on revision and amendment? Mr. Victor Rivers.

V. RIVERS: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 1, Section 3, line 18, strike the words 'ten-year' and insert in lieu thereof the words 'sixteen-year'."

V. RIVERS: I move and ask unanimous consent.

MCCUTCHEON: I object.

H. FISCHER: I second the motion.

V. RIVERS: I ask for a roll call.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment once more?

CHIEF CLERK: "Section 3, page 1, line 18, strike the words 'ten-year' and insert in lieu thereof the words 'sixteen-year'."

PRESIDENT EGAN: If there is no further discussion Mr. Victor Rivers.

V. RIVERS: I set the period at 16 years so it would come every fourth gubernatorial election rather than coming in the 10-year interval, if it is passed.

PRESIDENT EGAN: Mr. Barr.

BARR: As it reads now, "it would not come at the end of a 10-year period. It says, if at the end of a 10-year period if there has been no constitutional convention, then the governor shall put the question on the ballot at the next general election."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?"

The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 20 - Boswell, H. Fischer, Harris, Johnson, Laws, Londborg, McNealy, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays: 32 - Awes, Barr, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Peratrovich, Poulsen, Rosswog, Smith, Stewart, Taylor, VanderLeest, White.

Absent: 3 - Armstrong, Buckalew, Hellenthal.)

CHIEF CLERK: 20 yeas, 32 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to this article? Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask the Chairman of the Committee a question before we close the article. I notice that the initiative cannot be applied to the constitutional amendments by popular action. Could the members of the Committee or any member of the Committee give me the thinking of the Committee on why it was not made applicable?

PRESIDENT EGAN: Mr. Collins, could you answer the question? COLLINS: I could not hear Mr. Rivers.

V. RIVERS: I notice that the initiative is not made applicable to the amendments of the constitution. I wonder what the thinking and the reasoning of the Committee was in not allowing it to be so.

COLLINS: We considered all those questions in Committee and, as I have said, there were two lines of thought on that. We met on common ground and presented that just as the Committee decided upon, and we discussed all those questions and we had the advantage of consultants and the language in here is plain English.

V. RIVERS: I was asking for a little discussion on your Committee on that point. I know you folks discussed it but I was asking for the reasoning behind not including it. I know many states do and some don't.

COLLINS: We thought it was all covered in this.

SMITH: Mr. President, while I can't recall all of the Committee's discussion, I think that it should be clear that the right of the initiative, at least in every instance where I have seen it defined, is the right of the people to initiate and enact laws. It has no connection with the amendment to the constitutions. I feel that was the thinking of the Committee.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I am in a unique position to have a discussion of my amendment before I put it on the Secretary's desk.

PRESIDENT EGAN: If there is going to be such an amendment offered, if we're not through amending, then we will allow Mr. Kilcher to offer his amendment, Mr. Rivers, and then perhaps we will be on safer ground. Mr. Kilcher, you may offer your amendment. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Amend Section 1, line 2, to add after the first word 'laws', the words, 'and amendments to this constitution' and add after the second word 'laws' the words, 'and amendments to this constitution'. Add a new section to be numbered Section 7 and to read as follows: 'Section 7. An initiative petition proposing a constitutional amendment shall be signed by twenty per cent of the number of votes cast for governor in the next preceding general election in which the governor was chosen. Initiative petitions proposing constitutional amendments shall be filed with the attorney general. If the proposed constitutional amendment, in substantially this form in which it was submitted, is not presented by the Legislature to the voters for their approval or rejection by the next regular session of the Legislature, the proposed constitutional amendment shall be submitted to the voters for their approval or rejection at the next general election, and be enforced, if sixty-five per cent of the votes cast are in favor of the amendment.'"

PRESIDENT EGAN: Copies of the proposed amendment are being distributed to the delegates. Mr. McCutcheon.

MCCUTCHEON: Mr. President, that appears to me to be dealing with two different subject terms inasmuch as it deals with one section and then seeks to add another. Unless the mover of this amendment will do it himself I am going to seek to divide the question.

PRESIDENT EGAN: Mr. Kilcher has not moved to adopt it.

KILCHER: I was afraid that might be necessary, but I hoped it might save time if we had it in one since the one part necessitates

the other. I just thought it would save time if we had it together.

PRESIDENT EGAN: Do you wish to offer a motion?

KILCHER: I would like to move that the amendment in its entirety be adopted.

PRESIDENT EGAN: Mr. Kilcher moves that the proposed amendment be adopted. Is there a second?

V. RIVERS: I second the motion.

TAYLOR: Question.

PRESIDENT EGAN: Is there discussion on the proposed amendment? Mr. Doogan.

DOOGAN: We are back to the beginning of this thing that we spent so much time on. Should we not finish the other, be sure we are through the amendment and revision section before we go on?

PRESIDENT EGAN: Mr. Doogan, the Chair asked whether or not there might be more amendments to the revision and amendment section and for a minute or two no one spoke. The Chair was about to state that the proposal would be assigned to the Engrossment and Enrollment Committee. Mr. Victor Rivers rose and asked a question that related to the initiative question, and the amendment is in order to be presented. Mr. Victor Rivers seconded the motion, and the proposed amendment is open for discussion. Mr. Hinckel.

HINCKEL: I would like to go back and answer Mr. Rivers' question. The Committee was very deliberate about writing this the way we did. We did not feel that the initiative should be used to propose constitutional amendments. We discussed it very thoroughly and there was no divided opinion. The Committee was unanimous, but we felt that it should not be handled that way. It would be burdensome on the state to have constitutional amendments proposed by the people, and I think there is plenty of opportunity for amendments to be effected from the article as it reads now, and I do not think it needs further amendment.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I was confused about Section 7, where Section 7 is.

PRESIDENT EGAN: It should be the article on the initiative and referendum. The mimeographing was in error evidently.

KILCHER: It happened in the boiler room.

PRESIDENT EGAN: It should read "Amendment of Article on Initiative, Referendum and Recall, Amendment and Revision".

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Committee Proposal No. 3? Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment to the article on revision and amendment.

PRESIDENT EGAN: This is to the article on revision and amendment.

CHIEF CLERK: "Section 3, page 1, line 21, after the word 'Convention' insert before the question mark the words, 'for the purpose of revising the Constitution of the State of Alaska'."

SUNDBORG: I move and ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent for the adoption of the amendment.

DOOGAN: I object.

TAYLOR: I would like to have it read.

HERMANN: I second the motion.

PRESIDENT EGAN: The matter is open for discussion. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 3, page 1, line 21, after the word 'Convention' insert before the question mark the words, 'for the purpose of revising the Constitution of the State of Alaska'."

PRESIDENT EGAN: The question is -- Mr. Sundborg.

SUNDBORG: The sentence then would read, "If any sixteen-year period elapses during which the legislature has not called a convention", is it "10"? Excuse me, I missed a chapter here then, "shall etc., "for the purpose of revising the Constitution of the State of Alaska". I just think it makes it clear to the people what it is they are voting for on that ballot. It seems up in the air to just say "Shall there be a constitutional convention".

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I cannot see that at all. I cast my vote against the initiative on constitutional amendments. However, I did that because I felt that the people still could, if they wanted to, adopt a specific amendment, could vote in favor of a constitutional convention. Should the constitutional convention be limited to revision, it implies that they could not amend, and I don't think that is a proper amendment.

PRESIDENT EGAN: Is there further discussion? Mr. Doogan.

DOOGAN: I withdraw my objection.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I am a little amazed at Mr. Sundborg because I think he is putting some of those words in that he is always anxious to take out. Section 1, as I have it, states that revisions and amendments to this constitution may be made in certain ways, and it spells out that one of them is by constitutional convention. I think it already says that.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The difference that would be brought into the matter if my amendment is adopted would be that you would not call a constitutional convention with all the attendant expense and the special elections, etc., just for the purpose of making some simple amendment. There is a process provided here for amending the constitution. It is not expensive or time-consuming, and the only purpose in calling together as many as 55 delegates, I would say, would be to go over the convention in some detail and revise its articles and study them and submit them to committees in the way we have been doing here. If some simple amendment is desired, the way to do it is by the provision that is set up in Section 2 and not by that as allowed under Section 3, as it now reads, but which I think should not be allowed and which would not be allowed if my amendment is adopted.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Point of information. Would not revision include amending, Mr. Sundborg?

SUNDBORG: It would include it, yes.

KILCHER: Why mention it?

V. RIVERS: Question.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, before I vote on this issue, I do not believe that revision includes amendment. I spent this morning after getting off into hot water and submitting an amendment without having it mimeographed and presented to the delegates, I spent a few minutes back there at that large volume called a dictionary, and revision is one thing and amendment is another, and they should be treated separately in here. Just saying revision alone is not enough.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I was not asked whether revision and amendment were identical. I was asked whether revision includes amendment and it does but they're not identical. Revision includes amendment but amendment does not include revision.

COOPER: I say it does not. Revision does not allow a change, but amendment does.

PRESIDENT EGAN: Mrs. Hermann, could you answer that question?

HERMANN: I could very well take a leaf from Mr. McLaughlin's book and say, "I am not learned on this subject." I am of the impression that you would have difficulty revising the constitution without making amendments, but I would hate to be pinned down to an absolute definition of the two terms.

PRESIDENT EGAN: Is there further discussion? Mr. Londborg?

LONDBORG: Just a point of information. May I ask Mr. Sundborg a question?

PRESIDENT EGAN: You may, Mr. Londborg.

LONDBORG: The purpose of your amendment would be to make the ballot read a little more inclusive, is that not right, so when the people read it they will know exactly that they are voting on a convention and what it is for?

SUNDBORG: Right.

LONDBORG: Rather than just throw them out a piece of paper and say, "Shall there be a convention?" It might be for some other purpose.

SUNDBORG: That's right.

LONDBORG: I think it would make a little better sense.

SUNDBORG: I think it would make better sense and I think it would make the people fully cognizant at the time they went to the polls that what they were voting for if they voted for it is a body that could completely revise their state constitution.

LONDBORG: And that it specifically refers to the constitution of the State of Alaska, they may be living under some other constitution, that is, within the state.

SUNDBORG: Of course they will be living under the Federal Constitution. This ties it right down and tells why there will be a constitutional convention.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: It seems like the amendments to this particular article lose sight of the fact that the future legislature should have something to do regarding the calling of these conventions, and, in this particular section which Mr. Sundborg is attempting to limit the constitutional convention only to revision, it would preclude you having and making an amendment during that period. I believe all revisions would be amendments but all amendments are not revisions, so I think it should be left out, and the legislature when they by a proper act provide for a constitutional convention, they are not only not going to put in a bill that says constitutional conventions will be held on such and such a date and leave it go at that, they are going to spell out a few details. Why should we tell them what the details are going to be? Leave it up to the legislature. We purposely left it that way so that the future legislatures would at least have something to say when and where and how many delegates were going to be at a convention called for the purpose of revising and amending the constitution.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: The question before us has only to do with the form of the ballot that would be submitted to the public every 10 years. Now I agree with Mr. Sundborg that you might as well give them, if you are going to pin it down in so many words, give them an adequate ballot which shows the scope and the reason for it so that the people that are voting won't be in the dark. But I do think that, inasmuch as there is some uncertainty as to whether revising includes amending, I think we should also specifically mention amendments. So I move to amend Mr. Sundborg's proposed amendment by inserting after the word "revising and amending".

PRESIDENT EGAN: Mr. Ralph Rivers moves that the proposed amendment by Mr. Sundborg be amended by inserting after the word "revising" insert the words "and amending". Is there a second to the motion?

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I address a question to Mr. Rivers? Would you consider possibly in your amendment to drop the word "constitutional" so that it would read, "Shall there be a Convention with the purpose to amend and revise the constitution?"

R. RIVERS: That is what mine would accomplish. Mine would then read "for the purpose of revising and amending the constitution of the State of Alaska".

PRESIDENT EGAN: Mr. Rivers, I wonder if it might be better if we had a one- or two-minute recess and, Mr. Sundborg, yourself and Mr. Kilcher could form

R. RIVERS: Mr. President, I would leave that to Style and Drafting, omitting the word "constitution" in line 21, it is immaterial to me. I leave that to Style and Drafting.

NORDALE: Mr. President, I would just like to say that apparently some of us have a low opinion of the intelligence of the future citizens of the State of Alaska, implying that they don't know what a constitutional convention is.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that his proposed amendment be adopted.

TAYLOR: I object.

R. RIVERS: I so move.

LONDBORG: I second the motion.

DOOGAN: May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the proposed amendment by Mr. Ralph Rivers. Mr. Sundborg.

SUNDBORG: Mr. President, I approve of Mr. Ralph Rivers' amendment and would accept it as part of my original amendment.

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Ralph Rivers?

TAYLOR: I object.

PRESIDENT EGAN: Objection had been heard and it was seconded, that is correct. The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?"

KILCHER: Would you read the amendment?

PRESIDENT EGAN: Would the Chief Clerk please read the amendment?

CHIEF CLERK: It is an amendment to the amendment. I will have to read the amendment first. "Page 1, line 21, after the word 'convention' insert before the question mark the words, 'for the purpose of revising the constitution of the State of Alaska'", and Mr. Rivers moves to insert after "revising" the words "and amending".

PRESIDENT EGAN: The question is, "shall the proposed amendment to the amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no".

R. RIVERS: I ask for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Awes, Boswell, Coghill, Cross, Davis, H. Fischer, V. Fischer, Gray, Hermann, Hinckel, Kilcher, Laws, Londborg, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Walsh, Mr. President.

Nays: 24 - Barr, Collins, Cooper, Doogan, Emberg, Harris, Hurley, Johnson, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Riley, Rosswog, Sweeney, Taylor, VanderLeest, Wien.

Absent: 5 - Armstrong, Buckalew, Hellenthal, Hilscher, White.)

CHIEF CLERK: 26 yeas, 24 nays and 5 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment to the amendment is ordered adopted. We now have the proposed amendment as amended before us for a discussion. Mr. Sundborg.

SUNDBORG: Mr. President, I feel I have probably not made myself clear to many here as to just what I intend by this. Of course, we know now what a constitutional convention is because we are in the middle of one, but this is a provision that comes up automatically on the ballot. It may come up without any discussion on the part of the people at all. There may be no great desire to have a constitutional convention and I am sure for

many voters it may be the very first time they have ever been confronted with the question when into the polling booth and see this simple little question, there be a constitutional convention?" I want it to at least be explanatory, of what a constitutional convention is for.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?" Mr. Victor Rivers.

V. RIVERS: I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Boswell, Coghill, H. Fischer, Hinckel, Kilcher, Laws, Londborg, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Stewart, Sundborg, Sweeney, Walsh, Mr. President.

Nays: 33 - Awes, Barr, Collins, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hurley, Johnson, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Riley, Robertson, Rosswog, Smith, Taylor, VanderLeest, Wien.

Absent: 5 - Armstrong, Buckalew, Hellenthal, Hilscher, White.)

CHIEF CLERK: 17 yeas, 33 nays and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment as amended has failed of adoption. Are there other amendments to the proposal? If there are no further amendments to Committee Proposal No. 3 -- Mr. Kilcher?

KILCHER: Mr. McNees and I are working on one.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher.

KILCHER: It is on the Secretary's desk.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment as offered by Mr. Kilcher, and by Mr. McNees.

CHIEF CLERK: "Page 2. line 3, add 'If 20 years should lapse

during which a constitutional convention has not been convened, delegates to a constitutional convention shall be elected at the next regular election specifically for the purpose of amendment and revision.'"

PRESIDENT EGAN: What is your pleasure, Mr. McNees?

MCNEES: I move the adoption of the amendment and ask unanimous consent.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

KILCHER: I second the motion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 2, line 3, add the words 'If 20 years should lapse during which a constitutional convention has not been convened, delegates to a constitutional convention shall be elected at the next regular election specifically for the purpose of amendment and revision.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McNees and Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye," all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Committee Proposal No. 3? Are there any other amendments? Mr. Taylor.

TAYLOR: I move it be advanced to third reading.

MARSTON: I second that motion.

R. RIVERS: Point of order. I suggest it be sent to Engrossment and Enrollment.

PRESIDENT EGAN: If there is no objection and there are no further amendments to Committee Proposal No. 3, it is referred to the Committee on Engrossment and Enrollment. We now have before us the proposal of the Committee on Preamble and Bill of Rights. Committee Proposal No. 7. Has the Rules Committee had a proposed calendar mimeographed, Mr. Riley?

RILEY: Yes, it was distributed yesterday.

PRESIDENT EGAN: Has every member a copy of that proposed

calendar as submitted by the Rules Committee? The Chief Clerk may proceed with the second reading of Committee Proposal No. 7.

(The Chief Clerk read Committee Proposal No. 4 introduced by the Committee on the Preamble and Bill of Rights.)

PRESIDENT EGAN: Are there amendments to the preamble of Committee Proposal No. 7? Mr. Ralph Rivers.

R. RIVERS: Point of information. I would like to ask Delegate Awes (my book just closed on me, I am trying to find the place); it is on line 10 of page 3. It says, "No person shall be prosecuted criminally for felony other than by indictment or information". Under the present procedure a person cannot be prosecuted for a felony except upon an indictment by a grand jury unless he waives the indictment and consents to be tried on the information filed by the district attorney. This says that the indictment and information shall be concurrent remedies. Now, actually, this is not a matter of remedy because the individual charged in any case is presumed to be innocent. It is a matter of procedure, and in the second place I wonder whether we should make it absolutely unnecessary to prosecute a man on a felony without an indictment unless he waives the indictment and consents to be tried upon the information, and I was wondering what the Committee's thinking was on that.

PRESIDENT EGAN: Miss Awes.

AWES: We considered that and we looked into what the other states had done and some of the other states have provisions similar to this one we adopted and it seems to work out pretty well. The defendant's rights still seem to be protected. It speeds up the criminal process. Sometimes it is a matter of getting these informations. You can get these men into court quicker than you can if you wait for a grand jury. By retaining the grand jury and the indictment, if you should have a district attorney, say, who is bringing in too many informations and acting in a pre-emptory matter, then the governor has the right to call the grand jury.

R. RIVERS: That is another thing that bothers me because the grand jury is essentially a part of the judiciary process and is called by the courts. There should be a grand jury every year to carry out the particular purposes, but I am wondering if we would ever have a grand jury. What other part of a constitution would provide for a grand jury? I don't have that clear in my mind. We may never have one. If the district attorney can prosecute by information, and doesn't have to get indictments, there may never be a grand jury. I just want your thinking.

AWES: That, too, was considered and it is usual to have a provision in the bill of rights preserving the grand jury. Any

states that have a similar provision, I think that it has proved out that whenever there is a need for a grand jury that it is called by the proper official of the government and still you're not spending a lot of money by calling a grand jury when there is no real need for it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: If we could sort of make clear who the proper official is, I will go along.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: It says in here on Section 7, page 3, at the top of the page, "that no grand jury shall be convened except upon an order of a judge", etc.

TAYLOR: I was going to rise for the purpose of getting this thing in an orderly manner. Why don't we start at Section 1 and go through?

PRESIDENT EGAN: That is correct for amendatory purposes, but evidently these people were just asking questions for information purposes of the Chairman of the Committee. Mr. Robertson.

ROBERTSON: I rise to a point of inquiry. I thought we discussed several sections of this Committee Proposal No. 7 before we took our recess.

PRESIDENT EGAN: Not on this proposal, Mr. Robertson. It was on the suffrage proposal, Proposal No. 1.

R. RIVERS: The Committee gave us a briefing on this before the recess.

PRESIDENT EGAN: That is correct. Mr. Gray.

GRAY: Mr. Chairman, I would like to ask Miss Awes a little information. On page 2, Section 3, line 10, it says, "No person is to be denied the enjoyment of any civil or political right..." Is that phrase, any civil or political right", is that all inclusive? Is that all-inclusive as far as the government is concerned? Are there any rights being denied under that phrase?

AWES: I think that I can speak for the Committee that it was our feeling that we wanted to make that as broad as we could and that was intended to be an all-inclusive term.

GRAY: Along about the same thing on page 3, Section 8, line 17, it says, "No person shall be compelled in any criminal proceeding to be a witness against himself." Now you have the words "criminal proceeding". Is there any time a person shall be

compelled to be a witness against himself, particularly in a noncriminal case?

PRESIDENT EGAN: Miss Awes, do you care to answer that?

AWES: Yes, first we had a draft that just said, "No person shall be"compelled in any proceedings to be a witness against himself. Then we thought of civil suits, for instance, if John Jones sues John Smith over a land title or something, and that was so broad that the plaintiff or defendant would not have to testify, and we did not want to go that far, so in noncriminal suits we did not want to protect him against testifying against himself.

GRAY: I am wondering if, in testimony in hearings for instance legislative hearings, would it be possible to compel a person to become a witness against himself under this phrase?

AWES: I think I will let Mr. McNealy speak.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. Gray, I raised that point particularly in Committee because I was very much concerned about these legislative investigations. The Federal Constitution holds that, "nor shall he be compelled in any criminal case," and we felt here that the nearest the Committee could unanimously agree was to substitute the word "proceeding" for "case" and our rundown on that, it would cover any hearings before any administrative bodies if they were criminal in nature. As the Federal Constitution holds, it is merely a court case more by using the word "proceeding" rather than case", why, it expands the latitude, gives greater latitude, probably takes in, at least we hope it takes in, matters before legislative committees, such as senate committee hearings and things of that type.

GRAY: You think if there was a criminal background or the outcome of the hearing may prove to have such a thing as being charged with a crime, if that should come out in administrative hearing, would this criminal hearing include that kind of investigation?

MCNEALY: The basis for this to cover, the investigation would have to be of criminal nature.

GRAY: This being a bill of rights, I just wanted these definitive terms explained to me. On page 4, Section 12, line 15, you are using the phrase "in courts not of record". I wonder if you could explain that to me, Miss Awes. What is the difference between courts not of record and the other courts?

AWES: "Courts not of record" is a term that is accepted in

legal language and it means any court where you don't make a record or transcript of the complete proceedings. In Alaska, now, the only courts of record that we have are the Federal District Courts, all others are courts not of record.

TAYLOR: Mr. President, I believe Mr. McNealy answered the question for Mr. Gray, but I don't believe he went far enough with it. Now in the course of a civil proceedings or in the course of legislative hearing or an investigation, if the questions got to the point where the answers would tend to degrade or to incriminate a person of a crime, he can refuse to answer under the Fifth Amendment of the United States. This is more or less to the nature of the reiteration of the Fifth Amendment, which prevents a person, or he has the right to remain silent if an answer tends to degrade or humiliate or holds him up to ridicule or disgrace or tends to incriminate him of a crime. So he has the right to remain silent and invoke the Fifth Amendment.

GRAY: Does that say that here?

TAYLOR: That's what it means. It is in any proceeding, criminal or civil. You do not have to answer a question if it tends to degrade you or incriminate you of a crime.

GRAY: But does this article say that? That is Section 8, line 7, page 3.

TAYLOR: In Section 8 that is a reiteration of our Federal Constitution which no person can be compelled to be a witness against himself. That is also the reason that many times an officer will get a prisoner and keep him in their custody and attempt to break him down, and, when they get a story, lots of time the courts refuse to allow anything he said at that time or any statements he made or signed to be used because they forced him to testify against himself. I think it should go farther than this. I think there should be a penalty imposed against anybody that would discriminate against a man by invoking the Fifth Amendment. Like in some places, they have fired men from their place of employment because of the reason he invoked the Fifth Amendment when they were before an investigative hearing. I think there should be a penalty against a person doing something that lawfully he has the right to do. I plan to offer an amendment along that line later on.

GRAY: I have one more question. On page 6, Section 18, "There shall be no imprisonment for debt, except in cases where there is a strong presumption of fraud. I am a little ambiguous on the meaning of that. Could I have Miss Awes explain that. Where is the limiting line in that phrase?

AWES: Well, "strong presumption of fraud", there may be some

question as to whether that phrase is strictly necessary, but there seemed to be some feeling that it was. That would give the person, what we were thinking of when we put that in were these people, transients more or less, who run up big bills which they haven't too much intention of paying and decide to leave the Territory and leave the creditors holding the bag. That phrase was put in to make it possible to arrest such a person before he can leave the Territory without subjecting yourself to a false imprisonment suit in case he should not be convicted. It would not be able to imprison him on the strong presumption of fraud but it would enable you to arrest him and then he could be brought to trial if necessary.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may I amplify a little on that? Our present statute covers what is called "summary remedies" and in there, absconding debtors, people leaving for the purpose of defrauding creditors, be put under what is known as a civil arrest, and if we leave this language in here, then our legislature will have the power to pass such statutes covering summary remedies and civil arrests. Now I don't think we can be without letting our legislature have that power. We have had people sneak their baggage out of the back door without paying their hotel bill, and when I was district attorney I have gotten out warrants that stopped them down in Ketchikan. Of course that was under criminal proceedings but I've also represented a plaintiff in a civil case where he posted a bond and made the allegations of fraud and stopped somebody on his way out and brought him back to straighten up that bill before the matter was disposed of. So we need that language in there to enable our legislature to pass that kind of legislation. I am for it the way it is.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I would like to ask the Chairman of the Committee, referring to Sections 12 and also to 13, is there any place where the article specifically provides that a jury of 12 shall prevail in courts of record in both civil and criminal cases?

PRESIDENT EGAN: Miss Awes.

AWES: It is my understanding that it is the principle of constitutional law that the common law jury was a jury of 12 men, and if the constitution preserves the jury, then it preserves a jury of 12, and the legislature has no authority to lessen it, and that is the reason why we said nothing. You could have a jury of less in courts not of record, and we feel this does preserve a jury of 12 in courts of record.

ROBERTSON: In any of the articles or proposals, does it anywhere say to preserve the common law?

AWES: Not in those words that I know of.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I would like to ask the Chairman of the Committee, if I may, a question as to whether or not the Committee explored the possibility of not providing for grand juries in criminal matters. Many states do not have grand juries. There is a provision in many constitutions that a grand jury may be called by a district judge or superior judge, whichever the case may be, for the purpose of investigations. But all criminal matters are preceded by an information or complaint and it is drawn by the district attorney and then immediate trial can come up. Now I have felt that great injustices have been done in the Territory of Alaska through the failure of a grand jury to sit. I have known possibly hundreds of men who would be arrested shortly after a grand jury had convened in the fall and they would sit in jail until the following fall before their case was even considered by the next grand jury, and I know of many instances in which the accusation was very frivolous, and when the grand jury had considered that case they would bring in that it was "not a true bill", and there a year of a man's life is gone because of some accusation made against him. If we do not have grand juries to say whether or not there is probable cause, I think we would be possibly better off in the administration of justice.

PRESIDENT EGAN: Mr. Taylor, were you asking Miss Awes if they considered that?

TAYLOR: Yes, that is a question.

AWES: Yes, the Committee did consider whether the grand jury should be retained in criminal matters at all, and it was. I believe, a unanimous feeling of the Committee that the grand jury should be preserved for that purpose, but we were perfectly aware of the difficulties which you mentioned, and that is what we wanted to take care of by making the indictment and the information concurrent remedies so that these men can be brought to trial by information. But if there is some unusual circumstance that there should be consideration by the grand jury, then the right to calling it is there, but you still wouldn't have to have it.

PRESIDENT EGAN: Are there amendments to the preamble of Committee Proposal No. 7? Mr. Emberg.

EMBERG: I would like to ask a question in regard to the last sentence of Section 10, page 4, lines 3, 4, and 5. It reads, "The administration of criminal justice shall be founded on

principles of reformation, and not vindictiveness." Now, I have no quarrel with the thought expressed here, except as it relates to the establishment of a code which might provide forfeiture of life, capital punishment, in other words. Is there any relation between the two?

AWES: Is your question whether or not this would eliminate capital punishment?

EMBERG: Yes.

AWES: That was brought up in the Committee, and this provision is found in several other state constitutions, and in those states the courts have ruled that this language does not prohibit capital punishment.

PRESIDENT EGAN: Are there amendments? Mr. Rosswog?

ROSSWOG: I have an amendment to Section 3.

PRESIDENT EGAN: Mr. Rosswog, would you mind holding that until we get to it? Are there amendments to the preamble at this time? Mr. Victor Fischer.

V. FISCHER: Mr. President, I would like to address a question on the preamble to Miss Awes.

PRESIDENT EGAN: If there is no objection, address your question, Mr. Fischer.

V. FISCHER: To the effect, what exactly is the purpose of a preamble? What is its legal standing insofar as the whole constitution is concerned?

AWES: As to its legal standing, so far as I know, it does not have very much. It is one of those formalities that goes with drawing a constitution, and it expresses the sentiment of the people who are doing the work, who are both drawing the constitution and ratifying it, but beyond that I don't know of any effect that it has.

V. FISCHER: In connection with that, some of the language in Section 1 sounds similar to what is found in some states and in the Federal Constitution, the preamble. I was wondering if there was any special reason for separating those two, the preamble from Section 1 for instance, the general welfare and a couple of those clauses?

AWES: Section 1 is the provision that is found in many state constitutions, and it was the feeling of the Committee that it did set forth certain fundamental ideas that should be in the bill of rights itself rather than in the preamble because they have more force and effect.

PRESIDENT EGAN: Mr. White.

WHITE: I would like to direct a question to Miss Awes on the same general subject. Did the Committee see any conflict between the preamble and Section 5?

AWES: I don't see any conflict between the two. If you have something particular in mind, if you could be more specific I could maybe answer you a little better.

PRESIDENT EGAN: Did you have something specifically in mind, Mr. White?

WHITE: I am not prepared to assert too far, Mr. President, but the question was asked of me during the recess, why in the light of Section 5, which seems to retain the right of the establishment of any sort of religion whatsoever, and perhaps by inference means that there should be no mention of the establishment of religion in the constitution, why it was found necessary to put a preamble of these words in the preamble of the bill of rights. It is not something that I disagree with, but I have heard objection made to it, and I raise the question for that reason.

AWES: I don't see that there is any conflict there. As I said a few minutes ago, the preamble expresses more or less the sentiment of the people, and we felt that civil and religious liberty as mentioned in the preamble is something that is of concern and is one of the motivating forces and consequently should be mentioned there. Section 5, which is the same wording as the Federal Constitution, is the guarantee of the right. That is the law so to speak. The preamble is not.

PRESIDENT EGAN: Are there amendments to be offered to the preamble? Mr. Kilcher?

KILCHER: May I address a question to Miss Awes?

PRESIDENT EGAN: You may, Mr. Kilcher.

KILCHER: In my opinion there is a basic conflict between the preamble and Section 5 and that conflict has been brought to my attention by a fellow who has been in the "sticks for 20 years and I was rather abashed that I did not find it. And I think we should go into it, but I would like to stress as far as I can do it, the conflict and ask Miss Awes if I am right or wrong, if the Committee had thought of it. In my opinion, "No law shall be made with respect to establishing of religion". The preamble is tantamount to such a law, inasmuch as the wording is referring to a possible majority opinion of the deity. The wording is not all-encompassing and comprehensive enough to insure the very liberty of religion that we have in Section 5. It will deprive minorities of their expression of their

wording, of their interpretation of a preamble. A preamble is all-encompassing enough, in my opinion it is too specific.

PRESIDENT EGAN: Miss Awes.

AWES: I am not quite sure I understand Mr. Kilcher's argument. You say it is too specific. I can't see how this statement could set forth either majority or minority views. There might be a few atheists who might object to it, but it has never been my understanding that our government has ever been that completely divorced from

KILCHER: Had it occurred to you, Miss Awes, that it is not only a possible small minority of atheists but there may be pantheists, Buddhists, Jews. The wording of "God Almighty" is not one that is customary with a variety of Christian sects, religions and non-Christian religions that are accepted in this country and others that may arise at any time. This constitution is supposed to be infallible for a hundred or hundreds of years and consequently, I think the wording is too much custom bound or specifically one that will not be in conformity with other Christians and other religious sects.

PRESIDENT EGAN: The Chair does not mean to interrupt, but Miss Awes attempted to answer the question, but if the time comes when an amendment would be submitted, then would be the time to go into argument. Mr. Johnson.

JOHNSON: May I add to Miss Awes' answer by pointing out what the Supreme Court of the United States has said about the Preamble of the Federal Constitution?

PRESIDENT EGAN: If there is no objection, you may Mr. Johnson.

JOHNSON: In the case of *Dorr v. the United States*, which was decided by the Supreme Court in 1904, the court held that, "No" power to enact any statute is derived from the Preamble. The Constitution was the only source of power authorizing action by any branch of the Federal government. It would seem to me that under that the question is moot.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I think we are making much ado about nothing here. Some of us don't seem to understand that the government of the United States is based upon a belief in a god, and it does not specifically state what kind of a god. It could be a Buddhist god or any other kind. Some people worship the same God, but in a different manner, and call him a different name, and our government is based upon a belief of a god, and you will find it so stated in the Constitution and many other places. If you look at a silver dollar you will find it on there also. This Section 5 only states that no special law will be enacted

regarding a specific or special kind of religion or a certain sect. It is presumed even in Section 5 here that there will be some kind of religion recognized. Now there are some people, of course, who are not very religious and others who are atheists, but there is nothing here to prevent their beliefs. They can believe any way they want to, worship or not worship, just as they wish. But our government is based upon a religious belief and since we are writing a constitution which is to be based upon our National Constitution, that is the kind it should be.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I request a 15.minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 15 minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there are no amendments to the preamble we will proceed with Section 1 of the article on the declaration of rights. Mr. Taylor.

TAYLOR: Mr. President, I have submitted to the Chief Clerk an amendment. There are two on the one page, an amendment to Section 1.

PRESIDENT EGAN: We have an amendment to Section 1. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 1, page 1, line 10, after the word

'persons' insert the words 'are created equal and'." And "Section 1, page 2, line 1, strike words 'are equal and'.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I will move and ask unanimous consent for the adoption of the first amendment, the insertion of the words "are created equal and".

PRESIDENT EGAN: Mr. Taylor moves adoption of the amendment and asks unanimous consent. Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 1, page 1, line 10, after the word 'persons' insert the words 'are created equal and'."

PRESIDENT EGAN: Is there objection to this amendment? That portion would read, "and is dedicated to the principle that all persons are created equal and have a natural right to life, liberty," etc. Is there objection to the proposed amendment? Mr. Cooper.

COOPER: Was that a request for unanimous consent? I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Taylor?

TAYLOR: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the proposed amendment be adopted. The amendment is open for discussion. Mr. Taylor.

TAYLOR: I offered that, Mr. President, for the purpose of a little clarification and correcting a popular fallacy which appears later in that same section. We realize that we are all created equal. At the start we have equal chances but they don't remain equal, and so I felt that by putting in that all persons are created equal and have a natural right to the benefits of the provisions of the constitution, that would naturally call to exclude, as shown in my second amendment there, the words "are equal and" because we know that persons are not all equal. They are unequal possibly in intelligence, in ability of various sorts, in possession of worldly goods they are not equal, but they are entitled to equal rights and opportunities under the law. That is the purpose of the two amendments, and actually work in together.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. Johnson.

JOHNSON: A point of information. Is Mr. Taylor offering both of these amendments?

PRESIDENT EGAN: No, just the first one at this time.

JOHNSON: Then I have no objection.

R. RIVERS: Point of information. Is there anything inconsistent though between just dropping your first one and adopting your second?

PRESIDENT EGAN: Mr. Taylor, Mr. Ralph Rivers at this time is asking that the first one be adopted.

TAYLOR: I believe it would be better to leave it in there and strike the "and are equal" out because we know people are not equal.

R. RIVERS: Why do you say they are even created equal? That does not make one equal, what some people regard as an undisputed statement. I would like to see this straightened out and get away from that thought completely. They have equal rights

and opportunities.

JOHNSON: Point of order. Is there not a motion before the house?

PRESIDENT EGAN: The motion is before the house. The Chair felt Mr. Ralph Rivers was speaking to the motion to amend this section. Mrs. Nordale.

NORDALE: Perhaps I am out of order too, but I read the second portion a little differently. It says all persons are equal under the law." Isn't that what it means?

PRESIDENT EGAN: We are not on the second part yet, Mrs. Nordale. We just have the particular amendment that relates to the wording after the word "persons". Mr. Harris.

HARRIS: Mr. President, I am going to have to vote against this amendment because I think what we mean is said just a little bit plainer the way it is actually written now. When you start bringing up the possibility that there are not people always created equal, I have serious doubts as to the legality of that statement as well as to how applicable it would be to everyone.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, the reason I objected to the request for unanimous consent is that I realize the Committee had this very thought go through their minds and have presented the best possible Section 1 that they could, and had the words "are created equal" been of any value I am sure they would have been in there. I believe they are surplus.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The noes have it and the proposed amendment has failed of adoption. Are there other amendments to Section 1?

CHIEF CLERK: "Section 1, page 2, line 1, strike the words 'are equal and'."

TAYLOR: I move the adoption of the amendment.

GRAY: I second the motion.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I think that means that all persons are equal under the law and are entitled to equal rights and opportunities under the law. Isn't that right, Miss Awes?

AWES: That is right.

NORDALE: So I would oppose the amendment.

TAYLOR: If they are going to mean it that way they should have put it that way. It says, "All persons are equal and are entitled to equal rights and opportunities under the law." Of course we know that can be a fallacious statement. There would be no truth in it to say that all men are not equal under the law.

PRESIDENT EGAN: Mr. Taylor, if the Chair may, what you have said is that if it just said, "Persons are entitled to equal rights and opportunities under the law". That is what you intend to have it say, but by using the two words "are equal" in the first part of line 1, you are saying they are not just equal under the law, they are equal in all other respects. Is that what you mean?

TAYLOR: Equal rights and opportunities.

ROBERTSON: I don't like to criticize other persons' language, but I think the obvious mistake of that sentence is that the "are" should not be in there. It should be "persons are equal and entitled to equal rights under the law." Then there would be no question under the law applied to the persons being equal, but by putting in the verb "are" in again indicates you have cut off the qualifications under the law from the first part of the clause, "are equal".

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I don't believe that that is the correct interpretation of this wording, and if this amendment is adopted it will weaken the section entirely, because there are two things that are provided for here. One is that all persons are equal under the law and the other is that they are all entitled to equal rights and opportunities under the law. They are two separate and distinct things, and you have to leave the conjunction "and" in there, otherwise you run it all together. So it seems to me that the amendment is not well taken.

TAYLOR: I withdraw my amendment.

PRESIDENT EGAN: If there is no objection, Mr. Taylor asks unanimous consent to withdraw his motion. Mr. Hinckel.

HINCKEL: I rise to a point of information. Mr. Taylor, could you accomplish what you are trying to accomplish, Mr. Taylor, by changing the thing around and state that the persons are equal under the law and they are entitled to equal rights and opportunities? Would that clarify it and satisfy you?

TAYLOR: Yes, that would be all right.

PRESIDENT EGAN: Mr. Taylor, you ask unanimous consent that it be withdrawn?

TAYLOR: I don't think it worthwhile to argue.

PRESIDENT EGAN: Is there objection? Hearing no objection it is ordered withdrawn. Are there other amendments? Mr. Robertson?

ROBERTSON: I would like to offer an amendment to delete the second word "are" in sentence 1, page 1, Section 1, which I think will read apparently the way the authors intended it to read.

PRESIDENT EGAN: Mr. Robertson moves that the second word "are" on line 1 be deleted from the sentence.

HERMANN: I second the motion.

HURLEY: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the second word "are" on Section 1 be deleted. Is there objection?

V. RIVERS: How will that read?

PRESIDENT EGAN: "Persons are equal and entitled to equal rights and opportunities under the law." Is there objection? Hearing no objection, it is so ordered and the amendment has been adopted. Are there other amendments to Section 1? If not, are there amendments to Section 2? Are there amendments to Section 3? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to propose an amendment to Section 3 on line 11, after the word "color", I would include the word "sex". I move and ask unanimous consent.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that on line 11, page 2, after the word "color", include the word "sex" and a comma and asks unanimous consent for the adoption of the amendment. Mr. Taylor.

UNIDENTIFIED DELEGATE. I object.

TAYLOR: Is the purpose of your amendment, Mr. Rosswog, to give the males equal rights with the women?

ROSSWOG: I will explain if I get a second.

COOPER: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mrs. Wien.

WIEN: Mr. Chairman, through the Chair, I would like to explain to Mr. Rosswog that that was taken up in our Committee and we decided that the term "person" included both men and women.

ROSSWOG: I might say the reason for putting this amendment up, I was asked to do it by some people at my Committee hearing, and they were quite concerned about it, and I have talked to some members of the Committee, and it was stated that "persons" or "person" should cover that matter, but I have not seen, or it has not been included in the constitution where it states that that means both sexes.

H. FISCHER: Mr. President, I think "sex" definitely should be in this proposal because there are still states in the Union where women are not allowed to serve on juries.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Objection being just temporary I was wondering why put the word "sex" between the word "race" and the word "color"? I would ask the maker of the motion concerned to have the word "sex" put after the word "of" on line 10.

PRESIDENT EGAN: Do you agree with that?

ROSSWOG: Yes.

PRESIDENT EGAN: If there is no objection the proposed amendment will read then the word "sex" comes after the word "of" on line 10 and insert a comma after the word "sex".

RILEY: I withdraw my objection to "sex". (laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin, are you objecting to that change?

MCLAUGHLIN: Is it open for discussion, Mr. Chairman?

PRESIDENT EGAN: By unanimous consent we changed the placing of the word "sex".

GRAY: Did he put a comma after that word "sex"?

PRESIDENT EGAN: Mr. Gray, the Chair stated that there would be a comma. Mr. McLaughlin.

MCLAUGHLIN: I believe that the female person to my left did enter an objection and the motion is now open for discussion?

PRESIDENT EGAN: The motion is now open for discussion.

MCLAUGHLIN: Merely for the information of the Convention, this afternoon at the meeting of the committee chairmen, one of the general provisions which will probably, I cannot speak for the Committee, be in the constitution under the miscellaneous article, will be some sort of a provision providing that wherever we use the word "persons" or "people" it will be meant to include male and female persons. That is merely a generic explanation and a miscellaneous portion of the constitution providing where the expression "persons" is used, it indicates persons of either sex.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I think it is wholly unnecessary to put that word in the constitution. I agree with Mr. McLaughlin and also with Mrs. Wien that whenever the word "person" occurs it does refer to persons of both sexes. Alaska was the first political subdivision under the American flag to give the women the right of suffrage. That was accomplished in 1913, six years before the national Congress got around to amending the Constitution to provide the same thing. I think Alaska as a Territory and even before it had a legislature amply provided for the political and civil rights of its women and we have nothing at all to complain about in those respects. There are some changes we may want to see changed in regard to property rights and things of that sort, but I think it is an unnecessary incorporation into the text of the constitution and raises the inference perhaps in the minds of people that we need that protection because we do not already have it. As a matter of fact, we do and we will have it further guaranteed under this miscellaneous provision of which Mr. McLaughlin has spoken, and I think we are putting undue emphasis on a contingency that does not exist. I am going to be against the amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Line 10, Section 3, insert the word 'sex' after the word 'of' and add a comma."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Rosswog be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 15 - Barr, Coghill, Cooper, Cross, Davis, H.
Fischer, Harris, Kilcher, Metcalf, Nolan, R. Rivers,
Robertson, Rosswog, Sundborg, Mr. President.

Nays: 37 - Awes, Boswell, Collins, Doogan, Emberg,

V. Fischer, Gray, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Smith, Stewart, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Absent: 3 - Armstrong, Buckalew, Hellenthal.)

CHIEF CLERK: 15 yeas, 37 nays and 3 absent.

PRESIDENT EGAN: The nays have it and so the proposed amendment has failed of adoption. Mr. Robertson.

ROBERTSON: Mr. President, I rise to a point of inquiry. Mr. Gray, I think, propounded this question to Miss Awes, but I didn't get it. At the Juneau hearing we had some of the people raise a question about the scope of the words "civil" or political right". I think they were particularly interested in whether a civil right includes a religious right. I never had occasion to look that matter up, but I would like to ask Miss Awes again if she has already answered Mr. Gray, I did not get her answer -- did the Committee vote on that question to see definitely if that covers civil and religious rights?

AWES: Whether this precludes a person from being denied the enjoyment of any religious rights?

ROBERTSON: Is it broad enough in scope to cover religious rights?

AWES: We did not cover that particular point so far as I recall. I wonder if it is necessary to consider it in view of Section 5?

PRESIDENT EGAN: Would Section 5 cover any possible objections, is that what you mean?

AWES: I would be glad to have some of the other members of the Committee speak on that.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, I might try to answer that. I recall that there was quite a little discussion about these rights, and that in this Section 3 we specifically stated political or civil right because we felt in Section 5, which is a religious right in its entirety, would cover the religion angle of it. In Section 3 we tried to protect just the civil and political right reserving to Section 5 the religious rights. Incidentally, all that Section 5 says is that there is a religion anybody wants, but the state shall recognize no one religion above the other.

PRESIDENT EGAN: Mr. Robertson, does that answer your question?

ROBERTSON: Yes.

PRESIDENT EGAN: Are there amendments to Section 3? Mr. Victor Fischer.

V. FISCHER: Mr. President. I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 10, Section 3, page 2, after the word 'civil' insert a comma and add the word 'economic'."

V. FISCHER: Mr. President, since there seems to be a question of whether civil includes economic, I move and ask unanimous consent that the amendment be adopted.

PRESIDENT EGAN: Mr. Victor Fischer moves and asks unanimous consent that the amendment be adopted. Is there objection?

COGHILL: I object.

PRESIDENT EGAN: Objection is heard. Do you so move?

V. FISCHER: I so move.

WHITE: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Davis.

DAVIS: I would like to inquire of Mr. Fischer what might not be covered by the word "civil" that might be covered by the word "economic" or what is an economic right that is not covered by a civil right?

V. FISCHER: Mr. President, this question of economic right in Section 3 was raised at the hearing in Anchorage and there was a definite disagreement among attorneys present at that hearing as to whether civil does include economic. In the minds of many people civil refers primarily to the various rights that have been listed, such as religion, freedom of speech, press, assembly, petition, trial by grand jury, etc. Economic would include the right of employment, equal opportunity for employment. Now apparently there was some question, that a civil right as such or should we try to spell it out to economic? Generally, economic opportunity in every sense, I think one can cite a number of other examples, economic discrimination in insurance or anything else, and I think that this would clarify the intent because certainly the Committee had in mind to provide for economic equality as well as political

and the general concept of "civil" and I don't feel that this would be treading on anybody's toes. As long as there is a question as to whether this is adequately covered, I think it is worth an extra word and a comma in the constitution.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Section 6 provides that, "No person shall be deprived of life, liberty or property without due process of law. It occurs to me that the word "economic" ought to be covered by the word "property" in that section and is unnecessary.

V. FISCHER: If I may try to answer that, I do not see where there is any relationship between the two. In Section 3 we would be establishing an economic right, the quality of opportunity. In Section 6 you are dealing with being deprived of property which is not the same thing as having a right to do something.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I would like to ask Mr. Fischer a question in that regard. This word "economic" you proposed inserting here, your hearing in Anchorage, was the inference or was it said that that word "economic" then would mean the term that the right-to-work clause as we understand it?

V. FISCHER: No.

DOOGAN: That is what I am wondering if inserting in there that that word "economic" might not mean the right-to-work clause as we know it as against collective bargaining, and if that is the case we had quite a hassle in Committee and decided, with the exception of the minority report, to leave both the right-to-work clause and the collective bargaining clause out of the bill of rights because we felt that they were legislative matters rather than constitutional matters.

V. FISCHER: If I may answer, this refers to denial of an economic right because of race, color, creed or national origin. I do not see how this could be interpreted as any kind of a right-to-work provision. The answer when this question was raised, whether "civil includes "economic", the answer was that the intent was to include. Therefore, if "civil" were to include "economic" and if you put that word in, I don't think that we are even getting close to a right-to-work provision because we referred to denial because of race, color, creed, or national origin only.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask Mr. Fischer a question?

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PRESIDENT EGAN: You may, Mrs. Nordale.

NORDALE: I would like to know just what an economic right is.

V. FISCHER: It is an equal right of employment.

NORDALE: Is that a right?

V. FISCHER: Opportunity.

NORDALE: Opportunity is not necessarily a right.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: The reason for my objections to this is I was always under the impression that "civil" meant just what Mr. Fischer is referring to, "and in the abridged copy of the dictionary it points out that civil" is relating to the usual business of citizens and "economic" brings out the point of man's need. It says, "relating to the satisfaction of man's needs." Now, one thing you might run into here, Mr. Fischer, in your amendment would be the damaging part of it. Taking a look at the other side of it, how it could be construed.

V. FISCHER: I do not quite know what you mean by how it could be construed from the other side.

COGHILL: By clarifying that, that the points you were bringing out here would actually be interpreted under the civil rights of any human being because of race, color or creed or national origin, whereas the economic part of it might bring about a part where they figure that they should have equal opportunities in an economic portion of a community or something such as that, where it is actually a civil case.

V. FISCHER: That is exactly the intent that they should have. The reason I brought this in, as I stated before, if it is included in civil we have done no harm. However, apparently a very serious doubt exists as to whether it is included at this time in civil right, and that is the reason for the amendment to provide to make sure that economic right is included.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I am going to try to stay out of soft ground again, but I am not too sure that I like the word because I believe it is hazy. As far as economic is concerned, it can be any number of levels or phases or you can set the valuation on it on an economic level, and if I understand it right, no person is to be denied the enjoyment of any economic level, which might be high or low, regardless of the person's efforts. If it could possibly be construed that way, if there were even the remotest chance that it could be construed that way, I would

definitely not be in favor of it.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: If I might state, I would hesitate to amend this particular section at least, by inserting the word "economic" or any other words. The thought of the Committee, this is a civil rights section. It was required in the Enabling Act, and we in Committee adopted practically the language of the Enabling Act where it states that there shall be no distinction in the civil or political rights on account of race or color, and we did enlarge that to put in creed or national origin. Then to satisfy, but mainly for the purpose of certain segments of the population were concerned with having a longer and a very detailed civil rights bill in here, and we then left it up to the legislature to implement and make the appropriate legislation, but this is strictly a civil rights matter here to comply with the Enabling Act of the House Bill 2535.

V. FISCHER: Could I ask Mr. McNealy a question? Would you guarantee that economic is included in civil rights?

MCNEALY: I heartily do to a certain extent that economics is equal to all persons but not to the extent that it guarantees anything in the nature of welfare.

V. FISCHER: Do you feel that because the Enabling Bill referred to civil or political, that we could not add "economic" since you did add some additional words at the end of that sentence?

MCNEALY: I am afraid of the word "economic" standing out in itself. I think to what extent it could be included in the word "civil", but to set out the word "economic" I am going to have to agree with what Mr. Doogan spoke about there, that there might be a danger then of getting the right-to-work or collective bargaining mixed up in the civil rights clause, and we want this as a civil rights clause and only for that purpose.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe it would be a dangerous thing to put that word in there because I don't believe it appears in any constitution that I have read, neither does it appear in the Federal Constitution. Economic right can be construed in many different ways, and, if we would adopt that word in this particular article, we are getting ourselves into a morass of doubt in which we may, as Mr. Cooper, says getting into soft going, and it may take a considerable amount of litigation to have the courts establish what economic right was guaranteed under the constitution. I believe in other parts of the constitution as we have it here, proposed constitution, that it is more fully set out, but I think by reason of the doubt as to the meaning or the interpretations that could be put on it, I think it would be a grave error if we did include that word in it because one person's idea

of the meaning of that might be entirely different from a thousand other people, and you could see the resulting litigation that might develop from it.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: If I may have the last word, Mr. President, I would like to point out that we have a very large population in Alaska of people other than the white race, and I think it is important that they be given every possible protection within this constitution, that they be guaranteed every possible equality of rights and opportunity. What this does, even if we put "economic" in here, it would only say that they may not be denied enjoyment of an economic right because of race, color, creed or national origin. In other words, it would prohibit discrimination against these people who constitute a very large number of Alaskans. If you take race, color, creed and national origin, you get a very high percentage, and I think those people have the right.

COOPER: Point of order. I wanted to make one more statement before the closing debate, and I did not get up fast enough, but to bear out my point of order, Section 1, the final two words on page 1, that all persons are equal and are entitled to equal rights and opportunities under the law", and I believe that takes care of the entire situation and that has already been adopted.

V. FISCHER: Mr. President, in reply to Mr. Cooper's statement, I think if you accept that then you can strike all of Section 3 because all of it becomes redundant. This is a very necessary part of the constitution. I don't think we are repeating anything here. Section 1 is primarily a statement of policy. Here we are laying down law, and I think it is important that we adopt this provision.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Knight, Did you have an amendment?

KNIGHT: No, Mr. McLaughlin answered my question.

PRESIDENT EGAN: Does the Chief Clerk have any other amendments on her desk relative to Section 3?

CHIEF CLERK: No.

PRESIDENT EGAN: Are there other amendments to Section 3? If not, proceed to Section 4. Are there amendments to Section 4? Are there amendments to Section 5? Mr. Robertson.

ROBERTSON: May we go back to Section 4? I have another question in my mind as to whether or not the word "department" is the correct word to use there, whether it is broad enough in scope. I might ask Miss Awes if they gave that word any consideration.

AWES: We intended to use it to broaden. The federal language merely provides, as I recall, the right to petition the "government for any grievance. Well, we added the government or any department" and dropped the words, "for any grievance". Therefore, we felt we were broadening the right of the people to petition because they may petition not only the government generally but also any particular department that they might have something to say and are not limited to grievances but for any reason that they wanted to petition. That was our idea.

ROBERTSON: My point, Mr. President, a department has more or less a restricted meaning in governmental activities, at least in federal government. We have bureaus, agencies, corporations, departments, and many times they have a very distinct meaning, and bureau is not necessarily an agency or not a federal corporation, and it seems to me that possibly instead of broadening it is lessening, but if the Committee made a study of that, why that is all the further I care to pursue it.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would think that would mean the major branches of the government. We have the War Department, the Navy Department, the Department of the Interior and the Department of Commerce. They are the major departments of the government. Then in those departments we have the innumerable bureaus which Alaskans are quite familiar with, and I believe that possibly an amendment to that to have that, "any department, bureau, or branch thereof", if that was inserted, it would make it kind of all inclusive. Otherwise, we would not have to go to the head of the department but also the bureaus or whatever you call them.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Would you think the word "subdivision" in lieu of "department" might not cover all agencies, branches, etc.?

TAYLOR: I think that subdivision would more connote the geographical declaration.

PRESIDENT EGAN: Miss Awes.

AWES: Well, I rather like Mr. Rivers' suggestion that we use "subdivision". It didn't to me, as it did to Mr. Taylor, connote geographical division, it would indicate any subdivision

of government. As I said before, we used that expression, "or any department" to broaden rather than to limit. As a matter of fact, I think perhaps the word "government" implies any subdivision thereof, and I think the words "or any department" if it causes confusion, could be stricken and leave it out all together.

PRESIDENT EGAN: We have no proposed amendment before us at this time. Mr. Robertson.

ROBERTSON: May I make a proposal? Mr. President, I move that after the word "department" in line 18, page 2, Section 4, be inserted "bureau, agency or subdivision thereof".

PRESIDENT EGAN: Mr. Robertson moves

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that after the word "department" the words "bureau, agency or subdivision thereof" be inserted.

ROBERTSON: "Thereof" is already in.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment?

KILCHER: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: Second the motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 22 - Boswell, Coghill, Cooper, Cross, H. Fischer, Harris, Johnson, Knight, Laws, McNealy, Nerland, Nolan, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Sweeney, Taylor, VanderLeest, Mr. President.

Nays: 30 - Awes, Barr, Collins, Davis, Doogan, Emberg, V. Fischer, Gray, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nordale, Riley, Rosswog, Smith, Stewart, Sundborg, Walsh, White, Wien.

Absent: 3 - Armstrong, Buckalew, Hellenthal.)

CHIEF CLERK: 22 yeas, 30 nays and 3 absent.

PRESIDENT EGAN: The "nays" have it and so the proposed amendment has failed of adoption. Are there other amendments? Mr. White.

WHITE: Mr. President, I move Section 4, line 18, strike the first four words, "or any department thereof". I ask unanimous consent.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that on line 18 of page 2, Section 4, the first four words be stricken, the words "or any department thereof". Is there objection to the unanimous consent request?

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard.

WHITE: I so move.

KILCHER: I second it.

PRESIDENT EGAN: Mr. White so moves, Mr. Kilcher seconds the motion. The question is open for debate.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it, and the proposed amendment is ordered adopted. Mr. Fischer.

V. FISCHER: Mr. President, I would like to address a question to the Chairman of the Bill of Rights Committee. In Section 4 we have language as follows: Every person may freely speak, write, and publish on all subjects, etc. Now, in most other constitutions, if not all, including the Federal, we have a statement to the effect that no law shall be passed denying the right, or something to that effect. In other sections immediately above and below this particular provision we say "no person is to be denied the enjoyment of any civil or political right", etc., "shall never be abridged", etc., "shall never be deprived". I wonder if the statement in this sentence might not open this up to an infringement of freedom of speech through legislation by indirect means?

PRESIDENT EGAN: Miss Awes.

AWES: We discussed that in the Committee and the majority of the Committee preferred this language. I think that this accomplishes the same purpose as saying "no law shall be made" because this provision protects the right of the people to freely speak, write and publish, etc., and any law which denied them this right, it seems to me, would have to be unconstitutional, or I don't see any point in having the provision. So I think this accomplishes the same thing, and that was the opinion of the Committee.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: My question was based primarily upon the fact that all the other statements are a specific statement to the effect that no persons could be denied or something generally equal to that, and in this section we say, "Every person may". That was the basis that you seem to be setting this apart from all the other civil rights.

AWES: Yes, I will admit the wording is different. I still think it accomplishes the same thing. I did not object to this wording, but I was not one that pushed it, either. If there is anybody on the Committee who would like to speak on this, I am willing to have them do it.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I am not on the Committee, but I would like to call attention to the fact that you have a Style and Drafting Committee that is supposed to take care of incongruity and lack of uniformity in language.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: The wording is taken identically from the Idaho example. It has been tested.

PRESIDENT EGAN: Would the Chief Clerk please read what the second sentence in Section 4, how it now reads?

CHIEF CLERK: "The right of the people peaceably to assemble and to petition the government shall never be abridged."

AWES: We are talking about the first sentence.

PRESIDENT EGAN: I know, Miss Awes, but no one had the floor just then and the Chair has been wondering, now we adopted another amendment there with relation to bureaus and agencies, etc.

CHIEF CLERK: No, that was killed.

PRESIDENT EGAN: Then it does read, "The right of the people

peaceably to assemble and to petition the government shall never be abridged." Mr. Taylor.

TAYLOR: I was going to call attention to the matter under controversy here regarding speech. We do have the right of free speech, but if you abuse that right by making an obscene statement you can be civilly liable, so the constitution says, "yes, you can speak on anything you want but you are responsible for the abuse of that right which is given to you," and those are the same identical words that appear in the constitution of the State of Washington, too. Possibly Idaho took Washington's words, and I think it certainly expresses the subject as concisely and intelligently, possibly more so than the Federal Constitution.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I have a question of the Chair of that particular Committee, and I notice they have carried a very brief statement in regard to freedom of speech. But some of the other constitutions, such as New Jersey, carry a much longer statement in which anything that is held to be true and which they are sued for libel under and if it were actually true and published in good faith, they would be presumed to be innocent of libel. Is there any reason why that right of contingent liability should be eliminated? What was the discussion in Committee?

AWES: I don't think it was a question of whether it should have been eliminated. I think it would be better to say, was there any question why it should be included. It was not included in the Federal Constitution and some of the other state constitutions and we felt that it was a Matter that could be left to the legislature. It is really legislative in nature and that is adequate to protect the rights of the people.

PRESIDENT EGAN: Are there amendments to Section 4? If not, are there amendments to Section 5? Are there amendments to Section 6? Section 7? Mr. Davis.

DAVIS: I have a proposed amendment to Section 7.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, lines 11 and 12, strike the words 'or information, which shall be concurrent remedies' and insert the following in lieu thereof: 'unless indictment be waived by the accused. If right to indictment be waived, proceedings may be by information'."

DAVIS: I move the adoption of the proposed amendment, Mr. President.

PRESIDENT EGAN: Mr. Davis moves the adoption of the proposed amendment. Is there a second?

NORDALE: I second the motion.

TAYLOR: I wonder if we could have a three-minute recess?

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for three or four minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Davis.

DAVIS: Mr. President, with reference to my pending amendment, and also with reference to all of Section 7, I am advised that Mr. Buckalew who is not present today had a good deal to do with preparation of Section 7, also Mr. Hellenthal who is ill today, and so for that reason I would like to ask unanimous consent at this time to pass Section 7 and go on to Section 8 and consider Section 7 tomorrow when we expect the other two men will be here.

PRESIDENT EGAN: If there is no objection, we will pass Section 7 subject to the time that Mr. Buckalew and Mr. Hellenthal will be present. Are there amendments to Section 8? Are there amendments to be proposed to Section 9? Section 10? Mr. Ralph Rivers.

R. RIVERS: I submit one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: Page 4, Section 10, line 3, delete the last sentence commencing on line 3 and substitute the following: 'The administration of criminal justice shall be founded upon the principle of reformation as well as upon the need to protect the public.'

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

R. RIVERS: I move the adoption of this proposed amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Please read the amendment again.

(The Chief Clerk read the amendment again.)

R. RIVERS: Mr. President, the reason for that is that I think the administration of criminal justice should definitely be founded upon the need for protecting the public. I think that, secondarily, it is a very good idea for us to try to reform the people who have breached the law and become antisocial, but I don't want to completely overlook the protection of the public. I also think this business about "and not on vindictiveness" sounds a little odd. You can't legislate away that kind of sin. If a district attorney is mean, he is mean. I don't care, so I merely submit that to say that the administration of criminal justice shall be founded upon the principle of reformation as well as upon the need for protecting the public. It covers the subject better than it is now.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I would like to ask the Chairman of the Bill of Rights a question. Was it the intention of this clause to abolish capital punishment on the theory that you cannot reform a dead man?

AWES: I made the same objection as did one or two others on the Committee. However, this sentence has used almost the identical words as in other state constitutions, and in those states the supreme court upheld that it does not abolish capital punishment.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, to clarify this article more, this clause was originally taken from Indiana I believe it is. I forget the article and section number, but the way it was written in there, although it stated that it had been tested and did not preclude capital punishment, after discussion in the Committee it was purported to intend that this clause would have nothing to do until the time a person was sentenced, but in view of penal institutions and governments in their work to rehabilitate prisoners rather than lock them up on bread and water and forget about them, that this statement was more or less advisory or instructive to the penal institutions that they would work on the basis of reformation and not go back to the bread and water stage, but it was intended that it would apply after a person had received sentence. It was not to apply up until that time, and I think that is what the criminal justice is supposed to mean.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I also do not like the word "vindictiveness". I would like to believe that there is never any vindictiveness in the punishment of people who have violated the laws of the country, though I am compelled to admit that sometimes I have seen evidences of it, but I do think that Mr. Ralph

Rivers is correct in saying that the chief aim of criminal justice is the protection of the public and that the reformation or rehabilitation of the persons who have been found guilty of a crime is vastly important also, so if I understand Mr. Rivers' motion correctly, I am going to support it. I think that it is high time that some state constitution had in it some mention of the need of reformation of people who seem criminally inclined rather than the need of constantly stressing punishment for them. When we learn to have preventive instead of punitive measures on our statute books we are going to be a long ways further towards really administering criminal justice.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 10? Are there proposed amendments to Section 11? Mr. Taylor.

TAYLOR: I am preparing one, Mr. President.

PRESIDENT EGAN: Mr. Taylor is preparing one. The Convention will be at ease for a moment while Mr. Taylor prepares his amendment. The Convention will come to order. The Chief Clerk will read the proposed amendment as offered by Mr. Taylor.

CHIEF CLERK: "Section 11, page 4, line 12, after the word 'seized' insert the following sentence: 'That the legislature shall provide by law for penalties for officers of the state or any subdivision thereof violating the right of the citizens under this section.'"

PRESIDENT EGAN: What is your pleasure, Mr. Taylor?

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment. Mr. Davis.

DAVIS: May we have it read again slowly?

PRESIDENT EGAN: The Chief Clerk will please read the amendment again slowly.

(The Chief Clerk read .the amendment again.)

TAYLOR: You left out the word "penalties".

CHIEF CLERK: I am sorry. "That the legislature shall provide

by law for penalties for officers of the state or any subdivision thereof violating the right of the citizens under this section."

PRESIDENT EGAN: What line is that?

CHIEF CLERK: Line 12, at the end of the section.

PRESIDENT EGAN: Is there a second to it?

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

METCALF: I object.

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I put that in so that the first legislature of the state may also implement the article. As it is it doesn't mean a thing unless there is some penal provisions mentioned and in the present Alaska Code we have a provision which provides for punishment for any officers who do violate this section, and it would be meaningless unless there were penalties provided. We have a great many officers who are zealous and in many instances are overzealous and do violate our rights to a great extent, and in attempting to secure, or in securing evidence against people accused of crime. I feel we should have a penalty because this is an article which prohibits the officers from making unreasonable searches and seizures, so you have got to have a penalty. If you don't you might as well strike the bill of rights.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I think the cards are stacked up against the officers. Having been in that capacity for many years, I think the officer is entitled to make a few mistakes, though we don't mean to make mistakes, and I think if you put a penalty on an officer, maybe seizing a bit of evidence, I think it is going to discourage efficient law enforcement.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I would like to ask Mr. Taylor a question if I may. My vote will be persuaded by your interpretation of my question here. I just want to know if the seizures of property and unwarranted searching of residences, etc., and other properties, would that include abodes as well?

TAYLOR: That would include abodes as well. That means anything

within the enclosure of your yard, and the reason I put this in is that I have seen so many flagrant violations of the law by the officers themselves, and it has been on the books all the time that Mr. Metcalf has been violating the law by illegal searches and seizures. There has been some objection made to it, and I don't think Mr. Metcalf will take that very seriously. I don't think Mr. Metcalf did violate the law. And we have a penal provision in the statutes right now, and I would like to see it carried over into the constitution.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I would like to point out so far as I can see in reading it in a hurry, Section 11 is identical to the Article 4 of the Bill of Rights of the United States Constitution.

PRESIDENT EGAN: Miss Awes.

AWES: As I recall, I think this is identical to Section 4 of the United States Constitution, and Mr. Taylor himself says that there is a statute on the books now, and it is my understanding that those statutes, including that one, will be continued unless altered or repealed, so consequently there will be a statute, and it seems to me that this proposed amendment is legislative in nature and unnecessary.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I was just going to say that I thought the amendment offered by Mr. Taylor might be superfluous in view of Section 19 which says, "The enumeration of rights in this constitution shall not impair or deny others retained by the people." In other words, though we set up a Bill of Rights here, if the legislature feels it is necessary to implement any of these rights by statute that they can do so.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would also like to point out that to implement this section of the bill of rights, the legislature would have to define "specific offenses as well as prescribe penalties. If we are going to pursue Mr. Taylor's thought we are going to have to write it out more fully. I am in favor of leaving it the way it is and letting the legislature handle it.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe Mr. Rivers has the wrong interpretation. I said "The Legislature shall provide penalties". That is all we have to do and leave it up to the legislature. I am not afraid of the future legislature like a lot of people here. I think they are going to have more than seventh grade intelligence.

PRESIDENT EGAN: The question is, if there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 11? If not, are there proposed amendments to Section 12? Mr. Robertson.

ROBERTSON: I have one to Section 12.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 12, line 15, page 4, remove the period and insert 'of twelve, except'. Change capital 'I' to small letter 'i' in the word 'in'.

ROBERTSON: I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Robertson moves the adoption of the amendment and asks unanimous consent. Would the Chief Clerk please read the amendment.

CHIEF CLERK: "Section 12, line 15, page 4, remove period and insert 'of twelve, except'. Change capital 'I' to small letter 'i' in the word 'in

PRESIDENT EGAN: Mr. Robertson asks unanimous consent for the adoption of the proposed amendment. Is there objection? Mr. Johnson.

JOHNSON: May we have a minute's recess? For just a minute?

PRESIDENT EGAN: If there is no objection, the Convention will stand at ease for a moment or two. The Convention will come to order. Mr. Robertson asks unanimous consent that his proposed amendment be adopted. Is there objection? If there is no objection, it is so ordered and the amendment has been adopted. Are there other amendments to Section 12? Miss Awes.

AWES: I think his amendment was to add the words "of twelve, except". I think we should also unanimously add the word "that" because otherwise it is awfully awkward.

PRESIDENT EGAN: Miss Awes asks unanimous consent that the word "that" be placed after the word "except". Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Mr. Taylor.

TAYLOR: I would like to offer a short amendment that following the word "persons" on line 17 that we strike the period and

insert the words "with the consent of the accused." Otherwise, they could provide for a jury of six without the consent of the defendant.

PRESIDENT EGAN: Mr. Taylor, do you offer that as an amendment?

TAYLOR: I offer that as an amendment.

PRESIDENT EGAN: "Striking the period after the word 'persons' and inserting the words 'with the consent of the accused.'" Mr. Johnson.

JOHNSON: May I ask Mr. Taylor a question? Mr. Taylor, the wording now says, "In courts not of record the jury may consist of not more than twelve nor less than six persons. Would that not imply that if it were less than twelve it would have to be with the consent of the accused?"

TAYLOR: That is right.

PRESIDENT EGAN: Is objection heard to the unanimous consent request?

AWES: I object.

VANDERLEEST: I second the motion.

TAYLOR: I think it should be changed a little bit, I think we can change that.

PRESIDENT EGAN: If there is no objection the Convention will stand at ease for a moment. The Convention will come to order. We have the proposed amendment as proposed by Mr. Taylor before us. Is there discussion of the proposed amendment? Miss Awes.

AWES: I would like both to object to the amendment and I would also like to make a little explanation of the section. Mr. Johnson made an interpretation that I don't think is quite correct. The section provides, "In courts not of record the jury may consist of not more than twelve nor less than six persons. It is my understanding that when a constitution preserves the right to a jury it preserves the right to a jury of twelve, which was the common law jury. The provision, may consist" rather than "shall consist was intended to leave the matter up to the legislature, the right of jury is preserved and that would be twelve people unless the legislature sees fit to change it to six or eight or anything not less than six. I don't think that if you are going to add this "with the consent of the accused", you might as well knock out the whole thing from the word "except" on to the end of the sentence because the accused can always waive the right to practically any constitutional protection he has. You don't have to put it in the constitution. I think there was one case where the defendant waived

so many of his rights that he was soon facing the electric chair The court held that as long as he voluntarily waived them that he could do it. Therefore, there is no point of having a provision in there. If he wants to he can consent to no jury at all.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: For once I do not concur with the eminent Chairman of the Committee. A person under a system which allows a trial by jury of twelve, the accused may waive a jury, period, but that means he just throws himself on the mercy of the court and has no jury at all, but if he is going to be allowed a jury of six persons instead of twelve, which is generally agreeable to the parties involved in your commissioner courts or justice of the peace courts, the law has to provide for such a jury of six. Now, the procedure now in the justice of the peace courts and our commissioners' is that if a defendant in a criminal case in a J P court wishes to consent to it and wants a jury, he may have a jury of six and waive as to the requirement of having twelve people on the jury. The thought behind Mr. Taylor's amendment here is the same as prevails in Alaska at the present time. So you don't have to go whole hog or none. You waive a jury completely and you don't get any at all. You just as well might let the J P courts operate with juries of six, but as it was, it would be the legislature may positively fix a jury of six in justice of the peace courts, the way the language was. Mr. Taylor is trying to establish that you may have a jury of six if the defendant waives a jury of twelve and consents to a jury of six. I am supporting Mr. Taylor's amendment, except that I want to make it read a little better here. I am going to offer an amendment to his amendment. That is, the language on line 16 which says "not more than twelve nor less than six". If you establish a jury of twelve period, and you say that he may waive the jury of twelve and have a jury of six, you don't want to talk about a jury of not more than twelve. You just say "may consist of a jury of six", so I move to amend Mr. Taylor's proposed amendment by deleting the words on line 16 as follows: "Not more than twelve or less than", and I ask unanimous consent.

PRESIDENT EGAN: The Chair might ask a question. What was the particular amendment in that section that Mr. Robertson has proposed? How does the section in there read at this time?

CHIEF CLERK: "In all criminal prosecutions the accused has the right to a speedy and public trial, by an impartial jury of twelve, except that in courts not of record the jury may consist of not more than twelve nor less than six persons."

PRESIDENT EGAN: Does that interfere with what Mr. Ralph Rivers said?

CHIEF CLERK: Mr. Rivers is on the next line.

TAYLOR: Just for a moment, a change of an idea with Mr. Rivers. I think though that that doesn't cure the defect in it because if a man is being tried it might be the district attorney who might say, "I want only six jurors", and the defendant has nothing to say about it because the district attorney said it, but it should be in there that it must be with his consent to be tried by a jury of less than twelve people.

R. RIVERS: Does not your principal amendment say "with the consent of the accused"? May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Taylor.

TAYLOR: I ask unanimous consent to withdraw the previous amendment to Section 12.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent to withdraw his original amendment.

R. RIVERS: I ask the same with regard to my proposed amendment.

PRESIDENT EGAN: Is there objection to the withdrawal?

TAYLOR: I offer an amendment that takes care of the matter.

PRESIDENT EGAN: The amendments are ordered withdrawn. The Chief Clerk will please read the proposed amendment as offered by Mr. Taylor.

CHIEF CLERK: "Line 15, page 4, after the second word 'jury' insert 'with the consent of the accused'. Line 16, strike 'not more than twelve nor less than'."

R. RIVERS: The word "jury" being the last word "jury" on line 15.

TAYLOR: I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment and asks unanimous consent.

MCNEALY: I object.

R. RIVERS: I second the motion.

PRESIDENT EGAN: The matter is open for discussion. Mr. Fischer.

V. FISCHER: I would like to ask Mr. Taylor or one of the other attorneys here, exactly what are we talking about when we talk about "courts not of record"? Are those established by the legislature and could the legislature not provide for the size of the jury and all the other details?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Not if we put this limitation on it, or restriction on them. That is why it is in there. A court not of record is a court in which the proceedings are not transcribed, they have no shorthand reporters present unless you ask for a court of record.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I amplify what Mr. Taylor says? The courts of general jurisdiction have the common law jury of twelve. That is what will be our superior court after we get to be a state. The judiciary article says that the legislature may establish such courts of limited jurisdiction as the legislature deems fit, and that would be the J P courts, and they authorize these magistrate courts in the towns and juvenile courts and that sort of thing, all of those courts which would be created by the legislature would not be courts of record.

PRESIDENT EGAN: Miss Awes, did you want the floor?

AWES: I just was going to explain what a court not of record was.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I don't feel strongly one way or the other in regard to this amendment here. The only reason I objected to the amendment was for the same reason I voted for this in Committee. To allow for juries of six in magistrate courts or in commissioners courts or justice of peace courts, as they possibly will be, both as prosecuting and defending of cases in these inferior courts there is very often that I have called for a jury of twelve in a commissioner's court on a traffic violation or a drunken driving charge or some petty misdemeanor, and the reason I did was because it was the Federal government that was paying twelve dollars a day, I believe jury's fees, and in looking this over in the Committee I felt that if the state was going to have to pay that, that comes a little closer to home and was purely a financial matter as far as I was concerned. Actually, I believe if the party that was accused of assault and battery or drunken driving or some parking violation or any misdemeanor, that he can get ample justice before a jury of

six, and it would save the state about \$72 on these one-hour trials and further, if he is still not satisfied with the decision of the jury of six he has the right of course then to appeal and have his case heard before a jury of twelve in the higher court, so it was strictly from a financial point of view that gives the legislature power, and I believe that if the legislature, if they feel that people's rights aren't covered by a jury of six, then they can cause the jury to be set at twelve or they can legislate this particular amendment.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I am wondering that if the wording that is given to us is as clear as we want it to be. It says here "with the consent of the accused the jury shall not be more than twelve nor less than six."

TAYLOR: No.

R. RIVERS: That is what I am moving to strike, "not more than twelve or less than six".

LONDBORG: I see.

PRESIDENT EGAN: Mr. Cross.

CROSS: I would like to point out that there are several places in the Territory where it is extremely difficult to get a jury of twelve and an accused man can obstruct justice for a considerable time by demanding a jury of twelve.

HURLEY: I would like to second what Mr. Cross has said and also, although we have not provided for it in the constitution under the judiciary article, I presume it is fair to think there will be a very simple right of appeal from your lower courts to your courts of record, and I do not think we are trodding upon the rights of the accused by providing a lesser number than twelve as a jury if that appears to be the proper thing to do by the judge who is trying the case. I am against the amendment.

PRESIDENT EGAN: If there is no further discussion -- Mr. Taylor.

TAYLOR: I would like to answer Mr. Hurley. Perhaps he is not familiar with the way law is administered in Alaska. Now take the hypothetical case of a man who is tried before a commissioner or a justice of the peace or before a jury of six. He says, he spent his day in court so he can appeal. Well, this is a criminal case he is trying, and it might be he lies in jail one year before his appeal can be heard. He is denied the right of justice. Mr. McNealy here, he would crucify justice on the cross of gold because it is going to cost \$72 for a couple

of jurors.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I wonder if I might direct a question to Mr. McLaughlin through the Chair?

PRESIDENT EGAN: You may, Mr. Sundborg.

SUNDBORG: Mr. McLaughlin, I am wondering if the article on the judiciary which has already passed through second reading does not permit in its Section 19 which says, "The Supreme Court shall make and promulgate rules governing the administration of all courts of the State. It shall also make and promulgate rules governing practice and procedure in all civil and criminal cases in all courts, which rules may be changed by the Legislature only upon a two-thirds vote of the members elected to each house." It does not give the supreme court the authority to do what we are attempting to write in here as a bill of rights, that is the right for a trial by jury of six persons.

MCLAUGHLIN: I would say it does not give that right. That is not a procedural matter, that is a substantive matter, the right of trial by jury and the number that you will have. I would say the supreme court had no authority to make rules on that subject. It would be either the legislature or provided in the constitution.

SUNDBORG: Do you believe it belongs in the bill of rights?

MCLAUGHLIN: If you are asking my opinion of this section, I think this section as presented by the Bill of Rights Committee is an excellent section without amendment.

SUNDBORG: Thank you.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention"? All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 12? Mr. McLaughlin.

MCLAUGHLIN: I have a question to the Chairman of the Bill of Rights Committee, line 18, that is beginning at 17, "The accused is also entitled to be informed of the nature and cause of the accusation". Does "cause" add anything to it?

AWES: I don't recall any particular question on that by the Committee. I am inclined to think that the words "and cause" are redundant.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Once again that is taken word for word from the Federal Constitution.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: The word "cause" as I understand it, the nature of the crime would be the facts. The cause would apply to the law the party was charged under.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I note by my clock that the time is 5:40, and if it is in order I move to adjourn until 9 a.m. tomorrow morning.

PRESIDENT EGAN: Before this motion is acted upon, the Chair would like to remind the delegates that they are invited to an open house given by Pan American Airways at their new office quarters in the Nordale Hotel between now and 7 p.m. The Chair would also like to suggest that inasmuch as we now have a full calendar before us and inasmuch as each delegate has that calendar in his possession that it might expedite matters if each delegate would attempt to go through each proposal, and if he feels that there are any parts of it he would like to offer amendments to, have the amendments ready at the time that we convene if possible. Mrs. Hermann.

HERMANN: I would suggest that they also read the PAS book about that same material because some times you get some very good ideas from it.

PRESIDENT EGAN: Are there any committee announcements to be made at this time? Mr. Gray.

GRAY: I will ask for unanimous consent.

PRESIDENT EGAN: Mr. Gray asks unanimous consent that the Convention stand adjourned until 9 a.m. tomorrow. Hearing no objection it is so ordered.

ALASKA CONSTITUTIONAL CONVENTION

January 6, 1956

FORTY-FIFTH DAY

PRESIDENT EGAN: The Convention will come to order. Chaplain Foss from Ladd Air Force Base will give the morning invocation.

CHAPLAIN HENRY A. FOSS: Eternal loving Heavenly Father, we raise our voices to Thee in gratitude for Thy protection and guidance in the days and years past, and we look up to Thee for guidance in the deliberations of this meeting which may determine the destiny of this Territory for the welfare of Thy people. May Thy Name be exalted and glorified for evermore. In His Name we pray. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

PRESIDENT EGAN: Mr. Cooper is ill.

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Are there any petitions or memorials or communications from outside the Convention? Mr. Marston.

MARSTON: Mr. President, I requested that the College here through the student body sometime ago to give me an expression of their opinion on when a man should start voting. I have a petition here signed by the majority of the students addressed to the Alaska Constitutional Convention. I wish to submit it.

PRESIDENT EGAN: You may submit it, Mr. Marston, and if the Convention would stand at recess for about one minute the Chair will also get a communication relating to that subject that arrived last evening.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the communications.

(The Chief Clerk read a communication from the President of the Associated Students of the University of Alaska pledging their support to and recommending any resolution of the Convention favoring an 18-year-old voting age in the future state of Alaska.)

PRESIDENT EGAN: The communication may be filed.

(The Chief Clerk read a communication signed by 121 students of the University of Alaska urging the Convention to set 18 as the minimum age required as a qualification to vote in the future State of Alaska.)

PRESIDENT EGAN: The communication may be filed. Are there other communications? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced? Are there any motions or resolutions? Under unfinished business we have before us Committee Proposal No. 7. Are there any amendments before us at the present time?

CHIEF CLERK: We have Mr. Davis's which he asked to hold over until Mr. Buckalew and Mr. Hellenthal were here.

PRESIDENT EGAN: Mr. Davis, would you wish to present your amendment again at this time since Mr. Hellenthal and Mr. Buckalew are here?

DAVIS: I think yesterday I moved the adoption of the proposed amendment. I do not know whether there was a second to it or not.

CHIEF CLERK: Yes, it was seconded.

PRESIDENT EGAN: So we have before us Mr. Davis's proposed amendment. Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, lines 11 and 12, strike the words 'or information, which shall be concurrent remedies' on lines 11 and 12 and insert the following in lieu thereof: 'unless indictment be waived by the accused. If right to indictment be waived, proceedings may be by information.'"

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, the purpose of the proposed amendment is this, as the section reads, the district attorney or the prosecuting officer, whoever he may be, may proceed in a criminal case either by indictment or information. I think as a matter of practice that he would proceed in all cases or nearly all cases by information. It is much easier for his office to do it that way. In my practice it appears to me that the grand jury serves a useful purpose. In some cases, not often it is true, but in some cases a person against whom criminal charges have been filed by the district attorney or by private parties, is released by the grand jury as there does not appear to be sufficient cause to hold him for trial. That of course is the purpose of the indictment. Now it is as pointed out yesterday, in many many cases, particularly in Alaska, a person may miss a grand jury and be charged with a crime and may have to wait a considerable period of time in jail before he can

have the matter heard by a grand jury. For that reason we have been allowing an accused to waive his right to a grand jury if he wants to, to waive his right to being indicted, and the amendment which I have proposed would preserve that same procedure which I think has worked very well. It will allow those who wish to have the matter heard by a grand jury, to have it heard by a grand jury. It will also allow the man who may be accused and who may want to waive the grand jury to waive and to proceed on information. Now I think the procedure we have had has worked very well, and I would like to keep it.

PRESIDENT EGAN: Is there further discussion of Mr. Davis's proposed amendment? Mr. Buckalew.

BUCKALEW: Mr. President, the Committee initially left the article by providing the requirement of the government to go by way of indictment unless the accused waives. Now as you all know, the first 10 amendments to the Constitution apply directly to Alaska now because we are a Federal Territory. For that reason the procedure we have today is carried out because we are complying with the Constitution. Now most states follow similar procedures we have lined out here in the article. I can see why the Federal government could have a provision against it requiring proceeding by indictment because at that time the only crimes against the United States would be serious crimes, and I suspect that the framers of the Constitution had in mind the particular crime of treason. Now if we change the article as Mr. Davis wants to change it, if a man picks up a \$56 radio, you have got to go by way of indictment. You have got to panel a grand jury. I think in Alaska it will be costly and expensive, and I think it is an unreasonable burden to put on the state, and I don't believe that it affords any additional protection to the accused. I think that historically in the Federal Constitution it probably served its purpose, but most of the states do not require proceeding by indictment. Now we have preserved the investigating powers of the grand jury. The only bad feature I can see about it, and I thought about it, Mr. Davis pointed it out to me, was that perhaps a grand jury would never be impaneled, but that is probably true, and probably you will never need a grand jury, and I can't see that it serves any useful purpose, does not afford any additional protection to the accused. In Alaska it is going to be costly and most of the states followed this particular provision.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I started the discussion on this point yesterday when I asked the Chairman of the Committee what they had thought about it and what their thinking was. The grand jury once a year investigates the jails and sometimes is useful where any particular fraud or general scandal has occurred, and I think they serve a useful purpose. Sometimes, as Mr. Davis said, the grand jury will bring in a "no true

bill" meaning they just refused to accuse anybody because the evidence is too flimsy. I like it the way it has been where the accused has the alternative of taking his choice, and the object of waiving an indictment by the grand jury is that if a man is accused, and you are not going to have a grand jury for six months or a year, so he says, "I want to get this over with." So he says to the district attorney, "File on information and we will fight it out on the information." That is the protection, so the grand jury does serve some useful purpose. That is my thinking in bringing it up.

TAYLOR: Mr. President, I think yesterday I made my ideas clear. I am against the use of a grand jury in criminal prosecution. I was in the United States Attorney's office for five years, and I've had quite a bit of experience with them. I have been on the other side of the fence for a good many more years. I would say retain the grand jury all right for investigative purposes of officials and public institutions, but why not proceed the same as most of the states do? Now we are trying to formulate a modern document, a modern constitution in this Convention. Just because a grand jury is a historical tradition dating from the time of the drawing of the Federal Constitution, why do we have to hang on to those old traditions that have outlived their usefulness? Let us make this modern and up-to-date, and I think that doing away with the grand jury will expedite the criminal procedure, will give a person what they are entitled to, a plain and speedy trial instead of a wait for a year or more sometimes before they can get the trial. I think that the grand jury is in the same class as the dodo; it's done for, it is gone and we might as well relegate it to oblivion where it belongs because it serves no useful purpose except for just investigative purposes.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think a nonlawyer should speak about this matter too, and I am very surprised that one time the dodo bird should be a symbol and the next time the eagle. I am also surprised that one day they are going to be rabid reformists and reject conventions when it is handy, and the next time we are frowning upon innovation when it is equally handy. I think that the grand jury essentially is an added protection to the citizens, specifically to the criminal cases. I am in favor of the amendment, and I think the cost angle when civic liberties are in question should not be mentioned.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I favor Mr. Taylor's viewpoint on the matter, and my observation in the law enforcement game for many years, there would be a terrific duplication of expense. Bring a big crew of witnesses in on a case and they sit around for a week or so and pay \$20 a day, and then the case is heard before the

grand jury and then they are sent back home again, and then maybe three or four months later bring them in again. You are going to be paying the bill for this duplication of expense. Therefore, I favor Mr. Taylor's viewpoint on the bill.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: This particular provision is exactly Section 16 and Section 17 of the Constitution of the State of Missouri. The provision in question that we are passing on now is exactly the Missouri provision. Now two things have been confused here. One is the right to waive proceeding by indictment and the other is requiring indictment in all felonies. Now I believe that a person can always waive proceeding by indictment against himself, but if there is any doubt about it I would certainly be in favor of that portion of Mr. Davis's amendment. However, to preserve the old system which Mr. Taylor truly says is antiquated, I do not think it belongs in a modern constitution, and that is why the Committee chose the Missouri form. The grand jury should certainly and definitely be preserved as an investigating agency. There is no question about it at all, and the Missouri provision does exactly that, but to require indictment in felonies is archaic, it is not modern, and I think it serves very little if any, useful purpose. I agree wholeheartedly with Mr. Taylor's remarks, and I note that Mr. Taylor was one of the most successful prosecutors that they ever had in the Third Judicial Division and he is likewise one of the most successful defense attorneys in Alaska, and I certainly think that great weight should be afforded to his analysis of the situation. He shows good sound judgment, and he obviously is leaning over to protect the citizen, and if he were looking at it in a narrow manner he might insist on the grand jury and the method of indictment because it does give some consolation to those evilly disposed.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think that probably we should advise the nonlawyer delegates that at the time the grand juries convene the prosecutor controls all of the proceedings. The prosecutor decides what witnesses shall be called. The accused does not have a right to be represented by counsel. It is a secret proceeding which is more or less geared and controlled by the prosecutor and most of the time it is something that is just sort of a rubber stamp deal, and actually I can't see that it affords an accused person much protection at all, and usually it works the other way because a prosecutor will convene a grand jury just to get the testimony of his weak witnesses under oath, and he might call a grand jury to more or less buck up some of his witnesses, and it can be used for all kinds of things, and I can't think of any of the various uses that I have seen grand juries used for that it affords any real protection to the accused, and I can see where here in Alaska, if we

followed this amendment, it would be awfully costly on a small state, and I figured that if it afforded any protection, regardless of the cost, I would vote for the amendment, but I can't see that it protects the citizens, and as I say, he has no rights before the grand jury, and as a matter of fact, I think it is more beneficial to the government than it is to the citizen. I can't see any sense in providing that the state be required to have it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to ask a question, perhaps of Mr. Buckalew. If the amendment is not adopted, under what circumstances would a grand jury be called? As I read it here, a judge having the power to try and determine felonies would have the right to convene a grand jury, is that true?

BUCKALEW: That would be your superior court which is your trial court. The only person who could convene a grand jury would be the superior judge, and I think the superior judge would convene a grand jury, certainly if there was anything unusual going on in his district or any other district, and I think too that if the prosecutor got out of hand and was running like a brush fire, that the court would probably convene a grand jury and require him to indict everybody by grand jury.

HURLEY: That was the second question I was going to ask you, that if, beginning the trial by a matter of information were being abused, you feel that the judge of the superior court having reasonable tenure would be interested in the well being of the area and would call a grand jury?

BUCKALEW: Here is another consideration, if the prosecutor can go in and file an information, he is not going to be rushing in there filing informations without merit because the first time he does and it is thrown out or the case does not go to the jury, he would stop that practice right quick, because it would be fresh in the public minds that he failed an information and two weeks later he was miserably defeated. I would imagine he would get the cure without the judge having to panel a grand jury.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I guess I have the right to close. Nobody who has talked against the proposed amendment has disputed the suggestion I made that if we allow the alternative method, that indictments will not be used as a matter of practice, informations will be used in all cases. Now it is true that the investigative grand jury has been preserved in the bill as set forth here. However, an investigative grand jury will only be called under certain specific circumstances, and somebody is going to have to find conditions pretty bad before an investigative grand jury will be

called, whereas a grand jury which is impaneled regularly, once or twice a year in our division, has full investigative power as well as the power to consider indictments. The grand jury is there and may take any steps that it feels may be necessary toward investigation. It does not have to wait for a call. Now it is true that a grand jury may be somewhat expensive, and it is true also that a grand jury dates back to the early days. But it does not follow in my opinion that the fact that a grand jury is something historic, or means that the grand jury at this time should be scrapped. It has served a useful purpose and it does serve a useful purpose. Mr. Buckalew has pointed out that the grand jury is more or less under the control, that isn't the right word but at any rate the proceedings are under the control of the district attorney. There is no question about that and there isn't any question that each grand jury that sits returns some "no true bills". The present grand jury just finished sitting in Anchorage has returned probably 10 "no true bills". For those who are not lawyers, a "no true bill" means that somebody has been charged with a crime by the district attorney and the district attorney, with all the control of the proceedings before the grand jury, has presented all of his evidence to the grand jury and in spite of that the grand jury has said that there is no cause to hold this man for trial, and the man has been released without going through a trial to a regular jury. Certainly under those circumstances it can't be said that the grand jury serves no useful purpose. It serves a distinctly useful purpose, and not as Mr. Hellenthal said, only to persons evilly disposed. It might be me, it might be you, it might be anybody that was charged with crime and was not guilty of that crime and should be released by a grand jury when the evidence was produced before the grand jury. Mr. Buckalew, possibly inadvertently, mentioned another useful purpose that the grand jury serves when he says that the district attorney can get his weak witnesses on record. Certainly that is worthwhile to the government in a case where the government has a case that he wants to prosecute. To get his witnesses on record under oath certainly is of considerable value. I will agree in a minute that in most cases, under present circumstances, the defendants are going to waive the right to grand jury investigation and to indictment and to proceed by information because it is so much faster, but I certainly hope that we preserve the right to have the criminal matters investigated by a grand jury if the accused wants it done that way.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, yesterday we attempted an amendment to Section 11. I think it was prompted by Mr. Taylor, on line 12, page 4, I don't recall the amendment verbatim, but it had to do with punishment defined for officers that are infringing on civil liberties. Isn't that so, Mr. Taylor? So I can see a contingency between your amendment of yesterday and the question

at hand right now. I recall personally a situation eight or nine years ago that brought it to my attention forcefully how the grand jury can be utterly vital. I think the grand jury can to some extent come into play in situations that your amendment yesterday was trying to remedy. The grand jury in its investigative power as well as for the fact that it is sitting there as a panel sometimes is the only recourse for a citizen to get justice, to get redress from abuse in lower courts. It is the only place where a citizen who had a just case but who was refused to have his just case treated in the lower court, as it is now in the Territory, the commissioner's court, to appeal directly to the grand jury is the only way. If the commissioner refuses to have the case appealed in superior court, this is my personal experience, it is the only safeguard a citizen occasionally has when for any reason and very often for political reasons, a case is not dealt with properly. The grand jury can be appealed to directly, which is an invaluable right to the citizen.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to ask a question of Mr. Buckalew, if I may. I ask it out of pure ignorance as a layman. Where will we get our district attorneys or prosecutors under the state government?

BUCKALEW: From the way the constitution looks now, Mr. McLaughlin can probably answer it better than I could, I would say he would be elected from, what is this outfit, the boroughs.

SUNDBORG: I was wondering when we are a state and operating under this constitution, how will we get our prosecutors or district attorneys?

MCLAUGHLIN: This says the legislature shall prescribe them. I don't believe any one of the committee proposals makes any provision for the prosecutors. I presume the legislature will have to determine how the prosecutors are appointed.

SUNDBORG: What would be a logical method? Are there a number of choices?

MCLAUGHLIN: There are plenty of choices, elective, appointive by the governor, appointive within the borough.

SUNDBORG: I have another question. Will the state constitution and this material which we are going to have in our bill of rights be governing in the federal court in Alaska as well as in our state court?

MCLAUGHLIN: What is that again?

SUNDBORG: Will the state constitution and this material which

we are going to have in our bill of rights be governing in the Federal court in Alaska as well as in our state court? Presumably we will have a Federal District Court.

MCLAUGHLIN: It will not unless it is appealed. Normally I will say this -- no, it will not apply. They will use the substantive law, which is the Constitution of the United States in cases in the Federal courts, but normally it does not apply.

SUNDBORG: The guarantees we think we are writing into our state constitution would not be guarantees of the liberties citizens if the rules of the procedure in the Federal courts were at variance with them?

MCLAUGHLIN: These are protections for the people of the state. If you are unfortunate enough to appear in the United States District Court for the District of Alaska, which will be established on statehood, then your rights will be determined under Federal law, and those cases as Mr. Hellenthal mentioned, one out of a thousand I guess, that is what it will be in the United States District Court.

SUNDBORG: Would there still be a Federal grand jury?

MCLAUGHLIN: Yes, there would.

MARSTON: Could I ask Delegate Davis a question?

PRESIDENT EGAN: You may, Mr. Marston.

MARSTON: Mr. Davis, if a man goes afoul of the law and the D.A. charges him with breaking the law, he throws him in jail, then can that man require a grand jury hearing or does he have to go up for trial, wait there for a year or two years like they do in Anchorage now to have a hearing? Does he have to wait in jail or can he have a grand jury hearing and get out?

DAVIS: Under the present circumstances, the district attorney files or somebody files a complaint usually with the commissioner's office. If it is a felony case which we are talking about here, a felony case being any case that any matter that is punishable by imprisonment or death, anything more than a petty crime, if it is a felony case, the United States Commissioner holds a hearing, which we call a preliminary hearing. At that hearing the United States Commissioner decides whether or not there is reasonable cause to hold this man. Now, as a matter of practice, in most cases the United States Commissioner holds that there is reasonable cause, some cases, no, but most cases, yes. In case the United States Commissioner holds there is reasonable cause to hold the man for crime charged, then the matter goes to the grand jury. Now there is a short cut of that procedure. The district attorney, if he wishes, may bring the matter directly before the grand jury, or for

that matter the grand jury may on its own motion indict someone, usually not, but it could. Now, if the grand jury finds that there is no cause to hold the man for the crime, it renders what is called a no true bill and the man is released. If it finds that there is cause to hold him for trial, and as I pointed out awhile ago, usually it does, if it finds that there is just cause to hold him for trial, he is sent for trial to the district court. However, the provision as it now stands allows the man to waive the preliminary hearing I talked about. It also allows him to waive the right to trial by grand jury, and I suppose under present circumstances that at least half of the people accused waive the right to grand jury. Now I may be wrong on my figures, but at least a substantial portion of them do. Now Mr. McCutcheon has just pointed out to me here, and this may be what you were really asking about, as to whether a man can require immediate action by a grand jury. He cannot. The grand jury only meets as called by the district judge. In Anchorage that is twice a year. In some other divisions it may be different, it depends on what the case load is. The judge in our area calls the grand jury twice a year. Now if a person is accused of crime and he does not wish to waive his rights to have his case heard by the grand jury, then he has to either make bail or sit in jail until the grand jury meets, and at that time if the grand jury releases him, he is released. If the grand jury binds him over to the district court for trial or indicts him, he stands trial in the district court. Have I answered the question?

MARSTON: Will your amendment preserve the grand jury if it is passed, or will it destroy it?

DAVIS: As I intend it, it will preserve the right to grand jury in all cases where a man is accused of a felony. It will give the man the right, if he wishes, to waive that right and to proceed without an indictment.

MARSTON: Mr. President, may I speak on this? I had a case of an Arctic friend of mine who came afoul of the law and landed in the jail, and I took him out, got his bail, and the grand jury was good enough to send for me to talk for him. If that man had had to sit there for trial he wouldn't have had the money to fight it, he would have lost his job and been a derelict on the shores of white man's civilization. I went before the grand jury. They found what I learned was a no true bill handed to him, and he is a free citizen, has his job and is doing all right. On that basis I am going to vote for Mr. Davis's amendment and preserve that grand jury.

PRESIDENT EGAN: The Chair would like to say that under the rules each delegate has a right to be heard twice, except the maker of the motion. Now, Mr. Davis can still close this argument if he so chooses. Mr. McNealy.

MCNEALY: Mr. President, I feel that this grand jury situation is important enough to possibly take up a few more minutes of the time of the delegates here but again, I don't think that it is something that I am not too strongly persuaded for or against the amendment. I only speak to point out one or two things. There are at least four of us here who have been United States attorneys and have handled the matters before the grand juries and are conversant with them. Just mentioning briefly, as Mr. Buckalew spoke there, the United States attorney or any prosecuting attorney before the grand jury, if he really wants an indictment, in I would say 99 out of 100 cases he could secure the indictment because you can furnish hearsay evidence to the members of a grand jury. You can present letters and affidavits and evidence of that nature which you could not get into evidence in the trial court before the petit jury so it has that disadvantage there, and I think every prosecuting attorney I know, including myself, has submitted evidence at times to the grand jury thinking later on he could back that evidence before a petit jury, and on occasion you fail, and the petit jury releases them where the grand jury indicts. On the other hand, I don't want to say anything about the cross angle today because I was nailed to the cross of gold yesterday. The only thing at all that I could speak in favor of the grand jury for is simply this, that occasionally our appointed prosecutors become a little overzealous and want to secure a number of convictions and in some of those instances a grand jury will return a no true bill. Even more important I think is the fact that during the time I was in office, they had citizens here who came in with the complaints against others and in three or four instances that I remember distinctly, they were prominent citizens of the town here. Charges were filed against them and it was presented direct to the grand jury, that is the charges were labeled for the grand jury, and the grand jury heard the evidence and returned a no true bill, and it was under the secret indictment procedure which the grand jury is allowed to use. In other words, the secret indictment may be returned or the hearing held secretly before the grand jury, and in these four or five instances that I call to mind, they were more or less prominent citizens of the town who were not criminally inclined, and the jury returned a no true bill, and it was a secret indictment in three cases the parties did not even know the charges were filed before the grand jury. Had we not had the grand jury system and had a complaint been filed against these people, it would have hit the front pages of the local papers and probably would have done great harm to the reputation of these few people where it was not warranted, and for that reason alone, it would be the only reason. I think the ordinary criminal is, or the person charged with a crime is well protected by the system of information but the only thing that could offset that would be if the state prosecutors are elected and not appointed by the judicial council then it may be that since they are elected officials they may not be so prone to jump out and start prosecutions under information. In closing, I

could only say, and I have not added a great deal, but there is simply the question of whether the grand jury system, the perpetuation of it in order to protect a few, whether it is worthwhile for that or whether it is not.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe we have all strayed away from the subject before the Convention. I think it was as to whether or not we would prosecute by information or by grand jury, but now we've got to arguing about whether a grand jury should be retained or not and I think a number of us have made it very clear we are not in favor of the retention of the grand jury. If we are going to retain the grand jury I am in favor of Mr. Davis's amendment. It does protect the accused to a considerable extent, but I would much rather see an amendment offered here that abolished the grand jury for the investigation of felonies and the return of true bills or not true bills.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: As a layman I am learning a lot about the law business in this discussion. I can understand now why every attorney has walls covered with books, and I would like to suggest, Mr. Chairman, that this matter be laid on the table, and I so move that this be laid on the table until all of the 17 attorneys can be put into a small room and come out with something that is understandable to the lay people. I for one feel completely confused with all of this discussion, and I think I am of reasonable intelligence. I would like to suggest that all of these attorneys who have gone to college for five years to become attorneys and to confuse the public get together.

PRESIDENT EGAN: Mr. Hilscher are you moving to lay this motion of Mr. Davis's on the table?

HILSCHER: I am moving to lay this motion on the table.

PRESIDENT EGAN: It is undebatable. Is there a second?

LAWS: I second the motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Davis be laid on the table?" All those in favor of laying the proposed amendment on the table will signify by saying "aye", all opposed by saying "no". The "noes" have it and the motion has failed of adoption. Is there further discussion of the proposed amendment? Mrs. Hermann.

HERMANN: I yield to Mr. Robertson.

ROBERTSON: I am in favor of Mr. Davis's proposed amendment. I personally don't try very many criminal cases, although, during

the many years I have practiced law, I have defended a good many of the accused. I have watched for the past several years down in the First Division, and it seems to me that the use of an information against the accused is being greatly overdone and being done without entire fairness to the accused. And after all, when a person is accused of a crime, he is not guilty of a crime until he has been convicted, and it seems to me that at the very least, the accused ought to have the privilege or the right of saying whether or not he demands that he be indicted before he goes to trial, and I think that Mr. Davis's amendment as I understand it, will continue to give the accused that right unless the United States attorney and the other officials can talk him into the waiving of the right of indictment, he can still stand on his constitutional right that a grand jury must first indict him before he can be brought to trial before the petit jury, and I think it is a great thing to the accused to have this amendment put in the constitution.

PRESIDENT EGAN: Miss Awes.

AWES: As Chairman of the Bill of Rights Committee, I was asked a lot of questions yesterday, and I also got up and talked on practically every section that was discussed. For that reason I thought I would get up and just say that I don't want it implied that because I am not talking today that I do not favor the section as it came out of the Bill of Rights Committee. I do favor the way it stands. I agree with everything that Mr. Buckalew has said because I felt that he and some of the others on the Committee knew more about criminal law than I did. I preferred to let them speak, but I don't want it implied that I do not favor this provision. I do.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: There is one thing I think should be cleared up, and it came up in connection with Mr. Sundborg's question. He asked about the Federal grand jury, and the answer was that the Federal grand jury would be continued for the very few criminal cases that arose in the Federal District Court that will exist after the state is created. I want to point out, though, that under the Federal Constitution the only crimes for which one is indicted are capital or other infamous crimes. That is what the Federal Constitution says. The Davis amendment, though, would permit the accused to insist on an indictment for any felony. It goes far beyond the Federal Constitution. If the amendment passes, there will certainly be an amendment to at least draw it into line with the Federal Constitution and restrict it to capital or other infamous crimes. I am reading from the United States Constitution. Secondly, if the Davis amendment passes, we are going to have to change line 25 on page 2 which says that any nine of the twelve may find an indictment or true bill. Under the Federal Rules and under the rules that now apply in Alaska, twelve reach a true bill. This Davis amendment

would certainly give consolation again to the person who is evilly disposed. The prosecution has got to get nine votes out of twelve to give him a bad time, whereas under the present ruling 12 out of 23 will suffice. Again, as I pointed out, it is far broader than the Federal Constitution, far broader than most states in the Union. It is true that sometimes a zealous prosecutor goes a little wild and prosecutes a little too much, but the petit juries usually pick him up. But on the other side, the person evilly disposed when he is accused of crime, delay is what he wants, delay, delay, delay, and he will get it under the Davis amendment. He will get opportunities for delay he did not have before. He will have opportunity for confusion he did not have before. You have got to weigh these things in the balance. Sure, some are going to be hurt on one side, some on the other, but balance the thing out. The Davis amendment is going to benefit more evilly disposed persons than it is going to aid the good people. An innocent man has little to fear in a court. Now there are exceptions to that, and I have argued about them sometimes as a lawyer. But in the broad general picture, under our American form of government and under this proposed article in the constitution, the innocent man has little if anything to fear. There is no sense of making it easy for the other minority who do not respect the laws. Now, this matter of information that might sometimes be abused by a young prosecutor, the information as we all know, we know it in Alaska because it is contained in the Federal Rules of Criminal Procedure which permits the prosecutor to proceed by means of an information in certain lesser crimes. They are not infamous crimes or capital offenses. They are only under the Federal Rules as the indictment preserves. The instances where the information have been abused are very, very few, and certainly under the state where the prosecutor will be far more amenable to the people than he is now, where they are picked in federal circles in peculiar fashion, certainly in the new state the information will not be abused.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I thought I would stay out of this hassle, but I feel constrained to stand and say I approve of Mr. Davis's amendment, and I also have had a considerable volume of experience as a defense attorney. I have had no other experience except as a defense attorney, though not all of my cases have been as a general rule in the criminal courts. I also have seen the misplaced zeal of some of our district attorneys that Mr. Robertson mentioned, and my 20 years experience as an attorney in the courts of Alaska, exclusively, have given me no reason to have too much reverence for district attorneys even though I have one in the family, and I think very highly of him. The fact of the matter is that I have seen a great many innocent people plead guilty rather than wait for the grand jury to meet. I have also seen innocent people convicted, not a lot of them, but I have seen it

enough to know that it is done and that our system of justice as it now stands is far from perfect. I keep hearing that they have to wait a year for a grand jury or maybe six months. We are speaking of the grand jury system as it exists in the Territory of Alaska. We are writing a constitution for the State of Alaska. There is no reason on earth why a grand jury cannot be called to be available any time that there is business to be considered and that the indictments by grand jury can be preserved in that way. It is true that now we have a grand jury once or twice a year, in Juneau only once a year. But it is entirely within our powers to place a grand jury that is on permanent call, not on a permanent salary or permanent basis but is available at any time that business should be placed before it, and I see no reason whatever to abandon the grand jury in this system of justice. I know myself from personal experience that every time a grand jury is about due to be called I have a great rush of calls from the district attorney offering me all kinds of inducements to waive presentment by the grand jury and let my clients plead on information. There is another evil in the information system if it is overused that has not been mentioned here. I don't know if it exists all over the Territory, and again, we are speaking of the Territory and not of the State, and that is the fact that people who are asked to waive indictment are expected to plead guilty in our division, not expected to stand trial, and I have known them to be denied the right to waive indictment unless they would agree to a plea of guilty. Now those things are all things that we have to consider. It is true that most people who come to stand before the bar of justice come because they have committed some crime, but there is also a considerable volume of people that appear to be tried that appear in court that are unjustly called there. Mr. McNealy himself gave you some examples a few moments ago of situations of that kind. I don't believe in protecting the guilty but I do believe in considering them innocent until they are proved guilty. I have from personal experience found that the grand jury protects the public, not the criminal nor the alleged criminal, but the public as a whole. For that reason I am going to vote for Mr. Davis's amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I was not going to say anything on this subject, but I also agree with the Davis amendment. I think it should be pointed out that the degree of secrecy involved that can be had in a grand jury where a person is innocent does not subject him to the blasting of the press that he might be submitted to if he goes before a petit jury on an information. Even though he be acquitted, he is bound to get a considerable amount of adverse publicity. For that reason I also will favor the Davis amendment.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I served some time in the Department of Justice as a law enforcement officer. I also had the occasion to put in a short stint of duty on a grand jury. I have had occasion to observe the actions of a grand jury, both first hand and second handily. Some of the assertions that Mr. Rivers makes is not a fact. The secrecy of a grand jury is secret only to a few. The actions of the grand jury very frequently are public and become public by word of mouth to the detriment of many people's reputation, and it is true that a grand jury does not protect the public from an overzealous prosecutor. An overzealous prosecutor can present such types of evidence as is necessary to bring in a true bill and injury may be given thereby to people's reputation and their business. One thing that has not been pointed out here to those who are not versed in the matters of grand jury and the function in which they perform is that the grand jury does not try anything. A grand jury only hears the evidence that is presented by one person, the prosecutor, and decides whether there is sufficient evidence to bring it to trial and court, and there is reasonable chance for the government to win a conviction. I am against Mr. Davis's amendment.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I direct a question to the Chairman of the Bill of Rights Committee? Delegate Awes, what is the procedure followed in Canada? Do they use the grand jury system there?

AWES: I don't know. Maybe somebody else knows.

PRESIDENT EGAN: Does anyone know what the system is in Canada? Mr. Davis.

DAVIS: Mr. President, I almost wish I had not brought this matter up, but to my notion it is vital, and that is the reason I did bring it up and that is the reason I am speaking for the third time. I want to make it clear that I am not at all interested in those persons that Mr. Hellenthal has called, "those persons evilly disposed". Those persons can take care of themselves. I am interested in the occasional person who is charged with crime and who is completely innocent of that crime, and so far as I am concerned if even one person is charged with crime, who is innocent, and who may have the matter disposed of without having to stand trial, it's worth the cost, and it seems to be apparent here from everything that has been said that, in spite of the fact the district attorney controls the grand jury, in spite of the fact that he presents evidence that would not be received in a court at law, in spite of the fact that the grand jury hears only one side of the thing, the grand jury occasionally, and we might say even frequently, finds there is not cause to hold a man for trial who has been charged by the district attorney. That ought to be sufficient to show that the grand jury serves a distinct useful

purpose, not for those evilly disposed but for you and for me and for all of us. One further thing, unless I am badly mistaken, the United States Constitution, in the use of the word "infamous crimes" has exactly the same meaning that we are talking about in felonies. Certainly all federal crimes which we know as felonies are prosecuted by indictment, unless waived.

PRESIDENT EGAN: The Convention is at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Will the Chief Clerk please read Mr. Davis's proposed amendment.

CHIEF CLERK: "Section 7, page 3, lines 11 and 12, strike the words 'or information, which shall be concurrent remedies' and insert the following in lieu thereof: 'unless indictment be waived by the accused. If right "to indictment be waived, proceedings may be by information.'

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Davis be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Barr, Boswell, Collins, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McNealy, Marston, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh and White.

Nays: 12 - Awes, Buckalew, Cross, Hellenthal, Hilscher, Laws, McCutcheon, McLaughlin, McNees, Metcalf, Wien and Mr. President.

Absent: 4 - Armstrong, Coghill, Cooper and Doogan.)

CHIEF CLERK: 39 yeas, 12 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 7? Mr. Buckalew.

BUCKALEW: After how that amendment carried, Mr. President, I

think we can strike all the preceding material. I think it is all superfluous. Starting with Section 7 , line 24. I think we ought to just strike all that down to Mr. Davis's amendment.

PRESIDENT EGAN: Are you so moving?

BUCKALEW: I so move. It is not written. I move to strike all of Section 7 commencing at line 24 and including all of the material down including line 9 on page 3 and ask unanimous consent.

HERMANN: I object.

V. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Buckalew so moves that the first paragraph of Section 7 be stricken from the Section. Mr. Fischer seconded the motion. The matter is open for discussion. Mr. Victor Fischer.

V. FISCHER: The reason for my seconding this motion is that during the recess it was pointed out to me by several people that they felt that this paragraph that is proposed to be stricken is strictly of a legislative nature, that the establishment of the procedure for the grand jury as to who calls it, its authority to investigate, etc., are generally established by the legislature, and generally not included in the constitution and certainly do not have to be in the constitution.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe whoever the informants of Mr. Fischer were were wrong, because, if this Convention does not provide for a grand jury in the constitution, the legislature would have no right to provide for a grand jury, and then, in the paragraph that would be left in Section 7, it says, to be prosecuted by indictment or information", you would have nobody to bring in the indictment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I stand corrected. The suggestion that was made to me was that if the paragraph be stricken and merely provide that there shall be a grand jury.

PRESIDENT EGAN: Mr. Fischer, if you stand corrected, perhaps the Chair should declare a two-minute recess. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew, did you have something to submit?

BUCKALEW: Mr. President, I did not get a chance to finish, but I was talking to Mr. Davis and I would think it would probably be better to offer another amendment and use almost the same language as found in the Federal Constitution.

PRESIDENT EGAN: Are you asking that your original amendment be withdrawn, Mr. Buckalew?

BUCKALEW: That is a good suggestion; that's what I'm asking.

PRESIDENT EGAN: If there is no objection, the original amendment offered by Mr. Buckalew, seconded by Mr. Fischer, will be withdrawn.

BUCKALEW: Can we have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson.

JOHNSON: I would like to revert to Section 1 for a very minor amendment. I have discussed the matter with Miss Awes, the Chairman of the Committee, and I believe she agreed that the amendment would be well taken.

AWES: Point of order. I am not objecting to the amendment, but I wonder if this is the time for it. We specifically delayed paragraph 7 yesterday, but we were in Section 12, I wonder if it would not be better to go through and come back.

BUCKALEW: I misunderstood the President. I thought you said there was nothing before us.

PRESIDENT EGAN: I meant we had not received the proposed amendment that had been spoken of. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Buckalew, Davis, Hellenthal, Taylor, and McNealy.

CHIEF CLERK: "Section 7. Strike Section 7 as amended and substitute the following section: "Section 7. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, unless waived by the accused, in which event the prosecution shall be by information. The grand jury shall consist of not less than twelve citizens.'"

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BUCKALEW: I move its adoption.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Is there objection? Mr. Robertson.

ROBERTSON: May we have it read again more slowly.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike Section 7 as amended and substitute the following section: 'Section 7. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, unless waived by the accused, in which event the prosecution shall be by information. The grand jury shall consist of not less than twelve citizens.'"

ROBERTSON: My only "objection" is it seems to me that the first "unless" should we except".

PRESIDENT EGAN: Would the Chief Clerk please slowly read that section again?

CHIEF CLERK: "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, unless waived by the accused, in which event the prosecution shall be by information. The grand jury shall consist of not less than twelve citizens."

PRESIDENT EGAN: Is there a second to the motion by Mr. Buckalew?

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: My only suggestion was that the first "unless" should be "except". I am not going to raise any objection to the amendment.

PRESIDENT EGAN: On that question and inasmuch as we don't have copies of this before us -- Mr. Barr.

BARR: I agree with Mr. Robertson. The wording is awkward there. Either one "unless" should be changed, it should be gone over.

PRESIDENT EGAN: The Chair feels the attorneys should get together and try to get this amendment

DAVIS: Mr. President, I realize it is awkward and I helped prepare the thing, but I think Style and Drafting can well take care of it without worrying about it here. However, this

amendment went in with my name on it and I did agree to the substance of it, but I did not intend we should drop the last three lines of the present Section 7, and I don't think any of us actually intended to drop that. The way the amendment reads it will drop, "but this shall not be applied to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger."

HELLENTHAL: Let us have a one-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the delegates that as a result of the Hawaiian hearings we received two coconuts here. If it is the desire of the delegates at the 3:30 recess this afternoon, everyone can partake of these Hawaiian coconuts. The Chief Clerk will please read the proposed amendment as it is now offered as amended.

CHIEF CLERK: "Strike Section 7 as amended and substitute the following: 'No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except when waived by the accused, in which event the prosecution shall be by information, but this shall not be applied to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger.'" The grand jury may consist of not less than twelve citizens.'

PRESIDENT EGAN: Mr. Buckalew, do you ask that the original amendment be amended by the addition of that section relating to land or naval forces or militia? Were there other changes in the first part?

BUCKALEW: Yes.

CHIEF CLERK: "Unless" was changed to "except when".

PRESIDENT EGAN: Does everyone understand the changes now that have been made, that are attempted to be amended to the original amendment at this time? Mr. Buckalew.

BUCKALEW: With the consent of my second I would like permission to withdraw the original amendment and have it printed.

R. RIVERS: Point of order. My understanding was that the original amendment was withdrawn.

PRESIDENT EGAN: It was not withdrawn, but it would be simpler

if they would withdraw the original amendment and then offer this as a complete new amendment.

BUCKALEW: Then I can have this amendment mimeographed.

PRESIDENT EGAN: You can have it submitted unless there is objection and the delegates wish it.

BUCKALEW: I don't think it is that long.

PRESIDENT EGAN: If there is no objection, the original amendment offered by the several delegates is ordered withdrawn. Would the Chief Clerk please read this amendment again.

CHIEF CLERK: Amendment offered by Mr. Buckalew, Mr. Davis, Mr. Hellenthal, Mr. Taylor and Mr. McNealy: "Strike Section 7 as amended and substitute the following new section: 'No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except when waived by the accused, in which event the prosecution shall be by information, but this shall not be applied to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger. The grand jury may consist of not less than twelve citizens.'"

PRESIDENT EGAN: Mr. Buckalew, what is your pleasure?

BUCKALEW: I move its adoption, Mr. President.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I am worried by that word "may" in the last sentence. I am wondering if the lawyers gave consideration to that. Should it not say "shall"?

PRESIDENT EGAN: Is there an answer to that question?

MCNEALY: Mr. Hellenthal has written in the word "shall" and I suggested "may", and the only purpose of suggesting "may" was that some future legislature might feel that it was necessary to have possibly more than twelve rather than just have the number of twelve. With the use of the word "may" we felt they could increase it to 23, which is the actual number of the federal grand jury.

SUNDBORG: If we leave the word "may" in there, could the legislature not say we shall have a grand jury of seven?

HERMANN: No.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Having Section 7 completely revised, is it not possible to have mimeographed copies for each one?

PRESIDENT EGAN: Mr. Poulsen, if that is your desire, it will be ordered. If there is no objection then, the particular proposed amendment will be held in abeyance until mimeographed copies are available. Mr. Hinckel.

HINCKEL: Point of information. I would like to know if that statement which says, "but this shall not be applied to cases arising in the land or naval forces," etc., what portion of the article does that pertain to, what does it cover?

BUCKALEW: It covers the whole section.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I am worried, too. In the original Section 7 it states a majority at which a grand jury may come in and come in with an indictment. Does it mean that the grand jury must be unanimous?

PRESIDENT EGAN: Mr. Metcalf, now that the question was raised, this is a long amendment, and the Chair has ordered that the particular proposed amendment be mimeographed and placed on everyone's desk. In the meantime it might be possible for the delegates, before this comes up again, to discuss the whole matter with the makers of this proposed amendment and we could proceed on with other sections of the proposal, if that is the desire, while we are holding this in abeyance. Is there objection to that? Mr. Barr.

BARR: Mr. President, I have an amendment I would like to make to this section which would just be an addition to the amendment we are now considering. What should I do about that? It is about four sentences but it is just lifted out of this present section. Therefore it is before us.

PRESIDENT EGAN: It could be, Mr. Barr, that the best way to handle that would be to confer with the makers of the original motion and if they would desire that your proposed amendment become a part of the amendment, why they might have it all mimeographed together and resubmit the amendment.

BARR: If not, if they would not agree to this and I still want to submit it, it would not be necessary to have it mimeographed?

PRESIDENT EGAN: If you have it in writing.

BARR: It is in writing.

PRESIDENT EGAN: Under those circumstances, the Chair would not

feel yours would have to be mimeographed. Mr. Londborg.

LONDBORG: In order to speed up the procedure afterwards, I would like to hear his amendment now and be thinking about it.

BARR: The new amendment does not make any mention of the investigating powers of the grand jury, and I have been told they would still have those powers under the Federal Constitution, but I believe it should be mentioned in our constitution because I think that is one of the most important duties of the grand jury. Therefore, I am going to propose later that we lift this language out of the present article and add it on to the amendment on Section 7, page 3, line 6, starting with the word "the".

PRESIDENT EGAN: If there is no objection we shall proceed with Section 12. Mr. Taylor.

TAYLOR: I don't believe that is necessary in there.

PRESIDENT EGAN: It is not before us, and at some recess prior to the time we take up Section 7 again, perhaps you might get together with Mr. Barr and the other makers of this particular motion and discuss the matter. We are now going to proceed to Section 12 until such time as we have a mimeographed copy of the amendment. Are there amendments to Section 12? Mr. Victor Fischer.

V. FISCHER: I have an amendment.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 12, line 19, page 4, after the word 'offenses' insert: 'when the proof is evident or the presumption great;'. "

PRESIDENT EGAN: What is your pleasure, Mr. Fischer?

V. FISCHER: I move the adoption of this amendment.

HELLENTHAL: I second the motion.

PRESIDENT EGAN: The Chief Clerk may read the amendment once more.

CHIEF CLERK: "Section 12, line 19, page 4, after the word 'offenses' insert: 'when the proof is evident or the presumption great;'. "

V. FISCHER: Mr. President, I have discussed this with a number of the members of the Bill of Rights Committee. The language in the Federal Constitution reads generally to the effect that

excessive bail shall not be required. A number of states have changed that language to provide more or less the language we have, that the accused may be released on bail except for capital offenses. But in practically every case where this new language is used, the words, "when proof is evident and the presumption great" and that is a necessary protection for the accused and we should follow the majority of the states in this case. It has proven a desirable practice. The actual determination of when a person is released on bail, if charged with a capital offense, is still up to the judge.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, Mr. Fischer spoke to me about this before he introduced it, and I have only had the opportunity to discuss it with a couple members of the Committee, but it seems to me it would be a good amendment, and those members of the Committee which I talked to also felt that way.

PRESIDENT EGAN: Is there further discussion of this proposed amendment? Mr. Ralph Rivers.

R. RIVERS: I would like to speak for it. Quite often there is no need for denying a person charged with first degree murder bail if the court thinks he is close and is safe, and in a very close case he should be given bail.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment offered by Mr. Fischer be adopted by the Convention?" All those in favor signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 12? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 12, line 22, page 4, change the period to a semicolon and insert thereafter the following: 'That the accused shall, in no instance, be required to advance money or fees to secure the rights herein guaranteed, nor shall the accused be taxed with any costs of the prosecution.'"

PRESIDENT EGAN: What is your pleasure, Mr. Taylor?

TAYLOR: I move the adoption of the amendment and ask unanimous consent.

MCLAUGHLIN: I object.

PRESIDENT EGAN: Is there a second to the motion?

KILCHER: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Londborg.

LONDBORG: May we have it read again?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 12, line 22, page 4. Change the period to a semicolon and insert thereafter the following: 'That the accused shall, in no instance, be required to advance money or fees to secure the rights herein guaranteed, nor shall the accused be taxed with any costs of the prosecution.'"

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Taylor.

TAYLOR: Mr. President, I offered that amendment because in a number of the constitutions it provides that the accused shall not be required to advance any costs or to secure the rights guaranteed him by the Bill of Rights. Our legislature a number of years ago enacted the statute that said the defendant would not have to pay any costs of the prosecution, and that was in effect for quite a number of years until such time as the Federal Rules of Criminal Procedure were put into effect of which we had no right to say whether it should be or not. The Federal Rules of Criminal Procedure provide that costs of the prosecution can be taxed against the defendant. Well, I know in a number of instances where that has been done. I know in one dismissed demeanor here recently, a man was brought from the Azores Islands as a witness in the case and testified in the matter, and the person who was convicted and was given 60 days of which 40 days was suspended, but they are saddled with a \$1,300 civil liability to the government, and it is not right. As soon as they get out of jail the district attorney starts to try to collect from them. When a man gets out of jail and gets a job they immediately want to get his money. I don't believe there should be any requirement of a person paying the cost of the prosecution, because sometimes in a felony case sometimes it would be thousands and thousands of dollars which would be the cost of the prosecution and the man might go to jail for a couple of years, he gets out and is saddled for the rest of his life with an obligation to the state. I don't think that should be. I feel that in all sincerity that we should have it in the constitution so that the legislature will maintain our present law which says a defendant will not be taxed with the cost of prosecution.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. Taylor argues that under Territorial law we had a statute which prohibited the assessment of costs against the defendant in the criminal case, and that that has been changed

by Federal Rules of Criminal Procedure. Well, if we become a state, there certainly would be nothing to prevent the state legislature from also passing a law prohibiting the taxation of costs against a defendant in a criminal case, because under our present setup there is nothing in the Organic Act that in any way covers it. So the legislature in passing such a law must have done so under the general police power. The state could certainly do the same thing, and the Federal Rules of Criminal Procedure would not apply except in federal cases. I believe that this matter could just as well be handled by the legislature and left out of the constitution. It would only cause confusion. I am opposed to the amendment.

MCLAUGHLIN: May I have the amendment read again?

PRESIDENT EGAN: The Chief Clerk will please read the amendment again slowly.

CHIEF CLERK: "Section 12, line 22, page 4, change the period to a semicolon and insert thereafter the following: 'That the accused shall, in no instance, be required to advance money or fees to secure the rights herein guaranteed, nor shall the accused be taxed with any costs of the prosecution.'"

MCLAUGHLIN: May I direct a question to Mr. Taylor?

PRESIDENT EGAN: You may, Mr. McLaughlin.

MCLAUGHLIN: Mr. Taylor, under that system -- I am not objecting to the theory. In substance, the constitution might prohibit any client from paying his attorney for representing him, but I am particularly bothered with the implication that this, in substance, sets up a public defender system because it does not require one to advance any fees to secure one of the rights guaranteed, the right of assistance of counsel. So, in substance, may we not be embedding in the constitution the public defender system which should be a matter for legislation?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think that was taken care of not only by law but also by the rules of the court. The courts will not allow a man to be tried for a felony unless he does have an attorney, and if he does not have the money to employ an attorney -- and if he does not have the money to employ an attorney, he will have an attorney appointed for him, who will be paid out of the state or government funds.

MCLAUGHLIN: Does this require that he be a pauper? Under your provision he could be a millionaire and he would not be required to pay a nickel for counsel, and then the only way in substance he could secure counsel would be out of the public treasury.

TAYLOR: No, he has the right to have counsel. He doesn't have the right to have counsel appointed for him unless he is a pauper. If he can't pay for it, the government has to pay for it because a man can't be tried unless he has an attorney.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am going to vote against the proposed amendment because that would prohibit the courts from ever taxing the cost to wealthy accused, and it would be an unreasonable provision because then if the legislature wanted to give the courts discretion in certain cases to tax cost to the accused, they could not do it, they would be prohibited. Suppose that the accused is a millionaire and he's being tried for a particular crime that doesn't provide for a fine, only imprisonment, then the government perhaps, has gone to a \$3,000 or \$4,000 expense and they can't tax the cost to him when he has been convicted and it seems to me that when the government is the prevailing party, in certain situations they certainly should be allowed the privilege of taxing cost.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to comment a little on Mr. Taylor's statements. He said that the Territorial legislature at one time had provided a statute similar to this and then the Federal Rules of Criminal Procedure provided that cost could be taxed and that they would override the Territorial law. I would like to point out that these Federal Rules of Criminal Procedure are rules for the Federal court and our district courts now are Federal courts, but when we get state law, those rules will apply only to the Federal District Court and not the state courts. Consequently, any law of the legislature will apply to the state courts. I agree with those who have stated that they believe this is a matter for the legislature. I think that if we adopt this we are writing legislation into the constitution.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, may I ask Mr. Taylor a question? In that phraseology just previous to Mr. Taylor's proposed amendment, it says, "to have compulsory process for obtaining witnesses in his favor", I was just wondering if Mr. Taylor's amendment were passed, if the defendant should have a witness down in the Azores Islands, would the state have to subpoena and have to pay his travel expenses up here for a trial?

TAYLOR: I think he would under the present way because if he can be taxed for the cost of bringing that witness back if the government subpoenas him, I think he ought to subpoena him himself because it would only be fair, because if the government brings him, the defendant still has to pay for it. Now, with

the new Federal Rules of Criminal Procedure, you can. If you are a pauper, you can require process to be issued for a man any place in the United States, any place that the process of the United States courts extend. So we could do that, but although you could, the legislature could provide that for a person without the jurisdiction does not have to come in. Of course you have your Territorial limitations if when we become a state, so that the process of a state court would only extend to the boundaries of the state. Of course now, under the new rules, the extent of the process will serve to any place where the American flag is flying. In fact, I had one fellow brought back from Germany awhile back to testify. If it is fair for the government to charge the cost of transportation for a witness, it is just as fair to have the man have the witness come himself. Now, I would also like to answer Mr. Buckalew. He is going to take one man, a millionaire in court, and I cannot conceive by any stretch of the imagination that a millionaire that is being tried for a criminal offense in the District Court, or a court of the State of Alaska is going to be satisfied with the caliber of attorneys that is usually appointed to defend a criminal. It is usually the young, inexperienced man, and they are thrown those cases. If a millionaire goes into court and wants a young inexperienced man to defend him, he ought to be convicted and he ought to pay a fine. I don't think that applies. Mr. Buckalew would see a thousand poor people suffer and have to pay the cost of prosecution because one millionaire might take advantage of something to save an attorney fee.

BUCKALEW: There is only one thing I want to say. Mr. Taylor's last recital was somewhat winning but I think quite inaccurate. It has been my observation in our District Court that if a man is charged with murder, that the trial judge usually selects only the oldest and most experienced attorneys. I have never seen the trial judge appoint a so-called young and inexperienced counsel to defend somebody in a murder trial. There is also another point I would like to make on this process which we are talking about, it might enlighten some of the other delegates. The accused does not have the right, for example, to subpoena people from all over the world where our courts have process. He has to make a certain showing in open court. He has to file an affidavit and convince the court what the particular witnesses are going to testify. I have seen cases where an accused would submit a list of 46 names to the court and want all 46 persons subpoenaed at government expense, and it ended up he didn't get one of them because the 46 witnesses could not testify to anything, so it is not a provision that is a blanket privilege that you can submit a roster to the court and have people brought back from Germany, the Azores, Japan and other places. There are certain limitations.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think Mr. Buckalew realized when I said that it was a material witness that could be brought from any place. I don't say a man can say, "I want Johnson from the Azores", but it must be a material witness and he must show that he is.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I am not opposed to the amendment except on the grounds I believe that as Miss Awes said, I believe it is a legislative matter, and I do want to call attention to the fact that we still have on the Territorial statutes, and the law is still there that says that the person convicted of a crime cannot be charged with the cost. However, we cannot apply it because the Federal Rules of Criminal Procedure now say that it can be. However, under our constitution here it is going to require that we continue the Territorial laws in force as state laws until amended or repealed, so that Mr. Taylor's amendment will be taken care of unless that law is amended or repealed, why we will have that law on the books because it is still there and still continuing in force until such time as it is removed.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 12? If not, are there amendments to Section 13? Mr. Robertson.

ROBERTSON: Mr. President, Section 13, line 25, page 4, after the word "jury" insert the words "of twelve", and I ask unanimous consent.

PRESIDENT EGAN: That is on line 25, page 4, Section 13, after the word "jury", Mr. Robertson?

ROBERTSON: Yes. Insert the two words, "of twelve" so it will read "the right of trial by jury of twelve is preserved."

PRESIDENT EGAN: The Chief Clerk will please read the amendment.

CHIEF CLERK: "Insert the words 'of twelve' after the word 'jury'."

ROBERTSON: I move and ask unanimous consent.

PRESIDENT EGAN: Mr. Robertson moves and asks unanimous consent that the proposed amendment be adopted. Is there objection? Mr. Londborg.

LONDBORG: Just for a moment. Does he mean to strike "not less than six"?

ROBERTSON: Oh no, the "except" will read after that. It will read, "In suits at common law, where the amount in controversy exceeds two hundred and fifty dollars, the right of trial by jury of twelve is preserved, except that the legislature may provide for a jury of not less than six in courts not of record."

TAYLOR: Mr. President, I would like to ask Mr. Robertson if he has lost sight of the fact that they should in the first suits, the suits of common law, that should be in the superior court because the exception then is made to trials in courts not of record, in the JP courts, so I think it should be a further amendment, and suits of common law in a superior court" where the matters exceed \$250.

ROBERTSON: I had thought, Mr. President, that the implication was that the superior court under the Judiciary Branch Proposal No. 2, I believe it is, will be a court in which you try commonlaw suits and that the exceptions of the jury to six is made for what I call the inferior courts. We did not use the word "inferior" in the judicial branch of the committee proposal, but I think it is already completely covered.

PRESIDENT EGAN: Is there objection to Mr. Robertson's unanimous consent request for the adoption of his proposed amendment?

TAYLOR: I object.

ROBERTSON: I so move.

HELLENTHAL: I second the motion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: One point I would like to raise, "I don't think the wording is proper "in suits of common law." Common law, unless preserved by statute, is abolished in the Territory of Alaska. I think it should be amended because if you adopt this amendment in the present form it doesn't mean a thing. In fact, the whole section doesn't mean a thing. I think in suits of the superior courts, it should be.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I rise to a point of order. Mr. Taylor has that part of the section and he should propose an amendment in line 1 of Section 13 to put in "the superior court".

PRESIDENT EGAN: Miss Awes.

AWES: I think that the whole purpose of saying "in suits of common law" is to distinguish between Section 1, criminal actions, and the right to trial by jury. Section 13 deals with other suits and I think the whole thing could be settled and I think it would be better to say in civil suits.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, while we are discussing that I want to draw Miss Awes' attention, you say civil suits, we have the whole branch of equity acts which are civil suits. We have got to say "causes in law".

AWES: You say that the right to trial by jury is preserved, so it is only preserved to the extent that we have it now.

R. RIVERS: Well, that's possible.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 13? Mr. White.

WHITE: Mr. President, I would like to direct a question to the Committee. I assume that in the last sentence you intend that to be only in civil cases. Is it absolutely clear that, merely by virtue of being in this paragraph that sentence refers only to civil cases?

AWES: Yes, I think that is clear.

WHITE: There is no doubt about that?

AWES: I don't think so.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to address a question to Miss Awes. In Section 13 there is reference to a sum of \$250. I wonder if the Chairman would be in favor of an amendment there to strike the \$250 and substitute "sum set by law". I will tell you what my meaning is there. I think one of the reasons why courts are crowded nowadays in the Territory is that the antiquated sum set of a thousand dollars beyond which a commissioner's court can deal, a thousand dollars when that sum was set, 30 or 40 years ago, was a year's income. Nowadays it is a small sum. If we had it more flexible, as things are nowadays, the commissioner should be able to deal with sums set with two or three thousand dollars which would greatly relieve the burden of a clogged district court. Since we are not going to have a guaranteed constitutional convention in 15 or 20

years, I would leave the sum up to the legislature.

PRESIDENT EGAN: Mr. Kilcher, are you offering such an amendment, Mr. Kilcher?

KILCHER: Well, I wondered what the Committee thought.

AWES: The Federal Constitution provided \$20, which \$20 was probably as much then as \$250 is now. So we did, for that reason, increase it considerably. I can't say on this question of leaving it to the legislature, that my feelings are not too strong one way or the other. The only possibility of leaving it up to the legislature is that the legislature could raise the sum so high that it would, in effect, abolish the right to trial by jury without in so many words doing so.

KILCHER: I would like to make this amendment. It is short.

PRESIDENT EGAN: What is your amendment, Mr. Kilcher?

KILCHER: On line 24, strike "two hundred and fifty dollars" and substitute "a sum set by law".

BARR: I second the motion.

PRESIDENT EGAN: What is your pleasure?

KILCHER: I move it be adopted.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Line 24, on page 4, strike 'two hundred and fifty dollars' and insert 'a sum set by law'."

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, Miss Awes has just proved to me that we cannot state a certain sum in dollars and cents in the constitution. To say that the sum of \$20 as set forth in the National Constitution, and now of course we had to raise it to \$250 because of the change in the value of money during that time. It seems to me if we leave this up to the legislature, 50 years from now they can change their laws as they see fit or lower the sum as necessary. Another thing I have in mind is that if I remember correctly, the last session of the legislature passed an act empowering the cities to set up a small claims court which did not require a jury trial. In other words, if a man owed a store seven or eight dollars or a hundred dollars, the merchant could go the small claims court and get judgment, and it didn't clutter up the courts and would not have to go before a jury. As I remember the maximum was set at \$300. That is not an exorbitant sum, and if this amendment is adopted, then

of course the legislature is free to keep that maximum amount in keeping with the current conditions.

PRESIDENT EGAN: Is there further discussion? Mr. Hurley.

HURLEY: Mr. President, I will try to make this pertinent to the amendment. It occurs to me that there may be a period of time between the usefulness of this constitution and the time when the legislature may set an amount. In that respect, I wonder if it would not be wiser to set an amount. I am in favor of the general idea and then provide that it could be changed by law.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, it seems to me that we are trying here to set forth a bill of rights. We are trying to preserve the right of jury. If we leave the amount open we have not preserved anything because the legislature could, if it wanted to, only in suits involving a million dollars or more, is the right of jury preserved. I don't think that is what we intend to do.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, my consideration is purely one of economics, and as the past has seen inflationary tendency all over the world, and in this sense I trust the legislature more than I trust the economics of the world in general.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Barr, Coghill, Collins, Cross, Emberg, H. Fischer, Hinckel, Kilcher, Knight, Lee, Londborg, McCutcheon, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, V. Rivers, Robertson, Rosswog, Stewart, Taylor, Walsh, White, Mr. President.

Nays: 24 - Awes, Boswell, Buckalew, Davis, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hurley, Johnson, King, Laws, McLaughlin, McNealy, Nordale, Poulsen, Reader, Riley, R. Rivers, Smith, Sweeney, VanderLeest, Wien.

Absent: 5 - Armstrong, Cooper, Doogan, Hilscher, Sundborg.)

CHIEF CLERK: 26 yeas, 24 nays and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and the amendment is ordered adopted. Are there other amendments to Section 13? If not, are there amendments to Section 14? Mr. Fischer.

V. FISCHER: I would like to ask a question of the Chairman of the Bill of Rights Committee, Mr. President. Does Section 14 imply without stating so that the suspension of the writ of habeas corpus when authorized will be only in such manner as prescribed by law? Is that implied within the section?

AWES: After you raised that objection the other day, I discussed it with the Committee, and it is our belief that it is implied.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I had another amendment to Section 13 and I see we got away from it. It is a short amendment, though.

PRESIDENT EGAN: If there is no objection, Mr. Buckalew, to Section 13, what is your amendment?

BUCKALEW: Section 13, strike "in suits at common law" and insert "in civil cases".

PRESIDENT EGAN: Mr. Buckalew seeks to strike the words "in suits at common law" and insert the words "in civil cases".

BUCKALEW: I move its adoption.

PRESIDENT EGAN: Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Is there discussion on the proposed amendment?

CHIEF CLERK: Is that on line 23?

BUCKALEW: That is line 23. Here is the reason I offered that amendment. You have a lot of causes of action that wouldn't be covered by the expression, "in suits of common law" and they would be statutory, and you would not have a right to trial by jury, and what we are trying to do is to preserve the right to trial by jury in civil cases.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: I think the amendment is dangerous. The United States Constitution limits the right to trial by jury, and I quote from it, to suits "at common law" and that has been construed to include your statutory actions in some instances and in other instances the statute expressly provides for a jury trial. Now if Mr. Buckalew could secure his purpose if there is

question about saying, "in suits at common law or in statutory civil suits", but to substitute the words "civil suits" for "suits at common law" is extremely dangerous. Mr. Rivers pointed it out here awhile ago. There is a vast class of cases, equitable cases, where you are not entitled to a jury trial and by tampering with the constitution we might provide for a jury trial where none exists and where none should exist, and we want to preserve the right to trial by jury as we have done here, and I think it is hasty and I think it may cause an immense amount of trouble and I would oppose the amendment. I think it can be secured in another way, but this is not the way to do it.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 13? If not, are there amendments to Section 14? Mr. Hellenthal.

HELLENTHAL: Mr. President, I should like, in line with Mr. White's request, the legislature may provide for a verdict by not less than three-fourths of the members of the jury. I should like to ask unanimous consent that the words in any court" be inserted following the word "jury". The reason I ask that is that there is doubt in my mind if that sentence applies to a civil suit in any court, and I have the same doubt Mr. White has, and the sentence to me seems to be hanging there and I think those three simple words would remove, perhaps, future trouble.

PRESIDENT EGAN: Mr. Hellenthal, the Chair was wondering perhaps it seems that the attorneys are not in complete agreement on this. If we had a five-minute recess, so you could get together and come up with the proper wording there. Mr. White.

WHITE: If I may before the five-minute recess, I don't want to get tangled up with all the attorneys during the recess, I agree with Mr. Hellenthal as to the doubt as to what that sentence implies. However, I would not like to imply that it was my desire necessarily to have it apply to the preceding sections in criminal cases. I did not mean to imply that.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have a proposed amendment before us at this time?

CHIEF CLERK: It has not been moved.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I ask unanimous consent that in line 4 on page 5, the last sentence of Section 13, that the word "the in front of the word "jury", be stricken and substitute the word "any" and insert the words "in civil causes" following the word "jury", so the sentence will read, "The legislature may provide for a verdict by not less than three-fourths of the members of any jury in civil causes."

PRESIDENT EGAN: Does the Chief Clerk have that amendment? Would the Chief Clerk read it back?

CHIEF CLERK: "Section 13, line 4, page 5, strike the word 'the' before the word 'jury' and substitute the word 'any' and insert the words 'in civil causes' following the word 'jury'."

HELLENTHAL: I so move.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Is there discussion? If there is no discussion, the question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments to Section 3? Mr. Gray.

GRAY: Mr. Chairman, I see it is about 11:57 a.m. Is the clock correct up there?

PRESIDENT EGAN: It is right, according to my watch.

GRAY: I have just received a letter from Juneau, and I believe it is worthy of the group to have this letter read. I see this as a letter not from Juneau but from any part in Alaska that has to do with our hearings. I think this lady who wrote this letter is a new type of citizen that we are receiving in Alaska at this time, and I ask unanimous consent that the Secretary be permitted to read the letter.

PRESIDENT EGAN: If there is no objection, the Secretary may read the letter as offered by Mr. Gray. The Chief Clerk will please read the letter.

(The Chief Clerk read the letter from Mrs. Rolf W. Fremming expressing pleasure at having had the opportunity to attend the public hearings on the constitutional proposals and confidence in the work of the delegates.)

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PRESIDENT EGAN: The letter will be filed. Mr. Gray.

GRAY: I move that we recess until 1:30.

PRESIDENT EGAN: If there is no objection, the Convention stands at recess until 1:30. Mr. Robertson.

ROBERTSON: Mr. President, I wonder if I could ask Mr. Cross to call a very brief meeting of the Committee on Resolutions and Recommendations on recess.

PRESIDENT EGAN: Mr. Cross.

CROSS: There will be a meeting of the Committee on Resolutions and Recommendations upon recess.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to announce a meeting of the Committee on Style and Drafting, a brief meeting, upon recess.

PRESIDENT EGAN: Are there other committee announcements? If not the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 13? Are there amendments to Section 14? Mr. Victor Rivers.

V. RIVERS: Mr. President, I have an amendment I was going to offer to Section 11, if when we revert back to that, I will offer it.

PRESIDENT EGAN: Are there amendments to Section 15? To Section 16? Mr. Victor Rivers.

V. RIVERS: I would like to ask a question with regard to Section 14. I see that some states in regard to the writ of habeas corpus allow it to be suspended in only cases of rebellion and invasion. Oklahoma allows it never to be suspended. Now we have added the words "or imminent peril". I wonder what the Committee was thinking of. What imminent peril besides rebellion and invasion do we fear?

PRESIDENT EGAN: Miss Awes.

AWES: We thought that under the modern conditions of warfare that you sometimes have to act when you are in imminent peril or when the rebellion or invasion actually occurs, and it might be too late. We were out at Ladd Air Force Base that Saturday and heard the speech, and I think they told us we were only an hour and one-half from attack by Russia. The phrase "imminent

peril" is a phrase that we got from a decision of the United States Supreme Court.

PRESIDENT EGAN: Does that answer your question, Mr. Rivers?

V. RIVERS: It does not give me an answer to what they intended it to include. I just wondered to what extent they intended to include imminent peril from the activities perhaps of some organized group in our society. What scope are they intended to extend? I would like to see it clarified for the record here, at least.

AWES: As I say, the words "imminent peril" were taken from a Supreme Court decision and in that particular case, I think Mr. Hellenthal is more familiar with the case than I am, so I will let him speak on that. However, I think that the fact that "rebellion or "invasion" or "imminent peril" are all used together, that the words "imminent peril" would be construed as applying only to imminent peril from an enemy such as you would have in the case of rebellion or invasion.

V. RIVERS: You don't think it would be used in case of a great earthquake or in the case of fire, tidal wave or anything like that, where a great deal of our population was imperiled?

AWES: The Committee did not so intend, and I don't think it would be construed that way by a court.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: The question comes up in my mind as to the value of the words there at all. The thing we are trying to protect against is the use of the habeas corpus during rebellion or invasion. I would like to hear a little more discussion on it before I move to strike the word.

AWES: I think those words may add a little. I think there might be a time when you don't actually have rebellion or invasion and yet the danger of it is there, and I think that in that case it might be helpful to have it in there.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, it seems clear to me, of course I might be wrong, that there are three cases where the writ of habeas corpus may be suspended. In the center one, those two things are grouped together. It says, "comma, invasion or imminent peril". To my mind that means that imminent peril is connected with invasion. In other words, we may expect to be invaded at any moment. If, for instance, some foreign country should bomb Washington, D. C., we in Alaska are in imminent peril, although maybe we have never seen an enemy face up to that time.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, "-- would like to move and ask unanimous consent that the word thereof" be inserted after the word "peril" on line 8.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that the word "thereof" be inserted after the word "peril" in line 8, Section 14. Mr. Kilcher.

KILCHER: I would like to object for the purpose of further clarification, so may I ask Mr. Fischer a question.

V. FISCHER: I so move.

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I get one minute's recess? I have an amendment of similar nature about it, but I think it would save time if we could talk it over.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Fischer.

V. FISCHER: My purpose in submitting the amendment was strictly to clarify what I believe was the intent. I don't think that the Committee intends that imminent peril should apply to earthquakes or floods or anything else but only to invasion and possible rebellion, and I think it should be strictly limited, and the thereof" might do it.

V. RIVERS: That would meet my objections to the phrase.

HELLENTHAL: I object to the request for unanimous consent.

PRESIDENT EGAN: The unanimous consent has been already objected to. It has been moved by Mr. Fischer and seconded by Mr. Victor Rivers.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Fischer be adopted by the Convention?" Mr. Hellenthal.

HELLENTHAL: I should like to be heard in opposition to the

amendment. This amendment was carefully chosen and it was not chosen to qualify the words "invasion" or "rebellion". It was chosen to cover the case of any imminent peril to the government of the State of Alaska, and I think any reasonable man reading that would so interpret it. Now, if that peril would result from say, deprivation and destruction and pillaging following a great earthquake or something like that, fine. The writ should be suspended, if it imperiled the government. Normally it would not imperil the government though, so you need fear nothing from that source. Now Mr. Rivers mentioned that in Oklahoma they won't permit the suspension of the writ of habeas corpus for any reason at all. I can understand why Oklahoma won't permit the suspension of the writ of habeas corpus. It is right in the heart of the United States. The possibility of even an atomic war being fought in Oklahoma is quite remote, and the possibility of an invading army in the old days of warfare ever bothering Oklahoma was highly improbable, and I don't think that we in Alaska living side by side with Soviet Russia should feel guided by any Oklahoma principles. Now this is in here for a good reason. First of all, let me state that our bill of rights is highly conservative. There is no question about it in my mind. We have deviated hardly one iota from the Bill of Rights that was found in the Federal Constitution, but many changes have taken place since that day and great changes have taken place in warfare. Now, we live at the limits, at the perimeter of the United States. We go back constantly to Washington to justify huge appropriations, and all of us participate in that because we are in the jaws of death. Russia is 20 minutes away. We have got to adapt ourselves to the modern situation. We need highway funds because we have to have roads in case of the perils that we envision. We have to have innumerable things, always because of military necessity. Now we must face this military necessity. Now it is true, as Miss Awes pointed out, that under the decisions of the United States Supreme Court culminating in the case of the United States versus Hirabayashi which was the famous case decided in Hawaii when the habeas corpus was suspended during the war. In that case, which came down from the equally famous case of Ex parte Milligan, in a uniform line of decisions, the United States Supreme Court has held that imminent peril will justify the suspension of the writ of habeas corpus. That is the law. Let us face it in Alaska. Now there are good reasons for facing it. We want the support of the military, we need the support of the military. Why should we do it the hard way and discourage the military by inept use of language or acting like a bunch of Oklahomans when we're not. Let's adapt ourselves to the modern situation -- imminent peril. For instance, the Nazi saboteurs that came in this country, they were not an invading army but they constituted an imminent peril and those men were held, and the writ of habeas corpus was properly suspended as to them. We all know that the next war will take the form of fifth columnists. There will be no marching army. The illustration they commonly give is illustration of a ship

slipping into a harbor with an atomic bomb somewhere in its hold. Imminent peril, there will be spies, fifth columnists, agents throughout the country, infiltrations. That is why we have the Alaska Guard organized. That is what we are concerned with, those things amount to imminent peril and I say when that day comes and when that imminent peril exists the courts will recognize it, and we should recognize it in our modern constitution. An alternative, and I don't think this is possible, not probable, if we don't adopt this language we might incur the criticism from informed military people that we are not keeping pace with the advance of military progress and with the atomic age. I don't think we will meet that criticism but we are leaving ourselves wide open if we adopt an old-fashioned cave man notion of suspension of the writ of habeas corpus in this modern age. I assure you that no harm can come to your civil rights by retaining those two simple words in the constitution.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I got a little confused from following Mr. Hellenthal's speech but I am going to support Mr. Fischer's amendment for this reason. I think that we should be certain that the words "imminent peril" refers back to invasion. Now as I recall the celebrated case that Mr. Hellenthal is talking about, Ex parte Milligan and that situation, we people from the South were fighting a war against the United States at that time, and a brilliant Confederate cavalry leader made a deep penetration into the State of Indiana I believe, and of course they sort of raised a lot of hell going through Indiana and they got the district judge and the military commander excited and he closed down the district court and they tried this party, Milligan, for some reason or another. He violated some of the orders of the military commander. The Confederate cavalry came in and made a penetration and went back to the South. Now the Supreme Court held that imminent peril is such a situation where that ground troops, so to speak, of an armed enemy are so close to the court house that it is unsafe for the court and his officials to sit, now that is what they mean by "imminent peril". The troops are so close there that the courts cannot physically conduct their business. That is what it means and I don't think it means anything like Mr. Hellenthal is talking about, saboteurs, submarines and all this other stuff. Imminent peril is a situation where an armed aggressor of some sort is in your territory and his presence deprives the court the freedom of opening of the court house doors so to speak, and I think we ought to be extremely cautious and insert the words "thereof" to make sure it refers back to invasion. I don't care what the military think about it. I mean the military are in subordination to the people here in Alaska. I don't think anyone will question that the civil authority is supreme to the military authority, and I don't care whether they like it, it wouldn't make any difference to

me whether they read or not because they are up here to protect us.

PRESIDENT EGAN: The Chair is a little confused with the amendment. Mr. Fischer, the amendment did not say to strike the words "imminent peril"?

V. FISCHER: No.

V. RIVERS: Mr. President, I would like to go a little further on the Ex parte Milligan case and read to "you some of what it said about it in the Hawaiian handbook. In the famous Civil War case of Ex parte Milligan, the Supreme Court ruled that so far as federal usage is concerned the privilege can be suspended only by act of Congress, or at all events by the President under authority expressly conferred by Congress."

HELLENTHAL: In the Nazi saboteur's case, the court held that they were properly tried and punished under the Articles of War and not by the civilian courts. In other words, the Supreme Court rejected the contention that they were protected. They were treated as invaders and it was a situation of imminent peril under the decision of the Supreme Court.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, there seems to be two lines of thought here. Mr. Buckalew is concerned with the imminent peril of the courts only. I take this to mean imminent peril to our government. That is what I am concerned about. If we accept Mr. Fischer's amendment, he ties this imminent peril down to invasion only. But invasion is only one phase of warfare and there are modern methods of warfare. We could be in peril in several different ways. The enemy may consider that it is not worthwhile to take Alaska but they would like to deny us the use of our bases here to attack them. Therefore, we may be under a constant attack by bombing planes, while they would have no thought of taking over the country. On the other hand, we know that one particular country has wide experience in infiltration of saboteurs and spies. It may be possible that we may be infiltrated by very large numbers of saboteurs here to render these bases unusable. There may be constant destruction all over the Territory for that reason. Therefore, our government would be in imminent peril. I don't think that we should tie the words "imminent peril" down to invasion only. Therefore, I am against the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I am caught between two fires on this. One is between my desire to protect the rights of a person of being unjustly or unduly incarcerated without a charge being placed against him. I am also equally solicitous of the welfare of the

government in time of peril. I don't think that our beliefs or our actions here should be swayed by any dustbowl philosophers from Oklahoma. Neither should our actions be swayed by what a detachment of Southern soldiers did in 1865 when they were either invading the North or trying to get over to Canada to get out of the service. Well, the time has changed. Warfare has changed. Methods of waging warfare prior to a declaration is now the rule rather than the exception. Now, if we adopt the amendment that is proposed by Mr. Fischer, the only way of suspending the writ of habeas corpus and taking into custody a saboteur or spy would be in case of invasion or rebellion because your imminent peril therefrom would be imminent peril from invasion. So I don't think that meets the bill. What we could do if you wanted to, if it was imminent peril of such a nature as to require the imposition of martial law, I would say that would be to the extent to which we should go, because martial law can be invoked though in other cases such as Mr. Hellenthal spoke of, and which I think it can be and which it has been. I remember during the San Francisco fire they invoked martial law and brought in troops, not only the California militia but the troops from the President, and they not only invoked martial law but they had court martials and executed people on the streets of San Francisco. They went that far, the looters, because there seems to be a penchant in the hearts of many people that when a disaster is on, they are going to get what they can out of it, so they had to do that. But I think if martial law was declared it would be perfectly proper to suspend the writ of habeas corpus so that spies, saboteurs or others who, for the welfare of our country, could be taken into custody so they would not be able to guide enemy aircraft or ships or other means of invasion into the country." But I don't believe that by the words "thereto", "therefrom", or "thereof" will do it.

V. FISCHER: One brief word, Mr. President. Those who have criticized the inclusion of the word "thereof" have not really objected to that particular phrase. They have been objecting to the limitation of the term invasion". Now possibly if this word is adopted we should also insert "enemy attack in addition to "rebellion and invasion" because to that is what most of the remarks were addressed. The purpose of inserting "thereof" is restricting the application of imminent peril so that it could not be said "imminent peril of strikes, famine, imminent peril of anything", and if these people feel that we should broaden the application beyond rebellion and invasion, I think that would be a separate amendment, in addition to the insertion of the word "thereof".

PRESIDENT EGAN: The question is, "Shall the amendment as proposed by Mr. Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other

amendments to Section 14? Are there amendments to Section 15? Mr. Robertson.

ROBERTSON: Mr. President, I don't know if this needs an amendment but I think the words "nor" in line 16 should be "or". I think it expresses a double negative.

PRESIDENT EGAN: Line 16, change the word "nor" to "or". Mrs. Hermann, could you answer that?

HERMANN: I can answer that by saying I still think you people have to realize that Style and Drafting has a job to do here and we are going to do it and you don't need to be afraid we won't do it properly.

BUCKALEW: If it saves time I will move and ask unanimous consent that we change the name of that committee to Style and Gaffing.

PRESIDENT EGAN: Are there amendments to Section 15? To Section

ROBERTSON: I have an amendment, Mr. President.

PRESIDENT EGAN: Mr. Robertson, you may submit your amendment. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 16, line 20, page 5, delete the period and insert a comma and add 'or in advocating the overthrow of the government by force or violence'."

ROBERTSON: I move for the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Robertson moves that the proposed amendment be adopted and asks unanimous consent.

BUCKALEW: Objection. Could we have that read again?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 16, line 20, page 5, delete the period and insert a comma and add 'or in advocating the overthrow of the government by force or violence'."

PRESIDENT EGAN: Unanimous consent has been asked that the proposed amendment be adopted. Objection is heard.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Robertson.

ROBERTSON: Mr. President, we had a number of people at the hearing in Juneau who urged such an amendment, and it seems to me that treason as defined in Section 16 is not broad enough. I believe that advocating the overthrow of the government by force or violence is treasonable. For that reason I suggest this amendment and I urge it is a very important amendment in our bill of rights so we have a correct definition of treason.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: If it were a correct definition of treason I would agree with Mr. Robertson, but no state of the Union defines treason as attempting to overthrow or taking methods which tend to overthrow the United States government. That is a separate crime known as subversion, it is not treason. His suggestion has some merit but it would be like broadening the definition of murder to include rape. There is no reason for it. Now Michigan approaches the problem by defining treason and then in Section 21 of its Bill of Rights and in Section 2 they define subversion but they don't call both of them treason. Nor does any other state, so for that reason alone I would oppose the amendment. It is very, very unique.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I wanted to say that the Federal law as covered by an act of Congress, I think it is called the Smith Act, our legislature would have complete power to take care of what Mr. Robertson has in mind.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: My point simply is, regardless of how other constitutions may define treason", the acts mentioned in the amendment are treasonable and therefore we ought to put it in this bill of rights.

PRESIDENT EGAN: The question is, "Shall the amendment as proposed by Mr. Robertson be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 16? If not, are there amendments to Section 17? Or to Section 18? Mr. Johnson.

JOHNSON: Mr. President, I have an amendment to Section 18.

PRESIDENT EGAN: Mr. Johnson has an amendment to Section 18. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 6, line 2, strike the comma after the word 'debt' and insert a period. Strike the balance of line 2 and all of line 3."

JOHNSON: Mr. President, I move the adoption of the amendment.

MARSTON: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Buckalew.

BUCKALEW: Could we have the amendment read again?

CHIEF CLERK: "Page 6, line 2, strike the comma after the word 'debt' and insert a period. Strike the balance of line 2 and all of line 3."

PRESIDENT EGAN: The question is open for discussion. Mr. Barr.

BARR: Mr. President, debt is not a crime but fraud is. If a man is to be in prison because of strong presumption of fraud, then he should be charged with fraud. Debt should have nothing to do with it.

R. RIVERS: I would like to hear Mr. Johnson's definition of "fraud", because there are many transactions which are fraudulent that don't constitute crimes.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I suppose I should fall back on the old reason that I am not schooled in this subject. However, it occurs to me that certainly anything that is fraudulent ought to be and should be included in the criminal statutes which undoubtedly will be passed by the legislature or carried over by the Territory. As Mr. Barr has pointed out, if a person is guilty of fraud, or if there is a strong suspicion of fraud, he should be and rightfully should be prosecuted under the criminal sections rather than under any sort of civil proceedings. I believe that this section contains one of the most fundamental principles of our form of government, and it was one of the things that the founders were most concerned about when they set up the original Constitution and Bill of Rights because they had been subjected to that very thing, imprisonment for debt in the old country, and they wanted to be certain that that sort of condition could not exist here, and I believe it is a danger to that right if we leave in the constitution the words, except in cases where there is a strong presumption of fraud". In the first place, that phrase is itself subject to conjecture and speculation and undoubtedly would cause many cases to go into court for the purpose of interpreting exactly what is meant by it. I believe it is much better to leave it out. I don't know whether I have answered Mr. Rivers' question, but I think anything that involves fraud certainly is a crime.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, I spoke on this yesterday when I was questioned about why the Committee drafted it in this way, so I won't repeat all that I said then. I would like to say that I agree with Mr. Rivers rather than with Mr. Johnson. There are a lot of things that are fraud that are not criminal. As I recall, Mr. Johnson can correct me if I am wrong, as I recall at the time this was drawn up, we looked through the Federal Constitution and I don't believe there is a statement in the Federal Constitution, not in the Bill of Rights I know, but many of the states do have such a provision, and it is because of the fact that some fraud is not criminal and also because it makes it dangerous for anybody to cause an arrest for fraudulently refusing to pay debt. If there isn't some protection given to them that they won't be sued for false imprisonment on every provocation if they act under reasonable circumstances, which a strong presumption of fraud should be, then they should not be subject to arrest for taking such action and that is what we intended to accomplish with this provision.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I probably was one of the strongest in Committee to insist that it be put in, and it was taken from another constitution. I don't remember which at the moment. The purpose of it is, particularly in this area and the Anchorage area, was there is a great deal of transient population. There has been innumerable cases that you can't count, of people that are transients living in the area for a period up to two years contracting debts and then taking off over the highway, or by boat or by plane without saying anything, and it is pretty hard to stop them without involving yourself in a suit, and the purpose of this last sentence was to serve notice on those people that from here on out, if they are going to contract debts, they had better pay them before they leave because all of the people in business in the Territory would then have some means of getting to them without being sued for false arrest.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: As I understand, this is the background of this addition. The formula as it stands now is going to be used as blackmail, a threat against a great many of those customers that are given credit to some point and then refuse payment. To refuse payment is not fraud or to profess inability to pay is not fraud. This inability might be questionable if they have enough money to leave the Territory. Perfectly honest in his ability to pay, the merchant who has gambled to make profits on the premise that he might get paid has his own lookout to collect his bills in my opinion. I have lost money in that respect and I took it. I can see the implication here and I don't like a bit of it. I would like to address a question to Miss Awes as Chairman of the Committee as to that respect, when and if there are some forms of fraud that are not crimes

on the other hand, if you only can be imprisoned for crimes, correct me if I am wrong, you can only be imprisoned for a crime is that right? In other words, you can only be imprisoned for frauds that are crimes? This would leave the door open to imprison somebody for a noncriminal fraud.

AWES: What this does, Mr. Kilcher, is to give the legislature authority to pass a statute that would make this type of fraud criminal and being subject to punishment including imprisonment.

KILCHER: Which type of fraud? Why include it in the constitution? Any fraud, it is up to the legislature to decide what crimes are and what frauds should constitute crimes, and the moment there is any fraud committed in the future state that is a crime, a man can be imprisoned. As long as there is no crime a man should not be imprisoned.

PRESIDENT EGAN: Miss Awes.

AWES: I think practically all I can do is repeat what I have said. I think this is primarily authority to the legislature to pass a statute which would in effect make fraudulent nonpayment of debts a crime. If this section merely said there should be no imprisonment for debts, I think there would be some question of the legislature's authority to so act.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Perhaps Mr. Kilcher is not conversant with the present law that we have regarding debtors who are attempting to defraud their creditors. We have such a law on the books at the present time, if it will remain there and it is strictly a statutory matter. Imprisonment as for a matter of debt itself is unlawful as we have said here, but as we know that there are many instances in which persons deliberately contract debts without any intention of paying them and that they will then attempt to decamp the Territory without paying them. Now we have a law against fraudulent representation for obtaining goods under false representation. That false representation must be some token that is signed by the person who is defrauded. Ordinarily the merchant does not have that false token so that you would not in the absence of such a token be able to apprehend the man. Now, also, I would like to advise Mr. Kilcher that nobody is ever arrested for debt in the Territory of Alaska that I know of, as long as he was in the Territory - only when he was attempting to leave the Territory for the purpose of defrauding his creditors, but when it is evident on the face that there is a presumption of fraud, they usually catch him when he is leaving or catch him before he gets to the border. That is done many times. Another thing perhaps Mr. Kilcher does not know is the fact that before you can arrest a man under these circumstances where the creditor believes that he is leaving the Territory for the purpose of defrauding his

creditors, that he must be leaving and that the creditor then must file an action. If he files an action in debt against this person, then he makes out an affidavit and recites the circumstances of why he thinks this person is leaving the Territory, he is leaving to defraud creditors and asks for a writ of civil arrest, but before he has the writ of civil arrest he must post with the United States Commissioner a bond that he will answer for all damages that this debtor who is leaving will suffer by reason of his being apprehended and brought back. That is a civil arrest because, at that time he is arrested, then the creditor takes over. He has to pay all the expenses of bringing that man back and he must pay while he is in jail. He must pay the board of that debtor. The debtor is entitled to bail as soon as he gets in. If he puts up a reasonable bail he can get out and then the civil case is tried, not a criminal case, and there are not very many cases of this because of the fact that if a person does have a man arrested for debt and it is found that the arrest was without probable cause, that there was no evidence of attempting to defraud, the man has a very fine case for damages, and I have known of several very large verdicts that have been received in the Territory of Alaska just for those particular matters, so that the debtor is protected. He might suffer a little inconvenience, but he has the right of a remedy against the person that had him arrested. So as I said before, I think the section should be left just as it is, so the legislature then can continue the act that is now in effect and which has been in effect for the many, many years, or strengthen it if they want to, or if they want to weaken or relax it, that is up to the legislature. I think where there is a presumption of fraud they should be able to stop a debtor if he leaves the Territory for the purpose of beating his creditors. I think the amendment should fail.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would have no particular objection to the language if it said, "There shall be no imprisonment for debt except in cases of fraud." "Where there is a strong presumption", I have not been able to find any constitution that has the "strong presumption" phrase in it, but there might be such a one. I notice the Hawaiian Constitution says, where shall be no imprisonment for debt." I notice the New Jersey Constitution says, "No person shall be imprisoned for debt in any action or in any judgment founded upon contract unless in cases of fraud." There the fraud is definitely established. In this "strong presumption of fraud" the fraud is not definitely established and it seems to me we are foreclosing some of the legal rights of the individual involved if we should imprison him for debt on the presumption of fraud. I am not legally trained but I just wonder whose presumption it would be. Would it be the presumption of the one filing the complaint or the man issuing the complaint, the arresting officer? In

these cases where he is going over the highway, whose presumption would it be that this man is intending to defraud? It doesn't seem to me that where there is a strong presumption, those words should be left in our constitutional document.

PRESIDENT EGAN: Mr. Davis.

DAVIS: It seems to me we are getting somewhat off the track here. All of the argument has been concerning a person who may try to beat a debt by leaving the Territory. I suggest that if we arrest a person civilly because he is leaving the Territory we are not arresting him because of the debt. We are not arresting him at all because he owed a debt. As long as he stays here he would not be arrested. We are arresting him because he is trying to commit fraud or trying to leave the Territory or beat his bills or something of that order. I see nothing at all inconsistent with stopping with the word "debt" and still having a civil arrest procedure which we now have and which I think we probably ought to keep. I am for the amendment.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: This amendment is not too unusual. As Mr. Rivers stated, they have it in New Jersey, they have it in Missouri. Each one varies a little. In Missouri they say, "No person shall be imprisoned for debt except for nonpayment of fines and penalties imposed by law." In Michigan they say, "No person shall be imprisoned for debt arising out of, or founded on a contract express or implied, except in cases of fraud or breaches of trust or of moneys collected by public officers or in any professional employment." And it is quite interesting that the State of Illinois states, "No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors in such manner as shall be prescribed by law." Here it is exactly the language of the proposed amendment, "or in cases where there is a strong presumption of fraud". Now I halfway agree with Mr. Johnson. I think this, although I was a member of the Committee and supported the amendment in the Committee, I think that it is troublesome, and I don't think that we have hit on the right language. I don't think Mr. Johnson's amendment will help our situation. We have this statute in Alaska as you all know, that where a man absconds and owes money, he can be arrested provisionally. That means not forever, he does not have to go to jail until a certain number of days until he pays the total amount of his debts. He is provisionally detained so he can be examined and a judgment can be secured against him, and after that he can go, but he cannot escape judgment or the arm of the law by jumping on a plane. That is a healthy situation. Now Mr. Victor Rivers agrees with that but he would like to say it has to be a case of actual fraud. That wouldn't be good because then a business man would have to operate at his peril. If for some reason he was wrong

in going before the judge and signing the complaint, (and it is a judge, Mr. Rivers, not the arresting officer) if he were wrong he would be liable to a suit for a wrongful arrest if you made it actual fraud, so presumed fraud gives a necessary protection to the business man and makes the law workable, but I think the real solution is this, and I am going to ask for a one-minute recess to see if we can work it out. The State of Washington is where we took our Alaska statute from and that is what we want to keep. Everybody seems to agree that an absconding debtor should be given no protection and that we should be able to arrest that sort of man. In Washington, they arrest them down there when they start out for Alaska, and I think we should arrest them in Alaska when they head back. In Washington they say, "There shall be no imprisonment for debt except in cases of absconding debtors." I think in one minute I could talk Mr. Johnson into agreeing with that.

PRESIDENT EGAN: The Convention will stand at recess for 60 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson, did you have a new amendment or anything because of this recess?

JOHNSON: I have no new amendment. My amendment remains the same.

DOOGAN: Mr. President, I move to table the motion.

PRESIDENT EGAN: Mr. Doogan moves that the proposed amendment be laid on the table. Is there a second?

METCALF: I second the motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be laid on the table?"

V. RIVERS: I ask for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll. The Chief Clerk will also read the amendment again.

CHIEF CLERK: "Page 6, line 2, strike the comma after 'debt' and insert a period. Strike the balance of line 2 and all of line 3."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be laid on the table?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Cross, Doogan, Harris, Hinckel, McCutcheon, McNees, Metcalf, Nerland, Reader, R. Rivers, Rosswog, Stewart, Taylor, VanderLeest, Walsh, White.

Nays: 34 - Awes, Boswell, Barr, Buckalew, Coghill, Davis, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McNealy, Marston, Nolan, Nordale, Peratrovich, Poulsen, Riley, V. Rivers, Robertson, Smith, Sundborg, Sweeney, Wien, Mr. President.

Absent: 5 - Armstrong, Collins, Cooper, Hilscher, McLaughlin.)

CHIEF CLERK: 16 yeas, 34 nays, and 5 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed to have been laid upon the table. The amendment is now before us. Mr. Kilcher.

KILCHER: I would like to answer some of the opposition to this amendment. In my opinion this clause is a protective clause for businessmen. This clause has been brought to my attention. I had not been in Alaska three months in 1940. I was well aware of it. I had a man get away from me with a debt. One of the attorneys here advised me in the matter. I was apprised of the possibility to stop the fellow before he got to the states. Actually it is obsolete now and that is another reason we should not have it. At that time I was aware of it and I had a choice to have the man stopped. The only person I could possibly see profit by that would be the lawyer in question giving me the advice because the sum was so paltry that the legal fees would have eaten it up. So I said, "Let the man go", and I have let a couple of them go since. I also have heard of cases where a poor fellow who has no ability to go to the supreme court and question the constitutionality of our Alaskan statute as it is now, and it can be questioned. I personally doubt whether it is constitutional, this Alaskan business protecting clause. I know about men who have gone to the states and have been arrested under this clause, sure they can come back and sue. Who will have the time and money involved in a suit? The man just simply proved that he did not have fraudulent intention, that he had a good reason to go out for a half year or so, but in order to prove that he had a judgment against him and a court cost against him. The man was arrested. He was deprived of his liberty. He was habeas corpused for a short while, and I think it is unconstitutional, it is indecent, absolutely wrong. I am for the amendment.

COGHILL: Mr. President, I move the previous question.

BUCKALEW: I second the motion.

PRESIDENT EGAN: The previous question cuts off debate.

BARR: Did we not decide at one time that debate should not be limited?

PRESIDENT EGAN: It was never decided, Mr. Barr. Mr. Buckalew, do you wish to withdraw your second to the question?

BUCKALEW: No.

TAYLOR: Mr. President, I have an amendment on the Clerk's desk.

PRESIDENT EGAN: Mr. Taylor, there is an amendment before us at this time, Mr. Coghill moves that that question be ordered. So long as someone moved the previous question and it was seconded the Chair has no other alternative but to cut off debate until this particular motion is voted on.

BARR: Is that under a suspension of the rules? Don't the rules say that a man is entitled to speak twice?

PRESIDENT EGAN: Mr. Barr, the previous question can shut it off at any time if the delegates so choose to order the previous question. They have not done so yet. It is the duty of the Chair to put the question. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying "no". The previous question has failed. Mr. Barr. you have the floor.

BARR: This is my second and my last time for speaking, but I want to point out that under the present wording it says a man may be imprisoned for debt if there is a strong presumption of fraud. That is just beating about the bush and allowing a man to be imprisoned for one thing when actually his crime was another. I previously stated that debt was not a crime and that fraud is a crime, and therefore he should be imprisoned for fraud, if imprisoned for anything. Now a couple of law experts have pointed out that some kinds of fraud are not a crime. All right, in case some crimes of fraud are not a crime, he can still be imprisoned for a debt under that. In other words, he can be imprisoned for not committing a crime. Now this section is in our bill of rights, whose rights? It seems to me that this whole proposal is meant to protect the citizens of Alaska. This does not do it. I believe a man should be imprisoned for fraud too, and the legislature has the power to define what fraud is. He should not be imprisoned for something else, and it is traditional in our country that he not be imprisoned for debt.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I suppose I should have spoken on this before, but I was probably one of the strongest supporters of this in the Committee, and possibly there should be an amendment to it just calling for absconding debtors on that because that was the only interest I had in the particular matter, and I grant the fact that I don't know, I could not count offhand how many years past I have stopped down in Ketchikan on the way outside, and when they were stopped by the Marshal at Ketchikan they paid the bill and went on their way. They had the money in their pocket to pay. I don't own any business and I don't represent very many business interests, so to speak, but it is no good to the people of the Territory of Alaska to be losing money by a bunch of no-account bums leaving the Territory and taking away their ill-gotten gains and gains that they did not intend to pay for when they got them. I think we have lost sight of the fact that we are here to write a constitution for Alaska and not for a bunch of crooks that are going to come up here and buy things and just skip out without paying for them and doing it intentionally. I believe we should have something in here to enable us to be able to keep the money in Alaska and not to aid and abet some crooks. Let's write this constitution for the Alaskans.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I wish to call the attention of the delegates that if we adopt this amendment by Mr. Johnson you are going to wreck one of the old-time traditions up here in Alaska. Personally I have seen where some high-pressured person comes in and takes room and board at a widow woman's house for several months and then bingo, he skips, and the fraud you are trying to get at him for, and I urge each and everyone to vote to keep this section intact as it is. Many times I have had occasion to arrest people just before getting on a plane with a ticket to Seattle, as explained by Mr. McNealy, have coughed up the money and paid the debt.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I would like to ask Mr. McNealy a question if I may. Mr. McNealy, in your opinion, if the amendment carries, would a statute such as we have on our books now, pertaining to absconding debtors, be constitutional?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: The present statute would be constitutional in my opinion under this section.

TAYLOR: Mr. President, I have an amendment to Mr. Johnson's amendment on the table. I would like to have it read and acted

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upon.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment to the amendment.

CHIEF CLERK: "Insert after the word 'except' the words 'in case of absconding debtors'."

PRESIDENT EGAN: Insert after the word "except" the words "in case of absconding debtors". The proposed amendment by Mr. Johnson to Section 18 is to strike the comma after the word "debt" in line 2 and insert a period, and strike all the rest of the sentence. The word "except" is gone in the original amendment.

TAYLOR: I will put it back in then.

PRESIDENT EGAN: The proposed amendment will have to be drawn correctly to be read to the delegates.

ROSSWOG: May I address a question to Mr. McNealy while we are waiting, Mr. President?

PRESIDENT EGAN: You may, Mr. Rosswog.

ROSSWOG: Did you mean, Mr. McNealy, that the present statute would be constitutional as the section stands now?

MCNEALY: As the section stands now I am positive that our present law would be constitutional. If the amendment is adopted it is my opinion that our statute as to absconding debtors would not be constitutional.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Do you think Mr. McNealy, that if the section stands as it is that our present Alaskan statute would be constitutional as far as the state's constitution is concerned, but it might be unconstitutional as far as the Federal Constitution is concerned? That was brought to my attention by an FBI lawyer.

MCNEALY: I have read over the Federal Constitution and during the many years that I have been more or less acquainted with this, if I have missed this and anyone can point out to me where the Federal Constitution forbids imprisonment for debt, why I am really going to learn something.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to speak a few words on the question. I think we should not lose sight of the fact that this last sentence is not only for the protection of merchants in Alaska but also for the general public in Alaska.

I think if we pass this amendment we would be opening the doors for anyone that wanted to come up here and defraud our citizens.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Taylor, the amendment to the amendment.

CHIEF CLERK: "Insert after the comma following the word 'debt'" --

PRESIDENT EGAN: There is no comma there anymore. The thing to do would be to strike the period and insert a comma.

TAYLOR: In the amendment they did not take the period out. There is nothing about removing the period.

RILEY: Does that purport to be an amendment to the amendment now before us?

TAYLOR: Yes.

R. RIVERS: I rise to a point of order. I don't think what Mr. Taylor has is germane to the pending amendment. The amendment is to strike everything after that period. That is entitled to be acted upon. If we pass that amendment of Mr. Johnson's, then Mr. Taylor can move to add those additional words as a separate motion.

TAYLOR: Mr. President, there was nothing about changing that comma to a period, so far as we are concerned there is a comma there and something should follow it.

PRESIDENT EGAN: Mr. Taylor, the Chair will hold that Mr. Ralph Rivers' point of order is well taken at this particular point and that your amendment will be in order after this particular amendment is acted upon. The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" Mr. Marston.

MARSTON: May I ask one question of Delegate McNealy. In case the amendment carries, can the legislature impose a law on people who leave the Territory without paying their bills?

MCNEALY: I question very much in my own mind whether they can be imprisoned for debt, Mr. Marston, and it would also carry with the other one we have on the books now that, where an employer does not pay his employees within a certain time, he can be subject to arrest for that and that would also, without some saving clause in here, that also would prevent his being imprisoned under that clause.

MARSTON: You say we can't pass that law then?

MCNEALY: That is my opinion that if we say there shall be no

imprisonment for debt, that is it period, and the legislature cannot contravene that.

MARSTON: I did not like the argument used defending this position here, that we have a different group of people here than we have elsewhere that are running out and not paying their bills any more than any state in the Union.. I did not like the comments on Oklahoma today. I know "Alfalfa Bill" over there, the Governor. He wouldn't like what Delegate Taylor said about him. I think we should be careful what we say about these people in other states, and I don't like to be up here different than the other states, that these people up here are different here, I think we are the same people. We are a part of the same people, and I don't like to be set aside as peculiar, and the argument used to defend this position, I did not like, so I am going to vote for the amendment.

LONDBORG: I would like to ask a question of Mr. McNealy. It has just been said it is doubtful if a law could be passed imprisoning someone for debt if this were stricken. I would like to ask a question, if a law could be passed to imprison a person for fraud. If they were beating a debt, could a law be passed to put them in prison for fraud or presumption of fraud?

MCNEALY: Yes, I think a law could be passed to imprison a person for fraud. We do have those laws on the book such as obtaining money under false pretenses, and a few similar statutes.

LONDBORG: It would seem that they should be put into prison for fraud and not the debt. I think the amendment should be passed.

RILEY: I prefer the language proposed by Mr. Taylor a moment ago but not yet before us to the language as it now exists, and for that reason alone I expect to support the amendment now and hope that it passes so that the way may be paved for submission of Mr. Taylor's amendment.

PRESIDENT EGAN: The Chair will have to adhere to the two times for each delegate. The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?"

H. FISCHER: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Awes, Barr, Boswell, Buckalew, Coghill, Davis, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McNealy, Marston,

Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, VanderLeest, Walsh, Mr. President.

Nays: 17 - Cross, Doogan, Harris, Hinckel, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nolan, Poulsen, Reader, Rosswog, Sweeney, Taylor, White, Wien.

Absent: 4 - Armstrong, Collins, Cooper, Hilscher.)

CHIEF CLERK: 34 yeas, 17 nays and 4 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Now the Chief Clerk may read the proposed amendment as offered by Mr. Taylor.

TAYLOR: I think the amendment should be changed because I was amending the amendment. It will just be amending the article now.

CHIEF CLERK: "Change the period to a comma and insert after the word 'debt' the following words: 'except in case of absconding debtors', line 2, page 6."

TAYLOR: I move the adoption of the amendment and ask unanimous consent.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Is there a second?

RILEY: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Doogan.

DOOGAN: Just for clarification there is no period. That is a comma because it has not been changed.

SUNDBORG: It was changed.

PRESIDENT EGAN: It was changed in the previous amendment. Mr. Kilcher.

KILCHER: Mr. President, I think regarding discussion about this amendment, essentially the section reads the same as before. It is only a vain string over that poor man who is presumed to be fraudulent. An absconding debtor, how are you going to determine who is an absconding debtor? He is presumed to be leaving the Territory under a fraudulent pretext, that is an absconding debtor in my opinion, so actually we are back where we were, and I think the question should be asked.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 37 - Awes, Boswell, Coghill, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hinckel, Hurley, Kilcher, King, Knight, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 14 - Barr, Buckalew, V. Fischer, Hermann, Johnson, Laws, Lee, Londborg, Marston, Robertson, Smith, Stewart, Sundborg, VanderLeest.

Absent: 4 - Armstrong, Collins, Cooper, Hilscher.)

KILCHER: I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Kilcher asks that his vote be changed from "no" to "yes".

CHIEF CLERK: 37 yeas, 14 nays and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 18? Mr. Taylor.

TAYLOR: Could we have just a moment, Mr. President?

V. RIVERS: Have we passed through Section 19 or is this matter reopened for Section 11?

PRESIDENT EGAN: We have not passed through Section 19 yet, Mr. Rivers. Are there amendments to Section 19?

ROBERTSON: I would like to offer a new Section 19.

PRESIDENT EGAN: A new Section 19, Mr. Robertson?

ROBERTSON: Yes.

PRESIDENT EGAN: You may present your amendment. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Insert new Section 19: 'Every person shall have

the right to work for the gaining of his livelihood.' Renumber the present Section 19 to be Section 20."

ROBERTSON: Mr. President, I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Robertson moves that the proposed amendment be adopted. Is there a second to the motion?

LONDBORG: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Robertson.

ROBERTSON: I submitted that proposal to the Committee together with a proposal I thought to be consistent with that of the right of collective bargaining. The Committee was good enough to give me a hearing on it, but as I understood it, they thought it was a legislative matter and not a constitutional matter. However, Mr. Hellenthal made a minority report in which he wanted collective bargaining. Now I maintain that every American citizen has the right to work for the gain of his livelihood. In Juneau we had several instances of where people had been deprived of that right and I submit that no matter how powerful the labor unions may become, and I am not opposed to labor unions in any matter, I submit that labor unions have no right to deprive an individual of the right to work. We have had cases in Juneau where they attempted to prevent people from working on their own houses, such as painting their own houses or painting their own building, and I submit that is wrong. Now I have no doubt in time, I feel that the labor unions in time will see that is wrong and probably the leaders don't condone those threats, and I submit that is a proper amendment and ought to go into the constitution or bill of rights, giving every citizen the right to work at his discretion for the gain of his own livelihood. I hope the Convention will adopt it.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to tell the Convention about the action of the Committee. Mr. Robertson was heard and the Committee considered carefully the collective bargaining and the right-to-work. It is only the right-to-work before us now, and I may say that the Committee was unanimous in its decision that there should be no right-to-work provision in the bill of rights.

BUCKALEW: I move to table the amendment.

ROBERTSON: I understand there are 16 states that have a constitutional provision.

PRESIDENT EGAN: Mr. Robertson, the motion to lay on the table is not debatable.

STEWART: I second Mr. Buckalew's motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be laid on the table?"

SUNDBORG: Mr. President, I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Awes, Buckalew, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, King, Knight, Lee, McNealy, Marston, Metcalf, Nerland, Poulsen, R. Rivers, Rosswog, Smith, Stewart, Sundborg, VanderLeest.

Nays: 28 - Barr, Boswell, Coghill, Cross, Davis, V. Fischer, Hinckel, Hurley, Johnson, Kilcher, Laws, Londborg, McCutcheon, McLaughlin, McNees, Nolan, Nordale, Peratrovich, Reader, Riley, V. Rivers, Robertson, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Absent: 4 - Armstrong, Collins, Cooper, Hilscher.)

CHIEF CLERK: 23 yeas, 28 nays and 4 absent.

PRESIDENT EGAN: So the motion to lay on the table has failed of passage. Mr. Robertson, you have the floor.

ROBERTSON: I understand 16 states have constitutional provisions on the right to work. I have looked at some of them and I believe they are of much broader scope, and if such a right is criticizable or detrimental to anyone, that those state constitutions have much broader provisions in the extent and scope of their effect upon work than my provision, and that is a very simple provision, simply giving every citizen the right to work.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think this falls along the line of this amendment, the right to work. Last summer a construction company moved into Unalakleet to do some work and in their move in they brought along all the technical help, which of course they had to do. They brought along their laborers, many from the states, and the Natives at Unalakleet were deprived of the right to work. There were various reasons given. Some of the reasons were that they were not able to do the work, but they didn't have the chance to prove it. They were not hired because they did not belong to the union. There was no way for them to get in because the union agent was in Anchorage and they would

have to take a trip down there and pay union dues, etc. And consequently you have quite a large number of employees that came up from the states and worked and went back to the states spending the money earned up here. You have people up there that will have to have relief paid out of Territorial funds because they were denied the right to work. I wonder just how that sets with us as a state. If we are going to deny our own people the right to work and therefore, they have to be supported by the state, people can come in from the outside and take the jobs and then go back and spend their money.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I opposed the right-to-work clause and with it I opposed the collective bargaining of which the minority report was written upon, as a part of the constitution, and I put them both together because I feel that if the right-to-work clause is put in the constitution then I am going to have to go against my better wishes and vote to have a collective bargaining clause in the constitution. I take the position that it won't be very many years until something better than what we know as collective bargaining at the moment, it may still be collective bargaining, but I think in a few years there will be something better, maybe even to the point that we won't require either a right-to-work or a collective bargaining clause any place. I think the matters are legislative because of that reason.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?"

HURLEY: Roll call.

BARR: May I hear the amendment read again?

CHIEF CLERK: "Insert new Section 19: 'Every person shall have the right to work for the gaining of his livelihood.' Renumber present Section 19 to be Section 20."

PRESIDENT EGAN: Mrs. Fischer.

H. FISCHER: Mr. President, I don't think I understand. I think the right to work is misconstrued in the title. Is this not a bill that more or less kills unions, organized labor?

PRESIDENT EGAN: Will anyone answer the question? Mr. Hellenenthal.

HELLENTHAL: Yes, this is the bill that would destroy collective bargaining, completely and utterly. It was presented to us under a new guise. I don't think that the manner in which it was presented has ever been used before anywhere. It was

presented to us that the adoption of this would permit a man to work on his own house. Nothing is further from the truth. We have a perfect right to work on our own house anytime we want to, unless we are prohibited by some legislation, and that is not the purpose of this bill. Now, Mr. Robertson may in all good faith consider it to be, but he is the only person who has advocated the right-to-work who has ever grounded it on that basis. The right-to-work would make it possible for a man to disregard the provisions of a union contract and to go off on his own. It would utterly destroy, as Mrs. Fischer correctly said, the power of the unions. I notice nobody has spoken in opposition to it, so apparently the opponents feel there are sufficient votes here to defeat the proposal. I think that some few words should be said in opposition to the bill.

MCCUTCHEON: Question.

HELLENTHAL: Just a moment. The phrase, "right-to-work" is a misnomer. One of the editors of a national magazine said that it was invented by a "phony genius at propaganda", and that is just about correct. Nothing is further from the truth than that of considering this as a protection for an individual. It is nothing but a device aimed at breaking up the right of unions to organize and bargain collectively for their members, which is a right, mind you, that is sanctified by the Taft Hartley law, by all of the advanced labor legislation that we have had on the national scene for many many years past. There are 17 states, mostly Southern states, most all of them Southern states, in which the right-to-work legislation has sneaked through. In Massachusetts a similar provision was defeated 190 to 2 who were in favor of it, only two out of the 192 votes cast. The Secretary of Labor, James P. Mitchell, has taken an emphatic and violent stand against right-to-work legislation on any form. I think that should be brought to the attention of the house. The freedom of any person to work wherever he can get a job at whatever wages he is able to earn and willing to take is a fundamental American right, but this right-to-work legislation would destroy the very fundamental rights and purposes for which union people gather. Secretary Mitchell's stand was taken in a speech he gave on December 7, 1954. So for those reasons and many other reasons, this purported right, this phony device that has been sold by glib propaganda agents, hypocrites mind you, should be defeated. It does not accomplish the purpose that Mr. Robertson suggests. It is nothing but a union-destroying device contrary to the national legislation that we have on the books and have had in Democratic administrations and Republican administrations.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am not particularly in favor of this amendment but it does not happen to be for reasons that have been announced by Mr. Hellenthal. I think that he has indulged in rather a demagogic display of oratory about something that has already been included in the bill of rights and he is one of the authors of this particular section. He says that this wordage, the right to work, is a union-busting provision, and he says that that should not be in the constitution for that reason. If you look at Section 1, almost identically the same language is used where it says that the rights, the natural rights of any person shall be guaranteed, and the natural right to the enjoyment of the gains of their own industry. That is almost identically the same thing as saying they have the right to work and to the fruits of their own industry. So, I think, so far as Mr. Hellenthal's arguments are concerned, he is begging the question. They have already inserted virtually the identical provision. As I say, I am not so in favor of the amendment because I think that it is a legislative matter and could just as well be left out, but I certainly do not think we ought to defeat the amendment solely on the basis of Mr. Hellenthal's argument. It is not sound.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I just wanted to say that I felt the Committee did a good job in leaving both of these items out, the collective bargaining and the right to work. I feel they are legislative too, and both had better be left out. For that reason I will not support this amendment and I would not support the collective bargaining amendment.

ROBERTSON: Mr. President, I am a little resentful of my old friend, John Hellenthal, accusing me of being a hypocrite but I have been accused of a good many things, and I can take it. I explained to the Committee that my purpose was not to get a right of a strike breaker. I was simply trying to protect the very right which, if I correctly understood Mr. Hellenthal, he was quoting from Secretary Mitchell, he said it was an inalienable American right. That is the right I am trying to protect through this bill of rights. There is no hypocrisy about it whatsoever. It would meet the very conditions that Mr. Londborg spoke about at Unalakleet. There are hundreds of those conditions existing in Alaska, at least during the seasonal work, where people are denied the right to work because the control is in a union from the states and a person here in Alaska is not permitted to join. Most all our boys, even when they get to be over 16, when they can work, between the ages of 16 and 18, many times they are not permitted to join the union. Now that is a denial of the right to work. I claim that is one of the causes of our delinquency among our youth today, it is the labor unions preventing our young men going out to work when they are well able to, and I submit to you that this ought to be passed, and I hope it will.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Insert a new Section 19: 'Every person shall have the right to work for the gaining of his livelihood. Renumber present Section 19 to be Section 20.'"

ROBERTSON: I call for a roll call.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 4 - Laws, Londborg, Reader, Robertson.

Nays: 47 - Awes, Barr, Boswell, Buckalew, Coghill, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 4 - Armstrong, Collins, Cooper, Hilscher.)

CHIEF CLERK: 4 yeas, 47 nays, and 4 absent.

PRESIDENT EGAN: So the amendment has failed of adoption. Mr. Robertson.

ROBERTSON: Under the personal privilege I extend my gratitude to Delegate Laws for voting with me.

WHITE: Parliamentary inquiry. I voted with the prevailing side. I did so that later today I will have the opportunity today to vote against inclusion of the section which would in the constitution be the right to collective bargaining. My question then is, if I give notice to reconsider my vote tomorrow, may that notice be withdrawn by me and I not have to support that motion, should it not be necessary?

PRESIDENT EGAN: The Chair sees no reason why if you serve notice of reconsideration, if you withdraw your intention of asking reconsideration, that should be up to you, Mr. White.

WHITE: Mr. President, I voted with the prevailing side in this Convention and I give notice that I wish to reconsider my vote.

PRESIDENT EGAN: Mr. White serves notice that he wishes to reconsider his vote tomorrow. Mr. Sundborg.

SUNDBORG: I move that we suspend the rules and take up the reconsideration at this time, Mr. White's reconsideration.

H. FISCHER: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Sundborg, seconded by Mrs. Fischer, that the Convention take up the reconsideration of Mr. White's vote at this time.

DAVIS: Mr. President, as a point of order, I don't think Mr. White has made a motion to reconsider yet.

PRESIDENT EGAN: The motion has been made by other delegates, Mr. Davis. Other delegates may, in effect, ask for a suspension of the rules and that the reconsideration come before the Convention at this time. The question is actually, "Shall the rules be suspended and Mr. White's reconsideration be taken up at this time? The motion you will be voting on first will be a suspension of the rules and then you will be voting on the same matter that we just voted on if the motion should carry. The question is, "Shall the rules be suspended and Mr. White's notice of reconsideration be considered at this time?" The Chief Clerk will call the roll. "Shall the rules be suspended?"

(The Chief Clerk called the roll with the following result:

Yeas: 10 - Buckalew, H. Fischer, Metcalf, Peratrovich, Poulsen, R. Rivers, Sundborg, Taylor, Walsh, Mr. President.

Nays: 41 - Awes, Barr, Boswell, Coghill, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nolan, Nordale, Reader, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, VanderLeest, White, Wien.

Absent: 4 - Armstrong, Collins, Cooper, Hilscher.)

CHIEF CLERK: 10 yeas, 41 nays, and 4 absent.

PRESIDENT EGAN: So the motion has failed of adoption and Mr. White's reconsideration will come up at its regular time tomorrow. Mr. Robertson.

ROBERTSON: Would it be in order at this time for me to give notice of reconsideration also? I voted in the affirmative on Mr. Kilcher's amendment to amend line 24 in Section 13 on page 4,

of changing "\$250" to the words "sum set by law", and I would like to give notice of reconsideration for tomorrow.

PRESIDENT EGAN: It would be in order if the record shows that you voted in the affirmative, yes, Mr. Robertson.

CHIEF CLERK: Yes, he did.

PRESIDENT EGAN: Then Mr. Robertson serves notice of a reconsideration of his vote on an amendment that changed the words "\$250" to read "a sum set by law".

ROBERTSON: It changed "\$250" to "a sum set by law".

PRESIDENT EGAN: We will have the two reconsiderations then coming before us tomorrow. Mr. Johnson.

JOHNSON: An inquiry, Mr. President. Is Section 1 now subject to further amendment?

PRESIDENT EGAN: If there are no other amendments to Section 18 or 19. Mr. Victor Rivers.

V. RIVERS: I have an amendment preceding Section 1 which I would like to offer if we're going back through the order.

PRESIDENT EGAN: Mr. Victor Rivers had mentioned previously, Mr. Johnson, that he had an amendment to the preamble, was it, Mr. Rivers?

V. RIVERS: Yes, here it is.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I had an amendment that I was writing to present following the treatment of each of the different sections. It is the amendment with regard to wire tapping. I don't know whether the Chair wishes to consider that now and then go back and work through again or wait until we have worked through once more.

PRESIDENT EGAN: Mr. Hellenthal, if you are not quite certain where that should go, we will work back through. We will give everyone an opportunity to submit amendments right on down through the proposal. Mr. Taylor.

TAYLOR: We have not yet taken up Section 19.

PRESIDENT EGAN: Section 19, that was the amendment we just had. The Chair asked if there were other amendments to Section 19. If there are other amendments to Section 19, that was the one Mr. Robertson proposed to substitute a new section for, Mr. Taylor. Do you have an amendment to Section 19. Mr. Taylor?

Mr. Hellenthal, would you mind?

HELLENTHAL: I am indifferent. I should like to present, though, the amendment which was initially proposed as a sentence following the first sentence in Section 10, whenever the Chair rules.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Victor Rivers.

CHIEF CLERK: "Proposed by Mr. Victor Rivers, Mr. Sundborg, Mr. White, Mr. V. Fischer, Mr. Hilscher, Mr. Ralph Rivers, Mrs. Helen Fischer, Mr. Emberg, Mr. Poulsen, Mr. King, Mr. Riley and Mr. Hellenthal. Amendment of Article on Preamble and Bill of Rights. Strike lines 1 through 5 on page 1 and substitute the following: 'We the people of Alaska, conscious of our heritage of political, civil and religious liberty, grateful to God and to those who founded the nation and pioneered this great land, reaffirm our belief in government by consent of the governed within the Union of States and do ordain and establish this Constitution for the State of Alaska.'"

PRESIDENT EGAN: Mr. Victor Rivers, what is your pleasure?

V. RIVERS: Mr. President, as one of the makers of this motion, I move and ask unanimous consent that the amendment be adopted.

TAYLOR: I object.

H. FISCHER: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President and delegates, it seemed to me in reading the preamble that we had on this particular proposal that it was merely a restatement of the preambles of many of the proposals of many of the states. I wanted to see a little bit more originality, something that would be more typical of the thinking and the speaking and the heritage of our Alaska people, so I drafted a proposal. Since that time there have been a number of changes. However, in the present form it seems to me to be more applicable to our particular form of constitution, perhaps more acceptable to our people than would be the one which was originally presented in the Committee proposal. I personally feel that while a great many of the people who vote on this constitution may not read it in its entirety, that practically all and everyone will read the preamble. While I realize it has no force of law, I think it should be a statement and intent and feeling of those people who drafted it rather than some other words of someone else who drafted a constitution under somewhat considerably different circumstances. Therefore, I have been one of those who moved to prepare and

submit this amendment.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I was quite disappointed when I read the preamble submitted and I am happy with this amendment. I shall vote for it, I think it expresses the attitude of Alaska, and I am only sorry I could not be a party to the amendment.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I agree with everything that has been said and I engaged to some extent in working with the preamble, in trying to write one that would express our feelings in strong words with one exception. Three words have been added to this since I signed it, and I move to add to the amendment by striking the three words, "to God and". I so move.

LAWS: I second the motion.

PRESIDENT EGAN: Mr. White moves to amend the proposed amendment by striking "to God and", seconded by Mr. Laws. Mr. White.

WHITE: Mr. President, I don't expect to get far with this, and perhaps it is not very important. I am not an atheist. I go to church regularly. I spent five enjoyable and instructive years in one of the most well-known church schools in the states. This was called to my attention first during the recess, called to my attention by people whose opinion I respect, and because of who they were I would expect they express a rather widely held opinion, in that I think the inclusion of these words in the preamble is not consistent with Section 5. That is the basis of my objection. I will make only one other note and that is that sometime ago Mr. Hellenthal said that the Bill of Rights Committee did not deviate hardly one iota from the Preamble to the Federal Constitution. Here is one case where they did. I think it was interesting to note that our forbearers, for all their deeply held religious convictions, when they came to the Preamble of the Federal Constitution they left out any words such as these. I just think with Section 5 and with the wording here, "conscious of our religious liberty", that the matter is covered.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I am going to have to take exception, not only for myself but for a man that is not here who I think if he were here might have quite a little bit to say about it. Unfortunately, he cannot be here and is unavoidably detained. We wrote this preamble in the Bill of Rights Committee, and it is true that we studied a good many preambles of other states, and it is also true that this preamble with a few exceptions, copies another preamble. The only way I can state it is the

way it was so aptly put I think by one of the members of the Committee of the Bill of Rights, that the preamble to the bill of rights is the same as saying grace before you sit down and eat your meal. That is all it is and that is all it is intended for. I know many of these people here, practically all of them, belong to an organization, church, and for every organization and church that they belong to they must of necessity some place in there, pay at least lip service to the Lord. In the oath that you took, you did the same thing. Every day here we have a minister before us to give us the grace before we start our meeting. If we are going to eliminate any reference to the Lord or God, I don't care by what other name you call Him, then I think we are wasting our time in having the ministers come before us and give us a blessing before we start, and I think that you are also being unjustly fair to both Mr. Armstrong and Mr. Lundborg who are here as delegates but every so often you feel the necessity to call upon them in their respective capacity as a minister. Therefore I am going to oppose the amendment.

(At this time Delegate Armstrong entered the hall.)

PRESIDENT EGAN: Let the record show that Mr. Armstrong is present now. If there is no objection the Convention will stand at recess until 3:45. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us an amendment. Mr. McLaughlin.

MCLAUGHLIN: Mr. President, the Convention has now had the opinion of two very sincere men representing both sides of the question. I think it has been adequately heard. I move the previous question.

PRESIDENT EGAN: Is there a second to the motion?

V. FISCHER: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the previous question is ordered. The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" Mr. Sundborg.

SUNDBORG: It is the amendment to the amendment?

PRESIDENT EGAN: The proposed amendment to the amendment as offered by Mr. White. shall the proposed amendment to the amendment be adopted by the Convention? All those in favor of the adoption of the proposed amendment to the amendment will signify

by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment to the amendment has failed of adoption. We now have before us the proposed amendment as offered by Mr. Victor Rivers and other delegates. Is there further discussion? Mr. Harris.

HARRIS: I would like to offer an amendment to the amendment. Since we decided to leave "God" back in the amendment I would like to restore Him to full title and make it "Almighty God". I ask unanimous consent.

PRESIDENT EGAN: You offer to amend the proposed amendment by inserting the word "Almighty" before "God"?

HINCKEL: I object.

COGHILL: I second the motion.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I think that the amendment as offered here is acceptable to everybody and I am opposed to the amendment as offered by Mr. Harris on the grounds that "God" without an adjective is more comprehensive and more acceptable to various faiths, Christians and non-Christians alike, and I am opposed to the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Harris be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 24 - Armstrong, Awes, Coghill, Davis, Doogan, H. Fischer, Harris, Hellenthal, Hermann, Johnson, King, Knight, Londborg, McNees, Metcalf, Nerland, Nolan, Peratrovich, Reader, Robertson, Sweeney, vanderLeest, Walsh, Wien.

Nays: 24 - Barr, Boswell, Buckalew, Emberg, V. Fischer, Gray, Hinckel, Hurley, Kilcher, Laws, Lee, McCutcheon, McLaughlin, Marston, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Smith, Sundborg, Taylor, White, Mr. President.

Absent: 7 - Collins, Cooper, Cross, Hilscher, McNealy, Rosswog, Stewart.)

CHIEF CLERK: 24 yeas, 24 nays, and 7 absent.

PRESIDENT EGAN: So the proposed amendment to the amendment has

failed of adoption.

MCCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers and other delegates be adopted by the Convention?"

H. FISCHER: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Mr. President.

Nays: 2 - Laws, Wien.

Absent: 4 - Collins, Cooper, Hilscher, Stewart.)

KILCHER: I would like to change my vote to "yes".

PRESIDENT EGAN: Mr. Kilcher wishes to change his vote to "yes".

CHIEF CLERK: 49 yeas, 2 nays, and 4 absent.

PRESIDENT EGAN: So the proposed amendment is ordered adopted. Are there other amendments, or are there amendments to Section 1? Mr. Johnson.

JOHNSON: Mr. President, I have on the Secretary's desk an amendment to Section 1.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as offered by Mr. Johnson.

CHIEF CLERK: "Section 1, page 2, lines 1 and 2, insert a comma after the word 'rights', strike the word 'and' on line 2 and after the word 'opportunities' insert the words 'and equal protection'."

PRESIDENT EGAN: How would that sentence read with that proposed amendment?

CHIEF CLERK: Don't you mean it to start on line 1, Mr. Johnson, a comma after the word "rights" on line 1, is that not it? You say "strike word 'and' and insert comma after the word 'rights'."

JOHNSON: Yes, line 1.

CHIEF CLERK: "Line 1, insert a comma after the word 'rights', strike 'and' on line 2 and add after the word 'opportunities' 'and equal protection'."

JOHNSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the amendment. Is there a second to the motion?

ROBERTSON: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Johnson.

JOHNSON: Mr. President, as I started to explain this morning. it seems to me that the section as it now stands does not protect a very essential right of citizens and that is equal protection of the laws. Such a right is contained in the Fourteenth Amendment of the United States Constitution, and I discussed the matter with Miss Awes, the Chairman of the Committee, and after going over the section I think she agreed also that with this addition suggested by the amendment that we would safeguard the equal protection of the laws" right and it ought properly to be in the bill of rights..

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe because of the exact wording of the proposed amendment that we are doing something else if we adopt it. As it now reads, it says that persons are equal and they are entitled to equal rights and opportunities under the law. As it would be amended it would say they are entitled to equal rights, opportunities and equal protection. That is, they are not entitled to equal opportunities, if we adopt this amendment, as I read it. Now, if Mr. Johnson would consent to dropping the "equal" before the word "protection" in his proposed amendment, I would support it, but not otherwise,

because I think if we leave the word equal" before "rights" and put the word "equal" before "protection" we are emphasizing there that the word "opportunities" does not have an equal" before it.

JOHNSON: I have no objection to that.

PRESIDENT EGAN: You ask unanimous consent that the proposed amendment to the amendment be adopted. Is there objection? Hearing no objection it is so ordered, and the amendment to

the amendment is ordered adopted. Mr. Ralph Rivers.

R. RIVERS: I ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent for the adoption of the proposed amendment, as amended. Is there objection?

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard. Is there further discussion? If there is no further discussion, the question is, "Shall the proposed amendment as amended be adopted by the Convention?" All those in favor of the adoption of the proposed amendment as amended will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment as amended is ordered adopted. Mr. Hellenenthal.

HELLENTHAL: I should like to change my vote.

PRESIDENT EGAN: Which way did you vote?

HELLENTHAL: I would like to change it to "nay".

PRESIDENT EGAN: Mr. Hellenenthal voted "nay". Are there other amendments to Section 1 or are there other amendments to be offered to the proposal? Mr. Victor Rivers.

V. RIVERS: I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Victor Rivers.

BARR: Mr. President, was there not a proposal sometime ago held over on Section 7?

HERMANN: Yes, there is a mimeographed one.

BARR: I have one before me by Mr. Buckalew, Davis, Hellenenthal, Taylor, and McNealy. We haven't acted on that, have we?

PRESIDENT EGAN: Would you rather have the sections as we come to them, Mr. Rivers?

V. RIVERS: I don't particularly object.

PRESIDENT EGAN: If there is no objection we will hold Mr. Victor Rivers' amendment in abeyance until we come back to that section. We are on Section 7. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike Section 7 as amended and substitute the

following section: 'No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except when waived by the accused, in which event the prosecution shall be by information, but this shall not be applied to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger. The grand jury may consist of not less than twelve citizens.'

BUCKALEW: I move its adoption.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I have a question, Mr. President, to address to the drafters of the motion. It seems to me it would be arising in the military forces. They have left out "air" there. Now we have naval and land. We had better get abreast of the time here and include "air force" or make it "military forces". "Arising in the military forces or in the militia when in actual service in time of war or public danger", I think would read correctly.

BUCKALEW: That is the same language as the Constitution. They didn't have an air force then and they haven't had any problems with it.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I would recommend that the Committee, and I leave it up to the Committee, substitute for their amendment where they say "in land and naval forces", substitute the words, "in the armed forces or in the militia" instead of the "land or naval forces or the militia" because we are going to run into confusion. We have used in this article now, the word "militia" twice. That is, the authority creating the militia, we have used it twice in the bill of rights article, and in the executive article I know what bothers Mr. Rivers they have used in Section 11, "armed forces of the state". Now there might be some conflict, although I don't see it if we dropped out the word "militia". But if we substituted "armed forces" for the words, "land or naval forces" at least we would have only two expressions in our constitution. "The armed forces of the state and the militia". If we leave it this way we will have a third one. Inasmuch as we are quite proud of our Air National Guard, we might have in our organized or unorganized militia as provided under the Military Code of 1955, provisions for an air force, unorganized. It might be advisable to make that change. I know that has no effect on the legislators because of the fact they exempted themselves from the unorganized militia under the 1955 act, but they kept every other able-bodied man in this Assembly in it and it might be helpful if we substitute

the Committee, the gentlemen making the proposal, substitute the words "armed forces" in place of the "land or naval forces."

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would ask unanimous consent of the other person signing the amendment to delete the language and insert "armed forces".

PRESIDENT EGAN: If there is no objection the proposed amendment to the amendment is ordered adopted. That particular amendment to the amendment is ordered adopted. Mr. Sundborg.

SUNDBORG: I am at sea here. Mr. Buckalew asked for permission to substitute the words "armed forces" for something, but I don't know for what.

BUCKALEW: Substituted the words "armed forces" for "land or naval forces or in the militia."

SUNDBORG: I want that very clear on what we are doing.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for a minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew.

BUCKALEW: Mr. President, after further discussion on top of another discussion, the amendment as I intended to propose it just strikes the words "land or naval" and insert the words "armed forces". Now that is wrong yet. All I do is just insert the word "armed".

PRESIDENT EGAN: Mr. Buckalew, you ask unanimous consent for the adoption of that amendment to the amendment?

BUCKALEW: Yes.

PRESIDENT EGAN: Is there objection? Hearing no objection on that proposed amendment to the amendment, it is ordered adopted. Mr. Metcalf.

METCALF: Mr. Chairman, I would like to submit an amendment to the amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment to the amendment by Mr. Metcalf.

CHIEF CLERK: "Strike the last sentence of amended Section 7 and substitute the following: 'The grand jury shall consist of

at least twelve citizens, three-fourths of whom concurring may find an indictment or true bill.'" "

METCALF: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Metcalf moves the adoption of the proposed amendment to the amendment.

METCALF: I ask unanimous consent.

TAYLOR: I object.

PRESIDENT EGAN: Is there a second to the motion?

R. RIVERS: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Hinckel.

HINCKEL: I must have misunderstood it or something because I understood it to say an indictment or a true bill. Does he not mean an indictment or not true bill?

PRESIDENT EGAN: Would the Chief Clerk please read the amendment once more.

CHIEF CLERK: "Strike the last sentence of amended Section 7 and substitute the following: 'The grand jury shall consist of at least twelve citizens, three-fourths of whom concurring may find an indictment or true bill.'" "

PRESIDENT EGAN: It would imply would it not, Mr. Hinckel, it would have to be a not true bill?

BUCKALEW: A true bill is an indictment. It is the same thing, so it is superfluous.

HINCKEL: It is a repetition. I wonder if he did not mean it should work both ways?

PRESIDENT EGAN: Mr. Metcalf, what is your explanation of that?

METCALF: I believe that is the same language that is in the original Section 7, was it not?

PRESIDENT EGAN: That is right. That is what it says in the original language.

TAYLOR: Point of order. I think that matter has already been disposed of in previous action today as that was in Section 7, "any nine of whom concurring". We have already struck it out. This would be putting it back in, three-fourths.

PRESIDENT EGAN: Mr. Taylor, this is rewriting the section all right, but it would be in order, as the Chair remembers that we never actually completed Section 7. This would strike Section 7, this proposed amendment we have before us now, so if Mr. Metcalf would seek to add that particular wording he would be in order up to this point, because we didn't yet strike Section 7. Is there further discussion? Mr. Sundborg.

SUNDBORG: I would like to have it read once more.

PRESIDENT EGAN: The Chief Clerk will please slowly read the proposed amendment to the amendment.

CHIEF CLERK: "Strike last sentence of amended Section 7 and substitute the following: 'The grand jury shall consist of at least twelve citizens, three-fourths of whom concurring may find an indictment or true bill.'"

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I concur with Mr. Hinckel. I think that the words "or true bill" are superfluous in there. An indictment, as most lawyers are familiar with, regardless of whether it is a true bill or not a true bill, both of them are labeled "indictment". They could return either a true bill or not a true bill and I think if you're going to leave the words, "a true bill" in, it also in turn should be "not a true bill".

PRESIDENT EGAN: You would say it should be "indictment or a true bill or not a true bill", is that right? Mrs. Hermann.

HERMANN: That would seem to mean that it would take nine concurring to give a not true bill as well as an indictment, and I don't think that anyone would ever desire to have that situation arise. The point of the matter is, if you don't get your nine concurring you don't have a true bill. You don't have to have nine against, but you just simply don't have a true bill. The wording is a little awkward for that reason.

PRESIDENT EGAN: That was the original wording in the bill of rights proposal. Mr. Taylor.

TAYLOR: Mr. President, I believe that should not be in that way because the grand jury is investigating something that there has been no bind-over from the commissioner's court. That if they do not, if sufficient number of jurors do not vote an indictment, they could not return not a true bill because all matters touching that particular inquiry are secret and don't come out.

PRESIDENT EGAN: Would a few of the attorneys care to work with Mr. Metcalf on the wording of that, is that your desire? If there is no objection, the Convention will stand at recess for

1400

a couple of minutes while that is done.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Metcalf.

METCALF: Mr. Chairman, I ask unanimous consent to withdraw the amendment which I just previously submitted and in lieu thereof I submit a rewritten amendment which is on the Clerk's desk.

PRESIDENT EGAN: Mr. Metcalf asks unanimous consent to withdraw the amendment which he had previously submitted. If there is no objection it is so ordered and the Chief Clerk will now read the proposed amendment as now submitted by Mr. Metcalf.

CHIEF CLERK: "Delete the last sentence of amended Section 7 and add the following: 'The grand jury shall consist of at least 12 citizens, three-fourths of whom concurring may return a true bill.'"

METCALF: I ask for the adoption of the proposed amendment.

BUCKALEW: I second it.

R. RIVERS: I ask unanimous consent.

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard. The question is open for discussion. Mr. Hellenenthal.

HELLENTHAL: Mr. President, I know of no reason why the present law which has been in effect for 50 years in Alaska should be changed. Today, yesterday, and ever since we had grand juries in Alaska it took a majority of the grand jury of 23 to indict. Now, overnight, and for no reason I know of at all, we are going to require three-fourths of the members of the grand jury to concur before an indictment can be turned in. Do we know of any cases where the grand juries have been abusing their rights? Is there any reason, any reason why it should be made more difficult to indict a criminal? Any reason why one accused of crime should have the protection of three more votes, of another 25 per cent? Unless some reason is pointed out to me, this amendment which could only give consolation to those who are involved some way or another, unless some good reason is pointed out I must oppose it. Now. the reason that the language, "any nine of whom concurring may find an indictment or true bill" is found in that Missouri provision which has been rejected, was that indictments that were preserved by the original Section 7 were merely indictments resulting from willful misconduct in office of public officers. That was the only type of indictment, you will recall, that was preserved in the original Section 7, and so there is no tie-in whatsoever with the recommendation

that any nine might concur in that type of an offense, and applying it now to all offenses I can see no good, no useful purpose whatsoever that will be served by this amendment.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment? Mr. Victor Rivers.

V. RIVERS: It seems to me in the face of the present law which sets up, I believe, 23 members for the grand jury, it would then require 18 members under this amendment to indict and find a true bill and I think that is a fairly substantial majority and that would then allow the case to go to the petit jury or before the court. It seems to me that if it were based entirely on the 12 which we have before us, it might not be so good, but in the present law with 23, and if the present law is adopted in its entirety, it would seem to me that 18 people would be pretty sure they were right in the final analysis before bringing in a true bill or indictment. If the present law were held it would seem to me that this would be a very good clause. Three-fourths is a very high number to get in a body where there is any question of doubt in their minds.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I am not so sure I understand Mr. Rivers. A man can be indicted under the present law. First, the present law requires that there be 23 men and women on a grand jury. The present law requires that 13 of those people must agree before a true bill can be brought in, 12 rather. Now Mr. Rivers wants to raise that to 18. What reason exists for raising it from 12 to 18? Or by the same token from six to nine? What reason?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: It would seem to me that the way this amendment is written any three-fourths of the entire body would have to act in order to bring in a true bill, is that not correct? So it actually would be three-fourths of 24, which would be 18 members. Is that right?

HELLENTHAL: No. The present bill provides for a 12-man jury, so it would be nine out of 12, 18 out of 24, or if you have a 40-man grand jury, it would be 30 out of 40.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I respond to Mr. Hellenthal's question. It takes 12 persons now to accuse a man of a crime by bringing in a true bill. By cutting down the grand jury to 12 instead of 23 you have cut down the size of the body so much that even with this requirement, it would take affirmative action by nine people to accuse a man of a crime, or to bring in a true bill. I think the reason for having this three-fourths is that you are cutting

the size of the body down so much. From a practical standpoint, although the legislature could have a larger grand jury than 12, to save money and not spend more than necessary, I should judge they would set up a grand jury of 12 people. Well, then, nine would be the number of affirmative votes required to bring in a true bill. That is the thinking behind it. I would not care if it said a majority. But I think it is well to say something along that line.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I agree fully with "majority", but to go beyond majority it is going to play into the hands of the law breakers.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment to the amendment as amended be adopted by the Convention?" All those in favor of adopting the proposed amendment to the amendment as amended will signify by saying "aye", all opposed by "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Boswell, Buckalew, Coghill, Cross, Davis, H. Fischer, V. Fischer, Gray, Hermann, Hinckel, Hurley, McCutcheon, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Riley, R. Rivers, V. Rivers, Sweeney, Mr. President.

Nays: 29 - Armstrong, Awes, Barr, Doogan, Emberg, Harris, Hellenthal, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, Nordale, Peratrovich, Poulsen, Reader, Robertson, Rosswog, Smith, Stewart, Sundborg, Taylor, VanderLeest, Walsh, White, Wien.

Absent: 3 - Collins, Cooper, Hilscher.)

CHIEF CLERK: 23 yeas, 29 nays, and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment as amended has not been adopted. Mrs. Hermann.

HERMANN: I wish to submit an amendment which I have not written but is the same as Mr. Metcalf had except it says "a majority".

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Mrs. Hermann offers the same amendment except that it would require a majority of the jurors rather than three-fourths. Mrs. Hermann moves the adoption of the proposed amendment. Mr. Hellenthal seconds the motion. The question is,

"Shall the proposed amendment as offered by Mrs. Hermann be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted.

CHIEF CLERK: I hope that I have it right. "The grand jury shall consist of at least 12 citizens, a majority of whom concurring may return a true bill."?

PRESIDENT EGAN: That is correct, Mr. Barr.

BARR: I have an amendment on the Secretary's desk which I would like to offer and there is also a copy on each delegates desk, Section 7.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Barr.

JOHNSON: Point of order. We have the original amendment before us.

PRESIDENT EGAN: We have the original amendment before us. Your point of order is well taken. The last amendment was actually an amendment to the amendment as proposed by Mrs. Hermann, so now we have the original amendment as amended before us for consideration. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to ask the movers of this amendment to what they refer in the use of the word "this" in the fourth line, "but this shall not be applied". Do they refer to prosecution by information? Do they refer to everything that goes ahead of that or what is their intention? I think we can straighten it around in Style and Drafting if we know what they mean by it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I have analyzed it. I know they mean this section shall not apply to the armed forces. I ask unanimous consent that we insert the word "section" after the word "this".

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that the word "section" be inserted after the word "this" on the fourth line of the proposed Section 7. Is there objection? Hearing no objection it is so ordered. Mr. Taylor.

TAYLOR: Mr. President, I think also then the two following words, "be applied", should be changed to "not apply".

R. RIVERS: That would be for Style and Drafting really. I don't care. "This section shall not be applied to the armed forces", is that not just as good a way as saying "it shall not

apply"?

TAYLOR: Why does it say "shall not apply" then?

PRESIDENT EGAN: We have adopted the proposed amendment as offered by Mr. Ralph Rivers. Is there further discussion?

R. RIVERS: I would like to offer an amendment on the last line of the amendment before us, that the word "may" be changed to "shall".

H. FISCHER: It has been.

PRESIDENT EGAN: If there is no further discussion Mr. Londborg.

LONDBORG: I believe if Mr. Barr would offer his amendment as an amendment to this amendment, it would be in order, and I think that whether that is included or not that will have a bearing on whether I vote for the amendment to Committee Proposal No. 7 or whether I vote to retain Committee Proposal No. 7.

PRESIDENT EGAN: Was it your desire to offer your proposed amendment as an amendment to the amendment, Mr. Barr?

BARR: It wasn't because I hesitate to interfere with anybody's amendment. I would like to offer it if this amendment we're reconsidering now, is adopted. However, I can see that there might be opposition to the amendment under consideration unless mine is also included. I feel that way.

PRESIDENT EGAN: You are free to offer your amendment as an amendment to this amendment if you so desire.

BARR: I might ask if any of the authors of this amendment would object to adding mine.

PRESIDENT EGAN: If they would object to your asking that it be added? Would you please read Mr. Barr's proposed amendment?

CHIEF CLERK: "At the end of Section 7, as amended, add the following paragraph: 'The power of grand juries to investigate and make recommendations concerning conditions detrimental to the public welfare or safety shall never be suspended.'"

BARR: That is an additional paragraph. If none of the authors of this amendment object, I would like to offer this as an amendment to the amendment. I so move.

PRESIDENT EGAN: Mr. Barr so moves.

BARR: I ask unanimous consent.

PRESIDENT EGAN: Mr. Barr asks unanimous consent. Is there objection?

BUCKALEW: I object.

JOHNSON: I second the motion.

R. RIVERS: Point of clarification. Does he intend to have it added on to what we already have?

PRESIDENT EGAN: That is right, added on to what we already have as the proposed amendment before us. Mr. Buckalew.

BUCKALEW: From my first impression and my prime objection to this particular amendment is that I think and feel certain it will open the door, for example, the grand jury might have under investigation the conduct of some particular public office, for example the governor, or any public official, the local tax collector. They don't have enough evidence to return an indictment but this would give them the power to blast him good and hard, and I think it would lead to all kinds of trouble, and I think it is an unheard of provision. The recommendation of the Committee provided that the grand jury could investigate, they could return indictments, but it certainly did not give them the privilege to more or less defame somebody if they did not have quite enough action for a bill. Under this they could discredit him completely, and he would have no way of answering. He might be able to come back and get the report of the grand jury stricken from the records of the court, but the damage would then be done. I think it is extremely dangerous because a citizen would not have any protection. Once it was published the only thing he could do would be to then come in and ask the court to strike portions of it. For that reason I would object to it.

R. RIVERS: The present province of our grand jury is to investigate public offices and institutions, not just to investigate anything involving the public welfare. I wonder if Mr. Barr is intending to try to preserve what we already have now, as the province of the grand jury. Would you consent to having it worded as "investigate public offices and institutions and make recommendations"?

BARR: No. I think that their power should be a little broader than that. I don't know what the powers are right now exactly, but I do know that they make recommendations concerning other things than public offices and officers, and under this provision it would only investigate and make recommendations concerning things that endangered public welfare's safety, and I believe that is what the grand jury is for is to protect the rights of its citizens. They do not necessarily have to defame any person or mention him by name. If the tax collector was using methods not acceptable to the public, they might make a

recommendation for a change in the system of tax collection, etc., and I think it would be their duty to do so.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment? Mr. Hellenthal.

HELLENTHAL: Mr. President, my suggestion was that the word "detrimental" be stricken and the word "involving" be inserted because I agree with Mr. Barr that the investigatory power of a grand jury is extremely broad, not as narrow as Mr. Rivers contends. I think a grand jury can investigate anything, and it is true that there is little protection against what they call in the vernacular, a runaway grand jury, but in the history of the United States there have been few runaway grand juries, extremely few, and I think that the broad statement of power that Mr. Barr asked for is proper and healthy.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the amendment to the amendment offered by Mr. Barr be amended by striking the words "detrimental to" in the second line and substituting therefore the word "involving".

RILEY: Mr. President, point of order. I believe I think Mr. Barr's submission on this was contingent upon no objection. There was objection raised, so it is not before us yet.

PRESIDENT EGAN: It is before us, it was moved and seconded, but the Chair was wondering if Mr. Barr was acceptable to that proposed amendment as suggested by Mr. Hellenthal. Are you, Mr. Barr?

BARR: Yes, Mr. President.

PRESIDENT EGAN: I was wondering if you might ask to withdraw it and have it inserted with the proposed words in it, if that is your wish. Then we will get around this amendment for the third or fourth time.

BARR: I ask permission to withdraw my amendment and submit another amendment in lieu thereof.

PRESIDENT EGAN: If there is no objection, the proposed amendment is ordered withdrawn.

BARR: I would like to submit the same amendment but using the word "involving" instead of "detrimental to" and I ask unanimous consent for its adoption.

BUCKALEW: I object.

BARR: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Barr moves and Mr. Johnson seconds the motion. If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Barr to the amendment as amended be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment as amended will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted.

V. RIVERS: Point of order. If the "ayes" have it my ears deceive me.

PRESIDENT EGAN: If someone asks for a roll call, the Chair will call for one.

SWEENEY: I'll ask for a roll call, but I want to state something else. When you call for "ayes" or "nays" it is only necessary to say "aye" or "nay". It is not necessary to put the volume behind it.

JOHNSON: The Chair has already announced the result.

PRESIDENT EGAN: The Chair did announce the result, but if there is objection, that is the result, the Chair would like to state that in many instances half of the delegates do not vote at all. It seems to be the feeling of the Chair that many of the delegates sit quietly and let the rest of the delegates do the answering in one way or another. You have to make some noise. You can't whisper "yes" or "no", and it is true, it seems to the Chair, it is true that a few of the delegates make their wishes known in many cases and others just sit quietly and let others do the answering. Mr. Victor Rivers.

V. RIVERS: Mr. President, there is substantial doubt in my mind as to the outcome of that vote. I will have to ask for an appeal to the ruling of the Chair and ask for a roll call vote.

PRESIDENT EGAN: Mr. Victor Rivers appeals to the ruling of the Chair.

JOHNSON: Mr. President, I move that the ruling of the Chair be sustained.

PRESIDENT EGAN: The moment that a person on the floor appeals to the ruling of the Chair, it is then the proper manner for the Chair to say, "Shall the ruling of the Chair be sustained?" and then all other business ceases until that action is taken. The question is, "Shall the ruling of the Chair be sustained?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 44 - Armstrong, Awes, Barr, Boswell, Coghill, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest. Walsh, White, Wien.

Nays: 8 - Buckalew, Doogan, H. Fischer, Laws, Riley, V. Rivers, Smith, Mr. President.

Absent: 2 - Collins, Cooper, Hilscher.)

KILCHER: Point of order, Mr. President, I question the President's right to abstain without having given previous notice.

PRESIDENT EGAN: Well, the President will say "no" then.

CHIEF CLERK: 44 yeas, 8 nays, and 2 absent.

PRESIDENT EGAN: So the ruling of the Chair then has been sustained. Are there other amendments to Section 7? Mr. Sundborg.

SUNDBORG: Mr. President, my recollection is that we have not yet adopted the amendment. We have only just amended it.

PRESIDENT EGAN: On the amendment to the amendment that is correct, Mr. Sundborg.

ROBERTSON: I move the previous question.

PRESIDENT EGAN: Mr. Robertson moves the previous question. Do you ask unanimous consent?

ROBERTSON: Yes.

PRESIDENT EGAN: Unanimous consent is asked. Hearing no objection, the previous question is ordered. The question is, "Shall the proposed amendment to Section 7 as amended be adopted by the Convention?" All those in favor of the adoption of the proposed amendment as amended --

MARSTON: We will have to have that read I think.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as amended.

(The Chief Clerk read the proposed amendment as amended.)

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended, as offered by Mr. Buckalew and other delegates, be

adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes have it and the proposed amendment as amended is ordered adopted by the Convention. Mr. Buckalew.

BUCKALEW: I turned around and noted a string of dignitaries had entered the assembly -- the Speaker of the House, Mr. Kay, Representative Plummer and Representative Johnson.

PRESIDENT EGAN: We are happy to have you with us Mr. Kay, Mr. Plummer and Mr. Johnson. (Applause) Are there other amendments to Section 7 of Committee Proposal No. 7? Mr. Victor Rivers.

V. RIVERS: I have one to Section 8.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment to Section 8.

CHIEF CLERK: Mr. Kilcher's amendment to Section 8, page 3, change --

KILCHER: Mr. President, I don't intend to move this amendment, pardon me.

PRESIDENT EGAN: The proposed amendment will be withdrawn. Is there any other amendment to Section 8, 9 or 10? Mr. Hellenthal?

HELLENTHAL: Yes, Mr. President, I move that following the first sentence of Section 10, the following sentence be inserted: "Wire tapping or obtaining unauthorized information by other technical means or devices is prohibited. Evidence obtained in violation of this section shall be inadmissible in the courts."

PRESIDENT EGAN: Do you have that in writing, Mr. Hellenthal?

HELLENTHAL: It is in the report of the Committee.

PRESIDENT EGAN: Does the Chief Clerk have the proposed amendment now? Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Following the first sentence of Section 10, insert" 'Wire tapping or obtaining unauthorized information by other technical means or devices is prohibited. Evidence obtained in violation of this section shall be inadmissible in the courts.'

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal?

HELLENTHAL: I move the adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Hellenthal moves the adoption of the proposed amendment.

H. FISCHER: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Doogan.

DOOGAN: I objected in the Committee and that is the reason that the minority report was written. I maintain that this amendment as it is written is a legislative matter rather than a constitutional matter. I think with the progress being made in the electronics, photography, etc., you preclude the good administration of justice by putting in an all-inclusive clause in the constitution such as this is. I believe that wire tapping should be controlled but I believe that there is a place that it should be used and that it should not be used. I believe that our administrative officials that we hire to administer our laws and protect us should have the right of at times using almost any device that they so choose in the apprehending of known criminals, known subversive people who are promulgating subversive action, etc., and I submit again that it is not a constitutional matter, it is a legislative matter.

PRESIDENT EGAN: Is there further discussion? Mr. Hellenthal.

HELLENTHAL: The objection that this is legislative can be made to every one of the 20 sections of the bill of rights. Every bit of it is legislative. There is no question about it. To appear here and classify that as legislative particularly in dealing with this section does not convince one that the matter is faulty. It is not a question of whether it is legislative or not, it is a question of stress. Now the reason that the Bill of Rights was first enacted by the founding fathers was that they felt that there were certain rights, legislative matters if you wish, upon which great stress should be placed. They had unhappy experiences with the colonists, and rather than leave these fundamental things that bothered them deeply, they saw fit to include them in the first 10 amendments to the United States Constitution. All were legislative if you please. So the test is not, "Is it legislative?" The test is, "Shall it be stressed?" In following the Bill of Rights some of us have adopted this test to guide us in determining what should be in the bill of rights today. And the test is this -- is it a right which a totalitarian state today would deny? Is it a practice current in the totalitarian states and abhorrent to free people? Applying that test, wire tapping is abhorrent to free peoples. It is a common practice in the totalitarian states and it should be outlawed and it should be stressed in the bill of rights. Now the United States Supreme Court by judicial decision has reached the conclusion that wire tapping is illegal. If the founding fathers had telephone wires, electronic devices, telegraph wires before them, which they did not, I am sure that they would have prohibited this unwarranted invasion of a free American's privacy. The Supreme Court, however, did it by interpretation. Now, it is like this matter we talked about

this morning about indictment and information and whether you should abolish the indictment. You can argue truthfully that in some instances, by keeping the indictment, criminals will escape punishment. On the other hand though, innocent people by abolishing the indictment might suffer, and it is equally true that by restricting the use of wire tapping and unauthorized eavesdropping, if you will, that some criminals will be benefited, but the greater good results from the prohibition, just like the greater good resulted from the retention this morning of the indictment, and for that reason you must weigh it. The lawyers and the law professors call these prophylactic rules, where the good must be balanced against the evil, and if you approach this thing fairly, analyze it fairly, consider it abhorrent to totalitarian practices that are prevalent today, I am sure that you will find that this prohibition will accomplish great good and will do great good for our democratic processes and our democratic form of government and that it deservedly has its place in a modern bill of rights.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I too find wire tapping as abhorrent as the distinguished delegate, Mr. Hellenthal. I also find murder and rape abhorrent, but we have not defined it, put it in the constitution and prescribed for its punishment. We have provided that we can protect this state by a well-organized militia when it's necessary. We have protected treasonable persons by setting up rules of evidence, limiting the type of evidence that can be introduced, and in this instance we have absolutely prohibited not only wire tapping as proposed by Mr. Hellenthal but obtaining of any unauthorized information by other technical means. If we embed this in our constitution with the worthiest of intent we may in fact strap the hands of the legislature and the law enforcement authorities. I find it abhorrent, but I believe as the Committee believes, this is a matter for the legislative action, not for us to be embedding in the constitution forever.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I have an amendment I would like to make to Mr. Hellenthal's amendment.

PRESIDENT EGAN: Mr. Metcalf has an amendment to the proposed amendment.

V. RIVERS: I have an amendment that is along the same general lines, approaching it from a slightly different point of view. I would like to ask for a three-minute recess and ask unanimous consent.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: Mr. President, during the recess we conferred with Mr. Victor Rivers and others, and we have submitted a different amendment which has been signed by Mr. McNealy, Reverend Armstrong and myself, all of whom concurred in the minority opinion with regard to wire tapping and which is also concurred in by Mr. Rivers who will present it, and I wish to withdraw the proposed amendment with the consent of my second.

PRESIDENT EGAN: You ask unanimous consent that the original amendment be withdrawn? Is there objection? Hearing no objection, it is so ordered and Mr. Hellenthal's original amendment is withdrawn. Mr. Victor Rivers.

V. RIVERS: Mr. President, I have submitted to the Clerk the amendment proposed by Mr. Hellenthal, and Mr. Armstrong and Mr. McNealy and myself.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Victor Rivers and other delegates.

CHIEF CLERK: "Section 11, page 4, line 12, at end of line 12 add the following: 'The right of privacy of the individual shall not be invaded by use of any electronic or other scientific transmitting, listening or sound recording device for the purpose of gathering incriminating evidence. Evidence so obtained shall not be admissible in judicial proceedings or legislative hearings.'"

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

V. RIVERS: Mr. President, I will move the adoption of the proposed amendment.

ARMSTRONG: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. White.

WHITE: May I ask a question of Mr. Rivers? Would you explain to me, Mr. Rivers, how this differs in any vital respect from the former amendment?

V. RIVERS: This differs in the respect that we are trying to avoid the invasion of the right of privacy. We have set up in here that a man shall be inviolate in his home, which is his castle. We have an amendment here which would not allow his rights of privacy be invaded at such times as he was conducting his private affairs, if he were sitting in his home talking

over his telephone or he was sending a private communication by voice. Now it seems to me we must protect somewhere along the line the right of privacy in this constitution. We certainly are entitled to enjoy that right of privacy within the boundaries of our home or where we would be subject to some listening device, some recording device which might be put there, part of which might be taken out of its context and used against us where if the whole conversation were heard, it would not be so. It seems to me that we are failing to fulfill one of the obligations to protect our citizens if we do not protect their privacy in the matter of gathering evidence in that manner for the purpose of using it as incriminating evidence. I've given this proposal a good deal of thought and it seems to me the more we progress in the matter of scientific devices the less privacy the individual has. I would not venture to say it will not be too long before we have listening and soundscribing devices which will be of a nature that they will transcribe our thoughts before we even speak them. Unless science is a lot slower than I think it is, that will not be too far in the distant future. It seems that this thing, with the advances of science, it is absolutely essential to the protection of the right of privacy of the individual in the matter of obtaining and submitting against him incriminating evidence which might not be in its entirety or might not be in its context.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I am in favor of an amendment along the lines we have been discussing but I am sorry to say I am not able to pass on the amendment offered by Mr. Rivers, was long as it is, without seeing the thing. I don't know whether it meets what I want or not.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I believe that we are in a position now of talking about something that goes beyond law. I think we are talking about a moral factor. It has been said here this afternoon that we do not know what science will bring to our civilization, and that I believe. I concur in that, we have no dream of what we have in the future. This may not spell out what we need for the future, but it will place here in our declaration of rights our intent that we will not be invaded in our homes or in other places where we might meet to discuss political activities, to discuss the rights of our bill and declaration. I have read the statements of district attorneys and lawyers against wire tapping. I see their point. They believe that we are making it difficult for them to receive information and that is just what we are trying to do, make it difficult to the point where we still possess our rights and we are not surrendering them. I believe this is within the field of the moral obligations we have to one another and, if this

amendment does not spell this out intrinsically, I think we should work it out to the point where we do have it in the declaration, and, for lack of any better amendment at this point, I certainly will support this amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: This amendment is merely a recurrence of the original proposal which it was substituted for. If it is said that we don't know what science will bring, it is my suggestion then, under those circumstances, let's not say anything about it and leave it to the legislature because they will certainly find out what has been created at the time they sit. They can rectify the evil if it exists at that time. As I say, I am morally opposed to wire tapping, too. What have we done now? In substance we have provided that under no circumstances will the admission of wire tapping through electronic devices done in a person's home be admitted as evidence in any court. That in substance means that Alger Hiss or Gerhardt Eisler is immune, now, tomorrow and the next day. As a matter of fact, in Section 14 we have permitted the writ of habeas corpus to be suspended in cases of rebellion, invasion or imminent peril. In the case of wire tapping it is always prohibitive. Even at a treason trial it would be inadmissible. Stress has been made here today that we certainly have protected the treasonable, because we provided in Section 16 that, "No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court." But we consider treason a heinous crime, yet we refuse to make the exception and say in substance that wire tapping of treasonable conversations done at home will be admissible evidence in the courts. I stress the point that wire tapping is abhorrent but we can go on and amend and amend and amend and make exceptions and the legislature's hands will be tied because we in our wisdom, not knowing what will take place in electronic developments, still are insisting that this thing shall be perpetuated in the constitution. I merely reiterate there are many abhorrent things, but there is no use or sense going on record in the constitution against them. It is something that should be left to the legislature. If it is so abhorrent to all men, then certainly the legislature can take care of it and they should.

PRESIDENT EGAN: Mr. White.

WHITE: I think Mr. McLaughlin has presented my ideas far more ably than I, and I certainly concur in his point of view. It has been said here for the second time today that the test should be applied that if anything that occurs within a totalitarian state should be prohibited here. It sounds good on the surface but in connection with this, let's consider the totalitarian states allow the use of side arms, we don't deny our law enforcement officers the use of side arms merely because they are

permitted in totalitarian states. That argument holds no weight with me. It is contended that the use of eavesdropping methods is a violation of rights which indeed it is, looked at in one way, but I would submit the right of the people to be protected against particular crimes, if you will, is a superior right and I would name kidnapping, extortion, sabotage, overthrow of the government in that category. I can visualize a day might come when a child of mine has been kidnapped and the only way to get at the people who have perpetrated the crime would be to put a tap on my phone and wait until they call in. All these things are abhorrent to me but I think it would be far more sensible to us to leave it to the legislature to permit the use of such devices under strict control, under strictly outlined circumstances just as the Department of Justice has done according to my understanding since 1931, without exception, under every administration.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Section 11 as it is presently written provides that the right of the people be secure in their houses and homes. They shall be protected against unreasonable searches and seizures, and it provides as to how searches and seizures may be made under certain circumstances. Now I submit that it is not any less a violation of a person's rights to make a search and seizure by some sort of an electronic device or other device than it is by physically searching his home or his person. I feel about this exactly as I did this morning about the matter of indictment. I am not trying to protect the saboteur or the subversive or somebody that may be a kidnapper, but the problem is that we have got to make a distinction between the saboteur and other people of that class and somebody that somebody may think is a saboteur or a subversive or a kidnapper and certainly, unless our government officials are prohibited against using the devices which we now have, we don't need to worry about the devices yet to come, the devices we now have, we will have no privacy whatsoever, and in my opinion, unless either by constitution or by legislative enactment we have some sort of prohibition on the thing we are talking about, we have taken the first step toward a police state. Now as to whether it should be in the constitution or whether it should be by legislative enactment is important. If I knew that the legislature were going to enact something of this kind I would certainly leave it out of the constitution. I do not so know it and I believe that it is perfectly proper and that we should have a provision of this kind in the constitution, then there cannot be any question of some government official deciding that he wants to find out what so and so may be doing in his own home. The only question I raised awhile ago on this thing was I am not sure that the language as written goes far enough. It seems from the discussion here that we are talking about something in a person's home. Now, it is my understanding that presently we have electronic devices which doesn't invade a

person's home at all physically, but from a considerable distance can find out exactly what is said in a person's home without using the telephone or anything else, present electronic devices. I think we would be derelict in our duty here if we did not prohibit that sort of thing and prohibit use of evidence so gathered in our courts.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am inclined to think that Mr. Davis's argument is sound except it raises in my mind this question: Mr. Hellenthal has also pointed out that the right to be secure in a person's privacy has been protected by the United States Constitution, and that the Supreme Court of the United States under the Fourth Amendment has held that evidence obtained by wire tapping is not admissible in courts. Now, to follow out Mr. Davis's idea that we should guard against any future electronic device, it seems to me that if the Supreme Court of the United States has already ruled that evidence obtained by an electronic device, and I assume that wire tapping is in that category, then we have nothing to fear from the language of the section as it now stands. Another thing that occurs to me, and with respect to electronic devices, and that is that this matter of a radar device which is now used by the Territorial Highway Police to assist in the capture of speeders and reckless drivers. That device was adopted from the State of Washington. I believe the Supreme Court of the State of Washington has held that evidence obtained by the use of that device is valid and admissible in their courts, and yet, if we put a prohibition of that as specific as this amendment seeks to do in our constitution, what about this radar device for capturing speeders? Would such evidence still be admissible? It seems to me that a radar device of that kind is clearly within a definition of an electronic device. I think we would do nothing but hamstring law enforcement if we should adopt such an amendment.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: The emphasis on this amendment as drafted is to protect against the invasion of the right of privacy, and it says that that right of privacy shall not be invaded by the use of electronic devices or other mechanical or such devices. If, in the instance that Mr. White gave, he consented to the tapping of his own telephone wire in cooperation with the police and the kidnapper phoned in, that would not be the invasion of anybody's right of privacy because he would be consenting to it. What I am getting at is that the police people and the enforcement authorities could, under this amendment, utilize all of these modern devices as long as they did not infringe or invade a person's right of privacy. I don't think that protecting the right of privacy would prevent the use of radar on a highway. This is flexible enough and has enough

interpretation and is based so solely on the invasion of the right of privacy that any use that could be made of any of these devices without invading the right of privacy could still be utilized, and then, as to Mr. Johnson's point, the Supreme Court is making the decision under Federal law and procedure and is telling the Federal enforcement authorities what it cannot do, but the Supreme Court is not prescribing for the states who may wish to allow wire tapping.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: We started out here at the Convention when we started adopting these amendments there was a high distrust of the legislature. We finally seem to have got it down to the point where we are going to begin to trust the future legislatures even if we have not felt we could trust the ones in the past. We are now at the point almost where we started the Convention, of not trusting our administrative and police officials, district attorneys, etc. I can't quite figure it out because it says here in Section 11, "The right of the people to be secure in their persons, houses", and we have preserved that right, and in being secure in your person and in your house is only insofar as you live up to the law. When you try to insert an amendment such as is being proposed, wire tapping if you want to call it that, then you are preserving the right to be secure in anything that you might choose to do, even in breaking the law. To go a little further, we are trying to provide that the people shall be safe and inviolate from everything. Again, you have taken away their right to be secure if you adopt this amendment by permitting subversives to do anything that they want, and when a criminal does something it is usually against one person, but when a person engaged in subversive activity does something it is against all of us. Again, I feel that the legislature is quite capable, once this particular problem is made known to them, of taking any necessary action to allow such controlled wire tapping, electronic devices, etc., is necessary, and I don't think they are going to put it in a position that they can come into your house and listen to you discuss any matter you might choose to discuss with your wife or family. I say again, it is a legislative matter that, if we put anything of this sort in the constitution, then we have forever eliminated, until the constitution is amended, the right of our enforcement officials to protect us in our right of person, house, property and in our right to be free citizens.

PRESIDENT EGAN: Mr. Barr.

BARR: I would like to point out on the fallacy of one statement made by my good friend, Ralph Rivers. In speaking of the case where Mr. White's child might be kidnapped, and Mr. White would allow the police to come in and tap his phone, and then he said there would then be no question of invasion of privacy

since they came with the consent of Mr. White, but that is not quite right. The privacy of the kidnapper would be assailed certainly. This amendment, if it is passed, why it will make such a situation perfectly safe for kidnappers. Now this amendment as it reads, to me it reads exactly like any law enacted by the legislature and it might make a pretty good law, but it has no place in the constitution. In the constitution it will stick out like a sore thumb.

METCALF: Mr. Chairman, I have an amendment to submit.

PRESIDENT EGAN: If there is no objection, you may submit your proposed amendment to the amendment. Mr. Sundborg.

SUNDBORG: I am advised that the clock is incorrect and that the hour of 5:40 has arrived, and, subject to committee announcements, I move and ask unanimous consent that we recess until 9 a.m. tomorrow.

PRESIDENT EGAN: Are there committee announcements before we put this before the Convention? Mr. Victor Fischer.

V. FISCHER: Just a request that the amendment as proposed by Mr. Rivers be mimeographed by tomorrow morning.

PRESIDENT EGAN: Will the Chief Clerk please see to that? The proposed amendment to the amendment, Mr. Metcalf, will be placed before us at that time. Mr. Coghill.

COGHILL: Mr. President, in line with the ruling of the committee chairmen that we have no evening session meetings until Monday, seeing that there is no committee meeting announcement for tonight, I move that we adjourn until 8 o'clock this evening.

PRESIDENT EGAN: Are there any committee announcements? Mr. Coghill, the motion to adjourn was before us. It is only out of the courtesy of Mr. Sundborg that the Chair has been allowed to ask for these committee announcements and ask if there is anything else to come before the Convention. The Chair will have to hold that Mr. Sundborg's request for adjournment until 9 a.m. will have to be voted on first.

SUNDBORG: I so move.

PRESIDENT EGAN: Mr. Sundborg so moves.

V. RIVERS: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9 a.m. tomorrow? All those in favor of adjourning until 9 a.m. tomorrow will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention stands adjourned until 9 a.m.

ALASKA CONSTITUTIONAL CONVENTION

January 7, 1956

FORTY-SIXTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend John Stokes of the University Community Presbyterian Church at College. Reverend Stokes will deliver the daily invocation.

REVEREND STOKES: Let us pray. Almighty Lord, Father of all mankind, we thank You for the new opportunities which You present to us in this new day. To these framers of the constitution of the State of Alaska, grant great faith, high ideals and good health that this document may be a testimony to Thy grace in the affairs of men. In the name of Jesus Christ Our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. We will proceed with the regular order of business. Does the Committee to read the journal have a report to make this morning? Mr. Doogan.

DOOGAN: Mr. President, I have journals from the 39th day through the 42nd day to report.

PRESIDENT EGAN: Mr. Doogan has the journals from the 39th day through the 42nd day to report.

DOOGAN: On the journal for the 39th day, in the title of the journal "Thirty-Nine", strike the "e" on page 3. In the first paragraph after the recess insert in the second line after "vice president of" insert the words "student body of the". On page 5 in the first paragraph after recess, in the second line, strike the word "part" and substitute "another group"; strike "the" before "sophomore"; strike "classes" and substitute "students". Journal for the 37th day, page 1, second paragraph, change the "e" to "a" in the name of Chaplain. Journal for the 38th day, page 1, paragraph 2, insert "the Reverend" before "Robert". On page 9, fifth paragraph from the bottom of the page, strike the first "p.m.". Journal for the 40th day, page 1, delete "o'clock" in the first paragraph. Page 3, 6th paragraph, strike "5" and insert "15". Page 6, first paragraph AFTER RECESS insert "to" after "moved". Page 9, second paragraph AFTER RECESS after the word "to", insert the following: "the

first sentence in the amended". Page 12, insert "AFTER RECESS" after paragraph 5, calling the recess. Page 19, first roll call, change "27 yeas" to "25 yeas". Second roll call, change "25 yeas" to "27 yeas". For the journal of the 42nd Convention day, page 1, next to the last paragraph, insert a period after "gallery" and strike the rest of the sentence and substitute the following: "The Alaska Road Commission District Engineer from Nome, Mr. Frank Morris and Mrs. Morris were introduced." Page 3, third paragraph from the bottom of the page, strike "himself and announced" and substitute "the earlier announcement of said vote by announcing". Second paragraph from the bottom of the page, third line, insert "portion of that" at the end of line. Last paragraph, strike "voting on"; insert comma after "recess". Page 5, third paragraph from the bottom of page, third line, strike "H."; insert "Ralston" before "A". Page 6, third paragraph from the bottom of page, change "wishes" to "wished". Second paragraph from the bottom of page, second line, strike "of" and substitute "on". Those are all of the corrections and I ask that the journals from the 37th day through the 42nd day be approved as amended.

PRESIDENT EGAN: Was that from the 37th day or the 39th day?

DOOGAN: Beginning on the 37th day.

PRESIDENT EGAN: You have heard the unanimous consent request from Mr. Doogan that the journals from the 37th day through the 42nd day be approved as amended. Mr. Boswell.

BOSWELL: In looking over the journals I note that there is never any reference to the time that the plenary sessions adjourn, and it seems to me that should be an important part of the record.

CHIEF CLERK: That came up once before and it was the feeling of the Convention that when we were having committee meetings that they did not want to say that they adjourned at 10 or 11 o'clock in the morning, although they were working the rest of the day, but, if that is the feeling of the body, I'll be glad to put it in, but that is the reason why it was left out.

BOSWELL: It would seem that whenever we are in a committee of the whole they should state when we start and when we finish. You can look at this journal and you can't tell where something has had a half hour's or a day's consideration.

CHIEF CLERK: You mean each time there is a recess you want the time?

BOSWELL: No, just when it's something special.

PRESIDENT EGAN: The Chair would feel that the journal should show that the Convention adjourned at a certain time until a

certain time, from now on.

DOOGAN: I ask unanimous consent for the approval of those journals.

PRESIDENT EGAN: Mr. Doogan asked unanimous consent that the journals of the 37th through the 42nd days be approved as read and corrected by the special Committee to read the journal, that they be adopted by the Convention. Is there objection? If there is no objection it is so ordered and the journals are ordered adopted. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? Are there any motions or resolutions? Mr. Robertson.

ROBERTSON: Mr. President, in accordance with my motion yesterday, I moved for a reconsideration of my vote upon the question submitted by Mr. Hilscher's proposed amendment in line 24, Section 13, page 4, whereby we deleted the words "two hundred and fifty dollars" and inserted the words, "a sum set by law".

JOHNSON: I second the motion.

PRESIDENT EGAN: That motion then puts the question before us and the question is, "Shall this amendment deleting the words "two hundred fifty dollars" be deleted from Section 13, line 4, and the other words inserted in their place?" Mr. Robertson.

ROBERTSON: I voted on the affirmative yesterday on this proposed amendment. I don't think I realized the possible detrimental effects of the amendment if put into effect. I reached a conclusion shortly after I cast my vote and I talked to a number of the proponents to the amendment later about it, and I concur with them that this would be tantamount to removing the right to trial by jury, and I think we should have a fixed amount left there. Whether or not it should be \$250 or some other sum, I don't know, but that was my thought in mind. I move for reconsideration of the question.

PRESIDENT EGAN: Mr. Robertson, if the Chair may, when you said it would be tantamount to removing the right to trial by jury, you meant in suits of common law?

ROBERTSON: That is correct, Mr. President. Of course, the legislature might not ever set any amount or it might set an amount so high that we ordinary people might not ever have an opportunity to have a trial by jury in any suits on which we would be interested in.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think that the body should seriously reconsider this if they voted in the affirmative because this is our bill

of rights and we are not protecting the people in the bill of rights at all, we are leaving it up to the legislature. It is a novel innovation. In the Federal Constitution, the reason they put \$20 in there was because they wanted to protect the people. If \$250 depreciates and does not amount to anything, why certainly the constitution will have to be amended, but we have got to give the people a right to trial by jury. The only way to do it is to write the amount into the constitution. I think it will be embarrassing to the people of Alaska if we send this constitution off and don't protect the people, absolutely, no matter what the sum is. I would rather see \$2,500 in there rather than leave it up to the legislature. It doesn't matter to me just so it is some reasonable figure, and I think \$250 is a nice round figure to start off with.

McLAUGHLIN: Mr. Robertson, you have no objection if this is reconsidered to making amendments as long as it is a fixed sum, is that right?

ROBERTSON: That is right.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, a fixed sum is just exactly what we should not have. That is not a constitutional matter. The fact that there was a fixed sum in the Federal Constitution, \$20 and it had to be amended later, proves that this will likely have to be amended later. We are not here to write a constitution only for the purpose of amending it. We are supposed to write an enduring document. This is really a legislative matter. They can change it any time in the future. If you don't figure that the people elected to the legislature will have good sense then, of course, we should write a lot of detailed laws into this constitution, but we are not here to write legislative matters and detailed figures into the constitution. I certainly would not be proud of the constitution we write if we had to do that all the way through it.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, Mr. Barr just made the statement that the figure \$20 had to be amended. It has never been amended to this day. It still says \$20. As a practical matter the litigants often don't claim a jury trial for such small amounts, but that figure is still in the Federal Constitution. I do not agree that this is a legislative matter, and I agree with Mr. Robertson and Mr. Buckalew that the section does not guarantee anything unless you put some fixed sum in there because if you leave it to the legislature they could make it a sum so large that there could never be any case that could come within the provision. That would in effect abolish the right to jury trial.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to inquire how should I vote if I want to put the figure \$250 back in?

PRESIDENT EGAN: Vote "no" on the proposed amendment if you wish to put the figure "\$250" back in. Mr. Kilcher.

KILCHER: Mr. President, the very fact that Miss Awes has corrected Mr. Barr's statement that the \$20 has never been changed should be in favor of the original amendment because it is extremely hard to even change figures in statutes and laws. It is very seldom that they are changed. Legislatures are reluctant to change them, these figures, let alone figures set in the constitution. They are likely to float with us forever and I think that in such a matter we can trust not only the judiciary to give fair justice in small claims but also we can trust the legislature. I don't think that the legislature will ever set a precedent where they will make it impossible for the people to get justice. I don't think any legislature that would dare set an exorbitantly high limit would have a chance of lasting very long, and it would be supplanted by one that would certainly more leave it up to the people's expectations. In this respect I think it is a matter of legislation and of our trust into our future legislature.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, the fact that a dollar figure is set, as I see this, is of no significance whatever as long as the dollar figure set is not out of sight. Miss Awes and others have brought out that \$20 is perhaps an absurd figure today in terms of dollar value, but I don't believe that the depreciation of the dollar has any bearing on the principle involved here. Under this construction a figure must be used. As I see it, it is the principle of preserving and guaranteeing the jury system in a civil case which is at stake and under this construction it is almost essential to set a figure.

R. RIVERS: I am going to support Mr. Robertson's position with the idea of attempting later to amend it to \$300 because our present small claims court setup is based on a \$300 figure. That would be very good, I think.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, a great deal has been said about trust in the legislature. If we had trust in the legislature then why would we need a bill of rights? The bill of rights is to guarantee rights, not to leave them to future legislation.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 13, line 24, strike 'two hundred fifty dollars' and insert 'a sum set by law'."

PRESIDENT EGAN: When we are voting we are voting on that proposed amendment. If you vote "yes" you are voting to delete the sum of \$250 and insert the wording as offered by Mr. Kilcher. If you vote "no" you are voting, in effect, to leaving the wording "two hundred fifty dollars" in the section.

ROBERTSON: Roll call, Mr. President.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 3 - Barr, Kilcher, Lee.

Nays: 50 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 3 yeas, 50 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: Now, Mr. President, I move that we change "the figure "two hundred fifty dollars" to "three hundred dollars".

PRESIDENT EGAN: Mr. Ralph Rivers moves that "two hundred and fifty dollars" be changed to "three hundred dollars".

MARSTON: I second the motion.

PRESIDENT EGAN: Mr. Rivers moves and Mr. Marston seconds the motion that the figure "two hundred and fifty dollars" be deleted and the words "three hundred dollars" be inserted in lieu thereof.

BUCKALEW: I ask unanimous consent.

TAYLOR: I object to unanimous consent.

R. RIVERS: I so move.

PRESIDENT EGAN: The motion is open for discussion. Mr. Robertson.

BUCKALEW: Question.

ROBERTSON: I think the question is because at the present time we have a limitation in the magistrate's court and it sort of makes it consistent with that amount.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to address a question to Mr. Rivers. The figure \$300, I think, was enacted by the last legislature, and the next legislature may easily raise that figure to \$500. Would it be feasible to leave in \$250 or \$300, if adopted, to put in after dollars a phrase such as "or such other reasonable sum as may be established by law"? I would like to ask you the question if the term "reasonable" is in there, would that give the people protection or do you think it should be limited to one particular figure?

R. RIVERS: I think it should be limited to a particular figure. Otherwise, you are throwing it open again contrary to the intention to what the body just expressed.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I am surprised at my legal colleagues here on the floor, rather the delegates from the bar, that they should on one hand reject a sum set by the legislature and on the other hand tie a sum in the constitution to something that certainly is very temporary. I think it is a loss of time. We just might as well leave it at \$250.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I cannot see where there is any practical use of tying this bill in with what a city magistrate's court could do for the reason that the magistrate's court only has jurisdiction within the city limits and anybody living outside of the city does not have access to the magistrate's court for a collection of small claims, so there is only a small percentage of the people in Alaska that do have recourse through the magistrate's court, and that is only up to an amount of \$300. Now that would not be too bad because in most of the cities where they have magistrates' courts, here and in Anchorage, and I believe in Juneau and Ketchikan, there is a person of legal training as magistrate. Possibly you would get a better deal, but because most of your United States Commissioners in Alaska are laymen and out in the sticks you are giving them the right to

decide controversies up to \$300. I don't think it should even be \$200, but I am going along with this. But when you put it up to \$300, I can't do it. I can't see where the untrained laymen in most of these outlying precincts should be given exclusive jurisdiction of a case involving \$250 because it just doesn't make sense. I would not mind giving the commissioners the \$300, but they are mostly lawyers. I am certainly against raising it to \$300. I think the way it was was ample. I thought that possibly was too much, but I was not making any objection. So there is absolutely no relation between what is in this constitution and what some city does about the jurisdiction granted to a city magistrate.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Mr. President, may I ask the Chairman of the Committee a question? Miss Awes, may I ask how did your Committee arrive at the figure of \$250?

AWES: There is no scientific way that we knew of to arrive at any certain figure so this is more or less arbitrary but we just picked a figure that we thought was reasonable under the present day circumstances and conditions in Alaska.

PRESIDENT EGAN: Is there further discussion? Mr. Buckalew.

BUCKALEW: That was what I was going to say. We might have used a ouija board to determine \$250 or \$300. I agree in this occasion with Mr. Taylor's logic. There is no relationship with what the city magistrate's limitation is, but another thing I would like to say, Mr. Taylor, you will find these judges out in the boondocks and the untrained judges in the lower courts, that is, untrained in the law, I have observed one thing in my limited experience and that is, they follow what is known as substantial justice. They seem to pick the right side most of the time and I've observed in the district court I have been clobbered by technicalities.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I might say Mr. Buckalew bases his statement upon his knowledge gained or his acquaintance with outside judges. He has had very slight dealings with them.

PRESIDENT EGAN: That is a matter of opinion, Mr. Taylor. The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Buckalew, Cross, H. Fischer, Hinckel, Laws, McLaughlin, Marston, Nerland, Nolan, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Smith, White.

Nays: 36 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nordale, Reader, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, Wien, Mr. President.

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. We have now before us the proposed amendment that relates to wire tapping, is it not? Mr. Sundborg.

SUNDBORG: Mr. President, did we find the order of business, the call of the order of business?

PRESIDENT EGAN: We had asked for motions and resolutions, Mr. Sundborg.

SUNDBORG: I wonder if we could revert to the announcements of Committee meetings?

PRESIDENT EGAN: If there is no objection.

SUNDBORG: Committee No. III, Style and Drafting, will meet at 10:30 o'clock tomorrow morning at Room 1013 of the Polaris Building.

PRESIDENT EGAN: The Chair would like to bring to your attention -- was it 10:30 or 10:00?

SUNDBORG: 10:30 a.m.

COGHILL: The Committee on Administration will meet immediately upon recess at 10:30.

PRESIDENT EGAN: Do you mean the 15-minute recess or the recess during the noon hour?

COGHILL: During the regular 15-minute recess.

PRESIDENT EGAN: Are there other committee announcements? If not, we will proceed with the regular order of business. Is there any other unfinished business except the matter of the

amendment that is pending to this bill of rights section of the proposal? If not, would the Chief Clerk please read the proposed amendment we have before us?

CHIEF CLERK: "Section 11, page 4, line 12, at the end of line 12 add the following: 'The right of privacy of the individual shall not be invaded by use of any electronic, or other scientific transmitting, listening or sound recording device for the purpose of gathering incriminating evidence. Evidence so obtained shall not be admissible in judicial proceedings or legislative hearings.'"

TAYLOR: Mr. President, I have an amendment to it.

PRESIDENT EGAN: This proposed amendment has been moved and seconded that it be adopted, is that right?

CHIEF CLERK: Yes.

R. RIVERS: I would like to point out that the mimeographed copy of this proposed amendment is on everyone's desk.

TAYLOR: Could we have just a moment? I would like to confer with Mr. Rivers in regard to the proposed amendment.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the proposed amendment. Is there discussion? We have the proposed amendment to the amendment as offered by Mr. Taylor.

TAYLOR: I have an amendment. I would like to read it. I just changed a few words in it so it would read if this amendment is adopted, "The right of privacy of the individual shall not be invaded by use of any electronic or other scientific transmitting, listening, or sound recording device for the purpose of gathering incriminating evidence. Information so obtained shall not be admissible as evidence in judicial proceedings and legislative or other investigative hearings."

PRESIDENT EGAN: What is your pleasure, Mr. Taylor? Do you move the adoption of the proposed amendment to the amendment?

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Would the Chief Clerk then read the proposed amendment to the amendment.

CHIEF CLERK: "After the word 'admissible' insert the words 'as evidence'; strike the second word 'evidence' and insert the word

information'; strike the word 'or' in the last sentence and insert the word 'and' and insert the words 'or other investigative' after the word 'legislative'."

TAYLOR: I move the adoption of the proposed amendment to the amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as amended by the amendment to the amendment.

CHIEF CLERK: "The right of privacy of the individual shall not be invaded by use of any electronic or other scientific transmitting, listening or sound recording device for the purpose of gathering incriminating evidence. Information so obtained shall not be admissible as evidence in judicial proceedings and legislative or other investigative hearings."

PRESIDENT EGAN: Is there a second to Mr. Taylor's proposed amendment to the amendment?

V. RIVERS: I will second it and ask unanimous consent.

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard. The question is open for discussion. Is there discussion of the proposed amendment to the amendment? Mrs. Hermann.

HERMANN: Mr. President, I think it is a little bit incomplete. There is nothing covered here except listening and sound recording devices and apparently there would be nothing in the amendment to prevent the taking of photographs or other visual things that could be used just as damagingly as sound transmitting. Also, I am a little puzzled by that expression "incriminating evidence" since it leaves the assumption that it could be done as a matter of course if it was not going to be used for evidence. I value my privacy too much to want it imposed upon even by somebody who might have an aborted case of curiosity.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I don't think that this protects the rights of the people especially. It protects the rights of the lawyer who is protecting a defendant all right, but for instance it does not say that we can't have somebody's wires tapped for the purpose of blackmail. It is only that we can't tap their wires to gain incriminating evidence. Of course I am against the whole thing any way. It is just a legislative matter. I want to remind you that we all came here with the idea of writing a simple constitution covering only general things, and instead of that we are putting in red tape and details. This has no place in the constitution. If we are going to continue to do this, it would be a much simpler matter to adopt the whole con-

stitution of the State of California. We would not have a good constitution, but I can assure you everything would be covered.

PRESIDENT EGAN: Mr. White.

WHITE: Point of order. We are on the amendment to the amendment.

PRESIDENT EGAN: We are on the amendment to the amendment, but it relates to the amendment itself.

GRAY: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 19 - Armstrong, Awes, Davis, H. Fischer, V. Fischer, Harris, Hellenthal, Hinckel, McCutcheon, McNealy, Nordale, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Taylor.

Nays: 34 - Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, Gray, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, Rosswog, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Cooper, Emberg.)

V. FISCHER: I would like to change my vote to "yes".

PRESIDENT EGAN: Mr. Victor Fischer asks that his vote be changed from "no" to "yes".

CHIEF CLERK: 19 yeas, 34 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment to the amendment.

PRESIDENT EGAN: You may submit it. Would the messenger please bring forth the amendment to the amendment. The Chief Clerk may read the proposed amendment to the amendment as offered by Mr. Robertson.

CHIEF CLERK: "Amendment to the amendment of Section 11: At the end of the amendment, delete the period and insert a comma and add the words, 'except when obtained upon warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the objectives thereof.'"

ROBERTSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Robertson moves the adoption of the proposed amendment to the amendment.

METCALF: I second the motion.

PRESIDENT EGAN: The matter is open for discussion. Mr. Robertson.

ROBERTSON: Mr. President, I am in favor of the amendment as proposed by the four delegates. I believe in the protection of the privacy of the individual citizen, but I also don't want to spoil criminal investigative or law enforcement officers from having no way of obtaining evidence from criminals and others if probable cause is shown. There seems to me there is no reason why this invasion of privacy should not have the same kinds of exceptions as searches and seizures. I believe it could be done by requiring in each instance probable cause to be shown as to why they should be permitted to invade the privacy of some particular person that they are trying to gain evidence against. That is the theory of my amendment.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I find myself in agreement in theory with the amendment to the amendment because I am sure that it would ruin the purpose of the amendment. Certainly upon hearing whether it is just cause to tap somebody's wire or not, he would make sure not to use them. Since I am against the amendment in the first place, I shall vote for the amendment to the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe this is one of the most flagrant ways of depriving the citizens of privacy I have seen brought forth here today. Mr. Robertson's amendment states that it must be on oath or affirmation, the same as a search warrant. Now the law respecting search warrants says that you must describe what is expected to be found and that it is either stolen property or is contraband property. Now, how can any law enforcement officer say that in my home something is going to be said, maybe today or tomorrow, that they would like to pick up that conversation and they would have the right issued by a commissioner who issues search warrants and who in most instances are laymen to have a law officer go and tap my telephone wire or attach a microphone or other listening device to

my house to find out and set on that thing and catch all the conversation that has gone on for several days. How is any law enforcement officer going to say that incriminating evidence is going to come over a wire? Now in a search warrant you must swear that that is there and give the sources of your opinion and you can't even make that affidavit on information and belief. You can't make the affidavit that somebody said it was there, because then you will have to get the affidavit of the person who said it because the law is very particular that a search warrant that cannot be based upon information and belief. Even if somebody told the commissioner that they understood that John Jones and Pete Smith are going to have a conversation tomorrow over a certain telephone, but you still can't say what is going to be said. This is the worst invasion of the rights of the citizen that I have seen yet. First, who is going to say whose home shall be tapped? How are you going to get around that? Who is going to have this power possessed by what most of us believe is by the Almighty, that is going to say that certain incriminating evidence is going to come over a wire and that it can be caught by electronic device tomorrow or next week or next month. That is going too far. I think we should vote it down.

V. FISCHER: Mr. President, I would like to ask Mr. Robertson a question. My understanding is that at this time the certain agencies of the federal government do resort to wire tapping, but only for the collection of information which can lead them to obtain evidence. If this were adopted, anybody could go to the courts and obtain a permit to tap and then whatever they actually heard on the wire would be admissible as evidence in court. In other words, this would go a lot further than even what is being done today in terms of wire tapping, would it not?

ROBERTSON: I don't think so. They must particularly describe the objectives of why they want to use these devices, and I think you could rely on the courts to see that the objectives are valid. For instance, they might want to obtain evidence against some gangster going into a house or a building and they would have to state it. I think we could rely upon the courts the same as upon the issuance of a warrant to search and seize objects in the house.

PRESIDENT EGAN: The question is "Shall the proposed amendment to the amendment as offered by -- Mr. Barr.

BARR: Mr. President, with this amendment, if it were adopted, it would be right in line with Section 11 which guarantees the privacy of persons and their homes and property. Now when we speak of persons and we guarantee their privacy, it means of course law-abiding citizens. Where there is reasonable doubt of that, where there is reason to believe that the law has been violated, of course, a warrant may be obtained to search their homes. And in case a warrant is obtained, it says it should be

issued upon probable cause, but of course in a like case, a warrant could be issued upon probable cause to listen on the phone. It must be supported by oath or affirmation, which could likewise be done in this case and should particularly describe the place to be searched, in this case it would be the same and the persons or things to be seized. Now, Mr. Taylor says you cannot expect to tell what will be heard. That is true, but such a warrant would only be issued after there was probable cause and other evidence that would tend to prove that the person was a criminal or was breaking the law. The purpose of tapping the wire would be to obtain further evidence. You would not obtain a warrant to obtain the first evidence. There would not be probable cause. With this amendment the rights of a person to his privacy is still guaranteed. It is only upon some evidence that he is breaking the law that a warrant would be issued.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I am a little confused as to how to vote on this amendment. I think I am in sympathy with the cause because I am against the main amendment. But I think some difficulty ensues here by inserting this amendment to the amendment at the end of the second sentence where it refers only to whether or not the evidence obtained shall be admissible, which seems to me is pointless when you prevent the invasion of the right of privacy in the first sentence. I don't know what to suggest, but it seems to me it would be better to vote on the main motion first. If it should pass, then amend it. You could say, for instance, "strike the last sentence and insert after the first word 'subject to such exceptions and procedures as could be established by the legislature'." That would be my suggestion, but I am afraid the amendment as offered is a little confusing coming at the end of the second sentence.

BUCKALEW: I wonder if Mr. Robertson would agree to withdraw his amendment so we could vote on the main amendment and that would close the issue.

ROBERTSON: To answer Mr. Buckalew, I feel I must support the main amendment because I believe in the right of privacy, but I would still, as I stated at the outset, I would still like to have some provision in there so law enforcement officers won't be handicapped in gathering evidence against criminals. That was the purpose of my amendment. It seems to me that it is very clear and not at all confusing. I believe it follows in the proper sequence in the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Robertson be adopted by the Convention?"

STEWART: May we have it read, please?

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "At the end of the amendment delete the period and insert a comma and add 'except when obtained upon warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the objectives thereof.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Robertson be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

35 Yeas: - Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Laws, Londborg, McCutcheon, McNealy, Marston, Metcalf, Nerland, Nolan, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, White.

18 Nays: - Armstrong, H. Fischer, V. Fischer, King. Knight, Lee, McLaughlin, McNees, Nordale, Peratrovich, Poulsen, V. Rivers, Sundborg, Taylor, VanderLeest, Walsh, Wien, Mr. President.

2 Absent: - Cooper, Emberg.)

KILCHER: Mr. President, I would like to change my vote to "yes".

PRESIDENT EGAN: Mr. Kilcher asks that his vote be changed to "yes".

CHIEF CLERK: 35 yeas, 18 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment to the amendment is ordered adopted. Mr. Coghill.

COGHILL: I move the previous question.

LAWS: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying no. The "noes" have it and the previous question has not been ordered. Mr. White.

WHITE: Mr. President, I voted for the amendment because I guess it improves it. I am still a little confused about it applying to the last sentence and not the first. I still think we would be better off without the amendment in its entirety. As it stands, it probably expresses the intent of most of the members of the body, and in that it appears to me that it is desirable to leave the door open to the use of such devices under certain circumstances and subject to tight control. You can, for example, require the local district attorney to apply to the attorney general of the state. You can go beyond that and say the attorney general must get the approval of the chief justice of the supreme court. I would not object to seeing any kind of restrictions apply to wire tapping or the use of any other electronic devices, but I think the constitution is not the place to do it. I would agree with the point pursued by Mrs. Hermann a little earlier that this does not go far enough if you want to start mentioning these things in the constitution. You should prohibit the invasion of privacy by the use of tear gas and we should also outlaw war and do quite a few other things. I think a more sensible approach is the one taken that will provide our law enforcement officers with side arms and we don't say, "You can't use them." We say only, "Shoot the right people". This is merely another weapon in the battle against crime. Another thing I think that has confused the issue is that we have not separated the question of the use of such devices and the admission in court of evidence obtained thereby. It is separated on the federal level where every attorney general since 1931 with the approval of the administration has authorized the use of wire tapping subject to tight control, but the admission of evidence obtained thereby is not permitted in court. That, it seems to me, is the sensible approach. I still feel that we should vote down the amendment.

McNEALY: I have an amendment to the amendment.

PRESIDENT EGAN: Mr. McNealy has a proposed amendment to the amendment as amended. The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK: "Line 6 of the amended amendment, delete the word 'incriminating' and insert the words 'information or'."

PRESIDENT EGAN: "Delete the word 'incriminating' and insert the words 'information or'."

McNEALY: I move the adoption.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the proposed amendment to the amendment as amended.

V. RIVERS: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. McNealy.

McNEALY: The only reason for that is that, and the reason my name appears on the amendment, I am interested in the rights of the individual and the privacy of the individual and the basis of my thought is that it is not so much the preventing, the individual is not going to have to worry particularly about incriminating evidence against him. The thing I am concerned on is picking up private information as to a man's business affairs to be used by competitors or information in a person's home, it might open the avenues to blackmail by improper parties getting evidence in this matter.

BUCKALEW: I wanted to speak on a subject for just a few minutes.

PRESIDENT EGAN: We have the proposed amendment to the amendment as offered by Mr. McNealy before us.

BUCKALEW: Not on that, no sir.

PRESIDENT EGAN: Is there discussion? Mr. Barr.

BARR: Mr. President, this amendment to the amendment does make the meaning much broader instead of making this amendment merely a protection to defense attorneys it does now protect the privacy of most individuals, all individuals, not only those accused of breaking the law. However, I still say that this is a legislative matter for the very simple reason that there are so many angles connected with it that it should be a law taking up two or three pages. For instance, if this amendment to the amendment, including the words "information or" is now adopted, what are we going to do about all these good women who listen in on party lines? They are using an electronic device. There are a lot of things to consider. I think it should be left to the legislature and they will work it out.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as amended as offered by Mr. McNealy be adopted by the Convention?" The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK: "In the mimeographed amendment delete the word 'incriminating' on line 4 and insert the words 'information or'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. McNealy be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment as amended will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment to the amendment as amended is ordered adopted. Mr. McNealy.

McNEALY: On the original amendment before Mr. Coghill moves

the previous question, I would like to speak just briefly. I am strongly in favor of the amendment as it is and I first want to call attention to the fact that the legislature has been the whipping boy of the Convention. It is fortunate that we have the legislature so that in all phases of this session we have had something from time to time to refer to. Now, the direct attacks upon the legislature, have fortunately ceased, now the device is being used that if you are opposed to anything going in the constitution, the argument is that you leave it up to the legislature. If you are for something going into the constitution, why you say, "Let's not leave that up to the legislature, let's spell it out." So the argument on the legislative matters and the legislature here has been purely down to a point now whether or not you are for or against the amendment. I have talked with the local United States Attorney on this subject. He naturally is opposed to, would prefer that nothing of this kind come in, but his greatest fear as he expressed to me, and possibly to others, would be to write something in that would prevent the use of lie detectors or taking fingerprints or the use of binoculars. This is what I considered a watered down amendment here which is now before us, and it does not take away the right of the federal officers to use the lie detectors, binoculars, and that type of thing, to secure information for convictions, and so to a large extent it eliminates what at least the local law enforcement officers feel would be in their road in attempting to secure convictions and evidence for convictions. Now there has been a great deal brought up here on the floor about subversives and kidnapping and treason and saying how terrible it would be if my child is kidnapped here and they could not use this wire tapping or things of that nature and how terrible it would be if we could not catch subversives, how terrible it would be if we could not use this evidence for a matter of treason. Now, fellow delegates, those are not state affairs, those are affairs of the federal government. No state in the Union is out looking for subversives. Kidnapping is a federal offense. Treason is certainly a federal offense. Our treason article which we have written into the bill of rights means exactly nothing. It is a gesture holding to tradition, because the only actual treason that could be committed would be a treason against the federal government. If we became a state and there was treason against the state, it would be treason against the government of the United States per se, so the reason I mention those three things, subversive, kidnapping and treason, is because the use of evidence obtained by these methods, regardless of whether we have it in here or not, is by the federal law, by the supreme court. They can't use it as evidence anyhow, even if we were a state. The only purpose of this is that a great number of states have begun to use and to allow wire tapping there by legislation, where again the legislature has passed laws in several states allowing wire tapping and has cut down upon the rights of the individuals. Another thing is that from the little experience I have had in serving

the government as well as in a private capacity, and I do wish to state that I am not a criminal attorney; in fact, I have discontinued, and quite some time ago, the handling of any criminal cases whatsoever. So I am not interested in it from that point, but I know a great number of the delegates realize, possibly everyone does not, but I want to comment on a few of the devices which we have already, and heaven alone knows what the future is going to bring forth. I am going to agree with Mr. Rivers, it is certainly not beyond the realm of possibility that in the near future they may even be able to transcribe our thoughts by electronic devices, but now, there are devices which can be stuck to your door of say, your hotel room, or on the door leading into your house and put on the outside of your door, and the person can stand outside and through this little electronic device stuck on the door with a suction cup, you can hear everything that is said, even in the farthest corners of the room. There are little devices where they can enter your house and behind a baseboard or something plug in a little article into a wall plug that is so small that it is scarcely noticeable, especially if there is any way to camouflage it at all. A person two blocks away can hear everything that goes on and is said in that particular room. There are devices that are carried on the person. They can be lowered by a wire down near the outside of a window and pick up from inside of the house and heard two blocks away. The devices carried upon the person are such, I think we are certainly all acquainted with, and a person can walk into your home and carry on a conversation and another party standing outside within two or three blocks can listen to everything in that conversation. There are numerous others. I am not going to take up your time on these devices, but since we have those, I think the person has the right of privacy in the home. I think they also have the right of privacy in their place of business or office. Now I am concerned largely here that if this sort of thing is allowed, and I do not agree that it is a legislative matter, I think that more and more of the constitutions of the states will begin to adopt this protection for its citizens, as the State of New York has done in its constitution, and we have shown here that we are not adverse to taking minority views or the views of minority states and writing it into our constitution. I think it would be a protection for the people of the future state of Alaska to have at least in their individual rights, and it properly belongs in the bill of rights. I can see where if this is allowed that business competitors could use it. It would be useful in politics and even more so in the matter of the home. On this, I think this is the first time possibly that I have referred to any experts, but the Committee did have the assistance and the recommendation and the advice of Mr. Elliott who was here with the Judicial Committee in working up this, and I believe that we should seriously consider writing this into the constitution, and I hope that a substantial number of delegates will vote for one more right to

the individual. We are not here to write a constitution to deprive the individual of their rights but to give them more rights than the Federal Constitution gives if possible.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would invite all of the delegates to take a quick glance at the proposed bill of rights, and you will see in the bill of rights that it covers such things as freedom of speech, searches and seizures, freedom from imprisonment for debt, etc. Now, I think that we are chasing the imaginary bogymen that does not exist. I don't think we have ever had any problem in Alaska with wire tapping or invasion of the right of privacy of the average Alaskan with these devices that we are talking about. I was in the United States Attorney's Office for awhile. I was an assistant United States Attorney, and I had access to all the files that were in the office and had been there for years, but I don't recall coming across any criminal case where the government had used wire tapping or any technological devices to invade the privacy of the home. The problem does not exist. In the bill of rights you protect rights that have been abused; historically that is the way it came up. We got abuses from England and they came into the Federal Constitution because they were abuses that George III had used against us. There is no problem of wire tapping in Alaska today, and if the problem ever came up, I am sure that the Alaska legislature would act promptly. They have the authority to, and they would stamp it out at once. The people would rise up and demand it and we would have a law that could be studied and that could cover any particular situation that might arise in the future. One of the things that really frightens me about this amendment is, as it exists in its present form, I think it gives the police too much power because it is an unheard of innovation. For that reason I am going to vote against it. For the other reason I am going to vote against it is because we don't have any problem with wire tapping. The people of Alaska have not demanded of this body that we put such an amendment in the constitution. The main reason, the most frightening thing about this amendment is that the lawyers that have signed this amendment don't know the legal effect of it. They can't tell you how it is going to hamper police officers. All I know is that it is awfully broad. I am afraid that some day this very amendment is going to be used to stab the life blood out of the new State of Alaska.

MARSTON: In the light of the changing world, the rapidly changing world, the atomic power, I think is going to make this world in ten years so we won't recognize it in more than one way. I would like to believe, I am inclined to believe in flying saucers. I believe that there are other worlds trying to communicate with us. If a citizen may speak now, I am going to have faith in the legislature of the future State of Alaska, though we have not had a lot of faith in the Territorial Legis-

lature as indicated here, but I believe that the State of Alaska will have a legislature that will run this government. I believe it will be a different legislature, and I have faith in that legislature, and I am going to go along with Delegate Barr, and I am going to, as I said before, continue to practically vote all the amendments to these committees down and keep a framework here and not a great big bunch of legislation. I am going to leave it to the future State of Alaska to settle this question.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: As one of the makers of the amendment, I want to present my statements at this time. I have noticed that the amendments that have been submitted so far, I believe, have been submitted in all sincerity in order to improve the proposal. I think that is true of the amendment submitted by Mr. Robertson. I have noticed though that in some legislative bodies there are two types of legislators. This I consider to be included in the class of a legislative body. We are making supreme law for the State of Alaska. One class of legislator is a relatively farseeing man who tries to amend and act in such a way that it will be better even if he is going to vote against it. I have seen sincere and honest men try to amend an act to improve it. I have seen men trying to amend an act out of its real substance in order to make it unappealing to others so if it does pass it is not workable. I have always approached that in the only honest way which is to act and vote upon an amendment on its true merits, not to try to make it unworkable not to try to make it so if it passes it will be a discredit to the body but a credit to the body. Now I feel that the Robertson amendment was a well-adopted amendment and could possibly, by proper legal interpretation, be made to work. He is an attorney trained in such things, he favors this motion and I have heard others stand on the floor here and say that they feared for the police power. I think their tendency in that kind of thinking is in the terms of a police state. It seems to me that we in this bill of rights are trying to protect the right of the individual. Out of the thousands of individuals of which there may be one criminal we are willing to sacrifice the rights of 999 to possibly assist the police or the police-type of state in apprehending the one man out of that thousand. I think that our approach to this constitution, this bill of rights, should be the protection of the individual and the reservation of the power of the state from its perhaps overzealous officials who might try to, in all sincerity, might abuse the rights of the individual and try to achieve their objectives. I have also heard others with the military point of view of thinking in terms of a military state. There is often a chance that the military state with its extreme powers can and would abuse the rights of the individual. I think that the military power of the state and the use of wire tapping devices, electronic devices, the power of the national government protecting itself

against the subversives, is well-covered in our congressional acts and in our supreme court interpretations. It is my thought here and my hope in presenting this amendment that we would protect the rights of the individuals against undue invasion by scientific devices. I for one feel that the amendment in its present form is a workable amendment with proper legal interpretations at the time the matters come up. It only seems right and just to me that we should be farseeing enough to sit here and try to protect the rights of citizens from these devices which might be used to abuse them for the seeking of this one criminal out of perhaps 10,000 people. I just want to say again that a person whom I feel tries to amend an act out of shape so that it is unworkable and unacceptable to the majority of the body of the people is not honest in his approach to the problem. I have heard it brought on the floor twice this morning and that is why I bring that point up. The right of the individual here is something we are trying to protect. I have gone through this bill of rights and I see that we have adopted a number of the standard clauses from a number of constitutions. I also see that some of the things that are of high importance to us, certain types of the approach to investigations, certain inalienable rights that we should enjoy, which have been violated many times in the last 25 or 30 years in the name of protection of the state, have not been included. I have another amendment which I am going to offer which I will not discuss now but it seems to me we should have the vision to look forward and see what we must anticipate in protecting the rights of all of our people rather than to try to protect and build up a strong police or military state which would be supreme and above the rights of those people. For that reason and in all sincerity, I was one of the makers of this amendment, and it seems to me we have here a chance to protect the right of privacy of the individual from undue invasion by scientific devices, and I for one am in favor of it.

SUNDBORG: I move and ask unanimous consent that we recess for 15 minutes.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: The Administration Committee will meet here for about one minute.

PRESIDENT EGAN: The Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

WHITE: Mr. President, I rise to a point of personal privilege.

PRESIDENT EGAN: If there is no objection, you may Mr. White.

(Mr. White spoke on a matter of personal privilege.)

PRESIDENT EGAN: If there is no objection, the Chief Clerk will please read the communication on the desk.

(The Chief Clerk read a telegram from Mr. Henning N. Johnson and William Paver of Homer, stating they believed the people on the Kenai Peninsula would not ratify the constitution unless the initiative and referendum are included and recommending an automatic constitutional convention every 25 years.)

PRESIDENT EGAN: The Communication will be filed. We have another communication here. Mr. Armstrong had been asking about it, and the Chair had forgotten just what had occurred relative to that communication. Mr. Sundborg had received such a communication and had brought it before the attention of the delegates. If there is no objection, this particular communication from the Commissioner of Education will be turned over to Miss Awes, the Chairman of the Bill of Rights Committee. Mr. Coghill.

COGHILL: Mr. Dafoe, Commissioner of Education, will be in town. on the tenth of the month, next Tuesday, and I would like to bring it to the attention of the delegates if at that time they would like to invite him to speak before the Convention. We have had different dignitaries of the Territory address the Convention, and I think that with the substance of the matter of education pertaining to the children, that it would be very advantageous for the delegates to invite Mr. Dafoe to address the Convention.

KING: Mr. Chairman, I would like to inquire, is the Commissioner of Education a lobbyist also?

PRESIDENT EGAN: Mr. Coghill, you might take that up with your Committee and the President at a later time before the question of having Mr. Dafoe.

KILCHER: Just a suggestion to the Chairman of the Administration Committee, if it would not be possible to grant Mr. Dafoe some time during the lunch hour, not to take too much of the Convention time, but yet to give him an opportunity to speak?

PRESIDENT EGAN: Something might be arranged. Are there other communications?

CHIEF CLERK: No.

PRESIDENT EGAN: If not, we are back to the particular amendment before us that relates to the wire tapping. Mr. Harris.

McCUTCHEON: Question.

HARRIS: Mr. President, I would like to bring up a couple of points here. I wonder if we realize just exactly what we have done with this particular amendment. As it now stands, we have outlawed telephones in anyone's home because we do use them for information. They are an electronic device. We have outlawed the electronic flash on my camera because I gather information quite frequently with it. We have outlawed quite a few other items. The point I am getting at is that we are trying to legislate and I do mean legislate an article here that you can't legislate in three or four paragraphs. It takes more time than we have to give it here.

PRESIDENT EGAN: Mr. Riley.

RILEY: I have not spoken on this subject and I have little to say beyond the fact I have been back and forth all morning as to where I might stand on the particular proposition before us from time to time as its complexion has changed. I should like to say that in the event of a defeat of the amendment now before us, I am confident that other language will be suggested to be included in the existing Section 11, which I think as far as now known, would perhaps avoid some of the objections to the present amendment, which might be more enduring in time and states the general principle with somewhat greater dignity, perhaps, than does the existing amendment, in my judgment.

PRESIDENT EGAN: "Shall the proposed amendment as amended and as offered by Mr. McNealy and other delegates, be adopted by the Convention?" Mr. Victor Rivers.

V. RIVERS: I would like to see a roll call vote and request the same.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Armstrong, Davis, H. Fischer, Hellenthal, Hinckel, Laws, McNealy, Reader, R. Rivers, V. Rivers, Robertson, Smith.

Nays: 41 - Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 12 yeas, 41 nays and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 11? Mr. Riley.

RILEY: Mr. President, I ask that we stand at recess for five minutes, I ask unanimous consent.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess while a proposed amendment is discussed.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Doogan.

DOOGAN: Mr. Chairman, while we are waiting for the members to return, I would like to revert to the reading of the journal for a minute.

PRESIDENT EGAN: If there is no objection.

DOOGAN: On the journal for the 40th Convention day, there was a correction that was not read so the Chief Clerk can correct the journal, it will have to be stated on the floor. On page 13, the journal for the 40th Convention day, in the second paragraph after the recess, bottom of the page, insert as another statement or paragraph, "On voice vote the amended amendment was adopted.

PRESIDENT EGAN: What is your pleasure?

DOOGAN: I move again that the journal be approved.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the suggested correction of the special Committee to read the journal be adopted. Is there objection? Hearing no objection, the correction is ordered adopted. Mr. Riley.

RILEY: Mr. President, a number of us met during the recess and I think have met on a substantial agreement among ourselves as to the proposed additional language for Section 11. I should prefer to have that mimeographed, however, before confronting the body with it and ask that further action on Section 11 be deferred until that time.

PRESIDENT EGAN: If there is no objection, the proposed amendment will be ordered mimeographed and the Convention will proceed to the other sections until that is done. Mr. Fischer.

V. FISCHER: May I revert and ask a question regarding Section 3?

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may do so and ask your question.

V. FISCHER: I would like to ask the Chairman of the Bill of Rights Committee about the meaning of the language. The section now reads, "No person is to be denied the enjoyment of any civil or political right because of race, color, creed or national origin." There might be a possible question about whether the denial is an interpretation in a very positive sense that you can only not deny. Would that cover an infringement of civil rights in this case?

AWES: It is my opinion that the word "deny" means to deny in any and all degrees and I think that the word "deny" includes the word "infringe" and goes beyond it.

V. FISCHER: Thank you.

BUCKALEW: Could I ask Delegate Awes a question?

PRESIDENT EGAN: If there is no objection you may rise and ask the question.

BUCKALEW: I was on the Committee, but the thought just occurred to me, after the first sentence we inserted this language, "The legislature shall provide appropriate legislation." Now, Miss Awes, do you think that would possibly restrict the legislature from introducing legislation which would eliminate discrimination by individuals instead of the state? Do you think the legislature should get the idea that they should only protect against discrimination as far as the state is concerned and as opposed to protection against individual rights?

PRESIDENT EGAN: Miss Awes.

AWES: The purpose of the Committee in including that sentence was to direct the legislature and show the legislature that they should provide legislation of an anti-discrimination nature. The reason for that was that we found it was almost impossible to adequately write into the bill of rights all circumstances under which these rights should be guaranteed. We thought it was not only impossible but also undesirable, and yet we wanted to indicate that we believe that such legislation should be enacted. I don't believe that the legislature would consider this as a restrictive provision.

PRESIDENT EGAN: Are there other amendments to the article on the declaration of rights other than that that we are waiting on? Mr. Victor Rivers.

V. RIVERS: I have one.

PRESIDENT EGAN: Would the messenger please bring the proposed amendment to the Secretary's desk? Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of a person to due process of law shall not be infringed by use of the Legislature's investigative power.'"

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

V. RIVERS: I move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the proposed amendment.

McCUTCHEON: I second the motion.

PRESIDENT EGAN: The matter is open for discussion, Mr. Taylor.

TAYLOR: Mr. President, I would just like for the purpose of information, ask Mr. Rivers to explain the reason for the amendment.

V. RIVERS: I would be glad to do that. I was intending to do that, Mr. President. It has been my observation that in the later years there has been a great deal of congressional and legislative investigation throughout the states and some in Alaska in which the right of the individual has been infringed, in that he is publicly brought into a body by accusation of certain things, is indicted, and then by sensationalism in the press is condemned, without any fair previous hearing or consideration as to whether he should be subject to that type of thing or not. It has been particularly noticeable that the investigative power of congressional groups and committees has been extremely abused in the last ten years. It seems to me that I would not want to limit the investigative power of the legislature but would I like to see them do it in an orderly manner. In such a way that individuals are not castigated and character is not assassinated without properly knowing that the individual has some grounds upon which to approach the individual as to his presumed guilt. It seems to me that there is a drastic field for abuse unless it is curbed in some manner by proper legislative procedure established by law, that there can be an abuse again by the right of the individual subject to the legislative investigative power. Does that answer your question?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I would like to ask Mr. Rivers a question. "Don't you think, Mr. Rivers, that under the section as it now stands

that those guarantees could still be secured? You referred to legislative processes and guaranteeing the rights of people before legislative investigations, and I am wondering if under this provision as it now stands whether that same right is not already given or protected?

V. RIVERS: All I can answer that is by saying is this, that under similar provisions in other constitutions the right of the individual to due process in legislative investigations has not been protected and many of the areas in which investigations have been held have been held under similar clauses and it has not applied.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I am sorry I did not get the proposed amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment. Read it slowly.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of a person to due process of law shall not be infringed by use of the Legislature's investigative power.'"

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. Barr.

BARR: I certainly see eye to eye with Mr. Rivers on this. It is true that our rights are protected in the Federal Constitution and other state constitutions in a general way, but I must point out that the trend in recent years has been to give more power to the state on investigations and they seem to abuse that power in certain cases. I believe in spite of any other guarantees in the constitution that we should mention that, only I would go a little further than Mr. Rivers. He said that the people should be protected from the legislative investigative power. I should say from the "investigative power of the state" because we do have certain departments that investigate persons of it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I don't want to take up too much time, but I did want to say that I thought the words "legislative investigative power", the investigative power in any event would have to be delegated by the legislature to either a committee or agencies or departments of government and that it would all be inclusive under the term "legislative power". That was my thought in the matter.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, speaking as a lawyer, I don't think that clause means anything. I don't think it is going to reach Mr. Rivers' point, what he is trying to do. Apparently he is trying to require the legislature to set up certain rules of evidence, certain procedures by which a witness could be entitled to counsel, but "due process" does not mean that. I would like to hear from Mr. McLaughlin. That is my opinion.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I have no ideas. I am frankly puzzled by the amendment. I think this was taken obviously from the 14th Amendment of the Constitution. I believe the wording is exactly the 14th Amendment. We have a mess of cases, probably more cases decided under the due process clause than under any other clause of the constitution, except possibly the interstate commerce clause, and I am puzzled, frankly, Mr. Rivers, by the amendment.

V. RIVERS: It seems to me that on the basis of past and present you might not have a case that applies in this particular instance. Do you not believe that suitable laws could be established by the legislature to protect the right of the individual in appearing before investigative committees or investigative departments of the legislature or departments to which their power had been delegated so that they were not castigated publicly before they were indicted or before they were convicted. Do you think that is beyond the realm or the power of or scope of our law to do such a thing?

McLAUGHLIN: I do not think it beyond the scope of our law, but my recollection is that there are certain members of this Convention who were obviously desirous of securing an opinion from the Attorney General, in substance, to determine whether or not they could libel in this legislative power. I don't know how we could curb the power of the hearings from blasting any individual or any group of individuals right on the floor of the house. He would be subject to the castigation apparently we are attempting to avoid. I think the intent is good, but I think you could not possibly curb your legislature to such an extent that they could not say anything nasty about anyone until they were present with counsel. That is why I am puzzled.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I can see the problem. Depriving a person of life, liberty or property points squarely to the judiciary process. A man cannot be required to testify against himself where he is charged with a crime and they cannot take his property, say like under an eminent domain proceedings without due process of law. There is a real problem. The McCarthy hearings brought out the great issue that existed here a couple of years ago. McCarthy was making charges against people under

the exercise of the powers of a congressional legislative committee. The people, individuals were sorely abused under the guise of the exercise of the power of the legislature to investigate. The only subject that a legislature is supposed to investigate upon is something that will bear upon the state code or prospective legislation that might be under consideration. But under the guise of looking into legislative matters they call hearings and then maybe subject people to very bad treatment and ruin their reputations and assassinate them from a character standpoint, and unless some thought is flagged, even though not too much could be done with this thought, the thought would be there that our constitution is warning the legislature under the guise of its power to investigate; that it shall observe some type of due process and respect for the individual. Now that is the problem. Whether Mr. Rivers' particular brief amendment would clearly pave the way to accomplish that purpose, I don't know, but at least it flags the present abuse.

PRESIDENT EGAN: Miss Awes.

AWES: I am perfectly sympathetic to what Mr. Rivers is trying to achieve, but I am doubtful that this language does it. Frankly, I have read this amendment over several times, and I don't know what the language used does mean.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, this is a matter I think we should all concern ourselves with because as Mr. Rivers has said, over the past number of years we have seen some very shameful episodes in the national life which was more clearly exemplified by the actions of a man whose name very seldom appears in the newspapers anymore, Senator Joe McCarthy. We feel there was a pattern laid by that, I was going to call him a gentlemen, but I will not do so, which we should not allow to be emulated by any department of the Territory. There was a pattern set by him that under the guise of a legislative procedure, or investigation, he indulged in vilification, character assassination, and an intimation of guilt by association. I understand we had some legislative assistant or head of the legislative investigating committee in Alaska who attempted in his own feeble way to emulate that ignoble example set by McCarthy. I don't know as Mr. Rivers' amendment goes far enough, but if it will go to any extent to curb such activities and prevent such shameful episodes from occurring in the Territory of Alaska, I will go along with it. We can't tell but what we might have some "McCarthy" showing up here sometime that wants to bask in the limelight and he will attempt to follow those methods as set by Mr. McCarthy.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I am still puzzled about my original inquiry. I don't see that the rights Mr. Rivers seeks to protect cannot be obtained under the law as it now stands because certainly there is no prohibition in the Constitution or in Section 6 that would prevent the legislature from setting up a set of rules of procedure for its own investigations and, after all, that is the problem, and I don't see that adding this language will strengthen or detract from that rule.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I thought I tried to clarify that in response to your inquiry when I said that it is now directed only to depriving a man of his life, liberty or property. We know that the congressional committees don't put a man in jail, and they don't take any property away from him, they just ruin him period. I don't think the present language reaches the problem we are trying to solve.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I just want to caution the body that there is no point in voting on anything if we don't know what it means. I am going to vote against it. I am opposed to these legislative examining committees and I might add that the latest expression of the people of Alaska was to abolish the so-called Stringer Committee by an overwhelming vote, so the problem really does not exist in Alaska.

R. RIVERS: There is one other amendment that is being rewritten submitted by Mr. Riley, and I think this could bear a little thought and go over it and be held over. I am not too satisfied with the wording "due process" which has to do with judicial proceedings, although it could be applied in a broad way. I think we have to study that a little bit more. I would ask unanimous consent that this go over until such time as we take up the matter after lunch.

PRESIDENT EGAN: Mr. Ralph Rivers has asked unanimous consent that we hold this particular amendment in abeyance until after the noon recess. Is there objection? If there is no objection, the particular amendment then of Mr. Victor Rivers will be held in abeyance until the afternoon session. Mr. Kilcher.

KILCHER: I have an amendment.

PRESIDENT EGAN: Would the Sergeant at Arms bring Mr. Kilcher's proposed amendment forward. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 14, line 8, strike the comma and the words 'invasion or imminent peril' and substitute the words 'or actual and imminent invasion'."

PRESIDENT EGAN: What is your pleasure, Mr. Kilcher?

KILCHER: I move and ask unanimous consent that the amendment be adopted.

MCCUTCHEON: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Robertson.

ROBERTSON: May we have it read, Mr. President?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 14, line 8, strike the comma and the words 'invasion or imminent peril' and substitute the words 'or actual and imminent invasion'."

PRESIDENT EGAN: Is there discussion on this proposed amendment? Mr. Taylor.

TAYLOR: Just for the purpose of clarification, I would like to state that I believe the two words "imminent" and "actual" are inconsistent. A thing cannot be imminent and actual at the same time. If it is imminent there is a possibility it will occur shortly. If it is actual, it is actually there. It can't be actual and imminent both.

KILCHER: I am afraid that might be the case. I was in doubt myself whether it should be "and actual or imminent", or whether it should be "and imminent or actual". I think that is a matter of Style and Drafting, that is the substance of it, the amendment. I admit that yesterday there was a similar amendment, not quite the same, had been on the floor, and I would like to read Section 14 as it would read as amendment. "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion, or actual and imminent invasion the public safety requires it." There are several state constitutions who never want their habeas corpus suspended. Several others have a saving clause that only in rebellion and invasion may it be suspended. I am afraid that this here Section 14 as it stands now, with the words "imminent peril" in it as a vague clause, that with many others if we don't think thoroughly we will open the road of invasion not of a foreign enemy but of an internal one. It is to me that the clause "imminent peril" in times of turmoil, political restlessness,

and so on, can be abused and can be construed to mean almost anything. I am surprised in thinking over, I have given it quite a bit of thought since yesterday, in going over this in my mind, over Mr. Hellenthal's flowery but not quite logical speech of yesterday, where he worried not enough about the right of the people's habeas corpus, and today he seems to worry very much about people's privacy. Personally, I am worrying about both, but if I had a choice, I would worry more about the habeas corpus than about people's privacy in other matters. This imminent peril clause can be construed, and that is what we have to worry about. It can be construed to be almost everything and in case of rebellion, invasion, actual or imminent, that should be the only exceptions to the right of habeas corpus. We have solid precedent, but with all the other constitutions, the imminent peril clause is dangerous and should be stricken.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: When Mr. Kilcher read Section 14, I am wondering if he put in some language that we did not adopt yesterday. I did not follow him. He was putting in words that he did not include in the amendment he was offering now. At least, I did not get them.

PRESIDENT EGAN: Would the Chief Clerk please read the section as it would appear if Mr. Kilcher's amendment were adopted.

CHIEF CLERK: "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion, or actual and imminent invasion, the public safety requires it."

AWES: I wonder if Mr. Kilcher would amend his amendment by changing the word "and" to "or".

KILCHER: I think it would make better sense, and I ask unanimous consent.

PRESIDENT EGAN: Mr. Kilcher asks unanimous consent to change the word "and" to "or". If there is no objection, the proposed amendment to the amendment is ordered adopted. Mr. Hurley.

HURLEY: I have a distinct feeling that this section as it stands now is subject to two different interpretations and as it seeks to be amended, and I think with the "or" it definitely sets it up with one interpretation, although as I recall yesterday, we cleared that thing up and then voted down the amendment, but I certainly think something should be done to this to decide whether we want the writ of habeas corpus suspended in the event of imminent peril or only want it in the event of imminent peril of invasion. If I am convinced that this

amendment takes care of it, I am in favor of it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I can see now where the Committee left it open for some doubt. In Committee, the majority of the Committee understood that the courts in construing invasion and the expression "imminent peril" would have to consider the two together; "imminent peril" and "invasion" go together. Delegate Hellenthal is a lawyer and his interpretation of what this section meant was strange and novel to me, and I can see where the court could have the same interpretation as Mr. Hellenthal, and for that reason I am going to support Delegate Kilcher's amendment. I think it is an excellent amendment because I don't think that the right of habeas corpus should be suspended unless danger of invasion by a foreign enemy.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to say that I agree with Mr. Buckalew, with what he has just said. When the Committee adopted this language it was personally my understanding that it meant just about what Mr. Kilcher's amendment says, but from what was said on the floor yesterday, evidently even the Committee was not in agreement, and I am still inclined to think that Section 14 could be interpreted, but I think Mr. Kilcher's amendment would clarify the matter and I am in favor of it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended and offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll. The shouting confuses the Chair very often.

(The Chief Clerk called the roll with the following result:

Yeas: 30 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, Longborg, McNees, Marston, Nerland, Nolan, Peratrovich, Poulsen, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, VanderLeest, Mr. President.

Nays: 23 - Barr, Cross, Davis, Doogan, Hellenthal, Hinckel, Johnson, King, Laws, McCutcheon, McLaughlin, McNealy, Metcalf, Nordale, Reader, Riley, Robertson, Rosswog, Sweeney, Taylor, Walsh, White, Wien.

Absent: 2 - Cooper, Emberg.)

CHIEF CLERK: 30 yeas, 23 nays, and 2 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Riley, your amendment has not been mimeographed?

RILEY: I prefer to put it off rather than to recess now to consider it again.

PRESIDENT EGAN: Are there other amendments other than to Section 11 at this time? Mr. Victor Rivers.

V. RIVERS: May I ask a question, Mr. President? It seems to me that this is the day in which the body by their rules have foreclosed themselves from introducing individual proposals.

PRESIDENT EGAN: The 8th is Sunday. The understanding of the Chair was that after we discovered that it was a Sunday that it would be held over until Monday. Is the Chair correct in recalling that?

UNIDENTIFIED DELEGATE: Yes.

GRAY: If there are no further amendments, I would like to have about ten minutes privilege of the floor.

PRESIDENT EGAN: If there is no objection you may be granted the floor. The subject is on apportionment.

(Mr. Gray spoke after being granted the privilege of the floor.)

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, in view of the fact that we have quite a long week coming up next week with the evening sessions, etc., in order to give the delegates time to take care of personal affairs in view of the fact they will not have evenings next week available, I will move and ask unanimous consent that we stand adjourned until 9 a.m. Monday.

TAYLOR: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9 a.m. Monday?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Barr, Boswell, Collins, Cross, H. Fischer, Johnson, McLaughlin, McNealy, McNees, Nerland, Nolan, Poulsen, R. Rivers, V. Rivers, Robertson, Taylor, Wien.

Nays: 36 - Armstrong, Awes, Buckalew, Coghill, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, Marston, Metcalf, Nordale, Peratrovich, Reader, Riley, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Mr. President.

Absent: 2 - Cooper, Emberg.)

LONDBORG: May I change my vote to "no".

PRESIDENT EGAN: Mr. Londborg asks that his vote be changed to "no".

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the Convention has not adjourned. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess until 1:30 p.m. today.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention recess until 1:30 p.m. today. Is there objection? If there is no objection, it is so ordered, and the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, in the report of the Juneau hearings in the section concerning apportionment, we heard from Mr. Curtis G. Shattuck and the report states he is submitting a written statement. The written statement just reached me and I am filing this with the Secretary of the Convention and copies have been distributed among the committee members on the Apportionment Committee so anyone who would like to see them can.

PRESIDENT EGAN: Thank you, Mrs. Sweeney. Would the Chief Clerk read the communication. Are there other communications to be read at this time? Would you desire that this be read or filed?

SWEENEY: No, just have it filed for the information of the delegates.

PRESIDENT EGAN: Miss Awes has requested that this information which was in her possession and it relates to this section that we will soon be on, if there is no objection it can be read. It is one page.

(The Chief Clerk read a memorandum from the Alaska Department of Health regarding Section 1 of Proposal No. 7, Health, Education and Welfare and Section 19 of Proposal No. 5 on the Legislative Branch, prohibiting the expenditure of public funds for the direct aid or benefit of religious or private institutions.)

CHIEF CLERK: There are three attachments. Do you want those read?

PRESIDENT EGAN: If there is no objection, the communication can be filed.

RILEY: I think it would be of interest to the delegates to know the names of the institutions.

PRESIDENT EGAN: The Chief Clerk may read them.

(The Chief Clerk read the tables showing the hospitals receiving aid.)

PRESIDENT EGAN: The communication will be filed and it will be available to any delegates who wish to see it. Are there other communications?

ARMSTRONG: Mr. President, I have here a letter from Don Dafoe, Commissioner of Education, relative to the hearings in Juneau, particularly on the section on education, Section 1 on Health, Education, and Welfare, pertinent to public education. I shall file this with the Clerk, and if anyone cares to read it, I think it should be there for the record and then transmission to Miss Awes, Chairman of the Committee on Bill of Rights.

PRESIDENT EGAN: If there is no objection, that is the way it will be handled. Mr. Buckalew.

BUCKALEW: I would like to have it read. We have read the other.

V. FISCHER: I would like to suggest that we defer the reading of this letter until we come to that particular proposal. We will probably get to it later today or Monday.

PRESIDENT EGAN: Would that be in line with what you had in mind, Mr. Buckalew? Perhaps we might bring up both of these communications at that time.

BUCKALEW: I will concede.

PRESIDENT EGAN: We will proceed with Committee Proposal No. 7. The Chief Clerk will read the proposed amendment as offered by Mr. Riley?

RILEY: This is offered by a number of people whose names appear on the amendment. I might add that those of the members who have it before them, should have inserted four additional words to be in the form submitted. That is on the fourth line from the bottom, following the word "searched" there should be inserted "the information sought or".

PRESIDENT EGAN: Mr. Riley, the proposal I have has no name on it.

RILEY: The names are Robertson, Davis, Hellenthal, R. Rivers, Mrs. Nordale and Riley.

PRESIDENT EGAN: What was the wording?

RILEY: Fourth line from the bottom following the word "searched" there should be inserted "the information sought or" and the word "and" is stricken.

PRESIDENT EGAN: If there is no objection that will be included in the proposed amendment, and the Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 11. The right of the people to privacy and to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches, seizures, or other invasions of privacy shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, the information sought or the persons or things to be seized. Information secured in violation of this section shall not be admissible evidence in any judicial or other proceeding."

PRESIDENT EGAN: Mr. Robertson, what is your pleasure? Mr. Riley, would you care to move the adoption of the amendment?

RILEY: Mr. President, I move the adoption of the amendment as read.

WHITE: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Riley.

RILEY: Mr. President, I think that this amendment is not so positive in its terms, not so rigid in its terms, and that it is not so short term in its application or its knowledge of the particular problem that confronts us in its knowledge of technological advance that could perhaps put an absurd twist on a recital of various devices that we may be concerned about. I think as such that it meets many of the objections raised this morning in simply adapting Section 11 by extension of the right

of privacy of the individual. The underscored matter on the amendment before you is all new matter. Otherwise, the section is as it appeared originally coming from the Committee.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I don't think that the section has been improved very much. If anything, I think it has been further confused or a veil thrown over some of the facts that I pointed out this morning. In bunching together the invasion of the home for purposes of arrest and search for material things and in bunching together with it the obtaining of other information and not mentioning the devices, it does not simplify the matter which in itself would be commendable but it confuses the matter by putting together incompatibles in my opinion. This morning on the floor and in several recesses we have discussed this matter and not due consideration has been given to those among us delegates who said we would like to see the search warrants as of old applied to things that they have always applied for, but the specific search warrant for obtaining information should not by all means be treated by any other search warrants to be applied by anybody, district judge, inferior judge, etc. That should be treated separately, if permissible at all. Unless such an amendment will be offered, I think I can only vote against it and advise everybody else to do the same because there are hidden dangers in here. It makes it too easy in times of confusion, in times of public panic or mentality to exert pressure upon the lower courts, and it is tantamount to giving up our most precious civil rights.

PRESIDENT EGAN: Mr. Riley, if the Chair might just ask one question, and that would be in considering the wording, "or other invasions of privacy". Do you think that could or ever would be interpreted in the courts as meaning for instance taking a photograph of someone could be considered invading the rights of privacy?

RILEY: I would not think that any responsible court would think that a casual photograph or snapshot such as was suggested this morning would enter the picture here at all.

McCUTCHEON: Mr. President, on the contrary, if such a casual photograph shows a person to their derogation, it is an invasion of their private rights, and the courts have held on many occasions.

WHITE: I think "unreasonable" applies to searches or seizures or invasion of privacy.

BUCKALEW: Mr. President, I have only one thing to say about this amendment, and I am not being funny even though the flower

of the Alaska Bar is supporting this proposed amendment. I challenge any lawyer that put his name on this to explain to this Convention the extent of this amendment. It is dangerous and ought to be voted down now.

GRAY: Mr. Chairman, I kind of feel the same way. I don't know what we have here. I hesitate fully to take 15 minutes and write a bill of rights. The previous established bill of rights we have read and read them. We know what they are, but I am hesitant of all this new material, this projection in the future. I read these things over, I am an ordinary person, we are all ordinary, we don't know what they mean. We are projecting in the future. It might be perfectly all right, but I would like to see more than 15 minutes deliberations on such a subject.

HELLENTHAL: I will try to answer any questions, Mr. Gray.

GRAY: What is the extent of privacy?

HELLENTHAL: The courts during the last 50 years have started a trend of decisions which has reached its culmination in defining the right of privacy. It is a well-defined right. Any unreasonable interference with your personal privacy, if you were, has been held illegal by the courts, and under this constitutional amendment, the practice would be sanctioned in the new State of Alaska. Privacy means precisely what it says, the right to be alone, to be secure in your home, you and your family; the right to be free from interference by unauthorized people, people looking over your transom, those people invade your right of privacy. People who photograph you without authority, they invade your right of privacy, people who break into your yards, climb over your fence, those people invade your right to privacy. Courts have had no difficulty in defining this right. Now it is true, you could ask someone what is an unreasonable seizure and people could spend hours sitting and citing examples of what were unreasonable seizures. I don't think they could tell you all of them. Each one depends on the particular facts of the unreasonable seizure, but courts have had no trouble with that. For 200 years unreasonable seizures have been defined as the need arose by the courts. No one has been concerned about it at all. As the need arises the definitions are amplified and the same thing would happen here. The courts are the protectors of our liberties. We have had faith in our courts for 200 years. They have not let us down and they won't in the future.

BUCKALEW: Question.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, I hesitate but I feel that I have to make a statement again. I am wondering what this group is thinking

of. What do they mean when they mean the invasion of privacy. It appears to me that most of the people that are worried about their invasion of privacy are worried because of some overt act that they may commit. Myself, I have no worry about there being any invasion of my privacy because at the moment I don't intend that I am going to do anything that is going to cause the law to come into my place and make a search or a seizure. However, if something does happen, they are welcome to come in. To me it is just exactly like being caught speeding. There is nothing wrong with speeding as long as you get away with it, but you are against the marshal that arrests you because he caught you. It seems to me we are beginning to beg the question quite a little on all of this argument that goes on. As long as we provide for the fundamental rights in the constitution, let us leave it at that and let's put some faith in our legislature and in our police officers and any other administrative officials that we might have to see that we are protected.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in answer to what Mr. Doogan has said, I consider the right to privacy a fundamental right. That is one of the fundamental rights, and I intend, so far as I am concerned at least, that if this amendment is adopted, that is going to try to get at the same problem that we tried to reach this morning when we were talking about wire tapping and use of other devices to invade a person's home, I can't agree with Mr. Doogan that I am going to leave everything to the police and I can't agree with him that only people who expect to do something wrong are going to object to having their privacy invaded. The difficulty is that a police officer in a police state figures that he is carrying out the will of the state and the rights of the individual don't matter and that is what I am trying to get away from here. Now it is very true that as of today our police cannot invade our private lives to the extent that they do in a totalitarian state, but that is what we are trying to preserve. It is only a question of time if police officials or government officials can eavesdrop on what is done in a person's home in the privacy of his home. It's only a question of time until we don't have any liberties left, one step after another. Eventually everything will be in the hands of the government and our whole theory of government here is that the people are bigger than the government and the people control the government and the whole tendency of the government is to try to invade those rights little by little and each case the invasion is made for a proper purpose supposedly. We talk about kidnapping. We talk about subversives. We talk about that sort of thing and we are all against it, but what we don't realize is that when we nibble away here and there, after awhile there is no liberty left. I consider that the right to privacy in a person's home, in his papers, in his effects, is just as much a fundamental right as the right to free speech.

Now certainly, had this problem been before the framers of the United States Constitution they would have had to deal with it because they were conscious of searches and seizures that had been made by the King's men prior to the Revolution. That is why they were so conscious of the right to assemble, the right to petition, the right not to have their persons or their homes violated. Now, as was pointed out this morning, under the present state, a scientific development, anybody including government officials, can invade my home and your home without even coming near the home. That is something that was not envisioned at the time the Federal Constitution was adopted, and it is something that we should protect against now.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I want to say one more thing. I feel that I should say it and I don't believe that the proponents of this amendment have answered the question in my opinion. As a lawyer, it completely destroys the protection provided us by the Fourth Amendment of the Federal Constitution and our Section 11 was extracted almost in toto from the Federal Constitution. This is a novel innovation that allows police officers to get search warrants to secure information, as I read it, and you talk about playing in the hands of a totalitarian state, you are not nibbling at it, you are taking one great big gulp and handing the people's privacy to persons in authority.

MARSTON: May I ask Mr. Davis a question?

PRESIDENT EGAN: You may, Mr. Marston.

MARSTON: Does this Proposal No. 7 protect people as you have talked on here?

DAVIS: Mr. Marston, in my opinion it does.

BUCKALEW: Mr. President, could I ask Mr. Davis a question?

PRESIDENT EGAN: If there is no objection you may rise and ask the question.

BUCKALEW: Mr. Davis, under this article in your opinion does it give police officers permission and authority to tap a wire for example for any type of crime if they make a search showing to the court?

PRESIDENT EGAN: Mr. Davis, do you care to answer that?

DAVIS: Well, I will try to answer it. I think probably it would if they made the proper showing to the court and if they got the proper warrant, the same as the same individual can

have his house invaded upon a showing and the issuance of a warrant by the proper court.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: If this amendment here is defeated, where are we at then? I am getting confused.

PRESIDENT EGAN: We are back to the original Section 11 if this amendment would be defeated. Mr. Harris.

HARRIS: Mr. President, I would like to point out one thing I think we are overlooking here. We keep talking about searches and seizures. I would like to point out that that is one house, when you tap a telephone in one house you have tapped every telephone in any place in the United States that have called that house. You are not tapping one phone but all of them.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I find the same fault with this amendment that I have found with most of the others presented on this same section. I had no particular quarrel originally with the section as it came out of Committee. However, I do feel there is a certain amount of legislation written into it. I am wondering what the thinking of the Committee would be, also I am asking the same question of the proposers of this particular amendment now, what would your particular thinking be if we terminated this particular amendment on the 4th line following the word "violated" and inserted a clause "except as provided specifically by law". The same thing could be done to the original article following the word "violated" giving the same effect that is apparent in my thinking. I feel that here we are trying to legislate against the many evils of our private affairs where perhaps we should, if we are going to legislate at all, legislate specifically against particular evils or violations. Therefore, I would say leave it up to the legislature to provide the specific times and means, the particular instance if you please, whereby the search, the seizure, the violation of a private individual's rights might be made.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. McNees asked what the Committee thought of the suggestion which he had to stop after the word "violated" and add "except as provided by law". As I recall, Section 11 was taken word for word from the Federal Constitution. That particular section in the Federal Constitution has stood for quite a number of years, it has been interpreted by the courts. We know what it means and as long as it means what we want it to say, I

think it would be just as well to use it and not change it. Also, I think there is objection to Mr. McNees' section because if you say "except as provided by law", I think that phrase is broad enough to give the legislature authority to pass such exceptions that you would practically nullify the section. You might as well not have it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, how I yearn for the days when I had simple decisions to make, such as if the voters should be 17, 18 or 19. This morning I was against the amendment that was submitted, primarily for the reason that the mentioning of these electronic devices frightened me. In going over this thing as carefully as I have had time to do, I do not share Mr. Buckalew's fears and I think that it is a proper recognition of a privacy which was not recognized in days gone by, and I therefore support the amendment.

BUCKALEW: Question.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Riley and other delegates be adopted by the convention?"

JOHNSON: May we have a roll call?

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Armstrong, Coghill, Cross, Davis, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Walsh, White.

Nays: 21 - Awes, Boswell, Buckalew, Collins, Doogan, Gray, Harris, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nolan, Sweeney, VanderLeest, Mr. President.

Absent: 7 - Barr, Cooper, Emberg, H. Fischer, McNealy, Taylor, Wien).

CHIEF CLERK: 27 yeas, 21 nays, and 7 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. The Chair would like to state at this time

that it is not in good courtesy for other delegates, when a delegate's name is called, to attempt to tell him how to vote and the Chair has noted that on several occasions, and undoubtedly it at times confuses delegates to have other delegates do that thing, and the Chair would request that that not happen again, if possible to avoid it. Are there other amendments to Section 11? The Chief Clerk may read the proposed amendment.

V. RIVERS: Mr. Chairman, this is a revision of the amendment submitted before recess.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of the people to be protected from unjust abuse in the course of legislative investigations shall not be infringed, to this end the legislature shall prescribe adequate investigative procedures.'"

DOOGAN: Point of order. It seems to me that that is identical to the question we have already acted upon.

PRESIDENT EGAN: We held it over, Mr. Doogan, as the Chair recalls. This was a new amendment, was it not, Mr. Victor Rivers? Would you ask unanimous consent that your original amendment be withdrawn?

V. RIVERS: I will ask unanimous consent to withdraw the original amendment and substitute this in its place in lieu of the other one.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to withdraw the original amendment and substitute this amendment in its place in lieu thereof. Mr. Boswell.

BOSWELL: Could we have this read more slowly, Mr. President?

PRESIDENT EGAN: Is there objection to withdrawing the original amendment as proposed by Mr. Victor Rivers? If not, that amendment is ordered withdrawn. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of the people to be protected from unjust abuse in the course of legislative investigations shall not be infringed, to this end the legislature shall prescribe adequate investigative procedures.'"

PRESIDENT EGAN: What is your pleasure, Mr. Victor Rivers?

V. RIVERS: I will move that the amendment be adopted.

PRESIDENT EGAN: Mr. Victor Rivers moves that the amendment be adopted. Is there a second to the motion?

R. RIVERS: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Ralph Rivers.

R. RIVERS: The last sentence there is to this end that the legislature shall prescribe adequate procedures. There should be a period ahead of the word "to".

V. RIVERS: I will accede to that.

PRESIDENT EGAN: If there is no objection, that correction is ordered made. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I consulted with some of the members of the bar in regard to the expression "due process" as it would apply to the legislature. We decided that "due process" actually focused squarely upon judicial proceedings, and it would not be applicable to a legislative operation. You would not have a judge sitting there passing upon the admissibility of evidence and making the other determinations that enter into, generally speaking, a type of hearing or proceedings which is characterized by the matters that are brought before a court of law. What we are trying to get at is that the legislature in the exercise of its powers to investigate could very well set up a code of ethics or rules of procedure which would adequately protect principles and witnesses from abusive treatment, such as has occurred in the past. We cannot, outside of leaving it to the legislature to prescribe such adequate proceedings, we cannot spell it out here. We can flag it. We can tell them to treat the citizens properly in a legislative investigating proceedings, so Mr. Rivers gave up the idea of trying to extend the due process to legislative proceedings and endeavored to simply highlight the point by asking that the legislature set up proper and adequate procedures to safeguard witnesses and principals against abusive treatment in legislative procedures. I might say that after the McCarthy hearings last year Congress itself appointed a committee or in some other manner initiated steps to set up some rules and ethics for the conduct of Congressional hearings. I don't know what happened to that, but I know that was Congress' thought and that is what we are trying to flag for our legislature here.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Rivers, would it perhaps not be better to couch the proposed amendment in affirmative language and recite it as a right that, in other words, the right of a person to fair and just treatment rather than put in the negative provision?

R. RIVERS: I did not help Mr. Victor Rivers draft this. I refer the question to Mr. Victor Rivers.

V. RIVERS: I used the term "unjust abuses" and it would seem to me that perhaps Mr. Hellenthal's suggestion has merit. I used the term, I don't remember exactly the term, "The right of the people to be protected from unjust abuse in the course of legislative investigations shall not be infringed".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: One more question. As a directive as to the scope of the amendment, it seems to me, I may be wrong, that there are also executive investigations which likewise, at which the witness should be treated fairly and justly.

V. RIVERS: Mr. President, I will ask for a two-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, I have now placed the matter in the affirmative in a slightly different form. I will ask unanimous consent to substitute this amendment in lieu of the one previously discussed. The substance is the same.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to substitute a new amendment in place of the original amendment. Is there objection? If there is no objection, it is so ordered.

STEWART: I did not hear what was said.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that a new amendment be substituted for the original amendment. If there is no objection, it is so ordered and the Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.'"

V. RIVERS: Mr. President, I will move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves that the amendment be adopted. Is there a second to the motion?

SMITH: I second the motion.

AWES: May we have that read once more?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.'"

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Victor Rivers.

V. RIVERS: Mr. President, I am merely trying to effectuate the statement I made this morning in regard to past experiences that we have had in the later years at least in the matter of legislative and governmental investigations. I think this covers it and would flag, as Ralph has said, the legislature to take the necessary action and set up adequate procedures to see that their rights under this clause were protected.

BUCKALEW: Mr. President, I feel sort of constrained to speak on this subject. It seems like when I do, it almost insures its passage. In my opinion this article is completely unenforceable and it has no meaning in law. It can afford no protection to anybody before these legislative and examining committees. What does it mean? Are we going to follow the rules of evidence as we know in our trial courts? It is a matter for the legislature, for the voters, and there is no way I know of in this short article that you can protect a citizen from some fireball, or whatever you want to call him, a legislator that is running one of these examining committees. The damage is going to be done, and then you are going to get a political question more or less before the courts and the courts are going to have to determine whether he had a fair hearing so to speak before this so-called committee and there is no way that anyone can mandamus the legislature to provide certain rules. I think it is just going to clutter up the bill of rights and my opinion is that it is just a lot of gibberish and is completely unenforceable and should be defeated.

PRESIDENT EGAN: Mr. Smith.

SMITH: I think Mr. Buckalew has pointed out very effectively how this very provision can be made effective. The fact that the legislature, as he has put it, once sets up the rules, or even if there should appear to be a violation of this particular provision, then once the courts have taken the matter in hand and made a ruling of any kind, then they have definitely established something under this provision.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, well, I am of the same opinion now as I was this morning regarding the first proposal. It seems to

me that it is entirely unnecessary. A great deal of question was raised during the argument as to the meaning of the words, "due process of law". Well, many many years ago the Supreme Court of the United States settled it by pointing out that by the Fifth Amendment it was introduced into the Constitution of the United States as a limitation upon the powers of the national government and by the Fourteenth as a guarantee against encroachment upon an acknowledged right of citizenship by the legislatures of the states. Well, under that language certainly "due process of law" not only includes the procedure in our courts but would include any procedure involving the acknowledged right of citizenship, so I don't see but what there is under the proposal as it was originally framed by the Committee and as it is now contained in Section 6, I don't see why the very same protection cannot be afforded without the amendment, and certainly as Mr. Ralph Rivers points out, when there seems to have been an abuse created in a senatorial investigation, Congress immediately took steps to correct it, but it did not take an amendment to the Constitution to do that. The Congress operated under the exact language to correct that abuse by passing suitable legislation, and I think the legislature could certainly do the same thing.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Mr. President, my recollection was that that abuse continued for several years before there was even an attempt to correct it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, in closing this discussion, I just want to say that I have sat in the legislature and on quite a number of investigations. Certain of those groups had fairly orderly procedures that were set up as they went along. Oftentimes it took the form originally of an executive session at which the information was discussed in a preliminary manner. There was no pattern set to follow, but I imagine there was no pattern set to follow when our founding fathers adopted the words "due process". I can look around any lawyer's office and see shelf after shelf of books in which they tried to effectuate, no doubt, the meaning of the term "due process". I can see how in the legislative body after the experiences we have gone through, that there will be revised and improved procedures for protecting the rights of individuals in investigative procedures of this kind, investigations by the legislature and the executive. I don't say you'd have a body of court of law set up, but I imagine that in due time there would be a body of precedence set up by which succeeding legislatures would learn one from the other the best method in which these matters had been handled before and how they could be improved in future handling. It seems to me that we are laying a cornerstone

here to flag them and to bring to their attention the fact that we feel there has been an abuse of this legislative investigative power and asking them in a nice way to be sure that in a fair and just manner the abuses are not continued further. It seems to me the least we can do is to bring this forcibly to their attention and try and start this matter of investigative procedures on a healthy track.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 6, page 2, line 23, add to the section the following sentence: 'The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to the article? Mr. Harris.

HARRIS: Mr. President, may I have the floor on a matter of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Harris, you may have the floor on the matter of personal privilege.

(Mrs. Harris spoke on a matter of personal privilege.)

PRESIDENT EGAN: Are there other amendments to sections of the proposal on the bill of rights? If not, we will proceed to the section of the article that deals with questions of health, education and welfare. Mr. Victor Fischer.

V. FISCHER: I would like to make an inquiry, Mr. President. This is the second instance where the same committee has prepared two separate articles for the constitution. Would it not be a good idea to separate them henceforth both for purposes of engrossment and enrollment as well as for purposes of work by Style and Drafting and by the Convention in third reading, since they are proposed as separate articles of the constitution?

PRESIDENT EGAN: Mr. Fischer, it would take a complete change in the title and it would entail, as it were, a lot of mimeographing, a lot of work, and you would have to waive that in lieu of what we would feel would be the cumbersomeness of the present procedure, so you would run into a lot of work if you did it. Just how it happened in this form, it would entail more and we have it before us in this form. Mr. Doogan.

DOOGAN: I thought it was my understanding that when these matters got to Style and Drafting that it was the prerogative of Style and Drafting to take various sections and move them around in placement in regular order in the constitution. Is that not correct?

PRESIDENT EGAN: Mr. Doogan, in a manner all right is what Style and Drafting will do, whether it applies to this particular thing, of course, the articles will follow each other probably in this case. Mr. Fischer.

V. FISCHER: Mr. President, the only thing I had in mind was possibly simplification so things could move a little faster through the remaining process. If it means the mimeographing of even one extra page, I am not in favor of it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, do I recall that several days ago when we had a similar double-barreled proposal that by consent, the first part when we had finished with it, went to the Engrossment and Enrollment Committee so they could start work on it?

PRESIDENT EGAN: You are correct, Mr. Sundborg.

SUNDBORG: If there are no more amendments to the preamble and bill of rights, I would ask unanimous consent that that process be followed with that part of it.

PRESIDENT EGAN: It went with this provision that if after we finish the article that is in the same proposal, if at that time anyone desired to amend the proposed article, that if it was sent to Engrossment and Enrollment before we were through with this, it would still be open for amendment.

SUNDBORG: With that proviso, I would like to make that request.

LONDBORG: Would there be any necessity of it? They can start work on it at their desk any time they want to.

PRESIDENT EGAN: In this manner, Mr. Londborg, the chairman of the committee could then call the committee together. It would be official. Mrs. Sweeney.

SWEENEY: Before we get onto this new section in Committee Proposal No. 7, I would like to move that we adjourn until 9 o'clock Monday morning rather than get started on something else. I so move.

V. FISCHER: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the Convention stand adjourned until 9 a.m. on Monday. The question is, "Shall the Convention stand adjourned until 9 a.m. on Monday?" The Chief Clerk will call the roll. Mr. Kilcher.

KILCHER: Point of order. There is quite a good possibility that notice might want to be given for reconsideration which had been, discussion leading up to that possibility discussions were expected to be held at the normal recess of 3 o'clock.

PRESIDENT EGAN: Mr. Kilcher, your notice of reconsideration is in order if you so desire to make it, even now after the motion to adjourn has been placed, if the question has not been put. Do you wish to make it?

KILCHER: What I am trying to drive at is this, in a short recess awhile ago the possibility has arisen that further discussion at the normal recess at 3:30 would lead up to a sound solid reconsideration if it is cut off now would be impossible.

PRESIDENT EGAN: Mr. Kilcher, that is up to the delegates. We have the motion to adjourn. However, under our rules, a motion of reconsideration or a reconsideration can be considered even at this time even if it is pending. Now, if the Convention voted to adjourn, it would cut off that reconsideration if you did not make it now.

KILCHER: Would a motion for a short recess be in order now?

PRESIDENT EGAN: No, it would not. Mr. Hurley.

HURLEY: In order to allay the fears, having voted on the prevailing side of the question of amending Section 11 by the adoption of Mr. Riley's amendment, I ask now that I be allowed to reconsider.

PRESIDENT EGAN: Mr. Hurley serves notice of his reconsideration of his vote on the adoption of the amendment to Section 11. The question is, "Shall the Convention stand adjourned until 9 a.m. on Monday?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 21 - Armstrong, Boswell, Coghill, Collins, Cross, Doogan, Harris, Johnson, Londborg, McLaughlin, Metcalf, Nerland, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sundborg, Sweeney, VanderLeest.

Nays: 26 - Awes, Buckalew, Davis, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, McCutcheon, McNeas, Marston, Nolan, Nordale, Peratrovich, Riley, Rosswog, Smith, Walsh, White, Mr. President.

Absent: 8 - Barr, Cooper, Emberg, H. Fischer, Hilscher, McNealy, Taylor, Wien.)

CHIEF CLERK: 21 yeas, 26 nays, and 8 absent.

PRESIDENT EGAN: The "nays" have it and so the motion has failed of adoption. The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I am not clear on whether unanimous consent was given to my request that the part of Committee Proposal No. 7 consisting of the preamble and bill of rights be referred to the Engrossment and Enrollment Committee.

PRESIDENT EGAN: It was, Mr. Sundborg, no one objected. Mr. Johnson.

JOHNSON: Mr. President, point of order. Would the bill of rights proposal still remain before us under Mr. Hurley's reconsideration?

PRESIDENT EGAN: Mr. Johnson, your point of order is well taken under that consideration because the motion for reconsideration, even though it was made afterwards, is always in order. You are correct. Mrs. Hermann.

HERMANN: May I ask a question? What has become of the proposal on the initiative and referendum that I thought was referred to Engrossment some days ago?

PRESIDENT EGAN: The proposal is in the hands of Engrossment and Enrollment Committee, is it not?

CHIEF CLERK: No, it is in the boiler room.

SWEENEY: My motion to adjourn was not debatable, Mr. President, but our boiler room has been working on amendments that we have been getting out this morning and so far today, and I just thought this was a good place to stop. We have Mr. Hurley's reconsideration, and rather than tie them up in the boiler room now until 5 or 6 o'clock and come here Monday and not have anything, I thought it would be a good time to quit, and we had eight absent, so I still think my motion to adjourn is a good idea.

PRESIDENT EGAN: The Convention will come to order. Did the Chief Clerk already read this article?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Are there amendments to Section 1? Mr. Ralph Rivers.

R. RIVERS: Mr. President, that was a couple of days ago. Could we have it read again?

RILEY: Mr. President, I ask unanimous consent that we stand at recess for five minutes.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the Convention stand at recess for five minutes. If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White.

WHITE: Mr. President, I rise to a point of personal privilege.

PRESIDENT EGAN: If there is no objection, you may, Mr. White.

(Mr. White spoke on a point of personal privilege.)

PRESIDENT EGAN: We have before us the article on health, education and welfare. The Chief Clerk will read the proposed article.

(The Chief Clerk read the article at this time.)

SWEENEY: Mr. President, since business has transpired since the last motion, I would like to move that we adjourn until 9:05 a.m. on Monday morning.

ROSSWOG: I second the motion.

HERMANN: Roll call.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9:05 on Monday morning?" The Chief Clerk will call the roll.

HELLENTHAL: Is it necessary to call the roll?

HERMANN: I asked for a roll call.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Armstrong, Boswell, Coghill, Collins, Cross, Doogan, Harris, Helleenthal, Hinckel, Johnson, King, Knight, Londborg, McLaughlin, Metcalf, Nerland, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, Walsh.

Nays: 20 - Awes, Buckalew, Davis, V. Fischer, Gray, Hermann, Hilscher, Hurley, Kilcher, Laws, Lee,

McCutcheon, McNees, Marston, Nordale, Peratrovich,
Riley, Smith, White, Mr. President.

Absent: 8 - Barr, Cooper, Emberg, H. Fischer, McNealy, V. Rivers,
VanderLeest, Wien.)

CHIEF CLERK: 27 yeas, 20 nays and 8 absent.

PRESIDENT EGAN: So the "yeas" have it and the Convention stands
adjourned until 9:05 a.m. on Monday. If the delegates would give the
Chair their attention, are there any committee announcements? Mr.
Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet at 10:30 a.m.
tomorrow.

PRESIDENT EGAN: Mr. Rivers.

R. RIVERS: Do those letters that came in have to do with health and
education and was there a brief accompanying same?

PRESIDENT EGAN: There was quite a statement, Mr. Rivers.

R. RIVERS: Some of us may wish to take the opportunity to reading up on
that. One reason I did not feel we were prepared to go into health and
education now is that we have not read those communications or that
statement or brief, so those who want to keep on working, you have got
something to do.

PRESIDENT EGAN: The Convention stands adjourned until 9:05 a.m. on
Monday.

ALASKA CONSTITUTIONAL CONVENTION

January 9, 1956

FORTY-EIGHTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us Father Boileau of the Immaculate Conception Church. Father Boileau will give our daily invocation.

FATHER BOILEAU: Grant us, Almighty God, the gift of wisdom and understanding; give us Your help this day that we may continue to work with sincerity, with true charity and harmony, for the good of our country and for Your glory, through Christ our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: All present.

PRESIDENT EGAN: A quorum is present. We will proceed with the regular order of business. The Chair heard someone wonder whether we had a gavel or not. The Chair would like to state that the gavel is locked up in the President's desk and the keys are not here. We will proceed without the gavel today. Does the special Committee to read the journal have a report to make at this time?

KNIGHT: The journal for the 43rd day has been checked for errors and omissions. We do not find anything. We ask unanimous consent that it be adopted.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the journal of the 43rd Convention day be approved. Mr. Boswell.

BOSWELL: I note on page 9 it shows one person voting both "yea" and "nay".

PRESIDENT EGAN: Would you ask that that correction be made?

BOSWELL: I will.

PRESIDENT EGAN: The correction will be ordered made as the Chief Clerk might find it to be. If there are no other corrections, the journal of the 43rd day is ordered approved. The Convention will come to order. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Mr. Sundborg.

SUNDBORG: Mr. President, as Chairman of the Style and Drafting Committee, it gives me great pleasure this morning to introduce

to you a man who has come to assist us and who will remain until the end of the Convention, if that is the desire of the Convention. He is Dr. John Bebout, Assistant Director of the National Municipal League in New York City, and will be working principally with our Committee but will also be available to give such assistance as other committees may desire. Mr. Bebout is, as he says, a generalist rather than a specialist in the problems of state government and is also something of a specialist in the problems of local government. I would like to suggest that Dr. Bebout be invited to come forward from the gallery and to address the Convention briefly, if that is his desire.

PRESIDENT EGAN: If there is no objection, Mr. Bebout, we are happy to have you here and would like to have you deliver a few remarks.

DR. BEBOUT: Well, I am sure that the proper function for a consultant is to be seen and not heard, at least very loud, so I will be very brief, but I do take great pleasure in this opportunity and privilege of being here with you. It takes me back some years ago and to the eight-year struggle to get a new and modern constitution in my own State of New Jersey. I played various modest roles in that connection from the time that Governor Edison advocated the calling of a convention in his inaugural address in 1941, until the time we inaugurated our new constitution in 1948. I stress those dates because this is a long process or may be a long process from the beginning to the end, but it is very worth all the effort that goes in it. We feel that in the drafting of our new constitution in New Jersey, we set something of a new standard for modern state constitutions, but I am confident from everything that I have seen and heard about your labors here to date that you are on the way to setting a still higher standard for state constitutions, and it is a great privilege to be with you. (Applause)

PRESIDENT EGAN: Thank you, Mr. Bebout. Mr. Sundborg.

SUNDBORG: I would like to announce a meeting of the Style and Drafting Committee to be held at the table at the rear of the gallery at the morning recess, at 10:30 or thereabouts.

PRESIDENT EGAN: There will be a meeting of Style and Drafting Committee immediately upon recess. Are there reports of select committees? Are there any proposals to be introduced at this time? Are there any motions or resolutions? If not, we are down to unfinished business which takes us back to Committee Proposal No. 7. We are down to the article on health, education and welfare. Mr. Hurley.

HURLEY: In line with my notice at the previous session for consideration of the amendment to Section 11 on Committee Proposal No. 7, I ask that we take up this matter now.

PRESIDENT EGAN: Mr. Hurley asks that we take up this matter of reconsideration of the amendment to Section 11 at this time. Mr. Riley.

RILEY: Mr. President, on the supposition that Mr. Hurley may wish to discuss this, I will ask for a suspension of the rules in order that it may be debatable.

PRESIDENT EGAN: If there is no objection, the rules will be suspended. Mr. Hurley.

HURLEY: Mr. President, my discussion will be rather short.

PRESIDENT EGAN: Mr. Hurley, I believe that you were right in the first place. You should make the motion that your reconsideration come up at this time. Is that right, Mr. Riley?

RILEY: That is right.

PRESIDENT EGAN: Did you so move, Mr. Hurley, that your reconsideration be placed before us at this time?

HURLEY: That was my motion.

PRESIDENT EGAN: The Chair just wanted to be certain that the record would show that. Mr. Hurley, you have the floor.

HURLEY: On carefully going over the amendment, I came to the conclusion that it did not say what I thought that it said, that it did in fact legalize, at least possibly legalize the use of electronic devices for the invasion of privacy under a warrant and give then the information a place before the courts as admissible evidence. Now I realize that there are some delegates who properly feel that that should be done. I realize also that the law enforcement agencies should have every weapon at their command that will allow them to bring criminals to justice for the protection of the public good. I also was very anxious that the privacy of the individual be not improperly invaded by the use of such electronic devices. Although my own privacy as far as I know has never been invaded, I can readily see where it would be possible to do so. There are a great many opportunities for people who are not committing a crime and do not have criminal intent, but perhaps are somewhat antisocial to be plagued with at least a threat of blackmail, so I was desirous of having some way of preventing the improper use of such electronic devices. I use the word rather broadly. However, after giving the thing as much consideration as I was capable of, I decided that the amendment did not insure that such devices would not be indiscriminately used. It did insure that devices could be used by obtaining a warrant and made me think of the possibility that our political situation could change, could change to a position where use of the warrant could be a blow to our privacy rather

than a help to it. So I finally came to the conclusion that the best thing to do as far as I was concerned was to leave Section 11 pretty much alone as it was submitted by the Committee and to hope that the legislature, when the time came, that we were being unreasonably invaded in our privacy, to take such steps as would prevent it, so I therefore have decided if the matter comes up again to vote against the amendment.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, when this particular amendment passed on the last day of the session, I frankly was stunned and I think that the only reason it passed is that some of the delegates did not know what it did or what it meant. Now this amendment here completely destroys the Fourth Amendment as we know it in the Constitution. It in effect would completely destroy our civil liberties. I don't think that the proponents of this amendment fully realized its effect. In my opinion it destroys the individual liberties of man as we know it in the North American continent. It is a vicious infamous amendment. It is unknown in our system of jurisprudence, and I ask all the members to vote it down now.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I voted for this amendment at the time it was presented but I, too, have changed my mind. I felt there was not a great deal of difference between the use of a warrant for search and seizure and a warrant to use one of the electronic devices, but it is now my opinion that this would be a bad thing and I feel somewhat as Mr. Buckalew does. I have prepared another amendment which I am going to submit if it is reconsidered, but I would not like to see it stay in the constitution the way we wrote it in.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I am going to be very brief. The retention of that amendment in the constitution would be the first step toward the establishment of a police state and a long broad step at that. I hope it will be defeated.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I, too, voted for that amendment with the instructions I had, but I think it is not going to do what I thought it was going to do, and I made a decision some time ago to vote for the Committee's report except in rare occasions. I digressed there. I am sorry for it. I am going back, if I get a chance, and vote for what the Committee reported out unless something new shows up, that is going to be my position.

PRESIDENT EGAN: Mr. Riley.

RILEY: I think that I have been dragged into this a little by my heels but I should say that it was a matter of growing interest which developed the other day which obliged me to take an interest in the matter. I have been especially interested in Mr. Hurley's remarks and in his speaking against the amendment. I think that his remarks have been entirely conscientious. I know them to have been so, just as I felt the other day when he spoke for the amendment shortly before reconsidering that those remarks too were entirely conscientious, and I think that that situation, his own experience, reflects the thinking and the experience of the entire body on this particular subject matter as we have had it under discussion for two or three days. I know that I myself in first speaking on the matter stated that I had entertained grave doubts as the discussion continued and I have been back and forth on the subject from the moment it first hit the floor and so I say that Mr. Hurley's position I feel is representative of the entire body in his uncertainty. I think he knows what we are trying to reach. I think he feels that we have overreached it. I think that as Mr. Hinckel suggests, there are remedies still which can be offered to accomplish our purpose in this amendment. I will grant that there are voids, as Mr. Taylor suggests, in the present language which have brought about these fears. I thought since this discussion started two or three days ago of a naturalization speech made by the very able and eminent Learned Hand many years ago wherein he said something to the effect that the spirit of freedom is one which is not always sure it is right, while striving to be right it admits of doubt, and I think perhaps that is a characteristic of this entire Convention. We are not ever positive. We hope we are on the right course in any decision we take. Now, I personally feel we have set up a safeguard if we should use it. If we were now to use it by an amendment such as that which I suspect Mr. Hinckel may have in mind. We have gone to great lengths to create independent judiciary, a judiciary perhaps as independent as one may be. We have provided that superior court judges shall serve for six years, shall be certainly free from partisanship, that supreme court justices shall serve for ten years and shall be even more free from partisanship and from the popular whim of the moment, the hysteria that sometimes sweeps the country. I think that where we do employ those justices for the purpose of issuing these warrants we would have taken a far greater safeguard, we would have provided a far stronger safeguard than has been employed in Alaska in the case of the issuance of search warrants. Now there has not been a great wave of indignation or fear that the search warrant procedure will be abused nor an expression that it has been abused in our experience, and I submit only that the pending amendment now under reconsideration is possibly susceptible of improvement.

DAVIS: Mr. President, I spoke at some length on this matter on Saturday. Several of the delegates have told me that they thought that I had overpersuaded them in connection with the

amendment and that what we had done was actually different from what we were trying to do. I want to be clear. The fact that I do not believe as the others have stated here that we have done what we didn't intend to do. However, I certainly recognize the doubt and I will not be disappointed for anybody that may change his vote that may have voted the other way the other day because of what I said. I am still going to vote to keep the amendment as we made it, but that does not bind anyone else to the same thing.

R. RIVERS: Mr. President, I think there has been some overstatement about the first foundations of a police state and that sort of thing. About 175 years ago the founding fathers drafted a constitution and in that constitution they provided that no warrants, in speaking of searching your home or your office or your business, no warrants shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the person or things to be seized. It was our thought that we would have to provide some chance for the use of these other detection devices besides beating on your door and if you would not open it, kicking it in and pulling out your dresser drawers and that sort of thing. This all hinges upon a showing of probable cause and upon oath and affirmation to indicate the information sought. It seeks a permission from a court. Now I have not heard that the courts have been any pushovers as far as search warrants are concerned in the course of the last 175 years. How this is any more of a foundation for a police state than the original search warrant clause 175 years ago is more than I know. Certain details and other factors could be spelled in by the legislature. The legislature could say what court is to have the authority to issue these search warrants. It happens that under our present setup the justices of the peace court in Alaska have the authority to issue search warrants. Those men are not judicially trained. They are our court of limited jurisdiction but there are district courts. Our legislature can authorize a district court to be the one to consider the question upon probable cause on oath or affirmation as to whether or not any modern device could be used in the detection of crime. Now we have tried to protect the privacy of the individual here by saying that they shall not willy-nilly be subjected to wire tapping and microphones in your bedrooms and that sort of thing which they do now for information purposes which might lead them to witnesses, etc., who could produce the direct testimony for introduction in court. The way we have it before we put in this, what I call a protection of our privacy, is outside of minor trespasses. The law officers now just plain do it. Where is your privacy there? This would prevent them from doing it in any case unless they had permission from a court and that to me is better than not having any safeguard at all.

KILCHER: Mr. President, if the authorities right now without legal foundation are invading your home and listening in on conversations, etc., with technical devices, as Mr. Rivers has

admitted they do now, how much more so will they do the same thing when they are legally entitled, and once they are allowed legally to perform that sort of invasion they again will have a wave of illegal activities ahead of the legal activities like they are doing now. In other words, the invasion of a home will be greater than it is now. I can only see where we lose. We are forgetting entirely one thing in this matter, namely that all these impersonal technical devices are unreliable. They are unintelligent. They are subject to fraud, subject to tampering. In normal seizures and searches of a house there are persons involved, responsible persons whose evidence can be questioned. Let me tell you one thing of a technical means. It is entirely possible nowadays that anyone of us here can make a statement that is recorded on the tape recorder in our presence and we make a carefully thought out statement where we say, "I am not a Communist, I hate the Communists, I don't believe in Communism, and I think the Russians are evil characters. I do not believe that the government should be overthrown by force." And sit down and the machine can be used, the results of that recording can be handled in such a way and in a way that cannot be proven that it has been done, to make you having said a statement, "I am a Communist. I like Communism, and I believe in the overthrow of the government by force." This is technically entirely possible. If we permit nonpersonal technical evidence that can be tampered with without proof, we are sticking our necks in the noose. It is entirely different from the old warrants of search and seizure which is done by persons, responsible, intelligent human beings. It is a dangerous thing and I really think that we should be grateful of having this chance of reconsideration and vote the amendment pending now down and leave Section 11 as it was.

BARR: Mr. President, if we have always authorized law officers to search a home if there was probable cause, that is invasion of privacy. Wire tapping of course is another invasion of privacy and I can see no difference. I believe that we should allow it for probable cause, especially in cases of known criminals. It was said here that a recording could be altered to produce false evidence and I believe it could in certain cases it depends on what was said at that time. That is nothing new, photographs have been altered many times. It was said that a search of a house would be done personally and could not be falsified but that is not true. An officer searching a house can plant evidence. He can open a dresser drawer and drop a small package of heroin or marijuana in a drawer. That has been done, so there is actually no difference between the two, search and seizure and wire tapping. I know that for a certainty myself that wire tapping is done nearly every day in Fairbanks, by federal officers, of course, and it seems to me it would be better if they had to obtain a warrant from the court, the privacy of the individual would be better guaranteed. I have no fear of the courts issuing a warrant to tap somebody's

wire unless there is pretty good evidence that he is a criminal and engaged in a fairly serious crime. The law-abiding citizen has nothing to fear from this amendment, but the criminal has. We have the problem here of guaranteeing the privacy of the individual but one of the biggest problems in the nation today is the crime problem, and if any of you have had any experience as a law enforcement officer, you will know that the law is rigged to favor the criminal because we are guaranteeing the freedom and privacy of the individual and that works in favor of the criminal. Now, I believe in guaranteeing the privacy of the individual in every way I can. I believe that this is the best amendment that has been admitted so far that has been adopted, and I do not believe that it endangers the privacy of the law-abiding individual. I would vote against this amendment if I thought that we would then revert to the original committee report and no more amendments would be submitted. But I fear that is not so, so I believe I will vote for this amendment.

HARRIS: Mr. President, I would like to point out a couple of things here. Mr. Barr made the statement that only criminals have anything to fear from this amendment as it now stands. That is not true. The difference between a warrant for tapping a phone and the difference of a warrant in looking into a house are two different things altogether. In the first place, when you look into the house you get a warrant for that one house. You can go completely through it, that is true. That is one person's privacy you are invading. When you tap a phone anyone, that calls that number you are tapping their phone. You are not tapping the phone of one individual, you are not invading the privacy of one individual, you are invading the privacy of every person that calls that number, whether he be innocent, whether he be guilty or who he might be. Another thing here in the bill of rights is the protection of the people against the government. That was what it was intended for, and in this amendment we are giving the government complete right to go into any person's home by their telephone or in any other method at any time. If this amendment was written in such a way that it would take a superior judge to issue such a warrant, I would be in favor of it. Where you can go into a J P or any judge and get a warrant to tap anyone's phone on probable cause, I can't see my way clear in voting for such an amendment.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: As one of the proponents of the amendment, I gave it considerable serious thought over Sunday and I came here this morning with an open mind, but the more I read and study this amendment, I have to agree with Mr. Riley and Mr. Rivers that it will protect us and I am going to continue to support the amendment.

V. RIVERS: Mr. President, I feel as the previous speakers have stated that the intent of this amendment is good. We have spread

a great many words upon our records to show what our intent was, what we wanted it to do and wanted it to avoid. I realize also it is merely the outline, but then it is the general statement under which we are going to be governed and a policy that will be established by the courts. That is what was done in the case of the national Constitution. Each phrase and clause had to be interpreted in the light of its intent, and that intent effectuated by the laws and rules of the court that was set up to carry out that intent. I am confident that reviewing the phraseology as we have it here, in reviewing the records of the intents of this body, that no court could issue a set of rules or procedures in such a manner that it would be detrimental to the right of the individual. I have none of the fears that go along with this so-called preliminary establishment of a police state. We are not here, nor has it been shown as the intent of this body in any part of its proceedings to favor the despots and the tyrants who are necessary in the maintenance of a military or a police state. I do not share the fears of the souls who say that we have opened the gates here to any abuse on the part of our judiciary. It has been the practice and the experience of our country that it has to be the interpretations of these broad clauses based on intent, have to also be based upon honesty and good judgment, and I for one feel that that has been done in the past and will be done in the future, that interpreting this clause, there will not be harm but good done to the rights of privacy of the individual. I am for the amendment as it stands.

V. FISCHER: I would like to address a question to Mr. Davis, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may address your question.

V. FISCHER: If the present amendment as approved is retained, can the legislature pass a law stating that only justices of the supreme court and judges of the superior court may issue warrants under this section for the purpose of wire tapping, or will this section automatically leave it open to issuance of warrants by any court?

DAVIS: Mr. President, in answer to Mr. Fischer, in my opinion the legislature would have complete discretion in that matter. However, to go one step farther than your question--in order to meet the fears that have been mentioned here, I think possibly it might be wise if this section is retained to change it to provide that warrants shall be issued only by superior or supreme courts. Put it in the constitution.

McNEES: I do believe that stipulation, as much as I am against writing legislative law into our constitution, I do feel that the provision relative to which courts might issue said warrant should definitely be established here if we are going to

leave the present considered amendment to stand. I raise on other question. Other than the fact that any court under this present wording could issue such a warrant, there is grave question in my own mind as to who might be able to secure such a warrant and conduct such a search. For instance, any private investigating officer that may be working in conjunction with a case or with some other individual who seeks that information often conducts search with the help of the police, perhaps, where they feel that he should not be given full rein but also in many cases on his own. He might have a motive in requesting such a warrant and in conducting such a search altogether outside of the stipulation that he makes in request to the warrant. I do believe that we have left these two gaps in the present considered amendment. Beyond that I am very definitely against writing any more legislative law than we have to into the constitution. I feel that the committee proposal as it came out is perhaps just as complete an article as this body should write. Therefore, I am against the present considered amendment and will support the original article when it comes back on the floor.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I am not going to speak either for or against the amendment. I think I am going to change my vote when the time comes to vote, but I would like to call the attention of the assembly to the fact that we shall have, if we adopt the present article on the judicial branch, we shall have eight superior court judges and justices of the supreme court altogether in the entire Territory of Alaska. Four of those we may reasonably assume will be stationed at the capital city of Alaska. That is, your supreme court will sit there, and there will be without doubt at least one superior court judge assigned there. I don't know whether anybody, I am sure Mr. Robertson and probably some of the other attorneys here have had much the same experience that I have had in trying to get papers signed by a judge who is several hundred miles away, and I think we will meet this exact same situation in regard to issuing warrants for searching or for wire tapping in the event that we place that power exclusively in the hands of the superior court judges and supreme court justices, and I am quite sure that the reason the power to issue warrants has been given to United States Commissioners is due to the fact that they are more widely scattered, that they are closer to people than the more distant district courts and for that reason in the interest of expediting business and getting warrants out in time they have had to resort to the United States Commissioners and I think we will meet with exactly that situation in regard when we have statehood, that we will still find it very difficult to get warrants in time to be of any value if we limit the issuance of them to superior court judges and justices of the supreme court, and I think that that is a very definitely a thing that ought to be considered in this matter. We don't know what kind of inferior courts we are going to have, but judging by some of the United States Commissioners

that I have seen at work I would hesitate to give them authority to issue warrants for the purpose of tapping wires.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I am opposed to the amendment as it is written, and in my many years of law enforcement I have had occasion to go to the commissioner and get search warrants for property that has been alleged to be stolen, and it is my understanding that under the law of searches the officer or person who signs the search warrant must actually know, there is not any guesswork, you must know that a watch or a camera or binoculars is in a certain place. Now that is the old-time lawyers have told me that and it has been drilled into me. Now in the case of wire tapping, you have got a thing that does not even exist, you don't know what is going to be said over the wire. In the case of the search warrant, you get your search warrant and go to John Doe's place and you knock at the door and whoever comes, you identify yourself and give them the search warrant and under the authority of the search warrant you search the premises described in the search warrant. This thing here, you don't even know what is going to be said. And the next thing, when are you going to give them the warrant to tap their telephone. If you give it to them before tapping they are sure not going to talk about what you think they are going to say. I think it is a poorly written article, and as far as I am concerned, I am going to vote to retain the original recommendation of the Committee, and I would like to see the matter left up to the legislature. There may be times of national emergency or war, let the legislature make something on it. You will probably need some legislative law. If you recall, it has not been mentioned yet, during the last war our mail was all censored going between here and the states, and for a very good reason. None of us should have any fear in times of national emergency to have our privacy or personal lives, they are welcome to come into my house any time to look for anything that might affect the national security. I am going to vote against the amendment.

CROSS: Mr. President, I fail to see where we are giving anyone any right for a wire tapping in this amendment. It seems to me that it is a prohibition against invasions of privacy, at least that was the intent when it was submitted. It seems to me that the language is entirely negative here and left up to the legislature, if they see fit to give the warrants.

BUCKALEW: I don't know whether this point has been brought out to the body or not, but as Section 11 originally came from the Committee, it prohibits wire tapping. It was taken from the Federal Constitution, the Fourth Amendment has that the Supreme Court has construed that that protects the people in their homes from wire tapping. As a matter of fact, Section 11 as it was drawn prohibits wire tapping, it was taken care of by the Committee. Another thing, if Senator Barr knows of any federal

officer in the City of Fairbanks that is tapping wires as an officer of the District Court from the District of Alaska, if he will give the information to me, I will go down now and sign a complaint against that federal officer and he can be prosecuted. If he has any evidence now, I am willing to go down and sign.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment as offered by Mr. Riley and other delegates.

CHIEF CLERK: "Strike Section 11 in its entirety and insert the following: 'Section 11. The right of the people to privacy and to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches, seizures, or other invasions of privacy shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, the information sought or the persons or things to be seized. Information secured in violation of this section shall not be admissible evidence in any judicial or other proceeding.'"

HURLEY: May I close?

PRESIDENT EGAN: You may, Mr. Hurley.

HURLEY: I will simply close by saying I have appreciated the arguments I have heard on the floor this morning as well as those the other day. I still feel as I did this morning that we would be better off to eliminate the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Riley and other delegates to Section 11 be adopted by the Convention?"

KILCHER: Roll call.

DAVIS: To make the thing absolutely certain as I understand it, now if we vote "yes" we are voting to retain Section 11 as amended on Saturday. If we vote "no" we are voting against that amendment, is that correct?

PRESIDENT EGAN: If you vote "yes" you are voting once more to adopt this particular amendment. If you vote "no" you are retaining Section 11 as it appears in the proposal. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Barr, Boswell, Coghill, Cross, Davis, H. Fischer, Laws, McCutcheon, Nolan, Nordale, Riley, R. Rivers, V. Rivers, Robertson, Smith, Sundborg, Walsh, White.

Nays: 37 - Armstrong, Awes, Buckalew, Collins, Cooper, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Rosswog, Stewart, Sweeney, Taylor, VanderLeest, Wien, Mr. President.)

CHIEF CLERK: 18 yeas, 37 nays.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Hinckel.

HINCKEL: I have a proposed amendment to Section 11.

PRESIDENT EGAN: Mr. Hinckel, you may present your proposed amendment. The Chief Clerk will read the proposed amendment as offered by Mr. Hinckel.

CHIEF CLERK: "Insert the following after line 12, Section 11: 'The right of the people to be secure against unreasonable invasion of their individual privacy by the use of any electronic or other scientific device shall not be violated, and ex parte orders or warrants shall issue from the Superior or Supreme Court only upon oath or affirmation that there is reasonable ground to believe that evidence of crime may be thus obtained, and identifying the particular means of communication, and particularly describing the person or persons whose communications are to be intercepted and the purpose thereof. Information secured in violation of this section shall not be admissible evidence in any judicial or other proceeding.'"

PRESIDENT EGAN: What is your pleasure, Mr. Hinckel?

HINCKEL: I move the adoption of the amendment.

V. RIVERS: I second the motion.

PRESIDENT EGAN: In as much, Mr. Hinckel, as the amendment is quite long, do you think it would be wise to have it mimeographed?

HINCKEL: It might be well. I would like to make a short statement right now. You will note that I left the original Section 11 as presented by the Committee intact because I felt that the ordinary warrants for ordinary purposes such as we have had in the past, that the inferior courts should be able to handle them, but this controversial subject which seems to be quite a little bit more delicate and should be given more consideration, can only be handled by superior or supreme court judges.

McNEES: I was just going to move the consideration of this amendment following our 10:30 recess.

PRESIDENT EGAN: If there is no objection, the consideration of this particular amendment will be held in abeyance until after the 10:30 recess in order that mimeographed copies may be on the desk of each delegate. Mr. Hurley.

HURLEY: Mr. President, I don't exactly know whether I am in order or not, but I wonder if there are any other people who have amendments to offer on this particular amendment that might be long and also need to be mimeographed.

PRESIDENT EGAN: If there are some of particular length they might take this time to offer them so they could be mimeographed. Mr. White.

WHITE: Mr. President, I am holding one as I have been for two days which I am intending to submit if this one is voted down. It is not particularly long except in that it restores part of a previous one we have once voted down. It might be read and decided whether you want it mimeographed or not.

PRESIDENT EGAN: Mr. Hinckel's amendment is the one before us, but it looks quite long all right. If you intend to offer it at all, it would probable be wise to have it mimeographed, Mr. White.

WHITE: I thought I would ask to have it read and then mimeographed if someone wants it.

PRESIDENT EGAN: The Chief Clerk may read it for information purposes only.

CHIEF CLERK: "Section 11, after the last line add: 'The right of privacy of the individual shall not be invaded by use of any electronic or other scientific transmitting, listening or sound recording device for the purpose of gathering information or incriminating evidence, subject to such exceptions and procedures as may be established by law for the protection of the public safety.'"

PRESIDENT EGAN: What is the feeling of the body? Would it be wise to have it mimeographed? Mr. Hurley.

HURLEY: I would so request.

PRESIDENT EGAN: If there is no objection we will order it mimeographed to have it ready. Mr. McNees.

McNEES: Did I understand that was to be added following line 11?

CHIEF CLERK: At the end of Section 11.

McNEES: Thank you.

PRESIDENT EGAN: If we are going to hold this matter in abeyance we could proceed with the matter on health, education and welfare.

HELLENTHAL: I move that we take the normal 15-minute recess at this time this morning rather than at 10:30 and ask unanimous consent.

PRESIDENT EGAN: Mr. Hellenthal moves that we take the regular 15-minute morning recess at this time and asks unanimous consent. If there is no objection, the Convention will stand at recess until 10:10 a.m. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hilscher.

HILSCHER: Mr. President, I rise to a point of personal privilege.

(Mr. Hilscher spoke under point of personal privilege.)

PRESIDENT EGAN: Is there objection to sending this wire to the President of the United States? If not, Mr. Hilscher, you may send the wire. We do not as yet have copies of the particular amendment as offered by Mr. Hinckel, do we?

CHIEF CLERK: Yes, we do.

PRESIDENT EGAN: Then we have before us the proposed amendment as offered by Mr. Hinckel to Section 11. Mr. Hinckel, did you move the adoption of that proposed amendment?

HINCKEL: Yes, I did.

CHIEF CLERK: Mr. Rivers seconded it, Ralph Rivers.

PRESIDENT EGAN: Is there discussion of this proposed amendment? Mr. Hinckel.

HINCKEL: I think that the brief statement I made is all that is necessary for me to make. We discussed the thing very thoroughly and we should have a comprehensive understanding of the problem

PRESIDENT EGAN: Is there further discussion? Does everyone have a copy? Mr. Hurley.

HURLEY: I ask that we have a two-minute recess.

BARR: If I may object, what is the purpose of the recess?

HURLEY: I would like to read these things.

BARR: Excuse me. I thought maybe somebody wanted to write another amendment.

PRESIDENT EGAN: It might be best to hold this in abeyance and come back to it, whatever the Convention feels. If it takes too much time now to digest the proposed amendment, it might be better to proceed and come back to this.

HURLY: I withdraw my request.

PRESIDENT EGAN: Is there discussion of the proposed amendment as offered by Mr. Hinckel? Mr. Riley.

RILEY: I did not rise to discuss it, but to step into the breach created when Mr. Hurley withdrew his request for a recess. I would like a recess if I may.

BUCKALEW: Could we make it five minutes?

PRESIDENT EGAN: Perhaps, Mr. Buckalew, the Chair was wondering if it might be better to go on with the article on health, education and welfare and when this has been completely digested, then we could come back to it later. Mr. Riley.

RILEY: In my own obscure manner, Mr. President, the two are related in my mind.

PRESIDENT EGAN: The Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Hinckel's proposed amendment to Section 11. The question is open for discussion. The question is, "Shall Mr. Hinckel's proposed amendment be adopted by the Convention?" Mr. Londborg.

LONDBORG: Mr. President, I feel that I can take a minute or two on this. I did not address the assembly before on this matter. As I see it now, it is going to leave the issuance of warrants up to the two courts, and I think Mrs. Hermann pointed out very clearly that they are not going to have the time to handle that and also I feel that in reference to the inferior court system, that they have other authority that I believe is just as great if not greater than the matter of wire tapping. They have the authority to put a man in jail up to a year. They have the authority to do other things, and while we hear many cases of injustice, maybe we should also consider the possibility of 90 or 99 per cent of the cases that they may be handled right also. It looks to me that this could well be handled by legislation. There seems to be a fear of the state police system coming in, but I don't think that the legislature, if they can't protect us from that in the matter of wire tapping, then the police state is going to come anyway. I think the whole matter should be left up to the legislature.

HINCKEL: I agree that the commissioner's court should handle the first part of Section 11 as presented by the Committee, but these other matters which I have covered in the second paragraph of this section, I believe, should not be handled by the commissioner's court, and I don't think that they are things that are going to come up often enough so that they can't take just a little extra time and get ahold of a person with a little more mature judgment and experience before such an order was issued. I objected to some of the previous amendments for that reason. It worried me that persons of inexperience or lack of the proper judgment would issue orders to tap wires or use these other various electronic devices which may be developed in the future and so I just will not go along with anything that will permit that, but I do think that the law enforcement body should be permitted, when it is absolutely necessary, to have it to use, and I think I have covered it pretty well by this amendment. I would not be adverse to anyone improving upon it if they can. The legal verbiage I did not think up myself. I took it from the Constitution of the State of New York. This is not the same as the State of New York's provision, but the legal words as I used them to describe my intent came from their Constitution, so I am pretty sure it is workable and useable.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: This is the last time I am going to speak on this subject. I think that this amendment should be voted down. I think that Section 11 as drawn, I am confident that it prohibits wire tapping. I think that Section 11 as it is drawn would prevent in the future an invasion of a man's home by any kind of sound wave or any other kind of device and I believe on the wire tapping it should be left to the national government. If it comes to a day when we have a problem with subversion, I think the national Congress will act on that subject and it will be a federal question. I would rather see the amendment defeated because I believe Section 11 will absolutely protect the citizens.

ROBERTSON: I believe I could go along with this amendment if instead of "reasonable ground" the words "probable cause" were used. The words "probable cause" have been construed in the Federal Constitution provision many times and I don't know of any construction with the words, "there is reasonable ground".

COLLINS: There is another angle to this amendment that presents itself to my mind, "The right of the people to be secure against unreasonable invasion of their individual privacy by the use of any electronic or other scientific device shall not be violated". I am just wondering if Mr. Hinckel had in mind that a driver on a highway would consider that his privacy would be invaded by an electronic device such as they are establishing throughout the United States. One of the greatest problems confronting American people today is the number of deaths on the highway. In various

states of the Union they have established the radar to catch a speeder, a potential murderer on the highway. Now if the roads of Alaska, undoubtedly during statehood, we will have more traffic than we have today. Every driver on the highway realizes that the potential murderer is a man with a car that's driving 60 or 70 or 90 miles an hour, if he can be apprehended by the use of radar, it is going to save the lives of many, but if the police patrols are prevented from going into court and using the evidence which they have secured by the radar, that potential murderer is going to get away with it for then it is up to the police to offset testimony of that driver, which oftentimes is intoxicated, oftentimes the passengers are intoxicated. It has been the means of killing a man, wife and all his children. I am wondering if the interpretation of this amendment would say that the privacy of a drunken driver would be violated by the evidence secured by the electronic device. I think in view of the study of the report of the Committee that they have covered the protection for privacy. No man living within the law has any fear of an unreasonable search or seizure. They have had time to study them. Now it seems to me that there is a movement here to throw every safeguard around the criminal. I say again that a man who lives within the law has no fear.

V. FISCHER: Mr. President, I am very much opposed to wire tapping, almost in any instance. I think there are only a few exceptions where wire tapping might possibly be justified and I have been sympathetic to various proposals that have been introduced to amend Section 11 beginning with the first minority report. However, each proposed amendment has raised a number of other questions that have in most cases forced me to vote against the eventual adoption of the amendment, and I personally have come around to the point of view that when this problem becomes serious in the State of Alaska or even in the Territory of Alaska, our legislature will take the necessary action. I think it has been pointed out here before that to date this has not been a very serious problem. Had it been so, I am sure that we would have had a lot of discussion of it in the past on legislative floors as well as in all our various communities where any abuse or invasion of individual privacy might have taken place. It seems to me that the basis for the protection of individual privacy exists in our constitution. I think that rather than putting in language that is questionable, and so far every proposed amendment that has been introduced has raised questions such as Mr. Collins just now brought up, and the current one may be open to abuse. I think the other amendment that has been mimeographed has more or less the same deficiencies. Therefore, I personally am opposed to this amendment, and I believe in the interest of protecting the privacy of individuals, in the interest of getting a workable clause on to our law books, we should leave this matter to the legislature which can spell this out in detail to meet the needs of the day.

R. RIVERS: Well, just briefly, I agree with Mr. Buckalew that subversion is largely a federal question and that actually this bears more heavily on operations by the federal government. What we would put in here under our own police system of our state would not detract one bit from the power of the federal government, so let's as far as our own local scene is concerned, let us forget the federal question. Radar, Mr. Collins is concerned about this. That is a legitimate inquiry. At the present time, under your search and seizures law and under the authority of the highway patrol statutes and regulations that are made in the public interest, the police buzz you down, make you show your driver's license, take a look at your car, and I think they are quite abusive sometimes in spite of safeguards. I can almost assure you, Mr. Collins, taking tabs on a man's speed by radar is not going to be invasion of privacy and would not be prohibited under this amendment. It does not fit in to an invasion of privacy. Sure, it is the bunk to get caught, but that is about all there is to that. Pursuing Mr. Robertson's suggestion of which I approve, I move to amend this proposed amendment as follows: On line 5 of the printed copy before us, I move to delete "there is reasonable ground" and substitute "probable cause exists".

PRESIDENT EGAN: Mr. Ralph Rivers moves to delete the words "there is reasonable ground" on line 5 of this proposed amendment and substitute "probable cause exists".

R. RIVERS: I ask unanimous consent.

KILCHER: Objection for a point of information. You would still leave, in other words it would read then "that probable cause exists to believe"? That something is probable and you believe?

R. RIVERS: That is a standard expression, Mr. Kilcher. May I have a recess for a couple of minutes?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Rivers, did you move the adoption of the proposed amendment?

R. RIVERS: I did and now I ask unanimous consent for the privilege of withdrawing my proposed amendment.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent to withdraw the proposed amendment. Is there objection? Hearing no objection it is so ordered. Mr. Rivers.

R. RIVERS: I now move an alternative motion after consultation, that the words "reasonable ground" be deleted and the words

"probable cause" be inserted in lieu thereof.

PRESIDENT EGAN: Mr. Ralph Rivers moves, is that correct, and asks unanimous consent that the words "reasonable ground" be deleted and the words "probable cause" be inserted in lieu thereof. Is there objection? Hearing no objection, the proposed amendment to the amendment is ordered adopted. Mr. Ralph Rivers.

R. RIVERS: I would like to follow up a little bit. It would then read "upon oath or affirmation that there is probable cause to believe".

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I would like to speak further against this same amendment here. I believe if we follow the language, the original section submitted by the Committee and leave any additions up to the legislature, in my way of thinking this amendment would help the criminal rather than to help the law enforcement officers. Let's take an example of say an officer is following a suspect in the city and he puts on glasses and false whiskers and follows the suspect around. The suspect takes a room in skid road in one of the hotels and you take a room adjoining there and maybe in your four walls you are legally entitled to be there. Suppose you have a listening device or an ear that magnifies sound or a recording machine and you listen to a conversation in the adjacent room when actually you are within the four walls you are entitled to, and according to this if you don't have a blanket order the information you might gain and with which you might solve a serious case, that would preclude you from ever submitting that evidence in court. Therefore, I am voting against this amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hinckel be adopted by the Convention?"

TAYLOR: I have an amendment.

PRESIDENT EGAN: Do you wish to offer an amendment? Mr. Taylor wishes to offer an amendment to the proposed amendment at this time.

BARR: Mr. President, it seems to me we have spent a lot of time with amendments to the amendment, and I submit to you it would be lots easier to vote on this amendment than keep on amending it.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment to the amendment.

CHIEF CLERK: "After the word 'violated' in the third line, insert a period and strike the balance of paragraph eleven."

TAYLOR: I move the adoption of the amendment to the amendment.

PRESIDENT EGAN: Is there a second to the motion?

KILCHER: I second the motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adoption of the proposed amendment -- Mr. Taylor?

TAYLOR: I would like to speak on that a minute. I talked with quite a number of the members of the Convention and in matters that have been brought forth here it seems to me that quite a number are in favor of leaving it to the legislature to implement or to make any exceptions to the wire tapping prohibition. I think if we put in in the way I have it here, "the rights to privacy will not be violated", then it will be up to the legislature if they wish to make a change. I might say that in the Congress and in the law enforcement bodies of the Department of Justice there has been considerable controversy as to the right of wire tapping. Most of them have come out against it and the nearest they have ever got to some kind of an agreement, and that has not gone into effect, is that the federal government could under exceptional circumstances after a hearing before a United States Federal Judge, could issue an order allowing a wire tap, but it must be exceptional circumstances and I feel that if we just put in here that it is just a direct prohibition against a wire tap that if Congress did enact a law which did give some restrictions, it would be applicable to Alaska, and we could take advantage of it then. I am very dubious of little by little surrendering or allowing exceptions to be made to the guarantees to the people piece by piece. We have the Federal Constitution. They did not give any exceptions on search warrants. We should not give any exceptions on this because this is a much graver matter than is the searching of your house which they come into for a few minutes, but under this they might sit on your wire for six months or six years.

PRESIDENT EGAN: Mr. White.

WHITE: This in substance is exactly the original minority report which we long since voted down. In my opinion it leaves absolutely nothing to the legislature.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Taylor be adopted by

the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment to the amendment has failed of adoption. We now have the proposed amendment to Section 11 as offered by Mr. Hinckel. The question is, "Shall the proposed amendment as offered by Mr. Hinckel be adopted by the Convention?"

HINCKEL: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 14 - Armstrong, Boswell, Davis, H. Fischer, Hellenthal, Hinckel, McCutcheon, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Smith, Sundborg.

Nays: 40 - Awes, Barr, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Reader, Rosswog, Stewart, Sweeney, Taylor, Walsh. White, Wien, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 14 yeas, 40 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. White.

WHITE: Mr. President, I move the adoption of my amendment that is on the members' desks.

PRESIDENT EGAN: Mr. White moves the adoption of the proposed amendment.

DOOGAN: I second the motion.

WHITE: Mr. President, I believe everything that could possibly be said on the subject has long since been said. I have two brief comments only. The comments on the amendment itself is that it differs from the previous one in this respect among others, and that is that if there is question to the matter that Mr. Collins brought up as to the use of radar to speeding, this matter would allow blanket exceptions by the

Legislature. The other one is this. I don't like to waste time speaking for the record, but several references have been made to the record this morning, and I will have to take exception to something said by my good friend, Delegate Buckalew. I believe the use of wire tapping has been permitted by every attorney general in the United States since 1931 and there would be no prohibition in the Federal Constitution against wire tapping, but use of the evidence obtained thereby is not permitted.

DAVIS: May I ask Mr. White a question?

PRESIDENT EGAN: If there is no objection, Mr. Davis.

DAVIS: Mr. White, I am wondering if it is your intention here to allow the legislature to promote regulations against any kind of device, whether it be sound, tape recording or any kind of device? I am afraid the language as it stands is limited to certain particular kinds of scientific devices. Supposing this amendment is adopted, is it your intention that any kind of device that might be used would be subject to this regulation? If so, I don't think there is any use in making amendments. We will clear it up in Style and Drafting or some other way and get going on this thing.

WHITE: I would agree with you, Mr. Davis. I asked the question during the last recess and said I would agree to almost any amendment that would clear up the first four sentences. For instance, if anyone wanted to strike the words "transmitting, listening or sound recording", that would be perfectly agreeable with me.

PRESIDENT EGAN: Mr. White, if the Chair might ask you a question, is it just the underlined matter in your proposed amendment that is supposed to be the new matter?

WHITE: I underlined that on my handwritten amendment to emphasize that that is the only new matter before the body. The first three and one-half lines were contained in the original minority report but my amendment includes all the matter on this mimeographed sheet.

PRESIDENT EGAN: Every word in this proposed amendment is new matter?

WHITE: Technically, yes.

BARR: This question we are considering here is rather complicated, and I want to point out to you that actually if we

considered every angle and took into consideration every kind of device that might be used, it would take a long time. The usual procedure in the legislature is to do that. A question like this would take each house probably an hour or two hours to go over it and in addition would hear expert witnesses, probably officers of the court and electronic experts testify and they would have the time and the knowledge to go through this and make certain exceptions and I am sure they would certainly protect the rights of the citizens. That is what they are there for, so I believe the legislature can take care of this very well. I am normally for no more amendments, but this amendment seems to me to be pretty good because it would provide just what we need.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, I have not spoken and I don't intend to speak but I would ask if Mr. White would consent to the amendment he spoke of there, simply striking out after the word "scientific", striking out the words "transmitting, listening or sound recording" so it would merely read "scientific device"?

WHITE: With the consent of my second I would agree to the deletion of those words.

PRESIDENT EGAN: You ask unanimous consent, Mr. McNealy, that those particular words be deleted? Is that your purpose?

McNEALY: Yes, Mr. President.

JOHNSON: I would object to that.

McNEALY: I so move.

R. RIVERS: I second the motion.

PRESIDENT EGAN: The words "transmitting, listening or sound recording" be deleted from the proposed amendment.

McLAUGHLIN: I would like to ask a question of Mr. White. What then, Mr. White, is a scientific device as opposed to a nonscientific device?

WHITE: I will have to answer that by saying I am not an expert in that field. The trouble with any of these things is of course that we want to cover every possible eventuality with a perfect language and I don't believe it could be done. To do it, we would be here for weeks. The merit of this to

my mind is that it seems to accomplish the intent of the body to say something on the subject but it allows the legislature to make such exceptions and establish such procedures as they may desire.

BARR: I believe that I could answer that question. A scientific device that does not make use of electronics, perhaps would be a listening tube, a pair of binoculars, which is used as an optical principle.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Could I ask a question? Would there be any objection, Mr. White, to eliminating the word "scientific", just leave it "device".

R. RIVERS: I would object.

WHITE: Well, I would have no objection to eliminating the word "scientific", I don't know what to say. As I have already said, I think we could be here all week trying to draft perfect language on this. The point is to say something about protecting the right of privacy of the individual and then to allow such exceptions that have become obvious to me that we have to allow for. I will not move that "scientific" be stricken, but if you want to, go ahead. I won't oppose it.

KILCHER: I am perfectly convinced that there are no occasions on the state level where any of these amendments and subamendments and deletions, whether we amend them or not, are applicable. So my remarks, I hope to speak the last time on this, and I think my remarks will go for any of the amendments. I am in favor of the original Section 11, namely that the matter is not mainly criminal but it is a matter of political and civil rights that are at stake, and wire tapping could not possibly be compared with a search warrant. It would rather be compared with fishing for evidence, like in a case of murder it would be --

SUNDBORG: Point of order. The matter that is before the floor is a motion to strike the words "transmitting, listening or sound recording". If Mr. Kilcher wants to speak on that, let him speak, but he seems to be speaking on the whole amendment. The matter before us is, as moved by Mr. McNealy, is striking the words "transmitting, listening or sound recording".

PRESIDENT EGAN: That is correct, Mr. Sundborg. The question is, "Shall the words 'transmitting, listening or sound recording-

be deleted from the proposed amendment?" All those in favor of deleting those words from the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the words, "transmitting, listening or sound recording" have been deleted. Mr. Cooper.

COOPER: Do you realize that right now any one of the 55 delegates at this Convention can walk outside this door and commit murder and there is no scientific device that can be used to gather information to prove that they committed murder. I have a right to my privacy and a scientific device can be construed to mean finger printing or any other means of obtaining information. There had better be some thought on this. I am speaking on this amendment as it is.

TAYLOR: Mr. White, I think, has given a lot of thought to this matter and I think he has the right approach. I don't believe that at this time that a law regarding wire tapping is necessary, just as much as Congress did not think such a law was necessary. A couple of years ago when Mr. Brownell, Attorney General of the United States, was toying with the idea of having a wire tapping bill introduced in Congress, but after consultation with a number of the heads of the law enforcement agencies, including J. Edgar Hoover, the Chairmen of the Judiciary Committees of both the Senate and the House, and able constitutional lawyers of the East, he decided not to do it. J. Edgar Hoover was opposed to it, the leading law professors of the East were opposed to it because the danger was greater than the good that could be expected from it. There might be in a few cases, but they felt there was such a breakdown or insidious invasion of the rights of the people to be secure in their privacy that they felt the law should be left the way it is and let the courts pass upon the admissibility of evidence and if it had been secured in an illegal way by the invasion of your home or privacy, it would not be admissible. When the Attorney General of the United States would not do this and when J. Edgar Hoover, whose honesty and conscientiousness has never been questioned, came out flatfootedly against legislative enactment of a wire tapping bill, I think it ill behooves us here to draw a proposed constitution for the State of Alaska to rush in, and we rush in where the angels fear to tread. I think that this possibly should be left entirely out of the proposed constitution. Let us rely upon the guarantees of the bill of rights as it is written by the Committee. Vote this down and go ahead and adopt Section 11 as reported in.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. Chairman, the Attorney General of the United States was considering asking Congress for authority to wire tap and use that evidence in court. Somebody might go and ask our

legislature someday for the same thing. Our legislature might turn it down, the same as Congress at this time showed no particular disposition to pass it. So by leaving it specifically up to the legislature to make these exceptions, then you are leaving it open for the future to solve its own problems. I don't think Mr. Taylor's proposition about trodding where angels fear to tread is analogous. We say there shall be no invasion of right of privacy by the use of these devices except such as the legislature may allow. The federal law is much the same way now. That is, they can't admit any evidence that is obtained through transgressions upon privacy into court at the present time, and they are not about to allow that be admitted as evidence in court, so here we are saying that our legislature, that none of that can be used except such as our legislature may allow.

HELLENTHAL: Briefly, I feel that this amendment places stress upon the right of privacy such as, we have stated before, we felt should be placed upon the right. It fully protects us in that the legislature may make exceptions. If Mr. Cooper's contention is correct that finger printing would be the use of scientific device, the legislature could make an exception in that case, and I am sure they would. But this stresses the present day need for preservation of the right of privacy, places emphasis upon the existence of that right which has grown up during the last 50 or 60 years and then gives full freedom to the legislature in addition to the courts to protect us and for that reason I favor the amendment. I cannot see how it can conceivably could harm anyone, how it could thwart the law enforcement agencies, and I feel it is a pressing matter for this state to consider. It is not handled by the federal government, it is a matter of state concern. and the future state of Alaska should properly concern itself with this amendment and this is a good amendment.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, I again feel that the use of the words "electronic" and "scientific" will certainly handcuff the officers in carrying on investigation of serious crimes. I speak with nearly 15 years of experience in that activity. I can visualize, if you should see fit to pass this amendment. I can see in the future state, in the courts thereof, thousands of hours being spent with criminal lawyers in the courts, arguing whether a criminal's constitutional rights have been violated by, say, an officer picking up evidence through a false ear or a hearing aid or a camera operated on a battery. I urge each and every one of you to vote "No" on the amendment.

BUCKALEW: I just want to say one more thing on this subject. It is a dangerous invasion of the rights of the individual citizen, and it is bad and it should be voted down. We are supposed to protect the citizens of the state, not leave it up to the legislature, and it should be voted down.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended and as offered by Mr. White be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 14 - Cross, Davis, H. Fischer, Hellenthal, Laws, McCutcheon, McNealy, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Sundborg, White.

Nays: 40 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, Rosswog, Smith, Stewart, Sweeney, Taylor, Walsh, Wien, Mr. President.

Absent: 1 - VanderLeest.

CHIEF CLERK: 14 yeas, 40 nays, and 1 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Hellenthal.

HELLENTHAL: I move the previous question.

GRAY: I second the motion.

PRESIDENT EGAN: What is the previous question?

HELLENTHAL: Adoption of Section 11.

TAYLOR: I move the adoption of Section 11 as it is contained in the committee report.

MARSTON: I second the motion.

PRESIDENT EGAN: There is no previous question, so the previous question motion at the time it was made was out of order.

COGHILL: I now move the previous question.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: We don't adopt anything until third reading. All we are doing here is amending and we have not adopted any other

section or article or anything else yet. We have been amending in second reading. There is nothing before us at this time.

PRESIDENT EGAN: The Chair was undecided about that question originally himself and that is, when we adopt amendment, we are adopting them into the proposal. We are not passing them in their final form necessarily, so Mr. Sundborg's point would be well taken. Mr. McNees.

MCNEES: I move that we proceed to the article, Committee Proposal No. 7, on health, education and welfare.

RILEY: May I call attention to the fact that we have in the gallery one who is largely instrumental for the creation of this Convention, through serving, as I recall, as Chairman of the Statehood Committee in the last legislature in the Senate. I refer to Judge Earl Cooper, and ask that he be extended the privilege of the floor.

PRESIDENT EGAN: If there is no objection, Judge Cooper, you have been extended the privilege of the floor for a brief statement.

BARR: I second the motion.

JUDGE COOPER: Chairman Egan, fellow Alaskans. I think it would not be inappropriate at this time to say fellow Americans, because I am sure we are about the business of Americanism today. A lump kind of came into my throat today as I drove up in the taxi and saw the sign out front, "Alaska Constitutional Hall". I thought to myself what a historic occasion those people are about in there today. As I look into your faces I could almost call every one of you by name. That is significant to me from this viewpoint because here, establishing a Constitution for the next great State of Alaska are people who have identified themselves with civic groups, professional groups, various organizations which have concerned themselves with the welfare of Alaska throughout the years. I think the people have chosen well. Two things are significant to me in connection with this Constitutional Convention. One is the fact that you have gone about your deliberations with the sincere and honest desire to bring out a Constitution that is going to be acceptable to all the people of Alaska. The second thing that is quite significant to me, although I happen to be identified with one of the two major political parties, you have approached your deliberation here with a spirit of nonpartisanship. This was highly necessary to come out with a constitution that would be acceptable to the people of Alaska. I think you are to be highly commended, my friends. I wish I was a part of this group. I wish I could sometime gather my grandchildren about my knees and say I had the opportunity of affixing my name to a state constitution. If I get a little emotional about this

it is because you people are making history here today. This deliberation intrigued me the way you have gone about it with a seriousness, sincerity and the conscientious attitude you have shown. Of course, you will arrive at your areas of difference of opinion. We all have different approaches to the solution of our problems. But you approach this, I think, with what is good for my fellow citizens of Alaska. I predict, although I don't set myself up as a seer, I predict when you come out of here, when your deliberations are over, you can take pride in the fact that you have submitted for confirmation a document all of Alaska can take pride in. Thanks very much for extending me this privilege, and Godspeed.

(Standing ovation.)

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: I have an amendment on the Chief Clerk's desk.

PRESIDENT EGAN: We have before us the article on health, education and welfare. Mr. Davis?

DAVIS: Before proceeding I wonder if under the suggestions made the other day we can now send the first part of this article to Engrossment and Enrollment. I so move.

HARRIS: Point of order. I believe there is still a motion by Mr. White to be considered.

SUNDBORG: If Mr. White had desired to move reconsideration, his right to do so should have been done yesterday.

WHITE: I had no intention of so doing.

PRESIDENT EGAN: It seemed to the Chair, Mr. Davis, that we had already let the proposal go to the Committee with the understanding that other amendments were not precluded.

DAVIS: You may be right and if so my motion is out of order, but at least Section 11 did not go.

PRESIDENT EGAN: Your motion is not out of order unless the Chair is correct.

CHIEF CLERK: After the reconsideration you withdrew the order, so it is in order.

PRESIDENT EGAN: Is there objection to Mr. Davis's request that the article be referred to the Committee on Engrossment and Enrollment at this time with the understanding that it would still be in second reading? Is that your understanding, Mr. Davis, until we finish with the article on health, education and welfare?

JOHNSON: Point of order, Mr. President, if it is referred to the Committee on Engrossment and Enrollment, it would take a suspension of the rules, if it were to be amended again.

PRESIDENT EGAN: Mr. Johnson, the reason it was done in the case of the article on the initiative and referendum, we asked that it go to the Committee on Engrossment and Enrollment with the understanding that it would not be final in the Engrossment and Enrollment Committee until we finished with the other part of the proposal, which was the article on the referendum. You see this article here is merely a section of or an article included in Committee Proposal No. 7. Mr. Taylor.

TAYLOR: I believe that the President is right in that particular matter, that this at the present time, although referred to the Committee on Engrossment and Enrollment for the purpose of coming out with the proposal, up to where we have left off now, in proper form with the amendments, but it is still in second reading. It has not been passed on to third reading and would be subject to amendment after it comes back. Is that what the Chair intends?

PRESIDENT EGAN: That was the intention unless there is objection. We have before us Section 1 of the article on health, education and welfare. Miss Awes.

AWES: I would like to move for a five-minute recess and ask unanimous consent.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for five minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chairman of the Committee had informed the Chair that by the time the delegates got seated, they would be finished. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that the remarks of the Honorable Earl Cooper be spread upon the journal today.

MARSTON: I second the motion.

JOHNSON: I have one suggestion, that we also include the prayer given by Father Boileau.

SUNDBORG: I accept that as part of the motion.

PRESIDENT EGAN: You have heard the unanimous consent request. Is there objection? Hearing no objection, it is so ordered. Mr. Coghill.

COGHILL: Mr. President, the time is growing quite short and it is almost noon. As Chairman of the Administration Committee, we would like to know what the feelings of the delegates are today as to night sessions. Are we going to recess at 5:30 and take up again at 6:30 or 7:00? There is a bus at 9:50 p.m. Now it is going to be quite hard to get bus transportation or special buses out at that hour apparently because the buses are running to the army bases at that time, so I am going to call for an Administration Committee meeting at 1 o'clock and the things we have to decide on hinge on what the delegates wish as to the evening sessions, when they wish to start them, and as to the time that they would like to adjourn as of an arrangement that we had when we first started the session after our hearing recess. We will also have to know if we are going to recess and have lunch or supper here. The management of the cafeteria will have to know at noon to provide for this evening.

PRESIDENT EGAN: It is the recollection of the Chair that at the committee chairmen meeting at which this subject was discussed, the remembrance of the Chair is that the convening time of 7 o'clock in the evening was discussed, and that we left the rest of the adjournment time open partly because of the bus problem. Mr. White.

WHITE: I was just going to direct a question to Mr. Coghill, if I might. The time of the next previous bus before 9:50?

COGHILL: It leaves the University at 6:50 and at 9:50. The 7:50 bus has been canceled, so if we had evening sessions say until 9:30, that would give the delegates plenty of time to get wraps and into the bus.

WHITE: I just thought while I was on my feet I will make the only comments I have to make on this subject. It appears to me that an hour and one-half for dinner would be taking considerably more time than we need for the function of eating, and it would slow us up later in the evening than we really would have to be.

PRESIDENT EGAN: Do you suggest from 5:30 to 6:30? Mr. Fischer.

V. FISCHER: I think an hour and one-half would be worthwhile. I think pressure would have built up by then. In addition, a number of committees are still working and will be working. Style and Drafting are going on even beyond that, so I think if we could give people a chance to have committee meetings and relax a little bit, if they have a chance to do so, it would be good, and therefore if we recess from 5:30 until 7:00, it would be desirable.

R. RIVERS: I would like to support Mr. Fischer's views. Some of us are compelled to drive to town during that break, and to get to town and back again requires an hour and one-half.

PRESIDENT EGAN: Mr. Rivers, then, are you asking unanimous consent that it will be the policy of the delegates to recess from 5:30 p.m. until 7:00 p.m. and convene in session until 9:30, depending on if that is the last bus?

R. RIVERS: 9:30 would still give us 20 minutes. I just ask unanimous consent in regard to this general idea.

PRESIDENT EGAN: Is there objection to that being the policy of the Convention? Mr. Kilcher.

KILCHER: Point of information. Would that include all six days of the week and possibly, or possibly maybe five only?

PRESIDENT EGAN: It might include all six days.

KILCHER: I suggest it might exclude Saturday.

PRESIDENT EGAN: After a few night sessions we might really get going and digging away. Mr. Coghill.

COGHILL: If there are no objections to that, it would be advantageous to the Committee on Administration if we could have a showing of hands of how many of the delegates figure they would be here for supper tonight.

HILSCHER: Anyone wanting a double serving should raise two hands.

PRESIDENT EGAN: There will be then about 40 who plan to be here for the evening meal. Mr. Coghill can make those arrangements during the lunch hour, if he will. Mr. Coghill.

COGHILL: Therefore, if there is no other business before the floor, I move that we adjourn until 1:30 this afternoon.

SUNDBORG: Style and Drafting Committee will meet immediately upon recess at the table at the rear of the gallery.

AWES: Bill of Rights will meet immediately upon recess in the committee room upstairs.

V. RIVERS: The Executive Committee will meet immediately upon recess upstairs.

COGHILL: The Committee on Administration will meet at 1 o'clock in the large committee room upstairs.

SWEENEY: The Committee on Engrossment and Enrollment will meet at 12:45.

PRESIDENT EGAN: If there is no objection, then the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the article on health, education and welfare. Miss Awes.

AWES: I placed an amendment on the desk which has been submitted by the Bill of Rights Committee.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I just wanted to get this thing off my desk before we got started on this other thing. Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 3, has compared same with the original and finds the same correctly engrossed, and the first enrolled copy will be on the delegates' desks this afternoon. I move the adoption and ask unanimous consent.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the report be adopted. If there is no objection, Committee Proposal No. 3 is referred to Style and Drafting. Does the special Committee to read the journal have a report to make at this time? Mr. White.

WHITE: I made a report this morning and there is no additional report.

KNIGHT: On rechecking we find that page 9 of the journal for the 43rd day, roll call, under "nays", strike "Barr" and insert "Awes".

PRESIDENT EGAN: Page 9 of the journal of the 43rd day, the first name should be "Awes" instead of "Barr" under the "nays". You ask unanimous consent?

KNIGHT: I do, Mr. President.

PRESIDENT EGAN: Is there objection to adopting the journal of the 43rd day with the suggested correction as offered by the special Committee to read the journal? Hearing no objection, it is so ordered and the journal for that day is ordered approved. At this time we have before us the article on health, education and welfare, and we have the proposed amendment, as proposed by the Committee on Preamble and Bill of Rights. The Chief Clerk will read that proposal. Mr. Sundborg.

SUNDBORG: I would like to report for the Style and Drafting Committee, if I may at this time, that the Committee is hard at

work utilizing the subcommittee method on the articles which had been referred to us. The subcommittees consist of three members each, and they are going over the proposals word by word. We have adopted within our Committee a procedure whereby after the subcommittee has agreed upon its recommendations to the full Committee, but before the full Committee has acted, the subcommittee will contact the substantive committee involved with the view to having one member who would be a spokesman for that committee sit with our subcommittee to go over in detail the suggested changes so that we may be certain that we are following the intent of the committee which originally drafted the article or the intent of the body as expressed here on the floor in amendments. Then after our subcommittees have so conferred with the representative of the substantive committee, the full Style and Drafting Committee will consider their report and report something back here to the Convention floor. My purpose in announcing this to the Convention at this time is to alert each of the major committees to the fact that we will want to have you designate a spokesman or representative of your committee to meet with our subcommittees as we work on your proposals.

PRESIDENT EGAN: That is a matter you will undoubtedly take up with each committee as you come to that.

SUNDBORG: We will notify the committee when we would desire a meeting but we would like to have them be ready to nominate someone to represent them so we will not be delayed.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment to Section 1.

CHIEF CLERK: "Section 1, article health, education and welfare, add the word 'educational' before the word 'institution' on the last line."

PRESIDENT EGAN: What is the pleasure of the Committee?

AWES: The Committee met and unanimously adopted this proposed amendment. The word is put in purely for clarification purposes, and I ask the adoption and ask unanimous consent.

PRESIDENT EGAN: Miss Awes asks unanimous consent for the adoption of the proposed amendment. Is there objection? Mr. Taylor.

TAYLOR: Point of information. Is that the only amendment, to put the word "educational" in front of the word "institution"? I am not objecting.

PRESIDENT EGAN: If there is no objection -- Mr. Victor Rivers.

V. RIVERS: I will have to object a little further because that does not in my opinion cover the context of certain communications that we had read here. I will object for this time.

BUCKALEW: I second it.

PRESIDENT EGAN: The subject is open for discussion. Mr. Hellenthal.

HELLENTHAL: I rise to a point of order. I don't think that it is necessary to vote on the proposed amendment. The Committee met and unanimously decided that the word should be included, and rather than have their report remimeographed they merely want to present it with the word in it, and then in the proper course of time the matter will be considered.

PRESIDENT EGAN: No, Mr. Hellenthal, it will have to be amended. Your report is before us and the only manner it can be amended in now is by the action of the body. I understand what your feeling was here, but that is out of that jurisdiction at this time. Miss Awes.

AWES: I will give a little explanation of this. This word, as I said before, was merely for clarification purposes. It was the opinion of the Committee that is what this meant originally, but it was implied by virtue of the fact it was in the education section, but there have been so many comments and so many questions, both from the members of the body and from the communications which have come into the Committee and the Convention, we thought it would be better if this were amended to conform with the intent, at least so it is clear what the intent of the Committee is, and that is the only purpose in submitting this at this time.

HERMANN: Point of information, if we adopt this amendment now and insert the word "educational" before "institution ", it will not be possible to remove it later, will it, by amendment from the floor?

PRESIDENT EGAN: It would not be possible to remove the word "educational", Mrs. Hermann, that is true. The Chair just wondered, Mrs. Hermann, if the word "educational" being there, if there are any other institutions in the Territory other than educational institutions that would be affected by this.

COGHILL: I rise to a point of information on that. It is in the educational article, Section 1 of the health, welfare, and education, and it should be germane to that section, and that is just clarifying the intent of the Committee.

PRESIDENT EGAN: Is there further discussion of the proposed amendment?

ROBERTSON: Point of inquiry, does the word "private" mean parochial?

PRESIDENT EGAN: Do you mean is it all-inclusive? Is that right, Mr. Robertson?

ROBERTSON: Yes, that's right. I don't understand the word "private".

AWES: Well, I think undoubtedly it does. You will notice before the word "private" comes the word "religious". "Religious or other private educational institutions", so I think that would undoubtedly be any educational institution that is not supported and run by the state.

V. RIVERS: The basis to my objection to that is this, we had some statements here for matching funds for hospitals under the Hill-Burton Act under legislative acts and of the Territorial legislature. Now it seems to me if we are going to put in other educational institutions, it might refer back to religious institutions or other private institutions, but I think that under this section they also want to include perhaps that no public funds shall be paid for the direct benefit of any religious institution, so if "education" qualifies "religious", then also you have not taken care of the fact that they will be authorized or allowed to prescribe for religious institutions. Also, I believe if that does not apply, then we have eliminated certain groups that operate hospitals from benefiting under Hill-Burton funds and similar appropriations. It seems to me the word "education" is not adequate to cover it unless we all feel it is adequately covered in some other part of the constitution.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I would suggest that before we have a discussion at this point, that if this could be accepted as Miss Awes has suggested, we could go ahead with the suggestions of the article and the intent. We are starting at the end of the article instead of the beginning, and I think we are warping Miss Awes' intent out of shape by getting into a lengthy discussion of what was asked as an addition for clarification and I believe we would find that we would have a much more intelligent approach to this thing if we could start at the beginning of the article and read it through, think it through, discuss it and then make any of these amendments. I would say, too, that if we are going to have a lengthy discussion at this point it might be well to just withdraw the motion, because I think we would be defeating our intent.

PRESIDENT EGAN: The article has been read for the second time in its entirety. Mr. White.

WHITE: I don't wish to complicate the situation, but we may run into this again. If I understand the article that is before us

on the floor, the Committee did not ask to withdraw it, but I think Mrs. Hermann raised a very valid point. If this word is inserted now, we can't move later during the course of the debate to strike it. I would move that the rules be suspended and that the Committee be allowed to substitute its unanimous amendment with the thought in mind that we can then later remove it if during the course of the debate it appears to be the wish of the body to do so.

PRESIDENT EGAN: The Chair stated it could not be removed and the Chair would stand corrected to a certain point on that statement, that is by a suspension of the rules or rescinding of the action of course you could do it.

WHITE: I so move, Mr. President, and ask unanimous consent.

PRESIDENT EGAN: Mr. White, please state the motion.

WHITE: That the rules be suspended and that the Committee be allowed to submit its proposed amendment as though a part of the Committee report.

KILCHER: Point of information. Could it possibly be handled in such a manner as to have the report reconsidered and recommitted and come out again a second time?

PRESIDENT EGAN: The effect of Mr. White's motion under suspension of the rules would accomplish that. Mr. Riley

RILEY: Mr. President. I think this is in line with Mr. White's suggestion that this article of this proposal now before us be considered under a suspension of the rules, simply as a committee substitute for the same article. I think that would put the thing in motion.

PRESIDENT EGAN: Right, and have the word "educational" placed before the word "institution".

RILEY: That would enable us to work either way from that word afterwards.

V. RIVERS: That would cover my objection. I have no objection to that.

PRESIDENT EGAN: If there is no objection then, then it is so ordered, and the word "educational" has been inserted before the word "institution" as if this were a substitute committee report. Now, Section 1 is open for amendment. Mr. Hurley.

HURLEY: Mr. President, I would like to ask a question of the Chairman of the Bill of Rights Committee. Would your Committee consider in using the terminology "direct benefit whether or not that would be a directive or a license to the legislature to appropriate money for the indirect benefits? If so, what was their conclusion?

AWES: I don't think it is a direct order to the legislature to do anything. I think we prohibited what we wanted to prohibit. I don't think that tells the legislature they are supposed to do anything else.

METCALF: I have an amendment.

COGHILL: I rise to a point of order. I submitted an amendment to this section before the noon recess, and it has never been recognized, and I was recognized by the Chair.

PRESIDENT EGAN: Were you recognized for that purpose before the noon recess? If you were, then the Chief Clerk may read the proposed amendment as offered by Mr. Coghill. The Chair feels sorry about that, Mr. Coghill.

CHIEF CLERK: "Section 1, line 7, after the word 'direct' insert the words 'or indirect'."

COGHILL: I move and ask unanimous consent.

R. RIVERS: I object.

METCALF: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the words "or indirect" be inserted after the word "direct" in line 7, Section 1.

WHITE: Point of order. I believe there was a letter presented to the Convention the other day that the Convention agreed to defer the reading of until we reached this section. It seems to me proper we hear it before we consider any business.

PRESIDENT EGAN: Is there such a communication? The Chief Clerk might read the communication that was referred to before we act upon this amendment.

CHIEF CLERK: (A letter from Mr. Don M. Dafoe, Commissioner of Education, enclosing a statement on Section 1 of the article on health, education and welfare to the effect that he believed the statement somewhat oversimplified and setting forth seven points which he believed should be included in the constitution, was read.)

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, the Committee has asked me to speak to this section, and seeing it has been amended I hope you will liberally construe that I am talking to the amendment, but the Enabling Act that we have before us says on page 3, "The provision shall be made for the establishment and maintenance of a

system of public schools which shall be open to all children of said state and free from sectarian control." Mr. President, your Committee on Health, Education and Welfare approached this whole subject of education with great care and consideration. Many methods were sought out to provide and protect for the future of our public schools. We had to recognize that the public schools were our responsibility and that it was our duty to provide for all children of the state in matters of education. The Convention will note that in Section 1 that the Committee has kept a broad concept and has tried to keep our schools unshackled by constitutional road blocks. May I draw to your attention further the fact that we have used the words to establish and maintain by general law". This is a clear directive to the legislature to set the machinery in motion in keeping with the constitution and whatever future needs may arise. Your Committee has also spelled out the fact that all children shall have the opportunity of schools, and that if the need arises for vocational schools, rehabilitation centers, schools for the retarded and other forms of education, that it is completely possible under this proposal. It is not only wise but mandatory under the Enabling Act to spell out that schools are operated in the public interest by the state and kept from sectarian control. In the third sentence of this section it deals with the public funds. This term was used because we felt that state funds may at times go through many hands before reaching the point of their work for the public, and so the term "public funds" was then used as a guide to every portion of our state financing, borough, city or other entity for the disbursement of these monies. In this third sentence we have used the word "direct". It was spelled out that the maintenance and operation or other features of direct help would be prohibited. This was not intended and does not prohibit the contracting or giving of services to the individual child, for that child benefits as his part of society. This section gives the education department, or other departments, the right to seek out the child, independent of his religious affiliation, to help him to become a strong and useful part of society wherein it touches health and matters of welfare. We would also point out in the light of letters that have come to this floor relevant to the disbursement of funds to denominational or other private institutions, that this does not prohibit the use of funds in other educational matters, and I am sure that no one on the Committee would object to the inclusion of this word as we have given the amendment here to clarify this one statement. Now it reads as it has been amended by the Committee, "No money shall be paid from public funds for the direct benefit of any religious or other private educational institution." We did this to take any doubt away on the part of this Convention of our motives, and we state that where there are welfare cases for children in homes and when there are indigents in hospitals that we do not wish to interfere with that practice of helping to serve people

through those institutions. It is the feeling of the Committee, after long work and thorough study, that these basic recommendations that we have given here on this section on education should be accepted by the Convention.

V. FISCHER: May I ask the delegate a question?

PRESIDENT EGAN: You may, Mr. Fischer, if there is no objection.

V. FISCHER: The article on finance, the proposal on finance, has the following Section 7: "No tax shall be levied or appropriation of public money made or public property transferred, nor shall the public credit be used, except for a public purpose." Now, that is the article and proposal on finance which would govern not only education but all expenditures of the state, and unless there is a very special reason for having separate and different language here, we probably should treat financial matters only in the finance article, so my question to you is, is there a special reason why we should have the third sentence of Section 1 in the health, education and welfare article?

ARMSTRONG: Your Committee on Health, Education, and Welfare discussed this prior to coming to the floor this afternoon. I believe it was our unanimous feeling that this should be taken as a part of education so that it could always be clarified in relationship to this subject. We realize there are two other matters in proposals that deal directly with finance, but we felt that when we came to those things they would have to be correlated with our action at this point. I feel that this matter needs to be clarified here and that was the action of the Committee and their reason for retaining it here instead of postponing it to the finance section.

R. RIVERS: I speak directly to the proposed amendment to the section. As I understand it, or remember it after all this general discussion --

PRESIDENT EGAN: Before you proceed, it seems that some of the delegates don't realize what the proposed amendment is. After the word "direct" insert the words "or indirect". You may proceed.

R. RIVERS: The standard approach is that no public funds shall be disbursed for the direct benefit of any religious institution or parochial schools. The word "direct" is the standard treatment of that subject. Now when you get into the wording "or indirect", then you are getting into an argument as to whether you can even contract with a private institution for the rendering of certain public services because they might say they might make a profit. Now I agree that it might not be interpreted that way, but you are only stirring up an argument when

you talk about prohibiting the disbursement of money for an indirect benefit to a parochial or private institution. You are reaching clear out to ad infinitum in the realms of logic and association. You don't treat it that way, you don't stir up that kind of an argument. If there is a public purpose for which money is to be extended it does not matter if some of it does result in an indirect benefit to some private concern, which may be a contractor, so I definitely don't want to see the words "or indirect" inserted in this section.

COGHILL: Speaking in defense of my proposed amendment, I would first like to say I am very prone to the problem of putting any religious persecution into the Constitutional Convention or among the delegates. It would be the same thing as me trying to convince Mr. Ralph Rivers of the principles of the Republican party, and he in turn of the party he belongs to. I don't believe that is the problem at all. I think that they certainly have a right, a private right or a religious right, or a parochial right under our constitution to have schools. However, I believe that the way our government was set up 175 years ago, that the founders felt that public education was necessary to bring about a form of educating the whole child for civic benefit through a division of point of the home taking a certain part of the child, the church taking a certain part of this education, and the government or state through public schools taking the other part. I adhere to that principle, and I might say that I am the president of the Association of Alaska School Boards and one of the formers of that twelve-point program we developed in Anchorage last October. I think that the problem could probably be well misconstrued here as to the motive and intent. However, I feel that the intent of public education is primarily a state function and does not belong to any private or any one particular group, whether they are in the minority or the majority. I believe we should take direct steps to maintain a free public education not encroached upon by any quarter. I think it might be well to bring out in the argument for the direct or indirect benefit of public funds for education is the matter that is now being faced in Europe and in particular in the Netherlands where they have what is called the form of educational pacification, where the government is splitting the tax dollar among some 500 different church groups providing for a parochial school benefit on an indirect basis, and in a community where there is maybe 500 school children there will be as high as seven or eight small schools scattered out throughout the community, not providing for the fullest benefit in the educational field as far as having a good complete centralized program. I think that sectarianism segregation in our educational system is bad for the children. I do not deny the right of people to have their own schools. However, I think that we should always look to the interest of the founders of our nation when they brought about the separation of church and state. The

problem was brought, and it was brought about by Thomas Jefferson quite well when he said, "If a nation expects to be ignorant and free in the state of civilization, it expects something that never shall be". Therefore out of his deliberations with John Madison they brought about a form of free public education starting in Virginia, and it has come forward ever since under the intent of having the tax dollar only brought to the public educational system. I know there have been many law cases on it, Supreme Court rulings and what not, and I think that the matter still is divided as far as the general public is concerned, as between the sects of religion and not on the principle of preserving the free public education as an instrument of the state.

RILEY: Mr. President, I should like to address a question, if I may, to the Committee Chairman, but meanwhile I wish to commend Mr. Coghill on quoting with favor, Thomas Jefferson. Miss Awes, it runs in mind and I have not the delegate proposal before me, that there was a delegate proposal submitted in language substantially the same as this would read if Mr. Coghill's amendment were adopted. Could you tell me what your experience was in Committee, what the Committee thinking was in rejecting that language?

AWES: That I believe, if I recall rightly, was Proposal No. 2 and submitted by Mr. Johnson. It was carefully considered by the Committee, and Mr. Johnson was requested to come in and speak with us on it. We considered both the words "direct" and "indirect" and we felt that the words "or indirect" would, as Mr. Rivers said, reach out into infinity practically, and probably it is not even known what the results of that might be. We did feel it would shut out certain things that should not be prohibited. For instance, the welfare department was giving certain free care to the children of the community, and it might be administered through the schools. Well, we feared that "indirect" would make it impossible to give any of these welfare benefits, for instance, to children who were in private schools, and we did not feel that any prohibition should go that far, and so the Committee did carefully consider that word and unanimously agreed we should not use it.

RILEY: It has been said the Committee gave it correct attention and rejected it permanently?

AWES: That is right.

RILEY: Thank you.

METCALF: Mr. Chairman and delegates, I very much favor the inclusion in this section of the words "or indirect". As I read the section it refers to our school system and in this book, "Constitutions of the States", there are 16 states that have sections in their constitutions preventing public tax dollars

from being spent for private schools in any way, shape or form. Here is the section from the State of Missouri. The constitution was drawn in 1945, which some of you may have read. It says that, "No money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister, or teacher thereof as such, and that no preference shall be given to or any discrimination be made against any church, or any form of religious faith or worship." I am a firm believer in freedom of religion, and we have been aware in the progress of history, medieval times down to colonial times, that at times there have been persecutions practiced. Those are unpleasant things and they have gone past into history. I am for the free public school system, being a licensed teacher and having taught in public school systems in the Territory. I am also a firm believer in the complete separation of church and state, especially with the use of state money and state property. As I said again, I don't believe that the state property or taxes should be used and transferred to a religious group to be used directly or indirectly to the economic or political religious detriment of some other group or individual, and all activity should be on a free and competitive basis, and if I may just have a few minutes, I have a situation in Seward where a religious group have been given the use of the building and land by the Territory, and they are in competition, economic competition to my economic detriment. It is an actual fact, and I not only speak for myself but I speak for four or five people who happen to be affected similarly, and that is why I am trying to point out that I do not like to see state property or money transferred over to religious groups because persecution often times can come about. In this instance here, they have a Territory land, building valued around 60,000 dollars, and they are in active competition with private enterprise, and they have other advantages -- free snow removal, cheap help, no taxes, and I just point out these little things here that make me very much opposed to the use of state money or property in any way, shape or form by religious groups. I therefore favor the inclusion of this phrase "or indirect".

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I had the opportunity to talk rather at great length with the superintendent of schools in Ketchikan during the Christmas recess on this very subject. He had suggested that the word "indirect" be inserted here, but during the course of the conversation he also said that the public school people were desirous of providing that the standards in the parochial schools be in some manner made equal to those in the public schools. Of course, the only way that could be provided would be through supervision by the State Board of Education. I pointed out to him that the insertion of the word "indirect" here would defeat that purpose and he immediately

said that he agreed and he did not want the word "indirect" inserted.

McCUTCHEON: Mr. President, will the Chair permit a question through the Chair to Mr. Coghill?

PRESIDENT EGAN: The Chair will permit a question through the Chair to Mr. Coghill.

McCUTCHEON: Mr. Coghill, could you cite me at least a few instances how indirect benefit might accrue. Are there specific types of instances within your knowledge of how this would apply? Because of your delivery here a few moments ago I assumed that there must be various types of specific indirect benefits which you would wish to prohibit. I would like to know what they are.

COGHILL: Through the Chair to Mr. McCutcheon, I believe by putting the indirect benefit clause in there that any social welfare, health arrangements that might be made with the state with any private or parochial institution would be on a contractual basis and would be providing a service to the public and not to the institution, and that is the purpose of the indirect clause in there. It would allow them to have a contract to produce or to show full value for the value of money received from the tax coffer, from the funds. In other words, to provide a hot lunch program with Territorial money or to provide a health program in a school, I do not deny that to the private schools because I feel that that is an instrument of public benefit because the child is benefiting from it from a public standpoint, and a contractual agreement between the organization and our organized state would therefore be in effect. Does that answer your question?

McCUTCHEON: In part. Your intent would be then that if some private institution of one nature or another were to supply this particular service under contract to the state that there could be no profit in that as it extended to that institution? That is, they would have to supply that service at the actual cost? That there could be no profit derived from that particular transaction. Is that the point you are making, that it would not prohibit supplying these various types of welfare programs, hot lunches, etc., but there could not be a profit factor involved?

COGHILL: That is correct, because we in the public school system, we are not allowed to make profit on such things.

KILCHER: I think that the position is not clear at all. What Mr. McCutcheon brought up is not clear at all, a benefit is not the same as a profit, so if they don't want any profit, why don't they mention it. I can see where a private school is benefited by getting nonprofit assistance. If, for instance, it is possible

for a private school to get lunch money assistance on nonprofit basis for its children, it may make the difference for them to be able to operate or not. If they are not getting lunch money or such things, they might not be able to operate, so by getting these nonprofit assistances for the children, they are getting benefited greatly. As a matter of fact, the benefit is so great it means survival or not, so I think the issue is not clear. On the principle I think I should be against the amendment because it does not clear the issue at all in that respect.

COGHILL: Maybe to clarify a point for Mr. Kilcher, one thing we want to keep in mind is the fact that the state has set up a public educational system for all children. The people that are sending their children to private, parochial, or any other type of institution are segregating themselves from the public and therefore they should not derive the benefit from the tax dollar. We are providing it. We have spent thousands, hundreds of thousands to provide a good educational system, and if we go to the pacification plan, we are destroying that principle and that in turn answers your interpretation of profit or benefit.

PRESIDENT EGAN: Mr. Gray.

GRAY: If I may ask Mr. Coghill, in reference to your remarks, does your state guarantee to offer a complete educational system?

COGHILL: It certainly will, Mr. Gray, after we write the articles on the legislation.

GRAY: You feel you have a complete educational system today?

COGHILL: I certainly think so.

GRAY: I think there are a lot of areas where a lot of children have no opportunity for public education.

COGHILL: I feel that it is quite a privilege to be a part of a public educational system and be able to criticize it, to be able to criticize our methods and our procedures and to work on those. I will agree with you wholeheartedly, Mr. Gray, that there are lots of things we have to do. However, in my recent trip to Washington, D. C., and being a conferee on the White House Conference on Education, we found with the exception of one disgruntled person, we found that our educational system in Alaska was far above the educational systems of the states. We have a progressive educational system in the sense that we are moving forward. I think one of our biggest thorns is the Alaska Native Service, if that's what you are referring to.

TAYLOR: There has been a lot of sparring around here on this subject. Everybody seems to duck the issue, and I am going to

ask Mr. Coghill a question if I may, through the Chair.

PRESIDENT EGAN: You may, Mr. Taylor.

TAYLOR: Mr. Coghill, what -- in the event that the word "indirect" was inserted into this measure, what effect would that have on the school bus law that is now in effect?

COGHILL: What effect would that have on the school bus law? I know I am up against a pretty good attorney, but I think that will in turn not affect too much of the school bus system in Alaska because it can be on a public work contractual basis, take it completely out of the educational picture, put it on the welfare picture.

AWES: I would like to make one statement. Mr. Coghill suggested that we insert the words "or indirect". The Committee very carefully considered that word "indirect". We were not sure of the far-reaching effects it would have. Mr. Coghill now proposes that he explains what it means. I can't agree with his interpretation in any respect, and he would have us believe from the explanation he has given so far that it means precisely nothing. I don't believe that any court would so interpret it, and I think he should either give us some reason for having it in there or else if it doesn't mean anything, then I think we should take it out, but I am not satisfied with any explanation he's given yet.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Since the Committee considered this at considerable length about this matter of "direct" or "indirect" wording in this particular section, you must have in mind several specific instances where "indirect" might apply in some fashion in a derogatory manner. If you do have such an idea or some particular questions how this word "indirect" might affect adversely to thinking upon your particular section here, I would like to hear some of them. If your Committee has gone into this so thoroughly, there must have been one or two problems that have arisen where there would be some question about including the word "indirect".

AWES: I have already given one very good example, and that is this question of welfare services which are often administered to children through the schools. Mr. Coghill says that the word "indirect" would not prevent these. I very definitely think that the word "indirect" would prevent them. I think that is one very good example.

POULSEN: May I ask Mr. Coghill a question?

PRESIDENT EGAN: You may, Mr. Poulsen.

POULSEN: If the word "indirect" is put in, would that mean there is such a thing as subsidy to hospitals would be eliminated?

COGHILL: Mr. Poulsen, this is an educational article with the educational institution.

POULSEN: It still comes under public welfare, matching funds for instance.

COGHILL: Mr. Poulsen, if you will note that the Committee amended their proposal to have "educational" inserted before institutions, and so this is strictly an educational article, sir.

WHITE: May I direct a question to Mr. Coghill?

PRESIDENT EGAN: You may, Mr. White.

WHITE: Mr. Coghill, are there children's homes, foster homes in the Territory which provide any education at all to the children who are entitled to admission to those homes?

COGHILL: The children's homes that have schools with them, is that what you mean?

WHITE: Are there any such institutions in the Territory of Alaska that provide any education at all to the children admitted to them?

COGHILL: Yes, there is.

WHITE: What would happen to them under your proposed amendment?

COGHILL: What would happen to these institutions now operating?

WHITE: Do any of these receive any public funds either from the Federal government or the Territorial government?

COGHILL: I don't believe they do because the contract schools went out before 1900. They had a form of contract for schools and that went out. I think that all your foster homes would be deriving an indirect benefit or some sort or another, and there are plenty of them.

WHITE: I think your statement could be corrected, but I'm not the one to do it. I'll defer to someone else, but in the event it is corrected, I would like to hear your answer to the question as to what would happen to them under your amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I have here a copy of a memorandum from Henry A. Harmon, Director of the Department of Public Welfare of the Territory to the Attorney General on this very subject, listing

a number of schools operated by private and religious organizations to which the Territory now pays funds through the Department of Public Welfare. They show that such institutions not only include a few Catholic institutions, but also Seventh Day Adventists, Moravian, and Presbyterian. It is very brief. I wonder if I might ask to have it read.

PRESIDENT EGAN: If there is no objection the communication can be read. Mr. Fischer.

V. FISCHER: I think it should be read only if it covers educational institutions.

SUNDBORG: It does only that.

PRESIDENT EGAN: The Chief Clerk may read the communication.

(This letter giving information as to payments made by the Territory to various children's institutions in the Territory was read by the Chief Clerk.)

ARMSTRONG: Mr. President, there are several sources of income in the private institution. First of all, an institution can apply for a surplus of food, and upon the signature of the administrator, that food is made available in a limited quantity. I might give an example of butter, beans, and staples of that type. I think that is given on the basis that no Territorial agency is able to give a large enough sum to a private institution to support that child. I might give you an example of one institution that probably is receiving 900 dollars a year from the Territory, but the actual cost breakdown without new buildings and capital expenditures run in excess of 1300 dollars a year to adequately take care of that child. In that institution there was no educational facilities, that is just housing. Another source of income would be then this Territorial grant of 50 dollars which is in lieu of home care. The child as a ward of the Territory and as such must be put into a foster home or into a private institution. They choose, wherever possible, to put the child in a foster home and let that child go to the private school. If a family situation is so complicated, they want to keep that family structure together and hold that family, the child is placed in a private home. There are a few, very few of the schools that have boarding facilities and educational facilities, but there are some that exist, Mr. White, in the Territory, and most of the grants by the Territorial Department of Welfare are given for the boarding home facilities and not for the education, and I think that could be borne out by the fact that they are looking for a holding situation for the child. The educational facilities are incidental at that particular point, but there are a number of places that are together. I hope that will help.

BUCKALEW: Mr. President, I don't think the question has been answered yet by any of the persons who have spoken on this subject.

If the word "indirect" is in there, it is going to eliminate almost any kind of aid. It will, for example, eliminate the free lunch, eliminate bus transportation, eliminate, for example, if we had a school or an institution where they had a school, it would eliminate the state giving any support to the child because that would be indirect support to the institution. I think when the members vote on it, I think they ought to understand the word "indirect" cuts out everything, just eliminates all kinds of support, and I don't think there is any question about it.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to say that I cannot agree with Mr. Coghill that contracts would not be indirect help. I believe you could construe them to be indirect help. I believe that we should leave these words out of the section, and I believe the Committee has done a very good job. They have considered all angles of it, and I would like to say that I support the Committee resolution.

COGHILL: In closing the argument, I might just leave the thought with the delegates that on this particular subject of the direct or indirect benefit to the private or religious educational institution, would guarantee every citizen of the new State of Alaska that any money diverted from the public funds to any such organization in complete competition with your public institutions, if you will, that there will be a sound contractual agreement between your government and this private institution to provide public service and not to the benefit of the individual institution.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 1 line 7, after the word 'direct' insert the words 'or indirect'."

JOHNSON: I request a roll call.

KILCHER: I am sorry to take another minute. There is one problem that has not come up in this discussion. I am a father of seven children, five of which have had the Calvert course for several years with good results. I understand that the Calvert course could possibly be construed not to be available anymore either if indirect help were not available to a private school. The Territory pays it. My children go to a private school, or most of them. The biggest ones though hike over the road, and the Territory pays an indirect system. It could possibly be construed to include the Calvert course, which is a great problem in Alaska.

COGHILL: I might answer that, being familiar with the Calvert course, that the Territorial Department of Education, that is one of their recognized correspondence courses for the outlying areas, and if any family on a CAA remote station or someone on a remote part of the Yukon River, etc., would want to further the education of their children, write to the Commissioner of Education and they are referred to the Calvert course, and in higher institutions it would be the correspondence courses from the University of Nebraska.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Coghill be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 19 - Barr, Boswell, Coghill, Collins, Cooper, Cross, Harris, Hilscher, Hinckel, Johnson, King, Knight, Laws, McCutcheon, Metcalf, Nerland, Poulsen, Robertson, Sweeney.

Nays: 34 - Armstrong, Awes, Buckalew, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hurley, Kilcher, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Nordale. Peratrovich, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, Walsh, White, Wien, Mr. President.

Absent: 2 - Nolan, VanderLeest.)

CHIEF CLERK: 19 yeas, 34 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption.

WHITE: I have an amendment to Section 1.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. White and Mr. Fischer.

CHIEF CLERK: "Section 1, strike the last sentence."

WHITE: I move the adoption of the amendment.

V. FISCHER: I second it.

ARMSTRONG: I object. Mr. President, I feel that we will complicate our finance situation by trying to write this into a later report for clarification. I think here in one sentence you pinpoint it; you clarify it once and for all, but when you start to define this thing again in a larger amendment, you

have a hopeless task. I don't think it can be done, and I believe you want it here where they read it, they understand it and they know the precepts we are following. I think we would be wasting time to now delete this after we have had this vote of confidence for the Committee's report and then try to take it up again later. So I shall vote to kill the amendment and would ask the delegates to do likewise.

WHITE: I feel again that we are getting into a legislative matter here, and I feel that the broad policies that have been laid down in the Federal Constitution are good enough for our purposes here. Those policies that are contained in our Section 5 of our bill of rights which says, "No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof". In a section, I forget the number of it, in a finance article saying that no funds shall be spent for other than a public purpose. I think those two sections are good enough to spell out the broad outline. In addition, I feel that while I am not a lawyer that almost every argument that has been applied against the use of the word "indirect" could just as logically be applied against the use of the word "direct", and I think it will lead us into trouble.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White and Mr. Fischer be adopted"? Mr. Fischer.

V. FISCHER: I would just like to add, Mr. President, that while this Commissioner Dafoe points out education is an important field, I do not feel that when it comes to an appropriation of public funds it should receive any special, either more restrictive or more favored treatment. As Mr. White pointed out, the general stipulation is that funds be appropriated only for public purpose. Now it seems to me that the definition of public purpose must be made during every age in view of the conditions prevailing at that time. I think that has been one of the strong points of the Federal Constitution. The fact that it has left itself open to that kind of interpretation and, therefore, it seems that if we give favored treatment or discriminatory treatment to this education section, what are we going to do when it comes to health, welfare and just anything else that may come out. I think the public purpose provision should be the only guidance when it comes to appropriating public funds.

PRESIDENT EGAN: Mr. Gray.

GRAY: I would like to ask the Chairman of Style and Drafting if they would have the authority to move this section, if it directly belonged to taxation, would Style and Drafting have that authority?

PRESIDENT EGAN: Would the Rules Committee have the answer to that question?

SUNDBORG: Our rules, I believe, outline the authority of the Style and Drafting Committee and they do provide that after the various proposals have been adopted in third reading that the Style and Drafting Committee has an opportunity to arrange any material, section, subsections and I believe even sentences where it properly belongs in the constitution. It might be that Style and Drafting would have that authority, but, of course, that authority would be subject to approval here on the floor because we can't do anything in our Committee, of course, unless it is approved in a subsequent report that we make to the plenary session.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I merely wanted to point out that this problem has arisen in a good many of the States. It has arisen in connection with the education, and therefore I feel that this provision should remain in the section under education.

COGHILL: Mr. White brought up the thought that the Federal Constitution was all-inclusive. However, it might be well to remember that during the years that they were writing the Federal Constitution they left all educational matters to the individual states, and the purpose of leaving these educational matters to them was because of the trouble they were having at that time between different groups and different communities and different states being quite well controlled by different churches of one sort and another, such as the Quakers in Penn State and down in Virginia and over in Rhode Island and through that area. I feel that this should stay in the article, although my amendment did not ride, I am going to vote for it because I feel at least we have a certain provision for the direct benefit of tax dollars. I might, if I may, Mr. President, read the Supreme Court's decision of 1947 of the Emerson case, and I will not read the whole section but just in one part. It says, "No tax in any amount, large or small, can be levied to support any religious activities or institution whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither state nor federal government can openly or secretly participate in the affairs of any religious organizations or groups and vice versa."

WHITE: If I may close briefly. I am not for or against bus transportation to certain institutions. I am not for or against hot lunches to certain institutions. I again think we would be much better advised to stick to the broad outlines. In partial reply to Mr. Coghill, I might mention that 100 years from now the state might wish to get involved in some sort of G.I. Bill of its own, following another war. I would not be in favor of it now, but 100 years from now I might. Why not leave ourselves open?

BARR: Point of information. I seem to remember when we first started out there was a sheet of paper on our desk to outline certain things that was mandatory to place in our constitution to conform with the Federal Constitution and with our accepted principles of American government. I will ask Mr. Armstrong, I believe, wasn't this practically the same wording in one of those paragraphs and did it not specifically mention schools? Mr. White has put in his amendment because he said the other phrasing in the Finance Committee report would take care of it. That mentioned public funds should be used for public purposes, but aren't we required to state in our constitution that public funds should not be used for private schools?

ARMSTRONG: No sir, not according to the House Enabling Act that we have used as a guide. On page 3, line 14, it just makes the general provision that for the establishment and the maintenance of a system of public schools which shall be open to all children of the state and free from sectarian control. That is the only thing, but I might add that I believe that there are 39 states that have added some type of safeguard in their constitutions directly in connection with education, and I believe every new constitution that has come out has held to some provision of this type, practically in every case they have been written in at this point, so I don't know why we should be afraid to follow that pattern. I don't think it is unusual to keep it here. I think it is healthy to keep it here, and I believe this is where it belongs.

McNEES: I call for the question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White and Mr. Fischer be adopted by the Convention?"

JOHNSON: I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 13 - V. Fischer, Hurley, Kilcher. Laws, Lee, McCutcheon, Nolan, Poulsen. Reader, Riley. Sundborg, Walsh, White.

Nays: 41 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Taylor, Wien, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 13 yeas, 41 nays and 1 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 1? Mr. Victor Rivers.

V. RIVERS: May I ask a question? I notice that the Committee has come in with the words "direct benefit". I notice that some of the other states' constitutions, including that of Hawaii, say "support or benefit". What was the intent of limiting them to the word "direct"? I would like to know a little about the intent of the Committee rather than in dealing with both "support" or "benefit".

PRESIDENT EGAN: Miss Awes.

AWES: I don't recall that the Committee considered the words "support" or "benefit". I think the purpose we wanted to achieve was brought out in the arguments on an earlier amendment and we felt these words did it, and I don't recall the words "support" or "benefit" came before the Committee.

V. RIVERS: In other words, the Committee did not consider the words "support" or "benefit"?

AWES: That is right.

PRESIDENT EGAN: That seems to be the understanding of the Chair. Mr. Armstrong.

ARMSTRONG: As I recall, Mr. President, we probably discussed the question of the support of private schools, but we did not feel it needed to be in this particular section, and I don't recall, Mr. Rivers, that we considered that as a part of the text. I certainly would agree with what Miss Awes has said, although we discussed in Committee such things as direct legislation for the building of a school or the maintenance of a private school, which would be support, but it was our understanding that that would be covered under this word "direct benefit". This would prohibit the direct appropriation for building or maintenance of private institutions.

V. RIVERS: Mr. President, I am going to make a motion. I think that the word "direct" limits the interpretation of this. I am going to make a motion that the word "direct" be stricken and insert in lieu thereof the words "support of", line 7.

BARR: I second it.

PRESIDENT EGAN: The matter is open for discussion. Mr. Rosswog.

ROSSWOG: I would just question the striking of the words "direct benefit". The "support" I can see that, but "direct benefit", it might leave the question wide open again as far as I'm concerned.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. Coghill.

COGHILL: I move and ask unanimous consent for a five-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Robertson.

ROBERTSON: May I ask Mr. Rivers, what in your opinion would be the implication or result of the proposed change?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: There is some question in my mind as to what interpretation the words "direct benefit" would receive from the courts and just how narrow they would consider a "direct benefit" to be. I notice in other state constitutions, I don't have all the constitutions available, but the wording I provided was identical with the State of Hawaii. In Nevada they say, "No money shall be expended, either city, county or state, for benefit of sectarian purposes.". In the case of Puerto Rico they also have the same broad general language. I hesitate to use the Puerto Rican constitution as a model for I don't care too much for it, but in that highly religious little Commonwealth they have adopted the same principle, but there again I feel that the word "direct" may be interpreted very narrowly by the courts and may lead to a great many funds that would go for support that I personally do not feel should be going to support of sectarian institutions.

TAYLOR: Mr. Rivers, do you not believe that if you leave that word out it will create more confusion than it will, leaving it in?

V. RIVERS: I don't think so. It will leave a little broader field for interpretation. However, Mr. Chairman, I believe that after considering the matter I will withdraw my amendment and ask unanimous consent to do so for the moment.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that his proposed amendment be withdrawn. Hearing no objection, it is so ordered. Mr. Barr.

BARR: I ask that we now revert to the introduction of proposals.

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PRESIDENT EGAN: If there is no objection, the Convention will now revert to the order of business of introduction of proposals. The Chief Clerk may read the proposals as introduced by Mr. Barr.

COOPER: Is this a delegate proposal or committee proposal? Was not the date set January 8?

CHIEF CLERK: That is today.

PRESIDENT EGAN: The Chief Clerk may read the proposal.

CHIEF CLERK: "Delegate Proposal No. 45, introduced by Mr. Barr, DEPARTMENT OF LABOR."

PRESIDENT EGAN: What committee would you like that to be referred to, Mr. Barr? I believe it should go to the Executive, both of those should. Would the Committee on the Executive be the proper committee? If there is no objection the Committee Proposal will be referred to the Committee on the Executive. The Chief Clerk will please read the second proposal.

CHIEF CLERK: "Delegate Proposal No. 45 introduced by Mr. Barr, OFFICE OF THE ATTORNEY GENERAL."

PRESIDENT EGAN: Committee on the Executive.

BARR: Would it be possible afterwards to have that referred also to the Judiciary?

PRESIDENT EGAN: If there is no objection, it will be referred from the Committee on the Executive to the Committee on the Judiciary. If there is no objection it is so ordered. Are there other amendments to Section 1? Mr. Johnson?

JOHNSON: I have no amendment. I would like to direct a question to the Chairman of the Bill of Rights Committee concerning this section.

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may direct a question.

JOHNSON: Miss Awes, in the second line, the wording "system of public schools" appears. Now in a number of state constitutions I have noticed that they use the word "system of free public schools". It is assumed I imagine that you intended that we should have a system of free public schools here, but you did not specifically use the word, and I wondered if the Committee had considered that matter and if so, why it was left out?

AMES: We did consider the matter. The first two sentences in this section are taken almost word for word from the Enabling

Act. The word "free" was mentioned. We did not feel it was necessary since we say that a "system of public schools shall be open to all children" and since there is already a well set up system of schools which are free, we were afraid that the word, while not necessary, might cause some confusion if it were used. For instance, this section is intended to refer not only to grade schools and high schools, but also other educational institutions. For instance, a state university, and there may be vocational schools, etc., established, which is customary throughout the country to charge tuition for, sometimes less to residents of the state than to other persons. Also, a city running its own school system, I think, customarily charges a small tuition fee to children who come in from other places, and we were afraid if we used the word "free" that it might raise questions whether or not certain practices like this should be continued or considered. We did not think that was a matter for the constitution.

JOHNSON: Thank you.

HURLEY: I would like to speak on the matter of personal privilege and ask unanimous consent.

PRESIDENT EGAN: You may, Mr. Hurley.

(Mr. Hurley spoke under a question of personal privilege regarding the article on health, education and welfare.)

PRESIDENT EGAN: Are there other amendments to Section 1, article on health, education and welfare? Mrs. Hermann.

HERMANN: Mr. President, I have an amendment to follow Section 1. I want to change Section 2. I have this amendment, it is neither an amendment to Section 2 nor Section 1. I just want to get a new Section 2 and renumber it.

PRESIDENT EGAN: You are asking that Section 2 be deleted?

HERMANN: No, not deleted, just moved down. This actually belongs under the education section, that is the reason I put it in. It has nothing to do with what is already written, however.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as offered. Mr. Ralph Rivers.

R. RIVERS: Mrs. Hermann wants to inject some new material between the sections. What she has so happens to come in logical order between Sections 1 and 2. We are taking these up section by section, but are we not at liberty to interject new sections in between sections?

PRESIDENT EGAN: She wants to inject a new Section 2 and renumber 2, 3, 4, and 5. The Chair is just hard at getting it through his head. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Add a new Section 2 and renumber succeeding sections: 'The state shall provide for a Unified Library Service.'"

HERMANN: I move the adoption of the amendment.

PRESIDENT EGAN: Mrs. Hermann moves the adoption of the proposed amendment.

HERMANN: I ask unanimous consent.

BUCKALEW: Objection.

TAYLOR: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mrs. Hermann.

HERMANN: I very probably should have submitted this suggestion to the Committee on Preamble and Bill of Rights, but it was not made to me until after they had turned in their report, and it is submitted at the request of the present Territorial Library Board that we open the way for the establishment of a unified library service for the State of Alaska, which is in keeping with the unified library service that we have recently established for the Territory of Alaska, and it properly comes under the educational article of the constitution, so I have submitted it for that reason. I shall be glad to answer any questions anyone wishes to ask.

DOOGAN: I would like to ask Delegate Hermann a question. Don't you suppose this could very easily be handled by the legislature rather than making it a constitutional provision?

HERMANN: It provides that the legislature shall do it, that is draw up all the regulations concerning it. It was just simply giving them the authority to do it.

SUNDBORG: May I address a question to Mrs. Hermann? Would there be anything in the constitution, if adopted without your proposed amendment, which would prevent the legislature from doing that at any time it pleased to do so?

HERMANN: Frankly, Mr. Sundborg, I don't know, but I submitted the amendment at the request of the Library Board. They think they need the authority.

McNEALY: If I could address a question to Mrs. Hermann. I am probable a little thickheaded today of all days, but what is the meaning of the word "unified"?

HERMANN: The last legislature established for the Territory of Alaska what is designated as a "unified library service". It means a Territorial library service under the direction of a

Territorial librarian that seeks to get uniformity in the operations of libraries throughout the Territory. It also has as one of its major objectives the collection of documents and materials to include in all of these libraries. I think if the assembly will remember, we had a letter some time back from Miss Phelps who is the Territorial Librarian, suggesting that some place be made the repository of everything that is of any historical importance that came out of this Convention, and that is what she is attempting to do for all the libraries, so that in every community we will have libraries having material available that deals with the Territorial development in all of its forms, as well as the customary library material. It also seeks to set up uniformity in operations and proceedings. As most of you likely know, we have a Territorial Library Aid bill whereby we contribute matching funds to certain libraries for the purpose of acquiring books and other periodicals, and all of that is supposed to be reduced to a uniformity of procedure that will do away with much of the confusion that has resulted from every little library and every little place setting up its own rules of procedure and probably not adhering very closely to them after it sets them up.

RILEY: Mrs. Hermann, would you have any objection to the journal showing that the amendment offered by Mrs. Hermann is by request?

HERMANN: I think it was Mr. Barr the other day who said he never introduced anything by request and I am trying to emulate Mr. Barr's noble example. I have no real objection.

MARSTON: May I ask, Delegate Hermann, did you say that the Territory could do all this without us going through the operation here?

HERMANN: Frankly, I said that I did not know. I have not given the question a great deal of thought. I just received this request in the last day, and the Library Board feels that the authority is necessary before the state can pass a law creating it.

TAYLOR: Mrs. Hermann, do you not believe that due to the fact we now have in effect a law providing for a unified library system, it would naturally carry over into the state, be a state law?

HERMANN: If it is re-enacted by the first Territorial or State legislature.

TAYLOR: If the legislature re-enacted the present laws, it would not need this?

HERMANN: I might say there is a provision in the Hawaiian Constitution providing for this very thing and that is probably what induced the sponsors of this request to ask it.

BARR: I am greatly in favor of establishing public libraries. However, there is great doubt in my mind as to whether this is constitutional material. We do have a law establishing library boards which will carry over to the new state, of course, and if we put such a proposal into the constitution, it will be permanent. If at some future time we decide that conditions are so bad we can't afford libraries or want to abolish them, we can't very well do it if it is in the constitution. I would like to point out, the library board is one of the minor departments at the present time, and in the report submitted by the Committee on the Executive Branch which deals with the establishment of the various departments of the government, no mention was made of many departments much more important than a library board for the simple reason that it was supposed the legislature would make laws relating to it.

PRESIDENT EGAN: Shall the proposed amendment as offered by Mrs. Hermann be adopted by the Convention? Mrs. Hermann.

HERMANN: I claim the prerogative of making the final remarks about this brainchild of mine, and I want to say in answer to Mr. Barr's statement, except for the public school system of Alaska, I don't think that anything is more important than library service. Maybe he does not read as much as I do, maybe he reads more but buys his own, but I feel very strongly that the entire cultural pattern of a state or any unit of government is set by the library facilities it offers to the people of that country, and I hope that you will pass this amendment because just for the very reason that he says that we might sometime feel too poor to afford a library service. I don't think we can ever be too poor to afford a library service, and I don't think there is anything in our government, aside from our public school system, that is so valuable to the citizens as a whole as a library service.

McNEES: Roll call, please.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mrs. Hermann be adopted by the Convention?" The Chief Clerk will call the roll.

STEWART: May we have it read?

PRESIDENT EGAN: Could the Chief Clerk please read the amendment at this time.

CHIEF CLERK: "Add a new Section 2 and renumber succeeding sections: 'The state shall provide for a Unified Library Service'."

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Armstrong, Boswell, Coghill, Collins, Cooper, Doogan, Hermann, Hinckel, Johnson, Laws, Londborg, McNees, Nerland, Robertson, Sweeney, Walsh.

Nays: 37 - Awes, Barr, Buckalew, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, White, Wien, Mr. President.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 16 yeas, 37 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Buckalew.

BUCKALEW: I have an amendment, Mr. President.

PRESIDENT EGAN: What section?

BUCKALEW: Two and three.

KILCHER: I also had an amendment to Section 3 on the table.

PRESIDENT EGAN: Mr. Buckalew had been recognized, Mr. Kilcher, but the Chair will remember that. The Chief Clerk may read the proposed amendment as offered by Mr. Buckalew.

CHIEF CLERK: "Strike Sections 2 and 3 and renumber Section 4 to read Section 2."

BUCKALEW: I move the adoption.

METCALF: I second the motion.

BUCKALEW: Mr. President, I was on the Committee, but after more mature consideration I believe that Sections 2 and 3 are absolutely unnecessary. The state has the power under the general welfare clause. It really struck me in the face when we got Delegate Hermann's proposal about unified library board. I think Sections 2 and 3 are about the same category. It is not necessary to put it in there, and if the state has got the power I believe that it should be stricken along with the idea we are not trying to legislate, just trying to write a constitution.

ARMSTRONG: I object. I feel that these sections give a check and a philosophy we need within the constitution. I think to delete them would be shirking our duty and pointing the way in

both welfare and public health. These are important parts of our living day by day, and when we say the promotion of the protection of public health, we weighed those words. When we came to Section 3 and we said, "the standard of living compatible with health and human dignity", we weighed those words, and I think we put them in there because of the philosophy that we held that these departments should carry out. I believe they should be retained.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I want to say one more thing. I would direct the delegates again to read Section 3. That sort of frightens me a little. I don't know what it means, even after being on the Committee, -- "a standard of living compatible with health and human dignity". I don't know what that is going to do to the state treasury, but I see no reason for having either one of the sections in view of the fact that we have a general welfare clause.

MARSTON: In the name of brevity and shortness, on the same condition I turned down Mildred Hermann, I am going to vote along with Buckalew on those two deletions.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that if we eliminated these two sections, Sections 2 and 3, that this constitution would receive scant consideration from the voters of the Territory of Alaska who vote upon confirmation, and if they did happen to pass it, it would receive scant consideration from Congress, that would omit two such important articles of the constitution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I am amazed at the statements made here this afternoon by some of our delegates. Is this the same Mrs. Hermann who time after time asked us not to include statements that are purely legislative? Is this the same Mr. Marston who has said he would vote against all amendments? Is this the same Mr. Buckalew who sat for five weeks or so on the committee which drew up this article and signed its report and here this afternoon they are all reversing their positions? I ask the delegates to note that Section 2 says, "The State shall", so that means one thing. Section 3 says "The State may". If we knock them out, as Mr. Buckalew suggests, it may be that the state has the power to do such things, but the legislature may either do it or not at its discretion. But if we leave them in the legislature must provide for the promotion and protection of public health.

BUCKALEW: I have the right to close. Of course I am the same Mr. Buckalew who has been here all along, but I might add that

the same Mr. Buckalew has learned a little more about constitutional law as he has gone along. As I say, after more mature consideration I think both sections are superfluous, and the general welfare clause is inclusive, and I see no necessity for putting it in the constitution. I think the people of Alaska will vote for the constitution whether it is there or not. It shouldn't be in there and I want to vote it down.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" All in favor of the proposed amendment being adopted will signify by saying "aye", all opposed "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Kilcher.

KILCHER: My amendment is for Section 3. Someone might have one for Section 2.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I have no amendment, but I have a question which I would like to direct to the Chairman of the Committee. Would the language of Section 2, as it now stands, permit programs of state health insurance? For instance in the nation of Norway there is a system under which the nation by taking money out of your pay check, the pay check of each employee, every month or week or whenever he is paid, sets up a statewide system of public health benefits. Great Britain does the same thing. Now would the same thing be permitted under the language of Section 2 in your opinion?

PRESIDENT EGAN: Miss Awes.

AWES: Well, to tell the truth about it, I had not considered that particular problem. I think this section would probably permit it unless some other section prohibits it.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 3:45.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Hermann.

HERMANN: Mr. President, I wish to call attention to the fact that we have today spent 47 minutes over and beyond the period of time called for by motions to recess.

PRESIDENT EGAN: We have before us Mr. Kilcher's proposed amendment to Section 3 of this article.

CHIEF CLERK: "Strike all of Section 3 and substitute the following: 'The State may provide for the general welfare.'"

SWEENEY: Is that a new Section 2 or 3?

CHIEF CLERK: "Strike all of Section 3 and substitute the following: 'The State may provide for the general welfare.'"

PRESIDENT EGAN: What is your pleasure, Mr. Kilcher?

KILCHER: I move the adoption.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Is there discussion? Mr. Coghill.

COGHILL: I would like to inquire of the maker of the motion, is he providing that the state will provide for the general welfare?

KILCHER: I did not hear.

COGHILL: Are you providing that the state shall provide for the general welfare of the people of the state?

KILCHER: May provide. Mr. President, I think in line with our need for brevity and also with our past attempts of being too restrictive by permitting and yet not forcing the state to provide for the general welfare, we are in line with the United States Constitution. The general welfare clause is stressing the words "general welfare only. Everything else is inconsequential, and that is perfectly sufficient in my opinion for all that the state may decide to do.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: The very first article in the bill of rights takes care of that. That is what I interpret it as meaning, the general welfare.

KILCHER: I agree with Mrs. Nordale to the extent that I also was in favor of striking Section 3 under Mr. Buckalew's amendment, but since it may not hurt to make mention of this matter in the article on health, education and welfare, I propose that we include it in this brief formulation.

NORDALE: My point was I was wondering if he means the same thing that is meant in the first article of the bill of rights. Is that what you mean by your amendment?

KILCHER: If the same words are used, it must necessarily mean the same thing, I haven't read it.

NORDALE: I believe the original article means something else. You mean you are repeating what is in the original, that is what you want? To repeat the first article in the bill of rights?

KILCHER: Well, I am not so sure of that since it is under the article of health, education, and welfare, it might have a slightly narrower meaning. This is such a vague article, impossible of definition, that I think this proposed article would solve the problem.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: To me the words "general welfare" do not have the connotation at all of public welfare. The term "general welfare" is so much broader in its meaning to what "public welfare" is I can't see that the amendment is material to the section to which it has been made.

PRESIDENT EGAN: Mr. Barr.

BARR: I just wanted to point out the difference between these two as I see it. Section 1, they say that this constitution is to promote the general welfare. We are speaking of the constitution here. This other section says the state shall provide for the general welfare. General welfare generally means, of course, all welfare means health, safety, etc. In Mr. Kilcher's amendment he provides that the state shall provide it.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: This Section 3 which is one reason why I seconded Mr. Kilcher's motion, is that I don't know what person is unable, what extent of inability do they have to have to be unable, and I don't understand what a standard of living compatible with health and human dignity is; whose health and whose human dignity? We all have different modes of living, and what comparative standards are you going to put in order to comply with that section? Mr. Armstrong, you explained that a little bit.

ARMSTRONG: I think that when it says that the state may provide for this system of public welfare for persons unable to maintain the standard of living, there are all types of people who can be considered indigent. There isn't any way of pointing that out, someone who has to go to a TB ward is an indigent, yet he may have what seems to be a normal adequate income, yet the loss of his income while in the TB sanitarium makes it absolutely impossible for him to pay the bills that would be involved, so this

would be a sliding scale on the standard of living, his needs and health and human dignity. I think we were trying to get away from a clause that might indicate that you had to be a pauper and really down and out before you would arrive at the place you could crawl up to the welfare department for help. There are many areas of life where a little help to a widow, to an orphan, to a pioneer who needs help, brings them to the place of self-respect, and dignity and self-respect certainly go hand in hand.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, my idea of public welfare connotes a system provided by the state or established by the state for the alleviation of various people who are unable to make a living, and now we are saying the state may provide for public welfare for persons unable to maintain a standard of living. Now, of course, that does not connote a welfare for persons if you use it as a system of public welfare for a certain class of people of our population. It seems to me that that section would possibly be a little plainer and would not be open to the construction that has been placed upon it this afternoon if we would provide for public aid for persons unable to maintain a standard of living compatible with health and human dignity, it would be public aid. We have a system for public welfare but the aid given by the public welfare would be the people who are unable to help themselves.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: My point is that if a sick person is unable to maintain a standard of health compatible of health, not perhaps because of any money but because he is afflicted with a disease, and this leaves it open it seems to me that anyone who has a disease who can't maintain a condition compatible with health and yet, we are going to extend them public welfare. Why don't they say "indigents or people who are ill or unable to provide for themselves"? Why don't they put it in plain English? No one can construe these words. I know what I mean by human dignity, but a person on a higher social scale has another standard for human dignity and someone else, another. What standards are you going by?

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I think Mr. Robertson's argument is that the language would permit, say a millionaire to be given assistance.

ROBERTSON: I don't see why.

HELLENTHAL: It says if you are unable to maintain the standard, that means unable from any cause. I think that would clearly

throw out the millionaire and I think any court or any person would interpret it that way. If you are unable from any cause whatsoever, but if you are able then there is no assistance. You are able because you are a millionaire, though sick.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to make one further comment to Mr. Robertson's objection. I think that the words "public welfare" themselves would prohibit an interpretation that a millionaire would not be entitled to help. The words "public welfare" have come to have a very definite meaning in our society today, and I think that is the meaning that should be given here. If you just give "public welfare", those two words, their ordinary meaning, I don't think the question would come up.

HERMANN: Point of order. Mr. Kilcher's motion is to substitute "general welfare", and to strike that whole section and substitute a new section dealing with "general welfare" and I don't think anybody is speaking on the motion.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I looked up my reference, and considering that I drew up this amendment hastily, I would suggest that somebody amend "general welfare" to "public welfare", that is actually what I had in mind, or I withdraw my motion. That is what I had in mind. I will be very amenable to that if somebody wants to amend it.

PRESIDENT EGAN: Is there such an amendment offered? Do you ask unanimous consent, Mr. Kilcher, that the word "general" be changed to "public"?

KILCHER: Yes I do.

PRESIDENT EGAN: Is there objection to the change Mr. Kilcher asks for? Hearing no objection it is so ordered and the proposed amendment has been amended. Mr. Johnson.

JOHNSON: Point of inquiry. Miss Awes, along the line of your statement that you do not believe that this section would apply to a millionaire, I agree that under most public welfare systems millionaires would not be applying or should not be applying, but suppose that a millionaire lost his money and did not have any money at all and came to the public welfare department. Under the phraseology you have here, "to maintain a standard of living compatible with health and human dignity", now would he be expected to get sufficient assistance to maintain his former standard of living or human dignity. I mean, could it be construed that way?

AWES: I don't think so. I think we are getting into some rather farfetched illustrations. I think the only purpose of this section is to give the legislature a broad general authority to provide for the public welfare and, as I said before, public welfare, it is generally known what that means, and I think it is very unlikely that any other construction would be put upon it.

JOHNSON: Perhaps my illustration was farfetched, but I intended it to be, and I am wondering if some other words might be substituted to the word "dignity" that might lend itself to less confusion.

LONDBORG: I have been wondering along that same line too. If I might ask someone of the Bill of Rights Committee, what other kind of dignity would there be other than human dignity?

HARRIS: Point of order. If Mr. Kilcher's motion goes through the way it is now there won't be any word "dignity". There will be just a period after 'welfare'.

PRESIDENT EGAN: That is correct. The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike all of Section 3 and substitute the following: 'The State may provide for the public welfare.'"

ARMSTRONG: I am afraid that that phraseology is far too broad and you are saying "for the public welfare" but the connotation does not tie it down to the establishment of a department, and it does not give the instructions as to the philosophy we have here in mind. I think that you need the retention of this section.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 3? Mr. Taylor.

TAYLOR: I have a short amendment I would like to offer, and before the word "public" on line 11 of Section 3 I would like to insert "a system of" of, so that it would read, "The state may provide for a system public welfare for persons unable", etc. I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard.

TAYLOR: I so move.

ARMSTRONG: I second the motion.

PRESIDENT EGAN: The Chief Clerk will please read the section as it would appear if the proposed amendment was adopted.

CHIEF CLERK: "The state may provide for a system of public welfare for persons unable to maintain a standard of living compatible with health and human dignity."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" Mr. Marston.

MARSTON: I would like to ask Mr. Taylor what human dignity means. I like it, I am for it, and I want to know what it means.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Maybe I might give an illustration of it. I think any time when a person is reduced to the point where they have to beg and feel that they are an object of charity, they have lost their dignity, and we think that the people of the State of Alaska should not be reduced to that condition where you have got to be a beggar or a pauper or feel you are an object of charity. When you do you have lost your human dignity.

GRAY: Mr. Chairman, I would like to ask the mover what difference is "a system of public welfare", what difference does that make in the article?

TAYLOR: The reason I put that in is that because there may be many different matters touching public welfare. We might have such as we have today, we have the relief of the widows, we have dependent children, we have relief for the orphans, for the cripples, we have rehabilitation for persons who have partially lost their ability to earn or gain for livelihood, and other matters which would come under this public welfare, so it would be a system that would embrace all of those things that would go into maintaining the health and human dignity of our people who are handicapped or unfortunate.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, since the section starts with the word "may", I don't see why these added words "a system of" should be included. Certainly the state may do that in any case, even if the words are not in here, it might do that. I can see a reason, if it should say "shall", and make it mandatory, but since it is optional, you can certainly expect as the situation requires that the state should do that and it is superfluous.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 3, line 11, after the word 'for' insert 'a system of'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

- Yeas: 26 - Armstrong, Boswell, Coghill, Cooper, Davis, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Knight, McCutcheon, McNealy, Marston, Metcalf, Nerland, Nordale, Riley, R. Rivers, Roberston, Rosswog, Stewart, Sundborg, Taylor, Walsh.
- Nays: 27 - Awes, Barr, Buckalew, Collins, Cross, Doogan, Emberg, V. Fischer, Gray, Hurley, Johnson, Kilcher, King, Laws, Lee, Londborg, McLaughlin, McNees, Nolan, Peratrovich, Reader, V. Rivers, Smith, Sweeney, White, Wien, Mr. President.
- Absent: 2 - Poulsen, VanderLeest.)

CHIEF CLERK: 26 yeas, 27 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and proposed amendment has failed of passage. Are there other amendments to Section 3? Mr. Buckalew.

BUCKALEW: Mr. President, I was out in the hall here for a minute, but I understand somebody already offered the amendment that was defeated to delete the words "persons unable to maintain a standard of living compatible with health and human dignity". I did not hear the argument on it, Mr. President.

PRESIDENT EGAN: You should have been here, Mr. Buckalew.

PRESIDENT EGAN: Would the Chief Clerk please read the section as it appears right now.

CHIEF CLERK: "Section 3. The State may provide for public welfare for persons unable to maintain a standard of living compatible with health and human dignity."

BUCKALEW: Could I have the privilege of the floor for a minute?

PRESIDENT EGAN: If there is no objection, you may.

(Mr. Buckalew was granted the privilege of the floor.)

PRESIDENT EGAN: There were quite a few arguments at the time we had the amendment. Are there other amendments to Section 3? If not, to Section 4? Mr. Victor Fischer.

V. FISCHER: Mr. President, I have an amendment on the Clerk's desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment. CHIEF CLERK: "Strike Section 4."

V. FISCHER: Mr. President, I would like to ask unanimous consent for the adoption of this amendment and would like to offer a brief explanation, if I may.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent for the adoption of the amendment.

ARMSTRONG: I object.

V. FISCHER: I so move.

HURLEY: I second the motion.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Originally I submitted a delegate's proposal on health, education and welfare including this Section 4, and I appeared before the Committee on the Bill of Rights and discussed the inclusion of this section. At that time I was under the understanding that it was necessary for this section to be contained in the constitution to authorize slum clearance in Alaska. A number of states have had their statutes for slum clearance in urban redevelopment projects, such as is now going on in Fairbanks and is proposed in Ketchikan, Sitka, Juneau, Anchorage, and Haines. They have had similar projects declared unconstitutional because they had no express provision authorizing slum clearance. Therefore, I appeared before the Committee and urged the inclusion of this section as it presently stands. Since then we have obtained additional material from the Housing and Home Finance Agency in Washington, which agency is in charge of providing federal assistance for urban redevelopment. The legal matter forwarded by the HFFA shows clearly that our constitution is broad enough in every aspect to authorize slum clearance in similar urban redevelopment programs without a specific enabling clause such as this. If you will note, I have emphasized slum clearance. There has never been any doubt about public housing. It is definitely authorized under the welfare clause, so there is no need for that at all. Since there is no legal doubt about the legality of slum clearance under this constitution, I introduce this motion to strike Section 4, since I, even when I first proposed it, it seemed to me as matter preferably not to be covered in the constitution.

GRAY: I withdraw my objection.

PRESIDENT EGAN: Miss Awes.

AWES: I just wanted to make a brief statement about the action of the Committee in putting this section in. The section first came to the attention of the Committee as a part of the proposal made by Mr. Fischer and Mr. Fischer appeared before the Committee and gave his reasons, which are similar to what he gave just a few minutes ago, and the Committee was convinced, so I think the body should know that it was on the basis of the information supplied by Mr. Fischer that it was put in here.

HELLENTHAL: I don't think any of the Committee members have any objection to Mr. Fischer's proposal now, because it was at his insistence that it appeared in the constitution. Unless I hear some objection from some of the Committee members, I shall support Mr. Fischer's proposal.

PRESIDENT EGAN: You are absolutely positive that it is not necessary?

V. FISCHER: Yes. Since Mr. Gray removed his objection, I renew my unanimous consent request.

TAYLOR: I object.

NORDALE: May I just ask Mr. Fischer a question?

PRESIDENT EGAN: You may, Mrs. Nordale.

NORDALE: Is there any possibility that some provision might possibly creep into the finance section that would make it necessary to have this in this particular section?

V. FISCHER: No, because our health and welfare clauses are broad enough. We have a condemnation clause for public purpose and appropriation for public purpose, so between all of those factors there would be no restrictive provisions.

PRESIDENT EGAN: Mr. McNees.

McNEES: In the event that this suggested amendment is not passed, I think we are going to have to rework it anyway for the simple reason that very definitely it is stated here that the state may provide for and assist in the development of substandard housing, and I think we are going to have to rephrase that in case the amendment is not passed.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The "ayes" have it and the proposed amendment has been adopted by the Convention. Are there other amendments to Committee Proposal No. 7? Mr. Taylor.

TAYLOR: I have an amendment on the Clerk's desk.

CHIEF CLERK: "Add a new section known as Section 4 which shall read as follows: 'In all matters of public welfare the legislature may provide by law in cooperation with the United States, or other states.'"

PRESIDENT EGAN: What is your pleasure, Mr. Taylor?

TAYLOR: I move the adoption of the amendment and ask unanimous consent.

McLAUGHLIN: I object.

McNEALY: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Londborg.

LONDBORG: It is kind of long to remember.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment slowly.

CHIEF CLERK: This first part is the subhead, is that right, Mr. Taylor?

TAYLOR: Yes.

CHIEF CLERK: "Section 4. In all matters of public welfare the legislature may provide by law in cooperation with the United States, or other states." And the subhead on the margin is "Cooperation with Federal and other State Governments".

PRESIDENT EGAN: Mr. Londborg, did you object to the length?

LONDBORG: I have a copy now. No objection.

McLAUGHLIN: Mr. Chairman, I object on the grounds that are reasonably well known to the members of the Executive Committee, members of the Resources Committee, forgive me, not Resources Committee, but members of the Local Government Committee, and reasons known to the members of Style and Drafting. That is the specific provision in the Executive Article providing for agreements, and in a much broader scope than this, of all natures, agreements of any nature between the state or between any local government units and the states and the United States or any other nations. We will have a complete reduplication, and I have not consulted with any members of the committee, but I think it is inappropriate to consider this matter at this time. It will arise again more properly under the executive article and probably most properly under any miscellaneous provisions in the constitution.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: That is a correct statement. The executive has provided in a broad general clause for cooperation with other parts of government, including local, state, and national, and in cases where it will be permitted, with other governments. I don't think there is any need for this article to cover the provision. We already have it broadly covered.

TAYLOR: In view of the statement made by Mr. McLaughlin and Mr. Rivers, that this is a blanket provision along the same lines which is going to be in the future article, I would like to ask unanimous consent to withdraw the amendment.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent to withdraw his proposed amendment. Is there objection? Hearing no objection, it is so ordered. Mr. Victor Rivers.

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V. RIVERS: I would like to ask unanimous consent to revert to the introduction of proposals.

PRESIDENT EGAN: If there is no objection, the Convention will revert to the introduction of proposals.

KILCHER: I object.

PRESIDENT EGAN: You object to the reverting to the introduction of proposals at this time?

KILCHER: It will take only two minutes and we will be done with the whole article anyway. I would ask Mr. Rivers to wait. I have an amendment.

V. RIVERS: I will yield to Mr. Kilcher.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Kilcher's proposed amendment.

CHIEF CLERK: "Section 3, lines 11 and 12, strike the words 'public welfare'."

PRESIDENT EGAN: What is your pleasure, Mr. Kilcher?

KILCHER: I move that we adopt the amendment and ask unanimous consent. It is probably a matter of Style and Drafting because it is just a duplication of a definition.

PRESIDENT EGAN: Is there a second to the motion?

SUNDBORG: I object.

PRESIDENT EGAN: Do you so move, Mr. Kilcher?

KILCHER: I so move.

PRESIDENT EGAN: Is there a second to the motion?

ROBERTSON: May we have it re-read?

CHIEF CLERK: "Section 3, lines 11 and 12, strike the words public welfare'".

PRESIDENT EGAN: Is there a second?

V. RIVERS: Point of order. I heard a second from Mr. Londborg.

PRESIDENT EGAN: It has been moved and seconded that the proposed amendment has been adopted. Mr. Kilcher.

KILCHER: I have absolutely nothing against public welfare. Even contrary, I was afraid possibly Style and Drafting might not catch it, and if they did it is a matter of language, and that is why I proposed it to bring it to the attention and have it drafted, even if the amendment fails. It is not a substantial change, it just saves three words in the constitution. If we say "the state should provide" that is what public welfare is.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to the article on health, education and welfare? Are there other amendments to Committee Proposal No. 7 in its entirety? Mr. Victor Rivers.

V. RIVERS: I am not sure whether we had a record vote on Section 1 or not. Did we?

PRESIDENT EGAN: I am sure there was a roll call vote on that, Mr. Rivers.

CHIEF CLERK: Section 1 of this article?

PRESIDENT EGAN: On the proposed amendment, Mr. Rivers? V.

RIVERS: Yes.

PRESIDENT EGAN: The Chair feels certain there was a roll call vote on it.

TAYLOR: Two of them.

PRESIDENT EGAN: I believe you are right, Mr. Taylor.

COGHILL: I think what Mr. Rivers is referring to is the insertion of "education" before "institution" on the recommittal of the Committee.

CHIEF CLERK: That was accepted as a committee report.

SUNDBORG: It was unanimous consent.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: It was turned back to the Committee and the Committee resubmitted the article with that word in it.

PRESIDENT EGAN: You are correct, Mr. Hinckel. Are there amendments to the proposal? Mr. Londborg.

LONDBORG: Is it ready to pass now from second reading?

PRESIDENT EGAN: It is ready to go now, if there are no other amendments, to the Committee on Engrossment and Enrollment, which would take it out of second reading so far as amendments are concerned without a suspension of the rules. Mr. Londborg.

LONDBORG: I have been thinking about this one vote on Mr. Coghill's amendment, and I wonder if we gave sufficient thought to the amendment. I would like to give notice of reconsideration of my vote on this particular amendment.

PRESIDENT EGAN: In inserting the word "indirect"? Do you serve notice of reconsideration of your vote?

LONDBORG: I do so.

PRESIDENT EGAN: Let the record show that Mr. Londborg gives notice of reconsideration. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that we take a five minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for five minutes.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order please. We have Committee Proposal No. 5 before us and ask the Secretary to please read it at this time. Mr. Johnson.

JOHNSON: I was under the impression that Mr. Victor Rivers had asked us to refer to the introduction of proposals.

FIRST VICE PRESIDENT: I'm sorry. Mr. Rivers.

V. RIVERS: I so asked and that was objected to for a period of two minutes, so I understand it is now in order. The objection was merely to finish that last amendment.

CHIEF CLERK: "Delegate Proposal No. 46, introduced by Mr. Victor Rivers, ORDINANCE: The legislature shall establish one or more agencies of State government to regulate public utilities in the public interest."

FIRST VICE PRESIDENT: It shall be referred to the Ordinance Committee. You may proceed with Proposal No. 5.

(The Secretary read Committee Proposal No. 5 at this time.)

NORDALE: Mr. President, I would like to ask a question before we start on this article. I was under the impression that the article on the legislative branch was to set up the structure of the legislative branch of government, and I would like to have this clear before we start working on any of these articles. It occurs to me there are several things instructing the legislature what to do and what not to do, and my impression was that it was a case of setting up a legislature, not necessarily telling what to do. If I am wrong I would like to know it before we start.

FIRST VICE PRESIDENT: I wonder if the Chairman of the Committee would answer that. Mr. McCutcheon.

McCUTCHEON: I think I can say this, keeping in mind that our Committee is practically unanimous on the subject of things that had to do with actual legislation and the composition of the houses, those matters which pertained to bills insofar as they pertained to the legislature and the handling of them were properly a legislative matter. We have included several sections in this group which might be borderline propositions, which we have lifted from the Enabling Act and in this instance I refer to Senate 50, and included them in here fearing that they may not have been included elsewhere. They will probably be in conflict with other sections that will be offered by other committees and I think again I can speak, that our Committee will have no objection in removing those things which are in conflict to the same type of material being in other articles.

LONDBORG: One of the things I think that will come up right away, and that is the overlapping of material relative to apportionment. Could I ask a question of the Chairman of the Legislative Committee? How do you feel on that? In other words, we are going to be doing with some things that may freeze a certain thing, and then come to apportionment and find it otherwise.

McCUTCHEON: In this instance there were a good number of our Committee who sat in and listened to the testimony that was offered and the argument and testimony that took place in the Committee on Apportionment and Reapportionment, and it appeared to our Committee that we would have to settle upon some sort of an arbitrary figure for the number of legislators to be in the legislature. It appeared to us at the time we drafted this measure and also from the various proposals that were entered by most of the delegates that these figures came most closely to the general composite that was being developed at that time. In other words, the Apportionment Committee appeared to be thinking in terms of a figure very close to this. It may have been a little more, or may have finally developed to be a little less, and a number of the proposals that were offered by committees fell in this same

general category, so our committee seized upon these things as a point in which to begin in discussing the matter.

LONDBORG: That answers it at least in part. I can see the difficulty in having split the two, the Legislative and Apportionment, into two different committees. I think some constitutional conventions deal with them together for the purpose of amending one or the other and I think we should keep that in mind, that if we fix something and pass through second reading that it may affect our apportionment later.

HELLENTHAL: Might I suggest as far as apportionment is concerned, I can see that there might possibly be some conflict between Section 1 and the last section which is, I believe Section 25, and that's all. There are many ways it can be handled. I would not like to see a situation develop where we might agree tentatively with Section 1 and Section 25, and then find it would take a two-thirds vote to make a change when the same matter came up before a committee that was properly told to handle the very same matter. Might I suggest that the matter be referred to save time on the floor to the Rules Committee for suggestions as to how any trouble can be avoided so that the rights to amend might be preserved say, after we have finished dealing with the legislative matter but still not run into the restrictions of two-thirds, and I would like to move that the matter of possible conflict between the two committees, namely Legislative and Apportionment, as to Sections 1 and 25 be referred to the Rules Committee for suggestion.

FIRST VICE PRESIDENT: Mr. Barr.

BARR: Mr. Chairman, would you be agreeable to amending that to include other committees also? I see that the Legislative Committee has done two-thirds of the work of the Finance Committee. The language is practically the same.

HELLENTHAL: If I knew the sections I would be happy to consent to the amendment, but I would suggest that each committee in turn make a similar amendment if this meets with the approval of the group.

MARSTON: I second the motion.

DOOGAN: May I have it read?

FIRST VICE PRESIDENT: Please read the proposed amendment.

CHIEF CLERK: "The matter of conflict between the legislative and apportionment articles as to Sections 1 and 25 be referred to the Rules Committee for suggestion."

FIRST VICE PRESIDENT: All those in favor will signify by saying "aye", contrary "no". The "ayes" have it, carried. You wish to go ahead with the other sections, other than the two involved in this motion?

DOOGAN: May I ask the Chairman of the Legislative Committee a question? It is purely for information, and I don't object to it. I notice that you say in Section 8, "when the legislature shall convene," but it does not say they will meet for 60 days, 90 days, or a specified period of time. Did you have a definite reason for that?

McCUTCHEON: It was the preponderant thinking of our Committee that our legislature should not be limited as to time. It should be a continuing affair and that as the needs of the state required, the legislature could be brought into existence, it could be brought in by its own method of convening. The governor can call it, and they have also a stipulated date to begin each year for a session, and that is one of the reasons why we endeavor to devise a device in payment which would make the payment cover a year's service at a time so the legislature could be brought into session or out of session from time to time to take care of the needs. That is why we did not establish a limiting date except on special session. If the need arose of special session the legislature could maintain themselves in session, or the governor could maintain themselves in session, and if the governor did maintain the legislature in session, the legislature could only consider those items which the governor wanted on the agenda.

FIRST VICE PRESIDENT: The Chair would like to call the result of this motion to the attention of this Committee. I think, Mr. McCutcheon, in this case to meet with the committees at your convenience to make this correction, as the motion implied. Mr. Riley.

RILEY: Mr. Chairman, this then might be a proper time to announce a meeting of the Rules Committee during the dinner hour recess.

NERLAND: Mr. President, may I ask Mr. Hellenthal a question, or rather, Mr. McCutcheon? Mr. McCutcheon, as these various sections come up that are taken up in other proposals, is it your intention that these be discussed and amended finally on the floor, or do you intend that reference be made that this is taken care of in some other proposal and that the matter just be dropped until we come to that proposal?

McCUTCHEON: It may be that possibly I and one or two other members of the committee were laboring under the delusion that the Style and Drafting Committee had the right to reshuffle these various paragraphs in the articles to fit properly into

place in the constitution, and where there was conflict if there was not substantive conflict to drop one from one article and insert one from another article or vice versa. It appears from some of the times I have spoken here to some of the members of Style and Drafting that that may not be the case. If it is not the case, then we must either submit on the legislative branch, then I would suggest we might as well throw the legislative branch to the tail-end of the pile and take it up last and let everybody else get down to their business and then whatever is left, the legislative branch will utilize.

NERLAND: Mr. McCutcheon, would it be your opinion that if somebody moved to strike one of these sections, supposedly because it was mentioned elsewhere, would that preclude discussion of that section in another proposal?

McCUTCHEON: Not as far as we are concerned, I don't see how it could. The thing is that if you were moving to strike a whole section out of our article, it would appear to me that an identical section or a similar section in the article that you propose to have this paragraph stand in, I think it should be read so that the body could see whether or not they prefer it in one place or in the other. The Legislative Committee wishes to be as compliant as possible with the wishes of this body, and we don't want to deter anything or hold back anything.

NERLAND: I assume that. Don't you think it would be desirable to have it understood now how these matters are going to be taken up? Are they going to be amended finally and leave it to Style and Drafting to take it out of this section and put in another proposal at the proper time?

McCUTCHEON: It is a matter of authority of the Style and Drafting if they feel they can do that, I am perfectly willing to have such an action take place.

NERLAND: My point is that unless we do determine pretty definitely how it will be handled, why one might be handled in one manner and one might be in another.

McCUTCHEON: Absolutely. I think it is properly a matter of question before the body right at this moment as to what authority Style and Drafting will have in that respect.

FIRST VICE PRESIDENT: Mr. White.

WHHITE: It appears to me that you can't possibly properly discuss this section out of context. The body feels a certain section belongs in a certain article, it would be foolish for us to discuss it when it appears in another article. Mr. Nerland has

raised a very good point. If you move to strike an article, somebody could raise the question when you come to the second article, it is a matter of a two-thirds vote. You may not agree with me. I might not agree with myself. I think it is a good point to raise. I think both matters are a subject for the Rules Committee and I suggest we defer any discussion about sections in question.

McCUTCHEON: In answer to Mr. White, I don't believe we could properly say it would require a two-thirds vote on the second article which was not at that time under consideration if we struck one from the article under consideration because it never properly came before consideration on the subsequent article that was under consideration.

FIRST VICE PRESIDENT: The Chair will hold the same view on that. Mr. Riley.

RILEY: I will endorse that view just for myself, but it occurs to me that in the exchange between Mr. Nerland and Mr. McCutcheon, a number of points arose which parallel the ones assigned to Rules, and if it is the wish of the body that the Rules Committee come forward with a suggestion covering all of those situations, and there will be many of them which arise, it would be preferable to address ourselves to the full problem rather than to simply legislative and apportionment. There is sufficient overlap, as a matter of fact, on Rules and Style and Drafting that I think we could perhaps approach the thing from all standpoints and come up with a suggestion this evening.

FIRST VICE PRESIDENT: Mr. Riley, do you suggest to take care of that now or later on?

RILEY: I would ask unanimous consent that the directive just given the Rules Committee extend beyond the question of apportionment and the legislative branch, that it cover the general proposition before us.

FIRST VICE PRESIDENT: Is there any objection to that? Mr. Doogan.

DOOGAN: In view of that, I believe that there is quite a little discussion that has got to go on in the Rules Committee, and we can't rightly discuss and even begin to discuss this legislative article now and it is 5:10, so I would move and ask unanimous consent that we adjourn until 7 o'clock so that the Rules Committee can settle this.

COOPER: I object on the basis that --

DOOGAN: I so move.

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HURLEY: Point of order. The motion is not debatable.

UNIDENTIFIED DELEGATE: Question.

FIRST VICE PRESIDENT: You have heard the motion.

METCALF: Roll call.

ROSSWOG: I would like to ask to return to committee announcements if this motion carries.

V. FISCHER: Point of order. I think the motion to adjourn is out of order. Mr. Doogan rose and asked unanimous consent and sat down. Mr. Cooper was recognized by the Chair and while he was speaking, without being recognized, the motion was made and seconded. It seems to me that properly Mr. Cooper has the floor.

FIRST VICE PRESIDENT: I want to state my position here. We have been making our motions that "I move and ask unanimous consent", which I always felt was improper. I just assumed that was the type of motion Mr. Doogan made, but I do think your point of order is well taken, so the Chair will reverse his recognition of this motion and recognize Mr. Cooper. There is no motion before the floor.

COOPER: The thing that I want to point out is that Apportionment and Legislative have both decided on identical figures. I think it is entirely in order to take Section 1 and now discuss it and any of the delegates submit any amendments if they so desire, but I do believe it is in order to go ahead and discuss Section 1 and go on with the business.

FIRST VICE PRESIDENT: If there is no further discussion, we will proceed with this proposal section by section. Mr. Doogan.

DOOGAN: Mr. Chairman, I will move that we stand at recess until 7 o'clock.

FIRST VICE PRESIDENT: Is there a second to that?

BARR: I second it.

ROSSWOG: Can we now revert to committee announcements?

FIRST VICE PRESIDENT: Yes, Mr. Rosswog.

ROSSWOG: Local Government Committee will meet after recess in one of the committee rooms on the upper floor.

SUNDBORG: The Committee on Style and Drafting will meet briefly immediately on recess which I hope will be about 5:40 p.m.

FIRST VICE PRESIDENT: Are there any other announcements?

METCALF: Roll call.

FIRST VICE PRESIDENT: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 8 - Barr, Doogan, Harris, Laws, Marston, Nolan, Riley, Sweeney.

Nays: 43 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Hellenenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nordale, Peratrovich, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Taylor, Walsh, White, Wien.

Absent: 4 - Poulsen, Stewart, VanderLeest, Mr. President.)

CHIEF CLERK: 8 yeas, 43 nays and 4 absent.

FIRST VICE PRESIDENT: So the motion failed to pass. Are there any amendments to Section 1? Mr. Robertson.

ROBERTSON: I rise to a point of order. I thought we just passed a motion here a few minutes ago referring Section 1 and 25 to the Rules Committee. It seems to me we would have to rescind our action.

SUNDBORG: Mr. President, my understanding of the motion was that we referred the general problems of conflict between this article and others to the Rules Committee. We did not refer to those sections.

FIRST VICE PRESIDENT: I think Mr. Robertson is right. As I understood the motion, Sections 1 and 25 were to be referred to the Rules Committee. Mr. Hinckel.

HINCKEL: There is no conflict between Section 1 and the section in the other article.

HELLENTHAL: May I be heard on this? I see Mr. Cooper's point precisely. Mr. Cooper is a member of both the Legislative and Apportionment Committees. He is the only member of the Apportionment Committee that is in that enviable position. Now it took the Apportionment Committee something like three weeks to

arrive at the conclusion that they presently have, that the senate should be composed of 20 members and their recommendation to the floor is that the senate be composed of 20 members. Now, during the Christmas holidays and in many discussions with gentlemen and ladies here in this group, I have received the impression that some people might want to increase that number, and some people might want to reduce that number. Now, I am prepared and I am sure other members of the Committee are prepared to take you step by step through the reasoning that led to the conclusion that the composition should be 20 members, but I think it would be better to do that perhaps at a later time, and that is why the matter was referred to the Committee on Legislation so that the entire apportionment could be considered as an integrated whole. If Mr. Cooper's suggestion is followed through, I think it will unduly prolong our discussions now and furthermore if a mistake is made after the careful consideration of the apportionment is made, and all the detail that go into it, it would take a two-thirds vote to rectify the mistake, to suspend the rules, and I think that is an undue burden to place on the body here. I personally am indifferent, but I don't see why. It is absolutely inconsistent with the creation of a separate Committee on Apportionment, and the inconsistency is more apparent with Section 25. There is a basic difference in approach between Section 25 and the recommendations that are made in the apportionment proposal. And I think we are going to waste a lot of time, and I'm doing it only to speed up our proceedings.

FIRST VICE PRESIDENT: Mr. Hellenthal, the Chair was correct in stating your motion that the first, Sections 1 and 25, the two sections to be referred to the Committee? We'll proceed with Section 2 then. Are there any amendments to Section 2 Mr. Rivers?

R. RIVERS: Mr. Hellenthal referred to taking us through a step by step statement as to how we arrived at these figures. We've got about 12 minutes to go before adjournment time, couldn't the Committee brief us a little bit before we start and utilize that for general information?

FIRST VICE PRESIDENT: Without any objections, the Chair will ask the Chairman.

KILCHER: Point of order, Mr. President, I would like to be corrected by Mr. Hellenthal if I am wrong, but I think Mr. Hellenthal had reference to this figure when its the Apportionment Committee's term, when the proposal by his Committee is up, the step-by-step explanation will come from Mr. Hellenthal.

FIRST VICE PRESIDENT: Mr. Kilcher, I think the question here is whether Section No. 1 and 25 is included in this motion that was made. Mr. Hellenthal, would you care to brief the delegates as Mr. Rivers suggested.

HELLENTHAL: I would love to, but frankly I do not think it can be done by any member of our Committee in the time allotted. I think that the presentation, it will all depend, well first, this is the pattern it will have to follow. An analysis will have to be made of the election districts that are suggested to the group. Following the analyses of the election districts, an analysis will have to be made of the house plan and of the method of equal proportions. Following that, a thorough analysis of this senate plan, which consists of two steps in the selection of senators, will have to be made. It is an integrated, dovetailed, whole, and if the body wants it now, it can very properly be given now, but I feel it is out of order now and frankly I would prefer to see it given when the apportionment is considered as a whole, and it does not tie Sections 1 and 25, do not tie in with any of the remaining 23 sections of the legislative group. I don't think it is necessary to know the exact numerical compositions of the bodies before intelligent decisions can be made on the other 23 sections. For example, in the senate we are in virtually substantial agreement on the number, just the precise number. I don't think it is going to vary more than three or four one way or the other, but I think it should be considered in logical sequence when it is presented and presented right from the election district right up the pyramid.

FIRST VICE PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: In the light of those remarks, I think it would be well for us then to just suspend action on Section 1 and go on to Section 2. That carries out Mr. Robertson's idea. There is no relation and we could make some progress perhaps.

FIRST VICE PRESIDENT: Mr. Kilcher.

KILCHER: Mr. President, if I may so make a suggestion now while the thought is fresh in our minds as to the address to the Rules Committee, wouldn't it be possibly wise to consider conferring with the Chairman and ask the Chairman of the proposals that are coming up now to read all the other proposals and try to figure out what possible conflict there is and submit all of these possible conflicts to the Rules Committee and then that possibly the Rules Committee could except those sections from the general two-thirds rule. I see now that last year had come up, two months ago that question that we had in our Rules Committee. We lost a bit of time there. I am afraid the situation had no reason, but I for one was afraid it might happen. But possibly if a general reading of all the proposals was mandatory with the chairmen at least, and if a list of possible substantial conflicts were arrived at, the Rules Committee could then possibly decide upon which sections were in conflict and elevate all of those out of two-thirds rules. We would save a lot of time and future argument.

RILEY: I think the approach you suggest would probably be considered, Mr. Kilcher, at least as far as getting the committee chairmen together is concerned.

FIRST VICE PRESIDENT: Mrs. Sweeney.

SWEENEY: I would like to make a motion, but I would like to say a few words before that. I recognize that Mr. Gray has given the delegates a week's notice that the apportionment proposal was coming up. However, it might be that the delegates are ready to consider Proposal No. 14 at this time without this additional time, so I would like to move and ask unanimous consent that Committee Proposal No. 14 be taken up at this time rather than Committee Proposal No. 5. That is the apportionment proposal.

GRAY: I object.

SWEENEY: I so move.

HARRIS: I second the motion.

FIRST VICE PRESIDENT: It will take a two-thirds vote for that consideration.

UNIDENTIFIED DELEGATE: Roll call.

FIRST VICE PRESIDENT: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Awes, Coghill, Collins, Emberg, H. Fischer, Harris, Hellenthal, Hinckel, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Reader, Sweeney, Taylor, Wien.

Nays: 25 - Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, V. Fischer, Gray, Hermann, Hurley, Johnson, Kilcher, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Walsh, White.

Absent: 5 - Hilscher, Poulsen, Stewart, VanderLeest, Mr. President.)

HINCKEL: Mr. President, I wish to change my vote from "no" to "yes".

HURLEY: Mr. President, I wish to change my vote from "yes" to "no".

CHIEF CLERK: 25 yeas and 25 nays and 5 absent.

FIRST VICE PRESIDENT: The motion has failed for the suspension of the rules. We will have Proposal No. 5 before us. Mr. Doogan.

DOOGNA: Mr. Chairman, I would like to move that the figures as spelled out in Section I conform as finally settled upon in the apportionment article.

HERMANN: Point of order, Mr. President. Did we not agree that we would not discuss Section 1?

FIRST VICE PRESIDENT: That is true. Section 2. We are holding No. 1 an d25 in abeyance. We start with Section 2. Mr. Harris.

HARRIS: Well, since we have wasted 15 minutes, and it has reached 5:30, I make the motion that we recess until 7:00 this evening.

DOOGAN: I second the motion.

FIRST VICE PRESIDENT: All those in favor of recessing until 7 o'clock this evening will signify by saying "aye", all opposed "no". The "ayes" have it. So ordered.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. The Chair wishes to call your attention to the fact that we don't have a stenotypist here and do you wish to continue with the recording here? There is supposed to be a man coming to replace the lady here and he hasn't shown up so far. What is the pleasure of the Convention? Mr. Johnson.

JOHNSON: I don't see how we can continue with the plenary session without a stenotypist because that is required by the Convention.

FIRST VICE PRESIDENT: Mr. Harris.

HARRIS: Mr. President, if I might make a suggestion, the stenotypist could take the notes from the tape machine.

HILSCHER: Mr. President, if we decide to go ahead, Mr. President, it would be well for you to in all cases give the name of the person who is on his feet so that they will not have to depend upon the voice to try to identify the person.

CHIEF CLERK: I keep a record of each person in the order that they speak.

FIRST VICE PRESIDENT: Mr. Hurley.

HURLEY: Put my name down. I move and ask unanimous consent that we continue with the business before us.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered. I think the first thing in order is the report from the Rules Committee. Mr. Riley.

RILEY: Mr. President, the Rules Committee met during the recess and on the question presented, reports as follows: that Section 25 in the legislative article be stricken from the legislative article and that it be considered later with the apportionment article. That Section 1 of the legislative article now before us, the Committee recommends that that be considered now for the reason that the apportionment formula if adopted will apply against whatever number of senators and representatives are provided in the legislative article. There is further reason that once these numbers are fixed in the legislative article, there will be time still for apportionment to consider that if change is indicated. As to other matters referred to the Rules Committee, the Committee on Rules asks that all chairmen of all committees call to Rules attention particular conflict concerning their articles, and that they do that prior to those articles coming up, that they note such conflict. In that event, Rules can then recommend to the Convention the assignment of that conflicting subject matter as between committees and as between articles. I ask unanimous consent that the Committee report be adopted.

MARSTON: I object.

RILEY: I so move.

DOOGAN: I second the motion.

FIRST VICE PRESIDENT: It has been moved and seconded that the Committee report be adopted. Is there any discussion? Mr. Marston?

MARSTON: May I ask the Delegate a question? Do I get it clear here that you're going to work on this first part of the program here on the size of the house?

RILEY: That is the Committee recommendation, yes, that the body consider that now.

MARSTON: It is very unfortunate that the whole program of apportionment and reapportionment has concrete definite reason why there should be a senate of 20 and house of 40 and it isn't in here. It isn't necessary that you do things here that will absolutely upset the apportionment rules.

RILEY: It is a coincidence that the two articles are almost in agreement. One states 20, the other states 20.

MARSTON: If you'll keep that there, I'll go along with you, but

--

RILEY: I won't guarantee a thing.

MARSTON: I wish you would, I'd be very happy.

FIRST VICE PRESIDENT: I think the motion before us is to adopt or reject the committee report and I think we should confine the discussion. Is there further discussion on the motion? Mr. Londborg.

LONDBORG: Did Mr. Riley mention that if we adopt the legislative report as it is, just in as much as it happens to be the same as the Apportionment and the Apportionment should come up with something different, we could go back and change this, is that right?

RILEY: No, that was not my suggestion. I believe you misunderstood me. The Committee recommends that Section 1 be considered now and that numbers be fixed in Section 1 as to the composition of the house and the senate, with the view that apportionment is a matter of devising a formula, which formula will apply against whatever numbers are adopted for senate and house. Now as we know, the articles happen to coincide or are nearly in agreement. One says "not less than" and the other says "shall be". Now we feel that in the case of which came first and the logical order here, in our judgment, is the legislative article because the matter of devising a formula can be worked against whatever number the Convention adopts.

LONDBORG: I can see a possible conflict even with that because in our consideration of a formula, we may wish to come up with a different number and with that in mind, I think we are giving up our right then to change the 20 and 40, unless by a two-thirds vote.

FIRST VICE PRESIDENT: I wish to call a two-minute recess. The stenotypist is here and it will give him an opportunity to set up his machine.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. We are ready to proceed. We now have a stenotypist with us. Now, Mr. Londborg, if you want to continue with your statement, you may do so.

LONDBORG: Well, I'd just like to say this, that there are apportionment plans, I believe, that leave a limitation as far as the number that are flexible. And if we adopt something like that, then we are stuck with a 24/40 plan, if that is adopted in the Legislature, and it couldn't be changed except by a two-thirds vote.

FIRST VICE PRESIDENT: Mr. Riley.

RILEY: Mr. President, in this respect I feel full confidence that if we ever found ourselves in an unworkable situation that was conspicuous or obvious, that two-thirds would never be a problem.

FIRST VICE PRESIDENT: Mr. Kilcher.

KILCHER: Mr. President, I will be in favor of this general motion if the Chairman of the Rules Committee could assure me for the record that when the discussion of districting comes up in apportionment proposal, all references to this Section I will be ruled out of order. I'll tell you the intent of that. If it seems advisable for consideration of districting which is a matter in itself, to come up with 19 or 21 senators, I wouldn't like to hear them say, "Well, bud, you're stuck with a two-thirds vote." I would like to see a substantial conflict permitted to develop, and then when we have a substantial conflict it will be possible to get a two-thirds majority, otherwise, I wouldn't want to have that thrown in my face, because I can plainly see where conflicts will come up. It looks too much like trying to tie something down with two birds with one rock, but to me it looks much more like driving a square peg in a round hole.

FIRST VICE PRESIDENT: Mr. Riley.

RILEY: Mr. Kilcher, as I have mentioned, it's like the question of the chicken and the egg, but in any event I can't guarantee that anything would be ruled one way or the other, not having the gavel, but I am confident, as stated, that in a given situation two-thirds will be no problem.

FIRST VICE PRESIDENT: Mr. Cooper.

COOPER: Mr. President, it was my understanding in the meeting with the Rules Committee that each and every committee proposal is treated in a like manner on this floor and that when the Apportionment Committee report hits this floor, it can, and undoubtedly will, be acceptable to amendments on a simple majority, is that not right?

RILEY: Yes.

COOPER: So there is no conflict whatsoever. There will be no two-thirds, three-fifths, or seven-eighths required to do anything to the Apportionment Committee, only the simple majority that is required at the present time.

FIRST VICE PRESIDENT: Mr. Londborg.

LONDBORG: Mr. President, in other words, if we come up with

something in Apportionment and we want to change the figure of 40, that can be done by pulling Legislative back and doing it on majority vote, is that right?

COOPER: As I understand it right now, the Apportionment Committee -- and this is the consensus in the Rules Committee -- that is that the Apportionment Committee, or any committee report yet to come on this floor can be amended by simple majority, they are all treated alike.

RILEY: I don't think these two gentlemen are both approaching the matter from the same end. Certainly, when Apportionment comes up in the future, every action taken on apportionment, until it gets out of second reading, will be taken by majority vote. But Mr. Londborg's problem is this: we have included second reading of the legislative articles. He fears that some change may occur, thanks to the action taken on apportionment, that there may be need for a change in the legislative article. In that event, what you heard discussed about a majority did not apply, but I think there, just on the basis of reasoning, that we would have more nearly a unanimous vote than a two-thirds.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: Mr. President, I would like to point out something else. In proposal No. 14 it says that, "The house shall be composed of 40 members and the senate shall be composed of 20 members." If we adopt a 20/40 figure for the legislative article, if when apportionment comes up and we decide that those figures are wrong and we want to change 40 to 35, we can change it to 35 in that article; and then, if the majority so desires, then, of course, we have a conflict between two articles that will have to be resolved, but then the two articles will be on an equal footing, one will say "35" and one will say "40". Then it's just a matter of working it out without necessarily resorting to --

HELLENTHAL: Mr. President.

FIRST VICE PRESIDENT: Don't interrupt the speaker, please.

HELLENTHAL: I'm sorry.

V. FISCHER: -- without necessarily having to resort to a two-thirds majority vote.

FIRST VICE PRESIDENT: Mr. Hellenenthal.

HELLENTHAL: Mr. President, I'll grant what you say is true, Mr. Fischer, but if one of the group decides that it should be,

say, 45 in the house rather than 35, then under your interpretation, could a simple majority alter the figure that is adopted now?

V. FISCHER: Well, if we adopt 40 now and then, when apportionment is in second reading, we up that to 45, I think the same will hold true -- one will be at 40 and one at 45, and then we will just have to get together and work it out.

HELLENTHAL: I don't quite agree with you. I think that the action fixes a ceiling on it. If we approve Section 1 of the legislative article, I think we set a ceiling on the numerical composition in the house and senate, and to change it beyond that ceiling would require a two-thirds vote. But I agree with Mr. Riley. I have a lot of faith in the body, and I shall abide by the decision of the Rules Committee.

FIRST VICE PRESIDENT: Mr. Kilcher.

SUNDBORG: Point of order, Mr. President. Mr. Kilcher has already been heard twice on this subject, and I think we should invoke the rule that says that no member shall be heard more than twice on any motion.

FIRST VICE PRESIDENT: I'll be glad to enforce that, but you folks deviate from your rules every other day and I'm trying to be fair about the thing. All right, Mr. Kilcher, you said your piece, you spoke twice. We'll adhere to this rule. Mr. White.

WHITE: Mr. President, now I'm getting confused. If I understood Mr. Riley and Mr. Fischer correctly, they are directly contrary in their statements. I'd like to hear from Mr. Riley.

FIRST VICE PRESIDENT: You're directing a question to someone -- Mr. Fischer or somebody?

WHITE: Well, I'd like to direct a question to Mr. Riley.

FIRST VICE PRESIDENT: Mr. Riley, do you care to answer that?

RILEY: It's a difficult question. I'd say in many matters we are in accord. Mr. Fischer suggests that if that impasse results, that would be up to the body to reconcile the situation. I think he said they would get together. I may be mistaken on this, but I don't think he launched into this two-thirds proposition very fully.

WHITE: If I understand it correctly, that when we come to apportionment, if we wind up in variance with what we adopted in this legislative article, it is merely a matter of ironing it out with a majority vote.

RILEY: Ironing it out with a two-thirds vote in the legislative article. Apportionment will be a majority proposition all the way through second reading as all others, but if legislative meanwhile had been disposed of and gone into third reading, or gone to Style and Drafting, it will take a two-thirds vote to get it back to the floor for amendment.

FIRST VICE PRESIDENT: Mrs. Nordale.

NORDALE: I think it's a little ridiculous to assume that we couldn't get a two-thirds majority to prevent our coming out with a constitution that said one thing in one section and an entirely different thing in another section. I think we'd probably get a unanimous vote to get them together.

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: Mr. President, I believe we have in our rules another procedure for resolving these conflicts if such a conflict as has been supposed here should arise, and that is that the Style and Drafting Committee is directed to work out those conflicts and to make, if they can't work it out, to make a recommendation to the floor on how it should be resolved. So I think if we should come out and adopt 40 as a number here and 45 in another article, obviously, there is a conflict here which Style and Drafting has to resolve. Style and Drafting would then make a report to the Convention, which would either be adopted or rejected by a majority vote, not by a two-thirds vote, and if adopted, that would be the number. If it is rejected it goes back to Style and Drafting again and they come out with another number until finally they get one that is adopted, and that language is written right into the appropriate article and it doesn't take a two-thirds vote to do so.

FIRST VICE PRESIDENT: The Chair is of the opinion that the interpretation of the rule by Mr. Sundborg is absolutely correct. Any further discussion on this motion?

LEE: Do we have a question before the house?

FIRST VICE PRESIDENT: Did you wish to speak Mr. Lee?

LEE: No sir, I wanted to know if we had the question of the adoption of the report before us.

FIRST VICE PRESIDENT: That is what we are discussing now.

LEE: I would like to call for the question.

WHITE: May I ask a question?

FIRST VICE PRESIDENT: This is your first time?

WHITE: Second.

FIRST VICE PRESIDENT: Just ask your question.

WHITE: In adoption of this report, Mr. Riley, are we assuming that you have recommended that we make no disposition of other sections of this article? Do we just leave it for the future?

RILEY: I might in reply state some background known to Mr. White and myself and the Rules Committee, that the Finance Committee did call to our attention other conflicts or other sections which were covered in other articles. Perhaps not in case of conflict, but the recommendations made by the Rules Committee covered Section 25 and Section 1 specifically of the legislative article and included in our report was a general recommendation that the other committees follow the practice already adopted by the Finance Committee. We asked that those conflicts be called to our attention early in order that we could recommend back to the Convention assignment of that subject matter to a particular article and to a particular committee, with the thought that the same treatment would be given it that is here recommended for Section 25, that it be stricken from this article and considered in the next.

WHITE: When we come to the article in question, then we so recommend?

RILEY: Well, we will try to set up a schedule where we may know before coming to that article if all the committee chairmen respond it will expedite the whole process.

FIRST VICE PRESIDENT: All those in favor of adopting this committee report signify by saying "aye". Contrary by saying "no". It is unanimous. The motion is carried and so ordered. Now you have Section 1 before you as to the figures, am I correct on that? Do I hear any amendments to Section 1? Not hearing any, we will proceed to Section 2. Mr. Barr.

BARR: I wasn't aware of everything that was going on, but since we are now allowed to amend this, I would like to move to amend on line 3.

FIRST VICE PRESIDENT: Which section?

BARR: Section 1. Line 3. Change the figure 20 to 16. I move its adoption.

FIRST VICE PRESIDENT: Do I hear any second?

NOLAN: I second the motion.

FIRST VICE PRESIDENT: Any discussion on the question? Mr. Hellenthal.

HELLENTHAL: Yes, I'm prepared to give the report of the Apportionment Committee at this time.

FIRST VICE PRESIDENT: I wish you'd confine it to this motion before us. Could you wait until we're through with that, or does it have a bearing on this?

HELLENTHAL: It has a direct bearing on this motion, and I reluctantly do so because I feel that this should be considered in its proper place. It's going to take about an hour and 15 minutes, Mr. President, and then when I'm through with this there may be other members, I know there will be, who will want to be heard on this.

RILEY: I raise a point of order, Mr. President.

FIRST VICE PRESIDENT: State your point of order.

RILEY: I heard Mr. Hellenenthal's reply the last time it was suggested, and this might be out of order, but the Apportionment Committee's report will normally accompany the apportionment article consideration, which is set on the calendar for sometime in the future, and I don't think that in view of the action just taken, that we need hear the Apportionment Committee's report at this moment.

FIRST VICE PRESIDENT: Mr. Riley, the Chair inquired of that, and he states that his talk will be directly on this motion, so I think that would be in order.

COGHILL: Mr. Chairman.

HELLENTHAL: I yield to Mr. Coghill.

FIRST VICE PRESIDENT: Mr. Coghill.

COGHILL: With the consent of Mr. Hellenenthal, I'd like to have a one-minute recess for the purpose of a conference.

HELLENTHAL: I will gladly consent.

FIRST VICE PRESIDENT: Granted. The Convention will recess for one minute.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Barr, Mr. Hellenenthal has the floor.

HELLENTHAL: I'll yield to Mr. Barr.

FIRST VICE PRESIDENT: Mr. Barr, you may have the floor.

BARR: As I stated, my reason for making this motion, for changing the figures to 16 has nothing to do with apportionment, and I'm only worried about the mechanics of the legislature, the operation of the legislature and the difficulty of operating with 20 members. Now I'm willing to take this up some other time if I know no other amendments are going in or if this Section 1 was not going to be considered until later when we take it up in apportionment. I'm willing to delay it, but I wouldn't want it to go through this way and not be able to change it later. Is anybody else going to make any amendments on it, or leave it over until we consider the apportionment report?

HELLENTHAL: Mr. President, I would certainly agree with Mr. Barr that it may be delayed and considered once fully after we have all the facts.

FIRST VICE PRESIDENT: Mr. Hellenthal, I think you should confine your statements to the motion. If you wish to delay this motion, you know how to do it, and you folks know what it is.

BARR: I'm uncertain in my mind about what anybody else will do or whether I'll have an opportunity later to submit this amendment.

FIRST VICE PRESIDENT: I don't think you should try to get the delegates to commit themselves.

BARR: I don't believe I'll be able to.

FIRST VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: If 16 goes through, I'll move for 21. If that fails, I'll move for 22, and if that fails, I'll move for 24 members of the senate. I'm willing to accept 20 though.

FIRST VICE PRESIDENT: Mr. Barr, do you wish to yield? You have the floor.

BARR: I know now what Mr. Victor Rivers will do if this goes through. I'm worried about what will happen if I withdraw my motion, if there will be like amendments or any amendment.

FIRST VICE PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: My point is that I would be unable to vote on this motion until I have heard from Apportionment. We are absolutely shooting in the dark unless we know all the facts, as Mr. Hellenthal said. I would be willing to say that if they suspended Section 25 of this thing to be filled in later after we have heard from Apportionment that we should give Section 1

exactly the same treatment. We should also leave Section 1 open by common consent so that anybody can propose any numbers that he wishes to propose at that time. In other words, that no one would be foreclosed by suspending Section 1 at this time. And then we could go ahead with the rest of this article, but we can't sit here and shoot in the dark on these numbers before we have heard from Apportionment. So I move and ask unanimous consent that Section 1 be suspended from consideration at this time, and that no one be foreclosed when it is considered in connection with apportionment.

FIRST VICE PRESIDENT: Mr. Rivers, the Chair feels that we have a motion before us here. You can table the question before us or postpone it to a set time, if you care to.

R. RIVERS: I regret my overlooking that he had made a motion.

BARR: Mr. Chairman, with the consent of my second, I will now withdraw my motion and I assume that Mr. Rivers will make the motion he was speaking of.

HELLENTHAL: I yield to Mr. Rivers.

FIRST VICE PRESIDENT: Mr. Rivers has the floor.

HELLENTHAL: I think I still have the floor, I may have lost it, but I don't think so.

FIRST VICE PRESIDENT: The Chair will hold that Mr. Hellenthal still has the floor, although he did yield here.

V. FISCHER: Mr. President, point of order.

FIRST VICE PRESIDENT: Mr. Fischer, state your point of order.

V. FISCHER: It seems to me that there is nothing in the rules which authorizes this kind of yielding. If a motion is made, for instance, now by Mr. Rivers, unless Mr. Hellenthal yields to me, I couldn't even second. Unless Mr. Hellenthal yields to me, I can't get up and object to it and speak against it. I think it's perfectly improper.

HELLENTHAL: I'll abandon my position.

FIRST VICE PRESIDENT: Mr. Rivers, you may proceed.

R. RIVERS: Well, in that case I wish to advance the same motion that I just made, that Section 1 be suspended along with Section 25 for consideration later and until we have heard from Apportionment and had our full consideration of apportionment, and that by so suspending, no one be foreclosed from moving for any particular number in the legislature at that time.

HERMANN: Point of order, Mr. President.

FIRST VICE PRESIDENT: State your point of order, Mrs. Hermann.

HERMANN: We have just passed a motion to consider Section 1 to accept the report of the Rules Committee, which was to consider Section 1 at this time.

FIRST VICE PRESIDENT: However, Mrs. Hermann, if I may interrupt, he can move to postpone to a set time or else table it.

HERMANN: That isn't what he moved. I think he'd have to move to rescind our action of accepting that report.

FIRST VICE PRESIDENT: Not necessarily. He is trying to postpone consideration of this particular question within that section to a set time, and it's perfectly in order, according to the Chair's ruling.

HERMANN: I believe Mr. Rivers has asked for a suspension.

FIRST VICE PRESIDENT: It isn't the way I understood it. He is asking for a postponement of consideration of this question to such time as we get a report from Apportionment Committee, if I am correct in that, Mr. Rivers?

R. RIVERS: Yes, indeed, but whether it took a two-thirds vote or not, I did not stop to consider, Mr. President, but we have now run into a snag, and after we had accepted the report of the Rules Committee, we run into a snag, I think there is nothing to stop us from going ahead and taking some other action. So I submit my motion.

FIRST VICE PRESIDENT: Do I hear any second to that motion?

BARR: I'll second it.

FIRST VICE PRESIDENT: Seconded by Mr. Barr. It is open for discussion. Mr. McCutcheon.

MCCUTCHEON: Mr. President, I don't see why there is such a furor here. If the members who were so concerned about their future rights will read the thing, they will find out that these are only maximum numbers.

FIRST VICE PRESIDENT: Any further discussion? Mr. Johnson.

JOHNSON: Mr. President, it occurs to me that we have been working on four proposals in the past two weeks, and the custom has always been to go through each proposal section by section and get all the amendments that anyone has to offer at the time,

and then to go back over the same proposal section by section, and ask for any other amendments, and if there are any further amendments, through the section. So it doesn't strike me that this motion is particularly out of order, because, as I say, we have been doing that very thing all the time. Until the proposal is submitted to the Committee on Engrossment and Enrollment, it's been before us in second reading, subject to amendment, period. And the amendments have been offered from one section to another, or in any order that they have come up, and we have always entertained them. There has never been any question about that.

FIRST VICE PRESIDENT: Mr. Johnson, the Chair feels that inasmuch as this particular question has been covered in two committees' reports, it is to the advantage of the Convention to see if there is a way out to combine the two after we hear the Apportionment Committee report. I think that's what Mr. Rivers had in mind.

JOHNSON: I wasn't objecting to Mr. Rivers' motion, I was simply pointing out that what he proposes is what we have been doing.

FIRST VICE PRESIDENT: Mr. Taylor.

TAYLOR: Mr. President, I can see no reason why we cannot go ahead with this at this time. The bill on apportionment states that there shall be 40 members of the house and 20 members of the senate. This proposed article says that the house shall consist of not more than 40 and 20 in the senate. It sets a maximum, so it could, no matter what happens, coincide with what Apportionment says. And another thing, we've got to look ahead and to the fact that there is a possibility that we might have to sacrifice some of our geographical area of Alaska to a nebulous theory that the northern part of it shall be used for defensive purposes, and so we may be deprived of two or three senatorial or representative districts. So I believe that the only safe method that we could pursue at this time is to consider number one, which sets a maximum, and it might be anything between half of what sets out there and up to the maximum limitation set here. It's a sliding scale, and in case we lost some of our geography of Alaska, this would still apply, and it would apply to the apportionment because the apportionment is based upon a population and geography. So you can't say that you have to wait on the apportionment bill to consider this, because this will work just as well with apportionment as the figures that they have got in apportionment, because you couldn't take those figures in the apportionment article because it might be wrong, because you might not have that many districts or you might not have the population you think you got, if the United States retains that northern part of Alaska and cuts out a good share of the geographical limitations so that it won't be

in the Territory. So we should adopt this and forget about the number that's in the apportionment.

FIRST VICE PRESIDENT: Any further discussion? Mr. Nerland.

NERLAND: Point of information, Mr. President. Couldn't this whole matter be pretty conveniently resolved by a rewording of this first section according to something like this: "The legislative power and authority of the state is vested in the legislature which shall consist of a senate and a house, membership in which shall be provided in Section So and So of the apportionment section." That way, we can take it up properly at the time when we come to it, instead of trying to argue about it now and reconcile the two proposals later.

FIRST VICE PRESIDENT: The motion before us, however, is to postpone consideration here. Mr. Fischer.

V. FISCHER: I would like to ask Mr. McCutcheon a question. Mr. McCutcheon, was your figure for the senate of not more than 20 and the figure for the house of not more than 40 based upon a convenient apportionment scheme, or was it based upon what the Committee considered to be a proper size for the respective legislative bodies for the State of Alaska?

MCCUTCHEON: Mr. President, I think I can say without deviating from the general sense of our Committee's thinking that the majority of the Committee felt that the legislature should be somewhat larger than it is, but did not feel that we should fall in the error of a number of the states which have run their legislatures up to two or three hundred people, and it was because of that thinking that we decided that something larger than our current membership, and we seized upon this figure because one of the members of the Legislative Branch was on Apportionment, and a number of the members of the Legislative Branch had observed the hearings and discussion what had gone on in the Apportionment Committee. It appeared that the Apportionment Committee had developed a theory of apportionment which fitted this type of figuring. So without getting into apportionment in the Legislative Branch to establish the figures, we set up these which it appeared would come out of the other Committee. Now there may be a conflict between the two inasmuch as the Legislative Branch has set a limitation, whereas I'm not sure that the Apportionment group intended to limit it.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: Well, Mr. President, I'm opposed to Mr. Rivers' motion because it seems to me that apparently the Legislative Branch Committee had a basis for establishing these figures. It seems to me that the purpose of the Apportionment Committee is to set up districts and apportion on the basis of what we

want to be the sizes of the houses of the legislature in the state. And it seems to me that the apportionment is a secondary matter, whether we have 50 members, as we may decide now, or whether we have 30 members in the house. We may have to revise the districts. I know the Apportionment Committee has worked hard, and they have come up with a certain apportionment scheme, but still the most important thing is to have the kind of legislature which we want for the state with the proper size. It may be necessary to revise the apportionment, the districting. but it seems to me that this is a proper place to decide on the membership of the house and the senate, and it seems to me that Mr. Barr's motion was perfectly in order and properly should be considered at this time, and I'm opposed to Mr. Rivers' motion, Mr. President.

FIRST VICE PRESIDENT: Mr. Cooper.

COOPER: Mr. President, I have heard several times that the members of the delegation, the delegates here want to hear from the Apportionment Committee. I am a member of that Committee, and I can say that you have heard from them. The Apportionment Committee set a figure of 20 for the senate and a figure of 40 in the house. It is identical to what is in Section 1, which is now before you. I think that is hearing from the Apportionment Committee. Seven men sat and decided and worked and figured out the apportionment for Alaska and arrived at a figure of 20 for the senate and 40 for the house. This Constitutional Convention has heard from the Apportionment Committee in so far as the number of legislators are concerned, and I think that Section 1 should go ahead and go across the floor and be considered.

FIRST VICE PRESIDENT: Mr. Buckalew.

BUCKALEW: Looking at this Section 1, it seems to be sufficiently elastic. I don't know what all the discussion is about, but I'm in favor of proceeding with the Constitutional Convention, and I move the previous question.

R. RIVERS: Generally the mover has the close. Do you want to cut me out of that?

BUCKALEW: I'd like to, but I'll yield. (Laughter)

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Hurley.

HURLEY: Point of order. The mover did not have the closing --

FIRST VICE PRESIDENT: The Chair will have to rule that the previous question has been ordered.

R. RIVERS: The previous question is though that there has been debate on this question and the motion is that we suspend this until later. Now I have never had a chance to close. Buck, do you still want to make the previous question?

BUCKALEW: I do, Delegate Rivers.

HERMANN: Mr. President, that will not prevent him from talking after the previous question has been ordered. He can then have his say.

FIRST VICE PRESIDENT: The Chair is in a position where he has to enforce these motions as they occur. Should you wish to extend the privilege of closing the argument to Mr. Rivers, then it is entirely up to the maker of the motion to withdraw, or perhaps someone to extend him that consideration. Mr. McLaughlin?

McLAUGHLIN: May I request unanimous consent to have a minute's recess?

FIRST VICE PRESIDENT: The Convention will recess for one minute.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order.

R. RIVERS: I ask unanimous consent that my motion may be withdrawn. Let the tail go with the hide.

FIRST VICE PRESIDENT: What motion was that?

R. RIVERS: My motion was that we suspend with Section 1.

FIRST VICE PRESIDENT: In other words, it nullifies the previous question. I see. And you're right back on Section 1, is that right?

R. RIVERS: Was unanimous consent granted?

FIRST VICE PRESIDENT: Yes, I didn't hear any objection. What is the pleasure of the Convention with regard to Section 1? Mr. McLaughlin.

McLAUGHLIN: Mr. President, I request that the Secretary read that.

FIRST VICE PRESIDENT: Will the Secretary read the amendment.

CHIEF CLERK: "Section 1, page 1, line 3: strike the words 'of not more than 20 members', and on line 4, strike 'of not more than 40 members'." So that Section 1 reads: "The legislative power and authority of the State is vested in the legislature, which consists of a senate and a house of representatives."

McLAUGHLIN: I so move.

WHITE: I'll second the motion.

BUCKALEW: Objection.

FIRST VICE PRESIDENT: It is open for discussion then. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I have no particular interest on either side of the question, except to get the show on the road, and one method of getting the show on the road is merely to drop out the numerals that seem to be bothering everyone. They are referred to specifically in the article on apportionment and it might be a bad start, but gentlemen, we can pick it up. It is one of the few things we can, in Style and Drafting and insert it back in where it belongs, properly in terms of form, but what we are arguing about now is merely a question of form.

FIRST VICE PRESIDENT: Mr. Buckalew.

BUCKALEW: Mr. President, it seems to me that we are arguing about a question of substance. He's changed it from 20 to 40 to just creating a legislature composing of a senate and a house. Now I think this amendment is one of the most illogical amendments that has been offered to date. The legislative article is going to have to determine the size of the senate and the size of the house -- the limits on it, anyway -- and I think we ought to vote on Section 1, and that's the way to get the show on the road.

FIRST VICE PRESIDENT: Mr. Davis.

DAVIS: Mr. President, I'd like to ask Mr. McLaughlin a question.

FIRST VICE PRESIDENT: You may.

DAVIS: Was it your intention, Mr. McLaughlin, that we vote on this section as you have proposed the amendment, and then at the time the apportionment section is considered we'll set the number and then Style and Drafting, or somebody else, can take the number which is set and put it back in this section?

McLAUGHLIN: Yes, Mr. Davis, and it doesn't require a two-thirds vote under any circumstances.

FIRST VICE PRESIDENT: Mr. White.

WHITE: I believe, contrary to Mr. Buckalew, that this is the most logical proposal that has been made all day. There may be some people here who feel that the figures in this paragraph have no relation whatsoever to apportionment, but it is also obvious that

there are other people who feel these figures are inextricably bound up to the part that Apportionment has done. So long as that is the case, somebody here is going to demand that we hear the entire apportionment story before we set any figures. I would agree with Mr. McLaughlin or anyone else who feels that the final resulting figures belong in this article and I think Mr. McLaughlin has found a perfect way out for now.

FIRST VICE PRESIDENT: Mr. Coghill.

COGHILL: Mr. President, I believe that this amendment will serve the purpose very well. The hour is getting late, and this being our first evening session, I feel that we should accomplish something, at least get through the first section on this proposal. So, therefore, I move the previous question.

FIRST VICE PRESIDENT: Do I hear any second to that?

R. RIVERS: I second the motion.

FIRST VICE PRESIDENT: The motion is that the previous question be ordered. All those in favor of the motion signify by saying "aye". All those contrary? The "ayes" have it. So what is the motion now? Will the Chief Clerk please read it.

CHIEF CLERK: "To strike the words on line 3 'of not more than 20 members' and on line 4, strike 'of not more than 40 members'."

FIRST VICE PRESIDENT: All those in favor of this motion signify by saying "aye".

UNIDENTIFIED DELEGATE: Roll call, Mr. President.

FIRST VICE PRESIDENT: Roll call, Secretary, please.

JOHNSON: Point of order, Mr. President.

FIRST VICE PRESIDENT: State your point of order, Mr. Johnson.

JOHNSON: Did you not announce the results?

FIRST VICE PRESIDENT: No, I didn't.

(The Chief Clerk called the roll with the following results:

Yeas: 38 - Armstrong, Awes, Barr, Boswell, Coghill, Cross, Davis, Emberg, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Knight, Laws, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, White, Wien.

Nays: 11 - Buckalew, Cooper, Doogan, V. Fischer, Lee, McCutcheon, McNeese, Peratrovich, V. Rivers, Sundborg, Taylor.

Absent: 6 - Collins, H. Fischer, King, Robertson, VanderLeest, Mr. President.)

CHIEF CLERK: 38 ayes and 11 nays, and 6 absent.

FIRST VICE PRESIDENT: The motion is carried. Any further amendments in Section 1? If not, we'll proceed with Section 2.

CHIEF CLERK: I don't have any amendments to Section 2.

FIRST VICE PRESIDENT: Proceed to Section 3. Any amendments to Section 3?

CHIEF CLERK: No.

FIRST VICE PRESIDENT: Any amendments to Section 4?

CHIEF CLERK: No amendments to Section 4.

FIRST VICE PRESIDENT: Any amendments to Section 5? Mr. Fischer.

V. FISCHER: I don't have an amendment, but I'd like to ask the Chairman a question, if I may.

FIRST VICE PRESIDENT: You may, Mr. Fischer.

V. FISCHER: Mr. McCutcheon, in the second sentence of Section 5 in line 13, is it your intention to preclude a legislator running for governor or United States senator or United States representative without resigning from the legislature?

MCCUTCHEON: The intention of this section was to place a prohibition upon anyone holding office transporting themselves around the new state campaigning at public expense. We sought to shut off any public funds from being utilized for political purposes, as has been done in the past. If they wish to run for an office other than this one, that is, given the two exemptions that exist here, then they shall resign from their office.

V. FISCHER: I'd like to ask a further question. It says, "No legislator or other elective or appointive officer" In other words, you're dealing here also with the governor in the legislative article?

MCCUTCHEON: With the governor and any of his appointees.

V. FISCHER: One more question. Is it your intent on line 15 where it says "until his services have been terminated" - does

that mean when his term expires?

McCUTCHEON: The intent is that he shall resign if he files for a different office.

V. FISCHER: If it was just a matter of whether resignation is a termination of his services, is that what you had in mind?

McCUTCHEON: Well, however you apply it. It shuts his pay off, that's it, period.

FIRST VICE PRESIDENT: Mr. Coghill.

COGHILL: Mr. President, I'd like to ask Mr. McCutcheon a question on the same line. On that same sentence that you were just discussing, would that preclude a board member from serving on a board, would he have to be asked to resign from the board?

McCUTCHEON: Yes, if he draws any salary from the State of Alaska.

COGHILL: It doesn't state so. He would just have to resign, whether he was just on a per diem and travel, such as our board members are today.

FIRST VICE PRESIDENT: Mr. Taylor.

TAYLOR: Mr. McCutcheon, I believe Mr. Fischer asked you a question as to whether a person would have to resign if he was running for the Senate of the United States or the House of Representatives in Washington, D.C. Did your Committee take into consideration that they are not state officers, that they could run. If they are paid by the United States they would not come under the provisions of this chapter or section.

McCUTCHEON: You mean a member of the national Congress is not a state officer except in the sense that he is representing but his remuneration does not come from the state, it comes from the national Congress.

TAYLOR: The members of the legislature of Alaska could run for senator or representative of Congress without resigning his position, if there be no prohibition.

McCUTCHEON: I'm not sure, and I hope the Committee will clarify the situation, if I have overlooked it. I'm not sure that our Committee discussed that particular point. Do you recall, Mr. McNees?

McNEES: No, we did not in Committee.

McCUTCHEON: Do you recall, Mrs. Sweeney?

SWEENEY: No, we did not concern with that phase of it.

McCUTCHEON: I think our intention was to eliminate the possibility of any state official of any nature whatsoever traveling at public expense for the purpose of campaigning, and that was our idea and our intent that he couldn't hold one job and run against another official of the state office. If we haven't quite accomplished that --

FIRST VICE PRESIDENT: Any further questions? Mr. Riley.

RILEY: Would a two-minute recess be in order to resolve that at this time, and I ask unanimous consent.

FIRST VICE PRESIDENT: So ordered, and the Convention is at recess for two minutes.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Before we proceed with our business, I'd like to ask the delegates to please state your names when you arise to speak. We have a new man operating here and he's not acquainted with you ladies and gentlemen. You have Section 5 before you. Mr. Sundborg.

SUNDBORG: I have an amendment for Section 5, it's on the Clerk's desk.

FIRST VICE PRESIDENT: Would the Secretary read the amendment to Section 5.

CHIEF CLERK: "Section 5, line 15: after the word 'office' insert the words 'or the Congress of the United States'."

FIRST VICE PRESIDENT: What is your pleasure, Mr. Sundborg?

SUNDBORG: I move for the adoption of the amendment.

TAYLOR: I'll second the motion, and ask unanimous consent for its adoption.

FIRST VICE PRESIDENT: Any objection? Hearing no objection, the adoption of the amendment to Section 5 is so ordered. Mr. Harris.

HARRIS: I have an amendment on the Clerk's desk.

CHIEF CLERK: "Section 5, line 13: delete 'or other elective or appointive officer of this state'."

HARRIS: I move its adoption.

FIRST VICE PRESIDENT: Hear any second to that?

BARR: Mr. President, I'll second it.

HARRIS: I'd like to state my reason for this amendment. I can see the time in the future where we might have some people serving on an elective or appointive office in a dollar-a-year capacity. Now those people, I don't think, should be prohibited from running for office if they so desire, and since this is a legislative article, I think we should try to confine it to the legislative branch and not to any and all branches.

FIRST VICE PRESIDENT: Any further discussion? Mr. Rivers.

R. RIVERS: Mr. President, as Mr. McCutcheon said, the objection is that people who are in the public service may not develop business all over the Territory just prior to the election and travel on Territorial expense and per diem. Well, a dollar-a-year man is only a dollar-a-year man so far as his salary is concerned. He, as a dollar-a-year man, can still get his transportation and per diem all over for campaigning purposes. So to carry out the intention of the Committee and actually ban all campaigning at state expense, we should turn down this motion of Mr. Harris.

FIRST VICE PRESIDENT: Mr. Barr.

BARR: Mr. President, my chief objection to this language that Mr. Harris is trying to delete, is that it has no place in the legislative article, it deals with the members of the executive branch of the government, and we have an Executive Committee report. I do believe they should not use public money for that reason, but I don't go quite as strong. I believe there should be a few that should campaign. I don't think that the governor should campaign to become a senator in Washington if he wants to.

FIRST VICE PRESIDENT: Any further discussion? Mr. Harris.

HARRIS: Mr. President, I don't want to take up too much time on this because we've got other things to do here, but as Mr. Barr says, in the executive section in the committee report that we do have a clause covering that for appointees of the governor, and if we are going to throw these clauses indiscriminately into every article, we are going to come up with a quite confusing document, I'm afraid. So, therefore, the main reason for suggesting it in the first place was to confine the legislative article to the legislative branch and let the other branches take care of themselves as they so choose, so that if there is a conflict, if there is a man that we think should run, we won't have him prohibited from it by making a blanket statement such as we have here.

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FIRST VICE PRESIDENT: Ready for the question?

TAYLOR: Question.

FIRST VICE PRESIDENT: All those in favor of adopting this motion, signify by saying "aye". Read the motion, Secretary.

CHIEF CLERK: "Section 5, line 13: delete 'or other elective or appointive officers of this state'."

FIRST VICE PRESIDENT: All those in favor of this motion signify by saying "aye". To the contrary, say "no". I think the motion is lost. The Chair rules the motion is lost. Mr. Victor Rivers.

V. RIVERS: I would like to ask a question of the Chairman of the Legislative Committee. If I understand it, the way we have amended it, if the governor wanted to run for senator or for the house of representatives of Congress, he would then file, and immediately, or prior to the time of his filing on the first of February, he would have to resign the governorship; and then, as we have the executive set up at this time, the secretary of state would become acting governor, and he would then have to resign in order to file to become governor.

FIRST VICE PRESIDENT: Mr. Rivers, are you speaking on a motion?

V. RIVERS: No, I'm asking a question. I'm just going to ask the Chairman of the Legislative Committee what becomes of all our successive state offices here, they all must resign for the office ahead of them when they start to file.

FIRST VICE PRESIDENT: Can you answer that, Mr. McCutcheon?

McNEES: I can answer that. If he wants to run for office, let him resign.

FIRST VICE PRESIDENT: Mr. Johnson.

JOHNSON: I have an amendment to Section 5.

FIRST VICE PRESIDENT: Will the Secretary read the amendment.

CHIEF CLERK: "Section 5, page 2, line 14: after the word 'state', add the words, 'except members of boards'."

FIRST VICE PRESIDENT: Mr. Johnson.

JOHNSON: Mr. President, I move the adoption of the amendment.

FIRST VICE PRESIDENT: Do I hear any second?

HARRIS: I second it.

FIRST VICE PRESIDENT: Mr. Harris seconded the motion. Is there any discussion on it? Mrs. Nordale?

NORDALE: May I ask a question of Mr. Johnson?

FIRST VICE PRESIDENT: You may.

NORDALE: Is a board member considered an officer of the state?

JOHNSON: Well, I would think so, he's a civil officer if he occupies a board created by the legislature.

NORDALE: Even though he doesn't draw a salary?

JOHNSON: That is correct, I don't think that makes any difference.

FIRST VICE PRESIDENT: Will the Secretary read the amendment?

CHIEF CLERK: "Section 5, line 14: after the word 'state', add the words 'except members of boards'."

FIRST VICE PRESIDENT: All those in favor of adopting this amendment signify by saying "aye". Contrary? The "ayes" have it, and it is so ordered. Any further amendments? Mr. Coghill.

COGHILL: Mr. President, I'm concerned with what Mr. Victor Rivers just brought up, and I'd like to direct a question, if I may, to the Chairman, Mr. McCutcheon, as to the extent of the governor. You know as well as I do that any governor or senator will use every opportune time to get up and speak or to further his political career, if that is his aspiration, and in going around to dedicate school buildings, or what not, why he'll become a prominent public figure in that community, and, in turn, is promoting his own political or general welfare. Now are you in this requiring a governor to resign his office and the lieutenant-governor take over, if he wishes to become a state senator, or file for the state senate?

MCCUTCHEON: Would that be an unacceptable procedure? The line of automatic succession as set up in the executive articles would take care of the office. It seems to me that a governor is going about the state on business of the state, no matter what he was doing, if he were dedicating things, as you say, he may do so, until the date he files for election, or files for office at national level, then it seems to me that comes within the intent of this Committee, and that he should get off the payroll.

V. RIVERS: I'm not asking a frivolous question when I say that at the same time the governor resigns to run for Congress, why then the secretary of state must resign to run for governor.

McCUTCHEON: He does not have to resign to run for governor, if I understand your automatic succession sets up a vacancy.

V. RIVERS: He would be the automatic successor as the acting governor, but he'd have to run for re-election from the secretary of state's position.

FIRST VICE PRESIDENT: We have no motions before us. Any amendments?

NORDALE: May I ask Mr. McCutcheon a question, Mr. President?

FIRST VICE PRESIDENT: You may.

NORDALE: This says, "To run for election to any other state office"; that would mean that anyone could run for re-election?

McCUTCHEON: Right.

FIRST VICE PRESIDENT: Hearing no amendments, we'll proceed with Section 6 Mrs. Sweeney.

SWEENEY: I don't have an amendment, but I would like to ask concerning line 24, between the words "except" and "felony" whether the word "treason" should be in there, Mr. McCutcheon? In our first draft we did have "treason" in there, and I was wondering whether this is just a slip that it is not there now?

FIRST VICE PRESIDENT: Care to answer that, Mr. McCutcheon?

McCUTCHEON: As I recall, as a matter of fact, we did have "treason" in the original article, and it seems to me that our consultant said that it would be unlikely that a treasonable act would occur insofar as our state was concerned.

R. RIVERS: Well, treason is a felony, too.

SWEENEY: Well, I just wanted to be sure that we are all right in leaving it out, and, as I say, we did have it, and your constitution carries it.

McCUTCHEON: It appears that several of the attorneys state that treason is a felony, so it would be covered under a felony.

HERMANN: I'm wondering if it was intended to omit "immunity" from service of a subpoena?

FIRST VICE PRESIDENT: Maybe some other members of the Committee should help Mr. McCutcheon out.

TAYLOR: I'd like to ask Mr. McCutcheon a question. Ordinarily the privilege of being served a civil process extends to members

of the legislature, but I see that the Committee has left it out of here. I was wondering whether that was done deliberately or whether it was an oversight? In other words to protect the members of the legislature so that they wouldn't be summarily taken away from the legislature to answer civil processes in the courts.

FIRST VICE PRESIDENT: I don't think Mrs. Hermann had an answer yet to her question.

HERMANN: It was the same thing.

McCUTCHEON: If I'm not incorrect -- and I'll stand corrected by any member of our Committee -- it was the intention of our Committee that while in session the legislators should be protected from the service of any type which would impede or impair their attending a session of the legislature, excepting in the event that they do create a felony or create a breach of the peace, so that our intent was that -- I think we are probably more concerned about being subjected to a libel suit, if they made some statement, and it is possible that we inadvertently overlooked the service of civil process which would interfere with their attending a legislature.

FIRST VICE PRESIDENT: Are you through with the answer to the question, Mr. McCutcheon?

McCUTCHEON: Yes sir.

FIRST VICE PRESIDENT: Mr. Buckalew.

BUCKALEW: I move for a three-minute recess to give the Committee an opportunity to draw an amendment to cover civil process for subpoena.

FIRST VICE PRESIDENT: Without objection, it is so ordered. The Convention will recess for three minutes.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. The Secretary will read the amendment by Mr. McCutcheon.

CHIEF CLERK: "Line 25, page 2: after the word 'arrest', insert 'and immune from service of civil process'."

BUCKALEW: I move its adoption.

FIRST VICE PRESIDENT: Do I hear any second to it?

McCUTCHEON: I ask unanimous consent for the adoption of the amendment.

R. RIVERS: I object.

McCUTCHEON: I so move.

BUCKALEW: I will second it.

R. RIVERS: I object just for the time being. The grounds for my objection is that you are not immune from service of process, you're immune from the compulsion to leave the body to go some place. Now if I'm in the legislature, someone can serve a summons upon me any time during the session. I can engage counsel in my home town to file a motion or an answer to stall the thing off. I think what it was intended here that no subpoena or other order of the court shall be compulsory while you're in attendance. Now I want to get at the same intention that Mr. McCutcheon is aiming at here, but I think we ought to pause just a moment before we act on this, because you're not immune from the service of a process. If somebody serves something on you, you're not under the compulsion, you don't have to respond and you're not in contempt of court. I just wanted to get this wording right.

BUCKALEW: Could I ask Mr. Rivers a question?

FIRST VICE PRESIDENT: You may.

BUCKALEW: Don't you think, for example, that the legislator that was served with a civil suit and I don't think he should be allowed to be served with a civil suit until after the legislator was over?

R. RIVERS: Well, he's got 20 days in which to answer. Any lawyer could file a motion to tide him over. Being served with a summons doesn't take a man away from the session. Perhaps we had better look and see what our legislative immunity says in our present statutes. I haven't had a chance to look at it here. But I am quite sure that normally services of various papers can be made, but you're not compelled to leave the body. That's the point.

HELLENTHAL: The book here refers to it as "immunity from civil process" in two places, on page 17 of this chapter on the legislative department.

R. RIVERS: That's from the PAS?

HELLENTHAL: Yes, sir.

R. RIVERS: That's probably just a reference to the subject matter though, without trying to guide us on the right phraseology.

HELLENTHAL: Why don't we pass this for a few minutes, go on to the next section while you and I check?

R. RIVERS: All right.

FIRST VICE PRESIDENT: We have a motion for its adoption on that. Do you wish to delay action on it and revert back to it? Mr. McCutcheon.

MCCUTCHEON: I ask unanimous consent to defer further action of this until we conclude the correct wording of the proposed amendment. I ask unanimous consent.

FIRST VICE PRESIDENT: Do I hear any objection? So ordered. We are still on Section 6, however. While they are making their corrections, does anybody have any other amendments in a different part of this section? I hesitate to go to other sections before they are through.

CHIEF CLERK: I have an amendment to Section 7.

FIRST VICE PRESIDENT: We'll proceed with Section 7, and in case I forget, someone remind me to revert back to 6. Read the amendment to the section.

CHIEF CLERK: Mr. Boswell: "Strike the first two lines from Section 7 and the word 'governor' in the third line and insert in lieu thereof, 'each member of the legislature shall receive for their services and per diem, a sum not to exceed one three hundred-sixtieth of the annual salary of the governor for each day's attendance while the legislature is in session.' Strike the comma after 'salary' in line 8. Insert a period, and strike the remainder of lines 8, 9, and 10."

BOSWELL: I so move.

COGHILL: I will second it.

FIRST VICE PRESIDENT: Mr. Armstrong.

ARMSTRONG: I wonder if we could have Mr. McCutcheon give us the thinking of the Committee on the need for an annual salary as it is opposed to this amendment? If one would strike out the intent of the Committee, let's hear from the Committee.

FIRST VICE PRESIDENT: I think this question was directed to Mr. McCutcheon.

MCCUTCHEON: The thinking of the Committee with respect to an annual salary, whether or not you agree with this particular formula is the fact that on an annual basis you will not have the

jam-up of legislation at the end of the session. It will be a continuing affair. The legislature can be activated or deactivated any time, either by themselves or by the governor. If there is a press of business, they can be summoned into session on short notice for a short period of time. Their salary is a continuing affair which doesn't require that they shall have to get up against a log jam in order to adjourn on a limiting date. Now the main theory behind an annual salary proposition is that if an annual salary is established, the legislators will conclude with as much dispatch as the public interest will permit the business of the legislature. They'll be happy to get back home. If it's put on a daily remuneration basis, then necessarily there must be a limit to the time that is established, that the legislature may sit, and by putting it in such a fashion we have then the same frailties of our legislative setup that we have in the Territory at this time. There are quite a number of the states that pay their legislators on a yearly basis. Consequently, while I may be partly in accord with the theory of the motion that is offered by Mr. Boswell, I personally in this respect believe that he is defeating the intent of our Committee by revising the salary proposition, because he takes out the comment of annual salary, which then makes the legislature on a limited basis and it will require substantial amendment in order to create the time limit as they should be set for the legislature.

BOSWELL: Mr. Chairman, I agree with the Committee's viewpoint, that it is not wise to put a dollar amount in the Constitution, and also I think it was a good idea to tie it to the governor's salary. I do not agree with their methods. In the first place, it would give us a questionable distinction of having the highest paid legislature in the 49 states. New York is now the highest with an annual salary of \$5,000. If we assume a salary for the governor of \$20,000, it would mean then that our legislators would be getting \$6,667. Also, I might point out that New York's tax receipts are in excess of one billion dollars, and it would seem to me that with our tax receipts such as they are, that putting our legislators' salaries up above New York would seem a little out of place. The Committee said in their commentary that this sum would result in career legislators. I don't believe it's enough money to induce anyone to make a career out of being a legislator. And, as a matter of fact, I'm not sure that having career legislators would be a good thing either. I think we'd better have a little fresh blood in there once in awhile, a new viewpoint. If we assume a salary of \$20,000 for the governor, this would amount to about \$55.50 per day. Extending that to a month and it would be \$1400. I think that would induce a fairly high type of person to run for the legislature. And if the legislature is in session for four and one-half months, it would then equal the amount that the Committee has set for it; it would equal one-third of the governor's salary. Of course, if it went on to

a six-month session, it would equal half his salary, approximately. It may be necessary for the legislature to sit for a long time for the first year or so, but I would expect that the time will come when it might only require a month or two. And if it does reach the time, say they should have a good Legislative Council which they have set up, that they only have to go there for a month, then on this committee proposal they would be working at an annual salary of \$8,000 a year, having gotten a third of the governor's salary for one month's work. And I'm merely seeking to establish a yardstick here that will pay the legislators on the basis of services performed, and if it takes four or five months for a while, that's fine, but the time may come when I think it would be a lot more applicable figure.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: Mr. President, I believe that the Committee's plan of an annual salary is highly desirable. If we go through with the amendment we would have to change Section "A" by adding a limit upon the session, because I do not believe that with a daily pay you would want to leave the length of a session completely open. I think that rather than approve the amendment, we should decrease the annual salary below the one-third of the governor's salary, and I have an amendment to offer in that line, if this is defeated.

FIRST VICE PRESIDENT: Mr. McNeese.

MCNEESE: Mr. President, in line with Mr. Boswell's remarks, I'd also like to remind the assembly here that New York also has 56 senators and 150 representatives.

FIRST VICE PRESIDENT: Mr. Rosswog.

ROSSWOG: Mr. President, if I might direct a question at some member of the Committee. I know in their thinking of this proposal that they must have considered the cost of such a three month session of the legislature each year. Just in rough figures I can see where at \$5,000 a year salary it would run to \$300,000 for salaries, and usually it costs that much again for other expenses, which be around \$600,000 per year. At present we have a session every two years, and I believe that it is considered for a yearly session, or longer.

FIRST VICE PRESIDENT: Any further discussion? Mr. Armstrong.

ARMSTRONG: Mr. President, I'd like to hear from some folks who have served in the legislature as to their feelings about this, because it seems to me it means a person forfeiting their time and business for a year or two years. There is not only the service to the state, but the retention of their own business and their own security and their home.

And before I could vote on this, I would want to see it from the standpoint of someone who has served in the legislature. What is your feeling about it, and are you in favor of an annual type of setup as we have it proposed here in the original section, which would be altered by Mr. Boswell's amendment? Could I direct it, say, to Mr. Barr over here? He's had to sit down in Juneau. What is your reaction to it, Mr. Barr?

BARR: Mr. President, I do favor the annual salary for reasons stated by Mr. McCutcheon. The legislature should be called any time for special sessions, and so forth, and that would not vary the sum expended, it would be constant year after year. And another reason is that I don't believe that some of us here realize that a legislator, himself, does a little work at other times. He's always speaking to his constituents, or they are asking him for something, and he's writing to the departments of the government trying to get it for them. It may not be a great amount of time he spends, but he certainly would feel as if he were obliged to do those things for the people if he were receiving an annual salary, instead of being paid just while he was in Juneau. Now, also, I'm not for giving the members of the legislature a really large salary, but I believe it should be large enough so that it would attract the right kind of people, not just men who would run for the salary alone. Perhaps they are footloose and fancy free, and they can't lose anything by filing for the election. In Alaska we do have some pretty high salaries paid at the present time. My opinion is that with the present salary, a single man can go to Juneau and can come back without losing any money, he might have a few dollars left in his pocket. A married man who has to maintain a home, say in Fairbanks or Anchorage, and then goes down there and lives in a hotel might lose by it, and in addition, if he is running a business of his own, he will lose. Now we know that the average good attorney makes more money in a month's time than he will receive in Juneau, and, of course, if we have attorneys down there, we want good attorneys down there, and most of them can't afford to leave their business. I believe the salaries should be tied to the governor's salary and not in a dollar amount, but a percentage thereof. And we must consider, of course, the ability of the Territory to pay these salaries. If we have a very large legislature, it takes more money, and if the salary is very high, it takes more money. We should pay them sufficiently, and I'm not prepared to say what that figure is, but it should be sufficient.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: Mr. Barr, what is the monthly salary of a legislator now?

BARR: It's \$15 a day and \$20 per diem. And actually, that \$20 is somewhat in lieu of pay, because we know that \$15 isn't very much pay.

HELLENTHAL: Would you say it was \$900 a month? Thirty-five times thirty?

BARR: Yes.

TAYLOR: Between that, less taxes.

HELLENTHAL: Well, I'm a lawyer, and I don't make \$2700 a month. I believe your remark was, though, that a lawyer made as much in one month as a legislator made throughout the session of the legislature.

BARR: If I did, I didn't mean to say that.

HELLENTHAL: That's the way I interpreted it, Mr. Barr.

BARR: No, I said that the average lawyer made more in a month's time than a legislator made in a month's time.

ARMSTRONG: Mr. President, the reason for my cross-examination on this is because of a fundamental belief that I have in the price that we are going to have to pay for statehood. I think as we move into statehood we must be secure in that fact, that the men we put into the office of the legislature will be assured that they can do the job and do it well, that we can call for the highest caliber of men throughout the Territory, and I'm talking about women, too, that's correct, Mrs. Hermann. But this feeling has been one that I have carried for many years. As people have talked about statehood, I have insisted that statehood would bring to Alaska the highest type of citizenry to work for us in our halls of the legislature, without reflection on any work that has been done before. And I think at the point of statehood we must produce the highest type of a legislation to show that we are able to hold our place in the sisterhood of states. So as I am trying to weigh this back and forth, my own feeling at this point is that we may have to pay more for the annual wage, but it would seem to me it would be a price worth paying, if we can hold ourselves up before the Union and say that we want the highest type of men and women to serve us in the legislature. So my feeling is to defeat the amendment and to retain some formula that would be set up in the original document.

FIRST VICE PRESIDENT: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I ask unanimous consent for two-or three-minutes' recess, please.

FIRST VICE PRESIDENT: Hearing no objection, it is so ordered, and the Convention is at recess for ten minutes.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Armstrong.

ARMSTRONG: I've had the occasion of being brought into a corner and talked to in reference to the statements I made. Not that I was reprimanded, but should I say, enlightened. I'd like to ask Mr. Taylor if he would speak to the Convention from the standpoint of his discussion with me as to where there was a fallacy in my procedure, for he was talking about deadlines and the amount of time away from a person's business in a little different angle, and I wonder if he would explain to the Convention some of the fallacies that he felt were in my arguments.

TAYLOR: Well, after quite a number of times in the legislature, we find that the ordinary person aspiring to the legislature that thinks of the salary last, I believe, and in getting something done for the Territory, first. And it is a considerable burden upon a man with a business to have to go away for even a stated period like 60 days. Ordinarily, we know when we go down for 60 days that we'll be back and we can arrange our affairs in the office accordingly. Now with an indeterminate session such as we've got, it would be a grave doubt as to whether a man with a business could run for the office, because he wouldn't know whether he was going to be gone for 30 days or six months. And so as I say, the salary proposition is something we should not consider too much. As we realize, the salaries heretofore for the legislature have been paid by the Federal government, the per diem has been paid by the Territory. So if we come out with a bill, or with an article in the constitution that shows that it cost \$600,000 to hold the Territorial session or a state session of the legislature, and it would be reflected in our constitutional articles when it went before the people, they might be a little hesitant about buying that bill of goods that we are trying to sell them. They will think it was a little bit too high, so I think that we should lower our sights on this, considerably below what is put in the proposed article. It might tie the salary to the governor all right, but I don't believe that in proportion as set out here, of one-third, because it might be that some year you might get \$6,000 for a 30 days session, and that's quite a large salary, and another time you might get the same amount of money for a two-months session. Of course then again, you may have to get \$6,000 for a six months session. If you got that, you'd be getting about just what you get now on a per diem basis. So I think we should be careful, not only in regard to the finances of the Territory, but also the effect that it's going to have upon the voters when this document is submitted to them for ratification. Now I think that Rivers had another thought that he brought up with Mr. Armstrong that he might like to elaborate on.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: Could I first ask Mr. Taylor whether he is for or against the amendment, since we have an amendment before us.

FIRST VICE PRESIDENT: You may.

TAYLOR: I don't think I heard the amendment.

FIRST VICE PRESIDENT: Will the Secretary read the amendment, please.

CHIEF CLERK: "Strike the first two lines of Section 7 and the word 'governor' in the third line, and insert in lieu thereof, 'each member of the legislature shall receive for their services and per diem a sum not to exceed one 300/60ths of the annual salary of the governor for each day's attendance while the legislature is in session.' Strike the comma after 'salary' in line 8. Insert a period and strike the remainder of lines 8, 9, and 10."

TAYLOR: That would be tied in to the governor's salary, but on a per diem basis. That might be a good idea.

FIRST VICE PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: I want to speak to the amendment. After having been down there one session as a member and also the attorney for forum sessions, including two extraordinaries, I have found that things lag at the outset, and as much as with this body, you don't seem to get very much done until you're facing a deadline. Your big production and your calling out of all your junk that gets thrown in all comes because of the fact that you are reaching a deadline and you have to get the job done in a certain time. So I don't like this indefinite, year-long call that you're on, or that you can string along with a job, especially with some people who never want to let go of a bone or a detail. You can't get the job done unless you have some definite periods of time is the way I feel about this, so I favor Mr. Boswell's amendment very much. I am very concerned about the amount of money that we would run into. We've got this big charge that the big doubt is whether Alaska can afford statehood. I think we have to trim the suit to fit the cloth. I don't see how we can come out paying \$300,000 a year for a legislative setup during the early years of our statehood when we are only paying about \$60,000 a session now. Maybe that's just \$15 without the \$20, but then you multiply that by two and make it \$120,000 a year for the legislature's activities, but this sounds like a deluxe deal, and I don't think we can afford it. So I go along with Mr. Taylor, that if many men who have businesses and professions were going to be asked to run on that sort of a nondeadline basis, which could string on for months, they might just as well give up the idea of running for

the legislature at all. As it is, many of your busiest men are your best men. They can spare 60 days, or 90 days at the outset and still plan accordingly, arrange their affairs and be in business, but if you cannot be in business and be on that kind of nondeadline continuous call, then you can't run for the legislature, so I think this system would eliminate more good, qualified, highpowered people than it would induce. I also think, as I said before, it would cost far too much. I think that the percentages as set forth by Mr. Boswell are very liberal. It would run \$55 a day on the basis of the governor getting about \$20,000 a year and you would simply be getting paid so much per day for the work you did. If we adopt Mr. Boswell's idea, I think we should stick in a provision that the legislature may extend its session for an additional month, emergencies or press of business requiring. But nevertheless, that would take a majority vote of the members of the legislature, you would still have a tentative deadline at the end of your 90 days, with a possibility of an additional 30 days. You would also have your extraordinary sessions as the basis for taking up any emergencies or unforeseen contingencies that might arise. I also concur that if you do give them a compensation based on a daily performance, then you have to fix a maximum period for your sessions, with a possibility of allowing them to extend for an additional 30 days or something like that. But I like that formula much better than this deluxe annual salary that cuts lots of good people out of really being able to run.

FIRST VICE PRESIDENT: Mr. Marston.

MARSTON: The time I was out, this vacation time, I learned one thing, I learned the fear of this gigantic price that we are paying for statehood on these salaries. I am all for it and I believe you can never pay a good man too much, but on this basis and the fear of the people that I talked to, it leads me to go right down the channel with Taylor and Rivers here on their thoughts and I think we should scale it down. I don't think we should do it tonight. It is now 9:30 and I move that we adjourn tonight at this time. Now tomorrow morning if someone could come up with a new formula, it will give us time to think it over. It is time to adjourn now and I move and ask unanimous consent that we adjourn for the evening, until 9 a.m. tomorrow.

JOHNSON: I second the motion.

UNIDENTIFIED DELEGATE: I object.

DOOGAN: Having voted on the prevailing side on the article on health, welfare, and education, I serve notice now of reconsideration for tomorrow on the motion to delete the last line of Section 1 of the article on education.

FIRST VICE PRESIDENT: Is that for a specific amendment?

DOOGAN: The last sentence.

FIRST VICE PRESIDENT: The motion before us is to stand adjourned. Mr. Riley.

RILEY: We have one announcement. During one of the recent recesses, the Rules Committee reconsidered the pending calendar, thinking that because we were now on the legislative articles and because there has been so much discussion of apportionment, that probably while all attention was directed to the two subjects jointly, the next matter on the calendar should be apportionment instead of the executive. I don't have my own calendar before me but the existing lineup was for the two executive articles, 10 and 12, following legislative and the Rules Committee felt that the body should have notice that it has made this change in the calendar whereby apportionment will be the next matter taken up after legislative, which will probably make it the day after tomorrow.

FIRST VICE PRESIDENT: Will the delegates make note of that, please, it's quite important.

McCUTCHEON: I'd like to make a committee announcement. The Legislative Branch will meet in the back of the room here at 8:30 tomorrow morning or as soon thereafter as any of the Committee can get here.

FIRST VICE PRESIDENT: The motion is that we adjourn until 9 o'clock tomorrow morning. All those in favor signify by saying "aye". The "ayes" have it and it is so ordered. The Convention is adjourned until 9 o'clock a.m.

ALASKA CONSTITUTIONAL CONVENTION

January 10, 1956

FORTY-NINTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Robert Sheppard of the First Church of the Nazarene. Reverend Sheppard will give our daily invocation.

REVEREND SHEPPARD: Let us pray. Our Heavenly Father, we consider it to be proper and fitting that we again today look to Thee for a moment of worship before we turn our hands to those things that lie before us. Thy Word has told us that the Lord is nigh unto all of them that call upon Him and call upon Him in truth. We pray that Thou shalt enable us to see that truth and to know it that we might have the nearness of Thy presence and the strength Thou has to give. We thank Thee for this Constitutional Convention and all that has been accomplished to this good day. We thank Thee for the tireless efforts and the intimate concern to which this group has given itself to the task at hand. Now we pray as we look into the affairs of today with those associations we must necessarily have one with another, that we shall remember above all that there is one with whom we have the most intimate association and to whom we are the most responsible. That one is God. Therefore let us be diligent to seek out this that we know to be best and highest, that we might provide a document that shall truly govern and rule a great state and great people, as the Lord wills. Be with us to this end we pray. In the name of Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make? Mr. White.

WHITE: Reporting on the journal for the 44th day, page 5, fifth paragraph from the bottom, change the word "refer to" to "revert". Page 9, third paragraph from the top, insert a period after the word "Amendment" and strike the words "of Proposal No. 3". Page 14, bottom paragraph, strike the second "s" on "Rivers". Page 16, third paragraph from the bottom, excluding the roll call, strike the comma after Section 3 and insert a colon. Page 18, third paragraph, beginning with the words "Mr. Taylor", correct spelling of the word seized". Page 19, second paragraph, third line, insert "R." before the name "Rivers". Mr. President, the Committee recommends the adoption of the journal with those corrections.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journal of the 44th day be adopted with the recommended changes as offered by the special Committee. Is there objection? Hearing no objection, the journal of the 44th day is ordered adopted. Are there any petitions, memorials or communications from outside of the Convention? Mr. Coghill.

COGHILL: Mr. President, I would like to announce to the Convention that the children of the Nenana Public School and High School will visit the Convention on Friday morning, the 13th.

PRESIDENT EGAN: How many children will that be?

COGHILL: Twenty.

PRESIDENT EGAN: Do you suggest that perhaps the Convention delegates take those children to lunch?

COGHILL: If it is the pleasure of the Convention. They will board the train at Nenana, the Alaska Railroad, at 6:45 in the morning and arrive here at 8:30 and will catch the 9:50 bus to the Convention Hall. They will be here with the delegates that morning. If it is the pleasure of the Convention, I am sure they would enjoy it.

V. FISCHER: I think it would be a fine occasion for Mr. Coghill to take all the youngsters out to lunch, as well as the delegates.

PRESIDENT EGAN: Mr. Fischer, you might have a very fine idea there. Perhaps in the interim period we could decide what we will do. Mr. Hellenenthal.

HELLENTHAL: It may be somewhat in the wrong order, but there will be a meeting of the Committee No. VI immediately following the calling of the noon recess.

PRESIDENT EGAN: There will be a meeting of Committee No. VI immediately following the calling of the noon recess. That is the Committee on Suffrage, Elections and Apportionment?

HELLENTHAL: Yes.

CROSS: Committee on Resolutions and Recommendations has considered Mr. Marston's resolution entitled "Friendly Relations With Canada", and is returning it to the Convention with the recommendation that it be adopted by the Convention.

PRESIDENT EGAN: The report of the Committee will be committed to the Chief Clerk at this time. The Chief Clerk will please read the Committee report.

CHIEF CLERK: "The full Committee, Chairman Cross presiding, having met on January 6, 1956, and considered Delegate Marston's resolu-

tion of December 16, entitled 'Friendly Relations With Canada', hereby recommends that said resolution be adopted by the Convention, which resolution it herewith returns."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Are there reports of select committees? Are there any proposals to be introduced at this time? Any motions or resolutions? Under unfinished business, I believe we have Committee Proposal No. 5 before us in second reading. There are some amendments on hand. Is there a particular amendment pending?

CHIEF CLERK: Yes, Section 7.

PRESIDENT EGAN: Section 7. Mr. Johnson.

JOHNSON: May I be excused for the balance of the morning session?

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may be excused. The Chief Clerk will please read the proposed pending amendment.

CHIEF CLERK: "Strike the first two lines of Section 7 and the word 'governor' in the third line, and insert in lieu thereof: 'each member of the legislature shall receive for their services and per diem a sum not to exceed one three-hundred-sixtieth of the annual salary of the Governor for each day's attendance while the legislature is in session'; strike the comma after 'salary' in line 8, insert a period, and strike the remainder of lines 8, 9 and 10." This was by Mr. Boswell. It was moved and seconded.

PRESIDENT EGAN: It was moved and seconded that the proposed amendment be adopted. Is there discussion? Mr. Gray.

GRAY: It is too early in the morning, but I think before we go into the salary here on the legislature, I placed down some figures hurriedly which I wish everyone who has a pencil would take these figures and have some kind of comparison of what happens under Mr. Boswell's amendment, and then, if I may have the opportunity, the one three-hundred-sixtieth per day of the annual salary of the Governor, you pick a figure say of \$22,500, that happens to be the salary of federal judges, and that will probably be the salary of your governor, that of the federal judges. It may be 20,000 or 18,000, but as far as we know now the highest salary in the Territory is \$22,500. As long as we are handling dollars we might as well use plenty of them, so you can check my mathematics at this time. I did not go into too much detail, but first, this present plan runs \$63 a day, or roughly \$1890 per month.

DAVIS: That is the present plan of the committee proposal?

GRAY. No, that is the present plan of Mr. Boswell. One three-hundred-sixtieth of the governor's salary equals \$63 per day or

roughly \$1890 per month. Now I bring that up to compare any other method to this particular method. I am going to give you the ratio of the salaries of one-tenth of the governor's salary and one-twelfth for comparison. The way I have this is if the governor's salary is based on one-tenth of the legislative salary, one-tenth of the governor's salary, and we have got to remember that when we first start here, why the first year or two you may have 60-, 90-, or 120-day sessions. I see very little reason that they are going to get by with a 30-day session in the first several years, so using the figure, a 60-day legislature, and the legislator's salary is \$2,250 a year, that is one-tenth, which would give you on a 60-day session, would give you \$37.50 per day. I think you might as well accept the fact they will use the same per diem as we do now, \$20 per day. There is advantage to using the per diem because it is nontaxable. It is still money though, so you add the \$20 per day and that gives the per day salary of the legislature at \$57.50 per day, which runs \$1,725 per month. That is on the 60-day session. Now, right below that, take another group. This is series two, on a 90-day session for the legislature. Covering over \$2,250 per year gives you \$25 per day salary plus \$20 per day diem gives you a total income of \$45 per day or roughly \$1,350 a month.

R. RIVERS: You said the 90-day session? Are you talking about one-twelfth of the 60-day session?

GRAY: No. We may have a 60-day session. We may have a 90 or a 120 in the same year. This is a 90-day session.

R. RIVERS: Why does it drop from \$55 a day to \$45 a day?

GRAY: Because of annual salary. Why I bring this up is that as your legislature's days increase the salary automatically drops per day because you are based on an annual salary, and if you bring that into the days of the session, you can see the longer the session you hold your average per day drops. I take a third series, the 120-day session which gives you \$19 per day plus \$20 per day per diem which gives you \$39 per day salary or \$1,170 monthly salary. Now, what we have here, we have an annual salary that is basic and the shorter the session the higher the salary and the longer the session, the shorter the salary. You have a standard salary but you also have the per diem which you are going to have any way. You are going to have that \$20 per day and that takes care of the difference whether you are in session or not. You have a sliding scale. It is to the advantage of the legislators to get their work done as quickly as possible because every day their salary is progressively dropping. Also, you don't have to have any closing period. They are going to get the same amount of money outside of per diem whether in session 30, 60, 90, or 180 days, except for the per diem. I bring this in the matter of Mr. Boswell's remarks, that they get a salary of \$63 per day, the same as the governor. If the legislature chose to stay in session for twelve months, each one would draw \$22,500, the top salary in the

state, unless you had some limiting factor on it. Even with the \$22 per day these figures look fairly high, and I used one-twelfth, and the one-twelfth salary per year, I would like to put those down because I am going to put in for one-twelfth of \$22,500. It may be too small. I would like to take some advice from some other people on this thing. I will try the one-twelfth if it is too small then the alternate would be one-tenth. I am following the same thing, on one-twelfth of the \$22,500 is \$1,875 per year. In other words, if the legislature did not have a session they would draw roughly \$157 per month. I assume that what we are going to have is two propositions in this state legislature that you have to meet. One is that in the first years of the legislature your session may go three or four months a year, and in subsequent sessions you may have as low as 30-day sessions in the whole year, but probably 45-to 60-day sessions a year, but in your opening years you are going to have long sessions. In the one-twelfth, take the 60-day sessions first, under \$1,875 a year leaves \$31.25 per day plus \$20 per day per diem which gives \$51 a day salary and per diem, or roughly \$1,500 per month. On your 90-day session, that is what it is per year, it would be roughly \$20 per day plus \$20 per diem which equals \$40 per day. It would give you roughly \$1,200 per month. I bring up a 120-day session because I think in the opening years you are going to have 120-day sessions. Your salary would be \$15 per day plus \$20 per day per diem which equals \$35 per day which is the salary that the legislature is working on as of today. It is the salary the delegates are working on today, and that is for the 120 days which is a four-month period based on one-twelfth. Now there is an advantage on this per diem because it is tax exempt, I mean that \$20 is yours, the salary is not yours, only part yours. I just put this series of figures in so you possibly could evaluate what these figures mean, particularly what one three-hundred-sixtieth of the governor's salary means plus \$20 per diem on top of that.

PRESIDENT EGAN: Mr. White.

WHITE: I think Mr. Boswell's amendment contemplated one-three-hundred-sixtieth for salary and per diem combined.

GRAY: I think that would bring it down to about \$43 for the 90-day session. I believe that is all I wanted to show you was that if you could have a sliding scale on there, you create two things. One, you don't have to have a limiting day, 30 or 60. As the time progresses the legislature draws progressively less money every day they are in session. You are not limited to a certain length session, and it costs the state very little more, just costs the per diem expenses.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to ask Mr. Gray a question and then point out a point to the assembly that I think very definitely ought to be

considered here. Mr. Gray, in your thinking do you think it is possible during the first four or five years, four or five sessions of the newly formed state legislature, for the State of Alaska to actually complete the work that will be involved in drawing up a statutory set of laws for the state in a period of even 120 days? Might it not run twice that?

GRAY: Well, you asked for my opinion. Having not gone through it, why it is not going to be worth much to you, but I doubt that the session, the actual sessions, would run more than four months a year.

MCNEES: During the formative period?

GRAY: During the formative period. After all, that is a long time, that is practically long enough. For the people where it is in their backyard, that is all right, but for the people away from home, four months a year and during legislative sessions, that is a long time.

MCNEES: Thank you very much. I would like to point out here, too, that Juneau is not in the backyard for most of us, not that I have any quarrel and I am not bringing that up as a point either. It is a long way away from home, but I do believe that the vast majority of those who run for the legislature have good legislation in mind. Furthermore, I would like to point out on this Legislative Committee that brought out the original proposal No. 5, seven people involved, only two of whom had ever served or whom might have voiced any desire to serve in the legislative halls. However, of these seven there is not a one that is not interested in good legislation. I would like to point out the extreme importance of these first three, four, five or six formative years in our statutory law program. They are going to be tremendously vital years with many interim committees serving between sessions. I think they should be allowed to serve without any great financial sacrifice to themselves. I think it should bring the top men of the Territory to the foreground. When I use the term "men", I mean men and women because we all recognize the value of the women in our own assembly here. I think they will play an important role in the politics of the Territory forever, an increasingly vital role. I would like to point out, too, that if we put these salaries too low we are going to subject our own legislature during these formative years when lobbyists become increasingly important to that possible threat of back cubby-hole legislation which certainly should not enter into the picture, particularly during these formative years. I recognize the role of the lobbying in legislation. I am in favor of it, but not when it works to the detriment of the legislator in the hall because then it reflects directly back to the people. We want good legislation, and for good legislation we must pay. I know the financial problem that faces us in the formation of the new state. It is important, it is tremendously vital that we be able to pay for what we want, but knowing the resources

of this Territory, which is soon to become a state, as I do, I am not the least bit concerned in my own thinking, nor have not been for the last 15 years, but what we will be able to pay for it. Therefore, I heartily recommend that we set those salaries high enough first to bring top men to the foreground, secondly, to prevent cubby-hole legislation, and thirdly, to set an example for other states across the nation.

V. FISCHER: May I ask Mr. McNees a question?

PRESIDENT EGAN: If there is no objection, Mr. Fischer.

V. FISCHER: The pending amendment is to set the salary on a daily basis as against the annual salary as provided in the committee proposal. You are speaking primarily on Mr. Gray's argument against the daily proposal plan. What is your opinion of the annual salary as against the daily salary plan as proposed by the amendment?

MCNEES: Being a member of the Committee, I won't say I am defending the article primarily because I am a member of that Committee, but I do feel we came out with a workable recommendation in Committee with possibly some adjustment on the one-third figure. I would like to see it held to. I think that there should be a salary figure there high enough so that a man could become a careerist in the field. That is the only way we are going to prepare adequate men for the United States Congress.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I agree with the proposal of the Committee and will be willing of course to see the percentage of amount adjusted. I also feel with Mr. McNees that this first four or five years of being a state, possibly the first two, there might well be a session of 90 days or part of the year and another session of 90 days with a break in between, similar to the way Congress sits at the present time, and that would be especially true in the first years of the new state. I also feel this: I have served, as you know, in some six senate sessions, and it has been my observation that the senator who runs for the senate has certain commitments and obligations in his campaign that can range anywhere from \$250 to \$1,500. Then he goes to the senate and legislature and has to establish a second home during the legislature. If he is an active member he must also provide some additional secretarial help at his own cost. It has been my observation in the present level, a person with a business and transferring his residence to Juneau for a certain period of time, it has been my observation that he takes a loss of about \$1,000 a month at the present level. Now that is a direct loss; there is another indirect loss. If you perhaps happen to spearhead a revenue program which certain people that have done business with you feel will touch them, there is a very good chance

in the next four or five years, you will get very little business from them. I have in mind a legislator who has not been in the legislature for about four years. I asked if he intended to run next time and he said "No, I don't believe that I will because I am just recovering from the last session. There are some people who now come back into my store whom I haven't seen for two or three years and are getting kind of friendly again." That is the indirect loss that a man sustains. I would like to see a reasonable but a substantial and fair salary set for the legislature, and I approve the annual plan, not the one three-hundred-sixtieth percentage as Mr. Boswell's amendment sets up. It seems to me particularly in the first years of the state the annual salary basis would be the most desirable and best. I don't quite agree with Mr. McNeese that you are going to have men seeking careers on the part time basis of legislation, but I think it is very good training ground and could very well lead them into productive careers in the state executive and congressional legislative offices from the experience they gain in the two houses. I don't like to see us have to send men down there to make a personal sacrifice financially and of their time and not compensate them reasonably at least to offset in some part the benefit and value of their efforts plus the losses they take to their own private income. It seems to me this is an item that should be given serious consideration. I hope we maintain the annual plan as set up by the Committee. I am willing to listen to some adjustment in the percentage which they show.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I do not wish to speak to the motion so perhaps I should ask for special privilege.

PRESIDENT EGAN: If there is no objection, special privilege is granted you, Mrs. Sweeney.

(Mrs. Sweeney spoke under special privilege.)

PRESIDENT EGAN: Mrs. Sweeney, the way the Chair understands it is that if we set up anything related to salary in the constitution for legislators, that would become effective immediately following passage of the Enabling Act by the Congress, so the transitional measures will have nothing to do with the salary of the first legislators, so far as the Chair understands it. Mr. Londborg.

LONDBORG: There are a few things here that come to mind since I have heard the discussion on this proposed amendment and I would like to ask a few questions, if I may. First, I would like to ask a question of Mr. Victor Rivers. You made reference to the fact that often times there may be up to \$1,500 campaign expenses and that consequently a man going down there that has to put a man out for that much should have a salary sufficient enough to take up that shock, is that correct?

V. RIVERS: If a man has strong beliefs in certain policies and principles of government and on the basis of those policies thinks they would be of good value to the people and wants to let them know about that and what his thoughts are, he has an obligation to let them know, I believe, and he is required to spend certain monies. And out of that money the only way he reimburses his own pocket book for that is by having it in the salary. It is part of the cost of the operation of being a legislator.

LONDBORG: Along that line let us suppose there are two candidates, and they are equally earnest and zealous and equal as statesmen, and so equal that one gets elected by one vote over the other. The defeated candidate also has quite a shock to his budget. He has put himself out \$1,500 and who is going to pay for that? That is one thing I see in covering the shock of the campaign by a salary.

V. RIVERS: I think the answer to Mr. Londborg's question is self-evident. It is like everything else in life, it is a gamble. If you win, you win, and if you lose, you lose, and it comes out of your own pocket.

LONDBORG: It is interesting then that we take in gambling on it, but if there is such a shocking loss it is interesting to me why so many continue to run. Now I would like to ask a question of Mr. McNeese. He has been arguing that we are going to have a longer term during this transitional period. Then it would seem that either we should put it on a daily basis, speaking now on the amendment, as Mr. Boswell puts it, so if it runs longer they get salary each day for as long as it runs. If it runs shorter they get a salary each day for as short as it runs. It seems that we are having arguments for setting a very high salary on the basis of the fact that we have a long transitional period. I think we ought to look ahead when the thing is going to level down, what should be a decent salary then. If we feel it should be higher during the transitional period then leave it up to some other measure. I am not for underpaying by any means. I don't feel that the one-third is quite justified though.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I am in full accord with the Committee's report. People are strange sometimes. I want to point this out to this legislative body. I was in the last session of the legislature and I say that with some honor, and we had a tremendous fight in the house to get for people to this Convention \$35 a day, and I can recall some of the speeches that were made, and I remember that I had to fight like a tiger to get \$35, and then the people said they were not worth it because they did not want to vote for \$35 because they wanted to make the argument, when they got home that they were for economy. I think that the people here are probably the most important people in Alaska, and they deserve to be paid. As far as this legislature is concerned, I look upon a

legislator as one of the most important individuals in the state. The legislator is as important as a judge, the governor, and you pay a man according to the job he does -- the job that is created for him, and when you figure it out, cut it down to so much a day and go along and have to diminish his salary, that is nonsense. I don't see why you should put any strings on a legislature. They are mature individuals, and I don't think they are going to go down there and goof off on the money of the new state. It costs money to run for office and if you are going to make everybody eligible for an office, you are going to have to pay them, and I think that the proposal of the Committee is the only proposal I have seen that makes it possible for the average man to run; by the average man I mean the man who is making payments every month to the bank. When I went to the legislature I had to go down and see Dan Cuddy to get some money to get to Juneau, and I don't think that is fair. Maybe we want to eliminate it and let the people in certain brackets run. If you are going to start whittling it down, you are going to get to the point where we poor boys can't run for the legislature. I don't say we are more qualified, but I think we are entitled to the privilege to run for the legislature. The only way we are going to get that privilege is to be paid for it, and the only place I want to get the money is from the state treasury. I ask all of you to support the Committee proposal because I think it is a step in the right direction, and I think we're going to get a lot of good members turning out for that first state legislature.

MARSTON: I am going to ask some questions to get my own mind made up here. When I was out during the recess I found a lot of sincere people questioning the Committee's recommendation for this big amount of money. I am for paying good people. You pay good wages and you get good help, but whether it is the right thing to do now or not, I have a question after hearing, the people outside talking about that large sum we are giving to the legislature over and above the present operating cost. This is a question I would like to get at. Further, I don't think we are going to have a long session of this new State of Alaska. What is the story of other states when they came from territory to statehood? Did they take a long session? These are the questions I would like to have you answer so I can make up my mind. I would like to ask the author of this amendment to figure out how much money he would pay for a 60-or 90-day session. Then I would like to ask the wizard of figures here, Mr. Gray, how much his scale would cost for a 60-or 90-day compared to the Committee's recommendation. I am lost with the figures, and that will help me a whole lot.

BOSWELL: May I have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Committee will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Boswell.

BOSWELL: Mr. President, I think I have here for the 60-day session figures which would amount to \$2,800 per legislator or \$168,000 for the session; for a 90-day session, \$4,200 per legislator or \$252,000 for the session. That is salary only.

WHITE: Mr. President, I think another part of the question -- we might refer to how the Committee proposal would work out. I have it worked out here on the same basis as Mr. Gray, and that is one-third of the governor's salary, assuming the governor's salary to be \$22,500 per year. For a 30-day session that would be per salary \$7,500 per month or \$250 per day and if assume a \$20 per diem which this section allows for, it would be a \$270 per day or combined salary and per diem, \$8,100 for a 30-day session. For a 60-day session it would be salary of \$3,750 per month, \$125 per day plus \$20 per diem would be \$145 per day for salary and per diem combined, \$4,350 per month. For a 90-day session, salary of \$2,500 per month, \$83.33 per day plus \$20 per diem, a total of \$103.33 per day, or salary and per diem combined at \$3,100 month; a 120-day session, \$1,87 per month salary which equals \$62.50 per day plus \$20 per diem equals \$82.50 per day combined, \$2,475 per month.

V. RIVERS: Mr. Chairman, those are interesting figures, as have been all the others. I just want to point out here that any legislator that is elected to the legislature who is a conscientious individual has more to do than the time that he spends at the session. I feel that every man who has had experience in the legislature and every woman in this body must know that all during the time you are a member of that legislature, whether you are in session or not, you spend a substantial amount of your time working with, helping people, answering questions and trying to assist individuals and groups in their problems, and it cannot be measured in terms of only the time the legislator who is a public official, sits in the legislature when it is in plenary session. There is no way you can measure the amount of work that is done by one individual, but I say that any conscientious individual who has the ability and is trying to help the people of the Territory as a member of the legislature must spend a substantial amount of his time while he is not in session. I believe it is part of his oath of office and bounden duty, and I am practically sure that most of the men and the women who have sat in the legislature have found it to be true that they spend as perhaps as high as 25 per cent of their off time, directly or indirectly, in affairs that involve their legislative activities and activities of the people.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Speaking of this Committee proposal, as I read it, the salary of the legislator would be based on an annual salary equal to one-third of that which the governor might receive and assuming that the governor's salary would be \$22,500, which seems to be the figure in the minds of most of them here, that would mean one-third

of that would be \$7,500 on an annual basis. Multiply that by a 60-member legislature, house and senate, as in the minds of the delegates here now, it would mean \$450,000 per annum which would mean \$900,000 for a biennium. I am afraid that if this is incorporated in the constitution, that when it goes to the people for ratification they might take another look. I think that we ought to make haste slowly on a proposition of this kind, and I think there should be a time limit on the sessions of the legislature.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, I would just like to say briefly that I believe that both the Committee proposal and Mr. Boswell's motion set the legislative salaries way too high. I believe, however, that the figures in either the Committee proposal or in Mr. Boswell's motion can be adjusted downward. I think what we should consider right now is the point, do we want an annual salary without a limitation upon the length of the session or do we want, as Mr. Boswell proposes, a salary based upon the number of days that the legislature is in session, and then of course we have to follow up in subsequent sessions and put in a limitation upon the length of the session of each legislative session. I think that should be the basis of the discussion rather than the fact that the salaries in either or both proposals are too high. There is no question about that in my mind. I personally am in favor of the annual salary plan as proposed by the Committee, and I hope that we will defeat the motion and go on and substitute a proper and adequate annual salary.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, as chairman of the Committee, I recognize from the temper of the group here that the proposal of dollars by the Committee is beyond their desire of accepting. I don't think we should belabor that point any longer, and I would prefer that we vote on the matter now and vote against Mr. Boswell's proposal so that we could reduce to some more suitable figure on an annual salary plan the Committee proposal.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: If I may say a few words in closing, the debate on this has covered a much broader scope than this amendment would indicate, and I think it is proper that it has. The question of the method of payment and the length of the sessions are bound up together. We can't get away from that fact and we have to consider them together. I was particularly impressed by Delegate Taylor and Ralph Rivers comments on this amendment, speaking from their experience. They pointed out that many people who would make good legislators did not leave their business and go down to the legislature for an indefinite period of time. I think that is a very important point. I think we also have to face the fact that

Alaska is seasonal. We have to make hay when the sun shines up here, and we should do this legislating in the winter when we can. If we would just take our own personal point of view, how many of us could have come to this Constitutional Convention if we had not known how long it would last or that after we are through we might be called back for another month or two during the summer when we are busy? I think it would have ruled out a number of the delegates from attending this Convention. I think it would do the same thing in the legislature. I don't want to see anything get into this article that will not permit capable legislators from being elected, and I think we are more likely to do this by annual indeterminate lengths of term than we are by the methods of payment. I would urge the adoption of my amendment as a first step toward setting up a legislature that will attract capable people, and then I think we must go further and determine the length of the terms. I cannot see from some of the argument that these early sessions of the legislature are going to run for several months. We have laws on our books that will continue to be in force, and we can gradually augment those laws to fit our constitution, and it seems to me we can still do that over a period of two or three years and not have to be in session for six months or an indeterminate session. I think our money would be better spent in between sessions by having good consultants and a good advisory staff for the legislature and to have a good Legislative Council cut down the terms of the legislature, use that same money in between times, and I think we will have better legislation, and we can keep these terms to something more people will feel they can run for the legislature and not be interfering with their business, I think we will have better legislators.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Strike the first two lines of Section 7 and the word 'Governor' in the third line and insert in lieu thereof: 'Each member of the legislature shall receive for their services and per diem a sum not to exceed one three-hundred-sixtieth of the annual salary of the Governor for each day's attendance while the legislature is in session,' Strike the comma after salary in line 8, insert a period, and strike the remainder of lines 8, 9, and 10."

V. RIVERS: I have an amendment to offer to the amendment and I would say strike the words "and per diem" and strike from the amendment the words referring to the last three lines which are lines 8, 9, and 10. I offer that amendment because I don't have the copy of the amendment before me. I would remove from that the term "and per diem" from the consideration of services, and the per diem would then be established by the legislature.

BOWSELL: Mr. President, the reason I put that "and per diem" where I did --

PRESIDENT EGAN: Mr. Boswell, if the Chair may, I don't think we are proper. Mr. Victor Rivers, did you move the adoption of the

amendment?

V. RIVERS: I move the adoption of the amendment.

BARR: I second the motion.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: It seemed to me if we set a high salary here which we would do and not include the per diem in it, we would include it elsewhere. A great deal of that high salary is going to go in taxes, and the legislator himself is not going to benefit much by the change. If we keep the per diem and the high salary together in our constitution, then the legislature can decide when they get there how much of that they want to make salary and how much per diem and trust to their own good judgment how they would handle that.

SUNDBORG: I move that Mr. Boswell's amendment be laid on the table.

V. RIVERS: I second the motion.

PRESIDENT EGAN: We have before us at the present time the amendment to the amendment as offered by Mr. Victor Rivers.

V. RIVERS: My amendment would automatically fail if his motion carries.

SUNDBORG: I want to get rid of that whole thing.

PRESIDENT EGAN: Chairman of the Rules Committee, can we revert back to the original amendment in order for the motion to lay on the table, or would we have to move that Mr. Victor Rivers' amendment to the amendment would -- if there is no objection, the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg, what came into the mind of the Chair was the manner in which you stated the motion would not be in order; if anyone wishes to move any motion of that nature you would move to lay the amendment to the amendment on the table, and if it carried it would take the original amendment with it.

RILEY: No.

SUNDBORG: I hear the Chairman of the Rules Committee here saying "no".

PRESIDENT EGAN: If there is no objection, we will then have a minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent to withdraw my motion to lay Mr. Boswell's motion on the table.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Sundborg to withdraw his motion to lay Mr. Boswell's motion on the table. Is there objection? Hearing no objection, it is so ordered. Mr. Victor Rivers.

V. RIVERS: Mr. President, in order to clear this matter up and open the way for the motion that has been withdrawn, I will now ask unanimous consent to withdraw my amendment to the amendment.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to withdraw his proposed amendment to the amendment. Therefore, the question before us is, "Shall the proposed amendment as offered by Mr. Boswell be adopted by the Convention?"

WALSH: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the proposed amendment by Mr. Boswell.

(The Chief Clerk called the roll with the following result:

Yeas: 19 - Armstrong, Barr, Boswell, Coghill, Kilcher, King, Laws, Londborg, Nerland, Poulsen, Reader, R. Rivers, Robertson, Stewart, Sweeney, Taylor, Walsh, White.

Nays: 33 - Awes, Buckalew, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Riley, V. Rivers, Rosswog, Smith, Sundborg, Wien, Mr. President.

Absent: 3 - Doogan, Johnson, VanderLeest.)

CHIEF CLERK: 19 yeas, 33 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Gray.

GRAY: Mr. Chairman, I have an amendment.

PRESIDENT EGAN: You may offer your proposed amendment. Mr. Taylor.

TAYLOR: I have an amendment I would like to offer, Mr. President.

PRESIDENT EGAN: You can leave it on the Chief Clerk's desk. The Chief Clerk will please read the proposed amendment as offered by Mr. Gray. Mr. Hellenthal.

HELLENTHAL: Point of order. I have been told that the Committee has an amendment. Perhaps it might save a lot of time if the Committee would come forth with their amendment.

PRESIDENT EGAN: Well, we have recognized Mr. Gray and his amendment. Is there a Committee amendment available? Would the Chief Clerk please read Mr. Gray's amendment.

CHIEF CLERK: "Section 7, line 4, delete the words 'one-third' and insert the words 'one-tenth'."

TAYLOR: Mr. President, Mr. Gray's amendment is the same as mine. I would like unanimous consent to withdraw my amendment.

PRESIDENT EGAN: It has not been offered yet.

GRAY: I move the adoption of the amendment at the rate as read.

TAYLOR: I ask unanimous consent.

BUCKALEW: Objection.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Gray.

GRAY: I believe that this salary, this dollars and cents becomes a very important situation, and I am not completely sold on one-tenth myself. It looks like the best that I can see, but I sure don't want to hold any too little discussion on it because I believe it is a very important factor. If there is one thing I ran into in the hearings, it was the salary of one-third, because on the first apparent side it was very high, so on this one-tenth let's get our figures straight. One-tenth of \$22,500 is \$2,250. If we follow our past experience, as someone has suggested, it will be a 60-day session once a year and that would break down to a salary payment of \$37.50 per day. Our present per diem is \$20 per day which would pay your legislators at the rate of \$57.50 per day total. That is in comparison with the present \$35 per day. And for 60 days, a two-month session, that would pay your legislator \$3,450 or about \$1,700 a month. The total cost of a 60-day session would be -- \$3,450 times 60 days would give you \$207,000, is what your 60-day session would cost you. Out of this \$207,000 per year, \$135,000 would be the cost in salary, and the remaining figure, some \$70,000, would be the cost of per diem. Now actually the only figure that you are making permanent in the constitution is the one-tenth in case we do have a change in economy where the governor's salary goes up, why the legislature's salary goes up with it.

You also have a change in the per diem which is left with the legislature. They can raise the per diem or they can lower it. We are just using the figures of per diem as we are using them today. The figure on the governor's salary, we are projecting on that, we have \$22,500 and it is the most acceptable figure, but it could be less, it might be more. I follow the Committee plan wholeheartedly that they have presented, and it is just in my own mind it has been insufficient discussion, but in my own mind one-tenth of the governor's salary seems the most adequate figure to me at this time.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, there is only one thing I want to caution this body about. I think the figure is too low. We have no assurance that the legislature is going to pass any per diem. They have the authority to do so. Now, as I understand it, it figures out \$37.50 per day salary on a 60-day session. I predict that is what they will get, because you won't get the rest of the legislators to provide any per diem, and the legislators that have a little money are going to stab the boys that are not in the same economic position, and I don't think that \$37 as a salary for a legislator is sufficient. I think the figure "one-tenth" is entirely too low. I think we ought to figure the salary on the assumption that there is not going to be a provision for any per diem because I predict that is what is going to happen.

KILCHER: I am generally in favor of this way of arriving at a salary, but I would like to ask a question. Who establishes the governor's salary in the future?

BUCKALEW: The legislature.

KILCHER: Isn't it probably questionable to hitch the legislature's salary to the governor's, so they indirectly can increase theirs by increasing the governor's? I can see that in the way of a political football.

V. RIVERS: The executive article states that the legislature would establish the salary. The Territory of Hawaii in their Constitution adopted a fixed salary as a minimum which was \$18,000 for the governor. We are continually comparing the governor's salary here to the judges which are \$22,500. Whether he ends up with that or not is up to the legislature.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to point out that if Mr. Gray's suggested figure here is approved that there would be 12 states in the United States that would pay, reducing to a common denominator now the salaries of all the states and the legislative pay therewith, there

would be 12 states in the nation with paid salaries per annum greater than that introduced in the amendment by Mr. Gray. There would be 36 that paid lower per annum compensation. To follow up on this, I would like to read very briefly, it will take me about three minutes, a little bit from this pamphlet, The Great Unwatched, which is condensation of five articles which were condensed and reported in the Readers' Digest during the last several years, relative to the state legislatures of the nation and how they have fallen behind in their revisions, fallen behind with the times. The title of the subheading is this: "What of the Pay of Our Legislators?"

"New Hampshire's lawmakers haven't had a raise since 1784. They are still paid at the rate of \$200 a session, a sum written into the state constitution when a man could get a hotel room for 50 cents. Rich New York and Illinois now pay legislators the tops of \$5,000 yearly, which is less than a first-class machinist earns. Fifteen states pay between \$5 and \$10 a day which can't even cover room and board at the state capital. In Texas the pay is \$10 daily for 120 days; then it drops to \$5 a day. This collapsing pay scheme is used by special interest groups to their advantage. In the last session a bill to tax natural gas pipe lines was delayed by lobbyists until the 120th day, in the hope that the tax's champions, unable to live on \$5 a day fee would go home. Instead 19 idealistic legislators moved into a one-time Texas fraternity house. There in the state of oil billions, they were kept from hunger by gifts of food from charitable neighbors. The bill went through. It may mean \$12,000,000 yearly to our state treasury."

I would like to read just a bit more on what the ills of this low pay to our legislators might mean right here, our new State of Alaska. "Bribery is unpleasant but ever-present factor of legislative life. According to a veteran Illinois house member, lobbyists in one famous legislative struggle gave out \$50 bills in the men's washroom. In Florida, legislators told me that in one classic struggle between competing race tracks, the bidding for votes ran as high as \$5,000 apiece. Said a former house member, 'Why we've had members who have made enough in one session to set them up for a couple of years.' In New Jersey, an influential state senator, a lawyer, shed some light on a widespread practice. 'A group of undertakers asked me to draw a bill for them', he related. 'They said we suppose you want a \$5,000 fee. They didn't want to buy my legal services, they wanted my influence in the senate.' He turned them down. 'What bothers me most,' says a representative of a San Francisco taxpayers' group, 'is watching the corrupting process begin. Fine, honest men come up here, but the pressure plays against the weakest part of their nature. How many times can a lawyer turn down a retainer or an insurance man turn down a commission?' In Nebraska, a former member of the legislature told of a lawyer colleague who regularly found in his mailbox a \$100 check, a retainer from a small loan company interested in keeping loan rates high. So many legislators take fees from special

interests that some legislatures as in Massachusetts bar lawmakers from voting on matters in which they or their clients have an interest. The rules look good on the books, but how often are they invoked in question. There are other ways than

fees to a legislator's heart. The simplest is to put him on the payroll. The New Hampshire Jockey Club's Rockingham Park racetrack, with an interest in the state's racing laws, once hired 30 state legislators. The lawmakers parked cars, ran errands, sold tickets, policed the grounds; these chores so interfered with legislative business that nonracetrack employees in the New Hampshire legislature passed a law to get the boys back into the legislature during the session. There had to be a law -- the racetrack paid \$18 a day, the state less than one." I would like to point to a page of the Hawaiian Manual, which was a summary study made prior to the Hawaiian Constitution. Again, briefly to this summarization of the state legislative salaries, reduced to an annual figure -- New York, Illinois, New Jersey, New York meeting annually, New Jersey meeting annually, Illinois meeting biannually, are the three highest paid state legislatures in the nation today. May I also point out that in keeping with the times they have held in very recent years three state constitutional revision commissions that we have pointed to many many times here in our arguments with pride, attempting in many moves to follow their footsteps. Why? Because they are keeping pace with the times, and increasing legislative pay goes along with the times. We have tied here in Committee the governor's salary and the legislative pay together. We have taken a salary that is easily and readily changed, and tied to it the legislative salaries with the idea in mind that the legislative pay and the governor's pay must keep pace with the times. I urge you all that you give serious consideration and support to the Committee thinking on this, knowing that the Committee in turn will give support and close adherence to some modification of the actual figures used. but we would like to see the general plan kept.

SUNDBORG: I move and ask unanimous consent that we recess for 15 minutes.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the Convention recess for 15 minutes. The Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state at this time in order to clear the air relative to a motion to lay on the table, Mr. Sundborg did not withdraw his motion because he had been in error in making the motion. He was in order in making the motion. The main motion before the delegates at that time was Mr. Boswell's motion. Mr. Victor Rivers' amendment to the amendment was a subsidiary or a hearing amendment, and if Mr. Sundborg's motion had carried it would have carried Mr. Victor Rivers' proposed amendment to the amendment with it. Mr. Sundborg withdrew his motion to table in order to avoid any possible confusion

relative to further amendments relating to salary. We have before us at this time Mr. Gray's proposed amendment. Mr. Londborg.

LONDBORG: Mr. President, we heard the reading of Mr. McNees's a while ago, and I think that no doubt all those instances are true, there must be -- maybe a lot more. After all, there have been a lot of state legislatures that have met between the time of the first state and up to now. I think we ought also to consider something like this. I wonder just which legislators are most subject to receiving a little extra money on the side, some of those who give of themselves and of their job and of their own to go down and do the job, or some that would perhaps run because there is a lucrative salary attached to the job. I wonder if they go down there because, if they are not going to be subject to the same temptations maybe because they would consider it a pretty good job, they might even be greedy for a little bit more. I put that out that we ought to consider it and not just be swayed by the fact that the ones that are pinched are the ones that are going to always be the ones on the handout for the lobbyists. I still feel they ought to be paid adequately, but I think we must seriously consider what is adequate.

DAVIS: I would like to suggest that Mr. McCutcheon is not here, and that he should actually be. Here he is. I am sorry. Mr. President, I would like to support Mr. Gray's proposed amendment. I have done some figuring which I think might be helpful to the delegates in connection with considering this matter. Starting with the point, assuming that the governor has a salary of \$22,500 a year, now of course nobody knows what that is, but we have got to start some place. Starting at that point and taking 10 per cent of the governor's salary would figure \$2,250 a year. Now, since the legislators are elected for a two-year period at least, it seems to me it is better to work it on a biennial basis rather than an annual basis, and accordingly I have doubled \$2,250 to get the biennial salary which amounts then on the assumption I have made at \$4,500 a year, I mean for a two-year period. For the purpose of trying to get some place, I have assumed that on an average the legislature would meet two months one year and one month another year during the biennium. That, of course, could be any combination of that, but a total of 90 days in the two years. I think that Mr. Victor Rivers probably was absolutely correct when he says that a legislator has much more to do than the time when he is in session. He holds hearings, he has constituents asking him about this and that. I have never been in the legislature, and I can't set a percentage on time, but to try to arrive at something here I have assumed that 10 per cent of the legislator's time when he is not in session will be spent on Territorial business in connection with his job. Without completely going over it, take 10 per cent of the time that he is not in session, plus the time he is in session, on the assumptions I have made, he would be spending a total of 160 days on state business during the biennium. If we make all of those assumptions, I will admit there are a lot of assumptions there, but if we make all those assumptions on the 10 per cent basis of Mr. Gray's proposed amendment, the legislator's salary as such would come to

\$24.37 a day over the two-year period. Also, make the assumption that the legislature would adopt some sort of a per diem to cover out-of-pocket expenses when they are actually in session. If we assume that we use the same figure we are using here, \$20 a day, that would mean that the legislator's salary would be \$24.27 which would continue all the two years. In addition, when the legislature was in session he would get a per diem which we will assume was \$20 a day, or a total, while he is in session, of \$44 a day. Now it seems to me that is reasonably close to what we have now and reasonably adequate, and I believe that for that reason with all the assumptions I have made, that the 10 per cent is a pretty good figure. I have one further thing which is not strictly in order at the minute, but which I think bears on the whole thing, and I would like to talk to it at this time unless somebody wants to stop me. I am going to suggest, if people are not too unhappy with it, that in line 4 of page 3, Section 7, after the word "equal", we put in the words "of not more than", or something to that effect.

GRAY: "Not to exceed".

DAVIS: Not to exceed 10 per cent of the salary. I would do that for two reasons. In the first place, I think Mr. Boswell had an extremely cogent point awhile ago when he talked about the matter of taxes. If we set the legislators' salary at 10 per cent of the governor's salary, the legislature is stuck with that figure as being a salary. If we leave it as not to exceed 10 per cent, then the legislature can set its own salary up to that limit, and if it wishes can adjust on the per diem to come to the same place, but the per diem portion would not be taxable and actually it should not be because it is out-of-pocket expenses that they have to pay to live away from home. There is one further thing along that line. None of us knows exactly what the ability of the new state is going to be to pay. If we set a fixed amount for salaries in the constitution, we may find that we have set an amount that the state cannot bear. On the other hand, if we leave it a figure up to a percentage, then the legislature can set the salary according to what the state can handle and it is already left in the section as it is that the matter of per diem is completely flexible and within the power of the legislature to handle. That is my thinking in connection with the present proposed amendment.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I have not spoken on the subject yet and therefore I will speak only once. Several matters have come up that I agree with in regard to the salary, and salary and honesty I don't believe go together. I think that if a man were paid \$10 a day or whether he was paid \$200 a day, if he were inclined to take a little money under the table I don't think the amount of the salary would have any effect. The honesty and salary are things that we should not attempt to tie together here. I agree a good deal with Mr. Victor Rivers here. I know that any campaign a man makes for office is

considerable out-of-pocket expense. I know that in my own experience that the loss in the legislature, that is the direct losses, that that is at least \$1,000 a month and besides all of the indirect losses such as business and clients you lose while you are gone. People have lost a number of clients because they said, "Well, when you make up your mind whether you are going to be in politics or whether you are going to practice law, if you decide to confine yourself to the law business, we will bring our business back to your office." There is in addition to that, I don't know what the percentage of the total time would be, but I do know that since coming back from the last legislature that one-fourth of the time in my office has been spent on purely political matters in connection with writing letters to department heads and trying to get things for our constituents, the people here in this division, and in the outlying areas, so that of course takes time besides the expense and some little travel expense along with it, but those are all part of things. No one asked me to run for the legislature, and no one asked me to run for this Constitutional Convention, and like practically everyone here I am losing money every day that I am out here, the same as the rest of you, but we were not sent an engraved invitation to file for this office, so therefore we have no right to complain if we are losing money. The same thing in my opinion applies to the legislature. With me I don't believe that I am so smart that I add any great amount to the legislature; I have some ideas. I go there mainly for the purpose of trying to carry out the ideas of people living in this division that speak to me about and say they want done, and you go there for that purpose and think you are doing some good in that way but I believe that most of the members of this body who have served in the legislature, and a good many of you have time and time again, that it is sort of a bug that you are bitten by which is similar to that of the old prospector going out prospecting for gold. It becomes no more than avocation in that it is a luxury that we feel we can afford ourselves. In connection there, when I speak thereto of the matter of being a luxury, when the most of you fill out your income tax at the end of the year, and it looks like you begin to figure out how you are going to pay that income tax, and then you happen to think, you have forgotten what you made in the last legislature, and you add that on top of the other, then you have got a headache. I think it is largely in politics, it is probably largely an avocation, a certain amount of luxury involved. You go back to the historic principles, back to the days of Roman forum, it was the honor of the senators to sit there. I think as far as the senate goes, it should be that way today. It is an honor to sit there, and it should not require any salary at all. The house of representatives is probably a little different proposition. In conclusion, I do wish to say that I don't think we can look at this on the basis of going down to the legislature and making money, and I for one feel that if we have this in the constitution that it "shall not exceed", I would say "not to exceed 10 per cent of the governor's salary", and then let's not have the highest paid governor in the nation either.

PRESIDENT EGAN: Mr. White, before the Chair recognizes you, the Chair was wondering, Mr. Davis, were you seeking to offer that as an amendment to the proposed amendment?

DAVIS: If it would help I will now offer that as an amendment. I did not wish to make an amendment on an amendment.

PRESIDENT EGAN: The chair thought perhaps it had neglected to recognize the amendment.

DAVIS: If Mr. Gray will accept it, I will offer it as an amendment

PRESIDENT EGAN: Just what would be the proposed amendment to the amendment, Mr. Davis?

DAVIS: "After the word 'to', so it will read "equal to".

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for a minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Gray.

GRAY: Mr. Chairman, I ask unanimous consent to withdraw my motion in order to take in the care of Mr. Davis's motion.

PRESIDENT EGAN: Is there objection to Mr. Gray's unanimous consent request to withdraw his original amendment?

TAYLOR: As a second to that motion, Mr. Davis's proposed amendment did not take in the percentage of the salary. It only struck several words.

PRESIDENT EGAN: That is correct, Mr. Taylor, but Mr. Gray's purpose is to allow the proposed amendment just to be an amendment and that it can be rewritten in its entirety.

TAYLOR: I agree to that.

PRESIDENT EGAN: If there is no objection it is so ordered.

GRAY: On page 3, Section 7, after the word "salary", delete "equal to one-third" and insert "not to exceed 10 per cent". I so move.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. White.

WHITE: I will vote for Mr. Gray's amendment because I think it is a reasonable compromise. I would like to agree with what Mr. McNealy said in that it is an admirable aim to try and pay public

officers a salary sufficient to avoid any chance of corruption, but I think it is a practical impossibility. I think we have all had the experience of finding that regardless of what our salary or wage may be, that each time it is increased we find we are just barely living within it any way. I think the two are not connected. In the case of New Hampshire, I happened to have lived there, Mr. McNees, and I think the fact that 30 legislators were on the payroll at Rockingham Park is not necessarily a comment on the pay of the legislature, but more probably on the fact New Hampshire has a 399-member legislature. Also, when you refer to page 9 of the Hawaiian manual, I think you will find those figures are all on a biennium basis, and if Mr. Gray's amendment is accepted, you would find only six states would exceed the pay of Alaska's legislators. Those six would be New York, Illinois, Massachusetts, Ohio, New Jersey and Michigan, all of them big populous states. I am a little concerned about the committee proposal amounting to \$7,500 a year, and as to what it would do to the people available to the legislature. I am afraid that it might result in a situation where a good many of the residents of the State of Alaska who would make good legislators would in actual fact not be available, because I think it allows great limits in the length of the sessions that might result. I would only go on to point out that under Mr. Gray's amendment we would have to go 120 days before we got down to the combined pay and per diem we are operating under now. I think we can reasonably expect that on an annual basis that 60 days would be the more probable result and on a 60-day basis the pay and per diem would amount to \$1,725. I feel that is a reasonable compromise.

R. RIVERS: I have been down there and I think I ought to say a few words. I have thought about the length of sessions and about the thought that Mr. Boswell injected that we do have a code, our Territorial code will be our State code. However, the first session is going to be confronted with about a dozen very important gaps or bills that won't recur later. The rest of our code will be subject to change and amendment as we go along. At the outset we will probably say that where the word "Territory" appears in the code we shall substitute the word "state". We are not going to be starting from scratch without any laws at all for that first legislature. We are going to have to come up with something to fill the game law requirements and various others that are now reserved to Congress. Perhaps the second year there will have to be a 90-day session to get organized, but we have to think of this pretty much of a long-range basis, and I think that for a good many years to come 60 days a year is what our sessions will resolve themselves down to, with a special session now and then to meet emergencies. On that basis then I see that the \$37 per day which is embodied in Mr. Gray's amendment plus this conjectured figure of \$20 per diem would make \$57.50 per day. That is basically what the members would be getting for those regular sessions of 60 days per year. As far as the per diem is concerned, I think the legislature can take care of itself. Somebody had the nerve at one

time to put in for \$10 per diem, back about 1937. That was raised next to \$15 per day and then to \$20 per day in the 1953 legislature. They got a few little curves tossed at them and a few snide remarks, but there was no great arousal about the subject because that was absolutely fair and they had it coming. With the precedent of \$20 a day, I rather suspect that one of the first things that the first legislature will do is to hop on that precedent and establish \$20 a day per diem. I don't think they are going to be under any political compulsions to prevent them from establishing that \$20 per diem. I am kind of taking up a few points as they have been brought up. So I differ a little with Mr. Davis in that I would postulate 60 days a year instead of 60 days one year and 30 days the next, and I think that would be something we ought to think of and more or less figure out what the daily amount will be. Now, I am also concerned with selling this package when I get back from this Convention, helping sell it in other words. The \$57.50 per

day does result on the basis of 60 members in the legislature, for a year and \$204,000 for a year and \$408,000 for a biennium. Now that does not count Legislative Council expense nor travel. Now that is going so far beyond what we are accustomed to, and we have been confronted so often with the thought we may not be able to afford statehood, that within the realms of fairness, we have got to watch our step and not get something we cannot handle when we go back to the voters for ratification, so I favor Mr. Gray's amendment. I hope I have contributed a little bit on what we might estimate as the length of the session and on that basis we can compute how much money is going to have to be spent, with fairness to the legislators and yet without getting ourselves into too liberal a position from the standpoint of pay.

COGHILL: Mr. President, on the same lines that Mr. Rivers has been speaking on, I am not in favor of the Gray amendment from the standpoint I feel that we should leave it to the legislature of the new state. We have a package to sell the people. We have to sell them on the constitution for the new State of Alaska. and I believe hinging on that is eventual statehood for our Territory. I see that many people here that are members of the same organizations that I am and there is no remuneration for travel expense or anything else such as in the Chamber of Commerce or your veterans organizations, the organizations such as school organizations, etc. I have spent many a dollar not figuring any gain for myself personally, but for the point of gaining services and things for the people of the Territory. I feel that the argument is completely off base, and we are begging the issue. I see that the average income of the more populated areas of Alaska and the hinterlands is way lower than what we are bringing about here for our legislature. I like the section in No. 8 because it provides the legislature to establish the time that they will meet, and I feel that possibly legislative time such as they have in California, where they meet for a certain length of time and introduce nothing but bills without appropriations and recess for a period of 15 to 30 days for either research or hearings, or what-

ever they wish to do, and when they reconvene it would be nothing but appropriation bills that could be introduced, in that way speeding up the legislature. I feel that by establishing a 10 per cent clause in there we are damaging the clause of the Convention and we should leave it up entirely to the legislature. I feel they will be guided by their conscience.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I am rising to speak against the amendment on this ground. I do not believe it is adequate. I believe we are creating an aristocracy of wealth such as Mr. McNealy referred to in the ancient Roman senators, and I believe that the workman is entitled to his wage on a fair basis, and the businessman is entitled to a fair profit. I agree with Mr. Davis's statement that approximately 10 per cent of his time will be spent in session, I mean the legislator's time; another 10 per cent of his time is a reasonable assumption that it will be spent in the performance of his duties while he is not in session. I think the 20 per cent of a moderate salary which might be \$20,000 established for the governor would be an adequate amount to pay the legislators. It seems to me that I have heard a number of remarks here in regard to corruption in legislators. I for one want to make it clear from the number of legislatures I have seen, I have never yet been approached nor have I seen anyone else approached with a direct offer of corruption. I have seen men prosper because their particular points of view coincided with particular points of view of interest such as they had joint business dealings after the legislature. I have seen other men fail to prosper, probably due somewhat to the same reason, but I believe if we are going to pay at the rate Mr. Davis has stated there, it would come to approximately, using his assumptions, \$24 per day irregardless of the per diem. On that basis he would receive for an hour of his time approximately \$3, which is 'somewhat less than the average laborer gets in this area today when he is employed at his home base. If he is away from his home base he gets a travel and expense account. The average rate a commercial traveller figures his expenses at in traveling through the Territory today is \$20. I feel that if we are going to ask good people to run for these offices that they should be receiving a compensation commensurate with what they would normally receive on a level of activity or operation they would receive at home. I do not feel that 10 per cent is adequate, I feel that 20 per cent would be a much more adequate figure and would not reflect the over-expense that some of the people in this Convention seem to visualize as too much of an added burden for the cost of good lawmaking. Now, whether or not you like the idea, over a period of time the returns that come into the average legislator's pocket from the term of office he serves reflects a great deal in whether or not he feels he can be eligible and will be eligible to run again. I have cited you one instance and know of many instances where good men have gone to the legislature and have received experience which could be useful to all the people but have not

felt they could afford to go back again because of their experience in the first instance. On the grounds of my discussion I am going to move, Mr. President, an amendment of 20 per cent in lieu of the 10 per cent on the original amendment, an amendment to the amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that there be an amendment to the proposed amendment.

MARSTON: If we were having statehood tomorrow I would be happy to vote for this Gray amendment. I think it is fine. I look back at Hawaii, I visited them last year there, and they are terribly discouraged. They have waited five years and their document is gathering nothing but dust, and it is a good constitution. In this changing world we don't know how we are going to fix the salary for five years, ten years off. I think it is a legislative matter, and I am going along with Coghill's suggestion.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I know some people are anxious to get to the question. However, I think by inserting the new amendment, not the amendment to the amendment, but the one before, I am going to speak to the amendment in a minute. We have changed the whole complexion of the section, incidentally which I agree to. I feel now that our section says the legislature shall set its own salary and it shall set it not beyond a certain amount. I am in favor of it. I am also in favor of the amendment to the amendment. Since the legislature is going to set its own salary we should put a ceiling on it, and I think 20 per cent is a reasonable ceiling. I am in favor of the amendment and also the amendment to the amendment.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I believe that I favor also the 20 per cent because I have observed a good many legislatures in action, and I have never felt that they are unreasonable in the amount of money that they set for their own compensation, and that is their per diem, and furthermore, they are always concerned with the amount of money that is coming into the treasury through taxation, and often times some of us feel they are a little penurious with the way they appropriate money. As far as the length of the sessions are concerned, I have never yet seen a session of the legislature that was anxious to remain longer than 60 days, so I feel there should be little apprehension in the minds of the voters about the length of the sessions, or if they are given a ceiling of 20 per cent, I think it might be quite likely they would pay themselves five per cent to start with.

PRESIDENT EGAN: Mr. Barr.

BARR: I certainly agree with Mrs. Nordale. In any session of the legislature in which I served I observed they were more or less a pennypinching body rather than a spendthrift body. I don't know whether it was from fear of public opinion or whether most of them were just looking out for the good of the Territory. They certainly did not throw the money around. I favor the amendment to the amendment of 20 per cent, because of the reason it is only a limit, and I am certain the legislature will not go overboard, and I am also fearful that the governor's salary will not be set at a high figure. Everybody assumes it is going to be \$22,500, but I believe that the legislature is not going to give us the highest salaried governor by any means, and during the transitional period when the legislature knows we will have some unusual expenses they will be cutting down a lot of things. I will not be surprised that the governor's salary is set at \$18,000 or even \$15,000. If the governor's salary goes down, of course the legislature's salary goes down, and since this 20 per cent is only a ceiling, I believe we should leave them a little leeway and then they can give them a certain percentage in salary and a percentage in per diem, whichever way they see fit.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Briefly, I want to point out to the group of delegates that according to analysis by the Hawaiian group, 22 of the states are permitted to set their salary by statute, 24 of the states set it by constitution, and the other states set it by a combination of constitution and statute. These amendments, as they have been offered, appear to be to me personally and I do not speak for the Committee, appear to be more desirable than the paragraph that the Committee has brought out because it does make it more flexible, and by establishing a ceiling certainly the legislature may exercise some judgment in establishing their own salary, but it permits a ceiling and it is a flexible thing rather than a rigid thing such as our Committee brought out. I am going to vote for the amendment to the amendment.

MCNEES: Mr. President, I made a very brief analysis here of the governors' salaries across the nation, again from the Hawaiian manual, and I find that 31 of the 48 states pay their governors \$10,000 or more annually whereas 18 of them pay \$12,000 or more. Eight pay \$15,000 or higher; six, \$18,000 or higher; five \$20,000 or higher, and only two, namely California and New York, pay \$25,000.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: With the amendment and the added amendment I think I have finally reached a decision that will satisfy me. At my hearing the people were unanimously against the one-third deal. Mr. Buckalew summed up my argument completely when he stated that it was almost impossible to get by on the amount that you do receive.

You can by watching very closely, but I don't think you should have to worry about money completely, whether your family is going to get by or yourself. This here being the combination of the two, of not to exceed 20 per cent, will still be in the constitution controlled by the legislature, and I think should be an acceptable setup to the Convention.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I favor the amendment as proposed by Mr. Gray, and I oppose the amendment to the amendment since proposed. It is true that it is only an upper limit, and that it would be left to the legislature to set within that limit, but I can hear every opponent of statehood both within this Territory and without this Territory, talking about how this Convention has authorized a salary of \$75 per day for each one of its legislators, has let them meet as long as they please, and would permit them in addition to set per diem of any amount they please. Now I think we have to think of that practical consideration that we do have a constitution to sell. The amendment to the amendment, if adopted, would change the figure really from one-third as it was when we had our hearings to one-fifth. It does add the additional thing of not to exceed that, but it at least is suggestive that that was what it would be, at least to the people of the Territory as they are voting on ratification. I think that one-tenth is enough, and I think that if they need more compensation it can be taken care of as provided in the later part of this section by the unlimited right of the legislature to adjust the amount of the per diem, so I oppose the amendment to the amendment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I have not had the opportunity of talking on this, and I should like to do so very briefly. I agree with Mr. Sundborg that we have an end product to sell. I am in favor of the Gray amendment, and I should like to say why. If the amendment to the amendment is approved, I can see two public relations firms who are going to be very prominent in this thing before we get through, who are going to have a marvelous sales argument to kill statehood. They are going to say we can't afford it and if the figure is indefinite I can see a bunch of cartoons in our newspapers that are going to say, "Are you willing to buy a pig in a poke?" I believe that in order to sell a constitution and sell statehood to the people we are going to have to have a pretty definite figure. I am satisfied that this \$204,000 per biennium is not going to be too difficult to sell, but if we leave it indefinite, I think we are going to have a tough job. If I were working for one of these two public relations outfits that will probably be prominent in this picture before long, I would certainly get busy and start in on, "Are you willing to buy a pig in a poke?"

HERMANN: On four successive Congressional senatorial hearings on

the subject of statehood, it has been my privilege, which was not always appreciated at the time, to present the fiscal picture of statehood. Invariably the principal opposition that was centered against statehood on the part of the senate or house committees, or members of it, has been on the theory that we cannot afford it, that we have not yet proved that we can afford statehood, so that for four successive hearings which I attended I had to prove that we could. I was extremely successful in doing it because after each hearing they voted that they were convinced that we could afford statehood on the basis of the figures presented by me with the support of the other witnesses who testified in behalf of statehood. I don't want you to make me out too big a liar. I am willing to be corrected and say I have underestimated the cost of holding a legislative session, but I don't want it to be quite to the extent that it would be if we allowed a 20 per cent salary, as has been suggested by this amendment. That according to my estimate mate, unless I have calculated is about \$400,000 a year. The other was \$204,000, this would \$408,000, and frankly, I don't think we can afford it. Now, I am all for a fixed salary, a year round salary for legislators, and I do not approve of the per day payment of legislators or even the per session payment of legislators, as many of the states have established, but I think you are shooting pretty high when you put it at 20 per cent of what may be the governor's salary, or how high that may be we do not know, and I am going to agree with Mr. Sundborg that we should not pass the amendment to the amendment, and my own support will go to Mr. Gray's amendment, which fixes it at 10 per cent of the salary paid the governor.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I am going to support the amendment. As one of the Committee I feel --

HELLENTHAL: I rise to a point of order. I enjoy hearing Mr. McNees speak, and I think everyone else does, but I think that he has spoken more than twice on this subject, and I keep looking at that blackboard.

V. RIVERS: Point of order. Mr. McNees has not spoken on the amendment to the amendment.

PRESIDENT EGAN: I do not believe that Mr. McNees has spoken once to the amendment. You may proceed.

MCNEES: I rise to speak in favor of the amendment to the amendment. Feeling sure that when it comes to selling the end product, the question Mr. Hilscher has raised, that we can best sell that product by giving them good government. We are going to give them good government by attracting adequate men, and we are going to attract adequate men by paying an adequate salary. I have had to do some adjustment in my thinking to reach the conclusion whereby I might even support the amendment. I had hoped it might be somewhat higher. I have in mind very much what Mr. Hilscher has, in

selling the end product to the people, but I feel that there are 55 salesmen in this room who, when this Convention is over, will go out and gladly put every effort necessary and possible to sell it. I don't think there is an organized PA group in the Territory or in the states that will throw their weight against us, that have 55 salesmen who will know the subject, understand the subject and be more sold on the subject of our constitution when it is finished and we have it ready to present to the people, than this group right here. The 20 per cent figure set as a ceiling I am convinced, and that is the big question in my mind, I have come to a conviction in my thinking that possibly we might set it as a ceiling, but I am somewhat afraid and raise this question that the salary of the legislators will probably never approach that figure. I know there are many other ways in which the legislators' salaries might be reduced. We might pay a lower governor's salary and make certain other compensations available to him in lieu of salary, thereby keeping the legislators' pay down -- the provision of housing, providing entertainment, expenses, providing extreme travel allowance, and many many other things. However, I do think as I have analyzed the thinking of this group, that probably the 20 per cent figure comes closest to first and foremost providing an adequate salary to attract adequate men to provide adequate law, and secondly, the penury or economy measure that seems to me uppermost in the thinking in a few of your minds. Therefore, I feel that we should support this amendment, thinking at the same time that it is a maximum and not the actual salary.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Victor Rivers be adopted by the Convention?"

ROSSWOG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 21 - Awes, Barr, Buckalew, Cooper, Cross, Doogan, Emberg, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNees, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor.

Nays: 32 - Armstrong, Boswell, Coghill, Collins, Davis, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Poulsen, Reader, Riley, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 2 - Johnson, VanderLeest.)

CHIEF CLERK: 21 Yeas, 32 Nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment to the amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: I now move, Mr. President, that the same amendment to the amendment that Mr. Rivers made except make that 15 per cent.

UNIDENTIFIED DELEGATE: Question.

H. FISCHER: I second the motion.

HERMANN: I move we recess until 1:30.

PRESIDENT EGAN: Mrs. Hermann moves and asks unanimous consent that the Convention stand at recess until 1:30. Is there objection? Objection is heard. The question is, "Shall the Convention stand at recess until 1:30 p.m.?" All those in favor of recessing until 1:30 p.m. will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention is still in session. We have before us the proposed amendment to the amendment as offered by Mr. Ralph Rivers. Mr. Taylor.

TAYLOR: Mr. President, I was longing to speak on the previous amendment to the amendment that was defeated. I was in agreement on the 10 per cent, not for the fact that I thought a legislator was adequately compensated for his time and the effort and the expense, and the sacrifices he makes by virtue of being a legislator, and through quite a number of years of experiences I know what it costs to be a legislator in time and money. You are operating a business or a profession, and you have to close that business up or go away and leave your profession, you come back and you find you have a far greater loss than you thought it was going to be. That is especially true in the profession of law because if you are gone for two months your office is closed, your entire income at that time. I was torn between two ideas -- one was to a certain extent try to adequately compensate legislators -- the other was the point raised by Mr. Hilscher that if we do place this too high we give the opposition to statehood a wonderful lot of ammunition to try to use in defeating the confirmation of this constitution, and after I was listening to and considering the various arguments pro and con on the previous motion, I got to thinking that possibly the compromise between the 10 and 20 per cent would be the logical solution to this matter, to have it read "not to exceed 15 per cent". It might be with the wording of the article, that we might not as a legislature set it at 15 per cent, might set it at 10 and then attempt in some small way of compensating the legislator by a larger per diem. Now Mr. Buckalew says that he doesn't think the legislature will vote for a per diem. Well, Mr. Buckalew is possibly speaking from inexperience, because I have been going to the legislature off and on for some 23 years and I have never yet

ever seen the legislature. refuse to vote the per diem, and I am pretty sure that if the next legislature will perhaps be the same way, and if Mr. Buckalew was in it, I know there is going to be a great fight for per diem, and I think he is going to make so much noise that the per diem bill will carry. Now we have, what we might say, indulged in conjecture of conclusion as to what the governor's salary is going to be. I think in that respect we have to take into consideration that the governor is the chief executive. He must maintain a position commensurate with the position that he holds. Now, we will have at least one representative in Congress and we will have two senators in Congress. They will each be drawing \$22,500 a year. That is the salary. We will have one district judge in the Territory of Alaska who will be drawing \$22,500 a year, and I think that the legislature would be taking more or less a niggardly attitude if we paid our chief executive less than the representatives in Congress are getting or less than a district judge in the Territory of Alaska, and I think we can safely assume, now it is an assumption as Mr. Davis said very ably in talking on the previous amendment, that we must assume, but our assumptions were based upon experience and our knowledge of other matters, and I agree with those, after giving this the consideration, that I am going to vote for this amendment. I was for the 10 per cent, and if we are censured for saying we are unduly compensating the legislators, we will have to take that censure and make the best of it, and the best way we can explain why, and I think that these 55 members here can go back and say why this bill is written in the way it is.

LUNDBORG: I would like to ask somebody who has a handy handbook around, what is the highest paid legislator now in the states?

V. RIVERS: That is the State of Illinois, that is \$5,000. That does not include travel expense which they allow too, to and from their homes once each week. That does not include per diem.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to refer to some figures again and I will do it briefly. If we adopt the amendment to the amendment which is before us, which would permit a maximum of 15 per cent of the governor's salary annually, and if we postulate a governor's salary of \$22,500, which I agree with Mr. Taylor is reasonable, and if we should have legislative sessions running the same length as those we have had in the Territory, which is 60 days every two years, if we adopt this amendment, we are authorizing those people to pay themselves salaries of \$112.50 per day plus per diem, and if you don't think a lot is going to be made of that, whether by public relations firms or by individuals who are themselves opposed to statehood, you are very much mistaken. I hold to the 10 per cent, and I urge that you reject the amendment to the amendment.

HARRIS: I move the previous question.

BUCKALEW: I second the motion.

HILSCHER: Roll call.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Sundborg, Sweeney, Taylor, White, Wien.

Nays: 15 - Davis, Kilcher, Laws, Londborg, Marston, Metcalf, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Walsh, Mr. President.

Absent: 2 - Johnson, VanderLeest.)

MARSTON: May I change my vote? I wanted to vote against the 15 per cent.

PRESIDENT EGAN: No, we are ordering the previous question, Mr. Marston. The Convention will come to order while the Chief Clerk prepares the tally.

CHIEF CLERK: 38 yeas, 15 nays and 2 absent.

PRESIDENT EGAN: So by your vote you have ordered the previous question. The motion has carried. The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?' Rather, "Shall the proposed amendment to the amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" The Chief Clerk will please read the amendment to the amendment.

CHIEF CLERK: "Delete '10 per cent' and make it 'not to exceed 15 per cent'."

R. RIVERS: Yes, that is correct.

METCALF: Roll call please.

PRESIDENT EGAN: The Chief Clerk will call the roll on the adoption of the proposed amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 22 - Armstrong, Awes, Barr, Buckalew, Cooper, Cross, Doogan, Emberg, H. Fischer, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNees, Nordale, Peratrovich, Riley, R. Rivers, Smith, Stewart, Taylor.

Nays: 31 - Boswell, Coghill, Collins, Davis, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, King, Knight, Laws, Londborg, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 2 - Johnson, VanderLeest.)

SUNDBORG: I wish to change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. Sundborg wishes to change his vote from "yes" to "no".

V. RIVERS: I wish to change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. Victor Rivers wishes to change his vote from "yes" to "no".

CHIEF CLERK: 22 yeas, 31 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment to the amendment has failed of adoption.

DOOGAN: I ask unanimous consent that we stand at recess until 1:30.

SUNDBORG: I object.

DOOGAN: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: The Chair did not actually hear a second. Mr. Sundborg.

SUNDBORG: I move the previous question.

TAYLOR: I second the motion for the previous question.

PRESIDENT EGAN: All those in favor of ordering the previous question will signify by saying "aye", all opposed "no". The "ayes" have it and the previous question has been ordered. The question is, "Shall the proposed amendment as offered by Mr. Gray be adopted by the Convention?"

SUNDBORG: I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 48 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg. McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 5 - Buckalew, Coghill, Cooper, Laws, Nolan

Absent: 2 - Johnson, VanderLeest.)

CHIEF CLERK: 48 yeas, 5 nays and 2 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that we now recess until 1:35 p.m.

PRESIDENT EGAN: Are there committee announcements to be made at this time? Mr. Hellenthal.

HELLENTHAL: Committee meeting of Committee No. VI upstairs.

V. RIVERS: There will be a meeting of the Executive at 12:50.

PRESIDENT EGAN: Committee No. VI will meet upstairs; there will be a meeting of the Executive Committee at 12:50. The question is, "Shall the Convention stand at recess until 1:35 p.m.?" Is there objection? Hearing no objection it is so ordered, and the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hilscher.

HILSCHER: Mr. President, the management of the dining room upstairs would like to have a show of hands on how many will be here for dinner this evening. The chef is wavering between guinea fowl under glass and pork chops, though I am afraid it is going to be in favor of pork chops. (Delegates held up hands at this time.) About 45.

PRESIDENT EGAN: Is there anything else to come before us at this time? Any unfinished business other than the proposal before us? We have before us Section 7 of Committee Proposal No. 5. Are there other amendments to Section 7? Mr. White.

WHITE: I have an amendment to Section 7 that I would like to have read. I am not sure I indicated it should come after the last line.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. White.

CHIEF CLERK: At the end of the paragraph?

WHITE: Yes.

CHIEF CLERK: "Insert at the end of paragraph 7 the following: 'No increase or decrease in salary or per diem shall apply to the legislature which enacted it.'"

WHITE: I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Is there objection?

DAVIS: I would like to have it read again slowly.

EGAN: The Chief Clerk will please read the amendment again slowly.

CHIEF CLERK: "No increase or decrease in salary or per diem shall apply to the legislature which enacted it."

PRESIDENT EGAN: Unanimous consent is asked. Is there objection?

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. White?

WHITE: I so move.

METCALF: I second the motion.

BUCKALEW: I object.

PRESIDENT EGAN: The motion is open for discussion. Mr. McLaughlin.

MCLAUGHLIN: I have no objection to the intent, but I am prepared to ask Mr. White what happens to the first legislature or are you preparing a transitory provision? If you cannot increase or decrease the salary, then by implication you cannot set it initially.

WHITE: That is a good point, Mr. McLaughlin. I will have to

confess I hadn't thought of that. We will have to treat it, if the amendment passed, in a transitory measure.

SUNDBORG: I have a question, also. It occurs to me that at least in the Territory today we do not have a law which sets the per diem of members. I think it is usually handled by a resolution of the legislature itself.

PRESIDENT EGAN: There is a law.

SUNDBORG: Is there a law covering per diem for legislators? I believe it is a resolution of the legislature.

PRESIDENT EGAN: Mr. Riley, do you have something on that?

RILEY: It is my memory that it has been done, Mr. President, by a joint resolution which has the force of law.

SUNDBORG: In any event, it is done by the session to which it applies, and it applies only to that session. Now if we adopted Mr. White's amendment, it would have to be done by law.

RILEY: Each session has set its own. I think it is well established.

SUNDBORG: They have not set their salary because that is set by the Organic Act.

WHITE: It seems I was under the wrong impression. If each session has set its own per diem, if that is the procedure that has applied to the past, and if there has been no objection to it, I certainly would have no objection to the taking of the words "per diem" out of it.

PRESIDENT EGAN: Are you asking unanimous consent, Mr. White, that the words "per diem" be removed from this particular proposed amendment?

WHITE: I have no objection, I so move.

PRESIDENT EGAN: Mr. White asks that the words "or per diem" be removed from the amendment.

V. RIVERS: I will object.

PRESIDENT EGAN: Objection is heard to the unanimous consent request. Mrs. Sweeney.

SWEENEY: I suppose in order to talk about this I have to second the motion. I second the motion. I want to really ask a point of information here. In Section 5 we say that no member of the legislature, and then a few small blank spots, shall hold, as I read it,

an office or salary which have been increased while he was a member of it. Wouldn't that take care of it? He can't hold any other office that has been established, they can't, increase their own salary or decrease it, as I understand it, so that if the present legislature increases the salary it would be for the salaries of the next legislature and the same with the decrease? I can't see it. I don't see the need for Mr. White's amendment.

SUNDBORG: I believe that that would be the case only if we adopt Mr. White's amendment. What Section 5 says is that, "No member of the legislature shall hold any other office which has been created, or the salary or emoluments of which have been increased while he was a member of the legislature." I think it clearly excepts the office of legislator.

SWEENEY: Mr. President, I would like to ask Mr. McCutcheon, the Chairman of our Legislative Committee, if he did not believe it was the intent of the Legislative Committee to have this apply to the members of the legislature?

MCCUTCHEON: Well, that particular thing is not my recollection. It could be that I don't remember that part of it, and I would ask that you ask some other members of the Committee, as my understanding was that it is our intention to prohibit members of the legislature from holding offices other than the legislature in which they may have had a hand in increasing the salary of or in creating such an office as much as it currently works now.

SWEENEY: Again, as I recall the discussion, we brought out many times that the legislators were a little reluctant to raise their own salary, no matter how necessary it was, because of the criticism that came, and the answer that was brought out in the Committee was that they are not increasing their own salaries because of this section. They may increase it but it will not go into effect until the following legislature. They are not increasing their own salaries. That was my remembrance of the committee hearings on this. If that is not the case I think it should be changed, but I thought that was sufficient.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: It occurs to me that Section 7 pertains just to the salaries and per diem of the members of the legislature. It is my understanding that the Convention this morning fixed a ceiling on their salaries by amendment. I don't see how then that they could later be given the right to increase that salary without conflicting with the first part of the section, unless it is intended to be an exception.

WHITE: This amendment would not have any point if the salary were fixed, Mr. Johnson. A salary is no longer fixed. A ceiling is set, so the salary can fluctuate anywhere it wants under that ceiling.

JOHNSON: Down, yes, but not up.

WHITE: Once it is down it can fluctuate back up again until it hits the ceiling.

GRAY: I feel it was just by accident we put it in "not to exceed". We might very well have established the 10 per cent, and I think we have sufficiently put the ceiling on the legislature as it is, and I would not even go any further in trying to limit the legislature. They are pretty well limited as it is right now.

V. RIVERS: Mr. President, the reason I would concur in Mr. Gray's statement, they are pretty well limited actually to where I feel that the men who will be elected to office sometime after we become a state will be those who have substantial subsidies to provide for their election. I do not see any value or merit in the amendment as it is offered. Under that amendment, including the word "emoluments", the legislature as a group could neither increase up to the ceiling we established nor could they increase their per diem, as I interpret the word "emoluments". It does not seem to me a safeguard that is at all needed. We have a legislature that is going to appropriate all state funds for all offices, all departments, all individuals employed. We are going to disburse probably in the first parts of their early years as much as 15, 18, or 20 million dollars a year and now we are going to stop them from raising up within the very low limit, which we have already set, to that limit in any one year in which they may hold office. I have no brief with the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: I just want to say about three words. I don't think this will accomplish what Mr. White intends. He intends to limit the legislature. Right now they are limited by public opinion as to the amount they vote themselves. If this amendment goes into effect then they would have to vote an increase for the benefit of the following legislators and the following session, and they would feel that they could very well increase it to a larger amount without criticism if they did not enjoy any of the benefits. Therefore, they are likely to increase it to a greater amount that way. This removes the criticism of public opinion.

WHITE: I don't follow Mr. Barr's reasoning. The reason for the amendment is merely to allow any discussion on the salaries of legislators to take place on an unbiased plane without reference to politics or public opinion at the moment. To reduce the question to its simplest terms, should the legislators have a higher salary or should they not, without any undue pressures being brought to bear on the men and women debating at the time?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as it would read at this time?

CHIEF CLERK: "Insert at the end of the paragraph the following: 'No increase or decrease in salary or per diem shall apply to the legislature which enacted it.'" Except the amendment now is to strike "or per diem".

PRESIDENT EGAN: Was there a question as to how it would read with the proposed amendment? Did we act on the amendment to the amendment?

CHIEF CLERK: No.

PRESIDENT EGAN: That is what is before us.

SUNDBORG: My recollection was that the amendment to the amendment was requested by unanimous consent by Mr. White and Mr. Rivers objected to it and it was not moved.

CHIEF CLERK: Mrs. Sweeney seconded it.

PRESIDENT EGAN: No, that is correct, Mr. Sundborg, it was the amendment to the amendment that Mrs. Sweeney seconded, so we have the proposed amendment to the amendment. Would the Chief Clerk please read it again.

CHIEF CLERK: "To strike the words 'or per diem'."

V. FISCHER: I would like to ask Mr. Rivers, if I may, why he objects to the striking of "or per diem".

V. RIVERS. I would not mind answering that question. I seems to me that if they are going to handle -- I understood the word "emoluments" to be in there and I objected to the word "emoluments" -- but I did not get the reading of the section as it stated "per diem" because I thought "emoluments" would cover also "per diem".

V. FISCHER: Would you withdraw your objection so that we can just vote on the salary only?

V. RIVERS: Yes, I will withdraw my objection.

PRESIDENT EGAN: The objection is withdrawn. Mr. White asks unanimous consent for the adoption of the proposed amendment to the amendment.

RILEY: I will object for the purpose of addressing a question to Mr. White. I don't think it is your intent is it, to deny the legislature the ability of the choice of decreasing their salary, is it?

WHITE: Yes, any change.

RILEY: Does the legislature enact a salary or does it adopt a salary?

V. FISCHER: Aren't we discussing the matter of the elimination of the words "or per diem"?

PRESIDENT EGAN: That is right. Mr. McNees.

MCNEES: Would you object, Mr. White, to the elimination of the words "or decrease"?

V. FISCHER: Point of order, Mr. President, could we not dispose of the words "or per diem" once and for all?

PRESIDENT EGAN: We have not disposed of them yet. That is the proposed amendment to the amendment.

V. FISCHER: That is right and I am suggesting that before we start changing other words that we strike the words "or per diem" as asked by Mr. White.

MCNEES: I will reserve my question until later.

PRESIDENT EGAN: Is there objection to the unanimous consent request for the deletion of those words, "or per diem"? If not, the proposed amendment to the amendment is ordered adopted, and the words have been deleted. Mr. White.

WHITE: Mr. President, in answer to Mr. McNees's question, I would object. I think if there is any logic to the argument that discussions of salaries should be kept free from pressures of the moment, the logic in it could be applied as to whether the movement is up or down equally well.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I disagree with Mr. White. I think if the same logic were applied you would have to have it read somewhat like this: "No salary could be increased in the next legislature and the decrease should apply to the one that decreased it." That would be perfectly logical.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?" All those in favor of the proposed amendment as amended will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment. I would like to have it read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF.CLERK: "Section 7, line 4, strike all material in Section

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7 following the first word 'salary' up to and including the word 'governor' on line 5."

BUCKALEW: I move the adoption of the proposed amendment.

AWES: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. The Chief Clerk will please read the proposed amendment again.

CHIEF CLERK: "Section 7, line 4, strike all material following the first word 'salary' up to and including the word 'governor' on line 5."

PRESIDENT EGAN: Could the Chief Clerk please read it as it would read.

CHIEF CLERK: "Each member of the legislature shall receive an annual salary and shall be entitled to travel expenses in going to and returning from sessions."

BUCKALEW: Mr. President, the proposal when it came out of the Committee attempted to guarantee minimum wage for legislators. That is the reason that the test originally originated, tying the legislators' salary to that of the governor. The way it has been amended, it has no logical reason for its retention. It does not provide for a minimum salary and I think it is an unrealistic test just put in there to perhaps limit the legislators in setting their salary. Now we trust the legislators to enact all our laws, and I think we can trust them to set their salaries. I was listening to one of the arguments before lunch, and I got the impression that I thought I was a delegate to the Constitutional Convention, but after listening to some of the arguments I thought it was some kind of package sale. Now, using their argument I think it would cause less concern if we just left it up to the legislature. As I say, the reason the test was put in was to provide and protect the legislators for a minimum salary. That is out of the window now, it does nothing, so there is no logical reason for its retention. I think we just ought to leave it up to the legislators, and I don't think the soap salesmen can cause us as much trouble.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 28 - Awes, Buckalew, Cooper, Cross, Doogan, Emberg, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy,

McNees, Marston, Nolan, Nordale, Peratrovich, Riley,
V. Rivers, Stewart, Sweeney, Wien, Mr. President.

Nays: 23 - Armstrong, Barr, Boswell, Collins, Davis, H. Fischer,
V. Fischer, Gray, Hellenthal, Johnson, Laws, Metcalf,
Nerland, Poulsen, Reader, R. Rivers, Robertson,
Rosswog, Smith, Sundborg, Taylor, Walsh, White.

Absent: 4 - Coghill, Hilscher, Londborg, VanderLeest.)

SMITH: I would like to change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. Smith asks that his vote be changed from "yes" to
"no".

METCALF: May I change mine from "yes" to "no"?

PRESIDENT EGAN: Mr. Metcalf changes his vote from "yes" to "no".

CHIEF CLERK: 28 yeas, 23 nays and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is
ordered adopted by the Convention. Mr. Fischer.

V. FISCHER: In line with the amendment just approved, I just happen to
have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as
offered by Mr. Fischer.

CHIEF CLERK: "Section 7, page 3, strike the first sentence and
substitute the following: 'Members of the legislature shall receive an
annual salary and expense allowances as prescribed by law, but the
amount thereof shall neither be increased nor diminished during the term
for which they are elected.' In line 8 replace the comma by a period and
strike the remainder of the sentence."

V. FISCHER: I move the adoption of this amendment and ask unanimous
consent.

UNIDENTIFIED DELEGATE: Object.

PRESIDENT EGAN: Mr. Fischer moves the adoption of the amendment and asks
unanimous consent. Objection is heard.

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I might explain that some of the language in the

the beginning of the first sentence is slightly changed to round it out, and of course the last two lines are stricken because we take two lines to say what is said here in two words, but the main point is that a minute ago we did vote down Mr. White's amendment which was related to an annual salary, one-tenth of that of the governor. In the main, arguments against that were made on the basis that we were setting a ceiling upon that salary. However, if there is no ceiling, we should provide for this clause that they may not increase their own salary and with that the decrease, the main reason for that being that certainly the onus of public opinion may be upon the legislature. However, if they do that in the first or second day of session, the onus will be worn off by the time the next election comes along. In the meantime, they do enjoy the benefit of their own action. I might further point out that in the Hawaiian Manual again on, I think it is page 8, we have a statement to the effect that, "Legislative salaries vary in different states and regions. In 27 states the salaries are now fixed by the constitution while in the remaining 21 states this matter is determined by the legislative bodies themselves", as we would up here. "In the latter case, provision is ordinarily made that such compensation may not be increased or decreased during the term for which the members have been elected." I think that there is no end of logic in that kind of a provision, and I might say that the phraseology of the amendment is based upon the model state constitution, and I certainly hope it will be adopted.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, one thought occurs to me. The senators will be elected for four-year terms, I suspect, on a staggered basis, so if they could not have their salary increased during their term, you would have half the senators during a particular session drawing one scale of pay and the other half of the senators drawing a lesser scale of pay. Now I should say, you might say for the session or during the calendar year they enacted their measure.

V. FISCHER: I would certainly be agreeable to that kind of a change.

PRESIDENT EGAN: What kind of change would that involve, Mr. Fischer?

V. FISCHER: The amount thereof shall neither be increased nor diminished during the session at which it was enacted.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: You mentioned the model state constitution, you might want to use the language.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for a couple of minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer.

V. FISCHER: Mr. President, I ask unanimous consent for permission to withdraw my amendment.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that his amendment be withdrawn. Is there objection?

BUCKALEW: I am objecting to find out the purpose.

V. FISCHER: For the purpose of introducing a revised amendment.

PRESIDENT EGAN: Is there objection? If there is no objection, so ordered. Mr. Fischer.

V. FISCHER: I would now like to introduce a new amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, strike the first sentence and substitute the following: 'Members of the legislature shall receive an annual salary and expense allowances as prescribed by law, but any increase or decrease in salary shall not apply to the legislature which enacted the change.' In line 8, replace comma by period and strike the remainder of the sentence."

V. FISCHER: Mr. President, I move the adoption of the amendment.

HERMANN: I second the motion.

KILCHER: Point of information. I would like to ask Mr. Fischer a question. Does the legislature mean a two-year term or maybe it should be "session" to make it clear?

V. FISCHER: I might say that as this was being drafted we used the term "session", but you may have a number of sessions during one legislature and one legislature would apply to a two-year period.

KILCHER: In that case I would like to speak against the amendment. I would like to have you or somebody make an adjustment there to apply to the calendar year. I see that would be sensible, since probably we are going to have two main sessions, and I had thought you would come up that we could word it "a calendar year", but I don't think it would be fair to apply it to a two-year legislature. I had been in favor as long as it was meant to be understood to be one year or one main session, but not legislature in the sense of two years.

V. FISCHER: May I answer that? I might say that the intent here and in most constitutions is that the legislature which enacts the change not make the increase which it usually is applicable to itself, and that is the main reason, rather than making the change one year so that it applies during the second year of that legislature.

PRESIDENT EGAN: Is there further discussion of the proposed amendment?

V. FISCHER: May we have it read once more?

CHIEF CLERK: "Section 7, page 3, strike the first sentence and substitute the following: 'Members of the legislature shall receive an annual salary and expense allowances as prescribed by law, but any increase or decrease in salary shall not apply to the legislature which enacted the change.' In line 8, replace the comma by a period and strike the remainder of the sentence."

RILEY: Mr. President, I would like to direct one inquiry to Mr. Fischer. I note that the Committee language distinguished between travel expenses and per diem, and I am sure that Mr. Fischer intends that expense allowances include each. Am I right?

V. FISCHER: Yes, I would certainly intend to cover both.

RILEY: I would also like to address a question to Mr. McLaughlin. I am wondering, Mr. McLaughlin, do you see anything in this language of the proposed amendment that might parallel your objection to that first proposed by Mr. White in the setting of the first salary?

MCLAUGHLIN: I presume that again they are going to have a transitory provision to handle any of this.

RILEY: I simply wanted to call attention to that to the minds of the mover.

HELLENTHAL: What is the necessity for the second sentence? Why have the sentence reading, "The presiding officers of the respective houses may receive an additional salary"?

V. FISCHER: I don't know, the committee put that in.

V. RIVERS: I will answer that question in this regard. The presiding officers of both houses are often called upon to perform a good many additional duties which generally constitute a certain number of duties after the official session is over, and on the basis of that session being over, there is generally an allowance made for the time it takes them to go over the journal with the chief clerk and get the statutes ready for presentation to the printer, and it involves anywhere from one to two weeks.

HELLENTHAL: Thank you, Mr. Rivers. My question was more directed to the constitutional or legal necessity. I wondered if there had been an opinion or expression somewhere that such language was necessary. I personally believe that the first sentence is adequate constitutional justification for furnishing additional salaries to the presiding officers.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, this morning when I addressed the body in regard to the Gray amendment I pointed out the fact that the first question always asked at a congressional hearing and probably the last one also is, "Can Alaska afford statehood, where is her income, and what is her outcome going to be under statehood?" I think this amendment of Mr. Fischer's very adequately puts us in a better talking position to both Congress and to the public of Alaska that we want to ratify this constitution. We have left it to the legislature to set up salaries. There can be no accusation, justified or unjustified, to the effect we have gone hog wild and are spending money or are preparing to spend money beyond our means, and I think that this places the responsibility for fixing the salaries of legislators squarely where it belongs, on the legislature, and for that reason we should vote "yes" to this amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I have a question to address to Mr. Fischer. I wonder if he has given consideration to the fact of whether the allowances he mentions in his amendment to Section 7 would cover the allowances which are referred to in Section 10. That is, the allowances that may be, it says members of the council, that is the Legislative Council, may receive an allowance for expenses. Would it be impossible for a legislature to set the allowance that would pay the members of the Legislative Council for their activities between sessions?

V. FISCHER: I would certainly say "yes" under this language one says "allowance for expenses" and in the amendment it says expense allowances" so that would certainly cover exactly the same ground. The intent certainly would be to cover travel, per diem for expenses incurred during the session and during travel or any other time while performing the duties of a legislator.

SUNDBORG: So a legislature could not raise or lower the allowance of the members who would be serving between sessions during that legislature on a Legislative Council?

V. FISCHER: I might say that the increase and decrease applies only to salaries, not to the allowances.

SUNDBORG: Is that correct? I am sorry, I misunderstood you.

MCNEALY: First, I would like permission of the Chair to address a question to Mr. Fischer.

PRESIDENT EGAN: You may, if there is no objection, Mr. McNealy.

MCNEALY: On the point Mr. Ralph Rivers raised some time ago here, if we changed the pay scale in the legislature for a period of time would you have senators on a different pay scale under this wording?

V. FISCHER: Under this wording the increase would be applicable except to the legislature which enacted the change. That would apply even to a senator during whose first half of the term the increase was enacted, and I think in line with that Mr. Rivers was agreeable to the amendment.

MCNEALY: I would like to say that I am opposed, probably not strongly opposed, to the amendment especially in a section there about allowing expenses. Now, the historic and the legal terms that have been used for years has been travel expenses, per diem, and when we talk about we have an allowance for expenses to the legislature to pay for postage for mailing, etc., and whether these words here, "allowance of expenses", would cover all of those, or whether it would appear they were left out. Maybe this discussion here, sometime you might get back to the journal or back to the stenotype report and find out that we had intended to mean this, but I can see no good reason unless it is meant to limit why it should be left out. On the matter of transitional measures I object to saying that it is going to be easier and still easier as time goes on, and say I am chairman of this committee and it would be easy to say, "Well, we will leave this matter up to a transitional measure." Well now, ordinances and transitional measures are matters that are more or less uniform in these constitutions. We have not studied any constitutions that have provided for setting up of salaries in the ordinances. You go back even in the early days and the schedules and ordinances merely provide for the first legislature and provide for the matter that they get into operation, but in all the old ones, and I can't speak offhand from the Hawaiian Constitution at the moment, but from all the old ones, why evidently the first legislature went ahead and set their own salary, and I question whether there should be another hassle on the floor here in its regard. If we do have to write a transitional measure to cover this, if this amendment is adopted, then we will be fighting around how much we are going to pay them for the first year. I think it should be settled, and the amendment defeated.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I don't think that the precise language of the amendment would necessarily even preclude the first legislature from setting its own salary. It says "they may not increase or decrease", but they may certainly set it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Boswell, Cross, Davis, V. Fischer, Harris, Hellenthal, Hermann, Hurley, Johnson, Knight, Lee, Marston, Nerland, Poulsen, Reader, Riley, Robertson, Rosswog, Smith, Stewart, Walsh, White, Wien, Mr. President.

Nays: 26 - Awes, Barr, Buckalew, Collins, Cooper, Emberg, H. Fischer, Gray, Hilscher, Hinckel, Kilcher, King, Laws, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Sundborg, Sweeney, Taylor.

Absent: 4 - Coghill, Doogan, Londborg, VanderLeest.)

R. RIVERS: I want to change my vote to "no".

PRESIDENT EGAN: Mr. Ralph Rivers asks that his vote be changed to "no".

CHIEF CLERK: 25 yeas, 26 nays and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mrs. Nordale.

NORDALE: Mr. President, at this time I would like to give notice of reconsideration of my vote on Mr. Buckalew's motion.

PRESIDENT EGAN: What motion was that, Mrs. Nordale?

NORDALE: The motion to strike "not to exceed 10 per cent of the salary of the governor", and then there was more to it I guess.

PRESIDENT EGAN: Mrs. Nordale serves notice of her intention to reconsider her vote on Mr. Buckalew's amendment that dealt with the salary. Mr. Sundborg.

SUNDBORG: May I address a question to Mrs. Nordale?

PRESIDENT EGAN: You may, Mr. Sundborg.

SUNDBORG: Mrs. Nordale, would you have any objection to taking that matter up at this time rather than tomorrow?

NORDALE: If I may have a few moments recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 7? Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that Mrs. Nordale's motion to reconsider her vote on Mr. Buckalew's amendment be taken up at this time.

METCALF: I second the motion.

JOHNSON: I object.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that Mrs. Nordale's motion to reconsider her vote on Mr. Buckalew's amendment be taken up at this time. Objection is heard.

SUNDBORG: I include that in the motion that the rules be suspended and that Mrs. Nordale's motion be taken up at this time.

HURLEY: Is this debatable or may I ask a question or is it out of order?

PRESIDENT EGAN: It is not supposed to be debatable. You may ask a question if there is no objection.

HURLEY: All I want to know is if Mrs. Nordale agrees to this move.

NORDALE: Yes, I do.

PRESIDENT EGAN: The question is, "Shall Mrs. Nordale's reconsideration come before us at this time? The Chief Clerk will call the roll. It takes a two-third's vote. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 46 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien.

Nays: 5 - Johnson, Kilcher, Laws, Nolan, Mr. President.

Absent: 4 - Coghill, Doogan, Londborg, VanderLeest.)

CHIEF CLERK: 46 yeas, 5 nays and 4 absent.

PRESIDENT EGAN: So the reconsideration motion has carried and we have before us at this time Mr. Buckalew's proposed amendment to Section 7. The proposed amendment is open for discussion. Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 7, line 4, strike all material following the first word 'salary' to and including the word 'governor' on line 5."

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I favor the reconsideration and the adoption of what for lack of a better phrase, I would refer to as the 10 per cent method, for several reasons. One reason is that it does limit the matter whereas the alternative method, it could be said by the opponents of the constitution that it gave a blank check to the members of the legislature, although I don't think actually it would, it could so be said. But a lot of thought went into the 10 per cent rule, speaker after speaker got up here and said he favored it, and I think each speaker said so conscientiously and sincerely. I think it represented a fine rule. It has one qualification that was not stressed. The 10 per cent rule is new, unique, and it shows that Alaskans are capable of thinking for themselves, and it is a new approach to the problem, and it is met with the approval of the Committee, it met with the approval of the advisors on the Committee, and I think it is commendable. It is restricted, it is sound, and it shows we are capable in the field of government of devising a good sound approach to a problem that someone else had not thought of, and for that reason I should like to favor the retention of the 10 per cent plan.

MCNEES: Mr. President, may I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may, Mr. McNees, if there is no objection.

MCNEES: He said the Committee generally favored the 10 per cent plan. I wonder if he is not putting words into the Committee's mouth.

HELLENTHAL: The Committee of course favored the method, the percentage no, but the method that was represented by what I call the 10 per cent plan was conceived by the Committee, as I understand it.

PRESIDENT EGAN: Miss Awes.

AWES: I voted for Mr. Buckalew's amendment, and I still favor that amendment. The legislature handles large sums of money. Eventually it will run into millions of dollars. These legislators'

salaries are only a small percentage of the appropriations that are made, and I don't think there is any place where the legislature is so subject to the will of the people, and for that reason less apt to go overboard in any action they take. I think there will be very few places in the constitution where we limit the amount of money that the legislature can appropriate, and I think this place is probably where it is the least necessary. All the difficulty we had this morning, first we considered 33 1/3 per cent, then 20, 15. and 10. The very action we went through this morning shows the difficulty of deciding on a percentage. Certainly there is no scientific way of doing it. Mr. Hellenthal says the figure of 10 per cent is well considered. I will say that while I did not favor the 33 1/3 per cent that figure probably received even more consideration because it was considered by the Committee for several weeks before this committee proposal even came out. I think that it is both unwise and unnecessary to put any specific limitation in the constitution.

PRESIDENT EGAN: Mr. Gray.

GRAY: As I follow the discussion, the plan seems to me that the 10 per cent is too small for the legislature, and I hold with what Mrs. Hermann says that the expense of this statehood is of more serious consideration than the salaries of the legislature on account of our state economy. We are trying to compare our economy with New York and California. You must remember that every dollar spent has to be raised, and I feel in this discussion that the proponents of Mr. Buckalew's amendment is that 10 per cent which we have figured out to a couple of hundred thousand dollars is not enough, and every time you add another dollar, 15 per cent for instance, that again is more tax money, that again is the legislature's worry, but it is conceivable to me that the legislature feels that the 10 per cent is too small for them.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, perhaps I should say a word or two about my reason for asking for a reconsideration of my vote. It was pointed out that with the amendment not to exceed 10 per cent several things were accomplished. We showed that we did not want too high a salary, it was pointed out that it placed a certain restriction upon the length of the sessions, that is it had a tendency to restrict the length of the sessions. Then immediately, as soon as that was wiped out, other amendments came on to the floor immediately proposing other restrictions, that they could not be increased or decreased. It occurred to me that if we would go back to the 10 per cent and leave it there that it would solve all these other problems about increases and decreases and then perhaps have some bearing on the next section that poses no limitation on the sessions.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, my question is partly answered by the mover of this motion. However, I wish to state my position on this. I voted on the prevailing side of Mr. Buckalew's amendment with good intentions and good faith as all of you have voted. As Mrs. Nordale relates here, we have tried to solve this question practically from all angles. It seems that we are pretty much divided, and the only solution appears to me that can take care of this situation for us is to leave this to the legislative body. I think they are in a better position to know for themselves as to what the needs are as far as the individuals are concerned. In other words, if the cost of living increases, and which very often happens, I have not seen any decrease in recent years, I think they are the best judge because they will be on the ground and they can act accordingly. I therefore feel in the face of all those proposals that we have tried, our best solution is to leave it to the legislative body. I think that is where it belongs.

PRESIDENT EGAN: Mr. Lee.

LEE: I was a member of this Committee, and as Mr. Hellenthal has said, we did a lot of thinking on this proposal. Now he stated there has been a lot of thinking done, but the purpose of all our thinking was defeated in this 10 per cent setup, so I am going to vote to retain Mr. Buckalew's amendment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I heartily endorse Mrs. Nordale's stand because I look at it from a man in my profession. We have an end product to sell and that is one thing that I hate to stress too much, but it must be kept constantly in front of us, and if we give the legislature a blank check to write their own salaries, that is the finest argument in the world to get people stirred up emotionally to vote against the ratification of the constitution. If we set a ceiling at the present time, then the people have a chance to say, "Well, it won't cost us any more than that." Whereas, if we leave it wide open then it is the easiest argument in the world for those who wish to oppose statehood to say, "How do you know it is not going to be a half-million dollars every session of the legislature?" I believe that since we have an end product to sell, let's not be misled by a red herring. I really do feel that we have an emotional appeal, and we must be careful. I heartily endorse the 10 per cent.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I endorsed the 10 per cent proposition this morning, and I have not changed my mind now. I am not one that feels that the legislature is going to go hog wild in setting its salary. This is a matter of emphasis from my standpoint. I am perfectly willing to accept the matter of the legislature setting its salary if I am sure that is what this body wants, but as a matter of preference, I like what we did this morning much better.

I am only sorry Mr. Buckalew did not make this motion first thing this morning and save us a whole day's time because we went from 10 per cent to 15 per cent and all over the place. I would like to say from my standpoint that I think what Mr. Buckalew is trying to do is defeated by the motion he has made. He voted this morning on all the motions to the effect that the legislature should receive more than 10 per cent. Now it is my belief, contrary to what some of the other folks have said here, it is my belief that if we put no limit on the legislature, they are probably actually going to be getting less salary than if we put a limit. We had considerable discussion this morning about trying to get a good qualified legislator by paying at least an adequate salary, something where he would not lose too much by being a legislator. By leaving this thing strictly to the legislature I am afraid we have done exactly the contrary. I think we only have to look back to the last session of Congress to see what happened there. The pressure that was brought, the criticism they got for trying to raise their own salaries. I recognize that in the action we took this morning the legislature still would set its own salaries, but certainly we have taken part of the burden here by saying they could go up to 10 per cent, which shows that the thinking of this body at least was that that was not unreasonable, clear up the 10 per cent.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Before Mr. Buckalew perhaps closes the argument, I would like to say I go along with Mr. Davis's line of reasoning. I can see the members of the legislature on the hook down there. We have not given them any guide or any sanction. At least we are sanctioning 10 per cent of what the governor would get as a basis, something they could point to to justify their position. If they go down there without such a guide, a few of those boys who are mostly well-heeled, who want to avoid criticism, are going to say, "Let's go easy on this and what's more the state is king of poor, and we have to save some money, so let's fix it at a very nominal amount." From then on out each succeeding legislature is going to hesitate to raise its own salary because they are afraid they are going to be under criticism. We have given them a fairly liberal guide, the sanction of a fairly liberal amount which reflects our thinking, and if you throw it wide open and knock out what we did this morning, I think you are just putting our legislature in a spot without anything to get them off the hook, and you are going to end up just as Mr. Davis indicated, and I hope we can put back this 10 per cent formula.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Point of information. Did not the 10 per cent amendment that we had before Mr. Buckalew's amendment, state that it is a top limit, that it may be considered a top limit? Then, Mr. Ralph Rivers, I see that your argument, that the rich boys might just

say "Let's go easy and do it for a dollar per year", for instance, could not be applied against Mr. Buckalew's amendment because the same argument could be applied against the 10 per cent amendment, so this argument does not apply to Mr. Buckalew's case. There is a limit set there in both and as far as dumping something into the legislature's lap that they have nothing to go by, I don't agree with that. We have the record available of this Convention where the general arguments seem to range from 10 to 15, that is enough for them to go by. I am entirely in favor of Mr. Buckalew's amendment.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, if the Committee had come out originally with the proposal that the salary be left to the legislature to fix, I would have been perfectly willing to have gone along with it, but I think when they came out with this suggestion that it be one-third of the governor's salary, that the damage has been done. That was received unfavorably by the people. I think we have all heard the rumors of discontent on that. If we now go back to the point where we leave it to the legislature, I think the people will still feel that this one-third is probably the goal the legislature is going to set for. They will say, "They have covered this up, they are going to let the legislature take care of it", that it will probably be one-third like the original proposal. So I am in favor of the 10 per cent.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think delegate Hermann wants the floor, and I will decline to her.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I like to consider this matter in terms of dollars and cents, probably because I have had to so many times before these congressional committees. Two hundred and four thousand dollars is what Mr. Gray estimated would be the amount it would cost for legislators' salaries under the 10 per cent rule. At the present time the federal government, at the time I spoke before the congressional committees, the expense to the federal government of conducting the legislation was \$75,000 a year to which the Territory added additional sums which in no way approached \$204,000. Now, let's not forget that this item of \$204,000 is only legislators' salaries. It does not include the other expenses incident to holding a legislative session, the expense of the boiler room, the printing of the journals, and all of those things that go into the cost of a bill of legislative session are not included in that \$204,000, if I understood Mr. Gray right. Now, when we go out to sell this action of ours, this constitution of ours as Mr. Hilscher has suggested several times, and a matter of which I am extremely sensitive to myself, I

think you are going to have dollars and cents to talk about, not 10 per cent, and that when you do have that to talk about you are going to have an awfully hard time explaining why you had to leap -- on the first early days of statehood when there has been no appreciable difference in the economy of the Territory or possibly will be, why you have to leap from the sum of \$75,000 which the federal government was paying, plus the additional cost which the legislature paid, to a sum of this amount which could easily be twice \$204,000 by the time other expenses are added in. Remember the \$75,000 plus the legislative appropriation, I believe it was \$50,000 at the time I spoke in 1950. That is dollars and cents people talk about, and I don't think we have any right to subject the constitution to the danger of nonratification by that fact, that is what they will talk about. They are not going to say 10 per cent nor say that that is a small salary. They are going to talk about actual dollars and cents. I have encountered these opponents of statehood too often in my brief career as a proponent of statehood not to realize what all their arguments are and how they are going to be presented. Quite apart from that is the additional fact that setting the salaries is a legislative function. Yesterday I was accused of being inconsistent because Mr. Sundborg thought I was trying to put some legislation into the constitution. If you take the right of the legislature to set salaries away, you have taken one of its most important functions away from it. I have never been a member of the legislature, I think some of the people in this group think I have. I have been willing, like Barkis, but my constituents have been less willing, so I have never been elected to be a member of the Alaska legislature. I can assure you without any fear of contradiction that you have to keep your legislature's functions intact. They may have made some mistakes in the past, and I have been one of the loudest in calling them to the attention of the public, but nevertheless, it is one of the most important instrumentalities of our republican form of government, and it must not have its rights abrogated and abridged. Let's forget this idea of sticking to a percentage and base this on the governor's salary and being novel and original and all of this, and let's remember that it's money that talks. I supported Mr. Gray's amendment this morning. I did it because it looked at the time like it was the very best we could do, and I was going to go along with what was best, but I think that Mr. Buckalew's amendment I also supported it, and I supported Mr. Fischer's because all of them have elements in them that I think is the most vital thing we have to consider, and that is the matter of cost, not as it appeals to us sitting here, but as it will appeal to the public who pays the bill, and I think that is very vital, and another reason why the legislature should have this function is that they have the revenue picture before them when they are making their appropriations and passing their bills. They have the statistics from the tax commissioner, and the treasurer, and everyone that has anything to do with the handling of the revenue of the Territory of Alaska. We don't. Right now we don't know

what our revenue will be when the salary for the first legislature for the Territory of Alaska will have to be set. I strongly urge everyone who is interested in seeing the constitution ratified to support Mr. Buckalew's amendment. I am only sorry you did not support Mr. Fischer's because I think it provided exactly the same thing and did it in a little better language.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I go along with Mr. Davis's talk that we have wasted a lot of time this morning. You will remember Delegate Coghill and I tried to get this into the legislature this morning but there was no chance of heading off the 10 percenters. They were heavy in there and they had to run their course before we could get a chance to come to it. This is a legislative matter, and I don't know and you don't know if five or ten years from now but what this constitution will still not be in use and the economy of the country will change, and it must be left up to the legislature to pass on that. This is a legislative matter, and I am going to follow along with Delegate Hermann, and I am taking her advice.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: I also voted in regard to this morning's motions. After the words "not to exceed were put in, I voted for the 20 and 15 per cent. I thought the 10 was too low and that it took over a considerable number of the legislature's prerogatives. I feel along with Mrs. Hermann and Mr. Marston that this amendment leaves the power in the hands of the legislators, and I restate here that the majority of the legislators have integrity to a point where I agree with Mr. Davis that they will probably appropriate and spend less if we leave it this way than if we have the 10 per cent maximum established, but I can see as time goes by that they may desire to and may have to change it. I was talking to a legislator in February, in the Washington State Legislature. He told me that there in the populous centers that it now costs approximately \$20,000 to get elected from a municipality in the State of Washington. In the rural areas he said it cost somewhat less. He also stated that legislators from the smaller areas where they were not subjected to the pressures did not have to expend large moneys to be elected, were proving to be the better statesmen and the better legislators in the interest of the people. I can readily see where in a period of time the legislature may desire to raise that money, that compensation, but I can also see that if we have the 10 per cent clause, in order to do so they will very readily apt to force the salary of the governor up to where it would not be what they would want. You have another variable there which must be considered. I feel we should allow it to lie in the hands of the legislature. I would not object to a provision that no legislature within any given session should increase its own compensation provided it is limited to the session or the calendar year in question, if the body feels that

is a necessary safeguard, but I want to strongly emphasize that here again we have a legislative function, and I am sure the people can trust the majority of the legislators to do the right thing in regard to it.

PRESIDENT EGAN: Mr. Barr.

BARR: I agree with quite a few things Mrs. Hermann says. She is an able student of the legislative process and was one of the most able critics of the legislature. I remember as a freshman senator she stated in the press that I did not know the facts of life. Perhaps that is so, but I believe I learned the facts of life since then, perhaps with the aid of Mrs. Hermann. There are some facts I know. I know it to be a fact that under either one of these methods Mr. Buckalew's amendment, or the 10 per cent method, it is still left up to the legislature to set the amount of salary and per diem for each member. The only difference is that under the 10 per cent method we do state a limit and I believe that is desirable from the standpoint of the people who look at this constitution before voting for or against it. Because after reading the Committee report, setting it at one-third of the governor's salary, and after it seeming very high to them, if they take a second look and see that it is left wide open and up to the legislature, I don't believe it will appeal to them anymore, but if we put some limit there, it will.

HILSCHER: May I ask Mrs. Hermann a question through the Chair?

PRESIDENT EGAN: You may, Mr. Hilscher, if there is no objection.

HILSCHER: Mrs. Hermann, I heartily endorse your views but may I ask this question. How are you going to answer the question to the people of how much will it cost if you do not establish some type of a ceiling or some sort of an index or pointer as to how much the legislature is going to cost? I can readily see where this would readily be a very fine stumbling block in selling the constitution and statehood.

HERMANN: I would answer the question by saying that I have no light to guide my path save the lamp of experience, and that the cost would be projected on a 60-member legislature, if such we do establish on the basis of the cost of a 40-member legislature, under our present system. I do not mean to say that I think the wages of legislators should be and continue to be \$15 with \$20 per diem per day, but I think the only basis we have for estimating of cost in case the question is brought to our minds by unkind questioners, that we only know what it has cost in the past on a 40-member legislature, and we have no reason to believe that the legislature itself will vary that beyond the limits that it must go in order to provide for a 60-member legislature.

V. FISCHER: I would like to say, as a former 10 percenter who

previously voted against Mr. Buckalew's motion, I have been swayed by Mrs. Hermann's arguments and will vote in favor of the motion now.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that Mrs. Nordale's motion for reconsideration is very well-advised. In view of the fact that the criticism that has been leveled at the original proposal of one-third, I don't believe we would cure that criticism by then leaving it wide open in the proposal because I think it would be inducive of more criticism than one-third of the governor's salary would. Now we are not setting a salary by putting 10 per cent in here. We are setting a limit, and I think that the people will be very glad to know that we have a limit set on the salary that the legislators can vote themselves. Now, Mrs. Hermann, I think quoted a figure of two hundred and some thousand dollars for salaries. Was that it? I don't know, perhaps Mrs. Hermann and I use a different book for arithmetic, but figuring \$2,250, which would be 10 per cent of the governor's salary, if the governor was serving and receiving \$22,500, and if we have a 60-person legislature, I arrive at \$135,000 for salaries.

GRAY: Point of order. I gave the figures to Mrs. Hermann. It is \$135,000 for the salary but it was \$207,000 including the \$20 per day per diem. It is \$135,000 straight salary.

TAYLOR: I am not ashamed to go before the people and say that the salaries under 60-person legislature is only \$135,000 and that would be if the maximum salary was allowed. The legislature might not feel that they want to take the maximum salary. That is a very modest sum I think in proportion to what other legislatures cost, like the legislatures mentioned, a 399-person legislature in New Hampshire which in the whole state is not much larger than a fair sized county in the West, and I think we would not be a bit ashamed of that, and I think we should put this guide and this ceiling upon the salaries for the legislature.

RILEY: I have been curious in listening to the debate as to how the four members present who are members of the Alaska Statehood Committee might divide on this question. I see they are evenly divided, and I think that is rather significant of the thinking of the whole body. I was going to move the previous question, but I note two others wish to speak.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I was happy to learn here a few minutes ago that Mrs. Hermann once said about Mr. Barr something, because I remember very well what Mrs. Hermann once said about me. I have only the kindest feeling for Mrs. Hermann and I know she has always very ably and very conscientiously represented the best interests of

Alaska when she has appeared before Congressional committees to discuss this question of statehood. I have had the privilege of hearing her several times discuss it, and I think we would have all been proud if we had had that same privilege. I am wondering, however, if Mrs. Hermann could in good conscience, after the debate we have heard here today, go before another Congressional committee and say that the cost of a legislature would be 50 per cent greater than it has been under the Territorial system because we have 50 per cent more members. In view of the fact that every person who has spoken here in favor of the Buckalew amendment, with the single exception of Mrs. Hermann, has spoken of it from the standpoint they want more money, that is why they are for the Buckalew amendment. They don't want to be held down to 10 per cent. Mr. McNees is for it, he says, because we defeated the one-third. Mr. Victor Rivers is for it because we defeated the 15 and the 20.

V. RIVERS: I think the 10 is far too low.

SUNDBORG: Others who have spoken on the subject said they were for the Buckalew amendment because they said they want to put more money out to the legislators. If that is their desire, I think they achieve it if they adopt the Buckalew amendment because what it does it takes off every, there is no restriction on the salary in the first place, there is no restriction on whether the members can raise their salary in that very session. There is no restriction on how long the sessions may be. I believe that one thing that the 10 per cent achieves and it is only one thing, is that it tends to limit the number of days in which a legislature is going to be in session in any biennium or any year. If you take the thing off entirely the legislators may say it is perfectly all right for us to get salaries amounting to so much per day, \$50 per day, and so if we meet for six months each year we are entitled to salaries of so much. If we leave the 10 per cent in they could not do that and would not do it and they would show some restraint at least about how many months out of each year they would be meeting, because at the utmost all they could collect in salary would be 10 per cent of the salary of the governor, and so I would vote "no" on the motion that is going to be put to us shortly, which is "Shall we adopt Mr. Buckalew's amendment?"

PRESIDENT EGAN: Miss Awes.

AWES: Mr. Sundborg is the second one who has made the remark that everyone who has been speaking in favor of the Buckalew amendment favors it because it will enable the legislators to receive more than 10 per cent of the governor's salary in pay. Since I spoke in favor of the Buckalew amendment I feel called upon to express my views on that particular point. I did not, I am sure in the remarks I have made, say any such thing. I frankly do not know what the correct percentage would be. I do not believe that is

any way we can determine what the correct percentage is. I am not at all sure the legislature will not end up with a salary less than 10 per cent. I am not saying they should, but they might. I still think it is a matter that should be left to the legislature, and that is the reason why I support the Buckalew amendment.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think my position has been consistent all through this debate. The reason I supported Mr. McCutcheon's committee report is that it set a minimum standard which the salary could not go below, and I agreed with that theory, but I can see now that when they put in the 10 per cent, "not more than 10 per cent" there was no purpose, no logical reason for leaving any figure in there because it did not accomplish anything, and I agree with Mr. Davis. I think that the first state legislature is going to get a lot less than the present Territorial legislature, but I still think it is a logical amendment because we are leaving it up to the legislature, and if they want to pay themselves \$20 a day, which they probably will, it is all right with me, but leaving this other figure in it does not make sense. There is no reason for it in there, and I trust the legislature absolutely. I believe they will starve me out, but I still believe this amendment should be supported.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I just want to add a few words to this proposal since I too favor Mr. Buckalew's amendment. I was not mentioned as a proponent of this motion that is before us now, but however I consider my views based on good grounds also. I too have had a little experience in the legislature. Sometimes it works out to the benefit of the public when you have constituents sitting in a gallery and for that reason I think perhaps it would be a good idea to leave this question to the legislative body.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I am consistently holding to the Buckalew proposition primarily, not withstanding the misquotation by Mr. Sundborg relative to my remarks. I did not support Mr. Buckalew's amendment because I wanted to spend money or see the Territory of the new state spend money. I support Mr. Buckalew's remarks because I want to see good legislation. As I remarked before, by good legislators, from whatever walk of life they may come from, whether they have financial support that makes them independent or whether they come from the grass roots and the back roads of the country way, I feel that inasmuch as the theory propounded by the Committee in their thinking relative to good salaries, very adequate salaries for the legislators, with the one idea in mind again, that of good government, that that still holds true and can

be applied best considering only the two arguments now before us, the plan of the 10 per cent or Mr. Buckalew's amendment leaving it up to the legislature. I have appreciated Mrs. Hermann's arguments. I feel she has been very close to this situation for as many years as a good many of us, if we were lumped together. I feel she has met most of these arguments at one time or another, and has met them well. I am not at all afraid of going to the people with a constitution in which this matter is properly left up to the legislature and asking their acceptance of it. I think we will get it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?"

H. FISCHER: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll and please read the proposed amendment.

CHIEF CLERK: "Section 7, line 4, strike all material following the first word 'salary' up to and including the word 'governor' on line 5."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Armstrong, Awes, Buckalew, Cooper, Cross, Doogan, Emberg, V. Fischer, Harris, Hermann, Hurley, Johnson, Kilcher, King, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nolan, Peratrovich, Riley, V. Rivers, Smith, Stewart, Mr. President.

Nays: 25 - Barr, Boswell, Collins, Davis, H. Fischer, Gray, Hellenthal, Hilscher, Hinckel, Knight, Laws, Metcalf, Nerland, Nordale, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Wien.

Absent: 3 - Coghill, Londborg, VanderLeest.)

KILCHER: May I hear Mr. Davis's answer? I did not hear.

DAVIS: No.

CHIEF CLERK: 27 yeas, 25 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 7?

If not, are there amendments to Section 8?

CHIEF CLERK: There was an amendment left over from last evening, Mr. McCutcheon's. They were going to do something about changing a word but it was moved and seconded but nothing has been done about it yet, it was Section 6.

PRESIDENT EGAN: If it was held over the Chair did not know that. Mr. McCutcheon.

MCCUTCHEON: We have proceeded beyond Section 6, and I assume that when we come back to Section 6 that we will propose it at that time.

CHIEF CLERK: It was held in the minutes as seconded, and no further action. Is that all right?

PERATROVICH: I think it was held in abeyance, subject to the conference of these committees, and we proceeded with 7. The understanding was we revert back to 6 to take care of that particular question when you were ready.

PRESIDENT EGAN: The Chair knew nothing about it. Mr. Robertson.

ROBERTSON: I would like to make a motion orally. I move that the word "uneven" be inserted before the word "year" in line 12 of Section 8.

PRESIDENT EGAN: Section 8, that the word "uneven" be inserted before the word "year" on line 12 of Section 8. What is your pleasure, Mr. Robertson?

ROBERTSON: I ask unanimous consent.

DOOGAN: I object.

METCALF: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Robertson.

ROBERTSON: Mr. President, my thought is that holding a session of the legislature every year is too frequent, particularly when we have a provision that if an emergency occurs that special sessions can be called. I believe in stability of the law and I think that annual sessions of the legislature necessarily creates a considerable turmoil. It makes the people, even the lawyers, uncertain as to what the laws are, and I believe in our Territory that if we have a regular session of the legislature every other year we are in ample position to furnish all adequate and necessary legislation for the proper government of the state and furthermore, there is another point that we know the proneness of

each legislature, probably from necessity, at least the legislators believe they are necessary, to increase taxes and I believe the taxpayer has a right for at least a two years' rest from an increase of taxes, and I submit this thorny problem should be once every other year instead of every year.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I might say something in that regard. I am against the amendment for this reason. Though a city council is a small portion of the government of the Territory, we have found here in Fairbanks and I think every major city of any importance of the Territory finds the same thing, that they reach a point where instead of having a council meeting every two weeks they get to the point where they have to have a council meeting every week because of the growing size of the city and growing necessity of taking care of things as they come up, and I feel that the Territory is growing in that same regard, and as we have seen in the past, that the legislature is slugged with a tremendous amount of work all through the session and particularly at the end of the session that they end up where they can't accomplish the work in the manner that we would like to have it accomplished because of the press of work. It is necessary that we have the legislature meet every year and then those that are worried about the length of the session, I think will find that the session of the legislature probably won't exceed between 30 and 60 days every year because they are taking up the matters as they come before them. When you speak of special sessions, you have seen in the past the reluctance of some governors to call for a special session namely because it is economy for the people of the Territory. I have found, and I think that the Territory of Alaska will find that as they go on that special sessions will become a necessity more and more, and you get into more special sessions than you actually want, and if you have a Territorial legislature that meets every year to take up the business in an orderly manner, then you are not plaguing the people that are serving on the legislature to a call of a special session when it may be inconvenient for them to do so.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I know the last few sessions of the legislature it has been found to be physically impossible to do the work that should be done by the legislature in the 60-day period, and we have had many talks down there, publicly and privately among the legislators that there should be a 60-day session in the one year, the odd year, and a 30-day session in the next year. Since 1945 I don't believe that there has ever been a legislature that adjourned and that all of the bills, and many of them for which were very fine bills, had received consideration from the house and from the senate, that many bills died because it was physically impossible to consider them and either pass them or defeat

them. Now that is not just an isolated instance, but it is in every legislature. We found the same thing in 1955. I believe we went 12 days over there. We not only considered the Employment Security Commission bill, but also others. We did work steadily with night sessions during the entire session, and I think we could very well, with the size of the Territory and its increasing problems, could afford to have a 60-day session one year and a 30-day session the following year. I think then possibly we could keep up with the business.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I have lived in Juneau during every session of the Territorial legislature and I think public necessity, my recollection may be wrong in one instance, but I think public necessity has only called during all those years since 1913 for two special sessions. It might have been three special sessions, but the fact is that I challenge anyone to point out whereby the Territory has suffered harm by the fact there have not been more special sessions called. Now this article provides that the legislature itself may call a special session, so it seems to me that if it is true that at the end of a regular session the majority, or whatever the required number is in this article, of the legislators feel that they have more legislation that is important to the welfare of the Territory to enact, they themselves could call a special session before they adjourn, but I can't see any reason of putting upon the Territory the burden of having a regular session every year, and I also say what laws have been passed, or have not been passed from which the Territory is suffering. I have heard of none. I don't think anyone else has, and I submit it stands to reason. We have talked a lot today about trying to get good men and women to run for the legislature, not that they have not been in the past, maybe to increase their caliber. I submit it is a burden on an individual to accept a legislative position and if he has to go there once every year it is going to be just that much more of a burden, and you do destroy this salary. You just cut his salary in two and I believe it is only common sense to have our laws stable enough so that we know for at least two years the law is going to be in effect, unless some public emergency calls for its being repealed or amended and not having it subject to being in effect knowingly, so we all know it. I submit we ought to amend the article in the course of my proposed amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I believe that if a law passed by the legislature is a good law there is no question but what it will stay on the books more than one year. I also believe it has been very well established that special sessions have become regarded as emergency sessions, and they have only been called where there has been an emergency. So I feel very strongly that the annual session is desirable in order to get away as far as possible from

the last minute rush which has, I am sure, though I cannot cite specific instances, resulted in the passage of poor laws and has resulted in desirable laws not being passed.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to point out three things very briefly. In the first place the executive article has developed a very strong executive in which I am in favor. However, we must in conjunction with that also have a strong legislature, and I do not feel that can be accomplished in biennial sessions. The trend of the other states in recent years is back toward annual sessions. Originally most of your legislatures, in fact all of your original legislatures in the states, were set up on the basis of annual session. When your legislatures reached a new low in the thinking of the people in the mid-nineteenth century, we found the trend became away from the annual sessions and toward the biennial sessions. In the twentieth century we find the swing back toward the annual sessions, and I feel we would be making a big mistake in a state as large as this one is, to have a strong executive and not have annual sessions of our legislature. I am firmly in favor of a strong executive, but I also want a strong legislature. Furthermore, you are going to have the best reflected thinking of your populace of Alaska as a whole in your legislature rather than in your executive. You are going to have that because your legislator constantly goes back among his constituents, and he in turn will carry that thinking into the capital city, wherever it may be, and it will be reflected in turn in your executive thinking as it should be.

METCALF: Mr. Chairman, some of the folks here have said an annual session of the legislature is going to solve the last-minute-rush problem. I wonder if they are going to solve the last-minute-rush problem in this Convention.

HERMANN: A good question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. If there is no objection the Convention will stand at recess until 3:50 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has received a communication from a professor at the University in which he announced that Major William F. Dean will make a speech in the gymnasium at 1:00 o'clock on Thursday. Professor Richardson, I believe, invited the delegates to be present if they

so chose to hear General Dean's speech, and I was wondering if it might be in order, if the delegates did not wish to recess for that particular length of time, to send General Dean a communication requesting he make a few brief remarks here at the Convention following his speech at the University, or just what you would like to do?

JOHNSON: I so move.

MARSTON: I second the motion.

PRESIDENT EGAN; It has been moved and seconded and unanimous consent is asked that the President request Major General Dean to present a few brief remarks to us on Thursday afternoon if he would so choose to do so. Is there objection? Hearing no objection, it will be accomplished. Are there amendments pending at this time? Mr. Victor Rivers.

V. RIVERS: I have an amendment to Section 8, Mr. President.

PRESIDENT EGAN: Amendment to Section 8. Would the Sergeant at Arms please bring the amendment forward? The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Line 14, Section 8, add the following at the end of this section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature to such time as he shall think proper but not beyond the day set for the opening of the next regular session.'"

PRESIDENT EGAN: Mr. Victor Rivers, what is your pleasure?

V. RIVERS: I will move the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the proposed amendment.

NORDALE: I second the motion.

PRESIDENT EGAN: Is there discussion? Mr. Hurley.

HURLEY: I will ask unanimous consent so that the Style and Drafting Committee can have a good time.

PRESIDENT EGAN: Is there objection?

BUCKALEW: I object.

GRAY: I object for a minute. I wonder if just for the moment, just what was the intent of the Committee to go as far as they went and no further, did you contemplate this?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, in perusing the bulk of the constitutions of all the states, as a matter of fact, I think I read them all and some others besides, I cannot recall if all of them had the provision similar to this, but at least a substantial preponderance had the provision just exactly as it is written here. "One house shall not adjourn for more than three days without the consent of the other." The point of Mr. Rivers's amendment, I think in theory, is well taken. I am not just sure how it would apply in the event the legislature sought to reinstitute a special session by polling their own membership as is provided in another subsequent section. I think Mr. Rivers's amendment seeks to eliminate the possibility of a complete stalemate and because there is not a limitation necessarily in the legislature it will permit the governor to set up a limitation unless they arrive at some conclusion rather than being a total stalemate, and in so terminating the legislature will provide them a cooling-off period, so to speak, so they may go home and consult their constituents, and I assume it would not prohibit the assembly again of the legislature under its own authority.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: That is the intent, Mr. President. This is not, I don't think, a controversial amendment. It does, however, appear in practically all the state constitutions where they do not have time limits on their sessions. It was my thought in presenting it that we should have such a measure to overcome a deadlock in the case such a thing occurred, and it is very possible that such a thing could occur, that after a reasonable cooling-off period the members could then gather and resolve their problems. I just want to refer to the Hawaiian reference manual on it and give you a few figures. A number of states grant the governor power to adjourn the legislature, usually when there is a dispute between the houses as to the time of adjournment. Under these circumstances the governors of 18 states may adjourn the legislature but not beyond the time of the next regular session. The constitutions of five other states grant similar power, but the maximum length of the recess is expressed in terms of days or months. I think that covers all there is on that point. The subject is that if there is a deadlock rather without a time limit set on its session, that the governor in this particular manner can, on the request of one house, adjourn the legislature. It was expressed to me before I presented the amendment, there should be a limit of time in which you should notify the other house, such as two or three days. I think this is broad enough to allow the governor to set up such a procedure and grant the other house two-or three-days'notice that he had been asked to take such action and would do so in the three-day period.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I disagree that this is a good thing because it seems to me to be unwarranted encroachment of the executive department upon the legislative. We have three distinct branches and they should be kept as separate and distinct as possible. Now if we are going to take away from the legislature the right to fix its own adjournment date by giving it to the governor, I think we are destroying one of their essential powers and on any matters that involve organization and the conduct of the business of the legislature, it seems to me that should be their prerogative. I am certainly against the amendment.

SUNDBORG: May I hear it read again?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Page 3, Section 8, line 14, add the following at the end of this section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature to such time as he shall think proper but not beyond the day set for the opening of the next regular session.'"

GRAY: I withdraw my objection.

PRESIDENT EGAN: Mr. Riley.

RILEY: I would like to direct a question to Mr. McCutcheon. Perhaps I did not follow him clearly. Did you say that in every case where there was no expiration time set for a session that a provision similar to this existed?

MCCUTCHEON: No, I did not intend to infer that.

RILEY: I have rather pronounced reservations on this myself in line with Mr. Johnson's remarks. If, as we have always felt, that they are coordinated branches, I think rather recent memory would show us that in our own situation, had we no expiration date we would have been at an impasse, and I think perhaps further language could be considered here in line with the next section, that any adjournment taken by such a means be taken subject to the legislature's right to reconvene itself. That possibly would satisfy my objection, but I will leave it up to Mr. Rivers to call for a recess should he wish to consider other language.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I am a little confused here as to when this comes about. It seems to me from the amendment this only comes about when the two houses of legislature cannot agree with each other that they should adjourn. If that is true, I don't feel that the executive is usurping the power of the legislature

to adjourn. If they can't make up their own minds to adjourn, somebody is going to have to make up their minds for them.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: This is a rather lengthy amendment. I would like to either have it reread or ask Mr. Rivers a question. Mr. Rivers, would the result of your amendment be that the governor would have the authority to set the time of the adjournment, is that included in there?

V. RIVERS: I will read to you the amendment. "If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature to such time as he shall think proper but not beyond the day set for the opening of the next regular session."

KILCHER: That means he sets a date.

V. RIVERS: He shall adjourn the legislature to the time he shall think proper, etc.

KILCHER: Is there an amendment forthcoming that will mitigate somehow that power of adjournment to the time he sees fit? I think I am against the amendment. I see the impasse that the house could be in, but I think the governor has altogether too much authority under this amendment. Unless an amendment to this amendment comes forth, I will vote against it.

PRESIDENT EGAN: Mr. Barr.

BARR: I agree with Mr. Johnson's principles that the executive should not infringe upon the powers of the legislative, but this is a special situation where the members of the legislative branch cannot agree. One house would want to adjourn, the other house would not. There is only one way that situation could be resolved, and that is by a referee, and who is better fitted to be a referee than the highest official elected by the people?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention? Mr. Rivers.

V. RIVERS: I would just like to say a few more words and that is this, that I think if this amendment in substantially this general form is not adopted, it will probably be one of the first amendments adopted at the next constitutional revision convention.

BUCKALEW: Could I ask Mr. Rivers one question before I vote?

PRESIDENT EGAN: If there is no objection, Mr. Buckalew.

BUCKALEW: As I understand it, if we adopt this amendment that would preclude the both houses from having a poll and calling themselves back into session prior to the date set by the governor?

V. RIVERS: No, that would not be my interpretation. I am not sure.

PRESIDENT EGAN: If the Chair called for a two-minute recess it might be this could be resolved. If there is no objection the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, after some discussion I agree, and those I discussed it with feel that by putting a period after the word "legislature", or a comma after the word "legislature", striking the balance of the typewritten matter and adding the words, "subject to the provisions of Section 9 hereof," would allow the self-starter clause to operate. In Section 9 is a self-starter clause whereby two-thirds poll of the legislative members they may reconvene, so I will ask to withdraw my original proposal for an amendment and submit this amendment as read.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that his original proposed amendment be withdrawn. Is there objection? Hearing no objection it is so ordered and the amendment has been withdrawn. The Chief Clerk will please read the proposed amendment as it is before us at this time.

CHIEF CLERK: "Page 3, Section 8, line 14, add the following at the end of this section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses, adjourn the legislature, subject to the provisions of Section 9 hereof.'"

PRESIDENT EGAN: Mr. Rivers, what is your pleasure?

V. RIVERS: I will move the adoption of the amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to ask Mr. Rivers a question. As I see Section 8, it refers to regular sessions of the legislature while Section 9 refers to special sessions, and special sessions are limited in the subjects which can come before that session. Do you feel you would accomplish the purpose which would be desirable under those circumstances?

MCCUTCHEON: I would like to point out to Mr. Smith, however, that when the legislature is convened because of its own action, it is not limited to subject matter. Only when the governor calls a special session is the special session limited to such agenda as the governor may submit.

SMITH: Thank you, Mr. McCutcheon.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to ask the question of anyone that can answer it. If this material does not go in the constitution could the legislature then prescribe for such a situation?

V. RIVERS: I doubt very much if they could. In the section previous to that, Section 8, the wording previous to that, we have the words, "Neither house may adjourn or recess for a period longer than three days without concurrence of the other." It automatically prohibits them from both adjourning, and if they are deadlocked, in the matter of adjournment, then in this manner the governor could adjourn them and they could reconvene on a two-thirds vote of their own group, and I believe that would handle it.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I don't think that Mr. Rivers' answer quite filled Mr. Hurley's question there. I still wonder whether if this article fails of adoption, whether the legislature could not choose its own system of arbitration. Is that your idea, Mr. Rivers? I wonder technically if they could not choose their own umpire so to speak, make their own rules? I think it would be just house rules Mr. Riley, what do you think of that?

RILEY: Like so many I profess no expert qualifications in that respect.

MCCUTCHEON: Mr. President, assuming that Section 11, which we have not arrived at yet, stands in its form, I think that that eventuality which Mr. Rivers has provided for would be taken care of by their own action, but the section may not stand, and in such a case it may be necessary to add Mr. Rivers's amendment.

HURLEY: Mr. President, the question was asked with this thought in mind and as I say, these things leave me a little cold. We will assume this impasse is going to come about by the fact that one house is considering something and the other house is not interested in it and it wants to adjourn. It appears to me that the governor then could be in favor of one or the other of them and act in such a way as to prefer one house or the other and in essence then prefer one particular subject matter that they were discussing, and the possibility occurs to me it may be a dangerous

thing, and so I am a little frightened of it. If it could be taken care of by rules I would prefer that it would be done that way.

MCCUTCHEON: I would like to point out one further thing. In this instance I am speaking neither for nor against the amendment. You might consider in looking through Section 9 that in the event the legislature took an immediate poll and voted by two-thirds to stay in session, it would in effect override the governor's so-called veto of the legislature, so it's a matter of the governor siding with one house, if there is two-thirds of the members that prefer not to accept the governor in the other house or the majority of the house, if they can muster the two-thirds they can, in effect, override the governor's veto so they could stay in session.

RILEY: Mr. President, another thought occurs to me which may not have been in our minds during the last recess, and Mr. McCutcheon has touched on it. If this language is acceptable, further attention will probably be required on Section 9 to obviate a series of adjournments. I see we have a limitation in the last sentence in Section 9: "No special session shall be of longer duration than 30 days." We will assume that this proposition is set in action whereby one house wishes to adjourn, that house and the governor get together and bring about an adjournment, immediately two-thirds of the total number of legislators call for reconvening the legislature. Again the one house decides to adjourn on the first day they are back or within a short time thereafter, I don't think we are fully covered yet under the language which is before us.

HELLENTHAL: Unless another recess is proposed, I cannot quite agree with Mr. Riley. He says that two-thirds of the legislators can override the governor. It does not say that, it says through a poll directed by the Legislative Council. Frankly, I don't know what that means. Does that mean that it takes a majority vote of the Legislative Council before the machinery can be set in process? Apparently Mr. Riley thinks not. He thinks that a petition signed by two-thirds of the legislators might accomplish the result, so I certainly would like attention focused, during the recess, to what this language, "poll directed by the Legislative Council" means.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I move that we postpone this amendment to a set time, the time being on the next working over of the section after we have a chance to go over Section 11. In other words, to take this matter up again after Section 11 has been treated with and if it should be accepted as it stands, which I hope, then it appears it might be entirely a matter up to house rules and after Section 11 has been dealt with in better shape, it might save us

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time and recesses. We have other recesses in which this question could then be handled.

PRESIDENT EGAN: You are asking that this particular proposed amendment be set over to a set time?

KILCHER: Set time being after Section 11 has been dealt with.

KNIGHT: I second it.

V. RIVERS: I have no objection.

PRESIDENT EGAN: If there is no objection, then the proposed amendment is set over until we have completed our action on Section 11. Mr. Sundborg.

SUNDBORG: I have an amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 8, line 12, after the word 'year' insert 'for a session of not to exceed 60 days'."

SUNDBORG: I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second to the motion?

HERMANN: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Sundborg.

SUNDBORG: This I think will make unnecessary the language proposed by Mr. Rivers because it would bring the legislature to an end if it reaches an impasse when it gets to the 60th day. I believe that the provision that they may meet up to 60 days each year is generous. They have been meeting only 60 days every other year under our Territorial experience, and if there is necessity for additional time of meeting it could be ordered by either the governor or by two-thirds of the legislators.

MCNEES: Where does the insertion go in please?

SUNDBORG: After the word "year". Right after the word "year", between "year" and period.

PRESIDENT EGAN: After the word "year" on line 12. Mr. Kilcher.

KILCHER: Mr. President, I think that the question, shall we have a limited or unlimited legislature, should not come up here merely in the light of an amendment. It is a basic question and I think if you decide on it now we won't have given it enough

thought. Mr. Sundborg, I think that the question itself in its own place and time is a good one. However, I don't think it will solve this particular problem we are speaking about, because for instance you have a legislature that after 30 days reaches this impasse. Would you then have them be in an impasse for another 30 days until they have to go home anyway?

PRESIDENT EGAN: The Chair would like to state we will have to handle these problems somehow, and if we keep setting them all aside we never will. Mr. Sundborg.

SUNDBORG: I do submit that this is the time and place to decide this. It belongs in this section if we are going to limit the length of the sessions of the legislature, it belongs right where I put it. I offered it not just to solve the matter which Mr. Victor Rivers brought up, I had it written out here on my desk before he submitted his amendment. I believe it is good anyway, but in addition it would make unnecessary an amendment such as Mr. Rivers has proposed.

BUCKALEW: I would like to hear from somebody on the Committee. This is an important amendment and I haven't heard anyone from the Committee.

MCCUTCHEON: The preponderance of Committee thinking on this subject was that we should have unlimited sessions. The whole theory of this legislative article has depended on an annual salary, unlimited sessions, special sessions that could be called by the governor if he has a program that is necessary to be instituted, or to call a special session of or in the event of public necessity in the feeling of the legislature and the feeling of the public for the legislature to bring itself to convening. By placing this 60-day limitation in here we obviate the theory of this particular legislative article, and I mean virtually the bulk of the article, because the thinking has been along the lines of the general tendencies in legislatures of the states to get away from limited session by more and more leaning into either split sessions or annual sessions. At least six of the states now have gone over to the point again, as Mr. McNees said some time back, of having annual sessions. Some of the states have developed annual sessions and have also included special sessions, almost as a matter of course. We think, at least most of us on the Committee, felt that in line with the proposition of being able to institute the legislature when necessary, and we felt that because of the necessity of perhaps taking care of the situation as our new state grows, the problems of our state multiply by increases in population, the advent of industry and whatever it may be, that it might be necessary for the next 15 or 20 years for us to have sometimes in a year perhaps as much as two sessions or calling a regular session and a short session on the following year to pick up the tag ends of what may have been left off at one session. The theory of this particular article is that on an annual basis the legislators will

be, let us say, self-stopping. The necessity of their own private affairs will tend to make them transact their business in an expeditious manner as possible and so bring the termination of the legislature at the convenient point when they need to go home or when the bulk of the affairs of the state have been taken care of, yet still not precluding the fact they still must stop on a given date and leave undone much important legislation. So if this matter of a 60-day limitation is interposed at this particular point, it is my feeling that the intent of this legislative article is going to have to be very substantially revised.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I don't quite follow the argument that if this amendment is adopted it would necessitate a complete revision of the legislative article. It seems to me that the intent is not altered at all. The only question is whether or not we can afford to spend money for unlimited sessions or whether we ought to try to economize as some have suggested and limit the sessions to 60 days each year. That should be plenty of time if the legislature gets down to business and does its work, and the arguments which have been put forth on the basis that if you have an unlimited session they are going to get their work down a lot quicker. If that argument is good, on limited sessions, it seems to me it should be good on 60-day annual sessions. I have not had as much experience in the legislature as some, but I have attended one or two regular sessions and one special session, and it occurs to me that with the regular session every year, 60 days in length, and with the provision as set forth in Section 9, where the governor or legislature itself is given the right to call any emergency special session, that we have spent plenty of money to make our laws. This would be a very good way of economizing on the cost of the legislature over all. I am for the amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I can agree with Mr. Johnson that economy is desirable, but I do not believe we should economize at the expense of good legislation, and I think it is important that the legislature have time to carry out the purpose of creating good legislation, and I think too that we have seen what limitation of time can do, so I am opposed to the amendment.

ARMSTRONG: May I ask Mr. Sundborg a question?

PRESIDENT EGAN: You may, Mr. Armstrong.

ARMSTRONG: In the Hawaii Constitution they seem to classify between general sessions and between budget and special sessions; general sessions for 30 days and budget sessions and special sessions for 30 days, and that the governor may extend any session for not more than 30 days. Have you considered that type of

provision in making out your amendment for this article?

SUNDBORG: I did not, Mr. Armstrong, but I would say that it would be identical with ours, as it would be if my amendment is adopted, regular sessions of 60 days, special sessions of 30 days. The thing that would be different would be that we have no provision for the governor to extend the session, but we do have a provision allowing the governor to call a special session, which is the same thing.

ARMSTRONG: But you do not have anything in there about a budget session, and it seems to me that is an appropriate inclusion.

SUNDBORG: That was not the intention of my amendment. I do not know anything about the subject of a budget session.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 20 - Barr, Boswell, Cross, Harris, Johnson, Laws, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, Riley, Robertson, Rosswog, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays: 32 - Armstrong, Awes, Buckalew, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor, White.

Absent: 3 - Coghill, Londborg, VanderLeest.)

CHIEF CLERK: 20 yeas, 32 nays and 3 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I have an amendment on the Clerk's desk to Section 8.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 8, page 3, line 13, change the words 'three days' to 'one day'."

R. RIVERS: I move the adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second to the motion?

KNIGHT: I second the motion.

TAYLOR: I object.

PRESIDENT EGAN: The subject is open for discussion. Mr. Ralph Rivers.

R. RIVERS: I bring this up now so the matter will not be unconsidered. To say that either house may adjourn for three days without the consent of the other house is kind of crossing up the purposes of our legislature. Certainly we have gotten away from a unicameral legislature. We have a bicameral, but I think if the members of one house are there and on duty there is no reason why the other house with the constant exchange of business, be authorized here or have it left open to take a recess for three full days. They could take turns taking recesses. I can see a house knocking off for one day without the consent of the other house, but I think the three-day period is too long for this particular purpose.

MCNEES: I would like to ask Mr. Rivers a question if I may.

PRESIDENT EGAN: If there is no objection, you may, Mr. McNees.

MCNEES: Couldn't you possibly imagine a situation whereby one house might like to send a delegation of their members out into the greater area for a series of hearings that might run into four or five days on a particular question, and the other house might want to sit in session during that time?

R. RIVERS: They haven't recessed when they are in the committee of the whole. When in committee of the whole they are still conducting business of the legislature. If they want to hold hearings they can go right ahead as a committee of the whole and hold them.

MCNEES: I did not mean necessarily hold them at the seat of government, but hold them out in a greater area. They might disperse into two or three or four committees in various ways, a proportion of the house still sitting at the capital city.

R. RIVERS: Where there is a legislature in session I can't see them taking out into the country and holding hearings. They would hold hearings between sessions as in a committee of the whole, but I have no strong feeling on the matter. I just wanted the body to consider it.

PRESIDENT EGAN: Mrs. Sweeney, the Chair was wondering whether or

not maybe the Committee thought that one year the house would go to the Pioneers' Home and the next year the senate would go. Mrs. Sweeney.

SWEENEY: The house and the senate, each time they meet, send a delegation for an inspection of the Home and the business continues. They do not pass bills but they do a lot of second reading for instance and introduction of bills and conduct all kinds of business, and that is for quite a number of days.

BARR: Mr. Rivers says that he just gave us this for our consideration. It has not taken me long to consider it. I think it is a very unnecessary amendment. I can think of several situations where one house might want to recess, such as Mrs. Sweeney mentions, also perhaps they have finished practically all of their business and a big long 80-page banking bill has passed one house but is being considered in the other house. Why should one house sit there for three days while the other house is working on that 80-page bill? They might as well recess, but it is up to the members of the legislature. They are not going to recess just for fun, not if there is any work to do.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "nays" have it and the proposed amendment has failed of adoption. Mr. Robertson.

ROBERTSON: I would like to ask Mr. McCutcheon, the language in there, "for a period longer than three days" sort of bothers me. I think Mr. Gray asked him some question on the point, but what is to prevent either house from doing that recurrently? Having a recess for three days without the concurrence of the other house? Then meeting again and then immediately taking another recess for another three days?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: It is my impression that this same terminology is in the Organic Act or else it is in the joint rules of the house and senate. I can't remember which, and I can't find it in the Organic Act right this minute, but I think the terminology there is nearly identical to it. It is apparently standard terminology or relatively standard terminology in the bulk of the constitutions, and for reason of precedents, I suppose, we accepted that.

BARR: I can answer Mr. Robertson's question as to what would prevent it. The newspapers would prevent it.

PRESIDENT EGAN: Are there other amendments to Section 8? Mr. McCutcheon.

SUNDBORG: I do not have an amendment, but I have a question. I wondered, Mr. McCutcheon, if I may ask a question, we are providing here for an annual salary. Was it your thought that that salary would be paid in equal installments? And the reason I ask that is that a man might come down to the capital city of Juneau and work for two months very hard in session and earn a total of \$400, presuming that our annual salary might be around \$2,400, and there would be no other duties, particularly of the legislators, for the balance of the 10 months, and then under Section 5 where any member would have to resign in order to run for any elective position or to be appointed to any position, under the state, that would be all the compensation he would get. Now just for the purpose of judging what the intent of the constitution is, would the annual salary be paid in equal monthly installments or could they pay more while the legislature is in session?

MCCUTCHEON: Mr. President, the discussion I believe in the Committee was relatively informal on that matter, and it was concluded that the legislators would be paid on a monthly basis. It appears, at least our consultant advised us, that most of the states or a good portion of the states that have an annual salary operation do pay on a monthly basis. Whether that is an actual fact or not I do not know. We have not checked it out with any of the books or other constitutions on that matter. We assumed that the payment would be on a monthly basis, receiving such other additional compensation as they may be entitled to at the time they were in actual session.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would like to ask Mr. McCutcheon a question. Is it your understanding that once we have created an office of a legislator, once a man has been elected, he fills the office, I would think he would be entitled to the full amount then. I mean, if the legislators wanted to pay themselves that way, but once he is elected to the office, is he entitled to the annual salary?

MCCUTCHEON: That is a question I don't think we had considered in that fashion. We felt that so long as a man was actually

serving in the capacity of the legislature that from month to month he should be paid, but for some reason he ceased serving in that, the Territory shouldn't seek to get back the unserved portion of his remuneration. Did I get your point correctly?

BUCKALEW: You just intended to leave it up to the legislature?

MCCUTCHEON: I assumed the legislature would set up some kind of fiscal arrangement for paying the legislators.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: That would be correct because Section 7 now says the

legislature will receive an annual salary. That leaves it entirely up to the legislature to figure out the details, and we don't have to spell them into this constitution.

V. RIVERS: I have another question, and that is in regard to the fourth Monday in January of each year. It seems to me that in the first few sessions of the first state legislature, that the second Monday would gain 15 days for you and I can see that in the first few sessions, the first few years of the new state, that we are going to have considerably longer sessions than you probably will have later. I wondered if the Committee had considered the use of the second Monday in January in order not to run so far into the spring months?

MCCUTCHEON: There had been some discussion about it. I think our discussion revolved around the time the governor would take office. There was some coordination of thought in that respect. I think the governor takes office prior to the time the legislature convenes, to permit him to get his fingers into the matter of government prior to the time the legislature actually sits. Now the Committee, and I think I can speak for all of the Committee on this matter, the Committee has no particular date they would like to see it set, except they did not want to get it too far along. It seems to me the fourth Monday of January is about the time the legislature convenes currently. If it were advanced, I am sure that I speak for the committee again, we would have no objection if it were advanced to an earlier date.

V. RIVERS: As I recall, all the discussions in the Executive Committee, we more or less keyed the seating of the time of the governor around the second Monday in January and that is why I asked the question. We keyed it around the second Monday in January, the legislature meeting then, and I am going to ask the unanimous consent to change the word "fourth" in line 11 to "second", that will save two weeks in the matter of the early spring season and we do have a seasonal operation.

NOLAN: I will object.

V. RIVERS: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: If we are going to have a 60-day session, I know they have changed the income tax law, but anyone in business, I think it is a pretty tough proposition to get there on the second Monday of January. That is kind of tough, a little too tough on anyone that is going to try to get their business affairs in shape, don't you think?

PRESIDENT EGAN: At times that could fall on the seventh or

eighth of January. Mr. Victor Rivers.

V. RIVERS: The least it would fall on ever would be the eighth day in January.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, in connection with this, something that had occurred to me previously, was that we provided the legislature may change the date of the general elections. Could Mr. Rivers's objection and Mr. Nolan's objections to each other, etc., be met by inserting, "unless otherwise provided by law" or "unless changed by law", as we have done for the date of the general election?

PRESIDENT EGAN: Mr. Gray.

GRAY: I wish to agree entirely with Senator Nolan. Even if you would add one more week, the third Monday in January, at the first of the year every day counts, and the third Monday is much, much preferable to the second Monday.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think we probably should give more consideration to Mr. Fischer's thoughts on this matter. If the legislature can change the election date, I think the legislature should be able to change the date which they convene. You might run into a situation where you have to amend the constitution to conform with an election.

NOLAN: I think Section 3 has been called to my attention which says the terms of office shall begin on the fourth Monday of the following January. You would have to change that also.

PRESIDENT EGAN: If the Chair may, the Chair recalls that there have been several, not one but several amendments to the Organic Act that related to this particular question, and it might not be a bad idea to leave it up to the legislature. Mrs. Hermann.

HERMANN: Three times within my memory, and I have watched the legislatures convene for about 30 years now, but three times within my memory the date of convening has been changed. It used to convene in March and it was set to convene I believe the second Monday of January, and that proved to be undesirable and another change was made to make it the fourth Monday in January. I think myself that there should be a provision in there permitting the legislature to change the date and not just tying us down flatly to the date of the fourth Monday in January, no matter what happens because things could happen in regard to the calling of the national Congress that might affect our time a little too. I think the suggestion made by Mr. Fischer is good,

and I hope he will reduce it to an amendment and submit it.

V. RIVERS: I will ask for a two-minute recess, so Mr. Fischer can work on that.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: I will ask unanimous consent to withdraw my previous motion and to submit in lieu thereof this amendment.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that his previous amendment be withdrawn. Is there objection? Hearing no objection it is so ordered. The Chief Clerk may read the proposed amendment as offered by Mr. Victor Rivers.

CHIEF CLERK: "After the word 'January' on page 1, line 18, and on page 3, line 12, after the words 'each year' insert the words 'unless otherwise provided by law'."

PRESIDENT EGAN: What is your pleasure, Mr. Victor Rivers?

V. RIVERS: I will move and ask unanimous consent for the adoption of the amendment as it has been proposed.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the amendment.

SWEENEY: I object.

PRESIDENT EGAN: The Chief Clerk will please reread the amendment.

CHIEF CLERK: "After the word 'January' on page 1, line 18, and on page 3, line 12, after the words 'each year' insert the words 'unless otherwise provided by law'."

PRESIDENT EGAN: Is there still objection to the unanimous consent request?

SWEENEY: I will withdraw my objection.

PRESIDENT EGAN: Hearing no objection, the proposed amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: Mr. President, I should have spoken before you said it was adopted. However, I would like for the record to know that it was the opinion of the Committee to set the date of the

beginning of the term of office and the date of the convening of the legislative session on exactly the same date so that there could be no doubt in anyone's minds that the legislators elected at the last election, their term of office shall begin at the stipulated time when the new session of the legislature convenes. That was our idea in setting up the beginning of the term of office on the fourth day of January in Section 3 and establishing the beginning of the legislature on the fourth Monday of January in the subsequent Section 8, so there would be no conflict at all.

HERMANN: I just wonder what that might be to the travel authorizations prior to the fourth Monday. If he is not a member of the legislature until the fourth Monday how are you going to get him to the legislature on the fourth Monday?

MCCUTCHEON: Actually, Mrs. Hermann, we are not members of the legislature now until we actually take the oath of office at the legislature.

V. RIVERS: The fact of certification of election is adequate to cover that and has been in the past.

R. RIVERS: Mr. President, I remember one occasion when there was a great press of business and the attempt was made to call an extraordinary session prior to the fourth Monday in January, and it was called and the boys worked for 17 days and later on the circuit court held it was not valid but they did so much work in the 17 days that they successfully completed all their labors during the following 60 days. The thought was they could be convened because they had been certified to be elected even though a previous legislature had been elected and was theoretically still in office. It was a bit of a mean question so I think we should be fairly clear on the subject matter that Mrs. Hermann raises or we are going to have another law suit. I don't know just how to get at it, I would have to study it. However, the travel time, I think they get paid for travel time on their full per diem by specific authorization and that can be for two days travel before you take your oath, but whether you could actually start drawing a salary on January 1, before you have been sworn in, that is something else again. I know it can be done if this constitution says so.

PRESIDENT EGAN: Mr. Gray.

GRAY: I think that we resolved that the legislature will take care of their own salaries and if they get into salary difficulty here they will be authorized to take care of it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: It is my impression that once we get to be a state we won't have the same problems we had under the Organic Act. I don't

think Mrs. Hermann's question will raise much of a problem.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, with your indulgence I will revert to Section 6 in as much as we have one amendment pending from last night which was held in abeyance. If you will permit we would like to take that up at this time.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

MCCUTCHEON: Mr. President, prior to that time I would like to ask unanimous consent that I withdraw the original amendment that was offered last evening and supply in lieu thereof a new amendment which I hereby offer at this time.

PRESIDENT EGAN: Is there objection to Mr. McCutcheon's unanimous consent request? Hearing no objection the original amendment is ordered withdrawn. Would the Chief Clerk please read the proposed amendment as offered by Mr. McCutcheon at this time.

CHIEF CLERK: "Page 2, Section 6, line 25, following the word 'arrest' insert 'and not subject to civil process'."

MCCUTCHEON: Mr. President, I will ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent for the adoption of the proposed amendment. Is there objection?

R. RIVERS: Mr. President, I object just for a point of clarification. Those words would supplant the word "during"?

MCCUTCHEON: No.

R. RIVERS: Very well.

PRESIDENT EGAN: Is there objection to the proposed amendment as offered by Mr. McCutcheon? Mr. Robertson.

ROBERTSON: Is that in the present guarantee in the Organic Act?

R. RIVERS: Mr. Hellenthal and I had luck. We found that in the first constitution we looked at, which was the State of Washington, practically none of the other constitutions had anything about immunity from civil process but this was the language used in the State of Washington. It sounds pretty good to me.

PRESIDENT EGAN: Is there objection? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Section 6? If not, we will proceed again with Section 8. Are

there amendments to Section 8? Section 9? Are there amendments to Section 9?

R. RIVERS: I have one which I will offer.

PRESIDENT EGAN: The Chief Clerk may please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 9, page 3, line 20, after the word 'governor' delete the rest of the sentence and substitute the following: 'He shall in his proclamation state the purpose of the call, but the legislature may also act on other matters and shall be the judge as to the time of its adjournment within the time limit herein prescribed.'"

R. RIVERS: I so move.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second to the motion?

TAYLOR: I second the motion.

R. RIVERS: Mr. President, this is a fundamental question. You will note that Section 9 is entirely on the subject of special sessions or extraordinary sessions. Section 9 as presently written has for its last sentence, "No special session shall be of longer duration than 30 days." Our present Organic Act says that no special session shall be longer than 30 days. The Organic Act does not state whether the governor shall determine the length of an extraordinary session or whether the legislature shall determine the length of an extraordinary session. Accordingly, at the last session of the legislature the governor took the position that he could call an extraordinary session and limit the time to three days or five days. On the opinion of the Attorney General of Alaska, the Alaska legislature took the position that being a co-equal department in government that once convened it was the judge of when it had completed its labors and it was the judge as to when its time of adjournment should be. I fully believe that if you are going to treat the legislature as a co-equal department of government, that within the limit of 30 days special sessions or extraordinary sessions for emergency purposes or otherwise, the legislature should decide when it has completed its labors and it should not be called into special session for five days or 10 days by the governor who wants to put the grease under it when it may take 15 days or 20 days to cover a major subject and write the bill. So I think that even though we want to be brief in this constitution, we should borrow from some of our past experiences and where there is a disputable question let this body decide that type of issue. Now, there are two points contained in this amendment. The one I have just mentioned as shall the legislature be the judge of the time when it shall adjourn within the 30-day limit. The next question is, may the governor limit the purpose

of an extraordinary session in his call. The present Organic Act says that the governor may call for emergencies or when public necessity or convenience requires, the governor may call the legislature into extraordinary session. On ruling of the Attorney General's office, it was pointed out that although the Organic Act did say that the governor was to state the purpose of his call, the Organic Act does not say that the legislature once convened is limited to just the one subject that the governor specifies or the two or three subjects which the governor specifies. In the absence of any specific limitation it was held that once convened in extraordinary session the Alaska legislature was the judge of when it had done the legislative work it wanted to do and could carry out a few other subjects that arose besides the special subject set forth by the governor in his proclamation as the purpose to call. Well, we have heard quite a bit here about each of these three main branches of government being co-equal under the checks and balance system characteristic of our republican form of government. Now I have found in three extraordinary sessions I have been connected with, two as Attorney General, that invariably when the legislature was called some very timely matters were brought to its attention that were not mentioned in the governor's call. Of course, our legislature was not limited to just the specific objects of the call, so it could pick up those timely matters and while it is waiting for some long bill in a free conference committee, it can be acting on other matters. I don't believe in saying that when you only have a 30-day extraordinary session and you go to all the expense of bringing your legislators together and taking them to your capital, that they should be prevented from exercising their full legislative powers. It is absolutely obvious that they always get to work on the particular subject that the governor called them for. That is what constitutes the emergency or the most important thing that must be done, but you have got them there and if my amendment carries they are going to be the judge as to whether they stay 15 days or the full 30 days or whatever time would be involved, and they are also going to be the judge as to whether they can handle a few other matters during that period of time within the 30-day limit other than the specific things laid out by the governor in his proclamation, so I submit that as the basis for my argument.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I believe probably Mr. McCutcheon wants to bring out the same point. You will notice on line 22 and 23, beginning with the last word on 22, "or presented to them by the governor". In Committee, our feeling was that by putting this into this section we gave the legislators an opportunity to present any bills that they had to the governor and the governor would then present them to the legislature. There was a feeling that the governor should list the subjects in his proclamation, but that the legislature should not be precluded from submitting other bills, but having them presented by the governor would do away with any great rash of

bills being introduced. The important bills would be taken care of. I don't see any limitation in the section.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The failure of Mr. Rivers's argument lies in this principle. He has predicated all his remarks on a single situation which has been predicated on a bill of don'ts, or our Organic Act. We must assume that with little exception, and I say little exception, that a strong executive arm and the legislature will probably be of the same political party. We have not precluded that the legislature will assemble on their own hook. They can do that but we have stated here that in the event the governor calls a special session for whatever duration he may desire, that he sets up the agenda which will be considered, but it does not again preclude the possibility of the floor leaders of the houses taking this other material to the governor and having it approved. I seriously doubt that if the leadership of both houses would approach the governor on this matter that it could be considered well enough, but there would be no reason to stay in session longer than was necessary. There is one other consideration that establishes that there is no need to undertake the amendment Mr. Rivers has, and that is the fact we are hoping there shall be annual sessions. The press of business will not be in the same fashion as it has in the previous years when we have used only the biennial session with extremely rare special sessions, so the Committee felt and discussed, and I will admit there were several points of view at one time on this, that if we were to adopt this particular kind of device, that the governor could call and the governor could dictate. It is a strong executive branch, he is talking to his equal arm in the legislature. On the other hand, the legislature can assemble on behalf to consider whatever they want, so that neither is precluded from putting across the necessary program or taking up a necessary emergency. We must remember that this governor is answerable to the people, he is not answerable to Washington, D.C., he is answerable to the people. Secondly, there will be extremely few exceptions where the governor shall be of the opposite party of the majority of the legislature. I think with these safeguards, the way this particular section is designed, that it is going to give the most complete mobility that we can possibly have in this particular section of our article.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. McCutcheon has brought out several of the points I was going to mention. One is that with annual sessions of the legislature there will be little need for special sessions. Another thing is that it is actually a protection to a special session of the legislature if they are confined to the matters the governor presents because you who have been in the legislature know that the moment you convene the head of every department of government descends upon you with all kinds of proposed legislation,

and I am sure that if there is anything important enough to consider at a special session, you would just as soon be relieved of all that extraneous material. Furthermore, if other matters are presented that you feel are going to take more time, you can poll yourselves and a two-thirds vote will keep you in session for an additional period of time. Is that not right?

UNIDENTIFIED DELEGATE: Yes.

HELLENTHAL: I ask that the question be put.

PRESIDENT EGAN: Mr. Hellenthal asks that the question be put. Mr. Davis.

DAVIS: Before putting the question, Mr. President, I do not get how much of this section Mr. Rivers would strike. He started with the word "governor" in line 20, but I did not get how much was to be stricken.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "After the word 'governor' delete the rest of the sentence.

DAVIS: Thank you.

R. RIVERS: That would mean that the last sentence would be retained. The last sentence being "no special session", etc. Now, as I said there are two parts to my proposed amendment. One is specifying who shall be the judge of the length of their term to accomplish the job for which they are called, and the other is this business of whether they can handle extra matters or not. I see that the Committee has a pretty good argument for letting the governor specify objects of the call, so if I could have a two-minute recess I would like to maybe withdraw my amendment and submit another one.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I ask for unanimous consent to withdraw my proposed amendment.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent to withdraw his proposed amendment. Is there objection? If there is no

objection it is so ordered. Mr. Ralph Rivers.

R. RIVERS: Now, for the record, I want to ask the Chairman of the Committee a question. Mr. McCutcheon, would it have been the Committee's intention under the language of your section as submitted that the governor would have any power to limit the length of a special session?

MCCUTCHEON: I can't recall that that particular topic came under discussion. We thought in terms primarily of limiting special sessions. As to whose authority of limitation, I don't think we discussed it.

R. RIVERS: Would it be your interpretation of it as written though that in as much as you have said nothing about the governor being able to limit the length of the session, but you have limited the subject matter of the session, that that would be interpreted that the legislature would be the judge of its adjournment time within the 30 days?

MCCUTCHEON: I think I can speak for the Committee. We assumed that because the governor had control of the agenda to be presented that by so presenting the material he would limit the session of the legislature in special session, except it got to 30 days.

R. RIVERS: Then I must prepare an amendment.

HELLENTHAL: May I ask a question of Mr. McCutcheon? By the use of the word "directed" in line 17, did the Committee feel it would take a majority vote of the Legislative Council to start a petition method in operation?

MCCUTCHEON: We had the advice of Mr. McKay on this, and he stated that in as much as the Legislative Council had the president of the senate and the speaker of the house as members of the Legislative Council, that it would take a majority of the Council. I assumed, to instigate a special session. However, the assumption is also that there may be public demand for it, and the legislators may be writing in as they have occasionally demanded in recent years here, that the governor call a special session, but such has not happened, but it would be the natural assumption of the Legislative Council acting as a whole with the membership of both houses who are on the Legislative Council, that it would require the majority of their vote to instigate the poll of the other members of the legislature.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: That defeats the whole purpose of your section because if the complexion of your Legislative Council was different than the legislature you would not get anywhere because you would

have to have two-thirds of the members of the Legislative Council and you might have some holdovers on there.

MCCUTCHEON: You can always create a contingency which is a very minor exception to the rule. We are assuming that the Legislative Council would be composed of those who most recently reflect the attitude of the people in their elections. I may be in error.

BUCKALEW: Did you consider the possibility of making the polling of the legislature a mere administrative act of the Council?

MCCUTCHEON: Yes, that is right. I will have to ask for some support from the Committee on that but I'm sure that is the case. I yield to Mrs. Sweeney.

SWEENEY: As I recall the consideration in Committee, at a time when there was apparent demand for a special session, the Legislative Council would be asked to poll the legislators. The Legislative Council itself is composed of legislators and it is my understanding that they had to have a majority or any portion of the Legislative Council to demand it. For instance, the legislators from Nome and Fairbanks and Anchorage could write down and tell the Council they thought there should be a poll put out for a special session, and the Legislative Council would do the administrative part of polling the legislators and then if two-thirds of the legislators demanded a special session, that would be called. Perhaps I misunderstood you, Mr. McCutcheon, concerning the majority of the Legislative Council itself.

MCCUTCHEON: I am in error, I apparently misunderstood the question here, but the Legislative Council acts purely as an administrative agent in that respect.

V. FISCHER: Could I ask a question in line with what Mr. Rivers was driving at? If a governor calls a special session of the legislature to consider a specific item and assuming that even though he wants that passed, and the legislature has not had time to pass it, and he sets a time limit, and the time limit has expired, could the Legislative Council in its administrative capacity right then and there, not poll the legislators and if two-thirds of them favor a special session, a special session will start right then and there, which would preclude the need for any amendment?

R. RIVERS: Mr. President, if a session comes to an end and a special session is called, all business of the session that is ended is dead, all bills have to be reintroduced. You don't have a continuity by falling back on this special session idea.

PRESIDENT EGAN: Do you have an amendment pending?

R. RIVERS: I have now an amendment to submit to take the place of the one withdrawn.

HELLENTHAL: Would you object to substituting the word "conducted", perhaps, for the word "directed" in line 17?

JOHNSON: Parliamentary inquiry. I would like to ask the Chairman a question. Regarding the language of Section 9, Mr. McCutcheon, there seems to be some indication that under the provisions of this section the governor may limit the time of a special session. That is, he may fix it at any time less than 30 days. I believe the largest amount of time would be 30 days. Is there anything in the section that would give him the right to fix the time at less than 30 days? I don't understand that from reading the section.

MCCUTCHEON: There is nothing specifically stipulating that the governor can fix it at less than 30 days.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 9, add to the end of the section the following: 'The Legislature shall determine the time of its adjournment within the thirty-day period.'"

R. RIVERS: I so move.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment and asks unanimous consent.

JOHNSON: I object.

TAYLOR: I second the motion.

R. RIVERS: Mr. President, I have asked, for the record and which will be how the courts are going to interpret this constitution, as to whether the standing committee who submitted the proposal had in mind that the legislature could limit the duration of the session within the 30-day period, and Mr. McCutcheon said yes, they could limit the time it would take to accomplish the work required. I will admit there is nothing in here that says the governor can limit the length of the session. It is wide open but some of the Committee members were kind of thinking in terms that maybe he could. We don't want to go through what we went through again. There is no reason why we can't in a simple sentence solve what may turn out later to be a big controversy.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't see the need for this for this reason. When the governor sends out the proclamation and lists the subjects that are going to come up at the special session, and he knows that the members of the legislature will probably bring other bills for presentation, he can't say this is going to be done in two weeks

or 10 days or anything else. He is going to have to leave it open and trust that the legislators will quit when they are through if it is before the 30 days. If the legislators are polled for a session the 60 members can't say it will be for 60 days or 10 days, they have to leave it open. The thing is they will go along until they finish their business and not over 30 days and the legislature will adjourn.

R. RIVERS: I still want to close, Mr. President. It can't happen, but it did happen. There is nothing in the Organic Act that says the governor may state the duration of that special session. There is nothing in the Organic Act that says the governor can call a special session for 10 or 20 days. It says he can call a special session. The Organic Act says that the limit of a session shall be 30 days and so it can't happen, but it did happen, and I don't want to see it happen again, and I don't want to see any arguments about the question in the future. Therefore, I am proposing that we simply specify that the legislature shall determine the time of its adjournment.

KILCHER: I don't know what happened according to Mr. Rivers. I am confused about what happens.

R. RIVERS: At the past session the governor called an extraordinary session for three days. We knew we could not do the job in three days, so we went right on working. At the end of the three days he gave us another three days and then 10 days. We always contended we were the judge of when we could adjourn and he was telling us how long we could stay in special session. Now I don't want that to happen again.

MCNEALY: Neither under the Organic Act nor in the last session were we on annual salary either.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Armstrong, Buckalew, Cross, Emberg,
Hellenthal, Hermann, Hurley, Kilcher, King, Knight,
McNealy, Nerland, Nordale, Peratrovich, Riley, R.
Rivers, Smith, Sundborg, Taylor, Walsh, White, Wien,
Mr. President.

Nays: 25 - Awes, Barr, Boswell, Collins, Cooper, Davis, H.
Fischer, V. Fischer, Gray, Harris, Hilscher, Hinckel,
Johnson, Lee, McCutcheon, McLaughlin, McNees, Marston,
Metcalf, Nolan, Poulsen, V. Rivers, Robertson,
Rosswog, Sweeney.

Absent: 7 - Coghill, Doogan, Laws, Londborg, Reader, Stewart, VanderLeest.)

CHIEF CLERK: 23 yeas, 25 nays and 7 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to make a committee announcement if we may revert to that order of business. The Local Government Committee will meet at 6:10 p.m. in the committee room on the third floor.

PRESIDENT EGAN: Mr. Barr.

BARR: Subject to other committee announcements, I move that we recess until 7:05 this evening.

PRESIDENT EGAN: Mr. Barr moves and asks unanimous consent that subject to other committee announcements the Convention recess until 7:05 this evening. Are there other committee announcements? If not, the Convention will stand at recess until 7:05 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon.

MCCUTCHEON: Mr. President, as a matter of having the record completely clarified with respect to Section 9 pertaining to the amendment that Ralph Rivers offered some time ago and was defeated, I'd like to have the record perfectly clear on the intent of the Committee, that the defeat of that amendment should be conclusive; that the Committee, in bringing out this particular article, or this section of the article, did not intend that the governor should in any way limit, from the standpoint of time, the consideration of any of the necessary business before a special session of the legislature.

PRESIDENT EGAN: Are there any other amendments to Section 9?

BUCKALEW: Mr. President, I think I voted on the prevailing side on that question of the Rivers amendment. I wonder if the Clerk could check.

PRESIDENT EGAN: What does the record show relative to Ralph Rivers's amendment?

CHIEF CLERK: No, you didn't, you voted on the other side.

PRESIDENT EGAN: Are there other amendments to Section 9? If not, are there any amendments to Section 10? Mr. McCutcheon.

MCCUTCHEON: Mr. President, I have an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. McCutcheon.

CHIEF CLERK: "Page 3, line 18, after 'Council', add a comma and insert 'or as otherwise prescribed by law.'"

PRESIDENT EGAN: What is your pleasure, Mr. McCutcheon? Adding a comma after those words, is that what you meant?

CHIEF CLERK: There is a comma there, Mr. McCutcheon.

MCCUTCHEON: I'll move for the adoption of the amendment.

BUCKALEW: Second.

PRESIDENT EGAN: Seconded by Mr. Buckalew, Mr. Stewart.

STEWART: I think he must be referring to Section 9. You called for amendments to Section 10.

PRESIDENT EGAN: Well, Mr. McCutcheon said that he had an amendment to Section 9. I had called for Section 10, that's right, Mr. Stewart, but Mr. McCutcheon didn't realize we were going ahead of ourselves. Will the Chief Clerk please read the proposed amendment once more.

CHIEF CLERK: I don't think it's right, because there is a comma after "Council" already.

PRESIDENT EGAN: He probably meant that the comma should come after the words he is asking to be inserted, is that right, Mr. McCutcheon?

CHIEF CLERK: You mean strike the comma after "Council" and insert "or as otherwise prescribed by law," line 18?

PRESIDENT EGAN: The motion was made by Mr. McCutcheon and seconded by Mr. Buckalew. This matter is now opened for discussion. Mr. McCutcheon.

MCCUTCHEON: Mr. President, it has been felt by some that it might be advisable to offer this amendment inasmuch as after the legislature has once gotten into session they may wish to devise some other fashion in which to initiate their own convention, so that the legislature may not wish to use necessarily the Legislative Council as the administrative agent in conducting a poll to bring them into session.

PRESIDENT EGAN: Is there further discussion?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McCutcheon be adopted by this Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it, and the proposed amendment is ordered adopted. Are there other amendments to Section 9? Mr. Hurley.

HURLEY: Mr. President, I would like to ask Mr. McCutcheon a question.

PRESIDENT EGAN: If there is no objection, Mr. Hurley, you may ask Mr. McCutcheon a question.

HURLEY: If what you just said, Mr. McCutcheon, is true, wouldn't it be possible to strike all the material in line 17 after "the legislators" down through the balance of the sentence? You're depending upon the legislature to make the rules anyway?

MCCUTCHEON: Not necessarily.

HURLEY: Okay, thank you.

PRESIDENT EGAN: Are there other amendments to Section 9? Mr. Harris.

HARRIS: Mr. President, having voted on the prevailing side on this article, on Section 9 pertaining to whether the governor or the legislature can -- anyway, the motion that was made by Mr. Ralph Rivers, I'd like to file notice of reconsideration.

PRESIDENT EGAN: Mr. Harris serves notice of his intention to reconsider his vote on the last amendment that had been proposed by Mr. Ralph Rivers, which was defeated. Mr. Buckalew.

BUCKALEW: Mr. President, I'd like to ask unanimous consent that the rules be suspended and that we take up Mr. Harris's reconsideration now.

UNIDENTIFIED DELEGATE: Object.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent. Objection is heard.

BUCKALEW: I so move.

V. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion that we take up the matter of Mr. Harris's reconsideration at this time. It is a suspension of the rules and is undebatable.

DAVIS: Question.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and Mr. Harris's reconsideration be ordered at this time?"

V. FISCHER: Point of order, Mr. President. I'd like to ask a question similar to the one asked of Mrs. Nordale earlier today, of Mr. Harris, whether or not he favors this reconsideration now?

HARRIS: I would, yes.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and Mr. Harris's reconsideration be placed before us at this time?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 40 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 8 - Cooper, Davis, Hurley, Johnson, Laws, Londborg, McCutcheon, Nordale.

Absent: 7 - Barr, Collins, Nolan, R. Rivers, Robertson, Taylor, VanderLeest.)

CHIEF CLERK: 40 ayes, 8 nays, and 7 absent.

PRESIDENT EGAN: The "ayes" have it. The rules have been suspended and Mr. Harris's reconsideration is now before us. Will the Chief Clerk read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 9, add to the end of the section, 'The legislature shall determine the time of its adjournment within the 30-day period.'"

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I'd like to point out that this amendment was offered when Mr. Rivers asked Mr. McCutcheon a question. The question, as I remember it, was, "Do you feel, as a member of the Committee, that the governor could set the time of a special session?" and Mr. McCutcheon said, "Yes". Then Mr. Rivers said, "in that event, I think I will have to offer an amendment", and

offered the particular amendment here. Now I'm satisfied that Mr. McCutcheon did not understand the question when he made the answer, and I think that's shown by the statement he made at the beginning of the session tonight. Mr. McCutcheon does not, as a member of the Committee or otherwise, feel that the governor, under the language as it now stands, has any right at all to limit the session of a special session other than the general 30day period, which the governor doesn't limit, the constitution does. And for that reason, in my opinion, the proposed amendment is absolutely surplus, it doesn't hurt anything, but it certainly doesn't add anything.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I got directly the opposite impression from the opening action of this session when Mr. McCutcheon, as Chairman of the Committee, felt it necessary in addressing the record and make it clear that it was not the Committee's intent to allow the governor to curtail special sessions. I think if that action is necessary, reconsideration and a change in the vote to carry out that intent is necessary on this amendment.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, the very reason for giving this reconsideration was to get this matter clear and in the constitution, as well as being on the record. There is a difference of opinion, as we can see here, by the two speakers that have already spoken on it. So, therefore, that was the reason I gave my reconsideration, and since the time of taking our last ballot, I have been shown by different parties the reason for the motion being made. Although I felt at the time that the constitution, as it is written the article as it was written covered the subject, being as there are so many delegates that didn't feel it was covered, I am perfectly willing to go along with it and have it written into the constitution.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I read the section, and I get a different interpretation of it than Mr. Davis. If he can give me any clear, convincing, and lucid argument that says the governor cannot cut it off, I'll vote the amendment down.

DAVIS: Are you asking me a question?

BUCKALEW: I'll put that in the form of a question.

DAVIS: I'll try to answer it this way. The section, as written, says nothing at all about the governor allowing or setting the duration of a special session. Mr. Rivers, in his first talk on this point felt that, unless there were a special limitation,

that the governor would have no right to set the time limit of a special session. And it was only because he misunderstood Mr. McCutcheon, or Mr. McCutcheon misunderstood him, that this amendment was made. Well now it seems to me clear that there is no power given in this section, as written, for the governor to limit the time of a special session. He can, of course, under this section, limit the thing to be considered.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Chairman, I think where the misunderstanding came about was in the manner in which the question was presented to Mr. McCutcheon. If there were any way that the governor could control the time that the legislature would be in session, well, the governor, as Mr. McCutcheon explained, has a small power of controlling the time, in that he can only present, or he will be able to control what is presented to the legislature at that time. I think that was the point that Mr. McCutcheon didn't get quite clear to the people here.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye". All those opposed by saying "no". The "noes have it, and the proposed amendment has failed of adoption. Are there other amendments to Section 9? Mr. Hellenthal.

HELLENTHAL: Mr. President, I move and ask unanimous consent that the word "directed" in line 17, Section 9, at page 3, be changed to "conducted".

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent for the adoption of his proposed amendment. Is there objection?

Hearing no objection, the proposed amendment is ordered adopted.

Are there other amendments to Section 9? If not, we'll proceed to Section 10. Are there amendments to Section 10? Are there amendments to Section 11? Mr. Stewart.

STEWART: With regard to Section 10 apparently it is intended that it should be mandatory that there be a Legislative Council rather than permissive with the legislature.

PRESIDENT EGAN: According to Section 10 it would be mandatory, the way the Chair reads it, Mr. Stewart.

STEWART: Does not that set up an agency which is more or less independent of the legislature? Isn't it their prerogative under this to set up such a Council?

PRESIDENT EGAN: The Convention will come to order. Mr. Stewart

has the floor. What is your question, Mr. Stewart?

STEWART: I think I should like to introduce an amendment to strike the word "shall" on line 25, under Section 10, and insert therefor the word "may", giving the legislature the authority to establish a Legislative Council, but not directing.

PRESIDENT EGAN: Mr. Stewart asks unanimous consent that the word "shall" be deleted and the word "may" be inserted in lieu thereof on line 25 of Section 10.

KNIGHT: Seconded.

PRESIDENT EGAN: Mr. Knight seconds the motion.

BUCKALEW: Objection.

MCCUTCHEON: Objection.

PRESIDENT EGAN: Objection is heard. Mr. Stewart so moves; Mr. Knight seconds the motion. The question is open for discussion. Mr. McCutcheon.

MCCUTCHEON: Mr. President, it was the feeling of the Committee that the legislature should utilize the services of their Legislative Council. It was the feeling of the Committee that there should be no if's, and's, or but's about it; it is not permissive, they are directed to utilize the Legislative Council, such as we are utilizing at the present time. The tendencies among the states is to more and more go into the utilities of legislative councils. It is an economic factor in the handling of legislative matters because the facts are developed; the investigations are made; the wording of the bill is actually studied by this Committee. There are members of the legislature on this Committee, they develop the material, it's presented to the legislature as a proper product to be considered, and is considered by the legislature. We felt that it was a matter of economy to utilize this, and we did not, in our Committee, desire that there should be any if's, and's, or but's. We wanted the legislature to use a Legislative Council, period. If this body feels otherwise, then you will have to support Mr. Stewart.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, there are duties of the Legislative Council which we have already passed over and apparently approved. If we are not going to have a Legislative Council, then those articles will have to be rewritten.

PRESIDENT EGAN: Mr. Gray.

GRAY: I'd like to ask Mr. McCutcheon a question. Every time you tell a legislature what they are going to do and what would

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happen if the legislature set up no money for the Legislative Council?

MCCUTCHEON: I'd assume the Legislature Council wouldn't function.

GRAY: That's just the point that we are bringing up: "shall" or "may". If you are going to give authority to the Legislative Council, they must have the intent and initiative. "Shall" or "may" is no different. If something should happen in the next 20 years where the Legislative Council was substituted by some other activity it would be tied up with the Constitutional Convention.

MCCUTCHEON: There would be at least one constitutional convention prior to that time.

COOPER: As far as the legislature setting up any money for the Legislative Council, your legislatures are now on an annual salary.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is "Shall the proposed amendment as offered by Mr. Stewart be adopted by the Convention?" Mr. Kilcher.

KILCHER: Mr. President, I'd like to get some information from Mr. McCutcheon. If no reference is made in Section 10 to the Legislative Council may the legislature in the future then establish one anyway?

MCCUTCHEON: Yes, they may.

KILCHER: In other words, if we should not direct the legislature in this article, may it just as well delete all reference to the Council, is that right?

MCCUTCHEON: That's what I would conclude, yes, sir.

PRESIDENT EGAN: Mr. Cooper.

COOPER: May I start again? I was right. The article now states that the legislature shall receive an annual salary, therefore, the members are being reimbursed for their services. This article merely states that the members of the Legislative Council and other committees may receive allowances for expenses. So there is no need for an additional reimbursement.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, how many references to the Legislative Council appear in the article?

PRESIDENT EGAN: How many references appear? Mr. McCutcheon.

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MCCUTCHEON: I believe there is only one other reference in a different place.

HELLENTHAL: That's the one on the question of polling the legislature about the mechanics of conducting a special session?

MCCUTCHEON: That's the one that comes to mind immediately.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Stewart be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye". All opposed by saying "no". The "noes" have it, and the proposed amendment has failed of adoption. Are there other amendments to Section 10? If not, are there amendments to Section 11? Mrs. Nordale.

NORDALE: Mr. President, I don't have an amendment, I just want to ask a question, if I may?

PRESIDENT EGAN: You may ask a question, Mrs. Nordale.

NORDALE: Mr. McCutcheon, I notice you say here, "Each house shall have the power to choose its officers and employees." I just want to get this absolutely clear, does that mean that it would be possible to have one central staff to serve both houses, in some capacities at any rate, wouldn't it?

MCCUTCHEON: The reason that we found it necessary to put in that particular wording is because in the line above "The houses of each legislature shall adopt uniform rules of procedure." It may be that one house requires a different number of employees than the other house, so it was felt that it should put this particular sentence in there to clarify that. There is nothing to prohibit them from having a uniform system of employees by having a pool, or labor pool or a clerical pool, and both houses utilize the same pool of labor. However, the prohibition here, you'll notice, does not extend to any officers. In other words, the senate shall choose their president, despite the uniform rules of procedure, and the house shall seek its speaker.

PRESIDENT EGAN: Are there amendments to Section 11? Mrs. Sweeney.

SWEENEY: I have an amendment, Mr. President.

PRESIDENT EGAN: You may present your amendment, Mrs. Sweeney. Will the Chief Clerk please read the proposed amendment as offered by Mrs. Sweeney.

CHIEF CLERK: "Line 11, delete 'of' and insert the words 'to which' after 'of', and after the word 'house' insert the words

'is entitled'."

PRESIDENT EGAN: What is your pleasure, Mrs. Sweeney?

SWEENEY: I move and ask unanimous consent for the adoption of this amendment, Mr. President.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that her proposed amendment be adopted.

DAVIS: I must object. Will the clerk read the amendment.

PRESIDENT EGAN: Will the Chief Clerk please read it.

CHIEF CLERK: "Line 11, delete 'of' and insert 'to which', and after the word 'house' insert the words 'is entitled'."

SWEENEY: It will now read: "A majority of the members to which each house is entitled shall constitute a quorum to do business."

DAVIS: It is entirely possible, it is clearly understood that it would be a majority of the members to which each house is entitled, but I'm not sure. Maybe Style and Drafting can change it without any action here.

SWEENEY: Well, if it's clear then, I'll withdraw.

PRESIDENT EGAN: Unanimous consent is asked to adopt Mrs. Sweeney's proposed amendment. Is there objection? If there is no objection, it is so ordered, and the amendment has been adopted. Mr. Hellenthal.

HELLENTHAL: I have a question of Mr. McCutcheon. Was there any necessity indicated by the advisors, or anyone else, any legal necessity for the inclusion of the last sentence?

MCCUTCHEON: Yes, sir, there was. At least two, possibly three, of the consultants suggested that the last sentence be inserted in this particular section, because in some instances it had been held that where the constitution was silent, the legislature had no authority to actually control lobbying.

HELLENTHAL: One more question, was attention given to the problem that by the enumeration of certain powers that the inclusion of other powers by inference is more or less defeated, and it is restrictive on the powers of the legislature to specify some and not others?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I have no answer for your question, Mr. Hellenthal. The only thing is that I recall the Committee was concerned about the authority of the legislature to actually control lobbying,

and it was pointed out that in the absence in some states of a specific statement, that lobbying could not be controlled.

HELLENTHAL: Well, in the face of the opinion of those who know much more about it than I do, I'm afraid I'll yield to any objections.

PRESIDENT EGAN: Are there amendments to Section 11? If not, are there amendments to Section 12? Mr. McLaughlin.

MCLAUGHLIN: I move to amend Committee Proposal No. 5 on page 4. Strike Section 12 and substitute the words "Suits against the state for all liabilities hereinafter originating or now existing, shall be provided for by law."

SWEENEY: Point of order, Mr. President.

PRESIDENT EGAN: Mrs. Sweeney, what is your point of order?

SWEENEY: It seems to me that after Section 11 we were to return to Section 8 concerning recesses and adjournments.

PRESIDENT EGAN: After Section 11, Mrs. Sweeney?

SWEENEY: Yes, after the adoption of the paragraph on uniform rules of procedure, it seems to me we were to return to Section 8.

KILCHER: If I may. The intent of my motion to postpone -- I didn't mean that 8 would have to come up immediately after 11. Just any time after 11, that was my intention.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. McLaughlin.

CHIEF CLERK: "Page 4, strike Section 12 and substitute the following: 'Suits against the state for all liabilities hereinafter' originating or now existing shall be provided for by law.'"

PRESIDENT EGAN: Mr. McLaughlin, what is your pleasure?

MCLAUGHLIN: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. McLaughlin moves that his proposed amendment be adopted. Is there a second?

HERMANN: I'll second the motion.

BUCKALEW: Objection.

PRESIDENT EGAN: The motion is open for discussion. Mr. Buckalew.

BUCKALEW: I'd just like to ask Mr. McLaughlin a question here. Mr. McLaughlin, don't you think that part of that belongs properly in the transitional measures?

MCLAUGHLIN: In direct answer to that, I don't know where it belongs, and, frankly, I don't know whether you should have a section in there or not. I'm merely substituting another section to clarify it so that it won't be in conflict with the judiciary. If I may have an opportunity to explain?

PRESIDENT EGAN: Yes.

MCLAUGHLIN: It's my understanding that by Section 12 the Committee did plan to authorize suits against the sovereign, that is, to compel the legislature to recognize that law suits could be instituted, that is, monetary claims and factual claims, and tort claims for injuries. The legislature would have to make provisions for those, that is, it would be mandatory, and it is my understanding not from the Committee but it is my understanding that about half the states include such a provision in their constitution one way or the other, either prohibiting the legislature from consenting that the state be sued or directing that it should be done. My concern is this, Section 12, as it now reads, was apparently taken from either the Arizona Constitution or the Washington Constitution. Was it the Washington State Constitution?

MCCUTCHEON: Arizona.

MCLAUGHLIN: And three words were added -- three words at the end of Section 12, "or agencies thereof". Reading this by itself, it would indicate that any suit, and suits by general definition means any action against anyone, and that includes both law and equity, would be subject against the state. Any suit against the state or any agency would be subject to the direction of the legislature, and the legislature could create the court in which that action could be tried. In substance, looking at it alone, it would mean that if someone wanted to institute an action to restrain a commission or board, it would have to go to the court and in the manner prescribed by the legislature. This would be acceptable in the constitution as it reads now, except for the fact that in the Arizona Constitution where they set up their courts, they specifically authorized the courts to try entertaining proceedings and mandamus, certiorari, review, and prohibitions, that is, actions that normally lie against boards and commissions, and my problem here was bringing it to the attention of the Convention, since we don't describe or authorize specifically in the judiciary article the entertainment by the superior court or the supreme court of these actions. It might be interpreted to mean that if you wanted to mandamus, if you wanted to restrain, if you wanted to review, the legislature would determine exactly what court created by them and what procedure would be for this determination. And I move to strike and I

substituted a provision out of Oregon in lieu of the present one so that at least the debate would be in order.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the intent of the Committee in this matter was nothing other than after the judiciary had been set up that they would designate which level of court that any suit against the state could be brought. In other words, there would be one particular level of court in which all suits against the state or their agencies must be brought. It would not be of any further determination as far as the legislature was concerned nor in otherwise concerning or controlling the courts. They would make the one designation when the court system was set up. "This is it. From now on any suits against the state will be entered in that particular court."

MCLAUGHLIN: May I inquire whether it was the intent of the Committee to authorize suits against the state in court?

MCCUTCHEON: Yes.

MCLAUGHLIN: Well, then I feel under those circumstances that the amendment is justified, that is if the Convention decides to authorize action against the state in the constitution.

MCCUTCHEON: I feel that because the Committee intended one thing, I think that this group understands what the Committee intended, that our Committee has no objection if this particular amendment is the thing that makes it perfectly clear what was intended by our group. In other words, the Legislative Committee felt that the state may be sued, period; that the legislature shall indicate which level of court shall hear that suit against the state.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I rise for a question of Mr. McLaughlin. Do you think your language, using the word "liability", would cover the case of claims, such as claims under excessive condemnation or something of that type?

MCLAUGHLIN: I think it would, Mr. Rivers, and it would prevent the creation of claims nonexistent during Territorial status. The word "liability" there helps to clarify it. As I say, that was taken from the Oregon Constitution.

V. RIVERS: Does the word "liability" in any sense narrow the field of jurisdiction in which the sovereign could be sued?

MCLAUGHLIN: It does not, sir.

PRESIDENT EGAN: Any further discussion? Mr. Sundborg.

SUNDBORG: Mr. McLaughlin, in your opinion would the language which you propose here permit suits by taxpayers in matters in which the individual taxpayer is not damaged to any greater extent than all other taxpayers? Are you familiar with the case of Griffin versus Sheldon and the decision of the Court of Appeals?

MCLAUGHLIN: I understand what your problem is. I would say this amendment is not intended to cover a taxpayer's suit, as such. This as originally intended by the Committee, this was intended to cover merely claims against the State of Alaska for breach of contract on a contract between the individual and the State of Alaska. He'd have a court of claims to go to, or some other court, or it also directs that the legislature provide the tort claims, that is, for damages let us say, for negligence by the servants of the state. What I'm trying to do is to keep the taxpayers' suits in the superior courts or other courts, and authorize them.

SUNDBORG: You're not fearful that the use of this "all liabilities" might open this up to taxpayer suits?

MCLAUGHLIN: No.

COOPER: May we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon.

MCCUTCHEON: The Committee had sort of a rough session here, and it was agreed, in the light of Mr. McLaughlin's expression, that for the record that the intent of the Committee is clear and the wording of this particular amendment. I will therefore ask unanimous consent for its adoption, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent that the proposed amendment as offered by Mr. McLaughlin be adopted.

SUNDBORG: I'll object to the motion.

PRESIDENT EGAN: It has already been moved and seconded that the proposed amendment be adopted. Mr. Sundborg.

SUNDBORG: I've had an opportunity to look at the amendment during the recess and I think there is something wrong with it. I wonder if the Clerk would read it.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Suits against the state for all liabilities hereinafter originating or now existing shall be provided for by law."

SUNDBORG: What it says is that suits against the state shall be provided for by law. Now it may be that Mr. McLaughlin's intention was that the manner of trial of suits or the manner of presentation of suits against the state shall be provided for, but I don't think that he meant that the suits shall be provided for by law. Did you, Mr. McLaughlin?

MCLAUGHLIN: Yes, sir, I did.

SUNDBORG: "Suits shall be provided for law." Then I have a different understanding of the word "suit" than a lawyer has.

MCLAUGHLIN: Could we have about a two-minute recess, Mr. President?

PRESIDENT EGAN: The Convention will be recessed for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I would be willing to withdraw my objection, if Mr. McLaughlin, who is a member of Style and Drafting will promise to tell us when he gets into the bosom of the Committee what he intends by this amendment.

MCLAUGHLIN: Gentlemen, it is with great reluctance that I refuse to participate in such conspiracy. It should be on the record and they should know what they are voting for. I shall detail it very slowly if the President will permit me. What has happened is that they have taken from Arizona a provision providing for claims against the state and in Arizona when they authorized the claims against the state, they used this exact language, with the exception of the last three words "or agencies thereof". That's the language that is now presently in Section 12, and it was taken from Article 4 of the Arizona Constitution, and the words added by the Committee "or agencies thereof". But in the Arizona Constitution it provides that there are certain types of courts that shall be set up, the supreme court, superior court, justices of the peace, and other inferior courts. And then, in the Arizona Constitution, they specifically say, just as they do in all other constitutions that use this wording, they say that the superior court shall have jurisdiction in mandamus; it shall have jurisdiction in review, in prohibition, in certiorari. Now those are all remedies that are normally used against public bodies, that is, they have specifically vested the power in the superior court. So it's clear upon reading the Arizona Constitution that what you mean by the language that you have here in Section 12 is for claims against the state, and you're not taking away from the superior court the right to mandamus, certiorari, review, or prohibitions. That is, a taxpayer can go into those courts and

can restrain under the constitution, he can restrain any agency of the government from certain actions. I wanted to make sure also that it was clear here in the Convention, that the use of this language in Section 12, taking the Arizona provision and bringing it in here without any explanation in the judiciary article, it might well be interpreted to mean that for all types of actions -- mandamus, reviews, prohibitions, and certiorari, that the legislature had a right to create a special court, and in that special court all those types of actions would be tried, and you would be depriving the superior court of the constitutional jurisdiction to hear the cases, and I know that that was not your intent. So what I did is that I took from the State of Oregon, this present provision -- and it does appear in other constitutions so that it would make it clear that what you were talking about in substance is that you could, the legislature since it was being directed to, consent to suit on things that it is normally not subject to suit for. That is, the state consented as a sovereign, sets up its own court of claims and provides for procedure. Under the authority of this section and under the judiciary act, they have a right to determine the manner of procedure and everything else and I think my amendment does it. Is that clear?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Is the language which you propose taken directly and completely from the Oregon Constitution?

MCLAUGHLIN: The language which I propose is taken directly from the Oregon Constitution. I have not included the latter half of the provision, which requires that it be by general law if possible, because you have a similar provision later on in your articles on the same subject matter, but it is verbatim out of the Oregon Constitution the first portion of it, and it is not taken out of context.

SUNDBORG: I withdraw my objection.

PRESIDENT EGAN: Objection is withdrawn. Mr. Davis.

DAVIS: Mr. President, I wish to make an objection. I have listened to Mr. McLaughlin and I have read this section, and I have read his proposed amendment, and so help me, I can't see where one is any better than the other. I like the one that is in there now.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I'm sort of in the same position Mr. Davis is in. I frankly can't follow Mr. McLaughlin. I'm a member of the bar, and I don't know what he's talking about.

PRESIDENT EGAN: Mr. White.

WHITE: I'm confused, too. May I ask Mr. McLaughlin a question?

PRESIDENT EGAN: You may.

WHITE: Is it your desire to have these suits brought in superior court, period?

MCLAUGHLIN: No, I do not, but I don't want to deprive the superior court of a jurisdiction which it should have, and, under the wording of this, it could be interpreted as depriving the superior court of this jurisdiction.

HELLENTHAL: Mr. President.

PRESIDENT EGAN: Mr. White still has the floor, Mr. Hellenthal.

HELLENTHAL: Would you yield for a moment?

WHITE: Well, I want to pursue this for just one minute. I'm still confused, because in your amendment, where you say, "shall be provided for by law", how does that differ from the legislature "shall direct by law"? Aren't laws passed by the legislature?

MCLAUGHLIN: That adds another problem that I didn't want to raise at this moment, but in Style and Drafting, we were confronted with this problem: If you recall, we passed an article, a proposal called the initiative, and now we are confronted where certain types of the people were limited in the types of laws that they could institute or initiate, but we find out now that in every one of these sections we say the legislature "shall" and we are trying to determine now whether or not, where we used the expression "legislature" and approve of it, whether or not these proposals which are being passed subsequent to our article on the initiative where we used the expression "legislature" does not limit the initiative power. And so, in every instance where possible, we have been substituting for the word "legislature" the words "by law" so that it would conform to the style of the initiative, if you understand that. Is that clear? For example, Mr. White, in the judiciary article we say, "The legislature shall provide for the systems of courts." If we leave it in there, that means by initiative, the system of courts might be interpreted to mean that by the initiative you couldn't change the system of courts because we specifically said, "The legislature alone can do that." That is a problem that will confront us on every article that now appears, and I believe it is the intention of the Style and Drafting Committee, wherever possible, to use the expression "provided by law" instead of "by the legislature".

WHITE: As it stands now then your amendment reads it could be provided for by the legislature or by the courts? How did initiative get into this? As your amendment now reads, I don't

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see that it reads any differently than Section 12, because you say, "shall be provided for by law", and the way we have been operating, it means "by the legislature".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: After talking to Mr. McLaughlin and others here, I should like to ask unanimous consent that this matter be taken up tomorrow sometime in mid-morning so that members of the Judiciary Committee can briefly assemble and pursue the intricacies of this matter.

PRESIDENT EGAN: You have heard Mr. Hellenthal's request. Is there any objection? If there is no objection, we will hold the matter in abeyance until tomorrow morning. Are there amendments to Section 13?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Will the Chief Clerk read the proposed amendment to Section 13.

CHIEF CLERK: "Amendment by Mr. Buckalew to Section 13; line 21, strike the words 'the senate' and insert 'either house'. Line 22, strike 'of all the senators' and add a period after 'vote'. Line 24, strike 'before the house of representatives' and insert 'in joint session assembled'. Line 26, strike the last word in the line 'of' and on line 1, page 5, strike 'the house of representatives' and insert 'in joint session assembled'."

BUCKALEW: I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves adoption of his proposed amendment to Section 13. Is there a second to the motion?

SUNDBORG: Yes, I'll second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. May we have it read again rather slowly.

(The Chief Clerk reread the proposed amendment.)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I ask a question?

PRESIDENT EGAN: If there is no objection, you may ask a question.

JOHNSON: I presume you would tell us anyway, Mr. Buckalew, but what is the purpose of this amendment?

BUCKALEW: I think it's quite clear. What I have done by this

amendment, I have provided an impeachment can be brought in either house. The impeachment can be brought in the senate and brought in the house of representatives on a two-thirds vote. Impeachment trial is conducted by both houses in joint session assembled. Now this Section 13 provides -- and I don't know why -- that the charge shall be brought in the senate and the trial shall be in the house of representatives. Now I don't know what the thinking of the Committee was on that, but it seems to me that impeachment is such a serious matter, and if either house had any evidence, that that house ought to vote on it and that house ought to be able to get the business started. If the senate knows anything, well, they can bring the charges and then both houses can get together and try whomever they have got to try. I think you should consider that impeachment is not like a criminal trial; there is no imprisonment or anything, it just provides a method of getting rid of a corrupt official. If an official is corrupt I'd like to see the way made easy to get rid of him, and the way to do it is to provide that the charges can be brought in either house, such as I have done. Now it seems to me that the senate, according to this article here, the senators have to be 25 years of age, and I think the members of the house have to be 21, and if they were thinking of a judicial proceedings, it looks to me like they would have had the charges brought in the house and the trial in the senate. After all, they are older and are supposed to be more mature. I think my amendment is logical, and I think my amendment provides an easy and speedy removal of corrupt officers, and, at the same time it provides enough protection, and it has to be by two-thirds vote of all the members in joint session assembled. They have got the added protection of having a superior court judge there to see that is is a regular trial.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I was a little curious about this article in its original form because of the reversal of the procedure, but now isn't it a little odd to have the same people that bring the accusation sit in judgment? And that's what you have here, isn't it? That is, a part of the jury would be the people who brought the charges, isn't that right?

BUCKALEW: May I answer that question?

PRESIDENT EGAN: You may answer the question, if you wish.

BUCKALEW: I think we ought to be realistic about it. An impeachment thing, noise is going on in both houses and you're not going to have any, what you call divorcement, from the prosecutor, and it just doesn't exist in an impeachment trial. It is an unrealistic attitude, I think. I think this amendment has real merit for the reason that a corrupt officer can be hit with either house, and I think that one house, particularly

the senate, could protect a corrupt officer, and the senate might be closer to the executive, and they might be trying to get at one of the executive officers, and if the house doesn't have enough to carry it, then during the trial he would probably be acquitted. But the beauty of this amendment is that the official is going to know that either house can bring it. What he'll probably do is resign and go to Seattle.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, this is one of the sections in which I do not concur, and I have an amendment to present, but Mr. Buckalew was quicker on his feet. When this arrangement was first read into the proposal having the impeachment start in the senate, one of the statements made in the Committee was that it would be better to have the proceedings started by the senate for the simple reason that the members of the house were brand new and might get off on a tangent, or just not too wise in all the ways. So when they thought they would have the procedure start in the senate, I too, thought it should be heard in joint session, and our consultants told us that that was not very good for the reason that the people who were bringing the impeachment were also sitting as judges. I would like to have my amendment considered, too, and I'm wondering if I could get Mr. Buckalew and take a two-minute recess and perhaps talk over this with Mr. Buckalew.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for about three minutes. Mr. Barr.

BARR: Mr. President, I would like a few minutes before we recess. Of course, I have all the objections to the amendment that have been presented, and more, but I would like to point out that this same subject was considered in two committees, in the Legislative and one on the Executive Branch, and they came out with practically the same thing, except that the two houses are reversed: the charges are made in one instead of the other, and the other house sits in judgment. Now those two committees gave this quite a bit of consideration then, and they had the advantages of listening to experts and having a thorough researching on it from other constitutions and books that were available, and in spite of my admiration of Mr. Buckalew's legal knowledge and his good judgment, I still would have to go along with these two committee reports.

SWEENEY: I still want a few minutes' recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for about three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order.

BUCKALEW: Mr. President, during the recess I got together with some of the members on the Committee, and I'd like to ask unanimous consent to withdraw my proposal on the understanding that Mr. McCutcheon will introduce a proposal I just looked at.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that his proposed amendment be withdrawn. Is there objection?

HINCKEL: Objection.

PRESIDENT EGAN: Objection is heard. Mr. Hinckel.

HINCKEL: I just don't like this more or less collusion that's going on. I think the original committee proposal is a better proposal than anything that is about to be offered, and I don't think the proposal has been properly explained. Now if Mr.

McCutcheon will first explain the committee proposal as we discussed it in Committee, and then if he wants to go ahead and submit another proposal, why, I'll go along with it, but I think the committee proposal should be at least given a fair shake and fair explanation. We have had the unique distinction of having our one dissenting member offer the explanation so far on the committee proposal.

BUCKALEW: Now, Mr. President, before we go any further, I'm going to take exception to Mr. Hinckel's remark about collusion. I don't even know what the word means. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew, objection has been heard to your being able to withdraw your amendment. Mrs. Sweeney.

SWEENEY: I just want to say that if Mr. McCutcheon is going to have an opportunity to explain his amendment before the withdrawal of Mr. Buckalew's, then I'll expect to have the same opportunity to present mine for consideration before Mr. Buckalew's is withdrawn.

PRESIDENT EGAN: I believe that in this circumstance it is proper that the Chairman of the Committee explain the reason for having the section in the first place. Mr. Armstrong.

ARMSTRONG: When I think of the number of times that we have missed the boat on amendments because the committee has not explained the proposition before we've had amendments, and I wish we could follow the whole procedure before we have any amendments on a section, ask the committee if they have an explanation of it. I think we could head off an awful lot of amendments that are unnecessary, or we would have an intelligent grasp of the committee's viewpoints, and then be able to see the amendments in that light, and I wish we could follow that procedure. Here we are clear to the end of the discussion and now we ask the committee chairman to give an explanation of it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think for the record that I should state that I was the one that put Mr. McCutcheon on the spot, he didn't know anything about it. I sort of left him in the barrel with a bunch of tigers, but he didn't have anything to do with this. This was my idea.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it is not my intention to offer an amendment to our article, --

SWEENEY: Then I'll withdraw my objection.

MCCUTCHEON: I will give the majority Committee thinking with respect to the article the way we have developed it. From time honored fashion, which stems from probably beyond the history of the United States, is that the charges shall arise in an impeachment proceeding in a lower house and be tried in a so called house of aristocrats, or lords, or senators, if you please, the feeling being that the upper house represents the upper crust of society. In this particular instance, it has been the feeling of the Committee that the charges might arise in the senate because the charges that will be presented by the senate may be leavened by the fact that only half of the senators have been elected at this time. So there could be no irresponsibility of the new house in the event it was a complete turnover of personnel or legislators, and that if the charges had sufficient merit, they should be tried before the new house, which is the house that was last completely responsible to the will of the people. In other words, if there is merit in the charges presented by the senate, then certainly the new representatives, who are the last ones who have responded in the largest group to the will of the people, the most of the people, if they find the executive has been culpable of the crimes he has been indicted for, then let him be thrown out. If he were tried before the senate on the charges by the house, the charge might be hurled at the house members that they are brand new, they know nothing of the problem, and that in this particular instance they may be operating on a strictly political basis. But on the other hand, with half of the senators at least held over, that certainly will have a leavening effect on the judgment of the senate in bringing the charges, but if those charges can be sustained in a brand new house, which may not have any political alliance but is the last group most completely responsible to the will of the people, then certainly it appears to us, or appeared to the majority of our group, that that was the fairest method of considering an impeachment.

PRESIDENT EGAN: Mrs. Sweeney, did you wish to be heard for reasons of entering a minority report?

SWEENEY: Mr. President, my statement a few moments ago concerning an amendment which Mr. McCutcheon, I thought, was going to introduce, and I figured if he was going to speak on that, I wanted to speak on the amendment I wanted to put in. In one breath Mr. McCutcheon has stated the "irresponsibility" of the lower house, and for that reason he wants the charges brought in the senate, yet he would have those "irresponsible" house members make the final decision in an impeachment. I believe -- and I don't care if it's 150 years old or 200 years old -- I believe the system that has been in practice is the system to follow, and I would like to reverse the procedure so that it will be the same as that in the Judiciary Committee, which would be to bring the impeachment in the house and to have it heard in the senate.

PRESIDENT EGAN: We have before us Mr. Buckalew's proposed amendment to Section 13.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" Mr. Buckalew.

BUCKALEW: Mr. President, before we barrel-roll this thing, I'd like an opportunity to make a few remarks on it. I feel that my amendment has merit, and I feel that although it might be historically different than what is used in the United States Congress, that it protects the people of Alaska more fully than any other impeachment procedure that we now have. There is no opportunity for a public officer to hide behind one house, because if either house has evidence and it develops that the evidence is well-founded, then it takes a two-thirds vote. And I think that even members of the house are not as young as everyone around here would think they are. I mean when it comes to presenting an impeachment charge, I think that either house will see that there is good and sufficient evidence. And I believe that this amendment will protect the public in that it will insure to the people that if there is evidence we will know that both houses will hear it and that there won't be any chance for either the senate or the house to suppress evidence, because the way the article is drawn now the senate -- I don't understand the logic of that, and I heard Mr. McCutcheon -- the senate can protect anybody. Under my amendment nobody is going to be protected, except by the two-thirds vote, and then at the trial it's going to have to be by majority of two-thirds of the houses in joint session assembled. I think it has merit, and I ask you all to support it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, could I ask Mr. Buckalew a question?

PRESIDENT EGAN: You may, Mr. Barr.

BARR: Two questions, in fact. You're assuming, of course, that there will be a house of at least 40 members, are you in this, at such a trial?

BUCKALEW: Well, that's according to the articles I have seen, that's my assumption.

BARR: Then if the house initiated this impeachment and they sat in judgment with joint session with the senate, and the senate didn't agree with the impeachment proceedings or the accusation, but the house had 40 members and could make a two-thirds majority, then the house would be initiating the proceedings and the house would be sitting in judgment and the house would make the judgment in spite of the senate.

BUCKALEW: If the house voted 40 to zero, I think he should be impeached.

UNIDENTIFIED DELEGATE: Question?

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by this Convention?"

LONDBORG: May we have it read again, please.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by this Convention?" Will the Chief Clerk please call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 6 - Buckalew, V. Fischer, Hurley, Kilcher, Sundborg, White.

Nays: 44 - Armstrong, Awes, Barr, Boswell, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, Taylor, VanderLeest.)

CHIEF CLERK: 6 ayes, 44 nays, and 5 absent.

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PRESIDENT EGAN: The "nays" have it, and the proposed amendment has failed of adoption. Mrs. Sweeney.

SWEENEY: I have an amendment.

PRESIDENT EGAN: Mrs. Sweeney, you may present your amendment. The Chief Clerk may read the proposed amendment as offered by Mrs. Sweeney.

CHIEF CLERK: "Page 4, line 21, delete 'senate' and insert 'house of representatives'. Line 22, delete 'senators' and insert 'representatives'. Line 24 delete 'house of representatives' and insert 'senate'. And page 5, line 1, delete 'house of representatives' and insert 'senate'.

PRESIDENT EGAN: What is your pleasure, Mrs. Sweeney?

SWEENEY: I move and ask unanimous consent for the adoption of this amendment.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the proposed amendment be adopted. Objection is heard.

HARRIS: I'll second the motion.

PRESIDENT EGAN: Mr. Harris seconds the motion. Now just where does that differ from the last amendment, Mrs. Sweeney?

SWEENEY: The impeachment arises now in the house and is heard by the senate rather than in joint session. This is the general practice now.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, point of information. This is practically, in substance, it is the same as the recommendation of the Executive Committee.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I understand that the Executive Committee had not come out with a recommendation one way or the other.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: On our article in the Executive, we discussed impeachment, but we left that to the Legislative, we showed no impeachment proceedings.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: May I ask Mr. Victor Rivers to tell us what plan they did consider?

PRESIDENT EGAN: Mr. Victor Rivers would you care to answer Mrs. Sweeney's question?

SWEENEY: It's the same plan that I presented, practically.

V. RIVERS: I would like to discuss the amendment. I would speak to the amendment at the present time. I feel that this puts it back in the position where you have the older and more mature body making the final decision. I noted with some interest the statements in regard to Mr. Buckalew's amendment that the senate would "protect" somebody. I don't think members of either house are interested in protecting somebody who is not properly performing their duties and who should be subject to impeachment under whatever grounds might be established. This section establishes no special grounds; they shall be established by the legislature. What impresses me most is that I wonder what would be the effect upon the Congress that is going to approve this constitution if they saw that in the smallest body of the legislature we brought the impeachment proceedings and the motion originated, and then the trial was conducted in the largest body consisting of the youngest members with the least experience. It give me considerable number of qualms to think of what they would think when they saw our actions in this manner. I don't think they would follow or agree with the reasoning presented for the section as it stands now. I know I personally do not. I don't feel though, with other members of the floor who have spoken that there would be any tendency of any large group of people like that to protect any malfeasance or misfeasance in office. It seems to me that either body would be equally honest in approaching the problem. The question is where the final judgment should lay, rather than one of where there would be the least or most protection.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I'd like to apologize for making a misstatement. This matter was considered at great length in the Executive Committee, and I had forgotten that we had finally left it out and left it up to the Legislative, but I don't mind stating that it was general sentiment, I believe, at that time that it should be initiated in the lower house, the proceedings, and tried in the senate. At the present moment I'm not leaning either way very much, as long as it's left to the two separate houses.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Mr. President, I would like to address a question to Mr. Rivers, if there is no objection, to the statement he just

made. I had been wondering about this article, in that the grounds for impeachment weren't specified here, and I believe you stated that if they are not specified here that means that the legislature can specify?

V. RIVERS: That would be my understanding of it. Impeachment proceedings carry with it disgrace and so forth, but no punishment penalties. The article here leaves it open for the judiciary to go ahead and try them on any criminal action which they might have actually been guilty of. This impeachment is merely a manner of removing them from office for malfeasance or misfeance in office, and I assume that would be the grounds. Others, perhaps, may be better informed on that than I am.

EMBERG: I would like to have that clear, if we are setting up procedure here for impeachment, that we would require a constitutional statement of grounds, or whether it is perfectly proper to leave that to the legislature.

V. RIVERS: I'd like to answer your question in just one further degree. Most of the state constitutions do not set up the removal of all civil officers by impeachment as is done here. It is generally limited to the principal elective and appointive officers, generally the governor, the lieutenant governor, and various other elective department and appointive department heads. The principal officers are the ones that they generally limit impeachment to. The grounds in most cases are not stated as they are here.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: In partial answer to Mr. Emberg's commentary here it states on lines 22 and 23 "Such motion , referring back to the motion for impeachment, shall list fully the basis for the proceeding". In other words, they have to recite the facts that they are predicating their impeachment action on.

EMBERG: I understand that, but I was wondering --

MCCUTCHEON: Do you feel that it is necessary that the specific grounds should be established in the constitution?

EMBERG: I was just wondering whether we would be in a legally better position if we did specify the grounds, such as malfeasance and misfeance in office rather than leaving it blank, or whether it would be perfectly proper to let the legislature write that. We're setting up a very serious article. I wonder if we should leave this blank. There is no specification of charges other than what the statement that they shall be given notice of cause whenever they are served on them. That doesn't seem to be much protection for the individual.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I'd like to ask Mr. McCutcheon a question. He says in Section 13 the trial of such motion shall list fully the basis for the proceeding, and then in Section 14 on the joint address -- removal for joint address -- it says, "may be removed for cause which need not be sufficient ground for impeachment". What is the distinction, if you can make one, between "ground for impeachment", which are set forth, and then in Section 14 they say, "which need not be sufficient ground for impeachment"?

HARRIS: Point of order, Mr. President. Isn't the question before the house is whether they will be tried in the senate or tried in the house, instead of what grounds they are being tried on?

PRESIDENT EGAN: That's correct, Mr. Harris, but then it might affect -- Mr. Emberg seriously questions that particular question.

EMBERG: I seriously question it, but I think it should be brought up one at a time.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think I have one argument here in favor of the section as it is, namely, that two-thirds of the senate is 14 members, and two-thirds of the house, as it is now assumed to be, is 27 members. Now in view of the fact also that the senate has a longer tenure, it can be better acquainted with the official in question: and there is also this advantage, that only 14 persons will have to be in on the facts, if the facts have to be divulged before these 14 persons; and in case the grounds are found to be not sufficient for the motion to be carried, and it only involves 14 persons, and 14 persons that have had longer legislative standing. It will be less grave a case than as if 27 persons had been involved in the motion should it not carry.

PRESIDENT EGAN: The degree of this amendment opens this whole section to any type of discussion. Mr. McNealy.

MCNEALY: I'm opposed to the amendment, and I intend to vote against it and to vote against all amendments that are opposite of that in the Committee, unless in some point the committee report is harmful to the constitution. We're going over so many of these things merely for the purpose of change. I can't go along with the maker of the amendment or with anyone who has spoken or will speak, using as their only basis that the senate is older and more mature. Good old Sam Rayburn in the federal Congress, or if you are a Republican, look at Martin in the federal Congress and I have seen some very callow and immature men in our Territorial senate, and I have seen some very mature men in the house of representatives, and vice versa; so that's no argument. I believe that if the Committee here felt that there was sufficient grounds to change it over here, I think that the

Committee should be upheld, and if they feel that the house of representatives is the more representative body and that 40 of them will give a better trial than 20, then I'm with the Committee.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to ask one question of Mr. Rivers. What particular distinction do you see between the report as the Committee brought it out and the other method of having it originate in the house and be tried in the senate, other than that of common or general practice?

V. RIVERS: Well. I don't see much difference, except for the matter of common and general practice. I noted the other day that in regard to the discussion of the grand jury, the grand jury was the indicting body, and they had, at the present time, under Alaska statute, 23 members, and they tried the case and final action before the judge and the members of a 12-member jury. You have the same pattern there and of course back in England you had the same pattern that the amendment asks that we follow here, and we have it in practically all the other states, and we are just reversing the procedure. And while I shouldn't perhaps have said that the youngest members lie in the house, at least the requirements call for the youngest members. It allows a certain differential age limit to those running for the house, but it doesn't necessarily imply that they will be younger or will be less experienced. But it perhaps is true that the preponderance, the greater majority of that body will be somewhat younger, and somewhat less experienced than the older body. Those are the answers that I have, and those are all.

MCNEES: Do you not think then that the Committee thinking with regard to the value of the house reflecting more recently that of the electorate, that that factor might outweigh that of traditional thinking?

V. RIVERS: I would answer that by saying that without a question of a doubt in my mind, that I could say that I think the matter of appearing before and being elected by the public would have nothing to do whatsoever with the maturity of the judgment of the individuals elected. It would not reflect the maturity of the judgment of the public in the matter regarding the misfeasance and malfeasance of some public officer in office. It seems to me to be the diametrically opposite approach to what it should be to render the best justice.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Armstrong, Boswell, Cross, Gray, Harris, Johnson, King, Laws, Londborg, Metcalf, Nolan, Poulsen, Reader, V. Rivers, Stewart, Sundborg, Sweeney, Walsh.

Nays: 32 - Awes, Barr, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Riley, Rosswog, Smith, White, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, Taylor, VanderLeest.)

BARR: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Barr asks that his vote be changed to "no".

CHIEF CLERK: 18 ayes, 32 nays, and 5 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. The Chief Clerk may read the proposed amendment as offered by Mr. Buckalew.

CHIEF CLERK: "Page 4, line 21, beginning with the words 'senate' delete the balance of the line, and on line 22, up to the period, insert in lieu the following: 'either house and shall be by two-thirds vote of all the members of such house'. Page 4, line 21, strike 'of representatives' and insert before the word 'house' the word 'other'. Page 5, line 1, strike the words 'of representatives' and insert in lieu thereof 'hearing the matter'."

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Johnson?

JOHNSON: Isn't that substantially the same substance?

PRESIDENT EGAN: The Chair could not answer that because the Chair wasn't able to follow the proposed amendment.

BUCKALEW: I'll answer that, if you care, sir.

PRESIDENT EGAN: Proceed, Mr. Buckalew.

BUCKALEW: This provides for impeachment being brought in either house and tried in the opposite house, so it's materially different than the first amendment. I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves adoption of his proposed amendment.

SUNDBORG: I'll second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. Mr. Sundborg.

SUNDBORG: I think it was pretty clear from the debate we had here on Mrs. Sweeney's motion that there was no feeling very much on either side from the members here. They just felt in one case it was traditional and in the other case they would like to stick by the Committee, they don't care in which house these charges are tried, particularly, but I do think it should be the other house. On Mr. Buckalew's motion I might say that I had started to write out the identical motion here. Let the charges arise in either house just so long as they are tried in the opposite house.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I, too, really don't care which house it is originated in or tried in, but I still say that this Committee has studied this matter far more than I have. So I'm going to stick to the committee's report.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Someone might be interested in knowing that the consultants, of whom there were several here at the time this article was written, commented very favorably upon this innovation, if you wish to call it that. It met with considerable favor.

BUCKALEW: Did the consultant comment favorably on this proposal, is that what you meant?

HINCKEL: I have no knowledge of what the consultant would have thought of your proposal.

BUCKALEW: That where it originated in either house?

HINCKEL: I have no knowledge of what they might have thought of that, but I do know I have a bad time remembering names, but Mr. Bartley I think it was, examined this committee proposal and commented very favorably on it, and so did at least two others.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to rise to a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may.

(Mr. Fischer spoke on a point of personal privilege.)

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I remember going before a faculty of long-gray-whiskered fellows, and I talked to them about a deal, and they said "No," and I said "Why", and they said, "We have never done it that way." And I said, "Is that any reason why you shouldn't do it this way?" I don't know why we can't go along with the Committee. It's a good deal, and I'm going to stick with the Committee and continue to do so until I've got good and sufficient reason to change.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all those against by saying "no". The "noes have it, and the proposed amendment has failed of adoption. Mr. Doogan.

DOOGAN: Mr. President, may we have a recess?

PRESIDENT EGAN: Hearing no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 13? If not, the Chair would like to state that perhaps, in line with the suggestion made by Mr. Armstrong, that henceforth it might be well that in all instances where sections come up and it is evident that amendments are going to be made to those sections, that the chairman of the committee be asked at that point to give the committee explanation of the particular section; if it is evident that there aren't going to be amendments to a particular section, it would not be necessary to have the chairman give such an explanation. If that is in line with the feeling and thinking of the delegates, that is the way the Chair will proceed. Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I propose to move to strike all of Section 14.

PRESIDENT EGAN: Mr. McCutcheon, would you give an explanation for the reason of having Section 14?

MCCUTCHEON: The thinking of the Committee -- and I think in this instance I speak for all of the Committee -- was to the effect that an impeachment proceeding is perhaps a more cumbersome affair than removal by joint address. Impeachment connotes, let us say, high crimes in office. There may be other reasons

why a person should be removed from office, and they may not have anything to do with high crimes or the neglect of that office for one reason or the other. They could be for senility or gross negligence, or the person may just be inept in that particular job, they aren't high crimes. It's no crime to be senile because of age; it's no crime to be inept. You may be a criminal in a moral sense of the word if you seek a job not having qualifications to support your application for that job, and it may be that after awhile in office one becomes an alcoholic and becomes negligent because of that. The reason that the Committee felt that there should be something other than impeachment is that removal by joint address does not require the signature of the governor. The legislature can remove from the strong executive arm some person who may not be completely functioning in office but who could not be impeached necessarily because they have not committed some type of a high crime or treason. Consequently, it was the feeling of the Committee that there should be some facility available to the legislature to reach into the Territorial government and remove people who for some reason, other than a high crime, are not fit for office.

PRESIDENT EGAN: Mr. Hellenthal.

HELLE'NTHAL: Mr. President, a question of Mr. McCutcheon. Where did the word "joint address" come from, or the phrase?

PRESIDENT EGAN: Mr. McCutcheon, could you answer that question, or could any other member of the Committee?

MCCUTCHEON: Would "concurrent resolution" suit your purpose better?

HELLENTHAL: Well, I would like to know where this came from -if anybody knows?

MCCUTCHEON: Yes, I know where it came from.

HELLENTHAL: Where?

MCCUTCHEON: It came from a member of the Legislative Committee.

HELLENTHAL: Did he take it from any source anywhere?

MCCUTCHEON: I believe that it originally came out of the State of Kansas I believe it was in the Kansas Constitution.

HELLENTHAL: Well, that answers my question. Mr. President, I'm inclined to agree with Mr. McLaughlin. (To Mr. McCutcheon): I think you have answered my question. I want to speak just briefly on the amendment.

PRESIDENT EGAN: The matter is opened for amendment right now. There is nothing before us. Mr. McLaughlin.

MCLAUGHLIN: May I ask Mr. McCutcheon a few more questions to clarify this thing?

PRESIDENT EGAN: If there is no objection, you may, Mr. McLaughlin.

MCLAUGHLIN: Mr. McCutcheon, I'm perturbed about two things in here. One, if Section 13 doesn't state what the ground of the impeachment, the causes of impeachment are, what is a lesser cause which is required to be stated at length in the joint address? Could anything be put in, such as your politics?

MCCUTCHEON: It was not the intention of the Committee that this type of a thing should be used for any political purpose.

MCLAUGHLIN: May I inquire, Mr. McCutcheon, can you think of any circumstance in which the legislature would ever, if Section 14 is approved by the Convention, can you think of any circumstance or any time when the legislature would ever bother to use the impeachment procedure in Section 13 when they can accomplish the same thing with lesser causes, without any cause, under Section 14 by a majority vote of both houses?

MCCUTCHEON: If I recall our article correctly, you can't remove the governor by joint address.

MCLAUGHLIN: But isn't it true that you may remove a civil officer, includes the supreme court and superior court and what concerns me is this, if the Democrats control both houses of the legislature, then by a 51 -- majority vote, they can remove all the Republicans, including the entire constitutional judiciary, and the same thing applies if the Republicans controlled both of the houses. Then they can automatically remove all the constitutional judiciary, every officer of the state, except the governor, isn't that true?

MCCUTCHEON: If you feel that the legislature would be so insincere, and if you challenge the legislature's integrity to that point, then I would suggest that you strike it. We must place our confidence in some fashion.

MCLAUGHLIN: I move to strike Section 14. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

SUNDBORG: I'll second the motion.

PRESIDENT EGAN: Mr. McLaughlin moves and Mr. Sundborg seconds the motion to strike Section 14. Miss Awes.

AWES: I would like to ask Mr. McLaughlin a question, Mr. President. Any civil officer, does that effect civil service employees?

PRESIDENT EGAN: Mr. McCutcheon?

MCCUTCHEON: Well, I'm afraid that I can only say this -- I would say that it meant anybody working for the State of Alaska, period, outside of the situation here, that is, excepting the governor.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: How do you fire somebody?

MCCUTCHEON: What does this mean?

HELLENTHAL: It takes a concurrent resolution of both houses of the legislature to fire him?

MCCUTCHEON: It certainly does, if the legislature wants to remove him from office.

HELLENTHAL: If a man becomes a drunk, do you have to drag him through a concurrent resolution of the legislature?

MCCUTCHEON: You are seizing upon the fine interpretation of it. It doesn't mean that.

HERMANN: Mr. President. I rise to a point of order.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: I think the two delegates should address the Chair and not each other at such length.

PRESIDENT EGAN: Is there further discussion? Mr. McNees.

MCNEES: Mr. President, I would like to point out that this is for cause only, and the cause must be stated in joint resolution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, Mr. McLaughlin said there were two things about this that bothered him. There are three things that bother me, there is the beginning of it, and the end of it, and everything in between. This is the gosh darndest thing that I ever saw in my life. I know that if there had been such a law as this in the statutes of the Territory of Alaska the head of every department and probably the assistants and several tiers under them in the government would have been removed by the legislature which met in Juneau in 1953, and,

I'm equally certain that the legislature which met in Juneau a year ago would have removed just about to the same extent every officer of that administration. I hesitate to say that this is un-American, because that word has been overworked, but it certainly is un-Alaskan. I think it is unique. I'm sure it does not appear in this form in the Constitution of Kansas or any other state, that by a simple majority vote of both houses of the legislature you can fire any member of the administration. We talk here about setting up a strong executive, and here we are getting back to a thing where the legislature, by a simple majority vote can get rid of any member of the administration. I certainly support the motion to strike Section 14.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, earlier in our meetings here we had discussed the possibilities of two articles conflicting, I think this is one of the cases where they do. I think the article on legislature there is dealing with something that should be handled in the executive article, and is covered in the executive article, Section 14, page 7, if some one would like to look it up. I think it's covered a little more adequately in that section. If you'd like, I could read it to you. It's a short paragraph. It says, "The governor may make such changes in the administrative structure or in the assignment of functions as may, in his judgment, be necessary for efficient administration. These changes shall be set forth in executive orders which shall become effective at the close of the next regular session of the legislature, unless disapproved by a resolution concurred in by a majority of all the members of the legislature meeting jointly.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I'd like to address a question to Mr. McNees for a change, since he brought up the fact that it says here they must be removed for cause. What specific cause do you have in mind?

MCNEES: I would say it would be most any cause for which the bringers of the petition would hold themselves liable. In other words if there was just reason to bring action, it could be held providing the vote was secured by joint address.

V. FISCHER: If I may try to insist, I asked for a specific, such as what, for example?

MCNEES: There have been several cited and I can reiterate on those. I would say drunkenness for one. I would say there are other causes short of those where impeachment proceedings would be used that would be equally applicable.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I'm really scared of this section. (To Mr. McNeas): Thank you, Mr. McNeas. The standard procedure for removing civil officers is impeachment, when sufficient grounds exist. We have already gone through a section which provides for impeachment. The body showed its faith in the Committee there by not changing anything. In this case we are faced with something that isn't tied down. We have had the example of drunkenness brought up. Drunkenness can be covered by general law: "No alcoholic shall be employed in the services of the State --" (Laughter)

PRESIDENT EGAN: The Convention will come to order.

V. FISCHER: I'm serious, Mr. President. I think I'm very serious on this. I think employment in the civil service of the State, employment in the judiciary service, which this covers, employment in the legislative service, including legislators in this case, must be acted upon. I'll leave out the legislators, since they can handle their own affairs. But we must deal with those by general law. The standard way is to set up a civil service commission, if the legislature feels it necessary, they prescribe the standards. They can set a maximum age limit and authorize removal for senility. They can authorize removal by the civil service commission on any other grounds, but this kind of authority to the legislature to pass special, personal, individual legislation seems dangerous. I mean, Mr. McLaughlin sort of joking brought up the political aspect, I think it opens it up to mayhem here. And I'm not in the least bit trying to be amusing. I think that it does open the way to removal practically without cause, where general law is sufficient.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I'd just like to say that the "for cause" clause is protected in other parts of the constitution. They could not be removed for their race, creed, color, or religion, as I see it.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I'd like to point out that, if I read this section correctly, we can completely upset our judicial system, our independent judiciary, as broad as this section is.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, if I may sum up, unless there is some concern that I am not aware of what is happening. There is no cause required to be shown under Section 13. which is

the impeachment procedure and most impeachment proceedings, historically, have not been judicial proceedings, they have been political. But I might point out that a lesser cause and under Section 14 it says, a cause which need not be sufficient ground for impeachment. In substance, I'm a Democrat, but I will appreciate if the first state legislature were predominantly Democratic, they could take Judge Cooper's speech of last night, remove the jokes, and then remove all the Republicans from office. As to my attitude on the subject, I did have in here, and I thought it was in bad taste and withdrew it, an amendment providing that in Section 14, line 1, that we would strike the words "the governor" and substitute the word "democrats" and exempt all of them from removal. And I signed it Andrew Jackson McLaughlin. Frankly, this is the spoils system, and I feel that if this were ever approved, that the whole constitution would be repudiated at the polls. You can remove every constitutional officer except the governor. It would be unacceptable to anyone.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I remind Mr. McLaughlin that that is for cause only. I don't think that these fears are justified. I don't see in anyway why you're afraid of it. I just fail to see your argument.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I do not intend to speak against Mr. McLaughlin's amendment, but I would like to state that the Committee had no idea of any of the things that we have been accused of, and our intent was merely to permit some unfortunate person, who was holding office in the state government and who for reasonable cause should be removed, that to permit him to be removed without blemishing his character and his record by impeachment, and that was the intent and the only intent that we had.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, I'm in favor of Mr. McLaughlin's amendment. It seems to me if there is such an unfortunate person that probably the legislature would cut off his pocketbook.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Chairman, I would like to give a little idea of how I feel about this. I don't ever remember seeing the original source of this article; we discussed it, however. Right here I found in the Constitution of the State of Wyoming, which states who may be impeached: "The governor and other state and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only

extend to removal from office and disqualification to hold any office of honor, trust, or profit under the laws of the state." I think that is where our Committee fell down by neglecting to include that. It states in another section: "Removal from Office. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office in such manner as may be provided by law." Now that amounts to much the same thing, and is just about as much un-American as I can think of, since it can be done by law and by the legislature. And I think that we were lax on this job, but I can see where there was some justification for it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, under this section, where the legislature removes a department head or any other civil officer, it was brought up here that there would be less notoriety, less publicity in case he was a well-meaning individual. Now, we'll take the case of where the governor wants a person removed and the legislature wants him removed, and if you have to go through this process, you will get publicity. This flouts the theory of a strong executive, which I believe the majority of this body wants, a strong governor who is able to appoint his own assistants in order to have a more perfect team, harmony, and cooperation and, if that governor is not allowed to remove his appointees without going through this, he's going to be burdened with him until the next meeting of the legislature. And if he does not want a department head removed, and the legislature does want him removed, they will remove him. In other words, it takes it out of the governor's hands, and it removes the strong executive system from our government altogether.

UNIDENTIFIED DELEGATE: Question?

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McLaughlin be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all those opposed by saying "no". The ayes have it and the proposed amendment is ordered adopted. Are there amendments to Section 15?

JOHNSON: I have an amendment, Mr. President.

PRESIDENT: Could the Chairman of the Committee then give an explanation of the reasons for having Section 15? Mr. McCutcheon?

MCCUTCHEON: The thinking of this Committee, and it was not a unanimous thinking, was that from past experience we felt that the authority of the senate should be diluted to a certain extent by requiring that the vetoes of the governor shall be heard in both houses and that it shall require the vote of both houses sitting as one body to override the veto of the governor, the theory being that with a small senate, it required so few

to sustain the governor, that it gave an extremely strong executive arm more power and authority than he should have. If we were to have a weak executive arm, then it appeared to the Committee or at least I should say a portion of the Committee that the governor should have strong veto powers, in as much as it was the general consensus that we were to have an article which dealt with an exceedingly strong executive branch, then authority of that branch, as it applied to legislation, should be reduced to a certain extent. You will observe that the provisions of the article require that it will take three-fourths of the membership to override the governor's veto on a budget matter; any other matter will require two-thirds of the combined houses sitting as one house.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Could I ask a question?

PRESIDENT EGAN: You may, Mr. Fischer, if there is no objection.

V. FISCHER: On line 1 of page 6, Mr. McCutcheon, we have a reference to an item or items in the general appropriations bill. Is it the intent of the Committee that Section 15 grant the governor to veto items in the appropriation bill without vetoing the whole bill?

MCCUTCHEON: Yes.

V. FISCHER: But not reduce amounts, just veto in entirety?

MCCUTCHEON: That's right.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. Johnson to Section 15.

CHIEF CLERK: "Line 19, strike the word 'The', then insert 'Each house of the'. Strike the word 'as' at the end of line 19.

Line 20, strike the words 'one body', insert in lieu thereof the word 'separately'. Line 23, strike the words 'the state' and insert in lieu thereof the words 'each house'. Page 6, line 3, strike the words 'the state' and insert in lieu thereof the words 'each house'."

PRESIDENT EGAN: Mr. Johnson, what is your pleasure?

JOHNSON: I move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Mr. Johnson moves for the adoption of his proposed amendment. Is there a second?

LONDBORG: Mr. President, I'll second the motion.

PRESIDENT EGAN: Mr. Londborg seconds the motion. The question is open for discussion. Mr. Armstrong.

ARMSTRONG: Mr. President, may I ask Mr. Johnson a question? Mr. Johnson, in question of a veto, it's an action that has been concurred in by both houses and by the senate so that actually the veto is against the joint action of the combined legislative body. Why should it not, then, be reviewed by both bodies sitting together? In other words, I'm asking for an explanation of your amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I don't agree that joint action is the same in both instances or both examples that you gave, Mr. Armstrong. Certainly a bill is acted upon by both houses but it's acted upon usually by each house separately and voted on by each house separately and then sent to the governor for his consideration. When it comes back, it seems to me that the bill should have the same treatment. In other words, his veto should be considered by each house sitting separately, since they have considered the original legislation in the same manner as in the beginning or during its passage. It is the customary way of doing things, I think; and, I believe we have set up here in this legislative act a bicameral system of legislature, and we are continually, it seems to me by joint session, invading that province and reducing one of the checks and balances that we should continue to preserve in our form of government. And when Mr. McCutcheon says that he would like to dilute the authority of the senate, I don't know of any reason why it should be diluted any more than should any other branch of our government have its authority diluted. Each branch ought to stand on its own, and certainly ought to act independently of the other, as far as that is possible; and, with this amendment, it simply puts the consideration after veto by the governor back so that it will be acted on by each house separately as was the original legislation when it was passed. I don't see that there is anything wrong with that system. Certainly, it's worked out extremely well, and I have known of instances when the house of representatives acted as a check on the senate. So I think it works both ways.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I'd like to amplify that statement as to why such matters should not be acted on in joint session. The answer is that it merely takes more time. Every time there is a joint session, the senate has to negotiate with the house, or vice versa, as to what time, for instance if the senate wants to sit with the house, the senate has to find out what time the house would be able to sit with them, and so forth. And if this matter is acted on separately, each house can act on it as it comes up in their regular order of business without any delay

whatever. In our last session I believe there were several bills vetoed by the governor; some were sustained, and some were not, but there was no joint meeting, no hassle, or delays.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I think there is another good reason for supporting this amendment. Going on the assumption that the numbers will be as we have seen them in proposals as far as your house and senate, it almost takes the overriding out of the hands of the senate, and they have to sit with the house that is twice as big. And if your house is largely leaning one way, they only have to pick up only two or three seats or voices in the senate to override. And putting it this way, it lets each house act separately. That's why we have two houses.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I might also add that under the present system a bill that is vetoed by the governor is returned to the house of origin, and, if it happens to be the senate, the bill

will go to the senate, and if they do not override the governor's veto, the bill is lost. Under this system it would go back to joint session, and, regardless of whether the senate wishes to override the governor's veto or not, it probably would be overridden since the house is going to be so much larger than the senate here.

PRESIDENT EGAN: Mr. Rosswog.

ROSWOGG: Mr. President, I'd like to move in favor of this amendment. If my figures are correct, a bill that passes the house and senate under our present setup could carry in the larger house a vote of 30 to 10 and in the smaller house of 11 to 9. And then if it was vetoed and returned to joint session, it could be still passed by the same vote.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I don't like to take up the time to talk on this, but I may state here just what my interpretation is for the reason this part of the section is in here. By one example, in the last legislature where the house by a vote, I believe, of about 21 to 3 passed an appointments bill requiring the governor to make his appointments in a certain fashion, or submit the names, and then if the names were not approved, why, he had another choice, and if he failed then, why, the house and senate would make the appointments for him, if he didn't do it in two tries. Now the house passed the bill, as I remember, about 21 to 3. It went to the senate, and the senate also passed the bill, and as near as I remember it was almost, or it was possibly two-thirds majority in the senate, but the governor vetoed the

bill, and the bill came back to the house of representatives and we passed the bill, this appointments bill, over the governor's veto, again by a vote of 21 to 3. The bill went back to the senate and failed to get the two-thirds majority, and so the governor's veto was sustained. I don't feel too strongly on this particular point. I felt a little strongly at the time when that bill I'm speaking about, but the thought behind this is that where you have that difference between the two houses, you could see where adding either 50 per cent of it or slightly over 50 per cent of the senate vote to the overwhelming house vote where it would be possible to override the governor's veto.

PRESIDENT EGAN: Mr. Riley.

RILEY: Could we have the proposed amendment read again, please.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

(The Chief Clerk read again the proposed amendment by Mr. Johnson.)

HELLENTHAL: May I ask a question of Mr. McCutcheon?

PRESIDENT EGAN: You may, Mr. Hellenthal, if there is no objection.

HELLENTHAL: How many states have provisions for veto where both houses meet jointly, such as the proposal before us?

MCCUTCHEON: Nebraska. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Barr, Boswell, Coghill, Cross, Gray, Harris, Hellenthal, Johnson, Kilcher, King, Laws, Londborg, McLaughlin, Nerland, Nolan, Poulsen, Reader, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, Mr. President.

Nays: 25 - Awes, Buckalew, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hermann, Hilscher, Hinckel, Hurley, Knight, Lee, McCutcheon,

McNealy, McNees, Marston, Metcalf, Nordale,
Peratrovich, Riley, Sundborg, White, Wien.

Absent: 5 - Collins, R. Rivers, Robertson, Taylor, VanderLeest.)

CHIEF CLERK: 25 ayes, 25 nays, and 5 absent.

PRESIDENT EGAN: So the proposed amendment has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the Convention stand adjourned until 9 o'clock tomorrow morning. If there is no objection, it is so ordered, and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

January 11, 1956

FIFTIETH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Gambell of the Pentecostal Holiness Church in Fairbanks. Reverend Gambell.

REVEREND GAMBELL: O God, we pray that we may hold our liberty in high esteem remembering how Thou has blest this nation. We thank Thee for this wonderful country in which we are privileged to live. Inspire our people to hold sacred this glorious heritage of freedom and rights. Keep us free from jealousy and free from strife within and from wars without. Bless, we pray Thee, each member of this Constitutional Convention. Give wisdom and strength for this great task which is nearing completion, recognizing Thy great Providence and guidance may we say "Hitherto the Lord hath led us." Give us peace through the Prince of Peace, for His sake. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Six absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. Mrs. Sweeney.

SWEENEY: Mr. President, I was wondering if it would not be in order to suggest each morning that as you introduce the minister, that the delegates might retain their seats so that we might have a clear introduction, not only for ourselves but for the record and not to rise until after the introduction.

PRESIDENT EGAN: Thank you very much. Does the special Committee to read the journal have a report to make at this time? Mr. Doogan.

DOOGAN: Journal for the 45th Convention day. Corrections on page 4, after the words "After Recess", insert the following paragraph: "Mr. Hellenthal asked unanimous consent to withdraw his amendment. There being no objection it was so ordered." With this inclusion in the journal I ask unanimous consent that the journal be approved.

PRESIDENT EGAN: You have heard the report of the special Committee to read the journal. Unanimous consent has been asked by Mr. Doogan to approve the journal. Is there objection? Hearing no objection, it is so ordered. At this time the Chair will refer Committee Proposal No. 7 to the Committee on Engrossment and Enrollment. It had been held over inasmuch as one delegate had served notice of reconsideration of his vote. The

reconsideration was not brought up by the particular delegate and at this time Committee Proposal No. 7 is referred to the Committee on Engrossment and Enrollment. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? If not, we are down to the unfinished business on our calendar which is Committee Proposal No. 5. Mrs. Hermann.

HERMANN: Mr. President, I was asleep I guess but I have a report on the Nome hearing that I wish to file.

PRESIDENT EGAN: If there is no objection, the report of the hearing will be filed. We have before us Committee Proposal No. 5, Section 15. Are there amendments to Section 15? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no amendments on the Clerk's desk, I have an amendment to Section 15.

PRESIDENT EGAN: Mr. Sundborg, you may offer your amendment. The Chief Clerk may read the proposed amendment as offered by Mr. Sundborg.

CHIEF CLERK: "Section 15, page 5, strike all of line 21 and the first two words on line 22 and insert in lieu thereof the words 'although vetoed'. Strike all of line 24 and 25 on page 5; lines 1, 2 and 3 on page 6 and the word 'entitled' on line 4 of page 6."

SUNDBORG: Mr. President, I move the adoption of the amendment

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the proposed amendment. Is there a second to the motion?

KILCHER: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Sundborg.

SUNDBORG: Mr. President, as the proposal has been reported to us by the Committee, it sets up two classes of legislation, one of which requires a two-thirds vote of the legislature to override a veto by the governor and another class which requires a three-fourths vote of the legislature to override the veto. My observation of legislatures, not only of the Alaska legislature, and I think of every session since the 1939 session, and of several other legislatures in action, that it is very rare that any bill, that the veto is overridden by the legislature anyway, and to make it necessary that a three-fourths vote of the legislature be obtained on certain classes of legislation would I think insure that those classes of legislation, once vetoed, would never be overridden by the body. So I believe we ought to stick to the uniform rule that it takes a two-thirds

rule of the legislature rather than a three-fourths vote in some cases. Now, the kinds of bills which would not be subject to overriding of veto by two-thirds vote would be all bills carrying appropriations, and I would say probably that maybe one-third of all the bills that have gone through the Alaska legislature do carry appropriations. It does not mean it would have to be a bill with nothing but appropriations, but it may be a bill setting up a new department, and at the very end of it, it says that an appropriation for so many thousands of dollars for the purposes of carrying out the purpose of this act. That whole bill would fall in the second class that the Committee sets up here and would require a three-fourths vote of the legislature to override the veto, any bill dealing with taxation or any bill affecting payments of money under existing statutes or an item or items in the general appropriations bill. I feel that we would avoid a great deal of confusion, and we would have a better and more workable constitution if we provided as the Alaska Organic Act has always provided, that the veto may be overridden by a two-thirds rather than three-fourths in some cases.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I have no objection to this motion to strike except for one thing. I think it is generally agreed that a provision for an item veto in appropriations bill is desirable and the further provision that reductions can be made as the need may arise because of lack of revenues. I don't know if Mr. Sundborg intends to follow this amendment with another one making some provision. Some of us have been working on one. I don't think it is ready to present yet, but I intended to do it the second time around, but with that understanding I will support Mr. Sundborg's amendment. But I would not support it if the intention was to leave this big gap in the veto section. We discussed this in Finance and have left out any reference to an item vetoed in the finance section with the understanding that it would be inserted somewhere else.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The matter of whether a constitution is better or more workable in one fashion or other is strictly a matter of opinion. I do not agree with Mr. Sundborg's remarks in many respects. It appears to be the intention of this group, at least so far, if we can understand the discussions, that is that there is an intention for a strong executive arm. If I understand the fiscal reorganization of our government here as it took place in the last several years, there is quite a strong device in a budgeting fashion wherein the governor's arm will develop the budget for the state, and in presenting this budgeted item obviously the governor's office will have gone quite thoroughly into all the aspects of the budget for the state and consequently, having put in as much design as will be necessary

to develop not only the expenditures but the revenues necessary to meet them, we in the Committee felt that there was a necessity to require a greater number if the proposition of the house meeting in joint session were to stand, a greater number required to override the veto on money matters. Now, the fact that there are many, many bills as Mr. Sundborg says, that will be carrying appropriations, it is my opinion that as we get into our new state legislature that the chances of many bills carrying individual appropriations, as there has been in the past in the Alaska legislature, will not stand. That practice will probably be abolished and the bills carrying appropriations for new departments will come at once, and they will come either through the budgeting office from the governor or they will derive from the appropriations or finance committee of the house or senate, and will be considered in the light of the total revenues and the total of expenditures of the state, rather than in the hodgepodge fashion in the past. If it is the desire of Mr. Sundborg to make this a uniform veto overriding procedure, then of course he will have to abandon the idea that the veto will be considered by both houses of the session together. We feel that in supporting a strong executive arm it should require a greater number than two-thirds of the total number of legislators to override the governor's veto on a matter of budget because you cannot exercise a strong executive arm unless you have a strong control on the purse strings.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, I also want to mention that I think that possibly under this act the appropriations bills will be handled separately under an appropriation bill. In fact, in Section 16 it says bills except for appropriations shall be confined to appropriations. Now, the effect of that will be that a lot of independent bills carrying appropriations will be merely passed as enabling acts and then later on the appropriations will all come in under appropriation bills, at which time it will be in a pattern similar to that handled in Congress. In the past there has been a great many bills that came in during the session which carried appropriations, and for that reason it was very hard to determine how much money had been authorized and committed and what money should then go into general appropriation bills against those that carried special appropriations. I favor this procedure and I favor also the three-fourths majority to override a veto in the matter of appropriations because we have now diluted the veto power on one hand and are trying to stiffen it in regard to moneys on the other. I want to point out here there is a great deal of difference between the power to tax and appropriate and spend money, and the power to legislate as our founding fathers found when they rebelled against the taxation procedures of the mother country which was at that time England, and they would permit and allow the legislation but they did fight and oppose the taxation, and so here again we have the distinction between the

power to tax and spend, as against the power to legislate, and I think the Committee has rightly adopted a provision in regard to the appropriation and spending of money which would allow somewhat more power to lie in the strong executive.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will "signify by saying "aye", all opposed by saying "no". The noes have it and the proposed amendment has failed of adoption. Mr. Barr.

BARR: I have an amendment on the Clerk's desk I would like to have read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Barr.

CHIEF CLERK: "Section 15, line 17, after the word 'Legislature' and the period, strike the rest of line 17 and all of lines 18, 19 and 20 except the last word 'Bills' and substitute the following: 'within five days after vetoing a bill, the governor shall return it to its house of origin for further action, and if passed by a two-thirds majority, it shall be transmitted to the other house for its consideration, and if like action is taken it shall become law.' Line 23, strike the words 'the state' and substitute the words 'each house'. Page 6, line 3, strike the words 'the state' and substitute the words 'each house'."

MCNEES: Point of order, Mr. President, I believe this action was taken last night. The verbiage only has been changed.

MCCUTCHEON: Mr. President, I submit that this is a close point of order. The only difference in the matter that has been submitted is the fact he has changed it from a period of being returned to five days. I submit it as a close point of order, but I challenge it on the basis of the fact that it is the material that has been considered.

PRESIDENT EGAN: It has close resemblance to another amendment, but as Mr. McCutcheon says there might be a point there that should be referred to the Rules Committee because of that one thing. The Chair just is not completely certain. Mr. Barr.

BARR: I do not remember the exact wording of Mr. Johnson's amendment but I believe that this one also specifies that it shall be returned to the house of origin. I believe that there are two points different in that.

PRESIDENT EGAN: The Chair will refer this question to the

Rules Committee. The Convention will be at ease. The Convention will come to order. Mr. Barr.

BARR: I believe the Rules Committee has a report to make first.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in the absence of the Chairman of the Rules Committee, I have presided, and I report on behalf of the Rules Committee that we believe that Mr. Barr's motion in effect is exactly the same motion that was made last night and defeated, and for that reason, although we recognize that it is a mighty close question, we consider that Mr. Barr's motion is out of order and that the point of order is well taken. We feel that Mr. Barr has another remedy which he can use if he so desires.

PRESIDENT EGAN: The ruling of the Rules Committee will be the ruling of the Chair.

BARR: I ask unanimous consent to withdraw my amendment.

PRESIDENT EGAN: Mr. Barr asks unanimous consent to withdraw his proposed amendment. Is there objection? If there is no objection, it is so ordered.

BARR: Now I would like to give notice that I will make a motion to rescind our action.

PRESIDENT EGAN: Mr. Barr serves notice that he will make a motion to rescind action.

DAVIS: I. think, Mr. President, Mr. Barr ought to make it clear what action we are talking about.

BARR: To rescind our action on Mr. Johnson's amendment to Section 15 which we took last night.

PRESIDENT EGAN: Mr. Barr serves notice he is going to make a motion to rescind the action that was taken on the motion of Mr. Johnson with relation to Section 15. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I ask unanimous consent for the suspension of the rules so that I can make a motion.

PRESIDENT EGAN: What motion are you going to make, Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, I move that the Rules Committee be instructed to report out this evening at 7:30 any recommendations that they may have for the purposes of expediting proceedings of this Convention.

COOPER: I second the motion.

DAVIS: The Rules Committee is not ready and will not be ready by 7:30 this evening to make any such report.

PRESIDENT EGAN: The question is "Shall the rules be suspended and the Rules Committee be instructed to make recommendations as to how to expedite the proceedings of the Convention?" It is not debatable because it is a suspension of the rules.

HERMANN: Point of order. I think we have a rule that says any time we want to call out a report of the Committee you have to have 14 people, if I recollect, requesting it.

PRESIDENT EGAN: Of course, this request by Mr. McLaughlin, Mrs. Hermann, is in effect a suspension of the rules.

V. FISCHER: Point of information. Is such a motion amendable by Mr. McLaughlin to provide, instead of 7:30 tonight, to have it as soon as possible?

PRESIDENT EGAN: Mr. McLaughlin, the Chair will allow you to make a statement.

MCLAUGHLIN: I shall amend it with reluctance to read "as soon as possible" instead of "7:30 this evening".

BUCKALEW: I would like to ask Mr. McLaughlin to withdraw that. You know they are going to get it out as soon as possible. Why don't you withdraw it?

MCLAUGHLIN: I shall withdraw my motion and rely on the speed with which the Rules Committee produces recommendations.

PRESIDENT EGAN: Mr. McLaughlin, hearing no objection, your proposed motion has been withdrawn. Mr. Davis.

DAVIS: At this time I will announce a meeting of the Rules Committee for the morning recess.

PRESIDENT EGAN: There will be a meeting of the Rules Committee during the morning recess. Are there amendments to Section 15? Mrs. Nordale.

NORDALE: Mr. President, I have an amendment.

ARMSTRONG: May I suggest again that the Chairman of the Committee be asked to speak to this section and if there are to be amendments to it.

PRESIDENT EGAN: He has already spoken to this section.

ARMSTRONG: I am sorry. I thought it was 16.

CHIEF CLERK: "Section 15, line 20, after the word 'shall'

insert the word 'immediately'."

NORDALE: Mr. President, I ask unanimous consent, or I move that the amendment be adopted.

PRESIDENT EGAN: Mrs. Nordale moves the adoption of the proposed amendment. Is there a second?

METCALF: I second the motion.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment again.

CHIEF CLERK: "Section 15, line 20, after the word 'shall' insert the word 'immediately'."

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, my feeling is that I don't know that it is too important, but it seems to me that it is of enough importance to insert the word. If the bill should be considered immediately after the veto, then if the veto is sustained, there is an opportunity for those who still believe in the substance of the bill to introduce a revised bill incorporating such amendments as will coincide with the governor's attitude on the bill. Otherwise, it could be just delayed and not taken up in sufficient time to reconsider something that might be of value.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I address a question to Mrs. Nordale. Would you consent to the word "promptly instead of "immediately"? You don't know what the business is or what kind of jam they are going to be in for the next 24 hours.

NORDALE: I would consider that if the word would be interpreted reasonably, so that at the first possible recess the bill would be considered.

MCCUTCHEON: I don't see why we are heckling about one particular word. The house does not even have to receive the bill as far as the floor is concerned for some period of time. If there is a matter under consideration, it does not even come before it except if the president calls it up.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: There is something else here. This, as we have it here, maybe we are going to change it tomorrow. It says they are going to sit in joint session and you can't consider --

NORDALE: It says "immediately".

SUNDBORG: "The legislature sitting as one body shall immediately reconsider the passage of the bill." He returns it to the house of representatives together with his objections and the legislature sitting as one body and now it is proposed immediately to reconsider the passage of the bill. Would that mean that once the governor's veto message hits the clerk's desk in the house of representatives, that all business of both houses ceases at that moment and they go into joint session to immediately consider this matter?

NORDALE: Mr. President, rather than waste any time I withdraw the amendment. I think that almost every section of every constitution that talks about reconsidering a vetoed message says "immediately".

TAYLOR: I object.

PRESIDENT EGAN: Mr. Taylor objects to withdrawing. Mr. Taylor.

TAYLOR: I object to withdrawing. I think that word should be in there. I have seen the times in the legislature where there was an attempt after a bill had been vetoed by the governor, and it came back down to hold it so it could not come up for a hearing. It would be forced out and many times that happens. I think it should be "immediately" or some word which will denote the same meaning or say "within the following day", or "within 24 hours", but I think it is very imperative that we have this in here so when it goes back to the house of origin nobody in that house can sit on the bill and allow the veto to kill the bill. I object to withdrawing it and believe it should be voted on.

PRESIDENT EGAN: Objection is heard. The question is, "Shall the proposed amendment as offered by Mrs. Nordale be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Armstrong, Awes, Barr, Boswell, Collins, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Robertson, Stewart, Taylor, Walsh, Wien, Mr. President.

Nays: 12 - Buckalew, Cooper, Cross, Harris, Laws, Poulsen, Reader, Rosswog, Smith, Sundborg, Sweeney, White.

Absent: 4 - Coghill, McNealy, Riley, VanderLeest.)

CHIEF CLERK: 39 yeas, 12 nays and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 15? If not, are there amendments to Section 16? Mr. Johnson.

JOHNSON: I have an amendment to Section 16.

PRESIDENT EGAN: Would the Chairman of the Committee then please present us with an explanation for the reasons for Section 16. Mr. McCutcheon.

MCCUTCHEON: There are several matters in this particular section. I wonder if we could have Mr. Johnson announce which particular matter he chooses to amend.

JOHNSON: Actually it is an addition, not an amendment.

PRESIDENT EGAN: We might have the Chief Clerk read the amendment first. Mr. Barr.

BARR: Has the Chairman of the Committee explained the section to us yet?

PRESIDENT EGAN: Not yet, but we thought it might be better to have the Chief Clerk read the proposed amendment.

CHIEF CLERK: "Section 16, line 22, after the period add the following: 'The enacting clause of each law shall be, 'Be it enacted by the legislature of the State of Alaska.' No bill shall become law unless it shall pass three readings in each house, on separate days.'"

JOHNSON: I move the adoption of the amendment.

ROBERTSON: I second the motion.

MCCUTCHEON: The first sentence of Section 16 provides that the legislature, like the United States Congress, shall set up the procedure for enactment of bills into law. It requires that a journal be kept and that the votes on the final passage of the act shall be entered into the journal. That part is included because a journal must be had in order that the court requires to search into the background of the law to seek its validity, they ascertain as to whether it legally passed. The theory of requiring that all bills be confined to one subject with certain exceptions here, as shown, is that nothing can be gotten through the legislature under the guise of some other things. Often times a bill that is very popular and has a great deal of public support and sentiment will have a rider attached to it which may defeat the very purpose of the bill or may pertain to some

other idea entirely, and the theory behind the requirement that each bill be confined to one subject indicates the thinking. Insofar as the matter of Mr. Johnson's addition here. there are only three states that do not include in their constitution the matter which Mr. Johnson seeks to insert into this article. The United States Constitution does not set up this procedure either but leaves it to Congress to establish the manner in which bills shall be enacted into law. We have here in one of our foregoing sections, if it is finally adopted, a statement that both houses of the legislature shall have uniform rules of procedure and in such instances we relied upon the fact that the legislature would follow a given pattern once adopted, they would follow that pattern of enactment and under that theory we felt that this material need not be included in the constitution, relying on the fact that the United States Congress did not use it and three other states did not use it. I don't think the Committee has any necessary objection to this type of amendment. It does not aid, in our opinion, it does not aid the article any, nor if included would it hurt it.

JOHNSON: Well, I believe the proposed amendment contains what I feel are minimum safeguards to be included in the constitution under the legislative section because if they are left out, and it is left up to the legislature to determine what or how a bill shall be passed and become law, or the method of procedure to be used in having a bill passed and become law, then it is conceivable that each legislature might change that rule and the courts then would be filled with cases construing the legality of various acts of the legislature, and you would not know from one session to the next just exactly what the procedure might be or was going to continue to be, so it seems to me that as Mr. McCutcheon has pointed out, 45 states in the Union, and I know Hawaii includes it, and I have the Oregon Constitution and the Illinois Constitution, and they all include this type of language, and I see no reason why we should leave it out because I feel that we are going to save a great deal of trouble and legal action if we do put it in, and there will then be no question as to what procedure is to be followed for a law to be introduced in the legislature and passed and become a law of the state, and the interpretation of the method used in passing laws will be a settled matter.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I wonder if we could have the question divided. I don't want to do it against Mr. Johnson's desire, but I think we are dealing with two things. One is having an enacting clause in this section, the other one specifying readings, and I believe that we should consider them separately. It is up to you, Mr. Johnson.

BUCKALEW: That is what I was going to raise -- I just wanted to ask Mr. Johnson. I can't see any sense in putting in the

constitution that the state legislature shall caption their bills, "Be it enacted by the Legislature of the State of Alaska." I don't think it should be in the constitution, that portion.

V. RIVERS: Mr. President, I think that we have all agreed that we want flexibility in the constitution. This amendment, however, is one thing which I believe should give uniformity or would give uniformity if it is adopted to the methods by which bills are enacted and I favor such uniformity. I see no reason why the method should change from time to time, and it doubtless will unless we have such a clause. This is nothing there that would prohibit the enactment of any type of legislation, but the form and the approach and the handling would be uniform, and in this particular case I favor such uniformity.

MARSTON: May I ask Mr. Johnson a question?

PRESIDENT EGAN: You may. Mr. Marston.

MARSTON: If your amendment passes, would you not have to change the first two lines. "The legislature shall establish the procedure for enactment of bills," if your amendment passes?

JOHNSON: I don't think that would make any difference, this is just a minimum safeguard. There would still be other procedures that could be provided for.

SUNDBORG: May we hear it read?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 16, line 22, after the period add the following: 'The enacting clause of each law shall be, 'Be it enacted by the legislature of the State of Alaska.' No bill shall become law unless it shall pass three readings in each house, on separate days.'"

SUNDBORG: There is something in that that I think is bad, and it is the provision that each reading must be on a separate day. Anyone who has served in the Alaska legislature or who has observed it, I think knows that probably 99 per cent of the bills that are considered there are advanced to third reading by a suspension of the rules of the house so that the third reading may immediately follow the second reading if there have been no amendments or if the amendments are well understood by the membership, which of course they are, because they have just been talking about it. To require that the house has to get off that subject and go on to a new one and not take it up again until the following day, as between the second and third readings, I think is unnecessary and time-consuming and that it would in a sense cripple the operations of the legislature.

I don't know how many state constitutions contain that provision, that each reading must be on a separate day. If we write it into the constitution it would not be possible for a house of the legislature to suspend the constitution so as to advance a thing to third reading and vote on it the same day they have considered it in second reading or completed the second reading. I don't object at all to writing in some procedure into the constitution, but on that one point I think this procedure would be bad.

PRESIDENT EGAN: Mr. Sundborg, is it your pleasure to offer an amendment to the amendment in that respect?

SUNDBORG: I hadn't intended to, but I would be willing to if I could have a few minutes.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I move to amend Mr. Johnson's amendment by striking the last three words in it, namely "on separate days".

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection?

JOHNSON: I object to the amendment.

MCCUTCHEON: I second the motion.

SUNDBORG: I have here the New Jersey Constitution which I think is a pretty good one, the last one revised. and its provision on this matter is as follows: All bills and joint resolutions shall be read three times in each house before final passage." Some state constitutions do say on separate days. I am afraid that if we leave in "on separate days" we are going to run into a lot of trouble. I know now for instance we would never get a general appropriation act passed if our experience in the state is what it has been in the Territory. A general appropriations act is always being considered in second reading right down to past midnight of the last day of the session. If it were impossible to suspend the rules of the house so as to advance it to third reading and final passage, the session would end and we would have no appropriation act.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to ask Mr. Sundborg a couple of questions.

He said that the general appropriations bill is carried right down to the last day of the house. What is going to be the last day in this new legislature we have set up?

SUNDBORG: It is a very good point which I had not considered.

LONDBORG: I was just wondering. The procedure of the legislature is actually new to me. I have not had the privilege of sitting in on many sessions. I don't see that it would cripple it, and to make it allowable for the suspension of the rules and ride it all through, I think by the time they get to the last day they should really be spread out over three days to do a serious thinking on the subject.

SUNDBORG: They do a lot of serious thinking, Mr. Londborg, even though it is a pro form of motion, really to suspend the rules and advance it to third reading and final passage. Everybody knows by then what he wants to do and to have to stop then and put it over to another day, I think adds nothing and takes up time.

V. RIVERS: Point of order. The New Jersey Constitution does contain the point which Mr. Sundborg brought up. It says, "No bill or joint resolution shall be read a third time in either house until the intervention of one full calendar day following the day of the second reading." So it says all bills and joint resolutions. So actually I believe that would have to be read in context here so this body could understand that they do have a one-day intervention between second and third reading in the New Jersey Constitution.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 24 - Awes, Barr, Buckalew, Collins, Cross, Doogan, Emberg, H. Fischer, Gray, Hilscher, Kilcher, McCutcheon, McNees, Marston, Nerland, Nolan, Nordale, Peratrovich, R. Rivers, Smith, Sundborg, White, Wien, Mr. President.

Nays: 27 - Armstrong, Boswell, Cooper, Davis, V. Fischer, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McLaughlin, Metcalf, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Stewart, Sweeney, Taylor, Walsh.

Absent: 4 - Coghill, McNealy, Riley, VanderLeest.)

CHIEF CLERK: 24 yeas, 27 nays and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment to the amendment has failed of adoption. Mr. Fischer.

V. FISCHER: Now I hope, Mr. President, that we can defeat the amendment. I think that the rules can properly be drawn by the legislature. I think that if anybody bothers to look into some of the background material that has been prepared for us, other studies of the subject, they will find that the three-day rule for three separate readings are a carry-over of the time when legislators could not read and legislators had to listen to someone who was more educated read the bills to them. They had to be read three times so they could understand what was going on. The procedure should not be spelled out in the constitution because we don't have to protect our legislators. They can now study the bills themselves. They can establish whatever procedure is necessary and I don't think we should encumber the constitution with a thing like this reading business or the enacting clause.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to point out that I for one can read and I would like to take the model state constitution which goes even further than having to have a particular law or bill being read to me three times. It states that no bill shall become a law unless it has been read on three different days and has been printed and upon the desk of the members in final form at least three legislative days prior to the final passage, and I think it would very possibly clean up and give us some good legislation if they knew exactly what was taking place at the last few minutes.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I will have to take exception to Mr. Fischer's remarks. If it is true, there must be a high degree of illiteracy in both Missouri and Hawaii because in the Missouri Constitution, which was just adopted a few years ago, every bill shall be read by title on three different days in each house. Now the Hawaiian Constitution, which was adopted by the people of Hawaii, but of course is not in effect yet, theirs says that no bill shall become law until it shall pass three readings in each house on separate days. Now that is either that the people want to be sure of their legislation, or they are extremely illiterate, and I think the fact is they wanted to be sure and know what they are passing.

ARMSTRONG: I believe there is something that needs to be added -- that sometimes the delay between second or third reading may be the entrance of public opinion into the persuasion of the legislators one way or another in the enactment of a bill. I am sure

at times even in our present status that the time that would be demanded between second and third reading could mean the persuasion of a vote one way or the other when the public opinion would enter into it. I believe we should give that right to the public, that expanse from the second day to the third day in these readings. I shall vote for the amendment.

MARSTON: That is exactly the reason I am going to vote against it, because it gives time to the lobbyists to get in there and do their work. On the basis of the previous speech I am going to vote against it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, the New Jersey Constitution has been quoted several times on this matter, and I would like to point out that there is a provision for a vote of three-fourths of the members suspending this particular thing so I think that it is bad to put it in the way it is without some sort of modification.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I think that the delegates are laboring under the feeling that you have to read the bill from beginning to end three different days, and there is nothing to preclude the legislature from establishing the system they have now. The bill is read the first day, the day it is introduced, and that is the title; the second time that it is read might be a week or two weeks or even a month later, and it is read section by section and amended. That is your second reading. You are certainly not going to cut that out. Then it is put up for third reading, and if you have to wait for the next day that is not going to hurt you any. It is read by title only. There is nothing in here that will prevent the legislature from adopting that same procedure. I think it is very important that we have plenty of time for the study of our bills and those who watched this last session I think will feel the same way. There is a tendency to speed things through, and I certainly go along with Mr. Armstrong that it is not going to hurt us to take a little extra time, and it is not as detrimental as some would make it sound.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to address a question to Mr. Johnson. In introducing this amendment, was it your intention that in using the word "read" that bills might be read by title and not in entirety?

JOHNSON: Oh, yes.

HELLENTHAL: I move for the usual 15-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Nordale.

NORDALE: Mr. President, I have an amendment to offer to Mr. Johnson's amendment.

PRESIDENT EGAN: Mrs. Nordale has an amendment to offer. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Add to Mr. Johnson's amendment: Strike the period, and add 'except that any bill may be advanced from second to third reading by a three-fourths majority of the house having the bill under consideration.

NORDALE: Mr. President, I move that the amendment be adopted.

MCCUTCHEON: I second the motion.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

JOHNSON: I object.

NORDALE: Mr. President, I am offering this amendment because I feel that the legislature should have some means of avoiding the rigidity of the amendment as it was first proposed. This amendment, I would like to point out, will not rush the bill from first to second reading at all. The bill will have to be introduced and referred to a committee. But when it comes out on the floor, if it is a fairly routine matter and is not amended and is a thing that appears to have the obvious agreement of the house, I believe that it should be passed on to third reading on that day if three-fourths of the members of the house agree to it. It should be borne in mind that when one house finishes the bill it passes on to the second house which again goes through the same procedure. I think there is very little likelihood of any damage being done if this amendment is added to Mr. Johnson's amendment.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I don't know if that routine that they are so worried about is such a bad thing. I can certainly see where all precautions should be put right in the constitution to avoid any possibility of rushing things through. If something is of such trivial nature that it does not matter, if it practically skipped all readings, they ought to get it in early enough so they have successive days to work on it. If it is of such importance,

then there ought to be a limitation and at least give a person overnight time to think on it. Mr. Marston wants to go from second to third reading so the lobbyists don't have a chance to get a foot in there. We have already passed over Section 11 while the legislature has the power to regulate lobbying. And then also, I would like to speak on a remark made by Mr. Fischer where we said that we are going back many, maybe a hundred years or whatever it was, to the days when the legislators could not read. According to our present proposal here, a legislator can be elected if he is a qualified elector, and let's not forget that we are allowing people to be qualified electors whether they can read or not.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I think the original purpose of Mr. Johnson's amendment will be destroyed in this amendment, if it goes through. The idea behind the whole thing as I understand it, or what it means to me is the fact that Mr. Johnson's amendment will prevent steamrolling anything through the legislature. It is only a matter of a day, but a matter of a day in public opinion can make a lot of difference. I would like to see the successive days kept due to our transportation, wire facilities, mail facilities in the future State of Alaska, it takes a little time sometimes for the public to know what is going on. I think they should have an opportunity of knowing what is going on.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be adopted by the Convention? Mr. Stewart.

STEWART: May we have it read please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK: "Add to Mr. Johnson's amendment. Strike the period, add 'except that any bill may be advanced from second to third reading by a three-fourths majority of the house having the bill under consideration.'"

LONDBORG: Roll call.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be adopted by the Convention? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Awes, Barr, Boswell, Buckalew, Collins, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin,

McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Taylor, White, Wien, Mr. President.

Nays: 13 - Armstrong, Coghill, Cross, Harris, Hurley, Johnson, Laws, Londborg, Poulsen, Reader, Stewart, Sweeney, Walsh.

Absent: 3 - Cooper, Riley, VanderLeest.)

CHIEF CLERK: 39 yeas, 13 nays and 3 absent.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment to the amendment is ordered adopted. Mr. Fischer.

V. FISCHER: A number of people have said or implied I was talking before about the fact that some of our legislators can't read or that those in other states can't read. Nothing of the kind. All I was pointing out is that what we are proposing now is a provision that may be traditional and that has been carried over from the days when legislators could not read. I would further like to point out that we have just gotten into a position where we adopted another rule to qualify a rule which was proposed in the amendment. That is exactly what we should get away from, tying the legislature down to certain rules. I would further like to point out that 13 states make no provision in their constitutions for reading of bills. But by rule, 11 of them require three readings, and the remaining states require two. The point is that just because we omit it here does not mean we will not have three readings of bills.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?"

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 35 - Armstrong, Barr, Boswell, Coghill, Collins, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Taylor, Walsh, White, Mr. President.

Nays: 17 - Awes, Buckalew, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hinckel, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Sundborg, Wien.

Absent: 3 - Cooper, Riley, VanderLeest.)

AWES: I would like to change my vote to "no".

PRESIDENT EGAN: Miss Awes asks that her vote be changed from "yes" to "no".

CHIEF CLERK: 35 yeas, 17 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment to offer to this section.

PRESIDENT EGAN: Is it before us? The Chief Clerk may read the proposed amendment to Section 16.

CHIEF CLERK: "Section 16, line 16, delete first 'a' and insert 'an affirmative'."

ROBERTSON: I move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Mr. Robertson moves the adoption of the proposed amendment.

V. FISCHER: I second the motion and ask unanimous consent.

TAYLOR: I object temporarily.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment once again.

CHIEF CLERK: "Section 16, line 16, delete the first 'a' and insert 'an affirmative'."

TAYLOR: How will it read then?

PRESIDENT EGAN: The Chief Clerk will please read it as it would read if the proposed amendment is adopted.

CHIEF CLERK: "The legislature shall establish the procedure for enactment of bills into law. No bill shall become law without an affirmative vote of a majority of the membership of each house."

MCCUTCHEON: It seems to me that a motion could not be put in a negative fashion, so therefore it would have to be "an affirmative vote", would it not?

ROBERTSON: A vote is when you cast your vote, whether it is affirmative or negative. It is just simply to clarify it, that is all.

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PRESIDENT EGAN: Is there objection to the unanimous consent request?

TAYLOR: I withdraw my objection.

PRESIDENT EGAN: Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Section 16? Mr. Metcalf.

METCALF: May I ask Mr. McCutcheon a question? Does "membership" mean a quorum present, or does it mean the entire membership of the house?

MCCUTCHEON: Entire membership of the house.

PRESIDENT EGAN: If there are no more amendments to Section 16, are there amendments to Section 17? Mr. White.

WHITE: Mr. President, may we return to Section 15 for a minute for an amendment which I do not think will be controversial?

PRESIDENT EGAN: Is there objection to returning to Section 15? Hearing no objection, Mr. White's amendment may be read by the Chief Clerk.

CHIEF CLERK: "Section 15, page 5, line 17, after the period insert the following sentence: 'The governor may veto appropriation bills by item, by striking or reducing specific appropriations.'"

WHITE: Mr. President, I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Is there objection?

TAYLOR: I object.

WHITE: I so move.

NERLAND: I second the motion.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, you might quarrel a bit with the language but I think it sets forth the idea clearly, and I am willing to have Style and Drafting work it around a little if they want to, but the idea is perfectly clear. This is something that the Finance Committee, I am sure I can say, was unanimous on. It is something that I also understand the Executive Committee approved. At the time we discussed it in the Finance Committee, the Executive Committee had such a provision in their article. It was subsequently removed which we did not know about. I would only go on to say that in this section further down we recognize

the difference between general appropriation bills and other bills in that we make provision for passing such bills by item over the governor's veto. In line 1 on page 6, and in Section 16 we recognize the same difference in the sentence beginning on line 18, "Every bill except bills for appropriations shall be combined in one subject. The reverse of that obviously is that appropriation bills are not confined to one subject. Therefore, it seems only sensible and logical to recognize the fact that appropriation bills deal with necessity of a number of different subjects. So why not allow for an item veto and then allow for passage item by item.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think Mr. White's amendment is all right in one respect, but I don't believe in another respect that it is within the province of the governor to do so. I think he should be allowed to a right to veto an item in an appropriation bill, but I do not believe he should be entitled to the right to amend, because when he amends he usurps the prerogatives of the legislature, because the legislator is the only person who has the right to amendment of such. He could send it back, he could veto that and with a message of why he did veto it, and if it was amended to such and such figure then the legislature would possibly go along with it if you show good reason, but I don't think he should have the prerogatives of the legislature and amend an appropriation act.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?"

SWEENEY: May we have it read?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: (Section 15, page 5, line 17, after the period insert the following sentence: `The governor may veto appropriation bills by item, by striking or reducing specific appropriations'.")

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 30 - Armstrong, Awes, Boswell, Buckalew, Doogan, V. Fischer, Harris, Hellenthal, Hinckel, Hurley, Johnson, Kilcher, Laws, Londborg, McLaughlin, Nerland, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Walsh,

White, Wien.

Nays: 22 - Barr, Coghill, Collins, Cross, Davis, Emberg, H. Fischer, Gray, Hermann, Hilscher, King, Knight, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Peratrovich, Sweeney, Taylor, Mr. President.

Absent: 3 - Cooper, Riley, VanderLeest.)

CHIEF CLERK: 30 yeas, 22 nays and 3 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Are there amendments to Section 17? Are there amendments to Section 18?

HURLEY: Mr. President, you have gone to Section 18?

PRESIDENT EGAN: Do you have an amendment to Section 17?

HURLEY: I would like to ask a question of the Chairman. I don't know as I read thoroughly enough this matter of an emergency clause. It says, "which emergency shall be expressed in the act". Now sometime before, I think it was on the initiative and referendum we were concerned with the same subject. As I recall the present system in the legislature, the wording is something to the effect that an emergency is hereby declared to exist, when in fact in my opinion in many cases no emergency should exist at all. Is it the intention of this particular paragraph that the full emergency shall be set forth, a very simple clause shall declare an emergency?

MCCUTCHEON: It was the intention of the Committee that the actual case of the emergency shall be cited in the act and it is an endeavor to get away from this pat phrase of "an emergency is hereby declared to exist" and where in effect no emergency actually exists. That is the thing we are trying to do, is to have the actual emergency recited in the bill so that it will stand for a true emergency and not just as a matter of course by the legislature.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Is it not true that the difference is, one is the emergency bill and the other one just simply an emergency clause, and in this instance it is the emergency bill?

TAYLOR: Mr. President, I can't follow Mr. McCutcheon on that because when a bill says "emergency is declared to exist", that by a declaration of the legislature is equivalent to saying something that actually does. Of course, you can follow the same reasoning of it. I know when I was in the army I used to take exception to the fact that the Congress by an

act would make a gentleman out of somebody because they pinned a bar on his shoulder. They made him a gentleman by an act of Congress. Why, the legislature can still declare an emergency by an act of the legislature. I think the mere declaration is all that would be sufficient even under this present bill.

R. RIVERS: I think that is the way it should be. The present Organic Act says that an act shall not become a law until 90 days after its passage and approval unless it becomes earlier effective by the legislature. Now our legislature has used an "emergency is hereby declared to exist" and it shall become effective immediately upon passage and approval. If we leave it the way it is the legislature can declare an emergency. If we make the 90 days mandatory all the way through, then the legislature has no power to say that the act shall become effective at any shorter time. I think the legislature should be able to fix the effective date of every act.

PRESIDENT EGAN: Are there amendments to Section 17, or Section 18? Are there amendments to Section 19?

V. RIVERS: I would like to ask a question on Section 18 of Mr. McCutcheon. The last sentence there gives me pause, and I wonder if in the case of an appropriation for some special type of building in a district like a school building, if it would then have to be submitted to a referendum before they could receive the money? It looks to me like we might be injecting a lot of local processes in there on things that would be beneficial to them, where I think the only thing they might be interested in voting on would be those things that might impose an additional burden on them and they would want to measure the burden in relation to the benefits. I wanted to ask your opinion on the effects of that line.

NERLAND: Were you addressing your question to Mr. McCutcheon?

MCCUTCHEON: I will yield, Mr. Nerland.

NERLAND: It is my understanding that the Legislative Committee included several sections in their proposal until such time as they were sure they were covered by other proposals. Sections 19 and 20 are covered in the finance proposal. Section 19 is covered in Section 7 of the finance proposal and Section 20 is covered in Section 4 of the finance proposal, and the natural assumption is that the finance proposal would be the logical position for those sections, and I don't know whether -- I will yield to you, Mr. McCutcheon.

MCCUTCHEON: Mr. Nerland, did you say that Section 18 is also included in the finance proposal?

NERLAND: No. Section 19 and Section 20 are the ones I meant to refer to.

MCCUTCHEON: Well, in answer to Mr. Rivers, the intent of the Committee was that no special legislation should apply and that in the case there was some special necessity that it should be a matter of judicial determination whether or not some existing statute could not cover the particular matter. In the case you raised I think that judicial determination would be that inasmuch as a school house is needed at this particular point, that that could be built under a blanket law as it applies to construction of public buildings. I would assume that would be the case. This last sentence is designed for protection against any differential of taxation, I believe that was the intent of our Committee.

SUNDBORG: May I ask a question of Mr. McCutcheon.

PRESIDENT EGAN: If there is no objection, Mr. Sundborg.

SUNDBORG: Section 18, as I read it, permits local and special legislation rather than prohibits it. The title says "prohibited". What it says is that "The legislature shall pass no local or special acts in any case where general acts can be made applicable." What if a general act can't be made applicable. It would follow they could then pass local or special legislation.

MCCUTCHEON: That is true if the judiciary determined that no general law could apply, but in the event they did pass that special legislation, it would then have to be referred to referendum to the people of the area concerned.

SUNDBORG: I follow you. I think that is what the section says, but I don't think the content of the section is at all described by the title you have here.

MCCUTCHEON: I am sure that the Style and Drafting Committee could have some interest in the matter.

SUNDBORG: We will work on it.

SWEENEY: May I ask Mr. McCutcheon a question, please?

PRESIDENT EGAN: You may, Mrs. Sweeney.

SWEENEY: In Juneau the question was brought up by someone in the gallery concerning the matter "judicial determination". They wanted to know who made the judicial determination and when, and I was unable to answer the question. It appears that you mean our judiciary. I believe Mr. McKay answered from the gallery and said the bill would be passed if the legislature had a local or special bill in the hopper, they would pass it, and the judicial determination would be made afterwards. It would have to be tested.

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MCCUTCHEON: I assume it would have to have some sort of an act prior to the time, otherwise there would be no determination.

SWEENEY: I understood you just now said the bill would pass through some judicial determination before it went into the legislative hopper.

MCCUTCHEON: If the legislature set up a procedure whereby the bill would be submitted for instance, to the justices of the court, I assume that would be the case.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. McCutcheon, is it not true that this Section 18 is a verbatim statement of the recommended section in the model state constitution except for a transitory matter that I assume is taken care of in our transitory provisions?

MCCUTCHEON: This was I believe lifted verbatim from some constitution. I don't at this minute have it under my fingertips.

HELLENTHAL: I have here the model state constitution, and it is verbatim with the model state constitution.

SWEENEY: May I have an answer as to who makes the judicial determination?

HELLENTHAL: The court.

SWEENEY: Our court after the bill has been enacted?

HELLENTHAL: Yes.

JOHNSON: Just a point of inquiry of the Chairman. Was it the Committee's intent when they included a section of this kind to generally prohibit the passage of local and special legislation? Do you believe that that objective is guaranteed by this section as it is presently written?

MCCUTCHEON: Unfortunately, not being an attorney I could not tell you.

TAYLOR: Mr. President, I believe there should be -

PRESIDENT EGAN: There is nothing before us.

TAYLOR: I am going to put something before us. I am going to move that the last sentence of Section 18 be stricken, and I ask unanimous consent.

ROBERTSON: I second it.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that the last sentence of Section 18 be stricken. Is there objection?

SMITH: I object.

TAYLOR: I so move. I would like to speak briefly. A local act of the legislature can consist of many things. It might be providing for the construction of a bridge in a particular area. It might be providing for a road maybe to connect two other roads or to give access and egress to a particular area, and they are too numerous to mention. Now, if the proper representation is made to the legislature that this bridge should be built or this access road should be built, or this or that should be done, that is strictly a local improvement, which the people of the district cannot do themselves, and if there is a sufficient showing as to the necessity of having this improvement put in, if the legislature then passes a bill maybe to provide some money and provide for the Road Commission or the Bureau of Public Roads or whoever is to do this work, I cannot see why there should be approval of a majority of the qualified voters of the area of the district to be affected. This is a little bit confusing or a little bit hard to understand as to what district. Now say we were going to build a short road or a small bridge that had to be built. Now where would you hold the vote? Would it be in the entire Fourth Division or the Third Division? Would it be in the precinct in which that improvement is made or would it be within half a mile of where the improvement is going to be put in? Or would it be a Territorial-wide vote as to whether or not you were going to build a bridge that maybe costs two or three thousand dollars or more? I cannot see any necessity for that last paragraph in there because after all when sufficient representation is made to the legislature, who are usually very reluctant to appropriate money or to authorize something that way unless a very good showing is made for the necessity of it. I cannot see why that should be in there. Now if the legislature passes the act, the people in that area can't nullify an act of the legislature. They can't repeal that act. Why would you have a vote?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I rise in support of Mr. Taylor's motion. I think that can only cause trouble.

SWEENEY: As I recall the Committee's thinking on it, we did not consider roads and bridges as being local or special. You could have a road and have everybody in the Territory have access to it or if it takes you off on to other places. What we had in mind were actually some rule or law for a certain group and they should not be forced to have a law without some approval. Is that right, Mr. McCutcheon?

MCCUTCHEON: Yes.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I would like to direct a question to Mr. McCutcheon. The way I take this to mean is that it would be for example if the legislature authorizes, for the sake of something better, they authorized by law that sewer districts could be set up and built and that they would be paid for by assessments in the local area; then in that case this would give the people in that area the right. Is that part of the thought?

MCCUTCHEON: That is part of the thought. They would have to support some special project themselves that they would have an opportunity to referendum. In answer to Mr. Taylor's argument, that particular question that he brought up would come under a matter of general law. The state would have the right to build roads and bridges. It would be the administration of the state highway department or department of public works or whatever to build the bridges here or there or elsewhere. The legislature would not specifically authorize a construction of a bridge here. The money would be appropriated in a lump sum and because of their budget would have established these various projects.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I might mention here that under the local government article we have one section that covers legislative acts that should not become effective, that is increasing expenditures, unless approved by the local government. I think this section in the legislative article is much broader, but possibly ours could cover it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would like to ask Mr. McCutcheon one question. What was the Committee's understanding of a special act?

MCCUTCHEON: I think Mr. McNealy has made it very plain that to create a special act, to create a law to establish a certain district in this particular area, that is a special act applying only to this area, an area that must support this thing.

BUCKALEW: That is not my understanding of a special act. That is the reason I asked.

HINCKEL: I was on the Committee, and it was my understanding in the Committee regarding a special act that it would be something that benefited or pertained to a special group of people.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: In looking the sentence over which is sought to be stricken by the amendment, my opinion, for what it may be worth, is that the legislature could still provide for referendums on local measures as they passed them, and it occurs to me that the sentence as it occurs here could be construed much wider than that and cause some detrimental effect. I therefore feel that I shall vote for the amendment.

PRESIDENT EGAN: If the delegates will excuse me, Delegate Peratrovich will please take the Chair.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: I think that the sentence as stated in here in this general prohibition of local and special legislation is designed primarily to eliminate the abuses that have taken place in so many states where local and special legislation have taken place. A lot of those have been to the effect for example, any city located on the Chena River may not license motor vehicles or any city located along such and such parallel must pave streets to a certain width. I am not making those up. If you go through the books you will find plenty of such statutes on the books in lots of states. I think that kind of statutes are to the detriment of the local population or of any group and should not be allowed, and if they have to take place, let the people vote on them. The same thing, if this is something of special benefit. I think that should be restricted, and I think we should leave this as it is.

FIRST VICE PRESIDENT: Mr. Londborg.

LONDBORG: I wonder if there could not be an amendment worked out so it would only be referred to them where it would involve a local budget. It seems like some are arguing for striking it because it just involves a lot of machinery thrown into gear when they already want the bill. I just suggest this.

FIRST VICE PRESIDENT: Mr. Taylor.

TAYLOR: Mr. President, in answering Mr. McCutcheon's attempted interpretation of this act, I say that the particular situation as cited by Mr. McNealy and concurred in by Mr. McCutcheon, like a sewer improvement districts in Alaska to the formation of them and their powers and their duties and their obligations. It is a general act they would come under, a general law to which all sewer improvement districts from Ketchikan to Point Barrow would have to follow, and as I see it here, that particular sentence in there is going to lead to hopeless confusion as to what is a local act unless it is spelled out. It is confusing and ambiguous and I don't believe in its present form, regardless of what the Committee was attempting to bring before this Convention, should pass until it is radically changed to give us a good idea about what it is all about.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: This is a hot potato, this whole matter of local and special legislation. If we wanted to take off on it, we could spend a week on this. There is no question as to what is a local or special act. They are both particular acts as opposed to general acts. One is a particular act based on localities. The other is a particular act based on specific persons or specific problems. Now the second sentence again is a matter of compromise. This was compromised in the model state constitution, wise compromise. The second sentence tends to prohibit the practice of back scratching, logrolling. In other words, you vote for my local act and I will vote for your local act, and this tends to restrict that practice, which is generally considered unhealthy. It puts it up to a majority of the people affected. There is nothing wrong with that. No abuses can be taken of that, and with that in view in this case I would certainly bow to the weight of the professors, you might say, and the students of government.

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: I rise once more. Mr. Victor Rivers pointed out that many special acts and most special acts are for the benefit of a particular locality in case of disaster or this or that, and I can't see making people vote on something that they want and that is for their own good. The legislature does not go around passing special acts and butting into local affairs anyway unless they are asked to, and so unless these referendums, unless modified, will be detrimental to their budget, this is not good.

FIRST VICE PRESIDENT: Mr. Barr.

BARR: There are several kinds of special acts. A special act may refer to a particular locality, and if it should be an emergency such as relief of suffering in certain sections, we would simply not want to have it go before the people before it is approved. It would be too late. There is another type of special act which is for the benefit of certain persons. I have seen several acts passed to reimburse a certain person in money he had put out of his own pocket for the benefit of the state. I don't believe that should go to referendum, but I do believe that it should be passed by a fairly large vote in each house to prevent its abuse, so I am in favor of striking this.

FIRST VICE PRESIDENT: Mr. McNealy.

MCNEALY: I still can't get away from the thought here, and I don't think it should be overlooked, that is, if the legislature passes a bill and authorizes, say sanitation district and the

state agrees that they will pay half of the cost if the community will pay the other half. Let's leave out boroughs of the first class, but we get over into a borough of a third class there or one that is not organized, and they say they have set up sanitation districts in the village and the state would pay half of the cost of setting up the sanitation district, then I think these people in the village who are going to have to pay the other half, I think they should have the right to vote whether or not they want to pay the other half. Maybe some amendment or some little change is needed, but I believe that is the intent, and I don't think that the state should be able to come out and say, "You must form a district and you must pay for it here." If the people are going to have to pay for something within a district, they should have the right to vote on it, because it affects the taxpayers in that local area.

TAYLOR: I call for the previous question.

FIRST VICE PRESIDENT: Do I hear a second on that?

BARR: I second it.

FIRST VICE PRESIDENT: All in favor of ordering the previous question signify by saying "aye", all opposed "no". So ordered. Will the Secretary state the motion please.

CHIEF CLERK: "The last sentence of Section 18 be stricken."

FIRST VICE PRESIDENT: All those in favor of the question will say "aye", all contrary "no". The "noes" have it.

TAYLOR: Roll call.

FIRST VICE PRESIDENT: I have already made a ruling and it is the opinion of the Chair that the "noes" should have it.

TAYLOR: I appeal the ruling of the Chair.

FIRST VICE PRESIDENT: The question is now, "Shall the ruling of the Chair be sustained?"

BARR: Would the Chair tell me, the ruling is that you cannot call for a roll call after the vote is announced? What does that mean after it has been announced? If the call is made while it is being announced, while the President is in the middle of his sentence, has it been announced?

FIRST VICE PRESIDENT: The Chair would hold that is correct there. I think Mr. Taylor is perfectly in order in his appealing the decision of the Chair, so the question now is, "Shall the Chair be sustained in his ruling?"

TAYLOR: Roll call.

FIRST VICE PRESIDENT: The Secretary will call the roll on that please.

(The Chief Clerk called the roll at this time with the following result:

Yeas: 43 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Nerland, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, White, Wien.

Nays: 5 - Boswell, Laws, Metcalf, Robertson, Taylor.

Absent: 6 - Cooper, Marston, Riley, Sundborg, VanderLeest, Mr. President.

Abstain: 1 - Mr. Peratrovich.)

CHIEF CLERK: 43 yeas, 5 nays, and 6 absent and 1 abstaining.

FIRST VICE PRESIDENT: So the Chair has been sustained in his ruling. Are there any further amendments to Section 18?

R. RIVERS: I have one.

FIRST VICE PRESIDENT: The Chief Clerk may read the amendment.

CHIEF CLERK: "Page 7, line 8, after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'."

FIRST VICE PRESIDENT: What is your pleasure, Mr. Rivers?

R. RIVERS: I move the adoption of that proposed amendment.

FIRST VICE PRESIDENT: Do I hear a second?

LONDBORG: I second the motion.

SWEENEY: May we have it read just once more?

CHIEF CLERK: "Page 7, line 8. after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'."

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: The purpose, Mr. President and members, that according

to the explanation of the Committee, the object of calling for a vote on a local act which affected the people in the local district was to protect them against having the state tell them that they had to put money of their own to match funds without having a referendum on these matching programs with the state. It is so broad now they would have to take a referendum as to whether they could accept a benefit from the state, and I know that's not our intention. Where it would affect the expenditure of local funds, then, of course our thinking is that they should require a vote of the people in that local area, so what I have said here is that no local act involving appropriations of money by political subdivision, and that is the kind of area you are talking about, it is either a city or a borough, shall become the law without that referendum. I hope I made myself clear.

MCLAUGHLIN: Mr. Chairman, as I see the proposed amendment it does limit the ability to prohibit the legislature to make local laws affecting only appropriations and requiring that vote of approval. I have before me the Constitution of California which in Article 4, Section 25, prohibits certain special acts, and I think that perhaps we have forgotten some local acts that might vitally affect a community, affecting the fees or salary of any officers. That is prohibited in California, they detail it. In substance the legislature could pass a local act changing the fees of officers in one specific community without the approval of the community. They could provide for the management of common schools. The legislature theoretically then could provide for the management, direct management of certain common schools in an independent school district, let us say Fairbanks or Anchorage, changing county seats, in this case it would be borough seats, specifically saying in so and so borough that seat could be changed; providing for conducting elections or designating the places of voting except on organization of our counties. In other words, they could specifically provide the polling places without the approval of the local areas; regulating county and township business or the election of county and township officers, specifically providing that in x, y, or z borough that the conduct of business should be such and such, as different from the stated laws; authorizing the laying out, the opening, altering, maintaining highways, roads, alleys, parks, cemeteries and graveyards, or public grounds. That could specifically apply to a local community. The legislature could without the consent of that community specifically provide for the laying out of the streets in the community. I think I express an opinion neither way, but I think the Convention should consider whether or not they are giving the legislature by indirection that express power to exercise all of those local powers without the consent of the local people vitally affected by it.

BUCKALEW: Mr. McLaughlin, is it your interpretation that the

way the Committee has drawn the act that it prohibits, as I understand it, the legislature from usurping any of the local discretion of any of the political subdivisions on any question, the way it is drawn now by the Committee, and Mr. Rivers' amendment would then have the effect of limiting it.

R. RIVERS: I was going to ask Mr. McLaughlin if what he said appeared to be in point with my amendment. My amendment would require voting only where it involved the expenditure of local funds and that would leave it open for the legislature to handle all these other things without the consent of the community. Do you support my amendment?

MCLAUGHLIN: I don't know yet. I merely pointed out what the effect of it would be.

R. RIVERS: The effect of this situation now is that they can't get by with any local law without a referendum.

MCLAUGHLIN: For your information, Local Government I believe in their proposal has a similar provision, somewhat similar to yours in the proposal that they withdrew from the floor.

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: In explanation, the way it now stands, it is going to call for an election on every little thing affecting local government, such as Mr. McLaughlin just outlined for us, and he says that he possibly wants to see it reserved to the state, to pass certain local laws without making it necessary to go to the voters in the locality, and he just listed a whole lot of things that the states do in the way of local laws without having to take a referendum. The way the thing is set now it says no local act shall take effect until approved by the voters in the district. I am trying to limit it a little bit and say that no local act involving expenditures of local funds shall take effect until the voters in the district have approved it. You see what I mean.

FIRST VICE PRESIDENT: Mr. Hellenenthal.

HELLENTHAL: Could it be that the good people of Juneau would have to approve the moving of the capital were that left to the legislature?

UNIDENTIFIED DELEGATE: Yes.

SUNDBORG: I move and ask unanimous consent that we recess until 1:30 p.m.

FIRST VICE PRESIDENT: If there is no objection, it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any communications?

CHIEF CLERK: Yes, a telegram from Delegate Bartlett. "Please allow me to congratulate the Convention for splendid wire to President. It constitutes temperate, yet eloquent presentation of aspirations of Alaska's people for statehood. I shall distribute it immediately and widely in accordance with your request."

PRESIDENT EGAN: It may be filed.

CHIEF CLERK: Letter from Gray Tilly, Commander of the Veterans of Foreign Wars, to all men of the Constitutional Convention, an invitation to a no-host dinner at the Travelers Inn, Saturday evening, January 14, 7:00 p.m.

PRESIDENT EGAN: The Chair would like to ask whether the word "men" also includes women. Mr. McLaughlin?

MCLAUGHLIN: Yes.

PRESIDENT EGAN: The communication will be filed. Mr. Kilcher.

KILCHER: Mr. President, I would like to draw the attention of the body here

PRESIDENT EGAN: Do you ask the floor on a question of personal privilege?

KILCHER: No, Mr. President, I think there is something that should be dealt with on the floor and also be part of the record. Our stenotypist isn't here by the way.

PRESIDENT EGAN: The stenotypist was having trouble with her machine. However, she will take the proceedings from the tape, I hope. Mr. Kilcher, if there is no objection, you may have the floor.

KILCHER: I am sorry that at this time something that has to be brought up that I hoped would not have to come before the body. I have here an issue of the Anchorage Daily Times of January 7, which in my opinion, contains a very bad example, a good example rather, of an irresponsible press, and I would like to know the opinion of this body what in such a case, could be done, if possibly we should not consider press representatives as lobbyists and as such, they should be possibly registered.

COOPER: Mr. President, a point of order. I don't know just exactly what my legal stand is on this, or any other stand that I might have, but I do feel that the delegate should be

on the floor on the standpoint of personal privilege.

PRESIDENT EGAN: The Chair asked if there was objection to him having the floor, and at that time there was no objection. Of course it is up to you.

COOPER: At that time, Mr. President, the issue was not clear.

HARRIS: I request a two-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher has the floor.

KILCHER: Mr. President, I ask for the floor on a point of personal privilege.

PRESIDENT EGAN: Mr. Kilcher asks for the floor on a point of personal privilege.

SUNDBORG: I ask unanimous consent that we permit the tape to run while Mr. Kilcher makes his forthcoming statement. I ask that the rules be suspended.

BARR: I object.

BUCKALEW: I'll second the motion.

PRESIDENT EGAN: Objection is heard.

SUNDBORG: I move that we permit the tape to run while Mr. Kilcher makes his statement.

PRESIDENT EGAN: The question is, "Shall the tape be permitted to run while Mr. Kilcher makes his statement under a question of personal privilege?" The Chief Clerk will call the roll. The motion is not debatable, Mr. Barr, the motion to suspend the rules. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, Emberg, Gray, Harris, Hinckel, Kilcher, King, Knight, Londborg, McLaughlin, McNealy, McNees, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

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Nays: 17 - Barr, Cooper, Davis, H. Fischer, V. Fischer, Hellenthal, Hermann, Johnson, Laws, Lee, McCutcheon, Marston, Metcalf, Nolan, Poulsen, Reader, Robertson.

Absent: 4 - Hilscher, Hurley, Rosswog, VanderLeest.)

CHIEF CLERK: 34 yeas, 17 nays and 4 absent.

PRESIDENT EGAN: So the rules have been suspended and the tape will be permitted to run while Mr. Kilcher has the floor on point of personal privilege. Mr. Fischer.

V. FISCHER: Point of order. The suspension of the rules, if I am correct, requires 37 affirmative votes.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, if I'm not mistaken, there is no rule that requires suspension. This is simply a resolution and agreement that was adopted early in the session by the members. I don't think you will find anything in the rules that requires suspension on this point.

PRESIDENT EGAN: The Chair was under the impression that we had adopted a portion of the rules on this point. The Chair stands corrected. Mr. Barr.

BARR: If it's not a question of the suspension of the rules, then I demand to be heard on this.

PRESIDENT EGAN: Mr. Barr is entitled to be heard then.

MARSTON: May I have the same privilege then, Mr. President?

PRESIDENT EGAN: If you're recognized, Mr. Marston. Mr. Barr.

BARR: I'm not acquainted with all the details of what Mr. Kilcher is going to say, but I have some general knowledge of his complaint and I sympathize with him, but I don't believe that this body should take sides in any controversy, especially before we know that that controversy is, or what the complaint is. If any one person here feels that he has been maligned or libeled or what not, I believe that is up to him, and he can take such action as he sees fit. If the whole body were libeled, then that is a different matter, and I believe that he should be allowed the privilege of the floor to tell us what it is about, but it should not be publicized.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I want to explain my vote. I voted "no" because I wanted to know what the program matter was, I might be for it.

PRESIDENT EGAN: Mr. Kilcher, do you wish to answer that question?

KILCHER: Mr. President, I am sorry but I think I started out the wrong way in saying what I had to say. I had intended to read the short article in question and then let the delegates decide for themselves if I had a point. Mr. Barr, my saying here is to ask two or three committee chairmen questions that have to do with this. I don't intend to have the Convention sit in judgment about anything whatever. I intend to ask a couple of questions. This is the reason. On these answers, I would like to have on the record, that is all. I wanted substantial answers as to what happened in a committee, that is all, and I didn't want to argue the subject matter itself, neither did I intend to state my intentions, what I intend to do later.

MCLAUGHLIN: May I request a one-minute recess, Mr. President?

PRESIDENT EGAN: If there is no objection, we will stand at recess for one minute, but Mr. Kilcher has the floor.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher.

KILCHER: I don't intend to read the whole article in this paper because all of you are conversant with the subject matter. There is only one paragraph I would like to read and before I do that I will state here that it is not Mrs. Douthit who is responsible for this article as far as I understand. The paragraph in question reads as follows: "Thomas Harris of Valdez made a motion to restore the word 'Almighty' before the word 'God' as it was in the original proposal. Yule Kilcher of Homer, who has told friends he is an atheist, argued against it. He said the preamble without the word 'Almighty' is more acceptable to the various shades of religious belief. During committee sessions he had argued strongly against any mention of God." Now I would like to state here that I have not argued in any committee against the mention of God, and also, I have never told anybody, least of all any friends, that I am an atheist, which I am definitely not. Thank you. I will stand corrected by any of the committees or committee members, if what I said is wrong.

PRESIDENT EGAN: We have before us Section 18, and there is a pending amendment. The Chief Clerk will please read the proposed amendment at this time.

CHIEF CLERK: "Page 7, line 8, after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'."

UNIDENTIFIED DELEGATE: Question.

RILEY: Mr. President, this is just to serve notice that I will refrain from voting, not having heard any of the discussion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 18?

If not, are there amendments to Section 19? Mr. Nerland.

NERLAND: I move and ask unanimous consent that Section 19 be stricken and that the same subject matter be taken up when we arrive at the finance proposal under Section 7.

PRESIDENT EGAN: You have heard Mr. Nerland's unanimous consent request. Mr. Victor Rivers.

V. RIVERS: I have a question, Mr. President. Would you mind reading the Section 7 that you refer to?

NERLAND: Section 7 in the finance proposal reads as follows: "Taxation for public purpose. No tax shall be levied or appropriation of public money made or public property transferred, nor shall the public credit be used, except for a public purpose."

PRESIDENT EGAN: Is there objection to Mr. Nerland's unanimous consent request. If not, Section 19 is ordered deleted from this proposal. Are there amendments to Section 20? Mr. Nerland.

NERLAND: I will move and ask unanimous consent that Section 20 be stricken, and taken up in the finance proposal under the provisions of Section 1 and part of Section 4, and with the permission of the Chair, I will read those sections.

PRESIDENT EGAN: You may.

NERLAND: Section 1 of the finance proposal reads, "The power of taxation shall never be surrendered; and shall never be suspended or contracted away, except as provided herein." That is probably the specific part of the proposal that refers to the exact thing that the Legislative Committee had in mind, I believe. It is my understanding that their intention in Section 20 is to prohibit the remission or reduction or settlement at a lesser figure of any delinquent taxes or things of that nature, and it was certainly the intention of the Finance Committee that such things be prohibited by the first section when we said, "The power of taxation shall never be surrendered".

PRESIDENT EGAN: You have heard Mr. Nerland's unanimous consent

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request. Is there objection?

HINCKEL: I object.

NERLAND: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Nerland so moves, Mr. Knight seconds the motion. Mr. Hinckel.

HINCKEL: I object merely for purpose of information. It doesn't seem to me that the section in the finance article covers the situation as completely as we intended to cover it in Section 20. It is quite possible when we come to his section in the finance article that we could amend his to cover all of these things, but of course I am not an attorney and maybe some of the attorneys here could state whether or not the simple verbiage as used in the taxation article does do all the things that we would do.

PRESIDENT EGAN: Mr. McLaughlin, would you care to answer that?

MCLAUGHLIN: Mr. Chairman and Mr. Hinckel, I think it does far more than you ever intended to do and I think it would be advisable in terms of time if we do, at the moment, delete it and then possibly you might want to add your amendments when it comes up on the hearing on the taxation proposal.

HINCKEL: I withdraw my objection.

PRESIDENT EGAN: The objection to the unanimous consent request has been withdrawn. Is there objection to Mr. Nerland's unanimous consent request that Section 20 be deleted from the proposal? Mr. Johnson.

JOHNSON: Just an inquiry, Mr. President. If we approve this unanimous consent request, will there be any foreclosing on the right to further amend the articles as they appear in the finance section?

PRESIDENT EGAN: Do you mean, for instance, would this same wording be used?

JOHNSON: Yes, or suppose that you wanted to add some words that now appear in Section 19, to Section 7?

PRESIDENT EGAN: As far as the Chair is concerned there would be no objection under the discussion that has been held here on the subject.

NERLAND: It certainly isn't our intention to exclude it.

PRESIDENT EGAN: If there is no objection then, Section 20 is ordered deleted from the proposal. Are there amendments to Section 21? Mr. Fischer.

V. FISCHER: I would like to request that the Chairman of the Committee explain the intent of the first sentence of the section.

PRESIDENT EGAN: Mr. McCutcheon, would you care to explain the intent of the section? Section 21.

MCCUTCHEON: The intent of that sentence in Section 21 is that in the event, for one reason or another, the legislature has had a bill under consideration, and the bill fails of passage, that the governor may take this bill, write into it any of the amendments that have been under consideration on the floor of either house of the legislature, and submit the bill, to referendum to the people to see whether or not they should make the bill into law.

V. FISCHER: May I address a question directly to Mr. McCutcheon?

PRESIDENT EGAN: You may.

V. FISCHER: It seems to me that this brings the governor very directly, and possibly too much so, into the legislative process. He can have one senator or one representative introduce a bill and even if he can't get two votes in the legislature, he can put the measure before the people. I have an amendment drawn up to authorize the governor -- I'll read it. "Any bill which passes one house of the legislature but fails to pass the other before the end of the session, may be submitted to referendum by order of the governor." Do you feel that something along those lines would be unreasonable to require passage by at least one house of the legislature?

MCCUTCHEON: The terminology is taken directly out of the model constitution. The point is that at the time our Committee was drafting this particular section, or considering it I should say, there was some doubt in my mind, and I think in the minds of others on our Committee, that there may not be an initiative device in the constitution. With the initiative device, this certainly may be stricken in toto. You do have initiative protection. This device was placed in the legislative article in the event that there was no initiative. It was a device that was designed to get good legislation out before public opinion to react on, but since there is an initiative device, the public can take any bill that is offered in the legislature and put it as an initiative measure.

V. FISCHER: With an initiative then, you don't think it would be too restrictive if there were a requirement that at least

one house of the legislature passed the measure before it could be put by the governor onto the ballot?

MCCUTCHEON: My observation is Mr. Fischer, that if you're going to fiddle with it, strike the whole sentence.

PRESIDENT EGAN: Are there amendments to Section 21? Mr. Gray.

GRAY: Taking Mr. McCutcheon's suggestion and word, that if this article is unnecessary, if it is already cured by initiative, why I'll make a motion to strike Section 21 because it is superfluous.

HELLENTHAL: I'll second the motion.

PRESIDENT EGAN: It has been moved and seconded that Section 21 be deleted from the proposal. The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment "will" signify by saying "aye", all opposed by saying "no". The ayes have it and the proposed amendment is ordered adopted. Section 21 is ordered stricken from the proposal. Are there amendments to Section 22?? Miss Awes.

AWES: Section 22 deals with freedom of religion which is a matter for the bill of rights. First I should say, I move that Section 22 be stricken and I ask unanimous consent. This is a matter for the bill of rights and it was taken care of in the bill of rights, so I think it is a dead issue.

MCCUTCHEON: I object. I would like to have the Chairman of the Bill of Rights Committee read the section of the bill of rights that covers this particular matter.

AWES: Section 5 of the bill of rights: "No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof."

PRESIDENT EGAN: Did you so move the deletion, Miss Awes?

AWES: I move the deletion and ask unanimous consent.

MCCUTCHEON: Mr. Chairman, I'll raise objection. It appears to me that the terminology of this section is better than the one in the bill of rights. I'll withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request of Miss Awes? Hearing no objection, it is so ordered and Section 22 has been stricken from the proposal. Are there amendments to Section 23? Mr. Smith.

SMITH: Mr. President. I move that Section 23 be stricken from this article and referred to the Committee on Ordinances and

Transitional Measures.

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Mr. Smith moves, Mr. Hellenthal seconds the motion that Section 23 be deleted from this proposal and submitted to the Committee on Ordinances.

V. RIVERS: I don't like the word "stricken" Mr. President. In that case, I think "suspended for consideration" would be the proper terminology.

PRESIDENT EGAN: Mr. Victor Rivers, your exception is well taken, and in this case, the word "stricken" should not be used. However, it has to be stricken from this, or deleted.

SMITH: Mr. President, I will defer to any amendment necessary to clear that matter up.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to make a brief statement on this. I don't know whether I would be out of order, but when this subject is considered at some later date, which I understand is the intent of the body, I would like to call attention to the very last statement of the section. It says, "Nothing in this section shall prevent this state from accepting any payments in lieu of taxes that may be authorized by the Congress." I know that some of the other articles that pertain to this subject do not say that and I think it is very important, and I asked that it be put in there and I would like to see it stay in there.

PRESIDENT EGAN: It has been moved and seconded that Section 23 be deleted from the proposal. Mr. Nerland.

NERLAND: Mr. President, I would like to make an amendment to the amendment. My amendment is that, line 8, "page 9 of Section 23, after the semicolon following "alienation the balance of the section be taken up under Section 5 of the Finance Committee proposal.

PRESIDENT EGAN: That sort of compounds the issue, Mr. Nerland. Inasmuch as one is asking to become an ordinance and one to go to a committee Mr. Gray, your point of order?

GRAY: I believe that as long as we're deleting the measure, any section is open to whatever group they want to pick up. If we just delete the measure, Mr. Nerland can pick up his half and Mr. Smith can pick up his half.

PRESIDENT EGAN: That is correct. You would not be precluded in offering any part of this section as an ordinance, nor would

Mr. Nerland, if he so desired later, be precluded from offering it as an amendment to some section in the finance article.

NERLAND: What I was particularly concerned about was that I assume that the finance proposal will come up before we consider any ordinance proposals.

PRESIDENT EGAN: That is correct. Mr. Smith.

SMITH: Mr. President, if I might say just another word, this is actually one of those requirements of the enabling act. This section is required to go into the constitution by the latest enabling act. If this wording had been taken verbatim from those enabling acts, and if I recall correctly, the Committee on Ordinances and Transitional Measures was the committee which was made responsible to see that all those requirements were met and that was the reason why I had moved that this be referred to that committee. Now I think this committee can take the matter up with any other committee, whether it be Finance, Style and Drafting, or any other committee, to determine what committee shall consider it and where it shall go.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in view of the fact that this language is required, at least under the present enabling act bill, and since we have agreed generally all along here that we would have to adopt that language as part of the constitution, it seems to me we might well consider it here and adopt it and then let Style and Drafting place it where it belongs in the constitution.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, we do have to consider this, that is true, but this section deals with two subjects. Now for instance, the latter half deals with taxation, purely with taxation, and the Taxation Committee has considered that question much more thoroughly than the Legislative Committee I would imagine, and I don't believe it has any connection with legislative matters other than to say they "shall not pass such and such a law". It seems to me that the Legislative Committee is supposed to plan a legislature and provide for the elections, terms of office, etc., and provide for the procedure perhaps, but when it comes to setting out specific laws they can make and cannot make and that sort of thing, and treating with these transitional measures, it seems to me they belong in other committees, it just wouldn't look right in here.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The only question before the house at this time

is, are we going to take this section out of the article or are we not. I would like to call the question if anybody is interested in voting on the subject.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: This article belongs right where it is, and I'll show you why it's necessary. This is a restriction upon the legislative power of the State of Alaska. The restrictive phrase might be in the wrong place, but if you will read down, it means that no legislative act by the State of Alaska shall be taken thereon. That means that they shall not attempt to tax the matter that Congress says they cannot tax. They have put in here something which the enabling act says we have to put in and what they are putting in there is a restraint upon a legislative act and so the legislative article should be the one that contains that. I think if the Committee had taken this phrase, that the State of Alaska shall pass no act restricting these matters that touch in on this particular section, I don't think anybody here would have claimed that it was anything but a legislative act that belonged in here. It was just phrased wrong, because if it said the legislature can do this, why naturally they would assume and agree that it was a legislative act.

PRESIDENT EGAN: Miss Awes.

AWES: I agree with Mr. Taylor that this is a restriction upon the legislature, but I think probably two-thirds of the constitution poses restrictions upon the legislature. The purpose of this article is to organize, set up the structure of the legislature and set forth its functions and I think that, well for instance, the latter half of this deals with taxation and I think it can be much better viewed when you have the whole of taxation and finance before you.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, the phrase, "and no legislative act by the State of Alaska shall be taken thereon on lines 15 and 16 was put in by our Committee and not a portion out of the enabling act.

PRESIDENT EGAN: Mr. Cross.

CROSS: Mr. President, point of information. If we vote this language down here, can we adopt it later on less than a two-thirds vote?

PRESIDENT EGAN: Later in some other proposal, yes, Mr. Cross. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to endorse the view of

Mr. Davis that whether this belongs here or not, it is language which Congress has said we shall have in our constitution. If that is true, why not consider it here. We are going to have to put it in anyway, and Style and Drafting is anyway going to arrange how things appear in the constitution. Let's get it over with and not refer it to some other committee. We have it in front of us and we have no choice but to adopt it.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I would like to say one more thing and it will be very short. This may be a matter for inclusion in the Legislative Article, but other constitutions insofar as I know have not handled it that way. They have, in fact, handled it as an ordinance. I have before me, four state constitutions containing almost identical language and in its entirety, it is handled as an ordinance.

PRESIDENT EGAN: The question is, "Shall Section 23 be deleted from this proposal and referred to the Committee on Ordinances?" All those in favor of adoption of the proposed amendment shall signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 29 - Armstrong, Awes, Barr, Boswell, Buckalew, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hinckel, Hurley, King, Knight, Lee, McLaughlin, Nerland, Nolan, Poulsen, Reader, V. Rivers, Rosswog, Smith, Stewart, Sweeney, White, Wien, Mr. President.

Nays: 24 - Coghill, Collins, Cooper, Cross, Davis, H. Fischer, Hermann, Johnson, Kilcher, Laws, Londborg, McCutcheon, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, Robertson, Sundborg, Taylor, Walsh.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 29 ayes, 24 nays and 2 absent.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment is ordered adopted. Mr. Riley.

RILEY: Just in the interest of saving time, I would like to repeat a recommendation of the Rules Committee that was adopted the other evening and in connection with which I received only one committee question so far, and that is that all committee chairman, as they anticipate or foresee conflicts, notify the Rules Committee so that Rules in turn may recommend assignments to other committees so that the proper committee, in the event

of conflict and I think we might thereby save some time-consuming discussion on the floor.

PRESIDENT EGAN: Your point of information, Mr. McNealy.

MCNEALY: Through the Chair then, would it be permissible for the Committee on Ordinances to contact the Rules Committee with reference to transferring a portion of this to the Taxation and Finance Committee.

PRESIDENT EGAN: Mr. McNealy, actually, with what we have just done here, it probably would be in order that the Chairman of the Taxation Committee and the Chairman of the Ordinance Committee get together and decide how this will be brought up later, because we, in effect, with the adoption of this original amendment, carried Mr. Nerland's proposed amendment to the amendment with it and under this circumstance, why, if those two chairmen can get together and resolve the question as to when it will be brought up again, would solve the issue. Are there amendments to Section 24? Mr. Barr.

BARR: This is a short section and the language is the same as that in the Taxation Committee's report. Would it be in order to ask that that be referred to the Rules Committee to see which report it should be considered under?

PRESIDENT EGAN: If there is no objection. Mr. Riley.

RILEY: Mr. Chairman, without objection from members of the Rules Committee, I might state that that question has been referred to us by the Finance Committee, and, if I may presume to speak for the rest of the Rules Committee, I would feel it should be assigned to Finance and, without objection from the other members, I so recommend to the body that Section 24 be referred to Finance.

PRESIDENT EGAN: Deleted from this proposal and referred to Finance?

RILEY: Yes.

BARR: Is that a motion, Mr. Riley?

RILEY: Yes, I ask unanimous consent.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that Section 24 be deleted from this proposal and assigned to the Finance Committee for consideration. Is there objection? Hearing no objection, it is so ordered. Section 25, are there amendments to Section 25? Oh that was held over. Are there other amendments to Committee Proposal No. 5? The Chief Clerk will please read the proposed amendment that was held over.

CHIEF CLERK: This is Mr. V. Rivers' amendment. "Section 8, page 3, line 14, add the following at the end of the section: 'If the two houses cannot agree on the time of adjournment, the governor may, on the same being certified to him by one of the houses adjourn the legislature, subject to the provisions of Section 9 hereof.'"

PRESIDENT EGAN: Was that particular amendment moved and seconded, was it moved and seconded that the amendment be adopted?

CHIEF CLERK: Yes it was.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, I discussed this at some length so unless there are some questions in regard to it, I will be glad to try and answer any questions. I think that I have covered the point that I feel it is necessary in the case of a continuing legislature without a set period of time for adjourning, that there should be such a clause in this section.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted.

V. RIVERS: I have an amendment, Mr. President.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment?

RILEY: Mr. President, are we going to start with Section 1 then and go right through?

PRESIDENT EGAN: I think it would be best if the Chair called for amendments to Section 1. Are there further amendments to Section 1? Section 2? Section 3? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 3, page 2, line 1, strike the words, '2 years' and insert in lieu thereof the following: 'four years, and one-half of the members shall be elected each two years.'"

V. RIVERS: Mr. President, I move and ask unanimous consent for the adoption of the amendment.

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard to the unanimous consent

request. Is there a second?

COGHILL: I second the motion.

PRESIDENT EGAN: Mr. Coghill seconds the motion. Mr. Victor Rivers.

V. RIVERS: I think that the matter of the amendment is self-evident to all the body. It would make the terms of the house four years, half of them would be elected every two years, and my basis of presenting this amendment is that I feel that the extra session, the extra two sessions that would come under this legislative group by the reason of having four years would pay off in the value of the experience they receive and also I feel that there is too drastic a change in the two-party system when you have the one complete swing to the other complete swing. We've had two examples of it from 1953 to 1955 and whether we like it or not, the two-party system is an essential part of our government and I feel that a reasonably strong and vocal opposition, whether it be of either political faith, renders the output of general legislation better than if you have an absolute majority in one party and in both houses. It seems to me that it is essential to the operation of good two-party system of government that the opposition not always be changed en masse. I went through some of the legislatures in the states last February, Washington State, Oregon State and Utah State legislatures and I observed their rosters and they had their rosters prepared in such a way that you could tell how many terms they had had in the legislature and I found that the average of those states, that about one-third of them had been there from three to five sessions, another third had been there from one to two sessions and the other third was new. Now under those circumstances where they have a fairly politically mature group always sitting in both houses, you don't have the disadvantage of a drastic swing, but up here, we don't have a great tier of experienced legislators to draw from and it seems to me that if we could retain the value in the house of representatives of those first two sessions for another two sessions, that we have gained substantially in the stability of our governing body. For that reason, in all sincerity, I present this amendment.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would like to speak on this amendment just for a second. I'd be embarrassed to vote against it because nothing that has come out of this committee report has been adopted by the Convention and I think this particular section is all right and we have fiddled, as Mr. McCutcheon has said, with this proposal to where it doesn't look like anything that came out of the Committee anyway, and I'm just tired of fiddling with it.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I am not embarrassed in any way, shape or form about our committee proposal. We put in our work and if it is the desire of the body, and apparently it is, to hack away at it, they have done so. However, on the term of the members of the house of representatives, in being four years with half elected every two years, it was the unanimous decision in the Committee, and the understanding was that the house of representatives is the closest connected body to the people, most subjected to the will of the people in that they are elected every two years and that if the people desire this complete change which was mentioned, then it is their will, it is their right to express themselves to that extent. Inasmuch as the house of representatives will probably have somewhere in the number of 40, a good majority of the house will be as elected every two years, will be incumbents or certainly will be representatives that will have had some experience, so I don't think that is too much of an argument in favor of a four-year term. I believe the people have the right to electing their representatives, at least in one house, every two years in its entirety.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I can't help but favor the Committee's proposal here in this respect, except, maybe, for one point. It would prorate the campaign expenses over four years instead of two years to get in, but aside from that, it seems to me that they should be subject to recall by having to run for election if they don't prove out the first two years. We have heard so much said that the house is where they get started and mature and so on and so forth, and it seems that if they show signs that they are not going to mature and you see that after two sessions, now they'll be meeting every year instead of every other year certainly they ought to stand for re-election after two years of perhaps, bad legislative work.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I stand in support of the amendment from the standpoint that it is in the best interest of the new State of Alaska, for which we are bringing about this legislature, and in effect, it would allow the house of representatives to have an organized group at all times. We wouldn't have the radical change. As a member of the 1953 legislature, I think there were only three members of that body that came back from the 1951 and the legislative group were pretty well uninformed as to procedures and practices and this would not allow a radical change to that point and it would allow the continuance of legislative practice, with the people getting a much better representation out of their representatives with this plan.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I believe this is an important subject. This is part of your basic law and we shouldn't take it lightly. This is distinctly the voice of the people. One reason you see this enormous change in the First Division is the voice of the people. That is the importance of the thing. Now the house has a shortage every year, due to two main reasons and you're going to get hooked with them. One is a person who has run and he has found out he is not interested in it, he doesn't want any more of it. You've heard it yourself, "I'll never be a part of the legislature again." Something due to his general attitude of living, some can keep away from that type of political organization, and so you have this man who doesn't want any part and parcel of the legislature. There is no way to get out, he has to serve four years. The other one that doesn't show up is the one that the people have turned down. And before you vote on this or accept it, I should say, serious consideration should be given and I should like to hear more debate on this subject.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President. I think one thing we shouldn't lose sight of and that is we are going to elect our governor. And when the sentiment changes from one party to another, the governor is going to be a part of the new administration. He is going to have half the senate left over who may be completely opposed to his policy. I don't believe he should be faced with the possibility of having half of the house of representatives also opposed to the policies that he wants to inaugurate when he comes into office.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, for what it may be worth, I note in 1950 that four states had four-year terms for their house members -- Alabama, Louisiana, Maryland, and Mississippi.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I agree with Mr. Gray that this subject is too important to pass over without making a comment or two, and this may be one of the very few amendments I will support. If I support it at all, it would only be for this purpose and I think every delegate here who has served in the legislature will agree with me on this point and that is that we have certain parliamentary rules and procedures that we are using here in the Convention but these rules here are practically child's play with the parliamentary procedures that go on in the legislature. When I went to the house of representatives, I thought with a good many years of background as an attorney and different organizations. I thought I knew something about parliamentary

rules and it took me with that background, and that advantage and having lobbied and having appeared before bodies over a good many years, both in Territorial and Federal Congress, it took me the first 40 days before I knew what was going on there. They slid bills under me and through me and around me and I was in an awful mess. I voted for things that afterwards, towards the end of the session, I wondered how I ever got myself in that position that I got there, and it was simply on account of ignorance, and I might go a little further and say that during the full 60-day session that there were some that ended up at the end of 60 days that still didn't know what had gone on. This isn't foolishness. I believe that every member that has served in this Territorial legislature will agree that if you're reasonably fast on your feet you'll pick up something of what is going on in 30 days, and be able to more or less compete and get a bill through yourself once in a while, and I can see the advantage of this in gaining the experience. Now, we can put it this way, however, that the taxpayer invests a lot of money in this legislator going down there and spends a lot of money on him while he is there, then if he doesn't come back again, then that has been lost. If he chooses not to run or if the voters turn him down, why that is their prerogative. The only thing I can see under the bill as we have it here is at least he should be efficient the second year of his term.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am a little surprised at Mr. McNealy's comment on the last legislature. I was in the last legislature and I got the impression that Mr. McNealy had his feet on the ground the first two or three days. There might have been other causes, but I think he had his feet on the ground and knew what was going on. Now, I think it should be just like it is, because we have a two-party system and the people, as Mr. Coghill says turned them all out in 1953 and in the 1955 session, I think they turned them all out but one, but the party that was in has the responsibility for a legislative program. Now, you're going to have half of them held over from the preceding year, and even though the people come in and vote 20 members of the same party in, the holdovers are going to block any legislative program, and I think it's going to destroy the will of the people to express their desires through their elected legislators, because the people that they elect won't be able to carry out their legislative program because of the holdovers. Now, you've got enough holdovers in the senate to give some stability to the legislature. You've got a two-house system, and there is one more thing I want to point out. I think this is important somewhat, but I think it is overly stressed. I don't think this prior experience is as important as some of the old legislators will have you believe. Now, I can look around this

assembly and see people who have never served in the legislature and I can frankly admit that a lot of them are doing a lot better job than I am, and I have served in the legislature.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I feel impelled to call to the attention of the assembly here that our Territorial legislature as we have known it would permit a legislator to serve only one session in the house. He served a two-year period but chances are that he served only one session in the house in that term. Under the article as we have designed it here, there will be a session each year so that actually he will serve two sessions in a house, possibly more if there are special sessions, so that as we get into the legislature, we will find that a little different situation exists and that the density of legislators will be a little deeper after we get to be a state than it is right now, so I would say that, while the four-year amendment may have some merit, I don't think it is quite as important in our new state as it would have been under the Territory.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, it appears to me that the situation in the state will be a little different in another respect, also. I think that in the past any violent fluctuations that we have had in the membership of our legislature have been in part attributable to reaction to national trend and reaction to the administration's prime attitude towards Alaska. I think under statehood we will be much more concerned with our own affairs and that if the people will be inclined to turn out an entire house, it would be more in on the grounds that that house had not been conducting Alaska's affairs properly and so I am in favor of retaining the present committee proposal.

PRESIDENT .EGAN: Mr. Metcalf.

METCALF: May I ask Mr. McCutcheon a question?

PRESIDENT EGAN: If there is no objection, you may.

METCALF: Isn't the term of the house of representatives in the national Congress two years?

MCCUTCHEON: Yes.

METCALF: It seems to me if you make this four years, you are taking something away from the people. I notice in the re-election of people to the city councils, half of them scarcely ever make the grade to be elected again, and they are elected on the basis of two years and it seems to me the proponents of the proposal for four years, if they want to help the poor legislators to handle themselves, they ought to set

up a school, a special school for legislators.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. Rivers has introduced this amendment through knowledge gained by experience in the legislature. I feel that the two years, or the two-year term is inadequate, as a person may only serve one term and might serve 30 days more under the state, but I have been in the legislature quite a bit and I think the men that have served only one 60-day term will know a great deal more of what it is all about when they get out of there than when they went in. I know I did when I first went in there. Now somebody says that if they don't do what they should, they are retired after one term, but maybe they went there in good faith, good conscience and tried to do what their constituents wanted them to do, but were unable to do it because they did not have the experience and know-how to wrangle a bill through the house. Now that's true and I think that anybody who has served in the legislature a few terms, can easily see that the new man is at a disadvantage, he is out-manuevered in parliamentary procedure and along about the end of the session, he might be getting on to the why's and wherefore's of these things, and when he goes back to his constituents after the legislature adjourns, the people want to know why didn't he get this bill passed. He'd said it was the first thing he would do. Well, he's got to give some specious excuse that blames somebody else, whereas the fact that he did not have the experience was the primary reason that he didn't get it through and get it favorable consideration. I think that Mr. Rivers is on the right track here and I think that the objections voiced by some that we should allow the people to do this or do that, but under our setup here, the people every two years will elect 20 representatives and 10 senators. And if a four-year term is good for a senator, why isn't it good for a representative? You need experience, you need stability, you need knowledge in the house, just the same as you do in the senate, because the senate passes bills sometimes and they are not infallible. We saw lots of bills come down from the senate that were poorly drafted, in no way express the intent of the maker and we would have to doll it up down in the house and send it back up there. So the brains of the legislature is not confined to what they call the "upper house" because I often times thought of it as the "lower house", and if you want to promote efficiency in the legislature, have men of experience, give them the four-year term just the same as before, but if you want to play politics, leave it the way it is. If you want an efficient state legislature, let's pass the amendment of Mr. Rivers.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Rivers a question?

PRESIDENT EGAN: If there is no objection, you may.

AWES: Mr. Rivers, do you know how many of the states elect their representatives for four years?

V. RIVERS: Only four at this time.

AWES: Do you know which states they are?

V. RIVERS: Mississippi, Alabama, Louisiana and Maryland.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I address another question to Mr. Rivers? Do any of those states provide for annual sessions of the legislature?

V. RIVERS: That I can't answer without looking it up.

SUNDBORG: I am not as interested in efficiency as Mr. Taylor says he is. I think you could take the arguments by Mr. Taylor and by Mr. McNealy and carry them to their logical conclusion, that once you got a man elected to the legislature you could never remove him or give the people a crack at him. He gets more efficient every session. I think the whole basis of our democracy that we have to have men stand on their records and in one of the houses it is proper that he do it at every general election, that is every two years. We have a balance against that because in the senate we provide that the members have four-year terms. I oppose the amendment.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to say about Mr. Taylor's and Mr. McNealy's talk that if you take the talks where they should go they would go out on the campaign stump for re-election. Reelect a man because of his experience and let that be weighed by the people, the experience as to what he has done, give him a chance at the end of two years.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: As the introducer of the motion, I want to say a few words before we vote on it. My intent in introducing this motion was to try and see if we could not achieve greater stability based on longer experience in the lower as well as the upper house. Now if you realize, practically all of the appropriations in these bills, originate in the house, and I have seen in the last four years, two legislatures in which they did not have enough older, experienced heads available to constitute any more than one or two experienced members on the appropriations committee. Now they go in there entirely new, some of them very competent, professional men, business

men, men in other walks of life, while they can handle their own affairs very well, it is an entirely different situation than they have been previously faced with. Mr. Metcalf suggested that perhaps we should send them to school. I think that is a good idea, but they are actually in school in the legislative processes when they are in the legislature for the first one or two sessions and of course, I think that the men and the women who go there are generally quite mature and have gone a long way in the school of life or they would not be elected by the people who know them. That in itself is not enough. The broad general idea of theory must be backed up by a lot of practical application as you are all finding out right here in this body. It seems to me we should consider that the stability in government is an important element, and I believe that because of the two-party system and only the two-party system in the United States, we have these extremely drastic swings. For instance, I do not believe that if we had seen somewhat different situation in World War II, we would have had L208 order that would have wiped out all of the gold mining completely and absolutely until the war was over. I believe that if we had had a little more experience in thinking and handling that, that probably we would have had an order which would have restricted materially gold mining, but would not completely wipe it out as it did, and as it now turns up, we have a very much diminished gold mining industry. However, those extremes bother me not only at the national level, but I think they would be equally improved if we handled them somewhat at the state level. It's not my thought here, and I might say that I have heard the term that we are discussing this general thing and in trying to handle it in the democratic way resolved the opinions of all delegates, I have heard it referred to as "piddling". That is a very inelegant, and I don't think very expressive term. It seems to me to infringe upon the sincerity of the members of this body in trying to follow through and carry out the democratic process. I might say that in a general way I object to that word as you probably gather. However, I am trying to keep on with this process as I see what I think could possibly improve or better what we are trying to do. I am going to present my thinking, as I am only one citizen of this state and one member of this delegation. I don't expect it to have a great deal of influence but I want to present it for consideration and with that thought in mind I have presented this. I might say that I have talked to some members of the Committee who introduced this section and they did not indicate to me that they had too strong an issue involved. I don't want to misquote them but my implication and understanding from them was that it was not a highly controversial issue in committee and that their convictions on it were more or less subject to further discussion. For that reason also, I felt free in introducing this amendment. I hope, from my personal point of view and from my experience in observing these things, I hope the amendment carries.

PRESIDENT EGAN: The question is, "Shall the proposed amendment by Mr. Victor Rivers be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 11 - Coghill, Cross, V. Fischer, Hermann, Hinckel, McNealy, Nolan, R. Rivers, V. Rivers, Taylor, Mr. President.

Nays: 42 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 11 yeas, 42 nays and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask for the personal privilege of the floor for just a moment.

PRESIDENT EGAN: If there is no objection, Mr. Rivers, you have the floor on personal privilege.

(Mr. Victor Rivers spoke on a point of personal privilege.)

PRESIDENT EGAN: The Convention will revert to the business of introduction of committee reports at this time. The Chief Clerk will please read the committee report.

CHIEF CLERK: "The Committee on the Executive Branch met on January 10 to consider Delegate Proposal No. 44, which would provide for the election of the Commissioner of Labor, and Delegate Proposal No. 45 which would provide for the election of the Attorney General. The Committee members in attendance at the meeting voted as follows on these proposals:

Delegate Proposal 44:

Do Pass: Delegate Barr
Do Not Pass: Delegates Boswell, Harris, Nordale, and V. Rivers

Delegate Proposal 45 :

Do Pass: Delegate Barr

Do Not Pass: Delegates Boswell, Harris, and Nordale.

No Recommendation: Delegate V. Rivers.

Executive Committee
Victor Rivers, Chairman"

PRESIDENT EGAN: The report will be filed. Are there other amendments? Are there other amendments to Section 3?

BARR: Mr. President, I have an amendment to Section 3.

PRESIDENT EGAN: Mr. Barr.

BARR: Is it our usual procedure to file these proposals or will they come up on the floor?

PRESIDENT EGAN: This was just a report.

BARR: I see. Isn't it the usual procedure for the Chair to assign it to the Rules Committee? What happens to the proposal now, in other words?

PRESIDENT EGAN: The reports indicated that the Committee had rejected the particular proposals. Now, as to the questions as to what happens to those particular proposals, the same thing would be that happened to other proposals that have been considered by the committees. I suppose the Committee felt that the subject matter had been covered adequately in other proposals. Of course, that is just what the Chair feels.

BARR: I will admit the fact that the subject matter of one of these was not discussed in Committee, that is it was the one part of a general subject that was discussed. The other one was discussed. It seems to me that the body ought to have some right to express themselves on it. I admit they should give great weight to the committee recommendations but some cases the body might here take exception to reports, as they have done here this afternoon, in one or two cases.

PRESIDENT EGAN: It seems to the Chair that the Chair had no other alternative, Mr. Barr, than to order this report be filed in its entirety owing to the nature of the report. Mr. Riley.

RILEY: Is there anything before us?

PRESIDENT EGAN: There is nothing before us except that Mr. Barr questioned the manner in which the President handled this particular committee report.

RILEY: I think the Committee is free to report as it sees fit, but I think also that subject matter, whatever it may have

been, might still be discussed on the floor via amendment when the time comes. I don't see that Mr. Barr has been foreclosed.

PRESIDENT EGAN: Mr. Riley, neither does the Chair. The Chair feels that in the consideration of the various proposals that have come out of all of the committees that wherever it might be proper to insert the subject matter, it would be proper to offer amendments at that time of course.

BARR: I see. I had assumed, I may be wrong, that all delegate proposals, if they were not incorporated in a committee report would be considered on the floor.

PRESIDENT EGAN: The Chair has assumed that the reasons for many or most of the amendments that we have had so far, is that in many instances, the committees did not include in their committee reports, the proposals exactly as the delegates had submitted them.

BARR: That's agreeable to me. I can always submit an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. Sundborg.

CHIEF CLERK: "Section 3, page 1, line 17, delete 'fourth' and insert 'first'; line 18, delete 'January, unless otherwise provided by law' and insert 'December'."

SUNDBORG: Mr. President, I move the adoption of the amendment.

V. FISCHER: I will second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion. Mr. Sundborg.

SUNDBORG: Mr. President, the purpose of the amendment is to provide that legislators' terms of office shall begin on the same day as the term of office of the governor as proposed in the article by the executive. The purpose of this is that there is no reason why a man elected by the people should not take office as soon after the election as it is possible to canvass the votes and certify the results, and that I presume is what the Executive Committee had in mind when they were setting a date for the governor to take office.

V. RIVERS: May I inject a thought here? I might say that Mr. Sundborg asked me this and I think he misunderstood my answer. I did not say the first of December, I said the first Monday in December.

SUNDBORG: That is what it now says. If my amendment is adopted it would say, "The terms of office shall begin on the

first Monday of the following December." That is, following the election. Now we have had occasions in this Territory where it became necessary following the early part of December and the time that a legislature would normally convene, that an emergency arises and you must have a special session. Then the question comes up, who do you call to the special session? Do you call these lame ducks" who have just been repudiated at the polls or do you call into session the new legislature which has been elected by the people? One of our governors, proceeding on the assumption and having been advised that he was correct by the attorney general, did call into session in the early part of January, the legislators who had been elected in the foregoing October, and some years after the session was held, there was a ruling by the District Court in Juneau that he had called the wrong bunch of legislators together. What he should have done, he should have called the bunch of fellows who had been elected more than two years before, who had been repudiated at the polls, almost without exception. I don't think there were very many overlapping in the membership of what those two bodies would have been, and that everything that had had been done by the legislature which met in January, even though it consisted of legislators who had been elected in October, was illegal. So I don't think it matters too much when a legislator's term begins, because he doesn't begin to serve really until a legislature is called into session, but, since there is the possibility that a special session might be held some time before the fourth Monday in the following January, I think it is proper to get these legislators into office, to have their terms start as early as possible after the election and I suggest the same day as the governor. Now it doesn't mean that they are going to meet, they don't have to go to the capital city of Juneau at that time, all it means is that their terms begin. We have also provided in here, I want to point out, we have provided an annual salary for all legislators. Are we going to continue to pay the annual salary of the people who have lost out at the polls clear up until the fourth Monday of the following January, or don't you want to put on the payroll the new fellows who had just had the endorsement by the people at an election?

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I want to direct a question to Mr. Sundborg.

PRESIDENT EGAN: If there is no objection, you may.

PERATROVICH: I can see the advantage of this amendment, but I would like to clear one thing up in my mind. You say that if your amendment is adopted, it doesn't mean they necessarily have to go to a session, yet they'll be considered members of the body. Where will they qualify them, where will they take their oath, do they have to go to Juneau, or will the oaths be sent to them to insure them that they are members of the body?

SUNDBORG: I must say frankly, it is a question that did not occur to me. Mr. Rivers says he has an answer.

R. RIVERS: If I may help, after the canvassing board has certified the persons who are elected, that could be regarded as the body. If we fix the term, anybody who is certified by the canvassing board as having been elected, his term would start. I'll admit that he won't start rendering services until he is sworn in, and you swear them in when they get to Juneau, but fixing the term is proper at any time after they are certified.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have a question.

PRESIDENT EGAN: Mr. Peratrovich hadn't finished his question. The Chair didn't realize that.

PERATROVICH: The fact that they had taken the oath would be sufficient grounds to be considered a member of the legislative body? The reason I ask that is because I know in the past, I think the attorney general swears them in, they take an oath before they can participate, and be considered qualified legislators.

R. RIVERS: Well, that is true of your administrative officers. They say that they shall qualify by taking an oath, but I looked into the law in several states, on when the terms of legislators begin and it is according to their organic law, or constitution, as the case may be. If their terms are to begin after they are certified by the canvassing board, then that is when their terms begins. Actually you swear them in when they go down to the capital and start performing their duties, but there is nothing to stop this, Mr. Peratrovich. You can say they have got to be sworn in, but if we don't say they have to be sworn in, they could go to the nearest justice of the peace and take their oath as far as that is concerned, but if we simply say that they may be members of the legislature from the time they are certified by the canvassing board to be elected, then if an extraordinary session comes along the newly elected group is the group that would go to the capital, not the old group.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: The reason I asked that question was that it implied there that you carry it out, I don't disagree, it is just through implication.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have a couple of questions directed along the

same lines. Now I wonder, Mr. Sundborg, if you have accomplished your purpose. Is it not possible that a "lame duck" session could be held between election day and the first Monday, during those two months?

SUNDBORG: It is certainly true that it could, Mr. Hellenthal, but the reason, of course, that the man doesn't take off the day after the election is that it is impossible to find out what the results of the election are until a reasonable period thereafter.

HELLENTHAL: Wouldn't it be highly preferable then to tie it in, as Mr. Rivers deems to suggest, with the adoption of the canvass by the canvassing board?

SUNDBORG: I would have no objection to that. My purpose in offering this amendment is to get the legislators' terms of office to begin as soon as feasible after the election. If somebody can offer some language which would achieve that, which he feels is preferable to mine, I'd be willing to go along with it.

PRESIDENT EGAN Mr. White.

WHITE: Mr. President, I would like to ask a question of Mr. Sundborg.

PRESIDENT EGAN: You may, Mr. White.

WHITE: Mr. Sundborg, in the event this is adopted, who decides when each legislature shall meet in actual session?

SUNDBORG: It is provided in a later section of the article -- Section 8 -- "The legislature shall convene on the fourth Monday in January each year unless otherwise provided by law." It's in the constitution.

WHITE: You didn't want to change that?

SUNDBORG: No. I just wanted the terms to start earlier so that in the event there is the necessity for a special session we have the fresh bunch newly elected by the people.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I would like to call the attention of the body to Section 11, which we went over yesterday and nobody made any objection, at least to this particular language. In that section it says, "Each house shall be the judge of the elections and qualifications of its members.... Now if you had a person begin his term sometime before the house met, we are nullifying that provision. Now that provision that I have just read is common in legislative bodies, in fact it was

part of the law that created this body. None of us were actually elected until we met and agreed to accept the results of the election and seated the members.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to call attention, also, to the fact that there would be two months when we would have no Legislative Council. I don't know if that would make any difference to anyone, but it seems kind of odd to me.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears to me we are spending some time on a matter that isn't necessary. As a matter of fact, this could possibly be only just once that Mr. Sundborg's amendment would have effect because we have it written in here "or as provided by law". The legislature may change it back to this or to some other date. I don't see why we are hassling so much about just the first legislature.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: There is a point that occurs to me in this matter that I wonder if Mr. Sundborg has considered. For instance, if the term were to begin on the first Monday in December, the first session begins on the fourth Monday of the following January, and there would be another session beginning in the next year on the fourth Monday. Then by the first Monday of that December in the second year, the legislators' terms would expire. Now you've got a period from that time until the fourth Monday of the third year, who would you call in the event of a special session?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think that is clear under my amendment. If you recall, the group that would have been elected at the general election in that second year of which you speak. Now if we leave it the way it is and there is a necessity for a special session in December, the governor would have no choice but to call the group that had been elected two and one-half years earlier than that.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 3? Mr. Londborg.

LONDBORG: This is just a point of information right now. Mr. Davis called up something and I would like to have it clarified a bit. If each house is the judge of its own election, I can see where there isn't a problem on that if you start paying them after they get there, but if you start on an annual salary basis, we are paying for two or three months, maybe they are disqualified down there. What happens to that money then? Actually we are starting a payment before they are certified as to their seat.

PRESIDENT EGAN: Mr. Davis.

DAVIS: If I may answer, as the thing stands now, they go into session the same time as their term begins.

LONDBORG: Mr. President, the term begins the fourth Monday, that would be the same time all right, I see it now.

PRESIDENT EGAN: Mr. Riley.

RILEY: I move and ask unanimous consent that we stand at recess for two minutes.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT. EGAN: The Convention will come to order. Are there other amendments to Section 3? Section 4? Section 5? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: By Mr. Emberg. "Section 5. line 8, delete word 'hold' and substitute 'be nominated, elected, or appointed to'."

EMBERG: I move the adoption of this amendment.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. Emberg moves the adoption of the amendment, Mr. White seconds the motion. Mr. Emberg.

EMBERG: Mr. President, the reason I moved the adoption of this amendment is in regard to a possible conflict that may arise with the executive article in regard to the succession to the offices in case of vacancy of the secretary or governor, in which it would be expected that the president of the senate, the speaker of the house, would be in line of succession, and if during that legislature, the salary of either the secretary or the governor had been raised, you would be blocking that orderly process of succession.

PRESIDENT EGAN: Is there further discussion? Would the Chief Clerk please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: The question is, "Shall the proposed amendment as proposed by Mr. Emberg be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 5? Mr. Robertson?

ROBERTSON: I would like to ask Mr. McCutcheon a question. On line 15 it seems to me that the words, "his services have" do not clearly express the meaning. I think it should be "his term has".

PRESIDENT EGAN: Your point of order, Miss Awes.

AWES: I am wondering if we're not getting into matters that belong to the Style and Drafting Committee.

MCCUTCHEON: Mr. President, I think Mr. Robertson is concerned with the thinking of the Committee, and I think I can say this with the unanimous point of view of the Committee that they are to be separated from their positions, period. No longer hold the job, no longer receive the pay or other emoluments. In other words, they are not connected with the state any longer, period.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Hurley's proposed amendment.

CHIEF CLERK: "Section 5, page 2, strike the second sentence."

HURLEY: Mr. President, I move the adoption of this amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of this amendment. Mr. McCutcheon.

MCCUTCHEON: Point of order, Mr. President. It seems to me that in our first amending session here that the same amendment was offered.

SUNDBORG: No, it was not offered.

MCCUTCHEON: I yield then.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. The motion is open for discussion. Mr. Hurley.

HURLEY: I certainly don't seek to create a wild campaign program on the part of elected officials, but I do, after having consulted with other people, recognize that the legislature will have the power to regulate such abuses of this thing as may occur. I do recognize that where we have a state executive that it is very desirable that we should have the ability to advance in the ranks and we also will have plenty of break between the time of filing for an election and the time that the election is actually held and the position be terminated, in which we might lose the services of a rather good governor, so the thought that I had here is that we might cure the ill as it occurs by the legislature and not prevent something good from happening.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to ask the Chair what the Chair's ruling was on the original point of order raised by Mr. McCutcheon.

PRESIDENT EGAN: The Chair didn't rule. The Chair felt that Mr. McCutcheon withdrew his point of order when he discussed the matter with Mr. Sundborg. That was the feeling of the Chair that in effect, he withdrew it. Mr. Riley.

RILEY: Mr. President, I agree with Mr. Hurley and support his amendment and agree with him in stating that my supporting his amendment is not the thought of throwing the gates open to abuses of the nature suggested in this sentence. I do feel that the matter can be solved by the legislature. We have seen in recent years such control exercised, but a great deal has been said here this afternoon of the value of experience in government. I believe, as I read this sentence, that if it is to remain in the constitution, we will deprive ourselves of what ever experience a great many people have gained in government. As Mr. Victor Rivers and others have stated this afternoon, the legislative process is educational to all who are so engaged. So, too, is other government service educational. The Territory and the State have an investment in a great many people who may be disposed to stay with the government and give the benefit of that education to whatever jurisdiction they serve and I feel we would freeze in place many many people, 60 members of your legislature, perhaps an equal number of administrators if they can seek no other place, no advancement, no other utilization of the experience they have gained in government. I recognize that there is every prospect of occasional abuse, but I do feel that that abuse can be curbed by the legislature and that we should not freeze the whole public service in place.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the intent of the Committee was to protect the public funds from political use, and if you will reread that sentence carefully, you will find that this was designed to insure the public funds not be used for public use for the purpose of furthering political office. If it is the will of this body to strike this out, I just want to point out that if the legislature doesn't act in this field, that your Legislative Branch Committee has sought to protect the public funds from political use and the furtherance of political office as has been done in the not too distant past in the Territory of Alaska. Strike it out if you wish, but we serve warning to you.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I move an amendment to the amendment, and that is to strike out the last sentence of Section 5 along with the second, or rather, last sentence of the paragraph. I move its adoption.

SUNDBORG: Mr. President, I object. I think that could be taken up in its place after we have disposed of this one.

PRESIDENT EGAN: There is no second to the motion.

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. Mr. Taylor has the floor.

TAYLOR: This sentence applies to the preceding sentence and if there is an amendment to strike that sentence both of them should go together because that sentence standing alone doesn't mean a thing.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I submit that that sentence applies not only to the sentence which we would strike under Mr. Hurley's amendment, but to the first sentence of the section, where it says, "No member of the legislature shall hold any other office which has been created etc., "while he was a member". Then it says down here, "This section shall not apply to positions of employment in or elections to any constitutional convention." I think it is necessary that it remain in there whether or not we strike out that middle sentence which Mr. Hurley would strike.

PRESIDENT EGAN: Mr. Riley.

RILEY: I have spoken once on this, but if there is no objection,

I would like to comment just briefly on Mr. McCutcheon's expression. I have every respect for the view of the Committee and for their intention, and I agree fully with Mr. McCutcheon that no doubt that thought was in their mind. I think that that too, may be curbed by the legislature, and within recent months the legislature has acted, in at least one instance, to correct such a situation. I submit though, that this goes far beyond what is necessary and it puts us in the position of sinking the ship to drown the rat.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: With the consent of my second, I'll withdraw the motion.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that his proposed amendment to the amendment be withdrawn. Is there objection? Hearing no objection it is ordered withdrawn. The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?"

MCNEES: Roll call, please.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Armstrong, Awes, Barr, Boswell, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hurley, Johnson, King, Marston, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, White, Wien.

Nays: 26 - Buckalew, Coghill, Collins, Cooper, Davis, H. Fischer, Hellenthal, Hermann, Hinckel, Kilcher, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Peratrovich, Poulsen, Sweeney, Taylor, Walsh, Mr. President.

Absent: 3 - Hilscher, Rosswog, VanderLeest.)

COLLINS: I wish to change my vote to "no".

PRESIDENT EGAN: Mr. Collins wishes to change his vote to "no".

CHIEF CLERK: 26 yeas, 26 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Coghill.

COGHILL: I notice in the gallery we have a member of the Territorial government, a man that we should all recognize and

know. I would like at this time to introduce Mr. Don Dafoe, Commissioner of Education and ask unanimous consent that he be granted the privilege of the floor.

PRESIDENT EGAN: Mr. Dafoe, we are happy to have you with us and if there is no objection, you may come forward and make a few brief remarks if you so desire. (Applause).

MR. DAFOE: It is a privilege to be here and I appreciate the introduction and the privilege of the floor. I happen to be in Fairbanks on other business and took the opportunity to come out here. I had the opportunity of attending the hearings in Juneau and enjoyed participating in them and as far as my only personal viewpoints, I filed those in the form of depositions in connection with the hearings. If there is any value that I could be to the Convention in the form of answering any questions or of any of the body or any committee member, I am glad to be of that service. Thank you.

PRESIDENT EGAN: Thank you, Mr. Dafoe. Mr. Buckalew.

BUCKALEW: I have an amendment, Mr. President.

CHIEF CLERK: "Section 5, line 14, insert 'nonregulatory' before 'board'."

BUCKALEW: Mr. President, I move its adoption. I don't know whether I did it right or not, but there was an amendment offered by Mr. Johnson which carried, and excepted members of boards. My amendment excepts members except those on regulatory boards, rate-fixing boards. I move its adoption.

V. RIVERS: I second the motion. I should like to ask a question. Would you consider the Board of Governors of the bar a regulatory or a nonregulatory board?

BUCKALEW: That would be a nonregulatory board.

V. RIVERS: Are you sure of the terminology "nonregulatory"? That is what concerns me, Mr. Buckalew.

BUCKALEW: Perhaps, just for discussion, maybe "rate-fixing" would be better. We will have boards under the state that will be fixing rates, and those are the people that will be running around for office and can use that office for terrific advantage. Maybe I should change it to "rate-fixing". That was what I was trying to reach.

V. RIVERS: Mr. President, if the mover of the motion has no objection, I would ask for the usual 15-minute recess now and we could discuss that a little further.

PRESIDENT EGAN: Are there committee announcements? Mr. Coghill.

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COGHILL: With the understanding that we will have an evening session tonight, there will be a committee meeting of the Administration Committee upon recess.

RILEY: There will be a meeting of the Rules Committee in the rear of the gallery on recess.

SWEENEY: There will be a meeting of the Engrossment and Enrollment Committee at 6:45.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr.

BARR: Mr. President, at this time, I would like to move that we rescind our action on Mr. Johnson's amendment to Section 15, which we considered as the last order of business last night.

PRESIDENT EGAN: Mr. Barr moves that the Convention rescind its action with relation to the amendment as offered by Mr. Johnson, which was the last action of the Convention last night.

BARR: I so move and ask unanimous consent.

RILEY: I object.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Will the Chief Clerk please read the amendment as it was offered by Mr. Johnson.

CHIEF CLERK: "Section 15, page 5, line 19, strike the word 'the', then insert: 'Each house of the', strike the word 'as' at the end of line 19; line 20, strike the words 'one body', insert in lieu thereof the word 'separately'; line 23, strike the words 'the state' and insert in lieu thereof the words 'each house'; page 6, line 3, strike the words 'the state' and insert in lieu thereof the words 'each house'."

PRESIDENT EGAN: The question is, "Shall the Convention rescind its action as regards the action taken on Mr. Johnson's proposed motion." A vote of "yes" means that you are voting to rescind the action. Mr. Buckalew.

BUCKALEW: We voted his amendment down didn't we?

PRESIDENT EGAN: The Chair recalls that it was a tie vote, 25-25. It lost. Mr. Londborg.

LONDBORG: Is this question debatable?

PRESIDENT EGAN: It is debatable. A motion to rescind is debatable. Mr. Barr.

BARR: Mr. President, my reasons for asking for us to rescind this action are these. There were two or three points that weren't brought out in debate and I don't think that we had time to consider it. It is a very important question. It was lost by a tie vote which means that half of us here were for it, and it was done as the last order of business, the last thing we considered last night after a long day of work and some of us were a little weary and some of us were, perhaps, a little hasty, so I thought we should have the opportunity to think this over again.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I have also thought the thing over and the time that was taken, and even now, I certainly am willing to abide by the decision regardless of how small it is in this matter, because there are a lot of things I don't know about it. I did make an effort to find out some more about it, however, and I recall the question was asked of Mr. McCutcheon, if any other states had this provision and he said, "Yes," paraphrasing Mr. McCutcheon, Nebraska", which was of course highly amusing since they had to have it, they only had a one-house legislature, but my thinking behind the thing was that we are presumably, we have assumed this, we are going to set up a rather strong executive department and my thought was in that case that perhaps it would be wise to make the overriding of a veto a little more simple procedure and I thought that this procedure did do that, and that was probably the only reason. Now, on investigating the situation in other states, I do find that 15 of the states provide for the overriding of a governor's veto in each of the houses of the legislature by less than a two-thirds majority. Seven of them provide for a simple majority of each house and eight of them provide for two-thirds majority of those present at the time the vote is taken, so that means to me that at least 15 of the states have chosen to make it a little simpler to override the veto than to have two-thirds of each of the houses. That information tended to at least strengthen my position, however tenable it may be that it will be a little easier, at any rate, to override the veto, so I think I shall vote, perhaps, against rescinding our action.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I don't think I spoke on this yesterday, but I don't like to see this committee article changed because if you do change it or rescind the action, the governor and six senators can control the action regarding the passage of bills.

KILCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: I think if the motion to rescind the action should prevail, that does not mean that the section as it stands will be changed. The amendment will be in order then, or any other amendment might be in order then, is that correct?

PRESIDENT EGAN: The amendment of Mr. Johnson's will then be before us, because we are rescinding the action taken, which was the vote on the particular amendment. Mr. Hinckel is in order in speaking on this motion to rescind. The motion to rescind does not pass the amendment, this brings it before us. Mr. Riley.

RILEY: Mr. President, it is certainly debatable, however.

PRESIDENT EGAN: That is right, and Mr. Hinckel is in order.

HINCKEL: Well, the point I am trying to make is that as we on the Committee submitted the article, we were trying to prevent this thing happening as I started to describe, the governor with six senators could override the passage of a bill and we felt that as it came back after the veto and the whole 60 legislators discussed the thing and decided that it should be passed, that the people of the state would get a better shake and probably get a truer representation than they would by permitting five or six people to control something that was that important.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to point out that this manner of considering the governor's veto now becomes more important than it was before because we have taken out the automatic referendum clauses by striking that one section that pertained to either the governor or the legislature passing lost bills at referendum. So it becomes now more important that the governor's veto shall be considered in the two houses combined because it would make it easier for the legislature to control the action of the veto.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can see Mr. Hinckel's argument that six could do it mathematically, but I think that is just the thing. After all, a veto should be relatively strong, and if we do it the other way with the combined house and senate then we are going to leave it up to largely the house to control the overriding of the veto and I think it has been argued time in and time out that the house, according to the way it is set up, the lesser house and it is the more inexperienced, etc., and I think that

such action should be passed on by the senate as it has been done before by two-thirds of each house. I can't see that we can do it any other way if we are going to uphold our bicameral form of government but to rescind our action.

RILEY: Mr. President, as Mr. Hurley just suggested, a strong executive article is in prospect, at least a strong executive has been provided in the article which has been presented by the Committee, and from what discussion I have heard I think it will be the consensus of this Convention that we emerge with a strong executive article. I believe in a strong executive, but certainly not in a runaway executive and certainly, too, I believe in our traditional form of coordinate branch amongst our three branches. I think if we are to have a coordinate branch as between legislative and executive, we must have a legislature that can be effectual. Mr. Cooper was speaking in an argument earlier this afternoon about the legislature's being the most responsive to the people because it was the most recently elected, it was the people's most recent expression as to whom they wish to have performing their necessary functions of government. I think that if the legislature is to have coordinate rank and authority with the executive, that it would be very improper to allow a handful of men to thwart any action that the majority, the overwhelming majority might prefer. All of us in Alaska and all of us here, I think, remember when this problem was even more acute, when we had only eight members in the senate. In fact, I can see at least one person here who served in that eight-member senate and I am sure he and others appreciate full well what I am trying to point up; at a time when three members of the senate could force the will of the entire legislature, or three members of the senate with the governor, if they happen to be his supporters, could pretty well run the show. Now under our existing legislature of 16 it requires six in the senate and should we adopt 20 for the state, it would require only seven, which would mean that seven men of a total of 60 in the legislature as proposed, would have the whip hand on any tough decision, or the ones that a responsible executive feels are clearly against the public interest, which receive the veto treatment, but any seven men under the proposal we have adopted as to the composition of the legislature can overcome the views of the 60; and I think it is academic that if you believe in the democratic process, that that is not right. Now, we discussed here a few weeks ago, this matter of the unicameral system versus the bicameral system and there is no question about how the body felt at that time, but it was pointed out there that there was very little to fear from lobbyists, for example, because there never was a time when lobbyists seem to exert their influence over both houses at the same time, so that doesn't begin to touch on the real problem here. I think one of the most effective lobbyists in recent history is known to most of the people here, a very low-pressure type of lobbyist, one who I don't

believe has ever outraged anyone's sensibilities. Following the 1953 session -- I was not a member but I was in the corridors of the closing evening, I spoke to him in the hall and he appeared to be very well pleased with the way things were going. I inquired as to what he had accomplished and he said, "I haven't accomplished a thing, I wasn't seeking a thing, but there were 14 measures that I did not wish to have passed." He hadn't introduced a thing and he said he was very well pleased. There had been a number of vetoes sent down in that session and most of those vetoes had been overridden, and I submit that if we feel that a democratic process is being observed in sending a legislature down there, that a mere handful should not be allowed to control the operations of the entire body and I expect to vote against the rescinding of last night's action.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: By the same token, it seems to me that we ought to retain this type of check if only seven people can do it, as Mr. Riley seems to think. I believe that is equally as valuable a break upon a runaway legislature as anything else could be. That was the purpose of the founding fathers when they set up our form of government. They put one house as a check against the other in the matter of passing legislation and certainly we're not deviating from that in the matter of the amendment that has been offered. I see no reason to fear any seven people in the senate anymore than I would have reason to fear the other 53, and believe me, the only way that we're going to have any check and balance in favor of a minority, which is just as much a democratic process as favoring the majority, then we ought to vote to rescind our action and place this amendment in the article.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I've heard the expression, "founding fathers" many times in this assembly, and I am quite well convinced that if our founding fathers could have seen to what extent our checks and balances had backfired and if our founding fathers could observe what has happened to Alaska over the years, as a result of what Mr. Riley has been talking about, I am sure that our founding fathers would vote overwhelmingly for this amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: It is even worse than Mr. Riley says, because we have the provision in our constitution here, which was supported by the majority of the body this morning, which provides that a three-fourths vote is necessary on all bills having to do with taxes, all bills having to do with appropriations or monies. In that event if we are going to leave it that it requires a three-fourths vote of each house, as Mr. Johnson

would require, any five members of the senate, if we have a 20-member senate can thwart the will of the other 55 members. There is another thing that hasn't been mentioned here and that is that it takes the affirmative vote of three-fourths of the members to which the body is entitled, to override a veto. In other words, every man who is absent, every member who may have died during the course of a session, everybody who is sick in bed, his vote counts "no". In the senate you would need 15 affirmative votes and you would have to have them all there in order to carry through the will of the legislature against the veto of the governor. I believe it is bad and I believe the provision that the Committee has written in here is the proper one, so I am going to vote against rescinding.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I think that if they really wanted to change this system, rather than to go into a body of the whole, they could have changed the percentage for overriding the governor's veto. If they want, they could have changed it to a majority vote in the house and a majority vote in the senate, but I still believe that they should be separate, a vote in the house and a vote in the senate, as check and balance. And I am going to vote to rescind our action.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I want to say a few words on this. I was one of those last night who voted for the amendment and I intend to vote to rescind our action on this ground, that we have in the governor, the highest elected official, the most directly answerable to the people of all the officers of our government, including the legislature. Now we have set up here, in the matter of overriding his veto, a unicameral type of action which is very much in the thinking of many of our people and I personally don't see too much wrong with it except we are now diluting, as the Chairman of the Legislative Committee stated to you, the authority of our strong executive but I can't share the fears of some of the people that he is going to abuse that privilege. It has not been the case in the past. I was a member of some of the eight-house senate sessions in the legislature and in the two terms that I served, there were no veto messages that came down from the governor at that time. There was no abuse of it then. Now if we are going to sustain the strong executive, if we are going to make him responsible and answerable for his administration to the state as we have visualized it necessary for a modern and efficient government, it is my opinion that we must, in cases of real crisis, allow him enough authority to function, and in the case of these bills that have already been passed through to him, I want to point out to you that they have already been passed by a majority of both houses, so you already have the 11 in the senate and perhaps the 21 in the house that have gone on

record as favoring the bill, then if after he vetoes it, they take the opposition position that his strong stand on this matter is not in the best interest of the people, then they can override his veto but by a two-thirds majority of each house. It seems to me that each house should consider this matter separately as they considered it in the original instance. I do believe if we are going to sustain and maintain a strong executive in these crucial decisions, the real critical decisions of the administration, then we must support the fairly strong veto, which would be the bicameral veto such as we have in the legislative action. It doesn't seem to me that the feeling that the governor is going to abuse this and veto everything down the line of minor interest, just for the purpose of overriding the legislature, applies. These are times of extreme and critical emergency only. Then the question is, whose final judgment in the matter of such emergency should prevail, and I favor the executive. I favor the veto power based on the two houses separately.

PRESIDENT EGAN: The Chair would like to state that if you vote "yes" on this motion to rescind, we will then have Mr. Johnson's proposed amendment before us for discussion once more and it will take 28 votes to pass this rescinding motion at this time. Mr. Barr.

BARR: Mr. President, I would like to close if no one else wishes to speak. I think the question here is whether we favor the unicameral or the bicameral system. According to the committee report where they meet in joint session to consider a veto, that is a unicameral process. Now, if we believe in a system of checks and balances and a two-house system, where a bill originates in one house and then passes on to the other house for its action, we should naturally give those houses a chance to reconsider that same bill separately. It was stated here that it would be a simple procedure to override the veto of the governor under this joint session and that was the purpose of it. It is, it is a simple procedure but it works both ways. It depends on whether your party is in power in the house or whether they are out of power because the house has complete control. Do you want them to do something or do you want them to prevent something from being done? Now under this joint session system where the house, we will assume, has 40 members and the senate 20, the house has complete control of the entire legislature. Is that our wish here? If a bill originates in the senate and goes to the other house and then is transmitted to the governor and he vetoes it, the senate has no say in overriding that veto. It goes into joint session and if the house is for it, O.K., if they're against it, O.K., their will is done right there. I do not think that is right in a two-house system. I wish to remind you, too, that the house being elected most recently at the same time as the governor, is more likely as it has been said here, to reflect the wishes of the people. In other words, if there has been a landslide, the governor

certainly has complete control in that case, in spite of anything anyone can do. I don't think that is good no matter what party he belongs to. I believe it should be considered in both houses which can look at these things objectively. We may like it the way it is one time but the next time we won't. Now, as to not submitting these things to the people on a referendum, it can always be done. The governor may not be able to do it directly, but we have provisions for initiative and referendum and if the governor's veto is sustained it can be submitted to the people. If it is overridden, it doesn't have to be. The term, "runaway executive" was used here. I claim that that could happen with the aid of the house, and the senate would have no power to put the brakes on the runaway executive. They would sit silently by and listen to the house go just the way the governor wanted it to. I do not object to having, say a three-fourths vote for overriding the governor's veto. I believe that is the way it should be settled, but we should not abandon the two-house system and the system of checks and balances.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think there is something more important than this question right here -- that of finishing this constitution. I am frankly worried about the time slipping by, the work ahead of us. When we go back after we have made a thorough decision, we have voted, and then you come back and put it on the floor again, I think you are jeopardizing the entire constitution, and I am going to vote against this.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I would like to point out to Mr. Marston here that the reason that I brought this up today was to avoid delay. I tried to give this body every consideration in that I would like to allow them to reconsider it because it was a tie vote and taken at a late hour and I also considered them in bringing it up today instead of holding this over for another 24 hours as I could have done.

PRESIDENT EGAN: The question is, "Should the Convention rescind its action with relation to the vote taken last night on Mr. Johnson's proposed amendment?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Armstrong, Barr, Boswell, Coghill, Collins, Cross, Gray, Harris, Johnson, Kilcher, King, Knight, Laws, Londborg, Nerland, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 25 - Awes, Buckalew, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hinckel, Hurley, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, Smith, Sundborg, Taylor.

Absent: 3 - Hilscher, Rosswog, VanderLeest.)

CHIEF CLERK: 27 yeas, 25 nays and 3 absent.

PRESIDENT EGAN: And so the "nays" have it and the proposed rescinding action has failed to pass. Are there other amendments to Section 4? Mr. Sundborg.

SUNDBORG: I have an amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I voted on the prevailing side on Mr. Hurley's motion as to Section 5. I think I made a mistake and I now give notice of reconsideration.

PRESIDENT EGAN: Mr. Davis gives notice of reconsideration of his vote on the particular amendment that sought to delete the sentence from Section 5 beginning on line 13 and ending on line 17. Mr. Sundborg.

SUNDBORG: May I address an inquiry to Mr. Davis?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg.

SUNDBORG: Mr. Davis would you object to having the matter of your reconsideration taken up at this time?

DAVIS: No, I would not.

SUNDBORG: Mr. President, I move that we suspend our rules so we can take up Mr. Davis's announced motion of reconsideration with respect to Section 5, at this time.

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended and that the Convention take up Mr. Davis's proposed reconsideration of the amendment at this time. Is there a second to the motion?

SUNDBORG: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

JOHNSON: I object.

TAYLOR: I'll second the motion.

PRESIDENT EGAN: Objection is heard. Mr. Taylor seconds the motion. The question is, "Shall the rules be suspended and Mr. Davis's reconsideration come before the Convention at this time?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes. Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross. Davis, Doogan, Emberg, H. Fischer, V. Fischer. Gray, Harris, Hellenthal, Hermann, Hurley, King, Knight, Londborg, McCutcheon, McLaughlin, McNealy, McNees. Marston, Metcalf. Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 5 - Hinckel, Johnson, Kilcher, Laws, Lee.

Absent: 3 - Hilscher, Rosswog, VanderLeest.)

CHIEF CLERK: 47 yeas, 5 nays, and 3 absent.

PRESIDENT EGAN: And so the "yeas" have it and we have before us Mr. Davis's reconsideration of his vote on the proposed amendment. Mr. Davis.

DAVIS: Mr. Chairman, I think nearly everything has been said on this thing that could be said.

BARR: Point of order, Mr. Chairman, is the motion to reconsider debatable?

PRESIDENT EGAN: The motion to reconsider, to order the reconsideration at this time passed and the amendment is debatable at this time. Mr. Davis.

DAVIS: I think everything that could be said has been said about this, so I am not going to speak at any great length, except to say we apparently had a tie vote and my vote was pivotal on it and I am of the opinion that we have covered too much ground in saying that no elective or appointive official of the state should be entitled to run for office without resigning his present office.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment. Someone asked what the amendment was.

CHIEF CLERK: "Page two, Section 5, strike the second sentence."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the

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roll.

(The Chief Clerk called the roll with the following result:

Yeas: 29 - Armstrong, Awes, Boswell, Buckalew, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hurley, King, Knight, McLaughlin, Marston, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Walsh, White, Wien.

Nays: 24 - Barr, Coghill, Collins, Cooper, Cross, H. Fischer, Hellenthal, Hinckel, Johnson, Kilcher, Laws, Lee, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nerland, Nolan, Peratrovich, Reader, Sweeney, Taylor, Mr. President.

Absent: 2 - Hilscher, VanderLeest.)

DAVIS: Mr. President, I wish to change my vote to "yes".

PRESIDENT EGAN: Mr. Davis changes his vote to "yes".

CHIEF CLERK: 29 yeas, 24 nays, and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 5? If not, are there amendments to Section 6? Section 7? Mr. Robertson.

ROBERTSON: In Section 6, on line 24, I would like to ask Mr. McCutcheon why the word "treason" was omitted before the word "felony". Is it the theory that treason is a felony?

MCCUTCHEON: Yes.

PRESIDENT EGAN: Are there any amendments to Section 7? Section 8? Section 9? Mr. Robertson.

ROBERTSON: Yesterday a question was directed to Mr. McCutcheon as to the word "directed" in line 17, and whether or not he would be agreeable to having the word changed to "administered" as I recall it.

PRESIDENT EGAN: It was changed to some other word, "conducted" I believe. Section 10, are there amendments to Section 10? Are there other amendments to Section 11? To Section 12?

MCLAUGHLIN: I would like to withdraw the amendment that I submitted yesterday and submit another in lieu thereof.

PRESIDENT EGAN: If there is no objection, Mr. McLaughlin's amendment of yesterday is ordered withdrawn. Have you drawn

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your amendment yet, Mr. McLaughlin?

MCLAUGHLIN: I know exactly what I want, if I may read it.

PRESIDENT EGAN: Perhaps we can continue until you have it prepared. Mr. Helleenthal did you have an amendment to submit to Section 13, did you say?

HELLENTHAL: No.

PRESIDENT EGAN: Mr. Riley.

RILEY: This is just a point of inquiry. I had thought the Committee was considering an amendment to the first sentence of Section 11. I know we've gone past it, and my only query is, is it practicable for the two houses to have identical or uniform rules of procedure? I shall address that to Mr. McCutcheon, if I may, as to whether further consideration was given to simply stating they should have uniform rules insofar as practicable or language to that effect. They certainly aren't identical today and I don't know if that is his purpose.

MCCUTCHEON: Obviously there will be on some matters that they couldn't be identical, but insofar as they could possibly have them identical, it was the intention of the Committee that they should be identical.

RILEY: Then it was your thought, Mr. McCutcheon, that as the language stands, uniformity but not identical? You had no thoughts that this language would suggest that they should be the same rules?

MCCUTCHEON: The reason that the next sentence was established in this part of the act was to give them the out of establishing different fashions in setting up the context of their employee groups and so forth, but the matter of handling the procedure of the bills in the course of their processes, and the transmission shall be identical. That is what we intended.

RILEY: Simply those matters where their actions touch on one another?

MCCUTCHEON: Yes.

RILEY: That satisfies my query. Thank you.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't feel quite that strong about that. My interpretation of this first sentence is that the rules governing the house, shall be the same rules governing the senate. Now you have a difference in interpretation of rules simply because they are not exactly the same and I think it is very

important that the rules under which the house is operating are the same as the rules that the senate is operating. The second part of that sentence gives the house or the senate leeway as far as their help and the boiler room and things like that, but for operation of the legislature, the houses should have uniform rules and that was what my interpretation of it was when we wrote it out.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I was on this Committee. One reason that that first sentence is in here is because inasmuch as the two houses are throwl in joint assembly in several instances throughout the Legislative Committee report, it was thought this was a very necessary item in Section 11.

PRESIDENT EGAN: Does Mr. McLaughlin have his amendment before us at this time?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 12, line 17, strike the words 'and in what court' and in line 18 strike the words `or agencies thereof'." The section then reads, "The legislature shall direct by law in what manner suits may be brought against the state."

MCLAUGHLIN: I so move the adoption of the amendment.

TAYLOR: I second the motion.

SUNDBORG: Now being able to understand this, I ask for unanimous consent.

R. RIVERS: I object.

PRESIDENT EGAN: Objection is heard. Mr. Ralph Rivers.

R. RIVERS: Mr. President, perhaps we can straighten this out. Mr. McLaughlin you have said the legislature shall direct the manner in which suits may be brought against the state? Doesn't the legislature also decide what liabilities the state will assume or what actions, when the state will be sued as well as the manner?

MCLAUGHLIN: I leave that up -- it was my understanding, Mr. Rivers, from the Committee that they wanted to direct that the sovereign state could be sued and that the legislature couldn't prevent it. It is my understanding that they can place a limitation on the liability. I am not changing, I'm sure, the meaning, but I am removing an apparent or apparent at least to

some, conflict with the judiciary article. The amendment that I submitted the other night was unacceptable to many members, but this overcomes most of their objections.

R. RIVERS: I was thinking that the way it is now written it leaves the state open to be sued at all times and I didn't know the body had arrived at the idea of letting the state be sued at all times.

MCLAUGHLIN: That was the intent as I understand it, of the Committee, who originally drafted this article.

R. RIVERS: I withdraw my objections.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Boswell?

BOSWELL: What were the words to be struck there in the amendment?

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment again?

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: Is there objection at this time to the unanimous consent request? If not, the proposed amendment is ordered adopted. Are there amendments to Section 13? Section 14? Section 15?

SUNDBORG: Mr. President, I have an amendment to Section 15.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 15, page 5, line 18 after the word 'it' insert 'within five days (Sundays excepted) after it is delivered to him'."

SUNDBORG: Mr. President, I move the adoption of the proposed amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Just exactly, according to the words that you have suggested, Mr. Sundborg, does that read now? Will the Chief Clerk read it as it would read with the amendment.

CHIEF CLERK: "If the governor vetoes a bill he shall return it within five days (Sundays excepted) after it is delivered to him to the house of representatives together with his objections."

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, as the article stands, there is no limit on the time within which the governor must return a bill to the legislature if he is vetoing it. There is no time limit that he must return a veto message. It is true that over on the next page and in the same section, there are provisions that while the legislature is in session, "If the governor neither signs nor vetoes a bill within fifteen days (Sundays excepted) after it is delivered to him it shall become law without his signature." There is a further provision that, "If the legislature is not in session and the governor neither signs nor vetoes a bill within twenty days" it shall become law as if he had signed it. Now I want to insure that the legislature will have the right, right down to the fifth day before the end of their session, to override a veto if it is their desire to do so. Unless we write this language in. every single thing that the legislature does in the last 15 days of this session is going to be subject to a pocket veto. The Governor, without any reference back to the legislature at all, can handle as he sees fit any piece of legislation that goes through the legislature in the last 15 days of the session. He doesn't have to return it to them at all. He can veto it, and I believe that allowing him five days, in the case of bills that he desires to veto, is long enough.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: . I disagree with Mr. Sundborg. It seems to me that in a busy session of the legislature with lots of bills being passed, and presented to the governor, he ought to have more time than five days to consider a matter, particularly if it is a long tax measure or some other bill that is of great length and five days wouldn't be nearly enough time and I think the provision ought to remain as it is.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I seconded this motion. I think it has merit. I think it will keep the session more smoothly because then the legislature will know exactly where they are. They know when they get a bill to the governor, they're going to get it back in five days and I think it would have a tendency to stop this backlog at the close of the session. I think it's time enough for the governor, he has assistants, specialists, he isn't up there all alone. He'd probably have somebody else write the veto message anyway.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would agree with this amendment except that there can't be a backlog at the end of the session because there is no limit set for the session.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that if a bill is of such a nature that the governor would veto it when it finally got through, that he would no doubt have his eye and his mind on that bill from the day that it was first introduced in its first house and that he would have kept track of all the ramifications of that bill and the amendments and when it got to his desk, he would know as much about it, this bill, as the men in the house and the senate that passed it, and I think within 15 minutes he could veto it, because he would know whether he was going to veto it or not, and I think five days is giving him ample time to veto that if he is going to veto it and get it back to the house in which it originated.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I would like to ask a question. It seems to me there is an inconsistency, and maybe it's me, but if he didn't veto the bill within five days, say it was eight days before he vetoed the bill, what about it? What are you going to do about it? It gives him, a little later on here, 15 days to veto it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, the governor at present has three days in which to veto a bill and that has been the case ever since 1913. We give him five under this amendment, a fairly decent amount of time. I want to ask Mr. Sundborg if the intent is to change the language on the following page here, "...if the governor neither signs nor vetoes a bill within fifteen days (Sundays excepted) after it is delivered to him".

SUNDBORG: I did not intend to change that Mr. Rivers, I did give it some thought overnight and I believe that is a good provision. That gives him -- of course the legislature would know. If they haven't heard back from the governor in five days, the act they have passed on to him is going to become law. There is nothing else he can do to it to kill it, and they will know that after five days, but he has 15 days in which to sign it. He can let it become law without his signature or he can sign it.

R. RIVERS: Mr. President, I can't understand how he has got to return the bill with his objections in five days, which I understood would be the veto message, and still have 15 days in which to sign it. I am mixed up here someplace.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, it was pointed out in Committee that at one time, in the State of Colorado, the governor had four employees writing veto messages because the number of bills that were

piled up in front of him, he could not possibly handle within the 20-day limit that he had, and that after these four employees working day and night wrote his veto messages he merely signed them and sent them back to the legislature. If you want your governor to veto a bill you will have to give him 15 days, if you want a hired employee to veto it and present the message to the legislature you will give him five days.

PRESIDENT EGAN: The question is, "Shall the amendment as proposed by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Hellenthal.

HELLENTHAL: I move and ask unanimous consent that in Section 15, following the word "legislators", line 23, page 5 a period be inserted and the words "to which the state is entitled" be stricken, and that likewise in line 3, page 6, a period be inserted after "legislators" and the words "to which the state is entitled" likewise be stricken.

PRESIDENT EGAN: Will the Chief Clerk please read back the proposed amendment.

(The Chief Clerk then read the proposed amendment by Mr. Hellenthal.)

HELLENTHAL: Mr. President, I ask unanimous consent.

BUCKALEW: I object.

HELLENTHAL: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: All I wish to make is a very brief statement to the effect that if you take out this terminology, you are saying that two-thirds of the legislators in attendance at the time the veto has taken effect, not two-thirds of the total number of the legislators.

HELLENTHAL: I am positive that it means two-thirds of the total number because that is what it says. It says in line 23, "two-thirds vote of the total number of legislators". Now the only reason I make my objection is this, this is the only place in the constitution where any of the proposals in which the language, "to which the state is entitled" is used. It presupposes some apparent country permitting us to have legislators and specifying the number. This is predicated on organic act thinking, not on constitution thinking.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as proposed by Mr. Hellenthal be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" nave it and the proposed amendment has failed of adoption. Are there other amendments to Section 15? Mr. Victor Rivers.

V. RIVERS: On line 18, did we change the word "representatives" to "origin"? Was that motion made?

PRESIDENT EGAN: The Chair recalls that some amendment of that nature was made. Just how it was made, Mr. Rivers, I don't recall.

V. RIVERS: Well the amendment yesterday had other matter that may have been objectionable. It's a little questionable in my mind why a bill originating in the senate should be returned to the house of representatives when it is vetoed. I would like to ask that question of any member of the Committee that would like to answer it.

PRESIDENT EGAN: Mr. McCutcheon, could you answer that question?

MCCUTCHEON: Because it had in the article as originally written, the fact that it would go to joint session and the joint session would be held in the house. Therefore it would be returned to the house and the senate notified.

V. RIVERS: I would ask unanimous consent to change the word "representatives" in line 18 to "origin". Section 15.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the word "representatives" in line 18 be changed to read "origin". Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other amendments to Section 15? If not are there amendments to Section 16? Are there amendments to Section 17? Section 18? Mr. Hurley.

HURLEY: Mr. President, I would like to ask a question on Section 18. What happened to the amendment to Section 18 offered by Mr. Ralph Rivers?

CHIEF CLERK: It was voted down, it failed on voice vote.

PRESIDENT EGAN: Are there other amendments to Committee Proposal No. 5? Mr. Stewart?

STEWART: Did we consider Section 25?

PRESIDENT EGAN: Section 25 was held over until the apportionment article comes before us. That is the understanding of the Chair. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to object if that is the Chair's ruling on this. I believe it was stricken from this article and the subject matter is to be considered at the time we take up the apportionment article, but this article is now complete. We have stricken Section 25.

PRESIDENT EGAN: I did not happen to be present when that happened, I was told that it was held over. If that is correct, then that section was deleted and the article is now complete unless there are other amendments to be offered at this time.

LONDBORG: I move and ask unanimous consent that the session recess for two minutes.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Committee Proposal No. 5? Mr. Ralph Rivers.

R. RIVERS: I don't want to unnecessarily delay the progress of another article but I am very deeply worried about one section here and I think I would be derelict in my duty if I didn't bring it up. I am referring to Section 18, the last section on page 7, commencing on line 8. I want to report that this morning I moved a certain amendment and I will identify it. It says, "No local act shall take effect until aproved by the qualified voters in the district to be affected. I moved that "no local act calling for appropriations by the local areas to be affected" would become the law until the people voted on it. Now, in order to reopen that, I am going to move that we rescind our action which rejected my proposed amendment and I want to be heard once more on it briefly, in the hope that I will be doing some good. I so move.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the Convention rescind its action taken in voting on his proposed amendment this morning. Is there a second?

V. FISCHER: I'll second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion. Mr. Ralph Rivers.

R. RIVERS: Mr. President, in the first place the legislature here must act by general law whenever possible but where it is not possible to act by general law the legislature may pass local legislation. Local legislation is generally with regard to a particular town or a particular borough or a local political subdivision. Most local laws are in the nature of relief to disaster areas or solving some very acute problem like

subsidizing a hospital in a certain particular locality which generally could be by general law, but maybe it can't. In other words, in most instances a local law is for the benefit of a particular locality. Now why the people that are in the disaster area and the legislature appropriates money for that area should have to take a vote on whether they can receive that money or not is more than I know. Certainly, as Mr. Fischer said this morning, if the legislature is going to try to levy some money impositions on a locality without the consent of the people, then by all means let the people vote on it, but unless the local act involves the disbursement of local funds or unless the local act calls for an appropriation by the affected political subdivision then don't make the people have a referendum on it.

PRESIDENT EGAN: The question is, "Shall the Convention rescind the action taken on voting upon Mr. Ralph Rivers' proposed amendment this morning?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 37 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hurley, King, Knight, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, Taylor, Walsh. White, Wien, Mr. President.

Nays: 16 - Davis, H. Fischer, Hellenthal, Hinckel. Johnson, Kilcher, Laws, Lee, McCutcheon, McNealy, McNees, Peratovich, Poulsen, Robertson, Smith, Sweeney.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 37 yeas, 16 nays and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the Convention has rescinded the action taken. The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" Mr. Barr.

BARR: Point of information. I don't have that amendment before me now. Did that apply only to the first sentence?

PRESIDENT EGAN: Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 7, line 8, after the word 'act' insert the following: 'calling for use of funds to be appropriated by a political subdivision'." This is to Section 18.

BARR: That answers my question. I was worried as to whether that was in that particular position or not. I think it is highly necessary that it should go there.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, this business of relief to a disaster area, wouldn't there be general legislation allowing the government to provide relief to this disaster area?

R. RIVERS: Mr. President, I went in to some of those Texas cases where the Texas legislature gave a remission of property taxes to particular counties which had had disasters. That was strictly local legislation and it is hard to visualize ahead of time what particular local acts would be taken, but most of them would be for the benefit of a community, not to abuse a community, so I only want the referendum to be held when there is going to be a financial levy.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, the question in my mind is one that was raised by Mr. McLaughlin's explanation during the last discussion on this proposition. At that time he pointed out that if this amendment is adopted, the legislature could sit back and change the county seat or the capital perhaps, or do anything in the way of special or local law without having it submitted to the voters. The only way it could be submitted to the voters is if it involves an expenditure of funds, as I understand it.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, let me explain. I am in favor of Mr. Rivers' amendment. I was merely explaining what people were confused on what local acts are -- I was giving them an explanation from California -- what they are, and what special acts are. The legislature is still prohibited. even with Mr. Rivers' amendment under the first sentence, from passing any local or special acts. Obviously the intent of this article is not to go into the detail, pages upon pages of defining what special acts or local acts they meant. They merely say it is a matter for judicial determination, that is, the court can determine whether or not the legislature had the power to pass those acts. Now the local act that takes effect, I think Mr. Rivers has pointed out a defect in the language in that where if you are deliberately trying to benefit an area that desires to be benefited, needs the benefit, in substance we say you have to go through the expensive process of voting upon the thing, having an election held in the community, in order to receive the benefits that obviously you desire. I think this is very commendable and almost necessary.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, Emberg, V. Fischer. Gray, Harris, Hellenthal, Hermann, Hurley, King, Knight, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan. Nordale, Peratrovich, Reader, Riley, R. Rivers. V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, Walsh, White. Wien. Mr. President.

Nays: 13 - Cooper, Davis, H. Fischer, Hinckel, Johnson, Laws, Lee, McCutcheon, McNealy, McNees, Poulsen, Robertson, Sweeney.

Absent: 3 - Hilscher, Kilcher, VanderLeest.)

CHIEF CLERK: 39 yeas, 13 nays and 3 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 5? If there are no other amendments, then the proposal is ordered referred to the Committee on Engrossment and Enrollment. The Convention will now take up Committee Proposal No. 14, the proposal that deals with suffrage and apportionment. Mrs. Sweeney.

SWEENEY: Mr. President, I am wondering, since it is so close to our recess time if we would be better off recessing now until 7 o'clock, before we start on this new proposal.

PRESIDENT EGAN: One thing about it, we will have to read this in its second reading, Mrs. Sweeney, before any amendments or any explanations could be made. If the delegates so desire, and the Chief Clerk so desires, we could continue with the second reading until 5:30. Mr. Sundborg.

SUNDBORG: I recall also that Mr. Hellenthal promised us an hour or so dissertation on his explanation of what this is all about and I think the sooner we get at this, the better.

PRESIDENT EGAN: Yes, I believe we should read it for the second time first, and then allow for the dissertation. We will read Committee Proposal No. 14 for the second time, and then we will recess. The Chief Clerk may proceed with the second reading of Committee Proposal No. 14.

(The Chief Clerk read Committee Proposal No. 14, introduced by the Committee on Suffrage, Elections and Apportionment for the second time.)

PRESIDENT EGAN: The Chair would entertain a motion for recess. Mrs. Sweeney.

SWEENEY: Since we still have a few minutes and I am wondering if it is possible to have the Chief Clerk read the letter from Curtis Shattuck on apportionment, which is on file on the Clerk's desk.

HELLENTHAL: I have no objection to Mrs. Sweeney's request but the Section 1 of the schedule and Section 2 of the schedule are as much a part of the constitution as the matters that were just read and they too, should be read.

PRESIDENT EGAN: The Chief Clerk will proceed with the reading of the sections.

(The Chief Clerk then read the balance of Committee Proposal No. 14, Schedule.)

PRESIDENT EGAN: Mrs. Sweeney, now what was your request, a letter that was on file from Mr. Shattuck be read at this time?

SWEENEY: Yes, since we read the letters on the education portion, I think it would be well to read this one.

UNIDENTIFIED DELEGATE: I object.

SWEENEY: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I thought we had agreed once and I think we should stick to the decisions we made that before we start in with the arguments for or against or criticism of these articles, that we would hear from the chairman of the committee so that he could give us the story and I think that we should do that. I don't think we should start in with arguments before we hear the complete story and explanation, then we won't get off on the wrong track and waste a lot of time.

PRESIDENT EGAN: We know that the Chairman is going to make a lengthy dissertation. Mr. Coghill.

COGHILL: Mr. President. Seeing that we are going to have an hour and a half or two hours of discussion on the apportionment article this evening, why in moving for recess I would like to

have the delegates to the Constitutional Convention consider moving to recess into a Committee of the Whole do away with the stenotypist and shut the tape machine off for this whole discussion for this evening only. It would save three hours of tape and a lot of worry on the stenotypist, and I think we could possibly accomplish more this evening by going into a Committee of the Whole, discussing thoroughly the article on apportionment and then coming out tomorrow morning with our decision.

PRESIDENT EGAN: What is the pleasure of the body? Mrs. Sweeney.

SWEENEY: He'll have to ask --

COGHILL: I so move.

KNIGHT: I'll second the motion.

SWEENEY: I think we'll probably have to check with Secretary Stewart to find out whether the stenotypist for tonight has already been ordered.

COGHILL: I am certain we can cancel him because we have an hour and a half.

PRESIDENT EGAN: Mr. Knight seconded the motion that the Convention resolve into a Committee of the Whole after the dinner recess. Mr. Kilcher.

KILCHER: Is that motion debatable?

PRESIDENT EGAN: It is debatable.

KILCHER: I should like to argue against the motion simply because I think, if anything, it would be of value in the future to be on record. I would like to get a record of my stand on apportionment in every respect, that is one of the things that will have the furthest bearing in the future.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: In making this suggestion, I was not thinking of Mr. Kilcher or any other delegate's record. There is still tomorrow when this proposal comes out. You've still got time to verify yourself on the record. It's a matter of convenience to the delegates and a matter of economy as far as the Convention is concerned.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to support Mr. Kilcher to this extent, that I believe this will probably be the most controversial

article to hit this floor and if any one sentence at some future date can be referred back to the record, I think it is a minor expense that we should have tonight. I don't believe it is going to take any two hours and as soon as the conversation is over with, we can get down to business and accomplish something tonight at the end of the discussion.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I agree with Mr. Coghill as far as the Committee of the Whole and just an informal discussion. I think that would be very profitable, however, I can't help but support Mr. Kilcher in that I would like to have it on the tape. I think it is going to be valuable in the future. I would like to save the money but I think it is worth the money.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I also have supported the idea of general discussion in Committee of the Whole, but with the full record for the purpose of further consideration and I believe that we should have the tape and the stenotypist here.

BUCKALEW: I move the previous question.

PRESIDENT EGAN: Mr. Buckalew moves the previous question.

COOPER: I second it.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all those opposed by saying "no". The "ayes" have it and the previous question is ordered.

COGHILL: Mr. President, can I legally withdraw the question, now that it has been ordered? I would like to withdraw my motion if it is at all possible.

PRESIDENT EGAN: The motion is before us. The question is, "Shall the proposed motion as offered by Mr. Coghill be adopted by the Convention?" The motion is that the Convention resolve itself into a Committee of the Whole following the dinner recess and allow a full discussion by the committee chairman of the apportionment article.

V. RIVERS: Are we voting to suspend the rules and go into this meeting or not?

PRESIDENT EGAN: The motion stated that we would dispense with the record at that time. The question is, "Shall the motion as offered by Mr. Coghill be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Armstrong, Awes, Barr, Coghill, Cross, Gray, Hinckel, Hurley, Johnson, King, Laws, Lee, McNealy, Nolan, Peratrovich, Poulsen, Reader, Riley, Robertson, Sundborg, Sweeney, Taylor, Walsh.

Nays: 30 - Boswell, Buckalew, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Kilcher, Knight, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, White, Wien, Mr. President.

Absent: 2 - Hilscher, VanderLeest.)

CHIEF CLERK: 23 yeas, 30 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the amendment has failed of adoption. Mr. Johnson.

JOHNSON: I move that the Convention stand at recess until 7 p.m. this evening.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand at recess until 7 this evening. Is there a second?

DOOGAN: I second the motion.

ROSSWOG: Mr. Chairman, we will have a Local Government Committee meeting at 6:10 p.m.

PRESIDENT EGAN: Is there objection to the recess until 7 p.m.? Hearing no objection it is so ordered and the Convention stands at recess until 7 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White.

WHITE: Mr. President, I rise to a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. White, you may have the floor on the question of personal privilege.

(Mr. White, under personal privilege, introduced Mrs. William A. Egan, wife of the President.)

PRESIDENT EGAN: The Convention now has before it Committee Proposal No. 14. The Chairman of the Committee, Mr. Hellenthal, will you care to present --

HELLENTHAL: I will read a letter first of all that was requested.

PRESIDENT EGAN: Mrs. Sweeney, wasn't it the intention that you would have this letter read after Mr. Hellenthal is through with his presentation?

SWEENEY: Yes, whenever we come to the portion where we need it.

MARSTON: Can we have this whole program presented without interruption? I think it is for the good of all the people if we do this.

PRESIDENT EGAN: The Convention will be at ease for a moment. Mr. Armstrong?

ARMSTRONG: Mr. President, while we're off the record here, is it necessary to have a letter read of this type when the hearing was held in a town and it was open to everyone to come and present their views?

PRESIDENT EGAN: That is up to the Convention, Mr. Armstrong.

ARMSTRONG: It seems to me that it is taking up our time here when we have already given two and a half days of our time to this type of thing.

PRESIDENT EGAN: Mr. Gray.

GRAY: I agree with Mr. Armstrong on that. We did have a public hearing and we had the sentiment and the Juneau members received the sentiment and a copy of a deposition was filed with the group. I can see that there may be 50, 75, or 100 of these letters, if you set a precedent this way. I am fully acquainted personally with the feeling and I think the Juneau representatives are.

SWEENEY: I will withdraw my request to have it read if we will follow that practice but we had already started the practice of having some letters read, so if we adhere to this policy, it's fine. I'll withdraw my request.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I move and ask unanimous consent that the Convention resolve itself at this time into a Committee of the Whole with a full record for the purpose of hearing the discussion of the committee proposal on apportionment.

PRESIDENT EGAN: Is there objection?

MARSTON: I object.

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PRESIDENT EGAN: Objection is heard. Do you so move, Mr. White?

WHITE: I so move.

KNIGHT: I will second the motion.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, it seems to me that we acted on this before supper.

PRESIDENT EGAN: It is a different question, Mr. Doogan, in that the question was that we go into the Committee of the Whole without a record. This motion is that we resolve ourselves into a Committee of the Whole with a full record, transcribed, and stenotype record be made of the proceedings. Mr. Marston.

MARSTON: I was going to make the appeal to this body of men and women that we do not interrupt the committee chairman until this Committee has had a full presentation. I saw this happen in the debate on initiative and referendum and I almost gave up when we attacked that from all angles here and no control, and I don't think we got any place with it until we got back into regular floor work, so I am going to request and ask unanimous consent that we let the Committee go clear through this and get the whole picture before you start tearing it apart, limb from limb, and what not. I'm going to request that, give a full story before you tear into it.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I see no real advantage of going into a Committee of the Whole as long as we are going to have the full record. I can't see where we can do anything but waste time. We might just as well stay in session and then we won't have to have a report of the Committee of the Whole. I'm going to vote against it.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: The reason I objected, I was wondering now if we do go into a Committee of the Whole, will the record be in our minutes or is just a record kept?

PRESIDENT EGAN: A record of soundscribing, transcribing, and in the stenotype report.

ROSSWOG: Would we be given a copy of the minutes?

PRESIDENT EGAN: No, you will not Mr. Rosswog.

ROSSWOG: Then I will still object.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, just a point of information. If we don't go into a Committee of the Whole, and stay in session, then a motion for amendment is in order at any time, is that right?

PRESIDENT EGAN: That is correct, Mr. Londborg. Mr. Sundborg.

SUNDBORG: Mr. President, I would favor this suggestion that we would go into the Committee of the Whole for several reasons. We tried it once with the initiative and referendum and I think we were all a little disenchanted by the process because we didn't seem to get very far and it took us days and days thereafter to go through that article. I think we've had about the same experience on other articles when we haven't tried for an explanation in the Committee of the Whole. One reason I think it would probably be profitable for us to go into that kind of a session tonight is that the Chief Clerk, now that we are meeting day and night, has no opportunity in which to write out her journal of the proceedings except by staying at it in other hours when we are not in session and, as we all know, there are not very many such hours. If we're in the Committee of the Whole, no journal is kept. There is a record on the steno-type and a record on the tape but we could let the Chief Clerk go and try to catch up on the day's journal, which is a big job.

COOPER: I feel impelled to say this and that is. I for one will vote against this issue because I strongly feel that the President now presiding in the Chair can conduct the meeting much better during the evening.

PRESIDENT EGAN: The question is, "Shall the Convention resolve itself into a Committee of the Whole at this time?" All those in favor of resolving the Convention into a Committee of the Whole at this time will signify by saying "aye", all opposed by saying "no". The "noes" seem to have it and the Convention has not resolved itself into a Committee of the Whole. Mr. Hellenthal, would you care to begin your explanation?

HELLENTHAL: Mr. President, I do appreciate that questions will not be asked until we conclude the presentation of the Committee, and I should at the outset like to invite the delegates to the two maps that were mailed to them during the recess. I have them before me, one is the map with 24 Arabic figures on it, one is a map with 12 Roman figures on it. Each map is of Alaska, and I know that there are other copies available. If all of the members do not have copies now, they can get them from the Sergeant at Arms. There is also a paper entitled "Method of Equal Proportion", which was distributed to each member. And if some of the members do not have that, I suggest that you get it now from the surplus copies.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, would it be helpful to bring the map up where we can see it here?

PRESIDENT EGAN: Where do you think would be the best place?

(The map was then situated next to the President's table.)

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: Mr. President, at the outset I should like to point out that I feel that this matter is not so controversial, it is more technical, and that's why the Committee appreciates an opportunity to present the plan as a technical plan in the form of an integrated whole, because any apportionment plan must be carefully integrated. Now all apportionment plans are the results of weighed and considered compromises, and I want the members to bear in mind that this plan -- after careful and long decisions by the Committee members, after consulting for weeks with advisors -- is a weighed and considered plan and is made up like all other apportionment plans -- with compromises. And remember that in your considerations. Now the goal of all apportionment plans is simple: the goal is adequate and true representation by the people in their elected legislature, true, just, and fair representation. And in deciding and in weighing this plan, never lose sight of that goal, and keep it foremost in your mind; and the details that we will present are merely the details of achieving true representation, which, of course, is the very cornerstone of a democratic government. Now at the outset, the Committee met, analyzed the situation, read their bible -- the manual -- and determined to analyze the composition of this body created under the provisions of the 1955 Act of the Territorial legislature. They felt that it would be a good taking-off point, not that they had great pride in that body, but that they were more familiar with it than any other, and, furthermore, that it was the first body that had been created by the Territorial legislature and was born of Territorial and Alaskan experience. So they felt that that above any other bodies would be the body to study to determine and get hints as how to achieve truly representative government. They analyzed in turn the election districts that were created under this act. You will recall that there were 17, I believe, election districts as set up under the 1955 Act; you will recall that they consisted of, in the main, of recording districts; you will recall that the recording districts were ancient creatures in Alaska, that they are created by the district judge, and that in general they follow watersheds and in general they bring together a little sociological economic unit of the people of Alaska. They analyzed the composition of those districts, and those of you that were in the Territorial legislature probably realize the problems that

arose. I suppose that the reason they call apportionment a difficult problem is that it is a case where a legislator -- and in the sense we are all legislators in the sense that I use that term -- it is where you are confronted with your selfish desires. You have on the one hand the people of the greater whole; on the other hand you have the people -- your neighbors, your friends who always urge you to help them to the greatest extent possible. And the problem generally is, "What can I do to help the greater good of the State?" And someone is going to be hurt. Now when I say "hurt", the language is intended to mean you can't, on an apportionment plan, I don't think, that if you were given the problem of apportioning the heavens, or heaven itself, that you could please all of the occupants, but you just have to try. So anyway, that's the way the thing started out. They went through each district, analyzed it back and forth. It was generally agreed that the plan which indicated the composition of the house of representatives was a sound one, and that the watershed-boundary principle, which was the principle used in the recording districts principally, should be adhered to, with one modification -- it was pointed out that in Southeastern Alaska. traditionally, the steamship routes have been used as boundaries and that generally a traveled route such as a steamship route was not a boundary, but it was a route piercing a valley, like a highway more. And so they recommended and felt at the outset that the watersheds should be used as far as land masses are concerned, but in an area such as Southeastern Alaska, and to a very limited degree, the Aleutian area, that if possible the boundaries of the election districts should be adopted, and with that in mind, the boundaries of the six election districts in Southeastern Alaska were drawn. Now after studying and going through the different districts, adhering to the principle of compactness -- in other words that a district should be as compact as possible adhering to the boundary principle of watersheds, adhering to what they call a socio-economic principle, and all that means is that where people live together and work together and earn their living together, where people do that, they should be logically grouped that way. They have come up with a plan calling for 24 election districts in Alaska. The population of those districts -- and population was an important factor in determining the boundaries of the districts is available, and for any of you that are interested, we have it and we can furnish it to you at any time any member has any questions later in which population is a factor. Now the 1950 census was the basis for population figures used. As we all know there have been great changes in Alaska since the 1950 census. So we knew that we would have to have some figures to reflect those changes. There are no official figures, as you all know; the census is determined decennially. There are no provisions in Alaska for a five-year census, so we must be bound with the ten-year United States government decennial census. So the advisors studied the school enrollment of the various cities of Alaska in 1954, and using school enrollment

as a base. brought the 1950 census figures of the various election districts up to date, so that the Committee was well aware and had a firm basis -- the firmest available -- upon which to reach conclusions as to the present and projected population of the election districts. and those factors, those figures, were all taken into consideration in determining the election districts that are shown before you. Now in this map -- the reason for that map, the prime reason, is to show the delegates the watersheds of Alaska and their connection with these 24 election districts. The map that you have -- the small map, if your eyesight is very good -- you can detect the contours and can see the topography of the Territory, but this map shows it beautifully and adequately. And I think that any determination of the boundaries of these districts hinges upon seeing them in relation to the topography of the future State. Now based on the population and the districts, and based on projected populations of the State, and the projections indicated that the population of Alaska would be in the neighborhood of 230,000 following the 1960 decennial census and that the present population was in the neighborhood of 203,000. Now, based on those figures, it was determined, after studying them in relation to the 24 districts, that the composition of the house of representatives should be 40. Another factor entered into the picking of that number 40, and that was the factor of wieldiness; it was a wieldy figure. Was it such a figure that would be workable, not too expensive and yet which would adequately serve the representative areas of the state? Analysis was made of the 48 states, and as far as the Western states are concerned and the states that in geography compared to Alaska, it was indicated that 40 is right in line. It is, in the opinion of the Committee, workable, economical, and in line with the modern thought and the, prevailing composition of similar lower houses in the states. Now, again, I may have gotten a bit ahead of myself. Still another element entered into the selection of the number 40 -- that was the problem of reapportionment. As we all know, as there are shifts in population and shifts in economic stress in any state, there must be changes in its representation to meet the basic test of representative government; and various reapportionment plans were considered. We'll put aside, for the moment, the question of what agency of the government should conduct the reapportionment, but reapportionment was definitely in order. As an area fell off in population, it should be given less representation; as it increased in its population, it should be given more. The situation of the rotten boroughs was analyzed. Where boroughs with fixed limits had been set up, particularly in England and some of the states have them, and it was determined at any cost to avoid that in the future state. So it was determined that as the population grew, additional representation would be allowed to areas that grew; as it fell off, representation would be lost. But the Committee, after great consideration, felt that at the outset, that each of the 24 election districts should be assured representation in the new state, and they will

be, and I don't think that any other scheme could be devised for that matter. Each of the 24 will have one representative. If after the 1960 census, or after the first meeting of the legislature if statehood occurs following 1960, the reapportionment board will meet, and, according to a plan set out in the constitution and recommended by the Committee, the reapportionment will take place. The number will remain, of course, at 40. But if the population of Alaska falls below a figure known as the quotient, and it is a true quotient that is the total population divided by the number of election districts -- but if it falls below one-half of that quotient, then the area, the election district that had representation at the first meeting of the state legislature will lose it, and that district will be combined with a district adjacent to it and contiguous to it until its population again grows. And that raises the second principle, which is, where within one of these areas - for example, take Area 23 -- that's the one north of Fairbanks here and not a part of 24, which is the Fairbanks district. Should an oil boom occur there, and should it be determined that there are two economic areas within the larger whole, the board that is recommended to you, accepting principles in the constitution, will create a new election district approximately within the confines of the older district, provided that the two segments of the older district, each in population exceed one-half of the quotient. So provision is made in the plans submitted to you, and it is in Section 2, for growth and the creation of new election districts, and for decline in growth and the suspension or possibly elimination of representation of the area that has been passed up with progress. Now in cases of population growth, there must be some true and fair method devised for apportioning the representatives to the election districts that have grown in population. Now this problem is the identical problem that the United States Congress faces when its membership, which you all know to be 425 or 435 -- one or the other figure. It escapes me --

UNIDENTIFIED DELEGATE: Four hundred and thirty-five.

HELLENTHAL: Four hundred and thirty-five. As the population of the nation increases, that figure is adjusted between the districts -- the representative districts of the nation. Congress gave many, many years to that problem, many years of careful study, and in 1942 they came up with what, in the opinion of Congress, is the very best method for handling it, the method of equal proportion, which was very adequately explained by Mr. Gray the other day. It is a well-known, clearly defined method, it is the method used by the United States Congress, and it's fair and just. The Committee felt though that there should be a modification of that plan to take care of our peculiar Alaska situation, and they proposed the modification and the modification is set out in the report: "...that any area with a major fraction of the quotient and no representation is to be considered more deserving than an area with a larger major fraction

but which already has at least one representative." That is a concession to the smaller areas, the smaller election districts. It gives preferential treatment to the little fellow instead of the man who otherwise, under the strict application of the method, would get the extra representative first. The method of equal proportions has been applied to Alaska by Congress and it is no stranger to us. Now on the method of the composition of the reapportionment and redistricting board, because redistricting, as we have explained would be necessary, the Committee recommends that the stress be placed on the executive in determining which of these election districts and where redistricting shall take place, or reapportionment, and it recommends the creation of a five-man advisory board to advise the governor with regard to the redistricting and reapportionment. It sets up very, very careful standards and limiting factors so that the governor and the board will not run away and will be acting within the limits -- within clear limits -- and are not given wide discretion. Those limits are set out in Section 2. The reason that this plan was adopted is that the students and writers seem generally in accord that reapportionment, for some reason or other, I don't know why, but it has been neglected where it has been left to legislators. Maybe it's that human element I spoke of earlier, but anyway the experience of the nation shows that the thing is delayed -- procrastination; that in the State of Washington they waited for years and years and years, and finally, only by resorting to the courts and the initiative were they able to reapportion Washington. It was costly, the people suffered. And based on that experience and the recommendations, and it's almost universal of the advisors, and by advisors I don't mean the men that were here necessarily -- but the writers throughout the country, the executive board was chosen, an advisory, board. If for some reason or other the governor fails to follow the advice of the board and redistricts or reapportions, original jurisdiction is vested in the Supreme Court, on application, to compel it by mandamus, so that the duties and the principles set out in Section 2 can be followed and that errors can be corrected. I think that, in general, covers the plan for the house. As I say, I know there will be many specific questions as to particular election districts and the committee members are ready to answer those, and the population data are ready for anyone who wishes to question that. Now the next question, and the logical question, was the composition of the senate. Now the composition of the senate is shown on the second map that you have, and it is also shown on the reverse side of this map. Now an analysis was made of the present judicial divisions which are the matters that have guided Alaskans in their history in its senate, and the Committee, after that analysis and studying it believed that the major criticism, among others of the judicial divisions, was that it permitted a situation to develop where tundra could elect senators; and, further, where the hinterlands within the divisions could not, where a situation developed where frequently -- not always, but frequently -- those hinterland

countries were left to the voting strength of the urban areas, and frequently, a definite tendency, the senators were chosen from the urban areas of Alaska, and the Committee felt definitely that that situation should be avoided. And with that thought in mind -- after considering many plans for electing senators -- a plan evolved in which the senators would be chosen from combinations of election districts. Starting from the tip of Alaska, from Southeastern, and working up you will notice, the districts were numbered 1 to 24. They take combinations of those districts in pairs. The first two, Prince William Sound and Ketchikan -- Prince of Wales Island, rather, which becomes the first step in the first senatorial district. Then the combination of district 2, Wrangell and Petersburg, with Sitka the second step. And the third step would be a combination of the Juneau Election District with the Icy Straits Election District. You'll notice that those senators are not chosen at large from the greater geographical area, but that they are chosen from the subdivisions of those areas. To take the first judicial division -- and it happens that the boundaries were identical the first senatorial district there would be one senator from each of the combinations of two election districts, two chosen at large, for a total of five. The constant factor is that from every greater senatorial district there are two senators chosen at large. Otherwise, the senators are chosen from these combinations of two. And the second election district, 17 to 20, compose the senatorial district. This roughly is the northern shelf of Alaska and encompasses this area two senatorial districts for a total group of four senators. In this connection I want to make one correction -- and you might make it on your map -- that District 20 on the map of the election districts is the Arctic Slope Election District rather than Noatak. And so if you could just on the schedule, where the name is found, refer to it as Arctic Slope. Through some error Noatak was used where Noatak is actually the Kobuk recording district. And then in the great river area of Alaska comes the Fourth Senatorial District, sweeps like the Yukon through the heartland of the interior, and it's made up of the Bethel and Bristol Bay Election Districts, the Kuskokwim Election District, of the Fortymile Election District and the Fairbanks Election District; and it has a two at large, three from combinations of two among six, for a total representation of five. And the remaining senatorial district comprises the Southwestern Alaska, and is as indicated on the map, and it consists of Election Districts 7 to 14, inclusive. And its total number of senators would be two at large and four chosen from combinations of eight. Now it was felt that Section 2 of the proposal made it clear that in cases of population growth, that this plan would accommodate itself to all such changes; but, to remove any doubt the Committee has determined to place in the report language that will provide that should new election districts be created resulting in. say, nine election districts in Southeastern Alaska, that the total number of senators from that senatorial district will remain the same,

but that within that total, adjustment will be made, so that a fair combining will be made. If there were one extra, the problem is that you'd have an uneven number, so that the combination would be made so that in all cases there would be combinations of two, wherever possible preference given the combination of two; if that was impossible, that three would be used -- combinations of three, rather than one. One would be an unhealthy situation, of course, because that would permit a senator from an election district in addition to the representative, and would not fit in with representative government. So to clear this matter, which is implicit in the report and which may need possible clarification, the Committee has that language ready and will incorporate it in its proposal. Now the question arose again, like it did in the house, as to what number the senate should consist of. Now we will recall that in the early days of Alaska the senate was composed of eight senators and later that number was increased to its present form of 16. We will recall that 16 seemed to violate the principle of wieldiness, in that it led to the frequent statements that a small group was able, on certain instances -- isolated instances -- to thwart the will of the majority of the people, which is a clear violation of the principle of representative government. And for that reason -- that among many other reasons -- it was felt that 20 should be the composition of the senate. The two principle factors that led to the selection of 20 were the principle of trying to give the nonurban areas an assurance of representation in their senate, and the principle of making the senate large enough so that it couldn't be pushed around, so that it would be truly representative and not easily misled. And with those factors in mind, the number of 20 was chosen. Now on redistricting, on reapportionment, the approximate perimeter of senatorial districts will remain the same, but there are provisions made for some flexibility in redistricting should the occasion warrant, and it would be an isolated occasion. Now there were a few changes made in the composition of the house from 17 districts recommended and found in the present 1955 Act. Now, as an illustration, I want to pick the one that was first mentioned at the committee hearing and the one to which attention was first directed, and that is the situation regarding Ketchikan and Prince of Wales Island. Now Ketchikan had a population of 5,754 on the 1950 census. On the 1950 census Prince of Wales Island had a population of 3,364; that population has greatly increased -- and I don't have the figures with me right now, but Mr. Rogers is going to bring them down -- it has been a substantial increase. And for that reason a change was made in the 1955 Act to permit the creation of a separate Prince of Wales election district, which consisted of, in the 1950 census, of 3,364 people, and today probably consists of in excess of 3,500 people. The reason for that, as you know, is the logging activity that has come there with the pulp mills, and hence, that situation was recognized. Similar recognition was made to other areas in Alaska, and in general I might say it seems this DEW-line activity was one of the

principle contributing factors to that recognition. Now I think that we have covered the plan in general. I will not go in at this time to the rather elaborate transitory provisions. It all hinges on whether the first legislature meets in an odd-or even-numbered year, and adjustments must be made in that case, and we feel we have made the most logical adjustments to take care of any eventuality there. The schedules. I want to emphasize, are a part of the constitution. Hawaii had a very similar program and a schedule which you have in the Committee report and which gives the districts and describes them and gives their composition. Those are printed in the back, or included in the back portion of the constitution, but they are a vital and stated portion of the constitution, and it is the Committee's recommendation that they so be included here. Now I hope I have given a general idea of this matter. Other Committee members are going to elaborate on other points and pick up anything that I have omitted. And Mr. Coghill, Mr. Peratrovich, Mr. Gray. Mr. Cooper. Mr. Marston. Mike Walsh -- they're all here and they will all be happy to help you. And we just hope that by trying to piece the thing together that it will make your ultimate decisions easier.

PRESIDENT EGAN: Thank you, Mr. Hellenthal. The Chair was about to suggest that we not attempt to accept amendments tonight, or that the delegates not attempt to offer any amendments, that they just go ahead with questioning of the Committee members and hearing from other Committee members, if necessary; and. any delegate who has a question may ask it of the Chairman of the Committee or other Committee members. Mr. Johnson.

JOHNSON: Mr. President, may we have a short recess. I'd like to check the maps.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 7 has compared it with the original and finds it correctly engrossed, and the first enrolled copies will be placed on the delegates' desks in short order. I ask unanimous consent for the adoption of the report.

PRESIDENT EGAN: You have heard the report from the Chairman of the Committee on Engrossment and Enrollment. Unanimous consent is asked that the report be adopted by the Convention. If there is no objection, it is so ordered. The Committee Report No. 7 is now referred to the Committee on Style and Drafting. Mr. Marston.

MARSTON: I speak to the Chairman of the Apportionment Committee. Would you call on Mr. Cooper, another member of our Committee to explain further the senatorial districting. I think he can improve a little on that.

HELLENTHAL: I wish Mr. Cooper would, then after that have Mr. Gray and Mr. Coghill and Mr. Peratrovich, all of whom could add to it.

PRESIDENT EGAN: Mr. Cooper.

COOPER: There's not too much that I can add to the explanation that Mr. Hellenthal gave on the senatorial division plan, with this exception: it must be realized and remembered by the delegates that the house plan -- the 24 election districts -- is based on population, and that the senatorial plan as offered to you here, is based primarily on geographical representation. The senatorial plan is the one measure that will eventually guarantee the outlying areas representation when the population will increase in great numbers in fairly minute areas such as Fairbanks and Anchorage at the present time. I shudder to think what would happen if at any time the outlines or the perimeters, as they now stand, might be attempted to be modified or amended by the delegates from the floor, in that this entire map of election districts and senatorial districts is tied together in one plan that provides for the representation that the people of Alaska have never enjoyed in the past. I don't believe that there is much more to be said on that subject.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have a question. I notice that we have used 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 numbering on the map but not on the committee report. You might explain that.

COOPER: I don't quite follow this.

MCLAUGHLIN: What the question is is this: I just asked Mr. Hellenthal -- we have two excellent maps, one with Arabic numerals and one with Roman numerals, and the Roman numerals are numbered 1 to 12 on the one map, and I can't relate it to anything in the text. Can you explain that?

PRESIDENT EGAN: Mr. Cooper, would you care to explain that?

COOPER: Roman numeral 12 is the senatorial district which is comprised of Election Districts No. 23 and 24 on your map with Arabic figures.

PRESIDENT EGAN: Does that explain your question, Mr. McLaughlin?

MCLAUGHLIN: It does not, Mr. President. What I want to know is, when we use these Roman numerals from 1 to 12, it is unrelated to anything that they have in the text. Now as I understand it from Mr. Hellenthal, those numbers don't relate to anything, they are just something you put down on the senatorial districts during recess, is that right?

COOPER: Yes, sir, to make it easier for the delegates to relate the senatorial districts with the election districts, which they are very closely related to throughout this entire program.

COGHILL: Maybe I can explain to the judiciary head the ramifications of this. The two maps were drawn during the recess, and we tried to photostat them from this here. We brought out this map of 12 Roman numerals representing the districts to clarify to the delegates the schedule that you will find on our schedule report, page 2, where we allow for two at large for, say District No. 1, which we have referred to as "A" on this map here. These maps are not going to be a part of the article, they are only for clarification for the understanding of the delegates. Your District No. 1 is actually the "A" district. It says that two at large will be elected from that "A" district; that one senator will be elected from Election District No. 1 and 2, which is, in turn on our senatorial map Election District No. 1, and so on through the whole map outline. Does that explain your question, Mr. McLaughlin?

MCLAUGHLIN: Yes, sir.

PRESIDENT EGAN: Thank you, Mr. Coghill. Are there other questions? Mrs. Nordale.

NORDALE: Mr. President. I notice that on this little map where they have an "A", "B", "C", and "D" -- it seems to be a very logical succession. Over here in the schedule, I is "A", II is "D", III is "B", and "C" is IV.

PRESIDENT EGAN: Mr. Coghill, would you care to answer that?

COGHILL: Yes, sir. In bringing about our Roman numerals on page 2, Election District No. 1 is set at one. Two is referring to the old judicial division of Alaska. Election District No. 2, Election District No. 3, or Senatorial District No. 3 refers to the old or part of the old judicial district of Alaska -judicial divisions numbers 3 and 4 in turn.

NORDALE: Was it your intention then to retain those old labels?

COGHILL: No.

NORDALE: Or are you going to call "A" Senate District No. 1; "B", Senate District No. 2; "C", Senate District No. 3; and "D", Senate District No. 4?

COGHILL: Well, if I might say, that has very little point, Mrs. Nordale. It could be called that, but I believe that the reason why the Committee set it at this was not to bring about a point of confusion with the other members here delegates and referring to the old judicial divisions.

NORDALE: The only thing is, it seems illogical to me. We all know how they happened to be numbered in the very illogical way that they are right now, and it seems to me that now that we are ready to start again, it would be much more sensible to go 1, 2, 3, and 4.

COGHILL: I'm sure that the Committee has no objection to that. I'm not speaking for the Committee.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, may I ask Mr. Coghill a question?

PRESIDENT EGAN: You may, Mr. Davis.

DAVIS: I was concerned, Mr. Coghill, because while we have a map, and while we have a list that lists certain election districts, none of these election districts were defined. Now it's my understanding that the Committee is preparing and will have to go in -- as actually part of these schedules or boundaries of these various districts a schedule bounding the various election districts. Is that right?

COGHILL: I might refer that question to Mr. Hellenenthal.

HELLENTHAL: Yes. Mr. Rogers is preparing the final description of each of the 24 districts this evening, and they are prepared and have been made up.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I might also add that upon adoption of our plan by the Convention, the Cadastral Engineering Office in Juneau will make the official definition of the lines. Mr. Fischer.

V. FISCHER: Mr. President, I'd like to ask a couple of questions. First of all I'd like to say that I think the Committee has done a phenomenal job. I think everyone who has followed their work is quite impressed that they were able to come up with as good a solution. There may be minor disagreements, but as a whole, certainly the plan for the representative districts is very good. One thing that concerns me about the representative districts is that in Section 2 of the proposal, on page 2, on line 8, the governor is granted authority to create additional districts. I think that anyone who listened to Mr. Gray's explanation the other day and realized its full implications understood that Juneau, according to this schedule, is losing a

representative to which it should be entitled because of the modification that the Committee has agreed upon to provide representation to more thinly populated areas. And I'm not disagreeing with that concept. What concerns me is that even greater injustice can be created if the governor, taking this authority, went all the way and created 40 representative districts.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President. Yes, the governor may further redistrict by the creation of two or more districts from within the larger geographic socio-economic areas of the state. That language all alone would permit the creation perhaps of a full 40 or 48, if it weren't for the restriction of 40. subject to the following limitations and here they come: "...the new election districts so created shall be formed of contiguous and compact territory, shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty.." That's one, and still another: "... shall contain as nearly as practicable relatively integrated socio-economic areas.. That prohibits gerrymandering which would have to take place were 40 districts arbitrarily set up by the governor. That would prevent it, and the principle of compactness and contiguity would also prevent it, and, furthermore, another limiting factor, the governor -- and mind you when I say the "governor" it means the governor on the advice of this advisory board "shall use drainage and other geographic features in describing boundaries wherever possible." On behalf of the Committee, the Committee feels that gerrymandering is definitely prevented by these restrictive limits.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I believe the language is clear in intent; I question its actual legal limitations upon the governor or the board that may be advising him. I think that you can put up a good argument taking these standards set up here, with a little bit of population added you can divide Haines from Skagway, if they reach a little bit more population. I could just go through and name quite a few, but I mean the thing is you can create a lot of small districts all over Alaska. The point that I'm trying to make is that when you create four more districts or six more districts without even having to go to 40, you're automatically going to create injustices in other areas, especially within a few years after that new redistricting has taken place. As you add another district -- Ketchikan, Kodiak, Anchorage, Nome, and Fairbanks, you may very easily lose another representative. What I would like to point out is that the other day Mr. Gray, in his explanation said that this system of equal proportion works most ideally when you have twice as many representatives as you have districts. The more districts you create, the further you get from the ideal; and,

I still would like to have some more committee consideration -- more strong limitation upon the governor's powers to create additional districts.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I might take the prerogative to try and answer that question. Mr. Fischer, there is one thing that you must bear in mind at all times, that when the population of one particular area grows, so does the population of all of Alaska. The total amounts become higher, and by dividing that by 40 you have, in turn, a higher quotient -- your quotient becomes higher. Your districts that do not grow will automatically lose their representation, not in the sense of losing complete representation; they will be joined with another district and will be represented that way. They will always have a vote, but you will never get to the point where that you will have more population than your districts.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Well, Mr. Coghill, do you agree with Mr. Gray's statement of the other day that the ideal set up is when you have twice as many representatives as you have districts? I mean, that's the closest you can come to the ideal.

COGHILL: What is probably the ideal situation, I wouldn't venture to say, Mr. Fischer, because the concept of watersheds and socio-economic areas is still a big factor in the reapportionment.

GRAY: I said that it was in my opinion. I had valued it out where in no case should your districts take more than your population. In my opinion in the little work that I have done, I didn't want the districts, like if we had 40 members, if you get 30 districts or 35, the less number you have for population upon population or multiple figures of the quotient.

V. FISCHER: While you're up on your feet, do you think that since the house of representatives is supposed to be set up on the population basis, and accepting the committee proposal modification, in order to keep that, there should be a maximum number of districts in the constitution, be it 25 or 30, or 24?

PRESIDENT EGAN: Mr. Gray, do you care to answer the question?

GRAY: If I follow you on this, like anything else, it is what do you want? The members divided into the population gives you the quotient figure. We have one representative for every 2,724, and every representative has that much and if multiples are exact figures of 2,724, then you come out even. That is the system of the quotient. Now when you have a modification, the Committee thought was, it provides that any area with a

major fraction, and they don't have enough and no representation at all, is more deserving than an area that has a major fraction and already has no representation. You put the modification in and then you start stretching your equality of systems. You have a mathematical premise. and then you are imposing a moral premise on it. Now you either have to take the moral premise or a mathematical premise; you can't have both. Do I explain myself?

V. FISCHER: Mr. Sundborg shakes his head. You did explain yourself to me, and I understand you fully. In accepting the moral premise, the question is how far shall we stretch the mathematical premise. And my question was, would it not be feasible to set a maximum limit as to how far we'll stretch the mathematical principle that you established?

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I followed this Committee pretty much. If I asked for the privilege of talking a little more than I ordinarily have, it's because I was attending every meeting and I find I know pretty near as much about it as the committee members. In this article, if you will notice, Mr. Fischer, it says that when they form new districts, they can only do it when the population is at least equal to the quotient obtained. It didn't say half the quotient. Now if they had gone ahead with that thinking, that they could use the half-quotient, then I could see where your contention would be right, and by continually making new districts and using a half-quotient, why they could eventually use up all the representation and deprive the larger centers of their just and fair due. But unless I'm mistaken, it wouldn't work that way in this case, because any new districts that are formed in the future state will not have the privilege of having that half-quotient deal which would gradually eat up all of the surplus. Does that answer your question?

V. FISCHER: I understand your reasoning. I will yield my point. I'll discuss it with Mr. Gray later.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, my only point was that if a limitation on the governor, who acts on the advice of this civilian board, and is subjected to the checks contained in Section 2, as well as the other checks of the constitutional provision, and the check of public opinion, and the check of recall and re-election, and everything else, if the governor, on the advice of the specialists, were to flaunt the thing, I think that there would be a very quick remedy. But if the group felt that a limitation on the number of districts that could be created were in order, I'm sure that the Committee would have no objection; but I know that the Committee feels

that there are sufficient checks on any abuse of that power in the proposals.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I think it might be a good idea to get that blackboard down here that we had a while back. We never used it as much as now.

PRESIDENT EGAN: Are you asking if we can stand at recess and get the blackboard, if it's available?

COGHILL: The blackboard is behind your stand, behind the maps.

KILCHER: I have figures here which it might be well to draw on the blackboard; they have no direct bearing on the map, just on the problem in general. And if a chalk were available, I would like to use it, if there is a chalk available?

PRESIDENT EGAN: Are you asking the Committee to take their map off? Is that your request? Behind it is another map, Mr. Kilcher. The Convention will come to order. Mr. Lee.

LEE: Mr. President, I ask for a two-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two or three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher, do you wish to use the blackboard?

KILCHER: Yes, sir, I would like to use the blackboard.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I'd like to hear from more of our Committee. This plan was born out of heat and strife, and it is a good plan; and, if you start kicking that around, we are going to be in for days of working and getting it back together. It's a plan that will make the constitution live. And you kick that around and throw a lot of foreign matter, you will not come up with as good a plan, and I hope that you will think thoroughly on that before you go into a lot of foreign matter. I was hoping we could spend the whole evening on this and go home and sleep well, and tomorrow the sky's the limit. The plan will grow with the population of Alaska. I hope that you think thoroughly on it before you throw it into days of lost time and then come back to this plan.

PRESIDENT EGAN: Mr. Marston, it's been by general agreement that there will be no amendments offered to this plan tonight.

Mr. Kilcher.

KILCHER: Mr. President, in the nature of this evening's session, I would like to make a few remarks in the nature of questions, the same as Mr. Fischer did awhile ago. I'm worried about possible outcomes of the apportionment system as proposed. Maybe tomorrow somebody will find a solution; maybe I'll be convinced that we will have nothing to worry about, but in the nature of an inquiry for my part and possibly also suggestions, I think I'm very well acquainted with the problem at hand, and one problem that was possibly my main interest in the Convention, and I would like to make a few remarks. The first thing that comes to my mind is that I'd like to address to Mr. Gray. When you mentioned that the system of equal proportion of the United States had been applied, with a minor modification, I agree, except that the word "minor" -- that this modification, I think, is a basic one. We may be in favor of it, and yet we may not; but I'd like to point out the basis of this modification, and a few other basic problems. I think it is good luck that we have this opportunity to talk for once about basic issues, if you recognize them, before we amend and amend. We might make slight changes -- changes in the system of apportionment and possibly everything that's on the map -- maybe minor changes, maybe as it is, we will sail through nicely, tomorrow. I don't think there will be very much argument, personally. But the main disagreement I would have with Mr. Gray is there, in the case of the United States, they are assuring one representative to each state at least, whereas we have potential collapsible districts. I would like to make one illustration here as to what very likely might happen under this system of collapsible districts by bringing in a few figures. In other words we have to decide, maybe tomorrow, whether we want or do not want this collapsible district or whether we want a guaranteed representation in the lower house, period. That's the decision we have to make. Now if we are assuming here, as statistics have shown over the last 50 years, especially over the last 20 in Alaska, rural populations are fairly static in certain areas; they are even dwindling -- absolutely dwindling -- and urban populations are skyrocketing. I can see that in Alaska the skyrocketing would rather be the rule of the future. Now I have here a letter from the Office of the Governor, which indicates that in certain areas of Alaska the population may have shrunk the last five years, from 1950 to 1955. We are going from the assumption here that the Alaskan population is 108,000 people. Mr. Hellenthal tells me that he has available the submitted correct figures for 1954, which I had hoped we might have by now and have mimeographed for comparative purposes, it would save time now. But if we go from the assumption of 108,000, as your paper shows, a major fraction is 1,362. Is that right of that quotient of 1/40?

GRAY: That's right.

KILCHER: And 1,363 would not be a major fraction --

GRAY: Put it at 62, it makes it even. That's not a major fraction, that's 50 per cent.

KILCHER: Now on the assumption that the present population is about 200,000 -- is that roughly correct?

GRAY: Roughly.

KILCHER: If it is about 200,000, a major fraction would be 2,501 and a minor fraction would be 2,500, and the assumption that Alaska will double its population in 25 years which I think it will -- it will only be 400,000; if it doubles in 50 years it will be 800,000 people. You may well have a situation where a major fraction would be 10,001; the minor fraction 10,000. It's quite possible that of a population of 800,000 people there will be 100,000 in the rurals, that would be twice as many as there are now, or half again as many as there are now. In some areas there will be developments, and other areas it will be a stationary figure. Now if 800,000 people should be distributed, for instance, over five major cities -- industrial cities, boomtowns, or something, or solid cities with a variety of industry in them, it will be quite possible that these five cities which are in five districts would have 35 representatives in the house -- 35 representatives from five districts. That would leave 19 districts to have five. Nineteen districts would have five delegates to get a total of 40. In other words, 14 districts will be collapsed. It's quite possible.

GRAY: Rightly so, I might add.

KILCHER: Now also it is possible that three or four districts might collapse and pick them up two senators, so they will be super districts of -- let's say three former districts, not to be too harsh three former districts, they would have one -- (writing on blackboard) let's take four to illustrate the worst possibility. They have two senators and one representative. As a matter of fact there might be a district that has one senator and no representative whatsoever. So this is a possibility we have to foresee. Now this is projecting in the future, but I'm afraid that already now -- with the available (writing on blackboard) I may be one -- (Mr. Hellenthal then handed Mr. Kilcher a piece of paper) Mr. Hellenthal, thank you. With the available corrected figures, we now have a district that should be collapsed, now possibly?

HELLENTHAL: You mean that would be under 1,301? I know of no such district.

KILCHER: Of course, if you go to 200,000 it would be 2,501.

HELLENTHAL: On a population of 200,000?

KILCHER: Yes.

HELLENTHAL: If the 200,000 people all went to other areas and none of them went to this area (indicating on map), I think that there are one, two, three, four, possibly five or six districts that might lose their representation on that assumption.

KILCHER: I mean on your corrective figure for districts, too?

COGHILL: Mr. Kilcher, I think that you're making the issue a little too far on this in taking things on assumption. We have to go on a true decennial figure. Every 10 years, why, they take a census of the Territory, and that's what we are going on. We can't project what there is going to be. I can foresee many developments in the Fourth Division or the Third Division that will take place. You can't assume that there is going to be five greater urban areas and all the rest of Alaska is going to become wasteland. I think that your argument is completely invalid.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, is it permissible to ask questions and answer questions to keep this issue clear?

PRESIDENT EGAN: That is correct.

COOPER: Mr. Kilcher, there are two facts that have come out of the Apportionment Committee that by no stretch of the imagination can be amended on this floor, and that is, that you have two houses. One will be apportioned on population; and, one on geographical area. Those two facts have been established. That, in a sense, is apportionment. I don't care if Anchorage, tomorrow, has ten million people; the outlying areas and the balance of Alaska will have their representation by geographical. Now if Anchorage or Kenai or Circle City, or Point Barrow, or Klawock, tomorrow has 10 million people, then they rightfully are entitled to the entire 40 representatives in the house of representatives, because it's based on population and population only, but the balance of Alaska is not going to secede to the East or West or North or South. They will still have their representation in the senate, because it's based on geographical.

KILCHER: I agree, Mr. Cooper, I fully agree. I was only pointing out a possibility that this urban area may get their two shares in population based on representation in the lower house; however, on the other hand, we in the senate, as the proposal has it, are making compromises to population, also. I'm trying to show the picture -- the potential in the admitted extreme by pointing out that if one house is potentially almost exclusively

based on population, the other can hardly be based enough on area, and I'm afraid that the senate proposal -- I'm driving at the senate proposal with these figures (indicating) -- I'm afraid that the senate proposal is not quite enough based on area. I just submit that for now. I would like to let somebody else present their figures in other respects. We'll come back to that maybe later on.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I'd like to make one comment here. Mr. Kilcher is getting up into 50 years in the future. Possibly in the next 50 years there may be another constitutional convention and they'll bat it out all over again.

KILCHER: I'd like to answer that question, if I may?

PRESIDENT EGAN: Proceed, Mr. Kilcher.

KILCHER: Namely, as I said before, Mr. Hellenthal seems to have estimated the figures of the actual Alaskan population of all of Alaska and the districts in question as much as can be estimated with school enrollment figures. The estimate, I think, is within about two to five per cent, which is as accurate as we can have things with our fluctuating population, and I maintain that we should not stubbornly base an apportionment system on figures that we know now are quite inaccurate with the present. In other words, why should we create an apportionment problem already for certain in 1960, when we can possibly adjust certain figures now and delay the apportionment problem maybe a generation or one and a half generations, and that's what I'm driving at. And as far as the amendment goes, Mr. Harris, I don't want to allude to the failure of my amendment to pass, granting an automatic convention, but apportionment and an apportionment problem and the change of apportionment is one of the main reasons why history has shown that constitutional conventions are so hard to arrive at in the state where questions of the house and conflicting interests are involved. They are the main reasons why we might not get a new convention when we most need it.

PRESIDENT EGAN: Are there other questions to ask of the Committee? Mr. Cooper.

COOPER: Mr. President, I'd just like to say one thing. If within the next 50 years you don't have a constitutional convention, this plan will at least adopt five reapportionment committees which will meet and advise the governor in the changes that should take place or would be necessary for apportionment of Alaska.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I'd like to say just one thing in return to Mr. Kilcher's plan here, that I say again, that we are working on the 10-year census basis, and according to Mr. Kilcher's proposal, he's trying to infer to the delegates that we must have a reapportionment each year. I can't foresee in 1960, what is going to happen between now and then in the Territory of Alaska. I think that he was just begging the issue and trying to confuse it.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I have an inquiry that I'd like to direct to the Chairman of the Committee.

PRESIDENT EGAN: If there is no objection, you may direct your inquiry, Mr. Johnson.

JOHNSON: Mr. Hellenenthal, first let me say that I think your Committee has done a very excellent job, and I have this question in mind, however, and it isn't quite cleared up yet as far as I'm concerned. I understand that under our proposal now, the membership of the house is limited to 40 members. That is a constant figure, as I understand it, until changed by amendment of the constitution. Now the plan also contemplates the creation of 24 election districts from which the members of the house will be elected. That is correct, is it not, Mr. Hellenenthal?

HELLENTHAL: Yes.

JOHNSON: So far as the initial election goes, at least, there will be one representative from each district, plus some additional representatives in the more populated districts, is that right?

HELLENTHAL: Correct.

JOHNSON: Is the plan that you have presented here designed to -- I know that the governor is given the right to change districts or rearrange them, but is it the thought or plan of the Committee that the number of districts would also remain constant or might that change up or down? That's election districts, that's what I'm talking about.

HELLENTHAL: Depending upon population increases or decreases and the method of creating further districts to keep in pace with those declines or growths set out in Section 2: "The Governor may further redistrict by the creation of two or more new districts from within the larger geographic socioeconomic areas of the State." and that means the entire statement. "or by otherwise changing the size and areas of districts, subject to the following limitations: the new election districts, so created..." and then follow the limiting

factors.

JOHNSON: I understand that language. The thought occurred to me, however, or rather I was going to ask, has the Committee considered the possibility that there might be some way of keeping the number of election districts at 24, even though you might rearrange them from time to time, the number might remain constant if it I don't know wether that is possible actually, but --

HELLENTHAL: It's possible, and it has worked to the disadvantage of those states that have tried it, and it was because of that fixation that the method of equal proportions and apportionment were created. It was because of the great evil that arose from that situation and they would probably arise here in Alaska with increases in population or decreases, so for that reason you have this flexibility. That's the "Why" of apportionment and redistricting and equal proportionment. You will notice, perhaps it wasn't brought out, that in the modification of the method of equal proportions, there was a great concession made to the election districts to make it a little more difficult for them to lose by population decreases. It was a concession to them because of their socio-economic areas, and it was a departure in that sense from a strictly population apportionment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I would like to explain something that probably hasn't come up. One reason why you figure this 24, it shows in this modification that this lesser group having no representation was deserving on a moral issue. Your major fraction base is, for true representation, would be on a house of

80. Your half of a quotient is 40 times two halves, which gives you 80. Why can't he hold down to 13 or whatever it is? Because you run into a moral issue. If in your section you allow one man to vote twice or three times or four times, that is illegal--it's a crime against suffrage. So indirectly you have the same thing because this representative for this 1,400 people has exactly the same voting power as this other group with 2,800, indirectly. So there is just so far you can go with this moral issue without creating a worse moral issue. Do you follow me, Mr. Johnson?

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. Gray, the other day you gave an illustration of a case of a 75 per cent error and 71 per cent error. Would you explain that, why you chose which one of those two, between the 75 and the 71?

BUCKALEW: Could Mr. Gray use the blackboard, Mr. President?

PRESIDENT EGAN: Would you care to, Mr. Gray?

GRAY: Sure. Anyone else that wishes to multiply with me may.

(Laughter by the Convention.)

PRESIDENT EGAN: The Convention will come to order.

(Mr. Gray then stationed himself before the blackboard with chalk in hand.)

GRAY: The example I used was Sitka and Juneau, and following the report we received from the census, Sitka had 4,148 and Juneau had 7,116. I think you will find those figures on that board there. Now what we have here, if we have one representative from Sitka and three from Juneau, Juneau has three times the representation as Sitka has, and they do not have twice as much population. Obviously unfair. So we give Sitka two representatives and Juneau two representatives. And now Sitka with only 4,000 population has the same representation as Juneau. Still unfair. And so the question is on differences, and getting to the fine point, which one is the most unfair. They are both unfair. Both propositions are unfair. It's a question of which has the greatest error. As long as you're handling mathematical figures and leaving the moral aspects out, it can be solved by mathematics, and take the difference and divide by the smaller, and you get a percentage of error. Take the other way around, and take the difference and divide by the smaller and you get your percentage of error, and of course, the assignment with the smaller error must therefore be the most fair distribution. Well, we'll go back and do it the other way first (indicating figures on blackboard) with this one, and that one -- bringing this representation down to per representative, you have 4,148, and three into seven I'm ahead of you. And so you have 1,776. So 1,776 is the absolute error. Now we tried to tell you the other day that they found I could use absolute error, but we found out by advice from the experts that percentage of error is a finer distinction than the relative error. So we take the 1,776 and we divide it by the smaller number, and I get 74 per cent error.

HELLENTHAL: Mr. Gray, might you point out what you mean by that.

GRAY: This is the percentage of differences, if you wish the word.

HELLENTHAL: In other words that it might be off somewhat from true philosophical niceties, but it isn't mathematical error?

GRAY: No, it's an error in relative position. If these two figures were the same, it would be zero, and it's a question of relative fairness. If these two figures were the same, it

would be absolutely fair. As long as you have one representative representing 4,140 and one representative for 2,372, the difference in representation, the relative difference is one representative is representing 1,736 more than the other, and you just work it down to percentage. So if you establish the one at 74 per cent, now we'll use the other figures here (computing figures on blackboard). It gives a difference of 1,484. Take your 1,484 and divide it into these smaller numbers 2,074, and you come out with a 71 per cent difference. The other one was 74; this is 71. The error in representation was larger than the other, this being smaller, this must be the more nearly fair of the two.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, may I ask a question of Professor Gray?

PRESIDENT EGAN: You may, Mr. Londborg.

LONDBORG: Aren't the two numbers reversed? The 2,074 should be divided into the 1,484?

GRAY: Correct.

(Laughter by the Convention)

PRESIDENT EGAN: The Convention will come to order.

GRAY: The answer came out the same. The idea is to come up with the right answer no matter how it's done.

(Laughter by the Convention)

PRESIDENT EGAN: The Convention will come to order. Are there other questions? Mr. Davis.

DAVIS: Mr. President, just so it will be clear now, if I understand what Mr. Gray has just said, on the sheets which have been passed out, on District No. 5 should now be changed to 2, and District No. 4 should also be changed to 2 instead of as they are in the sheet.

GRAY: That would be taken care of at a regular amendment, and the first system, as set out there was the Benton system, which was the greatest major fraction, and that is correct under the Benton system the old discarded system. Now in applying this equal proportion method to the same figure, they all came out the same, with this one exception. This is the one exception, otherwise, the Benton system and the equal proportion system would give you the same answer.

DAVIS: I understand that, but that -- but the actual figures --

GRAY: The actual figures here are as we reported it, and when the amendment comes up, we'll amend the thing so it will appear in the record as why it was amended.

PRESIDENT EGAN: Are there other questions to be asked of the Committee? Mr. Hurley.

HURLEY: Mr. President, it's going to be very difficult for me to ask a question when I say what I have to say, but I will attempt to. I refer back to a little while ago to remarks by Mr. Kilcher. The figures he put on the board which were alluded to as being somewhat absurd. I don't think the figures were absurd at all; and neither do I think that they necessarily sink the particular proposal as brought out here. I think the differences can be reconciled. Now they can't be reconciled morally and they can't be reconciled mathematically, but practically, as times goes on and our population increases -- I'll come to my question -- is it not reasonable to believe that the apportionment board that you have set up and the pressure of the growing area will have to make some compensations for this thing? That situation could happen that he showed. In fact, there is a tendency now that if it is carried on, it would happen, but yet, at the same time, we can't devise a system that is going to work forever. And I think the thing that we should keep in mind is that as these situations come up they will have to be met by the best minds that are around. If it takes a constitutional amendment, then that's what it's going to take.

PRESIDENT EGAN: Are there any other questions? Mr. Taylor.

TAYLOR: Mr. President, I'd like to ask Mr. Hellenenthal if he had explored any other method of having the apportionment commission appointed. My viewpoint of it is that the governor, who is the head of the executive branch of the government, chooses his own board and then makes a reapportionment as the commission reports to him. Why did you necessarily select the governor with his own commission? Had you thought of any other method of commissions?

HELLENTHAL: Yes, Mr. Taylor. Great thought was given by the Committee to other methods. It seems that historically -- well, first of all in the history of the nation, the legislatures met and did their own apportionment and reapportionment, and redistricting. That method was a total failure, and it has been a failure in every state of the Union. So various modifications crept in in order to assure that the reapportionment will be made and that there will not be neglect, and that rotten boroughs won't creep up, and that irrepresentative government develop. Now in the State of Illinois they even went so far as to provide that if the redistricting and reapportionment was not made forthwith by the legislature, that every legislator would be chosen at large until the reapportionment was completed. A drastic, drastic step, but that's the

only way they felt that it could be forced. Now a lot of it comes from the principle that you can't mandamus the legislature, and in many states they just sit there. Washington was a good example. They just sat back and figuratively thumbed their noses at the people, and the reason for it was that they just couldn't resist selfishness, and the enormous pressure that was brought on them by their constituents, and a deplorable situation developed. In Washington, as I stated, it took the initiative to reapportion, and only after countless law suits and immense harm to the people. Now there are other plans. There is no end of variations of plans that can be devised for the reapportionment with the mandamus feature, and you could have variance where a board can be picked -- three from the legislature, three nominated by the judicial council, if you want, three of them nominated by some other group of civilians, some appointed by the governor, and get a good cross-section, and they could have the authority themselves to make the redistricting and reapportionment. There is no end to it, but the best thought seemed to indicate that the people would be best helped if it were an executive function. Now the legislature has a powerful check. If two-thirds of them don't like it, they can call for a constitutional convention -- or rather a constitutional amendment. There are lots of things the legislature can do to indicate their protest, and if their protests are valid, there are lots of things they can do to make their point. But it is the inaction of the legislature, as testified to by the universal history of the 48 states, that we're trying to overcome.

TAYLOR: Did the Committee realize that at the time they selected the governor and his commission of five, that the commission, or constitution would confer upon the governor a law-making power for years and years to come until there would be a constitutional convention, or the constitution be changed?

HELLENTHAL: Well, as I said, I think the governor is subject to many checks. Of course, in my mind the most powerful check is the check of public opinion, and I can't imagine a governor just disregarding the constitution, and there are so many other checks -- his re-election is another check, his recall. It wouldn't amount to address, but you could impeach the man, if he just flagrantly disregarded your constitution. I don't think he will.

TAYLOR: One other question: This is not too important, except we happen to be looking at it from the law viewpoint. Why in this proposed article, did you confer upon the supreme court of the State of Alaska original jurisdiction to try disputes as to reapportioning?

HELLENTHAL: That language came identically from the language of the Hawaii Constitution which was recently adopted, and we felt that the matter of such supreme importance as this should

be conferred on the supreme court and that they should be given original jurisdiction. There might be a better court.

TAYLOR: Do you not believe that the superior court could be more available to any disgruntled voter living in these areas which have been reapportioned and they thought it was wrong to bring it in the district court or superior court and allow the supreme court of Alaska to be the appellate court in case anybody was disgruntled with the action of the district court?

HELLENTHAL: Of course their review would be confined to review of legal matters and not facts. Perhaps it was thought that the supreme court was a bit more detached than a superior court.

TAYLOR: But if the district courts abuse their discretion, you can always raise that in the appellate court.

HELLENTHAL: But as you know and I know as lawyers, to raise the question of abusive discretion you have got to be awfully right.

TAYLOR: Could you not in your proposal put it that the superior court should have original jurisdiction and that the supreme court would be the appellate court and also could find as to the facts?

HELLENTHAL: Try it all over again? Sure. But I think it would be a bit expensive.

TAYLOR: But try it on the record.

HELLENTHAL: It would delay things, but it would give you two courts instead of one.

TAYLOR: Mr. Hellenthal, as Chairman of the Committee, I think that you and your committee have done a wonderful job. There are just a few of those little, minor things that could be ironed out and should not take us very long. I feel now, from the explanations that you and Mr. Gray and other members of the Committee made, that I believe I would be willing, at the present time, with a few minor changes along the lines that I thought of or that have come up. I'd be willing to adopt this proposal in very short order.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President. I'd like to ask a question of Mr. Gray. I'd like to pursue this matter of the ability of the governor, with advice of the board, to subdivide election districts. Now if I'm correct, in none of the 24 election districts as established by the Committee, is there more than one center of population, with a population greater than the quotient. Each election district just contains one major center of

population or more?

GRAY: I believe so, in the areas that I know. What happens in that Anchorage area? I see they have a population of 23,210. I couldn't answer your question. I would refer that to Mr. Hellenthal.

WHITE: That isn't my main point. I'm on the way to it. Taking that for granted at the moment, I would assume that this provision for subdividing would be to allow for cases that might arise where there are two major centers of population within an election district, each of which might grow to have more than a full quotient, let's say in the case of Haines-Skagway, or Petersburg-Wrangell?

GRAY: I would assume that is the point, because if they have a quotient, they are entitled to a representative; that's the basis of the whole idea.

WHITE: Now my question is, would it hurt the provision for subdividing these districts by saying that such subdivision would only take place in the case of there being two or more major centers of population with a population greater than the full quotient?

GRAY: Well, that's a restrictive clause. You restrict a population area well, take an area like Haines for instance, back in my country. Now Haines by itself would have 2,724, the rest of the district the nonurban area would have the remaining quotient. If you have to have two populated cities, you can't divide that district because you would have just one population center just spread out. Now the point is, could you isolate the populated areas from the other districts? Under the present program you could.

WHITE: I should assume that it was the Committee's intent to allow that kind of subdivision to take place?

GRAY: Speaking for myself. I understand that that is true.

WHITE: Now would it be normal procedure under this subdividing provision to subdivide an area, let's say like Election District 15. for example, in which there would be a number of smaller population centers, none of which have a major quotient?

GRAY: Yes, that's quite true.

WHITE: Is that also what you wish to make possible?

GRAY: In my opinion it was. If you'll look on the map to your Alaskan peninsula, in the Aleutian Islands you have a district there that runs 1,400 miles. In that one district you could have 2,700 people, and 1,400 miles from the population

of Attu Island, although there is no one center of population; and in that case -- that happens to be an extreme case -- but in that case, as pointed out, you would divide the section and have the same socio-economic areas as a compact unit and have the quotient creating a district.

HELLENTHAL: How many could you get, or could the board get if they chose to get the maximum, say in that District 15, or which is Bristol Bay, or 14, which is the Aleutians?

GRAY: Well, just under the general practice on account of your population, and using your quotient, the number of districts that you will create under any group will run between one-third and one-half of your districts only with that full quotient. Now you can possibly see, like Mr. Kilcher did, on extremes with figures you can run any way you wish. But in our experimental work on this we found that the total districts, like you have in District No. 1 -- I believe you have 1, 2, 3, 4, 5, 6, 7 -- you have 14 complete districts out of 24 with a good representative example; and that's a good reason why you could presuppose, and all this redistricting that will come up in 1960 and 1970 will run about the same way with your redistricting.

WHITE: Let's say we have a legislative district that is fairly homogeneous, and with socio-geographic factors, could you still, in the absence of any major population centers whatsoever within that district, take a line and divide it down the middle under this provision for subdividing so long as you wound up with the major quotient in each house?

GRAY: Well, as pointed out here, a newly formed district, you have these four provisions and the redistricting board. You would have to follow the requirements in the constitution.

WHITE: If you got an egg and cut it in half, you still got the egg in both halves.

HELLENTHAL: The point is, it would be impossible to arbitrarily cut a line down through any election district, because it would violate the very clear principle that the new election districts must each be compact. It would violate compactness; secondly, it would violate the principle that they should be socioeconomic areas. It would be only the most remote sort of interplanetary coincidence that would permit an exact line to be drawn down through the heart to coincide with socioeconomic boundaries. It just doesn't happen.

WHITE: My purpose was accomplished, Mr. Hellenthal, by getting that on the record. One more question, taking the case of Fairbanks area, would it be suitable grounds to subdivide here between Slaterville, let's say, outside of the city and Fairbanks, inside the city?

GRAY: In my opinion, no. That was brought up whether we should isolate the city, and that was clearly thought out and discarded. And it may be my background, but I don't believe the isolating of the city, the municipality, appears in this form; and it was my understanding in the discussion that we discarded the isolation of the municipality because the fringe people are the part and parcel, economically, of your city.

WHITE: That would be my understanding.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I have a question of Mr. Hellenenthal. What is the advantage of working through the governor to reapportion rather than having the board of reapportionment doing it directly itself?

HELLENTHAL: It was felt that it was primarily an executive function.

SUNDBORG: Would it not still be so even if they were a part of the executive branch of the governor, even though appointed by the governor?

HELLENTHAL: It is conceivable; it could be worked that way.

SUNDBORG: Is there some advantage to saying that they shall report to the governor and he shall do it?

HELLENTHAL: Well, yes, in a sense it keeps it under the executive arm of the government; it does away with a permanent board. It was felt that it was a proper executive function as contrasted to the legislative, although I think the objections would be greater to turning it over as a legislative function than to having it as a board function.

SUNDBORG: Well, I wasn't suggesting that it be turned over to the legislature, but why bring the governor into this, except to say that he shall appoint the board?

HELLENTHAL: Possible. You might feel that the governor should appoint the board. But it's nice to have one man, it would seem to me, I'm trying to think of the recommendation, that one man be ultimately responsible and that the ultimate responsibility would be placed there.

SUNDBORG: Now as I read this, although it says that the board shall act in an advisory capacity to the governor, actually he has no discretion, does he, except to carry into effect whatever plans of reapportionment that the board of reapportionment submits to him?

HELLENTHAL: I think that the governor does have discretion, and,

as I said before, he could, I believe, theoretically, disregard the advice of his board. I think he could, but he would have to answer to the courts because of any error in redistricting is subject to review; any departure from the limitations imposed in the constitution. Theoretically, he'd have a discretion, but he'd have that mandamus as a check; public opinion as a check; recall, and so on as I stated before.

SUNDBORG: The language on page 4, the second paragraph of Section 5 says: "The board shall submit to the governor a plan..."

HELLENTHAL: Yes.

SUNDBORG: And the governor shall "...issue a proclamation showing the results of such reapportionment or redistricting, which shall be effective..." Now where he has any discretion in there, I don't see.

HELLENTHAL: Well, we think in the entire language it clearly vests discretion in him. It says, Section 5, line 7: "...and act in an advisory capacity to him."

SUNDBORG: Advise him what to do, I see, but I would say under the second part of that section he has no discretion but to follow their advice.

HELLENTHAL: We felt entirely different on that. This use of the word "advisory" made it purely an advisory board, and we wanted the plan though to be submitted in writing so that if the governor did go off, there would be a record of what he went off from, and we could show the people could show where he departed from the considered judgment of this advisory board. You will notice, too, there is a provision made for the employment of assistants. Now the reason for that is that the Census Bureau has a staff set up in a special agency in the Census Department with specialists who make their livelihood of applying the method of equal proportions and they send them to areas where they are desired; and we want to be sure that these services will be available to the new state.

SUNDBORG: What advantage is there to permit the governor to depart from the plan of apportionment which this nonpartisan board, which has studied it, recommends to him?

HELLENTHAL: Very very little, but he might think of something they didn't think of.

SUNDBORG: I'm afraid he would, and that's why I think it should be done by the board, or else to allow the governor no discretion. When an election district collapses, does it lose its identity?

HELLENTHAL: No, it's joined with the next adjacent district, and the people are members of that district until their

population grows again so that they can once again be represented.

SUNDBORG: Until such time as they again get enough population, they would automatically become an election district?

HELLENTHAL: Yes. Here it is here: "Should the total civilian," reading from lines 2, 3 and 4 from page 2, "population within any election district fall below one-half of the quotient, such election district shall be attached to the election district adjoining it having the least civilian population and the reapportionment shall be determined for the new district as provided above." So no person will ever be disenfranchised.

SUNDBORG: I didn't ask that, I realize that no person is ever disenfranchised but say, what if Election District No. 22 falls below the required number and collapses and is attached to Election District No. 24, is it still an Election District No. 22 which, once it gets one-half of the quotient automatically comes back in?

HELLENTHAL: No, because you can't tell what will happen. It loses its identity, in other words, and it should properly lose its identity. A good example I think that is near to us all is Big Delta. Say Big Delta might possibly, as a little economy is growing there, people are gathering down there and from my own observation, it might grow in population so that it could go over the hurdle and be a separate election district. It is a very good example of a separate socio-economic district within a greater one. It is in its own little watershed area, which in turn is within a larger watershed area. Now Big Delta might grow and then fail. Tok might grow up in the meantime and the emphasis would be shifted to Tok which is still in the greater watershed area, then it would spring in and it might rise, or perhaps fall. That is up to the redistricting board, according to those four or five principles set out in Section 2.

SUNDBORG: Did the Committee give thought or consideration to the possibility of providing that when one of these election districts collapses, instead of being attached to the one adjoining it or having the least population, that it would be attached to the other part making up the senate district?

HELLENTHAL: May I defer answering that for a minute, because I may have made a mistake.

COOPER: An election district does not lose its identity; it is still a half of the senatorial district and as such has its definite boundaries and perimeters. So it's still an election district even though it doesn't have the population representation.

SUNDBORG: I see, and the governor could not give it back under

the provision where the governor can create districts. The right to elect a representative or be a representative or election district, it would have to reach the full quotient?

COOPER: Yes.

SUNDBORG: Mr. Hellenenthal, did the Committee consider, or is there any merit in the suggestion that when a district collapses it be attached, not to whatever one of four or five contiguous areas which has the smallest population, but to the one within the same senate district?

HELLENTHAL: Which one?

SUNDBORG: Well, your election --

HELLENTHAL: You mean within the first step process?

SUNDBORG: Yes.

HELLENTHAL: Yes, sir, and in every instance it would work out exactly that way.

SUNDBORG: Wouldn't it make it simpler from the standpoint of distributing ballots and so on to have it in the same senate district than in one across a senate line?

HELLENTHAL: I think it's just a choice of language. I think the same result follows in any case.

SUNDBORG: Except, that say 1 and 2 together now would elect a senator, wouldn't they?

HELLENTHAL: Yes, sir.

SUNDBORG: What if number 2 -- for the sake of argument -- collapses and you attach it to 3, because it is the one adjoining it which has the smallest number.

HELLENTHAL: Yes.

SUNDBORG: Then you would have the situation where 1 would be electing some representatives and 2 and 3 together would be electing some representatives, but No. 1 and 2, which is not in the same senate district -- wait a minute -- 2 and 3 which are not in the same senate district are electing the same representatives.

HELLENTHAL: The area concept would prevail there. I think that was the point Mr. Cooper brought out that I didn't bring out too clearly.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I think Mr. Sundborg's assumption there is correct. We went over that in the Committee, and they would be joined with the contiguous areas within the senate area.

PRESIDENT EGAN: The Chair would like to bring to the attention of the delegates that the hour of the arrival of the bus is drawing near, and if it is the desire of the delegates, we could continue this at this point in the morning -- this discussion about the proposal, and finish this before we proceed with any proposed amendments to this article. Is that the feeling of the delegates? Mr. Barr.

BARR: Mr. President, I do have two or three simple questions I'd like to ask, but I also want to go home. If I'll be given an opportunity to ask them in the morning, I'll make the motion to adjourn.

PRESIDENT EGAN: There is evidently general consent that we proceed in that manner -- no amendments will be offered until all delegates have had ample opportunity to have asked their questions of the committee. Are there committee announcements? Mrs. Sweeney.

SWEENEY: Mr. President, I would like to ask Mr. Coghill of the Administration Committee as to whether there was a decision on working tomorrow night?

COGHILL: No, Mrs. Sweeney, there was no decision. I thought we would bring that up on the floor tomorrow morning.

PRESIDENT EGAN: Mr. Barr.

BARR: I move that we adjourn until 9 o'clock tomorrow morning.

UNIDENTIFIED DELEGATE: Second the motion.

PRESIDENT EGAN: Are there committee announcements before we actually adjourn? If there is no objection, the Convention stands adjourned until 9 o'clock tomorrow morning.

ALASKA CONSTITUTIONAL CONVENTION

January 12, 1956

FIFTY-FIRST DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Armstrong, would you give our daily invocation?

REVEREND ARMSTRONG: Our loving Father, we ask Thee to use us in this day, we pray, that in the service of our future state that we might mark well those sign posts of life and liberty and pursuit of happiness for those yet to come. Keep us vigilant, keep us peaceful, and make us progressive in our thinking, for this we pray in Jesus' name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Are there any communications from outside the Convention? Are there reports of standing committees? Reports of select committees? Are there any proposals to be introduced at this time? The Chair would like to state that General Dean will make his speech in the college gymnasium this afternoon at 1 o'clock. Following that speech over there he will come here and we don't know the exact time, so we will just have to hold that in abeyance, but General Dean will be here this afternoon to make a few brief remarks. We invited him to do so. Mr. Smith.

SMITH: Would it be in order to make a committee announcement at this time?

PRESIDENT EGAN: If there is no objection, Mr. Smith, you may make a committee announcement.

SMITH: I want to announce that the Committee on Resources will meet Sunday at 2:00 p.m. at Apartment 504 in the Polaris Building. I would like to announce also that the Committee on Resources will meet tomorrow at 12:50 during the noon recess in one of the committee rooms upstairs.

PRESIDENT EGAN: The Committee on Resources will meet Sunday at 2:00 p.m. at Apartment 504 in the Polaris Building and at 12:50 p.m. tomorrow in one of the committee rooms. Are there other committee announcements? Mr. Coghill.

COGHILL: Mr. President, it has been brought to the attention of the Committee on Administration as to whether the delegates wish to meet this evening. It seems there is some feeling among

the fair sex of the delegates that they would like to have this evening off for purposes of getting their hair fixed and what not.

PRESIDENT EGAN: What was the motion made on Sunday that was generally agreed to? That we go through the week or through Friday, what is it? What is the feeling of the delegates as to the evening meeting? We should let the committee chairman know so he can notify the lunch room upstairs. Is there objection to meeting this evening? If there is no objection we will proceed on the assumption that the Convention will meet this evening at 7 o'clock.

COGHILL: I will notify the food center.

PRESIDENT EGAN: If there is no objection, that is the procedure we will follow. We have before us Committee Proposal No. 14. It is not open for amendment at this time, and we will proceed with the discussion that we began last night. Mr. Barr.

BARR: I have a few simple questions which I would like to have answered. I won't ask them of Mr. Gray, I am afraid I will be confused by figures. I would rather ask Mr. Hellenenthal, our able defender of principle. I agree with the Committee's report on all the detailed work they have done. I will have to make a little statement first to give you an idea of what I am getting at. I agree to their formula for proportionment of the general boundaries. I think they have done a good job on boundaries. I am acquainted with the people and the topography. The doubt in my mind has to do with your basic approach to the thing. For instance, the number of members in the legislature. It seems to me that rather than having the Apportionment Committee decide the number, the Legislative Committee should decide the number, taking into recognition the procedure in the legislature, what kind of men you want there, and terms of office and all that. Once the number was decided, that should have been turned over to your Committee and then they should be apportioned. The other thing is the number of election districts. Of course, we must have everyone represented, the different areas and small villages. I am strongly for that, but I don't see why one of these representatives could not represent a little larger area. Can you tell me how it was decided that we should have that number of election districts and that number of representatives?

HELLENTHAL: I will try, Mr. Barr. Your first question was aimed to determine why the number of legislators should not have been fixed first and then the apportionment made. Well, the Committee felt it was like the question of the chicken and the egg, and that the two could not be separated, and that an analysis of the necessary election districts must precede the fixing of the figure, and the Committee firmly so believed. Now for the moment let me pass any further discussion of that

first question and get into your second, because it is kind of co-related. Now on the second question, as to why was the number of election districts fixed at 24 and not some smaller number -- well, I don't want to repeat any matters that we went into last evening, but it was felt, first broadly, that to give adequate representation to Alaska with its many facets and many little distinct areas, that "24" was a necessary figure. Perhaps to approach it from the legislature, the legislature made the analysis and felt that "17" was a necessary figure coupled with certain representation from areas at large as represented by the judicial division at large and further representation from the Territory at large. I think there were seven chosen at large from the Territory in this body. So looking at it from that analysis, the legislature felt that was the way to do it. The Committee felt there were 24 separate socio-economic units with sufficient population at the present time to merit a representation based on present population figures.

BARR: Do you say with sufficient population? Now I notice from your figures here in the less densely populated sections, at least, your lowest figures, one representative should represent about 5,000 people. Now, where do you get that figure and how many states use that figure? It seems to me that in Illinois, the city of Chicago would be represented by 1,200 people in the legislature.

HELLENTHAL: We do not have that figure, one for 5,000. That was not the approach used.

BARR: I saw that figure somewhere.

HELLENTHAL: No, I don't know where.

PRESIDENT EGAN: Mr. Hellenthal, if the Chair may, is it not true that as the population increased that figure would automatically increase?

HELLENTHAL: That is correct.

BARR: I understand that. Well it seems to me, as I said, I approve of your boundary lines, but I disagree with the number of districts and the number of representatives for the reason I don't think they are necessary at the present time, and as long as you have provisions to increase the number of representatives with the increase in population that would be sufficient. And our first cost during the first years of statehood concerns me on the salaries -- we show concern here about the high salaries paid the members of the legislature -- well, they increase in number as well as increase in costs. The large number of election districts might have an indirect bearing on cost also. I have a feeling that future political subdivisions will take their cue from that. There might be more of

them smaller, and I mean such as boroughs and what not where we might have more courts and all. What was the representation you figure on population?

HELLENTHAL: It was not approached in that manner, but working back on it I would say, subject to correction by any of the mathematicians here, that excluding the two very large cities of Fairbanks and Anchorage, that the average election district contained approximately 3,500 people.

BARR: Just one other question, sort of important to this division, I just question your boundary in one place. As the boundary goes north from Fairbanks here, takes a jog around Livengood -- now I can see if you wanted to throw one village into another area, that would be okay with me. Livengood is connected to Fairbanks by a road; it is connected by scheduled airline. They get all supplies and mail from Fairbanks. Now I can see you followed the height of land there more or less, but Livengood is just in the edge of the hills, and you would not necessarily have to abandon that principle if you just came down off the summit down to the foothills there.

COGHILL: Mr. Chairman, Mr. Helleenthal, would you like me to try to answer that?

HELLENTHAL: You certainly know all about it, and I know nothing.

COGHILL: Mr. Barr, we used the watershed principle in drawing these lines. The water from the Livengood area flows into the Tolovana River, and the Tolovana River flows into the Tanana River at the community called Tolovana. It is on the south side of that range. The watershed flows this way. There will be no question in anybody's mind if these boundaries are preserved as to what election district they are in because on one side of the line all the water flows to the Yukon on the north side of the range and all the water flows south into the Tanana and into the Yukon on the other side.

BARR: I understand that perfectly. And you used that method in utter disregard of the social or economic aspects of the case?

COGHILL: I don't believe so, Mr. Barr. I believe it would be just as contiguous to Fairbanks as Manley Hot Springs or Rampart.

BARR: No, there is no road to Manley Hot Springs. There is no comparison at all. I think you have abandoned your principle of boundaries in that decision there.

HELLENTHAL: Livengood was never mentioned as such in committee discussions, and you may very well have a point there. That is one of the aspects of this plan. That is where your

redistricting would be an adequate subject for redistricting that, and I imagine there will be other similar cases. Whittier was a dandy. I ask you to focus your attention on the problem of Whittier which was on the other side of the watershed where the mountain was pierced by a tunnel, thus eliminating the barrier. Your point would be Livengood and similar points. If an error has been made, that is a beautiful job for the redistricting boards, and a good illustration of flexibility. In that connection I do point out, although this is of minor importance, that according to the 1950 census, Livengood had a population of 40 people and in 1939 had 153. From what I have heard I imagine the curve is declining somewhat there.

BARR: It has declined but I don't believe it will any further. You say this is a good job for the board. It is also a good job for your Committee right now, because I imagine when the election comes up the referendum on this constitution, the people of Livengood will object.

COGHILL: I would like to point out to Mr. Barr also that although we have maybe violated the socio-economic concept there and provided for the watershed, if you will go further down onto the Yukon River basin or the Kuskokwim basin you will find that the district between 22 and 21, we have provided for the socio-economic area, and we have violated the concept of watershed. You have to take and weigh one against the other in every instance.

BARR: The watershed will not complain but the people of Livengood will.

COGHILL: I don't think so.

MARSTON: With your permission, and the chairman of our Committee, I would like to elucidate just a little further on Mr. Barr's first question. We took for making these districts the patterns laid out by the legislature that made possible this Convention. It was a beautiful program they gave us, but we merely corrected that by adding to Cape Prince of Wales Island, the Kuskokwim River, the Bristol Bay, and the great Barrow district and took their plan and corrected the errors and gave representation to all of Alaska. Now to make these larger -- that Barrow district up there, that one voting district is larger now than half of all the states of the United States individually, so they are big pieces of ground we are throwing around, and I think they are plenty big enough right now. I merely add that to what Mr. Hellenthal said.

PRESIDENT EGAN: Mr. Davis.

DAVIS: May I ask Mr. Hellenthal a question? Mr. Hellenthal, in the report of your Committee and in your explanation you have several times mentioned the term "socio-economic". Now I

think that I know what you mean, but I am wondering if that is a term, a political science term, or something with any definite meaning; if it is a term that is used someplace else so that when somebody looks at this they can tell what we are talking about?

HELLENTHAL: It cannot be defined with mathematical precision, but it is a definite term, and is susceptible of a definite interpretation. What it means is an economic unit inhabited by people. In other words, the stress is placed on the canton idea, a group of people living within a geographical unit, socio-economic, following if possible, similar economic pursuits. It has, as I say, not mathematically precise definition, but it has a definite meaning.

DAVIS: I agree, but I still want to know whether or not it is a term that is used. Is it a political science term, so that when somebody uses it they will know what we are talking about?

HELLENTHAL: Yes, definitely. It is in common use among political scientists.

SUNDBORG: A few minutes ago when Mr. Barr addressed a question to you, Mr. Hellenthal, I heard him say, and I did not hear you say otherwise, that you had made provision here for an increase in the future for a number of representatives. Is that correct?

HELLENTHAL: No, that is not correct.

SUNDBORG: Mr. Barr stated there is no provision in this proposal for an increase in either the number of representatives or senators. There would always be 40 representatives and always be 20 senators?

HELLENTHAL: Correct.

JOHNSON: Mr. President, may I address a question to Mr. Hellenthal?

PRESIDENT EGAN: You may, Mr. Johnson, if there is no objection.

JOHNSON: In connection with this word "socio-economic", I had a question also as to whether or not it has ever been defined on a legal basis. In other words, do you know of any court that has ever had occasion to define it in an opinion?

HELLENTHAL: I do not.

JOHNSON: I can see where this might come into play if this particular section gets into a state supreme court, and I just wondered if there were any legal precedents for this type.

HELLENTHAL: I think it is a political and economic term rather than a legal term.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I would like to ask Mr. Hellenenthal a question. In your Committee's thinking did you give any consideration to the possibility of holding back out of your 40 members of your established house, holding back a proportion or some few of that 40 pending the 1960 decennial census? In other words, we are about midway, currently, of the decennial period and my thought was that if a certain reserve, three, four, five, or six of these 40 might be held back pending that actual population figure establishment at that time -- did you give any thought to that?

GRAY: Mr. Hellenenthal, I think there has been a little confusion on that. By a matter of equal proportions, after the first group is set up, in this case it is 24, from then on all additional senators are on a priority list. With this same list you can pick the top 40, top 41, 86; if the basic in this is 24 we can pick out the 25th and from there on to infinity so that as long as you have a system you pick the top 40, why the first 40 on the priority list; that is it and the 40th man will always go to the most deserving district as the factor is there. Does that make it clear to you?

HELLENTHAL: In other words it would destroy the method of equal proportions and it would throw the remaining representatives and their distribution completely out of harmony.

MCNEES: I fail to see in my thinking your last statement where it would throw it out of harmony. It would seem to me you could hold your 24 currently or any figure beyond that as your house and add to it only as population warranted it in the future. In other words, say you take on three or four more added at the end of 1960, maybe another couple at 1970, and maybe the last one in 1980, and make it available then. You feel it should absorb the full amount now? That is the Committee thinking?

HELLENTHAL: Yes.

GRAY: It does not make any difference, Mr. McNees, and in the redistricting you have another group. I do have one of these schedules made out. I will have it mimeographed, and I think you will follow the importance of this priority list. I think it will explain the question. The individuals or the districts that deserve its 40 now might as well have them because there is no further claim. After another district is made, why there will be a district that will deserve the 40 representatives and you save nothing by holding back.

HELLENTHAL: Might I suggest, Mr. Gray, that the delegates contact you and see the list rather than wait until it is mimeographed because I anticipate only a relatively few specialists will want to analyze it. It is available and has

been as announced for several days, so be sure to see Mr. Gray about it.

COGHILL: This might clarify a point that in order to find out what the fair representation is, Mr. McNees, you have to have a common divider. The common divider is the total amount of representatives. There are 40. If you divide the population by 40 the figure you get is what each representative is truly representing in our population by numbers, and therefore, if you only give 35 representatives and you are using the 40 figure, there are five quotients that are unrepresented in Alaska. Does that explain your point?

MCNEES: Yes. The only reason the question came in my mind at all, I appreciate the Committee's thinking on this, but in the Legislative Committee we came up with a maximum figure of 40 for the house, where you established it as a fixed figure. That was the only question in my mind. I like the work you have done in this. I think it is splendid and the only question in my mind was where we established it as a maximum figure you took it as a fixed figure and I just wanted a little bit more of the Committee's thinking on it. I have it clear now I think. Thank you.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to point out to Mr. McNees and anyone else who might be thinking in terms of reducing the number of house seats at this time, that following the method of equal proportions as you decrease the number of house seats allocated at this time, the quotient increases and if you knock it down to 37 the immediate result would be that Yukon Flats, Arctic Slope, and Cordova would lose the representative to which they would be authorized immediately under this plan.

PRESIDENT EGAN: Are there other questions? Mr. Doogan.

DOOGAN: Mr. President, I may have missed something along the way, but I would like to ask somebody on the Committee if they had considered reapportionment, but not redistricting. Now as I understand it, if a district loses or goes below the major fraction or quotient, they lose their representative and they are bound to the next smallest district. In the case of the senate actually being a district, it does not lose its identity because they still maintain their senate representation, and I am wondering if they had given some thought to setting these 24 districts as permanent districts and considering reapportionment in the future on that basis.

COGHILL: I think Mr. Gray could probably answer that question, but I would like to interject the point, Mr. Doogan, it would violate the concept of equal proportion from the standpoint that if a district does not come up to the standard or the amount of

40 divided into the total population, why then they would not be eligible and a representative would not be representing an equal amount of people.

ROBERTSON: I would like to address a question.

PRESIDENT EGAN: You may, Mr. Robertson.

ROBERTSON: In my Proposal No. 6 I proposed that the senate consist of 16 senators and that the present judicial divisions should be made into legislative districts. Now, first, I would like to ask, have you not in your proposal entirely ignored the theory of having representation at large as our federal government has in senatorial representation? Also, have you not entirely ignored the experience we have had since 1913 in having senators at large from each division?

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I think that we went into these matters last night, but I will repeat them briefly again. The Committee has not ignored the principle of representation at large. In fact eight of the recommended 20 are chosen at large. Furthermore the remaining 12 are chosen at large perhaps from a smaller area than historically chosen in Alaska, but they are nevertheless at large. Now, the figure of "20" was chosen with the thought in mind of wieldiness, wieldy or unwieldy. After the analysis of other similar states with particular emphasis on western states with mountainous terrain and with scattered population, such as Alaska, and the principle being kept in mind that the Committee felt strongly that emphasis should be placed on giving representation in both the house and the senate to a degree to representatives from nonurban areas; I use the word "representatives" in the comprehensive sense, to include both senators and legislators in the house, and with those principles in mind, the rigid plan, the historical plan which you followed in your proposal and which was carefully considered by the Committee, it was in those respects that I have outlined, and for the reasons stated, the broad reasons, departed from.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. Hellenthal, I believe that Mr. Fischer misunderstood me a bit. I did not propose to reduce the number of representatives without reducing the number of election districts. I would like to ask, suppose we cut the number of election districts in half or reduce them greatly and the Yukon Flats area was combined with another district, then they would be represented, would they not?

HELLENTHAL: Oh yes. I am sure you had that in mind. I cannot conceive of anyone in this group who would want to leave any portion of the state of Alaska unrepresented.

V. RIVERS: I would like to ask a question or two to clear up my own thinking. In connection with the election districts, as I understand it, under the redistricting clause -- the governor's board will have a chance to adjust not only the number to divide and subdivide them and add together, but also will have a chance to adjust somewhat the boundaries and area, is that correct?

HELLENTHAL: That is correct.

V. RIVERS: In connection with the senate districts inside of the over-all districts, that will also apply to those districts inside the senate districts?

HELLENTHAL: To a very very minor degree and subject to the five limiting factors set out in Section 2 and the additional limiting factor that the approximate perimeter must be preserved.

V. RIVERS: That's what I'm leading up to. Now on these main four districts, do you consider the boundaries of those four districts as fixed political subdivisions of the state?

HELLENTHAL: No. They are to be used only for the purpose of senatorial representation of a certain type; namely, the at large representation and that is primarily concerned with the eight recommended senators chosen at large from these senatorial districts.

V. RIVERS: In the over-all boundaries of the senatorial districts there is some slight flexibility?

HELLENTHAL: Yes, slight flexibility.

V. RIVERS: That could be made then to more or less fit into the boundaries of local government districts as they might be adopted later?

HELLENTHAL: Yes. Say there is a change on an election district on a perimeter of a senatorial district and the redistricting board feels that a change is in order. Take the Livengood matter. Assume Livengood is on the perimeter of a senatorial district, and it were determined that Livengood should be encompassed in the Fairbanks district; then that senatorial district to that very limited degree, its perimeter should be adjusted in keeping with the decision of the redistricting board.

V. RIVERS: Did you gear all other subdivisions of government to the boundaries of the election districts -- could we make them coincide with boundaries of adjacent local government districts in slight degree in this same area?

HELLENTHAL: We did not try to gear it with any other committee

or any other subject matter, but after reading the committee reports of those committees that pursue similar subjects, I was impressed, and the committee was impressed, with the similarity, almost the identity of the conclusions reached in that regard, so I think that they are, although not intentionally, I think they are geared completely.

V. RIVERS: You agree though that there is certain flexibility in the boundaries of these over-all four political subdivisions?

HELLENTHAL: To the degree outlined.

V. RIVERS: I, of course, note and I think everyone else does, that this representation plan is heavily weighted in proportion to people at least, not area, in the favor of the rural areas. I wondered if you thought how long it would be in the general trends of population before the urban areas and representation would catch up with the rural areas. Now, I don't state that as a criticism. I am merely asking you for information because I know that the general trend and tendency in a new area like this is to grow and to certain centralization. As my analysis shows it, 75 per cent of the present population and 75 per cent of the taxing power, you have approximately 18 representatives of the 40. Is that somewhere near your figures?

HELLENTHAL: I think so, Mr. Rivers.

V. RIVERS: Would it be 10 or 15 or 20 years before they might reasonably balance out?

HELLENTHAL: Frankly, I don't know, but you could say in a real sense that the urban areas will never become equalized with the hinterland areas and deliberately so. The committee deliberately made that concession to the hinterland areas feeling that the gain was well worth it.

V. RIVERS: I wanted to fix in mind where there was any coordination first with other local concepts of government boundaries and just how fixed and inflexible these boundaries might be.

HELLENTHAL: In that connection, representatives of other committees that are concerned with similar problems have worked closely with our group and observed its progress and apparently they are in accord and they find nothing contradictory with the conclusions that are recommended by this Committee.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: May I address a question to Mr. Hellenthal? I note that the senatorial districts follow somewhat the same as our old judicial divisions in numbering. We jump from one up to two and back to three and up to four. Would there be any objection to following some orderly procedure in setting up those

districts?

HELLENTHAL: No, the Committee made no recommendation as to the designation to be applied to the senatorial districts. You will notice that in the committee report they are referred to as "A, B, C, and D" in one place. In another place with the Roman designation "I, II, III, and IV", and in still another portion of the report they are referred to as "Southeastern Alaska, Southwestern Alaska, the great River section of Alaska, and the Arctic Slope of Alaska". This group could feel free to adopt designation it sought. Another designation might properly be "Southeastern, Southwestern, Central and Northern".

BOSWELL: Then that is to be taken care of when we start working on the article?

HELLENTHAL: Yes, indeed.

PRESIDENT EGAN: Are there other questions of the Committee? Mrs. Sweeney.

SWEENEY: Mr. President, I would like to ask Mr. Hellenthal if on this map of the senatorial districts, say for instance, the "D" Section should all of a sudden take a great spurt and have a great increase in population, their senatorial representation does not increase, is that right?

HELLENTHAL: That is correct.

SWEENEY: If the First Division or a division down here had a drop we would never lose our five?

HELLENTHAL: That is correct.

SWEENEY: A few minutes ago you said that there was a possibility that the Livengood area, which is in Legislative District 23, might be joined to Legislative District 24, "or is Livengood in 22? I don't know, but anyway it is in that "C" section, and it might be joined to a "B" section, and then at another point, say Legislative District 16 be jointed to 17, you are losing two legislative districts out of the "C" section. Now would there not be some question on senatorial representation? You are losing districts to two senatorial districts.

HELLENTHAL: Very careful attention was devoted to that problem, and in a few minutes some clarifying language will be submitted by the Committee in connection with that very proposal, so the intent of which is to make it crystal clear that there will be no loss in senatorial representation.

SWEENEY: My point is that, I understand if the population increases they get increased representation, but there is none in the house?

HELLENTHAL: That is unless the population of every other district in Alaska likewise increased proportionately in which case there would be no increase. It is a relative increase for which the award of extra representation is made.

SWEENEY: But there is no increase in the senate?

HELLENTHAL: That is correct.

SWEENEY: I put in a proposal, you will recall, to keep the representation in the senate on an equal basis and I am wondering if it would be possible to leave your lines as A, B, C and D and not call them judicial divisions but keep your plan just as you have but instead of giving five in the Southeast and six in the Southwest and five in the Central and four in the Arctic Slope or the North Section, whatever you called it, make it equal?

HELLENTHAL: It would be possible but the Committee definitely recommends against it.

SWEENEY: I would like to recommend to the Committee that they consider this again; then if you want to have your 20 you can have them at large. I would like to see the senatorial representation equal.

V. RIVERS: Equal to what?

SWEENEY: To each other. On an area basis. On your A, B, C, and D districts you would have equal representation in the senate except for the four at large -- you might have unless you want to make them five in each district and use up the 20.

GRAY: May I help you on this? The Committee had two distinct plans. One on one extreme and one on the other extreme, and like everything else with our multiplication factors there are compromises. The one plan on the one side was the four areas with four senators from each area like you have stated. On the other side we had 24 districts and a senator to each district. So by taking half of one plan instead of taking one senator from each of the 24 districts, we took half of it, one for each two or twelve from the area spread. In the same way we took half of the other side instead of four from the major districts we took two. So what you have here is a compromise between your plan and a compromise from somebody else and their plan. I think Mr. Coghill's, but this is a compromise, half of your plan in this senate composition and half of the plan in the other extreme. It can be changed, but this is a compromise factor, and this is how they reached the two systems of senators, senatorial representatives encompassed in this one plan.

PRESIDENT EGAN: Mrs. Sweeney, do you relinquish the floor?

SWEENEY: Yes.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I inquire of the Committee along the line that Mrs. Sweeney has been approaching that if I understand her question correctly and if the plan that she was talking about were adopted, it probably would mean that five senators would be assigned to Division A, five to Division B, five to Division C, and five to Division D. I think that is what she means by this equal proportion, or equal division. But did you consider the possibility of that sort of an arrangement when you were discussing and preparing this plan?

HELENTHAL: Yes.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, I don't know if I can answer anything that has been presented here by our able Chairman, however, as a member of this Committee, I would like to say a few words on this work that has been presented here for your consideration. As has been related here already, we had proposals from practically all parts of Alaska before commencing our work into committee, and I assure you it was not an easy matter to come out with a report that we have here before you. Some of you will recall that at times we had to have some peacemakers in on our committee meetings. But the result was we came out with a compromise program that I feel can't be much improved on. As far as I am concerned, I happen to come from a small community, a small area, and I presented my view. Fortunately we had other problems similar to mine throughout Alaska, and we compromised there. Consequently, in the house, Prince of Wales Island, incidentally the largest island under the American flag, will have one representative, etc., all through the Territory of Alaska, where a similar condition exists they shall have a voice in the government in the future State of Alaska. That is the object your Committee had in mind. In forming this new state, we wanted all sections represented, and I think we were successful through compromising here and there to give that representation to all areas of the Territory as far as the house was concerned. Now we come to the senate and as you well know, the primary concern of all of us here was to keep our expense down. Your Committee was very much aware of that also, so it decided perhaps a 20-member senate would be sufficient to conduct our government. On that basis we went to work and arrived at this conclusion that is now before you. Personally, I can't keep away from referring to my own area because I am most familiar with it. In my particular area I am joined up with Ketchikan and Hyder. We will be entitled to one senator and we go up the line, Petersburg, Wrangell, and Sitka would be in the same situation -- Juneau, Haines, Skagway, etc. Now we were confronted at the time before

making decision here whether we should have representation elected at large from the entire Territory; some of you requested it and a few of us from the hinterlands you might call it, felt that this would be unfair. We realized that perhaps once out of 20 or 30 years perhaps we would have a timber that would be competent to participate in the state senate, but we did not rule out the fact that such a condition would be possible. Again we were asked, how would you guarantee that. My answer to that is I don't care where you come from, how small a community, if you participate in your own party, take an active part, your voice will be heard, and if you are a good man you will be recognized. I am willing to gamble on that. I am sure that these little so-called hinterlands will participate in the future State of Alaska on these grounds. I therefore support this issue. I have no fear of it being abused in one way or another. You put your checks and balances in there by redistricting and reapportionment in the proper time as provided herein, but I do think that your Committee labored in earnest here and considered all of your problems and we came out with something that I am sure will be acceptable to everyone throughout the Territory.

PRESIDENT EGAN: Are there other questions? Mr. Metcalf.

METCALF: Mr. Chairman, if I could ask Mr. Hellenenthal, I think I like the plan. Just take the Seward and the Kenai area, the Kenai Peninsula, east and west side. Suppose some unfortunate circumstance would happen. The railroad has pulled out of Seward for instance and the population on the east side of the Peninsula should drop to less than a thousand, would our district collapse and join with the sister district, the Homer district, is that right?

HELLENTHAL: District No. 10, the Kenai-Cook Inlet District.

METCALF: And then the east side would become a dormant house representative district is that right?

HELLENTHAL: Dormant in the sense that if its population reasserted itself and other facts remained constant, the redistricting board would probably create it again.

METCALF: Supposing in 1960 when this reapportionment comes up, the Seward side of the Peninsula is still dormant, what would the reapportionment board use as a divisor? Instead of "24" would they use "23"?

HELLENTHAL: Forty divided into the total population. That is the fixed number.

METCALF: But it would only be 23 districts then, house districts?

HELLENTHAL: There would be only 23 house districts.

METCALF: Then the senatorial districts of Roman numeral VI, the boundaries would still remain fixed in the same and never lose its identity as a senatorial district?

HELLENTHAL: That is correct.

METCALF: Then supposing you find some oil over on the Seward side and 10,000 people moved back into the district; then redistricting again, would Seward come to life again and be an active house?

HELLENTHAL: Correct.

METCALF: It sounds very good to me.

WHITE: I just want to get something clear in my mind. If I follow Mr. Metcalf correctly, in the case of the Seward district collapsing it is contiguous to districts 8, 10, 11 and 12, and under the current plan, it would be joined to the contiguous district where it is the smallest?

HELLENTHAL: To a senatorial pair -- that might be good language to use. I think I anticipate your question. At the meeting which unfortunately delayed us this morning and for which the Committee apologizes, clarifying language to make it "the senatorial pair" in that case has been made up and will be handed to you on this slip sheet following whatever recess may be taken this morning.

PRESIDENT EGAN: Mr. Marston.

MARSTON: One little thing I might like to suggest here that we do not continue to use that word "collapse". There is going to be no part of Alaska collapsing. Alaska is not going to collapse. I don't like the word already on tape for so long. Areas increase and decrease and this plan will take care of it. There is going to be no collapsing of Alaska.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I just wanted to ask Mr. Helleenthal a couple of questions. One of them is along the same lines as Mr. Marston just spoke of, about a collapsing or a particular area losing its identity as election district number so and so. I feel that it would be wrong for any particular part of the Territory which has been districted to lose its identity as a district. I think that possibly we could refer to it as suspended representation in the event that a census would show that they were below the number that they must have for their representation, but that area should still remain area No. 22 or 23 or whatever representative district it is, but the representation in there is suspended.

Then because on the next 10-year decennial census, then if the census indicated in that particular area that the population had recovered its former status so that it was eligible for representation in the legislature, then the commission would then certify that they were and would retain them. I think there should be a very serious objection to any geographical area in Alaska losing its identity.

HELLENTHAL: Perhaps we were not too clear on that point. The answer to the question is that they will not lose their identity for representative purposes in the house. It would be suspended but for the senate it would be continued, and that appears very clearly in the Committee's opinion.

TAYLOR: As I see it, they would still have senatorial representation because they are a part of a senatorial district.

HELLENTHAL: Suspended animation you might call it.

TAYLOR: This thought here of collapsing or as I would say, suspending representation.

PRESIDENT EGAN: Mr. Gray.

GRAY: Maybe I can attempt to answer your question.

TAYLOR: You don't have to answer it because I know the answer to it now, but anyway they talk about eliminating an election district; now that could only be, that change could be made only once in every 10 years, is it not?

HELLENTHAL: Correct.

TAYLOR: There is no method in the interim between the decennial census that you could do it?

HELLENTHAL: No.

TAYLOR: So any area is assured of a 10-year representation until the regular census shows otherwise.

HELLENTHAL: That is correct.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I think this has gotten through my head that the senatorial districts remain fixed. On looking into the future, it was stated here that the area representation was taken into consideration with senatorial districts. I question that area played any great part at all in the Committee's thinking, and I state that merely in preface to my question, and I am not afraid to continue to call these at least for the time being, to call the four districts of Alaska "divisions". The Fourth

Division of Alaska, this area from all of this district down through here (pointing to map), to which has been added to what we have always called the Bristol Bay Area, is now as far as area is concerned, you can take all of the rest of Alaska and put it inside of the Fourth Division and possibly have nothing more than the St. Lawrence Island left over, and then for this whole area of the Fourth Division it is a matter of five senators. Then in this very small area here in the First Division is entitled to five senators which could be placed -- the whole First Division could be placed in representative districts of 15 and 16 of the Fourth Division. Now the only query that I have in mind is this, and possibly looking too much into the future, but at Rampart, for example, we will say that the hydroelectric plant was built and the population of the area in here gets to possibly 100,000 people, then regardless of the fact that the Fourth Division as a whole, still calling it that, was as large as the rest of Alaska put together and regardless of the fact that its population increased so that the population was twice as large as the rest of Alaska, then still the senatorial districts would remain the same.

HELLENTHAL: That is correct.

MCNEALY: And there would be a great possibility that they would never change?

HELLENTHAL: I would not attempt to say that.

MCNEALY: I guess that is a political matter.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: It appears to me that the matter here has been belabored long enough. I don't see that we are developing anything new, and I would like to move to proceed to the consideration of the bill for amendment.

SWEENEY: I object.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon moves, Mr. Taylor seconds the motion that we now proceed to the consideration of the proposal and allow the offering of amendments. Mr. Kilcher.

KILCHER: Is a motion to a recess in order?

PRESIDENT EGAN: A motion to recess is in order.

KILCHER: I might move our 15-minute recess at this time.

PRESIDENT EGAN: Is there a second?

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BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess for 15 minutes?" All those in favor of recessing for 15 minutes will signify by saying "aye", all opposed "no". The "ayes" have it, and the Convention stands at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: I respectfully ask unanimous consent that the journal of the 46th Convention day be approved with no corrections.

PRESIDENT EGAN: If there is no objection the journal of the 46th day will be ordered approved. Is there objection? Hearing no objection it is so ordered. We have before us Mr. McCutcheon's motion that we proceed to the amendment of Committee Proposal No. 14.

SWEENEY: I withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request that we proceed to the amendment of Committee Proposal No. 14? Mr. Nolan.

NOLAN: I object temporarily. I have a couple of questions to ask. It won't take very long.

PRESIDENT EGAN: Mr. McCutcheon, do you have objection to that?

MCCUTCHEON: No.

NOLAN: This graph of 25 people, or over, is projected on 1955 figures isn't it? You know the table that we have, I think?

HELLENTHAL: Populations of all cities and towns and villages, 1950 and 1939.

NOLAN: That is right. I think part of that is 1955, is it not?

HELLENTHAL: No, it is all 1950 or 1939, according to my understanding. It was prepared by Mr. Rogers.

NOLAN: Some of the figures I wrote up did not quite jive. The second point is that the cost as I understand by Mr. Peratrovich, the cost of this increase from 40 to 60 was considered by the Committee.

HELLENTHAL: Yes, that is from what materials we had available at the time. A more approximate cost estimate can be made now. I am sure.

NOLAN: The third question is, I think it was answered in response to a question by Mr. McNealy, that the senatorial

districts are fixed permanently without a constitutional amendment?

HELLENTHAL: That is correct, subject to the minor modification that we discussed last night and this morning, and which will be handed to you on this slip sheet this morning in a few minutes.

NOLAN: And that in arriving at the combination for the senatorial districts is a combination of area and population?

HELLENTHAL: Yes. While I am on my feet, Mr. President, the Committee has prepared a slip sheet containing changes in the committee proposal. One way of handling this would be to ask that the report be withdrawn from second reading, returned to the Committee for insertion of the slip sheet and resubmission with the slip sheet contained, and that is one method. I can conceive of others.

NOLAN: I don't think that is necessary. We are not in second reading yet.

PRESIDENT EGAN: We are not in second reading for purposes of amendment yet. No.

HELLENTHAL: We would want to make that a part of the committee report before the consideration begins through some parliamentary device or unanimous consent procedure.

PRESIDENT EGAN: Mr. Marston.

MARSTON: It is not necessary to amend and not mandatory to amend. If you are going to proceed to amendment here, that is the order of business. He who does not amend also serves well here, and it is not mandatory that we amend, is it? (Applause)

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I think this question has been answered, but there seems to be a little confusion in a few minds, and I would like to ask the Chairman a question if I may. When a district loses its present population and is joined to another, then in order to resume its representation, that is, apart from the combined district, it must gain the full quotient? It does not get preferential treatment when new districts are established?

HELLENTHAL: In reasserting does it get preferential treatment, Mr. Gray?

GRAY: Under my understanding it does not. It must come up, because the idea of the major fraction gives a little leeway, drops down. The major fraction is a holding thing. Once you lose it you would have to go back and get full quotient for

recognition next time.

NORDALE: Otherwise it would upset the whole thing.

GRAY: Because it immediately puts the whole program on an 80-member house. The major fraction is just a protection for that particular district which loses its identity over a short figure. If they lose half, then they have lost, but up until then it gives them a little time to recover because otherwise, with a drop of one person it might lose its representation.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would like to ask Mr. Hellenthal a question. Mr. Hellenthal, I have looked at your boundaries as close as I can and I am pleased to say I think you did a fabulous job. There is only one glaring error, and I think it is an error which might upset your whole plan if this matter is ever litigated. I mean this doctrine you have set up of socio-economic units, and I direct your attention to Election District No. 20, and I invite you to inspect Election District No. 20. You call that the Arctic Slope Election District. The boundary runs along the Arctic Slope and then you cut it off and the balance of the Arctic Slope area is penetrated by Election District No. 23

Now Election District No. 23 is drained by the Yukon and Porcupine Rivers. Now of course those rivers don't cross the Brooks Range and you have violated both of your principles of the natural mountain boundary, you have violated the principle of watershed, and I don't see any logical reason for it, and the thing that frightens me about it is that I think the courts would look at Election District 20 and 23 the first thing when they went to determine this socio-economic.

HELLENTHAL: I want to turn that over to Mr. Cooper; that matter was discussed at length, and Mr. Cooper and Mr. Coghill were the ones who were fully informed.

COOPER: I definitely want to hear from Mr. Coghill.

COGHILL: Mr. President, in bringing that line up and along the river, I forget the name of the river boundary we followed there, the river that we brought this boundary right up to divide from 23. Above the Brooks Range on the other side is more closely related, the southern part of that is more closely related to the Fort Yukon-Porcupine area than it is to the Khotol River area. It is just another one of the exceptions of the watershed. This in turn leans from the watershed to the socio-economic area. We have Barter Island; we have several communities up there where they all transport their goods from Fort Yukon or commute over the Range. Does that answer your question, Mr. Buckalew?

BUCKALEW: Unfortunately it does not.

HELLENTHAL: Was not your recollection that the census showed 20 people were concerned in that area?

COGHILL: Yes.

BUCKALEW: You are making an awful concession for a few people. It just is not logical. I can't see it. In looking at the map and knowing how many people are up there, the only socio-economic unit up there would be between that little area you have got and part of Yukon because I think a bunch of caribou move back and forth up there; that is the only socio-economic unit, and it is confined to caribou.

COGHILL: We had the line across the top to begin with and we felt that by increasing the population in the 23rd district, bringing this over, that the people on the northern side of that slope who are more closely related to the Fort Yukon people in the socio-economic concept.

BUCKALEW: I can see that a lot of the people on the Arctic Slope have now migrated toward Barrow, but you have got to cross the mountain range and if there are so few people involved, just looking at it on the map, it does not make sense.

MCLAUGHLIN: I think perhaps Mrs. Wien is acquainted with the area; perhaps she could express her viewpoint.

PRESIDENT EGAN: Mrs. Wien.

WIEN: I don't know what the thinking in the Committee was, but that area of the Arctic Slope and that side is served from the Fort Yukon area by air and your only connection with the other Arctic Slope area would be by dog team or your once-a-year, mostly undependable boat transportation by the Bering Sea and along the Arctic Coast, so that area is definitely served first by air from Fairbanks to Fort Yukon and then from Fort Yukon and on out.

COOPER: In addition to that, in the Committee it was discussed and brought out that last winter for the first time, certainly, a new type of method or a try was used and accomplished in your over-all winter routes by the Alaska Freight Lines up through that region, and it was definitely tied into the Fort Yukon trading center, that entire area there. The line now, as it is on the map, is where it has been in the past, but it was not changed due to the fact that Fort Yukon is the center of that entire area.

HILSCHER: Mr. President, the 64-dollar question is, "How do you pronounce the name of that river?" I have taken it off the map and I think we had better call it the "Joe Blow" River because of the way it is spelled. Would you pronounce that, Mr. President?

BARR: Does the boundary go along that river? It seems to me it goes along the Sagavanirktok.

HILSCHER: That is it.

GRAY: I believe in resolving a question like this, Mr. Buckalew has an absolute valid question there, but I think it should be resolved in, which is the fairest to the people concerned, and I think the fairest to the people concerned, as Delegate Wien has pointed out, is the Fort Yukon district. You are going to run into several of these where there is a conflict of ideas. The eventual solution of this is to represent the people and which method is the fairest concerned to those people involved, and I think that will settle most of the arguments.

BUCKALEW: At least I have accomplished one thing; the thinking of the Committee on this particular problem will be available.

HELLENTHAL: Might I add this? I think this is a very good illustration of the fact that the factors that the redistricting board are to use in redistricting that no priority is assigned to any one factor. They are to weigh it and there are the four or five principles to be weighed out to accomplish the result -- again representative government. It is fortunate that there are illustrations and this is not the only one of where a watershed boundary was deemed less important than another principle of districting, and that would guide the court, and it would show the court forcefully that it was not the intent to assign priorities to the methods, but to balance.

PRESIDENT EGAN: Mr. Barr.

BARR: In looking over this area, I see that Barter Island is included and that is evidently the largest, most heavily populated area entered at the present time. There is an army project going on there and that is served from Fairbanks, and I believe that this whole area has far greater communications facilities with Fairbanks than any other. It is true that they go along the coast by boat in summer, but that is only for two, or three or four weeks, and they can go by dog sled in the winter, but the vast expanse of tundra is just as much a barrier as the mountains, especially if you go over the mountains in an airplane.

MARSTON: I have worked that area for 10 years and only once did I go from Barrow over to that district of Barter Island, and it was John Cross who flew me over, and I waited one week for him to get the weather just right before he would take off, and there were only two families between Barrow and Barter Island. It belongs where it is as far as I can see, and John Cross knows that.

PRESIDENT EGAN: We have the motion before us. The unanimous

consent is asked that we now proceed in second reading with the amendment of Committee Proposal No. 14. Is there objection?

HINCKEL: I don't object. I would like for the purpose of information to ask, are we going to consider this slip sheet as an amendment?

HELLENTHAL: As I understand it a moment ago, that when action is taken on this motion, then this matter will be taken up and we hope it will be considered as a supplement or amendment to the committee proposal.

PRESIDENT EGAN: This matter will be taken up at that time as to whether or not this amendment will be offered as an amendment or whether or not the Convention will allow the Committee to withdraw its report and bring back its report with this proposed amendment included as part of the report.

HINCKEL: I have several other amendments to the same section, and it will make a difference as to how I will write my proposal.

HELLENTHAL: We don't mean to foreclose other amendments by this action, but we wanted to use it as a device to show the Committee was unanimous with regard to these problems, and wanted to supplement its report accordingly.

V. RIVERS: Is your slip sheet ready now?

HELLENTHAL: I believe it is before you or should be.

V. RIVERS: I would like to ask unanimous consent then that we consider the slip sheet as a part, for the record, as a part of the committee proposal at this time and adopt it as such and then go on and amend from there.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that this slip sheet -- we have a motion on the floor at the present time asking unanimous consent that we proceed on to Committee Proposal No. 14 for purposes of amendment. Is there objection to that? Mr. McNees.

MCNEES: Mr. President, I was just going to suggest, why don't we act on Mr. McCutcheon's proposal and then immediately before we go into the other business, act on Mr. Victor Rivers' proposal?

PRESIDENT EGAN: Is there objection to proceeding with Committee Proposal No. 14 for purposes of amendment? If there is no objection then Committee Proposal No. 14 is before us at this time for amendment. Mr. Victor Rivers do you renew your motion?

V. RIVERS: I will ask unanimous consent, and although I personally

have something to say about the matter they are instituting, I still would ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that this proposed amendment be included as a part of the proposal.

HERMANN: I will object for the moment, just by way of asking for some information. The only one I have is amendments of Proposal No. 9, and that is the finance proposal, and I just want it cleared up a little bit.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for one or two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. On this proposed amendment, if there is no objection, the Chair will order that where it says "No. 9" that it read "No. 14". Is there objection? Hearing no objection that is so ordered. Unanimous consent is asked that this particular amendment become a part of Committee Proposal No. 14 at this time. Is there objection to that request? If there is no objection it is so ordered, and the amendment has become a part of Committee Proposal No. 14. Mr. Harris.

HARRIS: Mr. President, we pretty thoroughly discussed this. I for one can see nothing wrong with the committee proposal as it now stands. I think if we start fooling around and amending it we are going to have trouble and therefore, I am going to move that this proposal be turned over to the Committee on Engrossment and Enrollment.

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: Mr. Harris moves and Mr. McCutcheon seconds that Committee Proposal No. 14 as it is now before us be referred to the Committee on Engrossment and Enrollment. Mrs. Sweeney.

SWEENEY: That takes a suspension of the rules.

PRESIDENT EGAN: The Chair does feel that it takes a suspension of the rules because it states in the rules that the proposal shall be open for amendment. It would take a roll call vote and 37 votes to suspend the rules. Mr. Rivers.

R. RIVERS: Mr. President, along the same line, it would take two readings.

PRESIDENT EGAN: It would take a suspension of the rules.

V. RIVERS: Is this matter open for discussion?

PRESIDENT EGAN: It is a suspension of the rules, Mr. Victor Rivers, and it is not debatable. Mr. McCutcheon.

MCCUTCHEON: Under the circumstances and seeing that it requires a suspension of the rules, I would withdraw my second.

HARRIS: I withdraw the original motion.

PRESIDENT EGAN: Is there objection? Hearing no objection it is so ordered and Committee Proposal No. 14 is before us and open for amendment. Are there amendments to Section 1? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question on Section 1. I am bothered by that word "first" which appears in line 6. The sentence says, "Until the first and subsequent reapportionments, the election districts and the number of representatives to be elected from each at the first State election shall be..." Is it not the intention that in any state election which occurs, until the first and subsequent reapportionments, that the number of representatives and the election districts shall be as set forth in the schedule?

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: What this means is that the number of representatives at the first state election will be as set forth in the schedule. After that the process of reapportionment will have set in and we don't know what they will be.

SUNDBORG: Why would it have set in? It does not set in until after each census.

HELLENTHAL: "And after the first election." You can't have it until you have your state government constituted, and the only people that can constitute the state government is the first elected body, and that must be governed by the schedule. You can't reapportion until you have an election. You have to have your governor, your legislature set up. It must come first. Then following that comes reapportionment and everything else, but you have got to have a body constituted, a legislature constituted to get the ball rolling.

SUNDBORG: Won't it say everything you intend to say if you strike the words "at the first state election", so that it will say "Until the first and subsequent reapportionments the election districts and the numbers of representatives to be elected from each shall be as set forth in the schedule in article so and so"?

HELLENTHAL: No, I don't think so.

1894

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I am a little confused now. What happens if we don't get statehood until 1961?

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: If we don't get statehood until 1961 and, a further qualification, now it is possible in 1961 that the results of the decennial census will be available, but it is not probable.

WHITE: Say '62 then.

HELLENTHAL: In other words, you envision a situation after the results of the decennial census have been certified. All right, if we get statehood before that, the schedule and the number of representatives fixed in the schedule will be the composition of the legislature. If we get it after that it will still govern the first legislature. For the first meeting of the Territorial legislature, following the certification of the results of the decennial census, the schedule sets out the number of representatives. It has to. There is no other way you can do it.

PRESIDENT EGAN: Mr. Rivers.

R. RIVERS: Mr. President, I want to pursue the same thought. If we got to be a state in 1961 and we had a first state election, would there be an apportionment right after that before the next semiannual election took place?

HELLENTHAL: Yes, immediately following, and that is why this language was so carefully chosen with that precise problem in mind, and I will admit at first flush it looks clumsy, but when you see that explanation I think it clarifies it.

R. RIVERS: If we got to be a state in 1965 we would have a first election. Would there be a reapportionment immediately thereafter referring back to the 1960 census?

HELLENTHAL: Yes.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I might answer that question. Mr. Rivers, in Section 2 it qualifies that, the first few lines of Section 2.

R. RIVERS: I was just wondering if Mr. Sundborg's language did not accomplish the purpose.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I don't know how to go about this parliamentary-wise, I am sure in my own mind, that Mr. Sundborg has a perfectly legitimate point, and I think that the problem is more obvious if we say we become a state next year. Then is it your intention that the apportionment board would redistrict before the next election?

HELLENTHAL: No, it could not.

HURLEY: I think you have said two different things here. Does it mean they must necessarily apportion before the second state election even though it is before a census?

HELLENTHAL: If the second state election is following the release and certification of the official decennial census, then they must reapportion.

HURLEY: If the second state election is before 1962, then what happens?

HELLENTHAL: And following the release of the certification of the census?

HURLEY: If the second state election is before the release of the next census, I think that you are ambiguous because you have said that first state election here when you really mean any election held after we become a state and before the results of the census are known.

HELLENTHAL: We may be there. I did not understand Mr. Sundborg's remarks though, as directed at that point.

SUNDBORG: That was my point.

PRESIDENT EGAN: The Chair was wondering if it might be best to take a three- or four-minute recess and you people get together on that. If there is no objection, the Convention will stand at recess in order to let the chairmen get together.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 1? If not, are there amendments to Section 2? Mr. Barr.

BARR: Mr. President, I have an amendment to Section No. 1, and I can assure you it has nothing to do with the number of representatives. I thought we would probably still be on this section until after recess. I would like during the noon recess to confer with the members of the Committee and the Chairman and make it more acceptable. When we go through this will we go back to Section 1 again?

PRESIDENT EGAN: We will, but we are still on Section 1.

BARR: Will we come back to Section 1 as we have been doing?

PRESIDENT EGAN: That is the manner in which we have proceeded, but a motion such as Mr. Harris has made, if it were adopted by a two-thirds vote, the Chair could not prevent that.

BARR: I move then that this section be held open until after the noon recess.

MCLAUGHLIN: May I inquire if the Committee is going to sit today where anyone with personal questions could speak to them during the noon hour, so they might eliminate a lot of questionable amendments that wouldn't be submitted if people understood.

PRESIDENT EGAN: The Chair was wondering if the Committee had such intention to sit say, now between 12:00 and 12:30.

HELLENTHAL: I think it would be better to sit between 1:00 and 1:30. I would like at this time to announce a meeting for the purposes requested for between 1:00 and 1:30.

PRESIDENT EGAN: If there is no objection, the time has almost arrived for the noon recess.

BARR: Then I will move that we recess until 1:30.

RILEY: Rules Committee in the rear of the gallery immediately.

PRESIDENT EGAN: The Rules Committee will meet immediately in the rear of the gallery. Are there other committee announcements? If not, hearing no objection, the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Would the Chief Clerk please read the communications we have before us.

(The Chief Clerk read a communication from Colonel Ray J. Will, Commander of Eielson Air Force Base, thanking the delegates for their contribution to the relief of the recent disaster victims.)

PRESIDENT EGAN: The communication will be filed. Are there other communications? Are there committee reports to come before us at this time? If not, we will proceed with Committee Proposal No. 14 in second reading. Do we have an amendment before us at this time, a proposed amendment?

CHIEF CLERK: No.

1897

PRESIDENT EGAN: Are there amendments to Section 1? Mr. Barr.

BARR: I have no amendment to Section 1 if we are able to amend the schedule later on, outlining the districts.

PRESIDENT EGAN: We will come to the schedule in second reading, Mr. Barr. Are there amendments to Section 2?

V. RIVERS: I have an amendment.

PRESIDENT EGAN: Mr. Victor Rivers, you may offer your amendment.

HELLENTHAL: Point of order. The Committee has met and recommends three amendments to Section 2 and the process might be expedited if the committee amendments were put before the body first.

PRESIDENT EGAN: If Mr. Victor Rivers would accede to that. Mr. Rivers was recognized, his amendment was accepted here.

V. RIVERS: I appeared before the Committee. They had already taken action on the matter. They did not cover what my amendment covers. After I got there, five minutes before their adjourning time, I was not permitted to discuss it. I think we would like to discuss it on the floor.

PRESIDENT EGAN: Would you wish it to come before the body at this time?

V. RIVERS: Yes.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: Page 2, this is an amendment to the amended Section 2, this slip sheet.

PRESIDENT EGAN: You will recall we adopted that committee amendment this morning. This is an amendment to that. You all have copies of that original amendment before you.

CHIEF CLERK: "Section 2, page 2, after the first word 'districts', insert the following sentence: 'Boundaries of election districts and senatorial districts as herein instituted shall be adjusted insofar as practicable to coincide with boundaries of local government areas as redistricting is accomplished from time to time.'"

V. RIVERS: Mr. Chairman, I will move and ask unanimous consent for the adoption of this amendment.

HELLENTHAL: I object.

PRESIDENT EGAN: Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. Chairman, with considerable reservations and a number of things in mind that I would possibly see further discussion on, I have to go along in entirety with the substance of the committee report. My intent in this matter is merely to amplify upon the idea that they have set up their districts, and they are pretty much inflexible. There are certain minor adjustments that can be made along the boundaries. I have in mind those should not be conflicting with the boundaries of other local government agencies or districts, such as recording districts. They should coincide insofar as practicable. I have given broad leeway for minor adjustments in boundaries so they could reach and match up with other local government boundaries. As you will note, the intent is not to alter anything in the substance or the intent of the whole system of apportionment and representation which they have adopted, but it does flag the idea that they should try and not have a mass of boundaries that are more or less with the same general purpose in mind but have a separate purpose within each boundary, try to coincide the boundaries insofar as practicable. I know that there will be cases when that can't be done. It seems to me if we are going to have boundaries we should try to keep as few of those boundaries as possible. That authority should be specifically stated. The Committee adopted a line which I understand from Mr. Hellenthal which says "They may give consideration to coinciding so far as possible." This says, "They shall give consideration to coinciding insofar as possible." It is a minor amendment intended to amplify the understanding of the interpreters of this constitution. The boundaries of the election districts will be established once about every 10 years we expect. The other boundaries of local government will be established and carefully thought and studied out, and it seems to me at the end of the 10-year period of time the boundaries in the election districts should be more or less geared in the matter of minor adjustments to the boundaries of the local government areas. That is why I submit the amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: The matter was presented by Mr. Rivers in the morning and we went over his amendment and we went over it carefully in the Committee. It is a matter of emphasis. The Committee felt and some few felt that there should be no language along this line at all, but the Committee felt that the principle should be expressed in Section 2 but that it should be deemphasized, and they were willing to adopt and recommend this language that "may give consideration to local government boundaries". Note, not to their coincidence but merely that

"may give consideration to local government boundaries". That language the Committee felt would be appropriate if it were necessary to include any such language, but that from an emphasis viewpoint the other language proposed might result in a situation where too much emphasis were given to the considerations of the local government boundaries and to whatever boundaries have been fixed.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, the way that I understand the amendment, the word says "shall" be adjusted. You have hamstrung the apportioning board as set up in this article whereby they "shall" adjust the future election and senatorial boundaries to the local government boundaries. I was one that was, that actually did not particularly care in Committee to see any mention of this. It should be in the Local Government Committee report but inasmuch as it was presented by a delegate, I thought it should at least be watered down. The seed has been planted. It should say "may be" not "shall be adjusted". I would like to amend with the permission of the delegate that submitted this amendment, amend the word from "shall be" to "may be". I so move.

PRESIDENT EGAN: Mr. Cooper moves that the proposed amendment be amended to change the word "shall" to "may". Is there a second to it?

GRAY: I second the motion.

V. RIVERS: I want to point out that Mr. Cooper took "shall be adjusted" out of context because the whole sentence reads "may be adjusted insofar as practicable." Both points cover the same substance. I object.

PRESIDENT EGAN: It has been moved and seconded that the proposed amendment to the amendment be adopted. Mr. Cooper.

COOPER: The reason I say "may be" is on line 17 and 18 of the committee report on page 2, it says, "shall contain as nearly as practicable relatively integrated socio-economic area", and it is literally covered in entirety right there. This amendment is that. That is why I move the adoption of "may" instead of "shall".

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I think Mr. Cooper has overlooked the fact that Mr. Rivers is not talking about the district lines as the Committee has done it but he is talking about future apportionment, reapportionment, redistricting, and I think it is imperative that any redistricting or reapportionment of lines in the future give very noticeable cognizance of the boundaries which by then have been established as local government boundaries. I would be

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very much upset if somebody tried to change the local government boundaries of the area in which I was operating and attempting to be mayor or something else.

PRESIDENT EGAN: Is there further discussion? Mr. Gray.

GRAY: The way I see this is that it does not seem to me it would be practicable to divide a subpolitical district like a borough with a major election district or a senate district. I don't really believe that any such condition will ever come up or ever exist. I believe the word "may" preferable to "shall" because we are protecting ourselves with the unknown and in case there may be some good reason and it is practicable, I think the districting board has all the authority under "may" as they have "shall" and "shall be" is a restricted clause. The only answer to any redistricting is what is the fairest to the people concerned. That is what we are trying to do. We are trying to bring fairness to the people and the only way they are going to have fairness is to have the board of apportionment with a little flexibility. That is the reason I prefer the word "may".

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the proposed amendment to the amendment as offered by Mr. Cooper. Is there further discussion? If not the question is, "Shall the proposed amendment to the amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed "no". The "ayes" have it and the proposed amendment to the amendment is ordered adopted.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will now withdraw my amendment.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that his proposed amendment be withdrawn. Is there objection? Hearing no objection it is so ordered. Mr. Hellenthal.

HELLENTHAL: Mr. President, I want to first go over them all together and then singly but there were three amendments to Section 2 that the Committee met with and recommends. One is that in Section 2, at page 2, line 18, following the comma and after the word "areas" add: "may give consideration to local government boundaries."

PRESIDENT EGAN: You ask that that be taken up as an individual

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amendment?

HELLENTHAL: I thought I would give all three first and then we can take up them individually. The second amendment is lines 5 and 6, page 2, strike the words "adjoining it having the least civilian population" and insert "within its senate district". The "shall" is misplaced but I will trust Style and Drafting to that limited extent.

DAVIS: It does not make sense.

HELLENTHAL: I think it does.

PRESIDENT EGAN: The Convention will come to order. What is your pleasure, Mr. Hellenthal?

HELLENTHAL: I think you will find it does make sense. Now the third amendment will be on line 3, page 2, Section 2, after the word "quotient", add "but only then" to "such election districts shall be attached". I am sure Style and Drafting will come out with "only then shall such election districts be attached." But we will overlook that for the moment, but add the words "but only then". Those are the three amendments that are proposed by the Committee following its hearing this noon.

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal?

TAYLOR: Just for a point of information, Mr. Hellenthal, would it not be better in that second amendment that the line 4 on page 2, so that it would read "such election districts shall be attached to another election district within its senate district." So that it would be attached to another election district within its senate district. That is just an idea, but I thought it might be worthwhile.

HELLENTHAL: How would it go?

TAYLOR: "Shall be attached to another election district within its senate."

HELLENTHAL: I think it would accomplish the same purpose.

TAYLOR: Another election district within the senate district.

HELLENTHAL: I think it would accomplish the same purpose and if no Committee members object, I would agree to it.

PRESIDENT EGAN: Do you move the adoption of the proposed amendment?

HELLENTHAL: Yes, as with Mr. Taylor's suggestion. In other words, that "the" in line 4 be stricken and the word "another"

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inserted in its place.

PRESIDENT EGAN: Is there objection to the proposed change?

WHITE: May I ask a direct question? Mr. Hellenthal, this did not occur to me when we discussed this earlier. In view of the fact that an election district sometime in the future might be subdivided, and that you would therefore have three election districts within a senate district, is there any merit in retaining the words "having the least civilian population"?

HELLENTHAL: That has been omitted.

WHITE: I understand that. I am asking if there would be any merit in retaining those words?

HELLENTHAL: I don't think so.

WHITE: When you subdivide an election district in the future you would then arrive at a situation where you had three election districts within a senate district and if one of those election districts ceased to exist and you wanted to attach it, you would then have an option of two election districts within the senate district to attach it to.

HELLENTHAL: No, on the theory that was advanced for purposes of senatorial representation, the election district maintains its identity, you remember in response to Mr. Taylor's questioning. I don't think there is any problem.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I would like to clear that up a little bit. Before there could be three election districts within a senatorial district the third election district in being redistricted would have to have the quotient; therefore, you would not have your minimum population in any one of the three before it could be redistricted. Do I make myself clear?

COGHILL: Maybe I can help. Mr. Hellenthal, I think the point Mr. White is bringing out there is that supposing a senate area which we have now, having two election districts in it, should have another election district added, making three. Well, then supposing something happens to the economy and another one of the districts should decline. Well, his point of asking, adjoining to the least civilian population is within that senatorial district, where is that third or that one with the minority amount of population? Which district is it going to join to get its representative area?

GRAY: I believe this case we are projecting ourselves too far to the future. We are projecting ourselves beyond three or four, beyond 30 or 40 years. We have an apportionment board to take

care of those things, and I believe that the apportioning board is in a better position to handle this situation. It may be better for them 30 years from now; there may be a reason why it should go to one district or the other. Let's leave that to the apportioning board of the future.

PRESIDENT EGAN: We actually have nothing before us. Mr. Hellenthal, do you ask unanimous consent that your proposed amendment be adopted with the wording changed as suggested by Mr. Taylor?

HELLENTHAL: I was going to move on behalf of the Committee that each amendment be considered by the body in turn, and I would then go back to the first amendment and I think it was the one involving lines 5 and 6, at line 3 of page 2, after the word "quotient" insert the words "but only then", and I move, Mr. President, on behalf of the Committee that in line 3, page 2, of Section 2, after the word "quotient", the words "but only then" be inserted.

PRESIDENT EGAN: You ask unanimous consent?

HELLENTHAL: No, I do not.

PRESIDENT EGAN: Mr. Hellenthal moves. Is there a second to it?

KNIGHT: I second the motion.

GRAY: I did not agree with the rest of the Committee on this particular item. This particular item is more important in the three words that are there, but only then. What we have used here from a mathematical basis is a quotient that represents one representative district. In order to allow a little leeway so that if you drop one behind the quotient you are not out. They fall and they can fall down to 50 per cent before they are depopulated sufficiently to lose their identity. In order to create a new district, or in this case re-create, before you are authorized or qualified to receive a representative, you must have the full quotient. In this particular one here, as soon as you get back to your half quotient you get a full representative. Now you must remember that when you give a representative to a half quotient you take it away from someone else. They necessarily don't earn it. They necessarily don't earn it until they have a full quotient, and you are taking, in respect, away from some more deserving area. In other words, if you create a new district, they have to qualify with a full quotient. When one of these districts falls below the 50 per cent, it loses. To re-qualify it must be a full quotient. Another thing you are going to get to the point, a family moves into town, they have no representative. A family moves out of town, they lose it. You have an absolute ratio of one person who makes a difference whether you lose your representative or

gain it. I don't believe that is the proper way to look at it. They maintain their election district and you give them 49 per cent leeway until they lose it, but when they start to regain it, they must come up with a full quotient to regain their adequate and full representation.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I don't quite understand why the addition of these words would in any way strengthen this particular sentence. It seems to me that the words, "Should the total civilian population within any election district fall below one-half of the quotient" is just as direct as adding the words "but only then". I don't see the addition of the words in any way clarifies the section or makes it any stronger or less strong than it is. I may misunderstand what the Committee had in mind. I would like to ask Mr. Hellenthal or someone on the Committee.

HINCKEL: I asked that the three words be put in so I will try to explain it as I did in the Committee. I just wanted to be sure, I don't care how it is done, I thought the three words would do it. But I wanted to be sure that it was fully understood that only when a district population of the district dropped below the one-half of the quotient could they lose their individual representative. I did not want some strong governor in the future to decide that he would abolish a district for some political reason and that was my reason for asking it. It was not the reason Mr. Gray gave, and I don't agree with him that it would have that effect, although it might, but if it did, I would still agree with it because I tried to get that put in in another place but it failed. In any event, I don't care how you accomplish it. Style and Drafting can change the wording around as long as they accomplish the purpose I had in mind. That is, once you have your district established as they are established now, that nobody can take that representation away from you at all. You have got to qualify for losing it by having the population of your district drop below the minimum figure that we set up which is half of a quotient.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I agree with Mr. Johnson that the section already said exactly that. The condition, the only condition under which the governor or the reapportionment board could hesitate to use the term "collapse an election district" would be should the total civilian population, etc., fall below one-half of the quotient. Adding "but only then" adds nothing to it in my view. I wonder if the Committee does not have the same view, so we could dispose of this without having to put it in.

PRESIDENT EGAN: Mr. Gray.

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GRAY: That protection is already restated before. What is coming out of this thing is the implication on re-creating new districts on the 51 per cent. That is the way I read it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Is it not a little dangerous to put that in? It seems to me it implies that the provisions of the article will all have to be strengthened by some kind of a phrase like that, while as it reads now, I can't see there could be any other circumstances to cause a district to lose its representation except that it falls below the quotient.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I think the section or the article could be construed to mean, with or without that phrase, I think it is emphasizing, attempting to emphasize the fact that is the only way, the only circumstances under which the representative of an election district can be merged in with another, is that when it falls below one-half of its quotient. It is just an emphasis you might say upon something that is already in there.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I think here again we are working ourselves into a pretty funny position that we have done several times before. We read a section, go over it and a member thinks that it is not clear enough and everybody is agreed on what the intent is. A delegate gets up, and proposes a few words to clarify it. We argue a long time. We vote them down and by voting them down we then create a doubt as to what we meant all along. Why not let them go in and let Style and Drafting take care of it. I think once the matter is brought up, if we are all agreed on what the intent is, why not let the wording stay in there if there is no danger.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I think for the purpose of the record, we need to clean up right now what we mean here with respect to what Mr. Gray said. Mr. Gray said if we put in "but only then", we are saying that once a district has been collapsed, because it falls below one-half of the quotient, that when it gets back to one-half of the quotient, it shall be restored. I don't read it that way at all but that is what Mr. Gray said was the purpose of the amendment. I think we should have a clear agreement here that is not the purpose of it.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I feel the way that Mr. Sundborg does that this in no way infers that a district, once it goes below the 50

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per cent of the quotient and then rises again, has any chance of coming back into existence until it has reached the full quotient. That is the feeling I got in the Committee and is the intent all the way through.

GRAY: If that is true, I withdraw my objection. That is the only point I wished to make.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I differ from what Mr. White said. It seems to me if we adopt these words, Style and Drafting will not be able to take them out, or at least will not be able to take out words of some similar importance. If we don't want them in there we had better not vote them in. If they don't add anything or subtract anything, then we probably should not put them in in the first place.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments?

HELLENTHAL: I would like a one-minute recess to confer with Mr. Taylor with regard to this amendment.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair notes in the gallery the Eighth Grade class from the Parochial School, and we are happy to have you here with us this afternoon. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 2, page 2, lines 5 and 6, the following words be stricken 'adjoining it having the least civilian population' and insert the following: 'within its senate district'."

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal?

HELLENTHAL: On behalf of the Committee, I move the adoption of the amendment.

COGHILL: I second the motion.

SUNDBORG: I ask unanimous consent.

HURLEY: I object.

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TAYLOR: Question.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May we hear the amendment again?

CHIEF CLERK: "Section 2, lines 5 and 6, strike the following: 'adjoining it having the least civilian population' and insert 'within its senate district'."

KILCHER: Point of information, Mr. President. I am frankly confused about senate district and senatorial district, and I think from observation some other delegates are also confused. I wonder if we could not possibly use two less equal sounding terms? Will the Chairman please explain the exact meaning of the senate or senatorial districts or areas?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a few minutes. I think our guest has arrived. The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We are extremely fortunate this afternoon to have as our honored guest a great American, a great soldier. He represents everything that we hold so dear in freedom, in loyalty, in courage and devotion to duty. He has suffered and represents all of those who have suffered so much for each of us. A grateful people, in humble recognition, have bestowed upon him our nation's highest tribute, the Congressional Medal of Honor. It is a great privilege to present to you Major General William F. Dean.
(Applause)

GENERAL DEAN: Thank you, Mr. Egan. Friends, you make me feel very inadequate in this generous tribute. Would that I felt that I merited it. I deem it a great honor to have this opportunity to meet you and to address you here today. I know that you have a full schedule and that time is of the essence, so I won't talk too long. Since my visit here to the Fairbanks area I have been keenly interested in the work you are doing; in the thoughtful consideration that you are giving this problem of devising a constitution. I had a similar experience as military governor of South Korea. It fell to my lot to advise, I say I did not do the advising, I had experts employed by the United States government, doctors of philosophy in government and in political science, specialists who had had experience in the building of constitutions of newly freed states, but we were in an advisory capacity. We were trying to devise what we thought best for the Korean people, but we were only advisors. You have an advantage here. What you arrive at you can decide upon and put before your people by referendum to be accepted or to be denied. The way you are going at it I know you are going to come out, I am convinced you will come out with a

sound constitution, and I hope you every success in your request for statehood. You are right up here, the closest United States Territory to our most likely enemy. You are the looking glass of the United States. What you do is not only being watched in the United States, it is being watched across this narrow strait up here to the northwest. What you do here is important and what pleases me is that you yourselves are impressed with its importance. That is why I know you are going to do so well. I congratulate you. Thank you.

PRESIDENT EGAN: Thank you, General Dean. (Standing Ovation) The Convention will be at ease. The Convention will come to order. We have before us Mr. Hellenthal's proposed amendment. Mr. Robertson.

ROBERTSON: Mr. President, while the language is very simple, frankly it seemed to me, particularly in view of the fact that as I understand by the schedule there are four senatorial districts established, each of which has more than one legislative district, it seems to me that you would not know without that qualification adjoining it having the least civilian population. I can't see how you still would arrive at which one it is going to be joined to.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I have wondered if the Chairman of our Committee, to avoid this confusion, we used the word "senatorial" district and "senate" district to differentiate between the two. Is that what you had in mind?

HELLENTHAL: I don't recall the Committee ever making that distinction.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: A thought occurs to me on the matter of distinguishing between the four large senatorial districts and what I have called subdistricts. I wonder if the phraseology could be changed. I think what they intended to include here or what they mean is within its senate subdistricts, smaller area. Now if the word "sub" could be inserted in front of "district" or some other nomenclature that would indicate a smaller district, I think that would make sense.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: We are all agreed on the intent within this subdistrict where it formally existed; we all know what we mean. We have had difficulty with the choice of the proper word, and I would accede for the time being until we can place this problem with Style and Drafting and our advisors, I would on behalf of the Committee consent to such temporary use of the word,

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"subdistrict" so there will be no confusion here in this group.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I was the one that objected and I recognize that my objection to this is not exactly proper in that it has been stated before and may be stated in the article, I don't think it is in so many words, that these senate subdistricts are inviolate. They will always remain except for very minor changes. So with that in mind I can't very well object to this and still be consistent. I would like to point out that with the situation as it stands here where a legislative district having lost its quotient, half quotient in this case, having lost its half quotient will be consumed by the contiguous district in its same senate subdistrict. There are only three legislative districts in the Territory that are apt then to lose both their legislative representative and their senate representative. Now, admittedly they don't lose their senate representative, per se, but by reason of the fact they are swallowed up by an extremely large population they will in fact quite probably lose their senate representation. Those three are the ones that are along side of Fairbanks, Anchorage, and probably Juneau. As I say, I can't object to this, but it is, I make this statement, I think it is an imposition on our area which I will accept because for the better good of the Territory. I withdraw my objection.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" Mr. Johnson.

JOHNSON: Point of inquiry. Is the word "sub" to be inserted in front of "districts"?

HELLENTHAL: If it has not been inserted I ask that it be inserted.

PRESIDENT EGAN: What word is that?

HELLENTHAL: The amendment will read "within its senate subdistrict".

PRESIDENT EGAN: If there is no objection it has been added to the amendment.

METCALF: Roll call please.

COOPER: I ask unanimous consent.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Point of inquiry. Has the Committee given any thought to work out a system whereby the districts involved would have

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a choice, a referendum choice as to where they would be attached to? According to our theory of a fairly strong local government and local independence, I think it should be given some thought.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I thought of it. The people do have a chance. They elect the governor that appoints the reapportionment board that will take care of this problem.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: If I can be convinced of that I will rest assured. I think this amendment here makes it mandatory that the annexation will have to be within that district, so according to Mr. Hurley's idea the Talkeetna - Palmer area would have no choice, and I don't even see that the governor would have a choice, Mr. Cooper, or any apportionment board would have a choice unless by constitutional amendment. If I am wrong I am glad to stand corrected.

PRESIDENT EGAN: Unanimous consent is asked. Is there objection to the unanimous consent request for the adoption of this proposed amendment? Hearing no objection the proposed amendment is ordered adopted. Mr. Hellenthal.

HELLENTHAL: I should like a half-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: The Secretary has another committee amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 2, page 2, line 18, following the comma after the word 'areas' add: 'may give consideration to local government boundaries'."

HELLENTHAL: On behalf of the Committee I move and ask unanimous consent that the amendment be adopted.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection the proposed amendment is ordered adopted. Mrs. Hermann.

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HERMANN: Mr. President, I move and ask unanimous consent that the introduction of the President and the remarks of General Dean be spread upon the record of this day's proceedings.

MARSTON: I second the motion.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: If there is no objection it is so ordered. Are there other amendments? Mr. Kilcher.

KILCHER: I move that on line 4, Section 2, page 2, that the word "temporary" be inserted after the word "be".

PRESIDENT EGAN: On line 4, page 2, Mr. Kilcher? The word "temporary" be inserted between the words "be" and "attached".

HINCKEL: I second the motion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments? Mr. Hinckel.

HINCKEL: There is only one word -- on line 7 delete the words "new district" and substitute the words "combined district".

PRESIDENT EGAN: Delete the words "new district" and insert the words "combined district". You have heard the proposed amendment.

HINCKEL: I so move.

PRESIDENT EGAN: Is there a second to the motion?

METCALF: I second the motion.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: My reason for this is the same as some of the reasons I have given before on some of the things I have spoken on, that I do not conceive that it is the intent of this article that the districts we have on the map here be abolished. Now apparently it is the intent of some people here that just as soon as a district population drops below a certain point that that district be abolished, just wiped off the map, and I don't think that is the intent of the majority. I have tried to bring it out in several different ways, and I don't seem to be getting any place, but I am trying it again in this manner to

get it into the record that we have established districts here that are from now on to remain and have an entity. They may lose their right to individual representation but at some future time when they regain their population they will again regain the right to individual representation. Now, by inserting this change I have just asked for, it does not in any way state they will regain their individual representation as soon as they get the half of the quotient again but they can by going along for possibly 50 years which is apparently what Mr. Gray wishes, that they can eventually at some time get their individual representation back. I ask that you change these two words from "new district" to "combined district" so it will be known to the people in the future that it was our intent that they have this right to regain their individual representation when the time comes that they have the population. That is all I care to say on that subject, but if you will permit me the privilege of saying a few more words I would like to say that I can't understand why when a population drops below, say five or ten persons below the minimum required, which would cause them to lose their individual representation, you are going to make them wait possibly 50 years to get individual representation back. I don't understand why it is necessary to do that. I think when the population of the individual districts get back up to the point where they have the half again they should have it. I don't think on the other hand new districts which somebody might conceive someplace should be stuck in hit or miss all over. That would ruin the whole proposition. I have never been able to find out from anybody why it is those individual districts we have established now cannot regain their right to representation when they again have the minimum requirements that the other districts do. But anyway, forget that for the minute, if you will put that "combined" back in so the intent will be known, which I think is obviously our intent. I will soon find out whether I am right or not.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I certainly sympathize of course with Mr. Hinckel, but I think that maybe I have an idea that might do just the opposite. I am thinking now, and forgive the terminology again, that our legislative district is collapsed and then when the next census comes up we still do not have enough people in the old district to make the full quotient, but we can still, or the board can, by observing the four precepts that we have set here, set those district boundaries up differently so as to give us enough to make a district again. So I am not particularly concerned with the abolishment of that district because it may be to my advantage that the next time we come about, call it gerrymandering if you want, but gerrymandering within these limits, and I can show you our own election district where we certainly have not followed these four out now, we can gain enough population to have a new one; whereas, if we had to keep our old district lines we would not get a new one. I

am inclined to think on that basis I am better off by leaving it as it is than if I would be if I put in a restriction here which tended to keep the old concept that we have drawn on that map.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hinckel be adopted by the Convention?" The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Line 7, delete the words 'new district' and substitute the words 'combined district'."

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 2? Mr. Hurley.

HURLEY: I would like to make a parliamentary inquiry. What does the shouted word "question" mean?

PRESIDENT EGAN: The only thing it could mean, Mr. Hurley, is they are calling for the vote at that time. Are there other amendments to Section 2? Mr. Gray.

GRAY: I believe I would like the personal privilege of the floor for a minute on account of my proposition.

PRESIDENT EGAN: If there is no objection, Mr. Gray you are granted the personal privilege of the floor.

(Mr. Gray spoke at this time under personal privilege.)

PRESIDENT EGAN: Are there other amendments to Section 2? If not, are there amendments to Section 3? Mr. Robertson.

ROBERTSON: I have an amendment.

PRESIDENT EGAN: You may submit your amendment.

CHIEF CLERK: "Page 2, delete all of Section 3 and insert the following: 'The Senate shall be composed of sixteen senators four from each of the present four judicial divisions which are hereby created into Senatorial Districts. Senators shall be elected by the qualified electors of the respective Senatorial district wherein they reside.'"

ROBERTSON: I move that the amendment be adopted.

H. FISCHER: I object.

KNIGHT: I second the motion.

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PRESIDENT EGAN: Mr. Cooper.

COOPER: I don't know whether I am in exact procedure or not, but I move that the motion be laid on the table.

H. FISCHER: I second the motion.

PRESIDENT EGAN: The question is, "Shall Mr. Robertson's proposed amendment be laid on the table?" The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 2, delete all of Section 3 and insert the following: 'The Senate shall be composed of sixteen senators, four from each of the present four judicial divisions which are hereby created into Senatorial Districts. Senators shall be elected by the qualified electors of the respective Senatorial district wherein they reside.'"

PRESIDENT EGAN: The question is undebatable.

HELLENTHAL: I move that we have a one-minute recess.

PRESIDENT EGAN: If there is no objection -- Mr. White.

WHITE: Parliamentary inquiry. Under our rules when can you move to take from the table?

PRESIDENT EGAN: You can move to take from the table -- whether you could do it today --

WHITE: I mean the outer limit, for how long a time?

PRESIDENT EGAN: You could take something from the table at any time before we adjourn sine die.

WHITE: Actually a motion to lay on the table, if it should pass, it would leave the matter open for further consideration until the day of final adjournment?

PRESIDENT EGAN: Unless it never was taken up again. The Convention will stand at recess for a minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper.

COOPER: Mr. President, with the consent of my second, I withdraw my motion to lay anything on the table.

PRESIDENT EGAN: Mr. Cooper asks unanimous consent that his motion to lay on the table be withdrawn.

ROBERTSON: I ask for a roll call on my motion.

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PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I believe it might be in order to hear a communication read, and if it is the will of the assembly I would like to have Mrs. Sweeney offer Mr. Shattuck's letter.

PRESIDENT EGAN: If there is no objection the communication can be read at this time.

MCNEES: I object.

ARMSTRONG: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is, "Shall the proposed communication from Mr. Curtis Shattuck be read to the Convention?" All those in favor of reading the communication at this time will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

JOHNSON: May I have the floor on the question of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may speak under the point of personal privilege.

(Mr. Johnson spoke under personal privilege at this time.)

PRESIDENT EGAN: Miss Awes.

AWES: I don't know how to vote. Does voting "yes" or "no" mean --

PRESIDENT EGAN: Voting "yes" would mean that we have the communication read. Mr. McNees.

MCNEES: Inasmuch as I made the objection, may I answer Mr. Johnson's question? The communication was passed around the floor yesterday. I read it and the two gentlemen on the other side read it. It was passed down and I assume it has been pretty much around the floor. That is my reason for objection.

SWEENEY: Mr. President, may I speak on the privilege of the floor.

PRESIDENT EGAN: You may.

(Mrs. Sweeney spoke under the question of personal privilege.)

PRESIDENT EGAN: The question is, "Shall the communication presently before us be read to the Convention?" Mr. Marston.

MARSTON: Mr. Chairman, Mildred Hermann had a very hard time getting some very fine letters read here onetime. I worked against her. I said then I wanted all the letters read or none of them. I think we open the way to a lot of propaganda here from various organizations.

MCCUTCHEON: Point of order. The matter of reading a paper is not debatable, Mr. President, according to the rules.

PRESIDENT EGAN: If that is what the rules say, Mr. McCutcheon, the Chair would stand corrected. The Chair did not have any idea that the matter of reading papers was not debatable.

MARSTON: I am going to vote for the reading of this letter.

PRESIDENT EGAN: Mr. Marston, the Chair will uphold the delegate who has read from the rules and we have before us the matter of reading this communication. All those in favor of having the communication read will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Chief Clerk may read the communication.

SUNDBORG: May I have the floor on a matter of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, you may.

(Mr. Sundborg spoke under the question of personal privilege.)

SWEENEY: I think the statement was hardly necessary. This is nothing more than a statement by a member of the audience or a gallery attending our hearing in Juneau.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading of the proposed letter.

(At this time the Chief Clerk read the complete text of the Shattuck letter.)

PRESIDENT EGAN: The communication will be filed. Mr. Robertson.

ROBERTSON: Mr. President, speaking in support of my motion, I would like to say that I think that this attempt to base the senatorial representation whereby population is involved in the method of arriving at the senatorial representation almost avoids my necessity or desire to have a bicameral system. I can't see any particular value if you are going to elect both senators and members of the house based entirely upon population. Now, while it is true this purports to be based partly on geography, I think one house should be based entirely upon geographical representation and be elected at large. As Mr.

Shattuck's letter has said, the smaller communities have been well represented in the senate. We not only have Doris Barnes from Wrangell and James Nolan from Wrangell, we at the present time have Marcus Jensen from the small community of Douglas, and I feel it has worked out very well that they do represent the entire division, and that is only the right way to do it. Furthermore, it seems to me we are losing sight of the value of the experience of the Territory of Alaska since 1913 in so electing, at least our senate, and I believe that we should not ignore that experience; furthermore, this constitution as necessary will be permanent, at least until it is amended, and under this principle one division gets six senators, two get five senators and or one gets four senators. Now based upon population alone can justify that differential; and furthermore, the proponents of the proposal conceded this morning that no matter how the population of the Fourth Division might increase, it is perfectly imaginable that in less than 10 years the population of the Fourth Division can be twice that of the Third or First Divisions. The Second Division one time, some 50 years ago, was the big populated division of the Territory of Alaska, no matter how small it is now. Juneau, of the First Division with pulp mills coming in, it is entirely foreseeable that within the next 10 years we will have 50,000 more permanent people there with their homes, and I submit that the permanency of it is in error. It is a mistake to make this permanent so we are going to have a different senatorial representation. The senators ought to be elected on the basis of representing their particular senatorial district and also representing the Territory, and we should not do it at large. We should confine it to the geographical situation. The judicial divisions have worked out satisfactorily in this Territory since 1909, and there is no reason under this Section 2 if they don't work out satisfactorily why this apportionment board cannot correct them. It seems to me that every delegate from the Second, the Fourth, and the First Divisions ought to be behind this amendment, and there is nothing wrong about it. It is meritorious and supports the bicameral system of legislation. Also, based upon our past experience it gives us all equal representation in the senate.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 4 - Barr, Nolan, Robertson, Sweeney.

Nays: 50 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg,

McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich Poulsen, Reader, Riley, R. Rivers, V. Rivers, ' Rosswog, Smith, Stewart, Sundborg, Taylor, Walsh, White, Wien, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 4 yeas, 50 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Kilcher.

KILCHER: May I explain my vote?

PRESIDENT EGAN: If there is no objection, Mr. Kilcher, you may explain your vote.

KILCHER: Mr. Robertson, I would have voted in favor of this amendment of yours but I recognize it is only one-half of a very good proposal that you had in the beginning of the session, a proposal that on the other hand had in mind a larger house. I don't want to say a lower house, a larger house that gave considerable recognition to the principle of area, but since that part of the proposal is not existing anymore I naturally had to vote against your present amendment.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I see In the gallery that we have a senior senator from the Fourth Division, Senator Butrovich, and I would move and ask unanimous consent that he be granted the privilege of the floor and be greeted by the Convention.

PRESIDENT EGAN: The Chair also notes that we have in the gallery the Territorial Commissioner of Health, Dr. Albrecht. We are happy to have you here with us. (Applause) Are there other amendments to Section 3? Mr. Hinckel.

HINCKEL: I have an amendment prepared but if you will permit me to ask another question or two, perhaps I can save some time on voting.

PRESIDENT EGAN: If there is no objection, Mr. Hinckel.

HINCKEL: On line 15 of page 1 It says, "Reapportionment shall be by the method known as the method of equal proportions except that each election district having the major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative." The word "reapportionment" to me means that not the apportionment that has been done by our Committee but the reapportionment that will take place in the future. Two or three times already I have tried to get

this thing clarified and each time I am voted down. To me it does not make any sense whatsoever. In one sentence we say we are going to have 50 per cent of this quotient that will entitle an area to representation, and then they get up on the floor and say it does not, so I have prepared a proposal that says we shall strike on line 16 the word "except" and then strike all of line 17, 18 and line 1 on the following page. Then the thing is in line with common sense; whether or not it expresses the intent of the Committee I don't know, but it was not my Intent, but since they tell me that it is not possible for area to have representation on 50 Per cent of the quotient, I don't see why it should be in the article. If somebody will explain to me that I am wrong, I will not submit this; otherwise, I will submit this proposal.

PRESIDENT EGAN: Mr. Gray, could you explain it?

GRAY: I would like to explain it. Mathematically you need a full quotient. Now we had these areas selected out, there were just a couple of votes behind, and they had a major fraction, this other group had a major fraction, and from a moral standpoint, as explained last night, it is a deviation from exact true representation, but the moral factor comes in, the fact that we will allow these people of this first representation. Now, when you are creating new representation, that is a different problem. That is where the difference comes in. In creating new representation, if we had created on the created districts, on the half quotient basis, we would have a house of 80. We created on a basis of the full quotient, with these isolated areas as we saw giving representation on the major fraction. It filled out our representation. That was a modification of the present plan, but with your previous suggestion, you create a membership of a major fraction which is not the purpose of creation.

HINCKEL: I have never at any time, sir, asked that any new areas that are created be created on the major fraction basis. I have never suggested that, I merely stated that those areas which we have created in this plan of apportionment, if they lose their major fraction and then regain it, that they be permitted to regain. I will grant you voted all that down, still cannot reconcile this statement that I am now forced to ask be stricken with the fact, with the statement you just made prior, that in reapportionment you are going to use the method of equal proportions, with exceptions.

KILCHER: May I ask for a minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for 15 minutes.

RECESS

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PRESIDENT EGAN: The Convention will come to order. Are there amendments?
Mr. Robertson.

ROBERTSON: Mr. President, I would like to ask what is the article of "blank" that is referred to in the last line of Section 3. Are we buying a "pig in the poke" or what are we getting on this?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe the article which you are referring to, sir, is the definition of the boundaries of the map of the districts that we have set forth in the maps.

PRESIDENT EGAN: Section 25, is that the one it refers to?

ROBERTSON: The documents are attached to the back. One is No. 2 and No. 3. Is that what we are buying if we adopt Section 3?

PRESIDENT EGAN: Mr. Hellenenthal, can you explain?

HELLENTHAL: The matters attached are the schedules referred to. For example, in Section 1 we refer to the schedule set forth in article "blank". Then article "blank" is the schedule referring to the house which is cross referenced as provided in Section 1, article "blank", etc., and the same principle applies with regard to Section 3 and the next schedule which is referring to the senate. They are a part of the constitution, but they are set out in the back of the printed constitution. We are following the Hawaiian pattern here.

PRESIDENT EGAN: Mr. Barr.

BARR: May I ask a question? Then in referring to the boundaries of the election district you would refer to Section 1 of the back schedule, is that correct? Section 2 deals with the senate.

HELLENTHAL: Section 3.

BARR: If you want to refer to the boundaries of the election district you refer to Section 1 of the attached schedule?

HELLENTHAL: You refer to Section 1 for the boundaries and Section 2 for the names and composition.

PRESIDENT EGAN: Are there amendments to Section 3? Mrs. Sweeney.

SWEENEY: I have an amendment if we could be at ease for a minute.

PRESIDENT EGAN: If there is no objection, we will be at ease.

If there is no objection, the Convention is in session and Mr. McNees may proceed with his question.

MCNEES: In speaking of the four or five, and I am using these two numbers, the four or five districts as laid out currently in the house plan, as Mr. Hellenthal suggested this morning, you referred to those four or five when you spoke of them as Isolated areas. I would like to know your definition of that term as used there.

PRESIDENT EGAN: Mr. Gray.

GRAY: I do not understand your question.

MCNEES: You mentioned these four or five that would be low, possibly in reapportionment, as isolated areas. I see one in what would be Southcentral, possibly two in what would be Northcentral, one in Northwestern and possibly one in Southern. I wonder what you meant they are isolated from?

GRAY: This was trying to explain a portion of the group. Now there is one thing that should be apparent to everyone. They do not lose their representation. They lose the opportunity of selecting their representatives from their immediate surroundings. No one loses his personal or her personal representation. They just lose the privilege of selecting the representative from their own immediate geographic group. What I had in relation to was in trying to explain that reapportionment shall be by the method known by equal proportions, with the proviso that except that each election district and the major fraction shall be represented. That word should be "existing". Now when the reapportionment comes up in 1961 It may so happen that some of the remote areas or low populated areas may drop below this major fraction and they will be combined. There are other sections that will drop below the full quotient but remain above the major fraction and so they will keep their representation. That was what I was trying to explain at the time I mentioned this.

MCNEES: In conjunction with that answer then Mr. President, I have here in this hand manual, American State Legislature, which is the thinking behind the model constitution, two or three very short excerpts that I would like to read to the group, because I think it is appropriate. "in any consideration of reapportionment of the state legislature, the allocation of seats, which it means primarily, the question arises, what should be the basis of representation? Should it be all the people or only the citizens, or would it be better to consider only qualified voters, or only those who bother to vote? The state constitution makers are not in total agreement regarding the solution of this problem, but population and area are the most commonly accepted criteria." The second excerpt, "Population is also the principal basis for representation in the

lower chambers, although many state constitutions contain provisions and make reapportionment very difficult. Twenty-one state constitutions specify population as the basis of apportionment and various other states use various other means." Third excerpt, and this will sound very strange coming from a person very much interested in unicameralism three weeks ago, but as I promised you at that time, that if we went in favor of a bicameral legislature I would give it my entire weight; therefore, I have to present this argument in order to be fair. "If bicameralism is retained by our states, and if it is to have any vital significance, the two chambers should have fundamentally different representative basis or they serve no useful purpose as a check on each other. The democratic ideal of equal representation and our traditional acceptance of bicameralism are in conflict. It may be necessary to abandon the second if the first is accepted. If we are to retain and invigorate bicameralism there may have to be a modification or rethinking on the theory of popular representation." Then what are the possibilities for a different basis of representation for a second chamber, speaking now of the house or the upper chamber, I prefer to use the word "senate". "A number of diverse bases have been suggested. Among these are land, property, political or governmental units, political parties upon some type of proportional representation, occupational or functional representation and suffrage and voting performances and behavior rather than the relatively inert basis of population. No one seriously desires to represent land, called 'lands', and the present contention that acreage is favored in many of our state legislatures at the expense of the people served but to highlight difficulties" - I beg your pardon, "does not tend to serve, but to highlight difficulties inherent in popular representation and its realization. The day is passed and properly so when any purely property or tax-paying basis could be rendered acceptable or effective for the upper chamber in order to make it different from the popular lower chamber. Hence it might be safely concluded that land and property should be eliminated as a feasible alternative basis of representation." And therefore, in this Committee proposal, the only possible flaw that I can see in it is that we have tried to introduce a unicameral legislature based now upon 60 people in it in a bicameral legislative program, and I can't see that it will work. Any time you interpose your senate districts over the top of your house districts you are using the same factors in representing both houses. I throw that out only for the information that it is worth. I do not intend to submit an amendment. I have told the Committee that I would support them, at least for time being, but I do want you to stop and think about that.

SWEENEY: Mr. President, I have an amendment.

PRESIDENT EGAN: You may submit your amendment, Mrs. Sweeney.

The Chief Clerk may read the proposed amendment.

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CHIEF CLERK: "Page 2 of the Schedule, after the first paragraph delete the schedule and insert --

SWEENEY: That is the schedule that is attached to the back, the first paragraph of Section 3 which states that there will be 20. I don't think it needs any change on this. This would be the schedule that is attached.

PRESIDENT EGAN: The schedule referred to in Section 3?

SWEENEY: Yes, and then it is marked "page 2, Section 2", near the end of the article. I believe that is the correct place to put it; if not I will change it.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment. It refers to that schedule in Section 3, and Mrs. Sweeney is offering a proposal for that schedule.

CHIEF CLERK: "Delete and Insert the following:

1	senator	from Senate	sub-district	I		
1	senator	from Senate	sub-district	II		
1	senator	from Senate	sub-district	III		
1	at large	from Senatorial	District A		Total	4
1	senator	from Senate	sub-district	IV		
1	senator	from Senate	sub-district	V		
1	senator	from Senate	sub-district	VI		
1	senator	from Senate	sub-district	VII	Total	4
1	senator	from Senate	sub-district	VIII		
1	senator	from Senate	sub-district	XI		
1	senator	from Senate	sub-district	XII		
1	at large	from Senatorial	District	C	Total	4
1	senator	from Senate	sub-district	IX		
1	senator	from Senate	sub-district	X		
2	at large	' from Senatorial	District	D	Total	4
4	senators	i from State	at large		<u>4</u>	
						Grand total 20"

SWEENEY: I move and ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent for the adoption of the proposed amendment.

COGHILL: I object.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, in the same manner, this is the same plan I discussed during the time I had the privilege of the floor. I was a little hot under the collar then, but I have cooled off a little, and the only change now in this plan is that I have raised the total to 20 by giving you four senators from the state at large. This will give us equal senatorial representation from each of these senatorial districts as pro-posed by the Committee on Apportionment. I believe that this plan takes care of everyone, those in the city and those in the outlying areas. Mr. Peratrovich's objection I believe is taken care of in here. It was not really an objection really, but that is what he spoke on this morning. I don't believe anyone is hurt, and I am sure the plan is a little better than the one proposed in the proposal.

PRESIDENT EGAN: Mrs. Sweeney, would you agree to a recess to see just how -- what is the wish of the body? That is quite a long amendment.

GRAY: I make a motion that we recess for two minutes.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mrs. Sweeney's proposed amendment. Mrs. Sweeney.

SWEENEY: I don't know that there is anything more to offer on it except, Mr. President, I do want to emphasize that I am not picking any brick out of the foundation of the proposal that the Apportionment Committee has put out. The only thing is I have arranged the senators under the schedule. Each senatorial district will start out even, and who gets the four from the state at large is anybody's guess. You all have an equal chance for that.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I think after I say these few words I am going to paraphrase Mr. Ralph Rivers the other day and "let the tail go with the hide" as far as the balance of the bill is concerned, but had I known at the time that Mr. McNees advanced the matter of a unicameral legislature that the idea for senators would be proposed and apparently accepted by this body, as it is in this committee proposal here, then I should have, regardless of what I thought about the unicameral legislature otherwise, I would have gone for the unicameral legislature. The point is, as I see it here, that where two of these election districts are made into the senatorial district and you

have a senator who is responsible only to his senatorial district. When he goes to the capital and the legislature, then his first interest is going to be right in his own particular little area because that is the part he has to please in order to be reelected. He is not answerable to any other part of the Territory. If we are going to have a bicameral system that the senate and I have not had many kind words to say about the senate during my talk here, but I do firmly believe that we should have one group, if we are going to have a bicameral legislature, there should be one group elected from a larger area which represents a larger number of people because you are going to have your special interest group there in the form of the house of representatives. One more point and I will close and promise to speak no more upon this bill, but when it comes to a matter of saying the people here who are from the outlying areas, and the outlying area is the place that has elected me to this Convention, and to the legislature, and they are the ones I support the greatest, but we are overdoing the outlying areas here forgetting the point that these delegates here, and I am going to speak to you and could call you by name, who have political ambitions and who are in the outlying areas and want to carve out for yourself a little district. That is fine, but I want to call attention to this: when you say that by electing a senator from a division at large or from the Territory at large, you say he is going to be elected because he is from Fairbanks or Anchorage or the bigger city. How about the delegate here, and I will mention the one where we have no delegate present -- we will say here in District 16 of our division here in Bethel. Now Bethel controls the vote in that particular area. How about the little fellow from up here in Akiak, he wants to file he does not stand a chance to be elected as representative in that district because he does not come from Bethel. That is the big city, and all things being equal the resident of Bethel is going to be elected. I submit there is no unfairness on the part if a senator happens to be elected from Fairbanks or Anchorage, you have the same system. In closing I will say it is just one of those deals where "big fleas have little fleas upon their backs to bite them", etc.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: My name has been mentioned as to objecting to a certain program here. I want to make my position clear. I was elected at large from the First Division, and we have some delegates here that were elected from precincts and then you have some elected at large from the entire Territory, and we have been in session now for over 40 days, if I am correct, and I have not seen any distinction whatsoever. No one has asked you if you have been elected from the precinct. We have all participated here for the good of Alaska. I think that is what will prevail in our future state. I for one have no ambitions to be a senator from Klawock, but I do want to feel that when I go back that I can tell the people, "You are going to be

represented if you can produce the timber. It is up to you to get down and dig." I can't foresee anyone there now that can participate and do a good job. Maybe you have the same condition up here, but do not try to confine it to the First Division. I have no feeling here that I can use what I accomplish here, if I can, to my own advantage. My interest here is trying to equalize representation in our government. The thing can work both ways. Mr. McNealy says we are paying too much attention to the outlying districts. That may be true. Can he guarantee there will be a senator from these little areas it was just an accident that I was elected. I will go back to what I said this morning. I think the reason I was elected was because I participated in my party to the fullest extent. If you are active, I don't care what organization you belong to, you are going to be recognized. I think they should have that opportunity. I am not guaranteeing there is going to be a senator from these little areas, but I think they should have that opportunity.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, at one time I might have had political ambitions, but I could not get the Cooper homestead made into an election district so I have given it up. The \$1,750, roughly, that I have earned to date, to the greatest extent I have earned because of the time that I spent on the Apportionment Committee trying to redistrict, reapportion Alaska as of the 1955 Act under which we are here. The Apportionment Committee has had literally everyone of the delegates in and out of its Committee meetings presenting their views, some at first selfish and later they understood that for all the people to get representation, two concessions had to be made. The election districts that were established would primarily represent the representation for the house of representatives, that would be based on population. Secondly, when it came to districting for the senate, the primary consideration would have to be given then to geographical area. We came up with a plan, 24 election districts for the house of representatives, and 12 senatorial districts for the senate. There was such high feeling in this body for having senators elected at large that your Committee in grouping the election districts together allowed that feeling a very great amount of consideration and came out with the proposal that within the former old judicial division lines, if I might refer to them as such, as nearly as possible on our new schedule, there would be two senators elected at large, that in a way was an appeasement, but it also in my estimation and in the Committee's estimation served the purpose that the voice of the people would be heard but not heard to the extent that the senators, the representation in the outlying areas would be taken away from the people. There was a reference made to, I think it was Akiak versus Bethel, that a man in Akiak could never be elected a senator. I would like to give to you another condition. I will call it Valdez versus Anchorage.

The man now In the Chair presiding at this meeting was not elected from Valdez. He was elected from that area by the people, a greater number of people in another area. The Committee's proposal takes that into consideration in that you have two senators running at large and if a man is capable of being elected from without the highly populated area; he will be elected. The people in a highly populated center, I would like to use the Fourth Division right now, as it now exists, in Bethel certainly haven't a prayer for ever getting representation if the districting continues to exist as it is now. In the last legislature your four senators from the Fourth Judicial Division and the five representatives from the Fourth Judicial Division came from within the city limits of Fairbanks. Is that any kind of representation to go back and offer these people? This amendment that is before us, in juggling the number of senate districts where there were not enough, we just add one at large which made four. In one instance there happened to be enough election districts so they were not allowed one at large but they still had four senators, but it was dispersed out geographically. In another instance there was not enough election districts to have more than two, so we merely doubled the ones by allowing two at large. Those two at large in this particular case on the senate plan, which would be in "D", I can very easily see where three senators undoubtedly would come from Sub-Senate District No. 9. Is that allowing the proper representation to Sub-Senate District No. 10 or to the people disbursed throughout Senate District No. 10? It is not. To even pile on to that higher, then you elect four additional senators at large from within the state. There again you are piling population control higher and higher and higher, as you go. The plan that the Committee has submitted to you is the result of four weeks of solid, steady work. It is the best plan, so I urge all of you to defeat any amendment whatsoever that comes on the floor for this senatorial plan as submitted to you now.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I want to say again that I appreciate the work that the Apportionment Committee has put into this proposal, and I am not disrupting it in any way. Mr. McNealy says that those who are elected from the outlying districts because of the vote that comes in from the outlying district, it seems to give the impression that you are representing just that little area, and the same with Bethel. He says there might be a man in Bethel who wants to be elected or a man in Akiak might want to be elected, but he can't because Bethel is bigger. Does he mean to imply that the man in Bethel is not going to represent Akiak? There is not a delegate here, I don't care where he is elected from, who is representing any small area, he is representing what is going to be the State of Alaska. I don't care where you come from, you are not localized in your attention to Territorial affairs. Now Mr. Cooper mentioned

the President being elected from Valdez but he was not elected from Valdez; his vote came from another district. That does not make any difference with the plan I have. He will come from District No. 4 If he were to run again. His district would be smaller and there is absolutely no reason why he could not be elected again. His district is smaller and he does not have to have quite the vote he had, but they will get a senator out of that district. Now, as to Plan "D", he says you will get one from District 9 and one from District 10 and that the two would probably come from Nome and maybe he is going to put them in Kotzebue. Anyway, he says there is a possibility you will have three from one of those places, but I want you to remember that is the plan in the proposal. I have not changed that. In the proposal they still get one from District 9J one from District 10 and one at large. I have given District D the opportunity, if they have qualified men, to place in nomination men for the state at large, senators from the state at large. If they have men in that D division or section who are well enough known throughout the Territory, they can run, and there is nothing that we can say or do here that will say they cannot be elected. I am not changing the committee proposal as far as Section D is concerned. I just want in closing to say this, that we have men from isolated areas, and I think that if you would just look around, you will find they are the finest representatives we have from those isolated areas. You can't look at them and say they are considering just one place or another and those people who appeared before the Committee concerned about their particular area did not go in there with an idea of pulling their weight through trying to get representation for their district. They wanted to know the plan as it was building up. They helped the Committee with all the questions in their minds, and I am sure the Committee approved their coming in there and giving suggestions, I don't believe anybody went in there with an axe to grind or with an Idea of forcing the Committee to subdivide the Territory In any way that any particular place would have a representative that they weren't entitled to. I hope you will all vote for this senatorial plan. It does not disrupt the proposal that you have before you except as to the shuffling of the senators.

ROBERTSON: Roll call please.

PRESIDENT EGAN: The question is "Shall the proposed amendment as offered by Mrs. Sweeney be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 9 - Armstrong, Barr, Hermann, Johnson, Lee, Nolan,
Robertson, Sundborg, Sweeney.

Nays: 45 - Awes, Boswell, Buckalew, Coghill, Collins, Cooper,
Cross, Davis, Doogan, Emberg, H. Fischer,

V. Fischer, Gray, Harris, Hellenenthal, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Taylor, Walsh, White, Wien, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 9 yeas, 45 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption.

BOSWELL: I have an amendment on the Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as proposed by Mr. Boswell.

CHIEF CLERK: "That the schedule referred to in Section 3 be amended as follows: Strike 'No. of District' and insert in lieu thereof: 'Name of District'. Change Roman numerals to names as follows: I - Southeastern, III - South Central, IV Central, II Northwestern. Renumber election districts on page 1 to follow above in numerical order."

PRESIDENT EGAN: Do you move the adoption of your amendment?

BOSWELL: I move the adoption.

HELLENTHAL: I second the motion. Mr. President, this amendment has the support of the Committee.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: My purpose in proposing this amendment is to get away from some of the confusion that we have already had in discussing the amendment. We have had Roman numerals, letters and the proposal that mentions names, and it seems that perhaps to get away from the confusion with the old judicial division numbers that it would probably be best to use names entirely. And I have always felt that our judicial division numbers were rather disorderly due to the fact of the way they were formed, and now that we have a chance to straighten this out, I feel we should.

KILCHER: May I ask a question of Mr. Boswell?

PRESIDENT EGAN: If there is no objection.

KILCHER: This is factually unimportant, yet geographically important matter, I would like to let you hear my wish about this. I have given the similar thought about it, and I am

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wondering if you could possibly be acceptable to an amendment for the second of your areas there. Southeastern, Southcentral, Northwestern. You had suggested "Southcentral". It is considered the Aleutians and the whole coast area between the Aleutians and Southeastern. It is mainly Southeastern Alaska, if you consider Cook Inlet penetrating way in, it is still coastal area largely and only lightly touches into the central area. In this area we do not have Bristol Bay any more, which originally belonged to the Third Division. So to make it simpler, Just call it "Southern" or "Southeastern" would be sufficient and in one instance simpler to have a "Central", and the others would be "Southeast" and "Northwestern". I wonder if you would object to that?

BOSWELL: I have no particular objection to changing these names, and I think if the body would like to change any one of those names that perhaps we could do that very simply. Since this is written out I would suggest that we go ahead and act on it. If it does not pass, fine; If It does, then we can change those names. I talked with several and we talked about Southwestern Alaska, which If you look down the Aleutian Chain, it is southwestern, and then you have that large area up around Prince William Sound, that is Southern Alaska. It seemed like "Southcentral" might describe it better, but I have no particular objection.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I wonder if Delegate Boswell would come over and show us those areas so we can make up our minds, on the map.

PRESIDENT EGAN: If there is no objection, Mr. Boswell, would you care to do so? Mr. Fischer.

V. FISCHER: I would like to request the Chief Clerk to read the last part of the amendment.

CHIEF CLERK: "Renumber election districts on page 1 to follow above in numerical order."

BOSWELL: In referring to the map, this would be Southeastern, Southcentral and Northwestern, and due to the fact that Central follows in here, we would start that numbering 15, 16, 17, 18, 19, and 20, and then 21, 22 and 23 and 24, so we would have numbers running in sequence along with it.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think if we gave the matter a minute or two thought, I would like to hear somebody else from the Southcentral area because in the geography books it will be applied, and it will be well known, so if we call one "Southcentral" here, there we might call the other "Northcentral"; we might give it some thought

before we establish it as definitely historic.

HILSCHER: I think "Southcentral" for the Anchorage-Kodiak area is a good name. I would not favor "Southwestern" because it would give you the impression of being farther away. I see no reason why "Southern" or "Southcentral" would not be all right. I think Mr. Boswell has a good idea.

HELLENTHAL: "Westward" Alaska, to observe the tradition.

HILSCHER: I am sorry I have no stock in the Westward Hotel.

SUNDBORG: I suggest that we vote on Mr. Boswell's proposed amendment and then if it is adopted, if any delegate wants to change any one of these names, it would be subject to change.

MCCUTCHEON: The question is Mr. Boswell's amendment without any other amendment, is that true?

PRESIDENT EGAN: That is right. The question is, "Shall Mr. Boswell's proposed amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Barr.

BARR: Mr. President, I have an amendment to the schedule. It speaks of District No. 24. I guess we have changed that, and I don't know what it is going to be, but I suppose we could refer to "24" for this purpose.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 1 of the schedule be amended: 'that the boundaries of Election District 24 be changed to include the Village of Livengood and immediate vicinity, and the Livengood road and adjacent area'."

BARR: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second to the motion?

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Barr.

BARR: Did Mr. Sundborg have a question?

SUNDBORG: Point of order. It doesn't belong in Section 1, Mr. Barr. There is no reference to any boundaries and we are not incorporating this map by reference. I understand that there is to be a subsequent article or section proposed by the

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Committee which will be the section which will outline the boundaries, and I think that is the place where we should make the amendment, which you propose, if we desire to make it,

PRESIDENT EGAN: Mr. Hellenthal,

HELLENTHAL: I think Mr. Barr has accomplished his purpose with sufficient clarity, so if the amendment were to pass it could be included in the schedule and I see no reason for not considering it at this time.

SUNDBORG: I withdraw my point of order.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I was just going to suggest that Mr. Barr add to his amendment the name "Fairbanks" since we have changed the numbers in a previous amendment and that will designate it as the name of the district; it would be the Fairbanks district regardless of what the number is.

BARR: Is that the Fairbanks election district or senatorial district?

BOSWELL: It is the election district.

ROSSWOG: I would like to ask for a couple of minutes' recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr.

BARR: Mr. Chairman, I ask unanimous consent that the figure "24" be changed to the word "Fairbanks" and make it read the "Fairbanks Election District".

PRESIDENT EGAN: Don't we have the original motion before us at this time? Did you not make another motion prior to this time? You are asking unanimous consent that this particular amendment be amended? Is there objection? Hearing no objection it is so ordered. The amendment to the amendment. Mr. Barr.

BARR: I would like to talk on this. It is pretty hard for anyone who does not know that country to visualize it or to understand the socio-economic conditions, etc. I would like to go up to the map and explain it, but I would rather have someone else talk or ask questions first so I can answer those questions while I am up there.

COGHILL: Mr. Chairman, I feel that being born and raised in this area that I could probably talk on it just as intelligently as Mr. Barr, and I am opposed to his amendment from the standpoint that the Election District No. 22 is an accumulation of small villages and small towns in the central part of the Territory and needless to say we are going to need every one of those communities we can possibly have in there in order to obtain our equal right to obtain one representative out of that area. I see no reason at all why it should be engulfed into the Fairbanks large metropolitan area. The people of Livengood are mining people. If you will notice by your map, the valley follows down and the Tolovana River is a separating point between the Tolovana valley and the Yukon on the Rampart side. There are mining developments at Eureka, American Creek, Manley Hot Springs and Livengood and several smaller creeks between Livengood and Eureka. There is quite a lot of prospecting going in there. They have a survey of a road from Livengood to Eureka which is already connected with Manley Hot Springs. This area is a compact unit, it is served by airplane from Fairbanks, and so is all the rest of the Fourth Division served by airplane from Fairbanks. I believe that you are violating the Committee's thought of watershed here. The people who are living in the Livengood area will not have to go to a map and look to see where this superficial line is. They will know by our concept that all the waters that are flowing into the Tolovana River are a part of a No. 22 Election District. Everything that is flowing on to the Yukon side from Livengood is in the 23rd Election District. I believe that the point is opening an issue where that anyone of you delegates from your area can say that this little town does not belong there because we of the big city, we of another community are serving it and therefore it belongs to our socio-economic unit. I think that could apply to any place. I beg you not to vote for the amendment.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I would like to ask Mr. Coghill a question. You have this legislative districting map in front of you. What is the southwestern boundary of that legislative district? Is that geographic, socio-economic or what is it? The bottom part of 22, it wanders across the countryside there, between 21 and 22,

COGHILL: Yes, that is the watershed of the upper Kuskokwim River to the lower part, that is all of the watershed. In fact, it encompasses Lake Minchumina which also I might say is serviced by Fairbanks. It follows down, and it takes in on the northwestern side, takes in the watershed of the Innoko River and cuts across at a divide of the Yukon just above Kaltag. It is a definite watershed boundary.

SUNDBORG: Can anybody on the Committee tell me whether, if we adopt Mr. Barr's amendment, it will make any change in the

number of members that would be assigned to either the Fairbanks or the Nenana Election District, based on the 1950 census?

HELLENTHAL: No change.

SUNDBORG: I would have great difficulty in trying to decide which way to vote on this because I feel I have no information. I think it is a local problem. I wonder if we could not suggest that the members of the Convention here from the Fourth Division decide what they like and I will go for whatever that is.

BARR: You will notice that the names of three people from the Fourth Division are on this amendment, and I have not contacted them all. Mr. Collins said he was going to vote for it. I imagine they all will; of course, I can understand Mr. Coghill's not voting for it.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the proposed amendment by Mr, Barr and Mrs. Wien and Mr. Johnson. Mr. Sundborg.

SUNDBORG: May I have the floor briefly on a question of personal privilege?

PRESIDENT EGAN: You may, Mr. Sundborg, if there is no objection.

(Mr. Sundborg spoke on a matter of personal privilege.)

BARR: After I get through talking he may have something to base his decision on. May I be allowed to go up to the map to talk?

PRESIDENT EGAN: You may, Mr. Barr, if there is no objection.

BARR: Now you wonder why I am concerned about Livengood and why I consider myself competent to talk on it. I will tell you. I was asked if I knew anybody in Livengood. I do. I know everyone there. I have carried the mail to Livengood by air for the last 10 years, and I think that I know pretty well the way they think and what they want. I also know quite a bit about the economy there and the terrain. I know every tree between here and Livengood. I maintain that the Committee inadvertently overlooked their socio-economic theory, or at least they leaned to one side in putting the line where they did. Their method was to follow the height of land or some stream or some prominent feature of the terrain like that or to group

the peoples In a certain economic area, and if one overbalanced the other then they went by that. In this case the height of land is not very definite. There is no great mountain range along there. You are crossing over ridges, low hills and what not. There are two or three single mountains that stand out but the economic situation is definite. It is linked to Fairbanks. The only way you can get out of Livengood, really outside of by air, is by road and you have to go to Fairbanks if you go on the road. If you go by any scheduled airline you probably go to Fairbanks also, and if you send any mail out it will go to Fairbanks by scheduled airline. The population is very small. It is around 20 permanent population, and during the summer, it may reach 50. It did not this summer, so by cutting that off of Election District No. 22, Mr. Coghill's district, you are not cutting off many people, and John here said it would not change the representative situation, and it would not gain a great deal for the Fairbanks district either in the number of people, but I am speaking here because I know what the Livengood people would like. Now there are only, as I say, about 20 people, and the money invested in Livengood is Fairbanks money and always has been. A great many of the people that live there also have homes In Fairbanks. Sometimes some of them spend the winter in Fairbanks. They are connected in every way with Fairbanks and they are not connected with anything else. Mr. Coghill states that there has been a road surveyed from Livengood to the Eureka mining area and that is true. Some people have plans that some day there will be a road through there; so far that is only a dream. That has been surveyed for quite awhile, just like the Chena Hot Springs road. If that is ever put through, it does not change the situation. It connects Livengood with the Eureka mining district which is a group of small mining camps and then it goes on to Manley Hot Springs which is a small village, but it is still connected with Fairbanks by road and Fairbanks is still their main source of supply. Now, the idea was advanced to me that this Fairbanks district, which is a fairly long district, an irregular outline extending northwest and southeast, if it were extended to the northwest a little more, narrowed down, it would look like we were gerrymandering, reaching out to get a few more votes. You would not get more than 20 votes and I submit to you that now is in this angle up in here, and to include Livengood in this corner they have taken it in and it is not connected with anything. If you want to get out of there now and get into this area, you have to walk through swamps and tundra, so there is no case of gerrymandering there. In fact, I think It Is just the opposite. We are just putting them back where they belong in the first place. By the way, we had a little talk over here, most of the members of the Fourth Division are for it. Mr. Taylor advanced the idea, well, give it to the 23rd because more villages need a few more votes. He does not care to have it particularly, but I say that the people in Livengood care, and that is who I am speaking for here. Now, the argument was brought up on the floor too that I would say or that the feeling

here was that it was connected to Fairbanks by air, and that was no argument for its inclusion. I am not using that argument. It is connected by air, it is served by air, like the other small villages around here, but it is also served by road, and that makes a big difference and Fairbanks is a source of supply. It does not make any difference whether it is by air or road or any other means. Another argument against this Idea is that if this is done it might open it up here so that other members here would want to cut off a certain bit here and add it over there. I don't think anybody will vote for that unless it is a good argument, and this Committee has done a very good Job in outlining these boundaries, going by the socio-economic theory and by the terrain, and I submit to you that they did not adhere strictly to that in this particular situation, and I can understand why, because there isn't any prominent mountains or what not through here. They just went across the hills, and you can go across the hills in the same manner about five miles over here and still be in the foot hills and take in Livengood and the Fairbanks voting district and the highway. There is no great problem there at all. I don't see that would open it up. Also, to representation, would the people in Livengood, would they want to be represented by people in Fairbanks or by people elected from Livengood or Fort Yukon in case they were put in that district? All I can say to that is that some of the people in Livengood live here part of the time in Fairbanks; they know everyone in Fairbanks. Since their economy is linked with Fairbanks and a lot of Fairbanks money is invested there, Fairbanks is going to represent them better than anyone else.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Just before you leave the map, would you indicate where you suggest that boundary should go.

BARR: Livengood is a little bit above the junction here as it is shown on the map. In my amendment I say that the boundary of the Fairbanks district should be changed. In other words, it would continue on both sides up here a little bit and then come together like that, just to take in the road and the immediate area around Livengood. I don't want to take in a very great area. You can do that and still adhere to your method of outlining boundaries. I want the Committee to do it. I don't want to do it.

PRESIDENT EGAN: Mr. Collins.

COLLINS: I want to say at this time, fundamentally, I wish to support the report of the Committee in all matters that come before this Convention. I say that the Committee in this respect has done a wonderful job, and I am going to support it other than this amendment, and I am doing that because I think that I have the knowledge of this situation. The Livengood district was discovered by Fairbanks people; it was developed

by Fairbanks money. The people, 90 per cent of the people who live there are Fairbanks people, and when they cease their operations, the first place they come is to Fairbanks. We consider the Livengood section as a suburb of Fairbanks. There is no reason in my mind why they should not yield in this small respect, the Committee, to allow the Barr amendment to pass. I am for the Barr amendment.

PRESIDENT EGAN: Mr. White.

WHITE: May I ask a question of the Chairman of the Apportionment Committee?

PRESIDENT EGAN: You may, Mr. White.

WHITE: In your opinion, Mr. Hellenthal, within which district would the people of Livengood have the best chance of electing one of their own to the legislature?

HELLENTHAL: I don't know enough about it to answer that question.

PRESIDENT EGAN: Mr. Coghill, could you answer that question?

COGHILL: Why certainly, I will answer that. Election District 22, Election District 22, the district it is in now. There is no large centralized block of votes in an urban area in this district. We are all small communities and the people are elected at face value. It takes an awful lot of money to get elected from the hinterlands. I don't want to take up 15 minutes of the Convention's time arguing this plan. You know how I feel about it. It should be in 22.

PRESIDENT EGAN: Mr. White.

WHITE: If I recall my position on the next roll call, I am in a bit of a spot, and I would like to take a second to explain how I am going to vote on this. I think if I recall correctly, we heard three members of the Committee testify this morning that they had taken into consideration all of the factors that have been brought out here and still drew the line where they drew it. I am from Southcentral Alaska and don't know enough about Livengood. It is removed from my own sphere of activities. I am impressed by the argument that a number of slight alterations should perhaps be made in the boundaries as drawn by the Committee, but I suspect when we get into one, we will get into many more. I am inclined to feel that the proper place for those adjustments would be before the first reapportionment committee, therefore I am going to vote against the amendment.

V. RIVERS: Some years ago in the town of Livengood there was a member elected to the senate from the Fourth Division. His

name was Senator LaBoyteaux. He is now dead. Some years ago I was engaged on a survey of a route from interior Alaska to the Nome and Seward peninsula area for a location of a road or railroad. We took off from Dunbar, skirted the toe of those hills and crossed over the Yukon slightly beyond Rampart. That is the line Delegate Barr has shown as the logical geographical division of that area. It is, I believe, the logical socio-economic boundary of the area and for that reason I will support the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention?"

COGHILL: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

METCALF: I wish to abstain from voting.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I would like to point out to the delegates here who desire to abstain from voting that their voting counts as a no vote.

PRESIDENT EGAN: There is nothing in the rules that says their vote is counted as a "no" vote. Mr. Sundborg.

SUNDBORG: If there is any doubt about it, I hope the record does show that I have also announced that I will abstain from voting.

PRESIDENT EGAN: The President feels the same way. The President is not convinced that this boundary should be changed, neither is he convinced that it should not be changed, so how can I vote on it? Mr. Coghill.

COGHILL: About the only way this Convention could be convinced one way or the other is to get somebody from Livengood into the Convention and I don't think that is proper because the fact is we would have the same situation happen some place else, and we can't get people in here from the areas, it is up to the reapportionment board. If the Livengood area feels they should be in the Fairbanks area, there is a reapportioning coming up, it can be taken care of at that time, but for the present time it should be in 22 because they can be and should be elected from that area.

PRESIDENT EGAN: Mr. Marston.

MARSTON: If I lived in Livengood, I would want to stay in 22 where I would have some effect on the elections. If they are in this district here they will be political oblivion. There

they are a small group of people, and I would like to stay in there. The methods are in this document, if there is some glaring error, it can be corrected in this document itself.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, this half-hour discussion about a small matter has shown how hard it will be in the future apportioning board to make minor changes when we here in a large body, well acquainted with facts, can hardly reach a decision. Since this place of Livengood is so well represented here with the people who know the place and are lucky enough to have a friend who speaks in their favor, I am strongly in favor of this small amendment. It is too bad that others, if there are others in the same situation, have no advocates here; they will have a bad time in the future to get adjustments, but here we have a fortunate case where it is comparatively easy to reach adjustment, and those people who know the case most intimately seem to be in favor of it, so I strongly urge that the amendment be adopted.

COGHILL: I think that I could just as truthfully say that the people of Livengood want to say in the 22nd District as Mr. Barr can say that they want to be in the Fairbanks District.

HELLENTHAL: This is a good illustration of some of the problems that, as Mr. Kilcher says, can be settled in an apportioning committee or board. I will tell you, the Committee voted to hold with their original analysis, and I will be perfectly frank, as we have always been among ourselves in the Committee, I will tell you why I voted that way. Mr. Rosswog told me that he had a similar problem down in Chitina. I know similar problems were presented from time to time to our Committee. I voted to leave it to the redistricting board, confident that the omission would be cured there rather than open the door to a series of such amendments. Now, I would like to know, are there any other amendments that are being considered if this amendment, which I think is very worthy, if it is adopted? If it is adopted are we going to be deluged with similar requests? I would like to ask John Rosswog that question. I have great respect for him and I wonder just how immediate his concern is.

ROSSWOG: I do think we have a little problem in the Valdez and the other area there. I have discussed it with the member from Valdez and he is very willing to go along that we make a slight change, a little jog in the river there. Because it was in a recording district it was put in the Valdez side where I thought it should be on the Cordova side, but I of course would like to have it changed at this time but I will withhold it.

HELLENTHAL: I wonder if there are any other similar requests. I think an intelligent decision will hinge largely on whether there are or are not.

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PRESIDENT EGAN: Mr. Hellenthal, before this would come up, I certainly would want to talk to Mr. Rosswog again. I would like to consider that particular question before it ever came up on the floor, that I speak to it.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, In view of the fact that there seems to be quite a little doubt raised by this one particular question, I would move that we would recess until 7 o'clock.

BARR: I object.

LAWS: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess until 7:00 p.m.?" All those in favor of standing at recess until 7:00 p.m. will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention is still in session. Mr. Riley.

RILEY: I want to call attention to committee announcements when we do recess.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I hoped I was not going to have to speak upon this matter, although I am conversant with the conditions that exist at Livengood and I also know the conditions that exist in other parts of District No. 22. Now this might be the start, if we adopt this amendment, of another little chopping here and a little chopping there and finally with a couple of more choppings on District 22 they will not have a major fraction of the population necessary to function as an election district. Now that is a district that has few settlements and they are all very small. I doubt at the present time if they will barely qualify as an election district. Now Mr. Barr says there are about 20 people residing there. Maybe somebody down there in that jagged line in the south boundary of the area of No. 22, perhaps will think that maybe one of those villages along the Kuskokwim should be down to give the Bethel area a little more voting power. Maybe they take 30 votes off of that. That is 50 gone out of poor old 22. So we will finally wind up that the reapportionment commission is going to find that 22 is not populous enough, so we are going to join that either on to 21 or 24 or possibly on to 23, which is the large sparsely populated area north of the Yukon River and bordering on the Canadian border. I think we would be doing the voting District No. 22 an injustice if we took those 20 or more people out of their present location and put them in 24. And I think that people of Livengood would certainly be having a feeling of importance if they knew the furor they are causing on the floor of the Convention today. I think they would be very difficult

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to get along with from now on, If they knew that they were the topic of conversation here and used up a couple of thousand dollars worth of the Convention time.

PRESIDENT EGAN: Mr. Barr.

BARR: I would like to close. I can't understand the concern over poor old District No. 22 there. According to these figures the 1950 census was 2,677. Now if we did want to put that in some area that needed 20 more votes, you could put it in the Yukon Plats area, which is adjacent. They only have 1,419 votes, but I say those people want to belong to the Fairbanks area because they know the Fairbanks people and the Fairbanks people know them and are connected with them in every way. I don't think they are worried about representation. It was pointed out that there was a Territorial senator elected from Livengood at one time. There is probably no one there who would want to run and if they had somebody else to represent them, I am sure they would like to have some of the friends in Fairbanks do it. I would like to state for Mr. Metcalf's benefit, that when I was at the map, I said that Mr. Taylor did not favor bringing in a Fairbanks election district but the majority of the people from this area are in favor of it; he was worried about the majority. He may not take it at face value, but I will say it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Armstrong, Barr, Collins, Doogan, Johnson, Kilcher, Laws, McNealy, Nerland, Nolan, Reader, R. Rivers, V. Rivers, Robertson, Sweeney, Wien.

Nays: 35 - Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal-, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Smith, Stewart, Taylor, Walsh, White, Mr, President.

Absent: 1 - VanderLeest.

Abstain: 3 - Harris, Metcalf, Sundborg.)

CHIEF CLERK: 16 yeas, 35 nays and 1 absent and 3 abstaining.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has not been adopted. Mr. Johnson.

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JOHNSON: I move that the Convention stand at recess until 7:05 p.m.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand at recess until 7:05 p.m. Mr. Riley.

RILEY: Do you wish announcements?

PRESIDENT EGAN: Yes, Mr. Riley.

RILEY: The Rules Committee will meet immediately in the gallery.

PRESIDENT EGAN: The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 4? Section 5? The Chief Clerk will read the proposed amendment to Section 5.

CHIEF CLERK: This is an amendment by Committee VI on Apportionment. "Section 5, line 21, page 4, following the comma after the word 'redistricting' add: 'giving explanation for all changes from the Board's plan,'.

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal?

HELLENTHAL: I move the adoption of the amendment.

COGHILL: I'll second the motion.

PRESIDENT EGAN: Mr. Hellenthal moves the adoption of the amendment, seconded by Mr. Coghill. The motion is open for discussion. Is there discussion of the proposed amendment? The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hellenthal.

HELLENTHAL: Mr. President, the Committee offers another amendment to line 6, page 4, Section 5, and the amendment is to add the words 'with at least one chosen from each of the four senate districts', following the word "general public".

CHIEF CLERK: You didn't have "chosen" in here, but do you want it in?

HELLENTHAL: No, I was relying on my memory. It should be "With at least one from each of the four senate districts". I move the adoption of the amendment.

COGHILL: I'll second the motion.

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PRESIDENT EGAN: Mr. Hellenenthal moves the adoption of the proposed amendment, Mr. Coghill seconds the motion. Mr. Metcalf.

METCALF: Do you mean "senate" districts or "senatorial" districts?

HELLENTHAL: I use the language "senate" districts, Each of the four senate districts and the grammar and consistency, I think, is a proper matter for the Style and Drafting, if we have offended in that regard.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?". Mr. Hurley.

HURLEY: Was that just an insertion after "public" -- the rest of it stays the same?

HELLENTHAL: Yes.

PRESIDENT EGAN: All those in favor of adopting the proposed amendment will signify by saying "aye". All those opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Fischer.

V. FISCHER: I have a few questions to ask, primarily about the intent of the Committee. This board of reapportionment is appointed by the governor and is to act in advisory capacity to him. Is it your intent that it be a standing board or just be appointed for purposes whenever necessary for each decennial census?

HELLENTHAL: It was the intent that it be a standing board.

V. FISCHER: Another question I have, in the executive article, in Section 16, it proposes that members of regulatory and quasi-judicial bodies shall be nominated and appointed by the governor with the advice and consent of the senate. This was not included as a regulatory or quasi-judicial body.

HELLENTHAL: That is correct, and it was not our intention to so include it.

V. FISCHER: Thank you.

PRESIDENT EGAN: Are there other amendments to Section 5? Will the Chief Clerk please read the proposed amendment that's on her desk?

CHIEF CLERK: It's from Mr. Taylor. "Line 2, page 5, change word 'Supreme' to 'Superior'. Page 5, Section 5, add a new paragraph as follows: 'Appeal may be made to the supreme court of the state, by the applicant, In the event of an adverse

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decision by the superior court. The supreme court shall review the said cause upon the law and the evidence and make and file its findings of facts in conclusion of law and decree based upon the same.

PRESIDENT EGAN: What is your pleasure, Mr. Taylor?

TAYLOR: I move the adoption of the first amendment which will change the word "Supreme" to "Superior".

PRESIDENT EGAN: Mr. Taylor moves the adoption of the first amendment changing the word "Supreme" to "Superior." Is there a second to the motion?

KNIGHT: I second the motion.

TAYLOR: I would like to explain the reason for that change. In the event that there was a dispute as to whether redistricting, any redistricting act of the reapportionment act of the commission was contrary to the thoughts of residents in any one of the districts affected, that they would have the right to take the matter to the superior court in the area in which they resided. Now, in the original text here it was said that the supreme court would have original jurisdiction, but in thinking it over, I felt it was better to have the one judge or the nearest available judge of the superior court have jurisdiction, and then if there was an adverse decision against the petitioner, that he could appeal it to the supreme court so that a person would have the right of appeal if the decision went against him and that way they could have the full use of the court procedures, and I think it would be better because to give the supreme court the original jurisdiction all suits affecting any reapportionment would have to be filed in Juneau, and whereas in the superior court the petitioner could file it in the nearest superior court. I feel the change should be made. And then the other paragraph is to the paragraph inserted that after the original matter here was merely to give the supreme court the right to entertain the appeals from the superior court and decide the matter upon not only the law, but it could also take the facts into consideration. They could try it upon the record to see if the superior court had abused its discretion and had found against the petitioner when he possibly should have found for it. Now on that paragraph that I put in, I think Mr. McLaughlin showed me a draft in which that can be cut down considerably and I'd like to have --

MCLAUGHLIN: You haven't moved that one yet.

TAYLOR: Well, I would move the adoption of it.

PRESIDENT EGAN: Well, we have this one before the house, Mr.

Taylor, the first one is before the house now. Is there further discussion? Mr. Hellenthal.

HELLENTHAL: In connection with this amendment, I might say that the language that we employed came from the Territory of Hawaii's provision on this subject. There the whole matter is taken care of in the one court, the supreme court. The Committee Is Indifferent as to whether It Is more consistent that the first go to the superior court, then the same problem all over again to the supreme court, and we will abide by the decision of the body towards -- Its just a dual review and that they have no feelings on that subject. However, as Mr. Taylor indicated, if it is the intention to accomplish this result,

I think that it is done much briefer as Mr. Taylor suggested in Mr. McLaughlin's rewrite of the matter.

PRESIDENT EGAN: But this particular amendment would not be affected.

HELLENTHAL: Yes it would. I think Mr. Taylor and Mr. McLaughlin have gotten together and wish to simplify it somewhat.

PRESIDENT EGAN: We have Mr. Taylor's amendment before us at this time. Mr. Ralph Rivers, your point of order.

R. RIVERS: As I understood Mr. Taylor divided his question and moved that we change the word "supreme" to the word "superior". That's all, but he's also submitted the rest of the stuff too.

PRESIDENT EGAN: It's here, but it is not before us.

R. RIVERS: In that case all that is before us now is changing the word "supreme" to the word "superior"?

PRESIDENT EGAN: That is correct. Mr. Ralph Rivers.

R. RIVERS: In that case I would like to be heard for a moment and that is that mandamus or other comparable remedies are generally proceedings for a court of general jurisdiction. The judge sitting there is the man that issues the writs of mandamus and that sort of thing. The supreme court is primarily an appeal court, so I certainly favor the amendment that we are approaching now if we change the word "Supreme" to the word "Superior". Then I want to hear Mr. McLaughlin's draft on the appeal powers of the supreme court in case any party appeals. I would like to ask one question. Mr. Taylor, is it your intention to only let the petitioner appeal in case he loses, or could either party appeal?

TAYLOR: Either party could appeal.

R. RIVERS: I think we should so state it.

MCLAUGHLIN: In my proposed amendment to his proposed amendment, I have stricken any comment about adverse decision.

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R. RIVERS: Very well, then, I support --

TAYLOR: If we adopt my first amendment here, we will necessarily have to adopt the next one.

R. RIVERS: Yes.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. Chairman, I want to hear this amendment before I vote on this one right here.

PRESIDENT EGAN: Mr. Marston has the floor. For informational purposes you would like to hear the proposed amendment that is proposed by Mr. Taylor.

COGHILL: Mr. President, for informational purposes I would like to hear from the Chairman of our Committee as to this. He is an attorney and this is a legal matter and I will abide by your decision on this as to the ramifications of the law.

PRESIDENT EGAN: Mr. Hellenthal, if there is no objection.

HELLENTHAL: I would say that as a matter of indifference, but I do think that Mr. Taylor's amendment, as modified by Mr. McLaughlin's condensation of it is certainly good.

PRESIDENT EGAN: Mr. McLaughlin, would you care, for informational purposes, to read the amendment that will be proposed later if this amendment carries.

MCLAUGHLIN: Taking the printed amendment as submitted by Mr. Taylor, I would delete: "Appeal may be made to the supreme court of the state by the applicant in the event of an adverse decision by the superior court." I would delete that entire sentence. The following sentence would be: "The supreme court, on appeal, shall review the said cause upon the law and the facts." Then anybody can appeal it and the remainder I would strike, "and make and file its finding of facts and conclusions of law in decree based upon the same", on the grounds that It is mere verbiage.

DAVIS: Would you give it to us again?

MCLAUGHLIN: I would strike, on Mr. Taylor's amendment, "appeal may be made..."

DAVIS: I've got that, just start with "the supreme court".

MCLAUGHLIN: After the words "supreme court", insert the words "on appeal, shall review the said cause upon the law". I have stricken "evidence" and substituted the word "facts", inserted a period after the words "facts" and stricken the remainder

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of the sentence.

JOHNSON: May I address a question to Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection, you may.

JOHNSON: Wouldn't the object of your appeal, or rather your proposed amendment, be substantially accomplished by simply putting a period after the word "state" in the second line, and striking the entire balance of the paragraph so that it would read: Appeal may be made to the supreme court of the state"? Wouldn't that cover it?

PRESIDENT EGAN: We don't have anything before us on this right at the time. Mr. McLaughlin?

MCLAUGHLIN: I believe, Mr. Johnson, in answer to you, there was one addition that Mr. Taylor desired. He desired not only a review on the law, but he wanted to make sure that the supreme court could review all the facts as presented in the superior court. He wanted in substance a trial de novo without any other evidence than the evidence presented in the superior court. That's why he insisted that the law and facts appear there.

PRESIDENT EGAN: Miss Awes.

AWES: I just want to ask Mr. McLaughlin why we needed a sentence about appeal — most things are appealable. Is it just because it is a trial de novo that we have to have it in there?

MCLAUGHLIN: I believe that that was Mr. Taylor's intent.

TAYLOR: The reason I put it that way is the fact that ordinarily on appeal to the supreme court you go up upon the transcript and the law part, and they will review the law part, they will review this way if the lower court has abused its discretion, why they say that they hold that to be that he made an erroneous reflection or opinion, but in this, it preserves the right so that the record can go up and the appellate court can review both the facts and the law.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, since we are continually going into the whole matter, I wonder if we couldn't get Mr. Taylor to withdraw his motion, and present the whole matter to us so we can properly consider it. Actually, we only have before us one very small phase of it.

PRESIDENT EGAN: That is correct, Mr. Davis, but the Chair felt that actually, as you say, the amendment that's going to be offered will affect the decision of the body as to what they

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will do on this, so it would probably be more -- Mr. McLaughlin.

MCLAUGHLIN: Could we have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Did you ask that your original amendment be withdrawn, Mr. Taylor?

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that his original amendment be withdrawn. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 2, page 5, change word 'Supreme' to 'Superior'. Page 5J Section add new paragraph as follows: 'The supreme court, on appeal, shall review the said cause upon the law and the facts. '"

TAYLOR: I move for the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the amendment. Is there a second to the motion?

R. RIVERS: I second.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion. The amendment is open for discussion. Mr. Hurley.

HURLEY: Fools rush in where angels fear to tread, but I'm going to take a chance at it. It occurs to me that by doing this we are virtually assuring what amounts to a double trial, if I understand Mr. McLaughlin's Latin right. I see no reason why the supreme court should not have original jurisdiction in a matter of apportionment which will affect the whole State of Alaska. Hence, I am reasonably certain that if anyone brings an action in the superior court of the district in which he is concerned with and judgment is against him, that he will appeal the thing. We must recognize that if we change any of these boundaries, we are liable to change the whole apportionment on the whole state, and I think it is a reasonable place to have the original jurisdiction. Now, the judicial article hasn't provided, but at least it hasn't avoided placing some original jurisdiction in the supreme court, and I think this is a pretty good place to put it. I have no objection to the other thing, but it looks better to me to be there in the first place.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I can see, in effect, that you're putting it in the superior court and that it's closer to everyone's home. However, I agree with Mr. Hurley that actually what you are doing is duplicating the process because either the applicant or the state, the governor, will have to appeal the decision. Now, another thing that concerns me is that a very definite time factor may be involved in all this. I can easily imagine where the apportioning board may receive its information during, say, 1972. They may meet all the deadlines, the governor may issue its proclamation as required in this article in time for the 1972 fall elections, and then by a process of tying the apportionment up in the courts through the superior court and then appeal to the supreme court, we may be introducing a lag in there which may deprive the state of the benefit of a reapportionment for a period of two years, and since there will be a repetition of the presentation and consideration of facts, I certainly go along with Mr. Hurley's stand on it.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I'd like to ask a question, Mr. President. It appears to me, from what little I know of supreme courts, that it is their right to either accept or reject a hearing of a case. I'd like to ask one of the attorneys in this body if the supreme court has to hear the appeal if they don't choose to.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: No one has said anything that isn't true. Including Mr. Hurley. The supreme court under this would be compelled, it is a direct constitutional mandate, it would have to hear the cause on appeal, just as it would have to hear the cause on mandamus as provided in the Committee's proposal. I agree with Mr. Hurley that there's nothing in the judiciary article that prohibits the supreme court from having original jurisdiction. That is, it isn't precluded from exercising original jurisdiction, and I agree with Mr. Fischer that there is a possibility of delay - that is, bringing it into the superior court and taking it up to the supreme court might encounter some delay. I would agree with Mr. Taylor when Mr. Taylor says that if you are going to have it tried, you ought to have it tried in the superior court so at least the problems can be threshed out and the supreme court will have the benefit of all the argument that took place in the lower court. But definitely anything you put in the constitution requiring any court to do anything, they're compelled to do it because they are the creatures of the constitution.

HURLEY: Mr. President, I would like to ask Mr. McLaughlin just one other question to carry that thing forward. If the original jurisdiction is in the supreme court, can't they hear the arguments in the first place?

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MCLAUGHLIN: They definitely can. No problem at all.

PRESIDENT EGAN: Mr. Kilcher has been trying to get the floor over there.

KILCHER: The one angle we shouldn't forget in this consideration is that the cost accruing to the people, possibly a small group in outlying impoverished areas, might accrue to the people if they have to try the case twice, which is almost automatically the case here. Who pays then if they lose - if they win I assume that the state might, under the law, in the future pay the cost if they win a case. If they lose, they are burdened with heavy costs, which is an added obstacle in the way of reapportionment. I would like to have this on the record and explained.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Something tells me that if they win, there will be no provision ever made for them being reimbursed. It would be a matter of statutory law and I am sure if they win there will never be any provision for securing costs against the state or against the person, the government that they mandamus. Whether they win or they lose, it is based on law of averages and experience. I think that every attorney in the place would agree that they will pay all their costs whether they win or they lose.

HELLENTHAL: I want to clear up perhaps a misunderstanding here that I may have created in Mr. Kilcher's mind. I told him that under present Territorial law, the prevailing party in this suit, even though the defendant happens to be the state, is entitled to be reimbursed for his costs and a reasonable attorney's fee and I told him that since that law was now on the books of Alaska, that presumably it would be continued over in the new state, so I don't quite agree with Mr. McLaughlin's conclusion or maybe I am wrong. I might say maybe we have a more serious problem here than I had thought.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: The reason I brought it up is if nobody deems it important enough to make, not an amendment, but an addition of some form or shape to guarantee this situation in one way or the other, I would like to have at least brought this thing up as a matter of record. I would certainly think that it should be given some small thought. It puts the burden possibly on the people who can hardly bear it and that obstacle in the way of getting just correction of the boundary.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I am indifferent. I can see

advantages In both but I might point out to Mr. Kilcher that Mr. Taylor in moving to put it into the superior court, is moving the action to your home community and literally when you produce your witnesses it is less expensive under Mr. Taylor's system than it is going to the capital, wherever it may be, and flying all your witnesses to the capital from your own community so literally, putting it into your local court, generally you may assume it is going to be cheaper. Where the expense might be added on is the expense of appeal to the supreme court.

KILCHER: I concede a point from a sense Mr. McLaughlin, but on the other hand, the areas involved will be outlying areas, the inhabitants of which as a rule do not care to fly another 200 miles and chances in this instance would be greatly for the probability that two trials would be involved. I think I would vote against the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I think I have the right to make the closing argument on this. It seems like all the speakers against this amendment have lost sight of one fact, that in our judiciary act, we set up a court of original jurisdiction of which we'll have the judges in various divisions and when Mr. Kilcher can say that you can fly a witness down to Juneau, or four or five witnesses down to Juneau cheaper than you can fly 15 or 20 minutes into Fairbanks or into Nome or some other place where a judge is sitting, we certainly will have changed the methods of charging for plane fare. Now another thing you have lost sight of is the fact that if we had these courts of original jurisdiction with seats, headquarters in various places, why, for the convenience of the people who are engaging in litigation and they have their trial in their home locality, because it is going to save them money, and another thing, these courts of original jurisdiction, which we will call the superior courts are the courts that are supposed to try things like that. Now if you try one in the supreme court, you have got to go back and amend your judiciary articles and say that the superior courts will have original jurisdiction in all matters except in cases involving reapportionment or redistricting and if you want to do that, it is just as easy to start this down in the superior court where it is more convenient for litigants, where it is going to be cheaper and where if you get beat in there, you do have the chance to go up to the supreme court on the record. You don't take any witnesses up there, you only take the record and why deprive a person of his right of appeal. He has a right of appeal in every other case that he is going to try in a district court in the Territory of Alaska but he is denied the right of appeal in a reapportionment appeal. I think the amendment should pass.

PRESIDENT EGAN: Mr. Londborg.

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LONDBORG: In case you go overlapping from between two court districts like the Northwestern and the Central one, then which are the two courts to go to if it is a boundary line between? It is a point I would like to find out.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to answer that. Mr. Londborg, every superior court in the state will have concurrent jurisdiction of any part of Alaska. You can try it, if something might happen here, if you want to you can file it in Nome if you wish, because we have concurrent jurisdiction.

MCLAUGHLIN: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adoption of the proposed amendment, signify by saying "aye", all those opposed by saying "no".

UNIDENTIFIED DELEGATE? Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Armstrong, Barr, Boswell, Buckalew, Coghill, Doogan, Emberg, Gray, Hermann, Hinckel, Kilcher, King, Knight, McLaughlin, McNealy, McNees, Metcalf, Nerland, Reader, Riley, R. Rivers, Rosswog, Smith, Stewart, Taylor, Walsh, Wien.

Nays: 21 - Awes, Cooper, Cross, Davis, V. Fischer, Harris, Hellenthal, Hurley, Johnson, Laws, Lee, Londborg, McCutcheon, Marston, Nolan, Nordale, Peratrovich, V. Rivers, Sundborg, Sweeney, Mr. President.

Absent: 7 - Collins, H. Fischer, Hilscher, Poulsen, Robertson, VanderLeest, White.)

LONDBORG: I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Londborg asked that his vote be changed to "no". The Convention will come to order.

CHIEF CLERK: 27 yeas, 21 nays and 7 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Mr. Hurley.

HURLEY: Mr. President, I would like to ask Mr. Hellenthal a question.

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PRESIDENT EGAN: With no objection, Mr. Hurley, you may ask the question.

HURLEY: Mr. Helleenthal, on page 4 of the proposal, Section 5, line 6, you refer to "public employees and officials". What did you have in mind when you spoke of public employees or officials? Any particular group of them?

HELLENTHAL: No.

HURLEY: You just don't like or didn't want public employees in general, is that right?

HELLENTHAL: That is correct.

HURLEY: I would like to offer an amendment,

PRESIDENT EGAN: Mr. Hurley, you may offer your amendment. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 5, page 4, line 6, strike words 'but not public employees or officials.'"

PRESIDENT EGAN: Mr. Hurley, what is your pleasure?

HURLEY: I move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves for the adoption of the amendment. Is there a second?

LEE: I will second it.

PRESIDENT EGAN: Mr. Lee seconds the motion. The amendment is open for discussion. Mr. Hurley.

HURLEY: Mr. Chairman, this is not a matter of substance but a matter of principle. I realize that there may be certain officials of the Territorial government which would not be properly on a reapportionment board but I also realize that there will be probably a few thousand other public officials working throughout the state who are public utility districts and local, state, and city governments or various other things who are perfectly conscientious citizens of the State of Alaska, and the situation at present you will find throughout the Territory a number of city councils who have public employees on them who are in my mind doing a very good job and, I think it relegates all public employees to second-class citizens and I don't think the statement is warranted in there and I therefore think it should come out.

PRESIDENT EGAN: Is there any further discussion? Mr. Cooper.

COOPER: Mr. President, I can only say that I believe that the

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reason that the statement is in here is because the Committee was very much afraid of the legislature getting their hands on reapportioning and if this phrase is stricken from this report, the reapportionment of Alaska at some future date will end up in the hands of the legislature and the election districts will undoubtedly be unmercifully gerrymandered.

GRAY: Mr. President, may I ask a few questions of Mr. Hurley?

HURLEY: I would like to answer his question first. I would be quite happy to offer an amendment stating "legislators",

GRAY: I was wondering if you have any objection to the word "state" instead of "public", the introductory word "state employees" which was the intent of the Committee.

HURLEY: It would certainly be a lot more restrictive.

GRAY: I believe it was the intent of the Committee to use the word "public" but I think they meant the state employees which are directly under the governor and to keep it out of the governor's control.

HURLEY: Mr. Gray, that would be better. If the amendment fails, that would be better. However, if you are talking about legislators, why not say legislators? Now if you are talking about somebody else, then make it "state employees".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: It was simply to mean any public official or employee, it wasn't the intention of the Committee to keep it on the state level but it meant just what it said.

PRESIDENT. EGAN: Mr. McNees.

MCNEES: Mr. President, I would like to ask Mr. Hurley and Mr. Hellenthal Jointly. This phrase has bothered me also and right now I am inclined to support Mr. Hurley. However, I think with some modification that we could probably all get together here and provide that certain state public employees or officials might be exempted by law. Certainly we should exempt those members of city councils, those members of road boards and one thing and another that will be serving throughout the whole Territory. Those are the interested men of the Territory in the government. They will be the interested men in the state government. I think there should be a proviso put in here at least I want you to think about this for just a minute, Mr. Hellenthal. There should be a proviso in here at least .that would not make this so all-inclusive.

PRESIDENT EGAN: Mr. McNees, are you asking that perhaps we have a few minutes recess and you can all get together?

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MCNEES: That might be very wise.

PRESIDENT EGAN: The Convention will come to order. If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hurley.

HURLEY: It looks like a lot of people don't want to vote on this question. Mr. President, I would like to withdraw my amendment and substitute one therefor.

PRESIDENT EGAN: With no objection, the amendment as proposed by Mr. Hurley is ordered withdrawn. Mr. Hurley.

HURLEY: Mr. President, I would like to then strike the same words and substitute therefore, "but not state officials".

PRESIDENT EGAN: What is your pleasure Mr. Hurley?

HURLEY: I move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed amendment. Is there a second to the motion?

MCNEES: I will second it.

PRESIDENT EGAN: Mr. McNees seconded the motion. Mr. Hellenthal.

HELLENTHAL: I recollect the Committee thinking on this quite well and the thinking is this. Now you may or may not agree with it. The object of this board was to get as objective a board as was possible and as nonpolitical a board as was possible and to achieve this end, extremes were taken. It was felt that a public official was too politically inclined, lived in too much of a, political atmosphere to fit the test and that his employees and his service likewise would be subject to political pressures. Now I will be one of the first to say you can't erase politics from anyone's life nor should you, but the whole purpose of this was to take any emphasis away from politics. Now the board felt that there are many, many people in the Territory who would fit the bill, many many people who were not members of city councils, who were not city managers and who didn't work for them as secretaries or clerk-typists, who were not in the political arena and that those people should be chosen for this board, this objective, studious board, this board that was supposed to be divorced from pressures and that was the reason and maybe they went a bit too far in seeking that objective but frankly, I don't think so.

PRESIDENT EGAN: Mr. Hurley.

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HURLEY: Mr. President, obviously Mr. Hellenthal's acquaintanceship with public employees is quite limited. The very thing that you are doing here and as I say, this is not substance but there is a matter of principle, is the reason that you are relegating those people that are interested in serving on these boards and are interested in being good citizens and are not connected with politics, from feeling inferior and of second-class when the constitution of the State of Alaska comes out and expressly prohibits them from holding a position on a board.

HELLENTHAL: Now Mr. Hurley, I am excluded from any type of jury service. So is my wife but we do not feel that we are second-rate, we do not feel that we are being discriminated against. We feel that it was a very wise move on the part of the legislature of Alaska to make that exclusion and many other states do the same thing so I don't think you should feel hurt.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to make one point. This would prohibit, as I see it and, if I am wrong, Mr. Hellenthal, correct me. This would prohibit a man who served on the Board of Regents for the University of Alaska from serving, am I not correct?

HELLENTHAL: Sure. I think it should.

MCNEES: You think it should?

HELLENTHAL: Yes sir.

MCNEES: Why? There is a man who is territory-wide and will be state-wide in his thinking.

PRESIDENT EGAN: The session will come to order. Mr. McNees has the floor. Mr. McNees.

MCNEES: There is a man who would be state-wide in his thinking and you could not call him a sectionalist necessarily, any more than you could call a man who perhaps mines in the Kougarak north of Nome, lives during the winter in Anchorage, prefers to spend the great bulk of the winter in Washington State, a sectionalist. No, I feel that this is just too broad and therefore I will have to vote against it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, as long as the matter isn't closed I would like to offer this comment, that this is the same type of a thing that the Committee on the Legislative Branch feared about politics in government. This is a little different type of thing but it is related. Now we have in our Territorial and I assume we will have even more in our state level of society,

we will have many of these REA cooperatives, a great hierarchy of officials working for these cooperatives who are going to have special interests in seeing whether these things are formed in one fashion or whether formed in another as far as apportionment is concerned. We are going to have many police working for the state. We are going to have many school teachers who may be concerned with how the apportionment is going. We may have a number of Territorial board members who seem to be Innocuous enough but nevertheless they all have their little principles that they are going to be working on. We have many of the city officials who may choose to join with another area because they are convinced that by so joining up they are going to gain an advantage in some fashion or another or defeat another area in their purpose. There are a good number of these types of things and I think that in the citizenry of the new State of Alaska we are going to find ample people. It is not a case of making a second-class citizen out of anyone. Mr. Hellenthal has just recited that he is a second-class citizen but he does not feel ashamed of it. The Hatch Act makes second-class citizens out of a great strata of people in the Territory but I do not think many of them are ashamed of the fact that they are working for the government. I can't see where we have to defeat the intent of the Committee here in making this thing tight. I think it is a good thing. It is one small board that sits once every 10 years and certainly we should be able to find five or six people out of the whole of Alaska that would qualify for this thing and who will be objective in their consideration.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" The Chief Clerk will call the roll.

UNIDENTIFIED DELEGATE: May we have the amendment read again?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Hurley.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: The Chief Clerk may call the roll on the adoption of the amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 13 - Armstrong, Barr, V. Fischer, Harris, Hermann, Hurley, Kilcher, Lee, McNees, Reader, Rosswog, Smith, Sweeney.

Nays: 36 - Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, Gray, Hellenthal, Hilscher, Hinckel, Johnson, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNealy,

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Marston, Metcalf, Nerland, Nolan, Nordale,
Peratrovich, Riley, R. Rivers, V. Rivers, Stewart,
Taylor, Walsh, White, Wien, Mr. President.

Absent: 6 - H. Fischer, Collins, Poulsen, Robertson, Sundborg,
VanderLeest.)

CHIEF CLERK: 13 yeas, 36 nays and 6 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed to be adopted. Mr. Victor Rivers,

V. RIVERS: I would like to ask a question. I would like to discuss the word "nonpartisan" for a moment. We have now eliminated all Democrats, all Republicans, and all public officials from holding any of these offices. I would just like to have an explanation of the Committee's thinking in connection with the use of the word "nonpartisan".

PRESIDENT EGAN: Mr. Hellenthal.

PIELLENTHAL: The word was chosen deliberately. Now an alternative and perhaps the one that the delegate has in mind would be chosen from each of the major parties. That alternative was specifically rejected because it felt it placed emphasis upon political considerations on this board which as has been pointed out, it is hoped to keep as objective as possible. Now it is true and the Committee realizes that "nonpartisan" doesn't mean that you cannot belong to a political party. Some of the finest men that I have the privilege of knowing are nonpartisan although they belong to a political party and that I think is very, very clear, but the contrary to use the political language would emphasize politics and it is the whole purpose of this article to de-emphasize politics.

V. FISCHER: Mr. President, may I ask Mr. Hellenthal a question?

PRESIDENT EGAN: Mr. V. Fischer. You may ask a question.

V. FISCHER: Your intent then actually is the appointment of a board without regard to political affiliations? That is really what you have in mind?

HELLENTHAL: I think we have accomplished that by the use of the word "nonpartisan" and the board so felt.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to ask Mr. Hellenthal a question. On line 8 and 9 on page 4, it says, "Members of the board shall be compensated". Is there any thinking in the minds of the Committee that the fact that they are compensated, that they either

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are or are not public employees?

HELLENTHAL: Frankly, at the time that language was placed in there, it was the current feeling around here that such language had to be in a board article to remove a constitutional hurdle to compensation but that could be stricken in its entirety because since then it has been determined that it is not necessary and that is a legislative problem and I know that the reason for it was to overcome a technical hurdle which no longer exists.

AWES: May I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may ask a question, Miss Awes.

AWES: Going back to this word "nonpartisan" again, when I read that, I was a little puzzled and I am still puzzled. You are going to have your board appointed by a governor who is certainly going to belong to one of your major parties and he is going to appoint all these members. He obviously is in a position where he knows the parties of the type of person that he would choose for this and it seems to me that it is going to be impossible to get a board that would be called nonpartisan. It seems to me that it's something that would be challenged in court with every apportionment board you have.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe that possibly some of the members that are raising perhaps a specious voice towards the word "nonpartisan" forget the fact that the legislature provided for a nonpartisan election to delegates to the Convention where we are sitting now and I don't think anybody raised any question as to what was nonpartisan then. They are sitting here and drawing their \$35 per day and they knew that it was nonpartisan and then they quibble about a nonpartisan board of five people.

PRESIDENT EGAN: Miss Awes.

AWES: I am well aware of that and I thought of that at the time I read this word, but that was an election. We determined ourselves that we wanted to run, we were on a ballot where no parties were mentioned and I think that is an entirely different matter than the matter of appointment.

HELLENTHAL: But I think that should forever bury the argument that a member of a political party cannot be nonpartisan.

PRESIDENT EGAN: We have nothing before us at this time. Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, another question?

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PRESIDENT EGAN: You may ask a question.

V. RIVERS: Along that same line couldn't you readily visualize that if we had a Republican governor we would have a nonpartisan board of all Republicans or a Democratic governor and a nonpartisan board of all Democrats?

HELLENTHAL: That is entirely possible.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, if I may have the Convention's ear for a moment, it is my understanding based upon reports that I have heard as to what the Style and Drafting Committee is doing to the judicial article. We had happily provided for nonpartisan board and they struck the word "nonpartisan" as being somewhat superfluous under the circumstances.

HELLENTHAL: Perhaps debates like this will teach the facts of life to the --

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 5?

TAYLOR: I move that this Article 14 be forwarded to the Committee on Engrossment and Enrollment.

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: If there are no other amendments to Committee Proposal No. 14, the proposal is ordered referred. Mr. McNees.

MCNEES: It has been general procedure, has it not, to go through these articles on a second reading?

PRESIDENT EGAN: That is right.

MCNEES: I assumed as much anyway.

PRESIDENT EGAN: A motion has been made and seconded that it be referred to the Committee on Engrossment and Enrollment at this time. The motion is one that would suspend the rules. It is a suspension of the rules because it has to be open for amendment until all members say that they have no more amendments to offer. Are there amendments to Committee Proposal No. 14? Mr. McNees.

MCNEES: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Amend Section 2 of the schedule." Do you mean to strike it and then put this in? Is that what the amendment

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is? To strike what we have, is that what you mean?

MCNEES: In general the substance, yes. It would be up to Style and Drafting to make any further adjustments.

PRESIDENT EGAN: What does the amendment say?

CHIEF CLERK: It just says "Section 2, I move that Proposal No. 14 be amended as follows: Section 2 of schedule." It does not say to strike or add or what.

PRESIDENT EGAN: State whether it is to -

CHIEF CLERK: "Strike the schedule in Section 2 and substitute the following: Section 2 of schedule:

Southeastern	5 senators
Southcentral	5 senators
Central	5 senators
Northwestern	5 senators

To be elected as follows: One senator to be elected from each of the Senate Districts as established. The balance to be elected at large within each of the established geographical areas."

PRESIDENT EGAN: Is it your intention Mr. McNees to strike Section 2 and Insert in lieu thereof, this?

MCNEES: No, this is just the schedule in question, Mr. President. It is a suggested method for determination of a senate of 20 members as suggested by the Committee.

TAYLOR: I move to a point of order that this matter was already acted upon today and defeated.

PRESIDENT EGAN: Was this matter acted upon?

TAYLOR: It was passed as a motion for equal number of senators, five from each of the areas, A, B, C and D.

PRESIDENT EGAN: Mr. McNees what is your pleasure relative to this?

MCNEES: I would like to move the adoption of this amendment.

BARR: I second the motion.

PRESIDENT EGAN: How was it to be stated in Section 2?

MCNEES: In Section 2 of your schedule it has a proviso at the beginning as provided in Section 3* Article blank. "The senatorial districts and the number of senators to be elected from each

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shall be as follows...", and this is the material to follow.

PRESIDENT EGAN: Do you move the adoption of the proposal?

MCNEES: I do and Mr. Barr seconded.

PRESIDENT EGAN: Mr. Barr seconded the motion. Mr. Davis.

DAVIS: Mr. President, I am in doubt and I would like to ask Mr. McNees as to what he means by "senate districts". Are you talking about what we talked about a while ago as being subdistricts or the entire district which combines the various subdistricts?

MCNEES: If I may, I would like to explain my position on this.

PRESIDENT EGAN: Mr. McNees.

MCNEES: We have here established by the Committee all senatorial districts based upon the 24 house districts. My thinking on this is pretty much as has been outlined by numerous members on the floor today in debate. We have house districts as outlined on the map on the other wall, superimposed upon top of those house districts connecting any two contiguous house districts merely for the sake of convenience, we have superimposed lines that we now call senate districts. My thinking is this, that based upon population alone, taking into consideration perhaps other factors -- watershed, ethnological factors, socio-economic factors, but still the prime basis for the determination of your senatorial districts was that of population. I would like to comment here very briefly a little bit about the history of Alaska and what has occasioned these population shifts that we have now determined our apportionment article is on. Alaska was acquired in the purchase from Russia in 1867. At that time there were very, very few people anywhere in this whole interior section of Alaska, very, very few people. Most of them were on the coast but I submit that there was a good sprinkling of people all the way along the coast of the entire section of Alaska. There were some people in interior Alaska but most of them were the aborigines who had been here before. Some movement had already taken place up the rivers but water was your prime means of entrance and exit. Times have changed. In 1900 we saw the first census that was taken in the Territory, the first real indication of that change. The 1900 census was the first in which any place in Alaska had a population of 2,500 or more people. The two places of this size, mind you, in 1900 were Nome and Skagway. They had a combined population of 15,605 people or 24.5/5 of the total population of Alaska. In 1910, the two places of 2,500 or more were Nome and Fairbanks. In 1922, only Juneau had more than 2,500 people and the proportion of the total population living in places of this size had dropped to 5.6%, the lowest percentage during the period of 1900 to 1950.

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In 1929, Ketchikan obtained a population of 2,500 for the first time. In 1939, and again I point to the times, a large mass of military moved into this area, creating many jobs that otherwise would not be in existence. In 1939, Anchorage qualified for the first time and Fairbanks again obtained a population of 2,500 or more. The four places of 2,500 or more in 1939 had a combined population of 17,374, which is only 2,000 more than existed in the entire Territory of Alaska in 1900. In 1950, two villages, Eastchester and Mountain View, had more than 2,500 people, bringing the number of urban places to six. The 34,262 persons living in these six places represented an increase of 16,888, or 97-2% over the population places of this size in 1939. But the thing that I want to point out is this, when gold mining was it, Southeastern, Northwestern, Northcentral. Now we are based upon a military economy and there isn't a person in this room that hopes that that is going to last forever. That is why your population factor is here and here and certainly as long as it is here and here your feed-lines which are prime yet, your waterlines, your road lines, are going to continue to feed that population but we are going to have to settle along those feeder lines into those recognized heavily populated areas of today. I am very much disturbed by the apportionment article on that one basis whereby we have superimposed our senatorial lines over the top of house districting lines merely on the basis of population. It isn't true, it isn't good. For a unicameral setup it would be beautiful. For a bicameral setup it is, I won't say worthless, but it comes next thing to it, on a bicameral house, because you have the same two types of houses, again meeting at two ends of the hall, mind you, trying to accomplish the same thing. That isn't my quarrel. My quarrel is that we have a Territory that is growing, is growing into a state. It is my firm belief that in a very, very short time, it will be a state. Much sooner I think than some of us will realize. That will be a happy day for all of us. That is why we are here. Many of you are here because you have shared the same dream that I have, ever since we have been up here. Someday, we would like our rights as citizens. Times are going to change again. I could go into figures after figures in this little pamphlet which is a recognized work, a Territorial publication, by the way. I could go into this and quote you many, many figures. I could show you why during the depression years, the late 1800's, and existing right up until World War I, where your population was based upon the basic economy of this area that we now call the Territory of Alaska and which we will soon call the State of Alaska. I could furthermore show you the war economy and the war situation, existing over the entire world I'll grant you, but none of us hope it will last forever, is primarily responsible for the heavy concentration of populations that exist in the Territory today. I remember Anchorage when it was smaller than Nome is today and I haven't been up here too many years. I came to Nome soon after it was greater than Fairbanks is today and that still wasn't too many years

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ago and I submit that If we Interpose our senatorial districting lines on top of our house districting lines, we might just as well have a unicameral setup and I know you are all going to smile because that sounds very strange coming from me but I am interested in good government and that is why I took this rather drastic measure after seeing vote after vote take place here today holding to the Committee thinking, which I did, hoping that this might come from somebody else other than myself because I knew what harm it might do if it came from me. Therefore, I would like to submit for your very serious consideration this plan. I would like to go further; I would like to point out to you that in this area along which we now call Southeastern, is 34,391 square miles. Southcentral this area through here, as we laid it out, 142,031 square miles making a total in this area of 176,422 square miles. We have through this area here, Central Alaska, a land area of 247,508 square miles. We have in the area we laid out as Northwestern Alaska, a land area of 147,135 square miles. Those two combined make a total square mileage of 394,643 square miles. You take this area and subtract this area from it on the land factor alone and you have a difference of 218,221 square miles. In other words, you could take these two areas, fit them into these two areas, you would have twice as much land up here as you have in these two combined and you would have 41,799 square miles left over. I live here. I know how minerally, potentially wealthy that area is. I know of discoveries up here so rich that they are fabulous. So the Navy has withdrawn Pet 4 from private development. What will the future bring to Alaska? I hope it will bring population to this area. It cannot bring any more square miles to this area. We have, down here, a limited square mileage, acreage, square mileage basis to contend with and it is developing beautifully. I am glad to see it, I am heartened to see it but the point I want to make is that our present economy which is wartime economy, is a thing that has deprived population increase since 1939 to this area. Therefore I have submitted, if for no other reason than to get this on the record, that if we go ahead right now and establish in our constitution a senatorial district based upon the population factor, knowing that the house -- which should be on a population factor -- we are establishing two houses on the same basis and 50 years from now they are going to be trying to settle the problem. Thank you.

PRESIDENT EGAN: Mr. Barr?

BARR: I also support this amendment. You all know of course that I favor a fewer number in the senate and in the house. I would like to have enough there to represent the people but the smaller body of course is more wieldy and more efficient. We'll get more done and it will cost the Territory less. I believe in statehood but I believe we should start out and be conservative at first. Now this provides for 20 senators. I know we are going to have 20 senators. Our Committee has told

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us so and that settled it, so I'll go along with this If we are to have 20. I believe that the senate apportionment should be according to area. Under the present system it is according to area with some consideration given to population. In my opinion that is wrong. The representatives are elected according to population and they represent the population. Each senator is supposed to represent a certain area whether the population moves in or moves out. If It is an area of small population that assures the people that live there of getting some representation. That is particularly good for Alaska because our population here shifts rapidly from one place to another. But this, under this amendment, that area would still get the same representation in the senate. That Is the method used on the national scene. It is the usual method and it is the best method. It is tried and proven so I am going to support this amendment.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Being a member of the Apportionment Committee, I will oppose this amendment. We thrashed this all out In the Committee. We worked hard in our Committee to come up to a means and we had to take concessions on each side. On our house of representatives, we gave to the outlying areas, to the hinterlands, we gave concessions to them or I should say the Committee provided for a means of the major fraction of the quotient. You can't go on a senate basis of saying we are going to divide a town into square miles. We made a chart on that and we found that it was not feasible. We brought out on our house plan a compromise and in turn, on our senate plan a compromise, taking into mind both area and population on both plans and I think it is a good workable plan. I oppose the amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I haven't spoken on the proposal at all. I feel I am entitled to a couple of minutes. I have followed the Committee's work quite closely and I feel that they have done a very, very good job in working out these various districts and such. I have gone along with them on it. There is this one little discrepancy as Mr. McNees pointed out and I'll just state my case and let It rest right there. We do have the two-house system which definitely should be upheld. There have been many moves to swing toward unicameralism and I think the majority agree that the two-house system is the best. The house as it is now is on population and granted that there is concessions to the outlying areas on this major quotient deal that we have had well explained, let us also say that the senate Is on a population basis in contrast. By that I mean that you can take your actual area. I do believe that we will

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have to agree that two of the senate districts, their combined total In area, will not equal the other districts. I know what some will say and I have heard it said here many times that the mountains can't vote but it is not all mountains up there, as Mr. McNees pointed out. Some are going to say it isn't fair. Some have mentioned to me that, "You got all you deserved." If that is so then the vote of the group here will say it is so. But I just appeal to you on this basis, that we also are asking to join the great United States. We are asking that they let us seat two senators on the basis of our area, along with two senators from New York, two senators from Pennsylvania, two senators from California and on down the line. I don't think it is too much to ask for equal senatorial representation.

PRESIDENT EGAN: Mr. White.

WHITE: I have listened to all these arguments and I'll have to admit that sometimes they get pretty impressive. I had always had in the back of my mind that all the senatorial representation should be based on area, too. But Mr. McNees and Mr. Barr, to follow your argument to its logical conclusion I submit this to be the case, and I have been looking for these areas all day, I am glad you gave them. Southeastern Alaska with 34,000 square miles should have one senator. Southcentral with 142,000 square miles should have five senators. Central Alaska with 247,000 square miles should have eight senators. Northwestern Alaska with 147,000 square miles should have five senators. You get one, five, eight and five, roughly. We should have a couple of half senators to make it come out right.

MCNEES: I don't follow your thinking there, Mr. White.

WHITE: If you add up the total area of Alaska as has been given by you and divide it by 20 senators and see how many square miles each senator should represent and then go back to your division here and see how it works out.

MCNEES: I am not submitting my plan as the best plan. I am submitting my plan as one that takes into consideration two different bases for apportionment for two houses which should be quite different. We have before us here the Committee plan and to explain this plan and if it is all right, Mr. President, I will take this time also rather than just answer Mr. White's question, to close the debate because there seems to be some feeling before the question.

MCCUTCHEON: I think there might be some other comments to be heard on this.

MCNEES: Pine. I will answer Mr. White's question as I have then.

PRESIDENT EGAN: Mr. McCutcheon.

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MCCUTCHEON: In a manner of breaking back into the figures in the proposed amendment here, it appears to me that in Southeastern Alaska there will be area-wide distribution of three senators with two elected at large. In Northwestern Alaska, there will be area representation by two senators and three elected at large. Southcentral Alaska, there will be four senators elected in basic districts with one elected at large and In Central Alaska there will be three senators elected from the several areas and two elected at large. I subscribe to Mr. White's logic that If we are going to put it on a strictly area election, okay, fine and dandy, let's divide the 580,000 square miles of Alaska up into equal parts and elect our senators from that and I would submit to electing five senators from each equal portion of Alaska but I think the plan as it is submitted here is not entirely fair at all. It gives some highly populated centers in Northwestern Alaska a distinct advantage of being able to name three particular men. It gives another area in Southcentral Alaska, which has several highly populated centers, the opportunity only to name one man at large and it seems to me that the discrepancy there militates against Mr. McNees's amendment here. It appears to me that as far as a matter of fair representation, that in this thing the large population centers are militated against. But there is no other way to predicate the general spread of representation other than in the fashion which has been developed here or else to arbitrarily slice Alaska up into its equal square miles of area and elect your people from those equal square miles of area so that your representation will be fair from an area standpoint.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to point out that there is not a complete lack of area representation or representation of general geographical areas. I have every reason to think that the five senators that would be elected In Southeastern Alaska, although they are elected from each of three districts plus two at large - all of those men would have the Southeastern view point. They are all Southeastern senators. All under the present plan that the Committee has proposed, all of the senators from what we have known as the Second Division, Northwestern Alaska would be familiar with their economy and their general area so that in a sense those people are going to be representing the general areas which we formally know as divisions, by numbers. Speaking of trying to get a few senators from some place except the main cities, take the case of the Second Division. Under Mr. McNees's plan you have only got two districts up there, two senatorial districts. Two could be, one from each of those districts with five, three could be elected at large in the division and maybe Nome, as a populous center, would get all three of them plus its own in the particular senatorial district it's in. Under his plan I can visualize four senators from Nome. Well, that's got its points but the

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thing is, that without trying to discredit Mr. McNees, because he mentioned that he hoped it would come from somebody besides himself because the harm it would do; well, I follow Mr. McCutcheon entirely that we have had to compromise and we can't very well just knock over that whole compromise after the Committee has worked this thing out.

PRESIDENT EGAN: Mr. Cross.

CROSS: I believe this Committee has done a remarkably good job. I would hate to see this thing torn up after the Convention has done so much work on it because I believe we'd go right back and after two or three days, get back to the same point. I would like to call the assembly. I think this is a question that should be decided by all the delegates except of course, Mr. VanderLeest, whom I understand is ill.

PRESIDENT EGAN: Mr. Cross asked for a call of the assembly. That will mean that the business of the assembly will cease until the absent members other than Mr. VanderLeest...

COGHILL: May I inquire?

PRESIDENT EGAN: Mr. Coghill?

COGHILL: The call of the assembly automatically stops all business until the assembly can be fully seated.

PRESIDENT EGAN: The assembly can vote to proceed with other business if it so chooses to do so Mr. Coghill, other than this business at hand.

BUCKALEW: Mr. President, I didn't know we had that rule in the rules, a call of the assembly?

PRESIDENT EGAN: Well, it's in Robert's Rules if it isn't in ours.

LONDBORG: If I read Robert's right, that it would take a majority vote here to call the assembly, I stand corrected on it, but in other words it would be up to the majority here if you want the assembly.

PRESIDENT EGAN: No, it doesn't take a majority vote to call the assembly. Usually, the remembrance of the Chair is that in Robert's that anyone can call the assembly. In different assemblies they make different rules as to the number it takes to call the assembly possibly, if there is no objection ...

SWEENEY: If we are operating under Robert's Rules of Order, I would suggest sir, that, I would like to move that this be referred to the Rules Committee for a definite answer.

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PRESIDENT EGAN: If there is no objection, the Rules Committee will take this matter into consideration.

RECESS

PRESIDENT EGAN: The Chair would like to clarify this call of the house rule. The Chair had in mind the rules of a different assembly. Under Robert's Rules of Order, you move if you wish to call the house or call the assembly, you have to make a motion and it has to carry by a majority vote, in the absence of any other rule in our rules. Mr. Cross?

CROSS: I wish to withdraw my request.

PRESIDENT EGAN: Mr. Cross asks unanimous consent that his call of the assembly request be withdrawn. Hearing no objection it is so ordered. Mrs. Sweeney?

SWEENEY: I would like to make just one statement before we get off this No. 14. For some reason the feeling is rampant here that Proposal No. 14 is almost Holy Writ and we should not do anything to it, amend it or anything. Now I recognize that they put a lot of work on it, but believe me all the rest of the committees did too and they are not treating any committee or should not treat any committee proposal any different than they do the others and if this one has to be amended, I think it should be amended.

PRESIDENT EGAN: Mr. Cooper?

COOPER: I would like to point out that the delegate that submitted this amendment has merely taken the committee report, transposed the senate districts on top of the election districts, but in some cases has not allowed senators to be elected at large and in other cases has allowed more senators to be elected at large. It is not fair, and in his argument he pointed out that senate districts should not be superimposed or transposed on election districts and that is exactly what the man has done. I urge you to vote against this amendment.

PRESIDENT EGAN: Mr. McNees.

MCNEES: May I close the debate?

PRESIDENT EGAN: You may close the debate.

MCNEES: In answer to Mr. Cooper, that was my concession to the committee report, to superimpose or to accept for the basis of the election of 12 senators I made that concession to the Committee plan, for the simple reason that I feel that the Committee plan with one or two exceptions was a very good one. The concession that I will not make is to the population of Alaska 50 years from now, 100 years from now, or 150 years from now

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because I know this is forever,, as far as the senate is concerned. I took into consideration before I brought this up and I brought it up reluctantly. I'll admit that I brought it up reluctantly, but I felt impelled on the other hand to bring it up. I took into consideration the land factor alone and threw it out the window. I took into consideration the property factor alone and threw it out the window. I can show you millions of dollars of investment equipment sitting over there waiting for this war hysteria to die. It is prevalent in the world today,, millions of dollars of gold mining equipment and other equipment related to that industry that can again return to its fabulous days up there, sitting up there only waiting for this hysterical period to die and we can get back on to a normal footing again. By the same token, when that day comes I submit to you there will be millions upon millions of dollars of outmoded equipment sitting in many other areas of Alaska that I can point to. Some of it is sitting right there now because the necessity has passed. I took into consideration the political or governmental units. We had the old judicial lines. I for one, and I say this quite frankly, I am not too displeased to see that old thinking go out the window. The lines have been drawn on a watershed factor, ethnological factor, socio-economic factor, recognizing that certain areas have their place in this new proposed and great state to be. I took into consideration political parties but I can think back to the time of the Whigs and the Tories in my period as a student of history. Many, many other parties came and went. I am a firm believer in the two-party system but I am not a believer in the two-party system to the exclusion of a third, fourth or fifth or any other minority party. I took into consideration the occupational or functional representation of these areas and again, standing alone, I had to throw it out the window. I took into consideration and I probably gave this particular thought more consideration than any other, that of the suffrage and voting performances of the people who live here. That I think has some very real merit. But again I did not feel that it could stand alone. Knowing that history has that capacity of oftentimes repeating itself, I came back and started looking first at the histories of Alaska right from its inception and I found a pattern of rise and fall, of decline and rise in population, of wealth, of any other single factor with the exception of land area. Since we have included the tidelands, why possibly we could extend that many miles. There is only one single factor that stands out but in no way possible could we use it as a basis for determining senatorial apportionment, and that is the one of population alone. So looking at these two maps we have on the wall, we have represented in many factors and in your own thinking here on the floor you came up with four well-defined geographicals, and I submit that the word "geography" has a much wider connotation than that of land alone. Why has so much of our area become settled so quickly? I submit to you, primarily for two reasons. One is that distance frequently discourages settlement.

Certainly the area west of the Alleghenies was settled before the Far West was settled. Alaska has waited until the last to be settled but I furthermore submit to you that the time will come when Alaska will play a role in the world of free peoples far beyond any of our current dreams. There have been concessions made in Committee on many occasions. You well know I sat there and watched these concessions made, hoping that there would be some plan that would come out that would satisfy everyone. I finally realized in my own thinking that if there was going to be a plan come out that could satisfy a majority, that would be the absolute most that could be hoped for. In looking at the present plan and seeing the superimposition of two units for functionally two different purposes superimposed, I couldn't quite bring myself to submit without, shall we say, doing what I could to educate or to bring to your attention the very facts that were disturbing me the most. I refused in my own thinking, I sincerely feel this way, otherwise I wouldn't be up here. I sincerely refuse in my own thinking to make any concessions to what I think the future of Alaska will hold. Therefore, I had to say what I just said. The concession I made to the Committee is on the basis of their house plans, and again I am making concession to population but I recognize that as a very important factor, if we are going to give each one of these senatorial districts one man. Furthermore I would like to point out In Mr. McCutcheon's argument, relative to the fact that three at large are going to be elected in what we now describe as Northwestern Alaska, we've always called it that up there, by the way.

PRESIDENT EGAN: The Convention will come to order.

MCNEES: That is the fact that three will be elected at large from the area from which I am a delegate to this Convention. I don't feel it is a valid argument for this reason. We made our concession to population in the house. Now we must take other factors into consideration. That would be the sole answer that I could give to Mr. McCutcheon on that question. So these concessions have been made on either side and now we have arrived at a point where we are going to vote one way or the other. I think we are all trying to be fair on this, I know you have been more than fair with me on time. I appreciate it, but I feel this had to be said. These four geographical areas which we now have, and geography to me represents many things. It represents rivers, mountains, inlets, bays, estuaries, peninsulas, it represents gold and silver, it represents game, it represents coal and oil, it represents wheat and potatoes, and cattle. It represents so many things that when I saw the crystallization of this Convention mind on four geographical areas, I found the key to what I thought might possibly be the solution and I still submit to you my plan is amenable.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McNees be adopted by the Convention?" All

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those in favor of the adoption -- the Chief Clerk will call the roll. The Convention will come to order.

(The Chief Clerk called the roll with the following result:

Yeas: 11 - Barr, Johnson, Kilcher, Laws, Londborg, McNealy, McNees, Nolan, Reader, Sweeney, Walsh.

Nays: 39 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, White, Wien, Mr. President.

Absent: 5 - Collins, H. Fischer, Poulsen, Robertson, VanderLeest.)

CHIEF CLERK: 11 yeas, 39 nays, and 5 absent.

PRESIDENT EGAN: The nays have it and the proposed amendment has failed of adoption. Are there other amendments to Committee Proposal No. 14?

WHITE: I have no amendments but just during a recess I observed that the Committee has, in their deliberations, certainly taken in a great deal of territory. I notice that not only have they included all of Alaska but they have also included the Big Diomedes Island and I am wondering ---

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill, could you explain that? The Convention will come to order. Mr. Kilcher?

KILCHER: There are two questions I would like to ask of Mr. Hellenthal, if I may.

PRESIDENT EGAN: If there is no objection, ask your questions.

KILCHER: I notice something here that I had missed before in Section 2, page 2, line 8, "The governor may". Do I read this straight, do I understand that the governor redistricts without a board in this particular instance? Or that the board is only used for boundary correction?

HELLENTHAL: No. The board acts as a reapportionment and redistricting board and advises the governor in both particulars and the action occurs immediately following the census and the language of Section 2 is, I believe, firmly qualified by the language of Section 5. This is an integrated article.

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KILCHER: In other words, If it is not a matter of boundary change but if one area that is entitled to two representatives in the house decides it wants to split up into two areas, each having one, they will appeal to the governor?

HELLENTHAL: I don't know of any language in here which permits an area to decide it's going to split up.

KILCHER: I mean we have to assume that the governor will not get the idea of creating a new district, in a dream for instance. I mean the matter will have to be submitted to him somehow and the only thing that I can see is that an area, or the population of an area rather, will express their wish in some form of a petition or referendum, is that right?

HELLENTHAL: Pardon me?

KILCHER: I can't see that the governor will have this idea all by himself and not consider the wishes of the population. So if a petition to create a new area should stem from the people involved, would that petition be tendered to the governor?

HELLENTHAL: I have difficulty in understanding your question.

KILCHER: My question to you is, how should it be done?

HELLENTHAL: Oh, the mechanics of the thing? Say you represented an area in Alaska and you felt there should be some redistricting, or reapportionment take place in that area, your area, say,

KILCHER: Let's take one of Mr. Coghill's areas, that would be suitable for the purpose.

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: Well, are you asking me a question or arguing? Which area do you want me to take and I'll take them?

KILCHER: Well, take Yukon Flats which is a large area and it might develop in the future.

HELLENTHAL: If the people there feel that reapportionment or redistricting is necessary, they should write to the redistricting board.

KILCHER: Well, is the governor appointing the board?

HELLENTHAL: They could write to the governor and ask him to send it to the board.

KILCHER: That's what the language means, that the governor may redistrict through the board? He will employ the board to

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do that?

HELLENTHAL: That is correct. The governor acts on the advice of the board. If he differs from their advice he has to state his reasons in writing and so on.

KILCHER: Thank you, I just wanted it on the record so our people in the future might know how to act. I have another question here. Has the Committee given any consideration to the possibility of establishing the quotients necessary for these 2b districts, not on the basis of actual civilian population, but votes cast like Arizona had and so on?

HELLENTHAL: Yes.

KILCHER: And what was the reason for the Committee turning down this possibility?

HELLENTHAL: It was felt that the method recommended was more suitable to afford proper representation for the Territory of Alaska.

KILCHER: Based on actual numbers of population and not based on the political activity of the areas involved?

HELLENTHAL: That is correct.

KILCHER: Well, I had an amendment ready which would be based on the count of votes cast in the gubernatorial election and I think it might have merits, in that it would tend to reduce what has been so aptly called "political illiteracy". It will certainly keep people on their toes. It might even give the people in some of these dangerous areas that are threatened to lose their identity in the house, it might give them an added chance because the record shows they have in the past voted, percentagewise better --

PRESIDENT EGAN: Are you offering such an amendment Mr. Kilcher?

KILCHER: I think I will, yes, for the record.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 2, page 1, line 8, strike the word 'official'. Strike all of lines 9 and 10 and 11 to the comma, and substitute 'first gubernatorial state election' and line 18 strike word 'civilian' and on page 2, line 1, strike 'population' and insert in lieu thereof 'number of ballots cast for governor'."

PRESIDENT EGAN: Mr. Kilcher?

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KILCHER: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Kilcher moves that the amendment be adopted. Is there a second?

KNIGHT: I second.

PRESIDENT EGAN: Mr. Knight seconds the motion. The amendment is open for discussion. Mr. Kilcher.

KILCHER: I might like to add that this idea is not a novel one, that the State of Arizona has considered this idea quite long ago and I had thought that in our particular case of Alaska, that there are some similarities between it and Arizona, a large area with diverging economic interests. It might be a good idea to consider. It would also make it readier, it would give us readier figures for reapportionment every four years instead of every 10. It would be of greater justice to the possible boundary changes and that I said before. It would give these districts that are now barely hanging on by the skin of their teeth a chance to make up a lack of noses with a lack of political interest in their destiny and affairs. It will give a truer representation I think,

PRESIDENT EGAN: Would the Chief Clerk please read the section then as it would be if this proposed amendment were adopted? Page 1, beginning on line 8.

CHIEF CLERK: "immediately following the first gubernatorial state election and after every subsequent census the governor shall reapportion the house of representatives according to the civilian population as required by the census within each election district. Reapportionment shall be by the method known as the method of equal proportions except that each election district having a major fraction of the quotient obtained by dividing total number of ballots cast for governor by 40 shall have one representative."

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: There is an error in the amendment on page 1, line 12, it shouldn't say "subsequent census" but "subsequent gubernatorial election". I failed to put that in. The idea is plain, I think.

PRESIDENT EGAN: With no objection, the change can be made. Mr. Cooper?

COOPER: Is that now the form of a motion and it has been seconded?

PRESIDENT EGAN: That's right.

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COOPER: Then it's open for debate? We have now arrived at the point where any election district having a total number of 675 people for the quotient -- incidentally you can divide that by two and have one -- will be eligible for representation in the house of representatives. I am basing that on 27,000 votes in the last vote for the legislature divided by 40, and that is, in effect, your motion, is that not right?

KILCHER: I had not intended that, I had intended from the first gubernatorial state election on. I would accept this plan. It would give these areas a chance to hang on longer because as I have pointed out last night I am convinced that if we care really about these districts for the lower house which I think we don't, we're to squabble here --

MCCUTCHEON: Point of order, is Mr. Kilcher closing the argument at this time?

KILCHER: If I may.

PRESIDENT EGAN: Are you closing the argument now, Mr. Kilcher?

KILCHER: I am answering Mr. Cooper's question and closing the argument at the same time. If we truly care as much for the districts of the lower house as much as we care for the senatorial problem, we could easily see by taking a fairly accurate census, not census but estimated population of 1955, that several of these districts are right now, if not already in jeopardy, already have lost their identity as a house district. If my amendment were adopted, by diligent political activity, these districts might survive 1960. If anybody doesn't understand what I mean, I will gladly elucidate. If you're not interested, well, that's that. But I have watched the work of the board and the work that has been put in it is one of the problems that I was mainly interested in, in this Convention. I am sorry I was not on the board. Maybe it was the board's good luck. A lot of work has been done. A lot of battles have been fought in it, and I am sorry to say that the fear of losing senatorial seats has clouded, rapidly clouded the issue of fair apportionment for the house districts. As a matter of fact some of these house districts, in my opinion, have been created out of a necessity to get enough pairs within a senatorial district. I wonder what would have happened if the idea of having senatorial pairs of districts hadn't been espoused. It possibly would have ended up with 21 or 23 districts. Now, well the fact is we have 24. I am not quarreling about it. I certainly cannot be accused of grinding my own axe because the area I am from certainly gets very good representation, all they could ever ask for. But I am truly trying to highlight the danger that some other areas are in that I never intend to live in as far as I know now but they would have a better chance of having their identity as a district for the lower house if this plan were adopted because history has shown, statistics show, that the rural areas take

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the voting on the average more serious than urban areas, so that would give them a slight predominance.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption -

KILCHER: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 4 - Barr, Hinckel, Kilcher, Reader.

Nays: 46 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Absent: 5 - Collins, H. Fischer, Poulsen, Robertson, VanderLeest.)

CHIEF CLERK: 4 yeas, 46 nays, and 5 absent.

PRESIDENT EGAN: The "nays" have it, and the proposed amendment has failed of adoption. Are there other amendments to Committee Proposal No. 14? If not. If there are no other amendments, Committee Proposal No. 14 will be referred to the Committee on Engrossment and Enrollment. Mr. Riley.

RILEY: A five-minute recess would enable the Rules Committee to bring out the report yesterday requested by Mr. McLaughlin.

PRESIDENT EGAN: If there be no objection the Convention will stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson?

JOHNSON: Gentlemen the time has arrived, I therefore move that the Convention stand adjourned until tomorrow morning at 9:00 o'clock.

PRESIDENT EGAN: Are there committee announcements? The Convention will come to order. Mr. Victor Rivers, do you have

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a committee announcement? Are there committee announcements to be made at this time? If not, Mr. Johnson has moved and asked unanimous consent that the Convention stand adjourned until 9:00 a.m. tomorrow. Is there objection?

DOOGAN: I object.

PRESIDENT EGAN: Objection is heard. Do you so move?

JOHNSON: I so move.

PRESIDENT EGAN: Mr. Johnson so moves, is there a second?

TAYLOR: I second the motion.

PRESIDENT EGAN: It's been moved and seconded. All those in favor of adjourning until 9:00 a.m. tomorrow will signify by saying "aye". All opposed by saying "no". The "ayes" have it and the Convention stands adjourned.

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ALASKA CONSTITUTIONAL CONVENTION

January 13, 1956

FIFTY-SECOND DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Reverend Wilson of the Assembly of God Church in Fairbanks. Reverend Wilson will give our daily invocation.

REVEREND WILSON: Our God and Heavenly Father, we thank Thee for thy grace that Thou hast so wonderfully bestowed upon us in the giving of Thy own Son Jesus Christ our Lord that those who believe upon Him might be saved. We thank Thee not only for Thy grace, but Thy special favor. Thy patience and mercies toward us, we thank Thee that Thou hast especially blessed and helped in this Convention. We pray that the grace of God shall continue upon each one. Guide the deliberations of this day. Thou hast said, "The meek will he teach his way, the meek will he guide in judgment." Grant that special favor, that special grace of God resting upon every deliberation of the day, that the wisdom of God shall be manifest and this constitution when completed, that it shall be acceptable and pleasing in the sight of God Almighty. May we be able to live a quiet and peaceful life in all godliness and honesty. May that which is accomplished in government be acceptable and honorable to Thee. Amen.

PRESIDENT EGAN: The Chief Clerk may call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Mrs. Sweeney.

SWEENEY: Mr. President, I would like to suggest again that all delegates remain seated until the President has introduced the minister of the morning.

PRESIDENT EGAN: The President would like to state that it was really not the delegates' fault this morning. The President went a little too fast. Does the special Committee to read the journal have a report to make at this time?

WHITE: The Committee has read the journal for the 48th Convention day and recommends the following corrections: Page 1, line 1, change "1955" to "1956". Bottom line, same page, same correction. Page 2, first paragraph after the roll, second line, insert "Mr." before "V. Rivers". Page 3, fourth paragraph, add at the end of the last sentence: "There being no objection, it was so ordered."

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PRESIDENT EGAN: What is your pleasure?

WHITE: There are more. Page 4, fifth paragraph, "The question was called and on voice vote the amendment", insert "to the amendment". Page 6, third paragraph, first line, after the word "motion" insert the words "to reconsider". Page 13, second paragraph, line 2, change the word "in" to "for".

SWEENEY: What day was that again?

WHITE: 48th day.

DAVIS: It has not been distributed yet.

PRESIDENT EGAN: If it has not been distributed, would you ask that it be held in abeyance.

WHITE: I am sorry, Mr. President, I thought they had been distributed.

PRESIDENT EGAN: If there is no objection, the report will be held in abeyance until all delegates have copies of the journal in their possession. Are there reports of standing committees? Reports of select committees? Are there any petitions or memorials or communications from outside the Convention? Are there any proposals to be made at this time? Motions or resolutions? If not, we are down to unfinished business, and we have before us Committee Proposal No. 10, the report of the Committee on the Executive Branch. If there is no objection, we will proceed by having the report read the second time and then the Chairman of the Committee may give the delegates an explanation of the article. The Chief Clerk informs the Chair that the proposal had been revised, and the rerun has not been completed. Mr. Rivers.

V. RIVERS: I just checked that. They were running on the last page before we started to meet. If there is any other business to fill in, they should be down right soon.

PRESIDENT EGAN: Is there any other business that we might fill in at this time? Mr. Sundborg.

SUNDBORG: I would like to announce a meeting of the Committee on Style and Drafting during the morning recess at the rear of the gallery.

COGHILL: Mr. President, one thing we might fill in a little bit with is on our recess time for this weekend. Find out what the pleasure is of the Convention, of the delegates as to whether they want to meet tomorrow, all day, tomorrow evening and take Sunday off, or if they want to take Saturday evening and work Sunday afternoon. I think we should discuss that now.

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PRESIDENT EGAN: It seems to the Chair that the delegates have worked awfully hard this week, worked every night and probably including tonight you will have had night sessions. That would mean that for each one of these days we have been here for 13 hours from the time you left town, and inasmuch as there are a few committees that seem to need some little time in meeting, the Chair would suggest that you might discuss whether or not it would be wise not to work tomorrow night and Sunday. Mrs. Hermann.

HERMANN: Mr. President, I am reporting for Mr. Riley who is busy, just making a suggestion. At the request of Mr. McLaughlin the other day, the Rules Committee was requested to set up rules that might expedite the transaction of business a little, and I think they are going to have that report out in a little while.

RILEY: It won't be out immediately, Mrs. Hermann, but today, I dare say. I might add that the Chairman was a little optimistic last evening in hoping to come back this morning with a report, but I think the Rules Committee should meet at first recess to consider the matter a little further.

HERMANN: I think it might be advisable to wait until that report is out to decide what you want to do about tomorrow. It will certainly be out in plenty of time for that. It might be that if the report is adopted by the Convention that the necessity of nightly night meetings might be averted, and we could probably meet occasionally at night meetings instead.

PRESIDENT EGAN: If there is no discussion to come before the Convention at this time, the Chair would declare a recess until the committee proposals are available for the delegates. If there is no objection the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state that the mimeograph machine has broken down and it will be some time before that will be working again, and you have before you Committee Proposal No. 10 up to or through Section 11. Now we might proceed in this manner, that we read in second reading the revised article through the section that we have before us and then have the chairman of the committee and the committee members offer their explanation which might take a good deal of time, and proceed that far at least, if it is the wish of the Convention. If there is no objection, the Chief Clerk may proceed with the second reading of Committee Proposal No. 10.

JOHNSON: New 10 or 10a?

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PRESIDENT EGAN: 10a.

(The Chief Clerk read Committee Proposal No. 10a at this time.)

V. RIVERS: Would you call a five-minute recess? We now have additional sections and they shall be distributed and just put in additional matter with the first section, and you shall then have a complete section.

(The Chief Clerk continued with reading of Committee Proposal No. 10a.)

ROSSWOG: Mr. Chairman, we don't have this copy.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess until the copies have been distributed.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Clerk may proceed with the second reading.

(The Chief Clerk continued with reading of Committee Proposal No. 10a.)

COGHILL: Mr. President, in the gallery today we have a group of students that traveled from Nenana to visit the Convention. They boarded the train this morning at 6:45 in order to arrive to visit the proceedings of the Constitutional Convention. At this time I would like to have the Convention welcome the Nenana group and I believe that the president of the student body would like to address the group, and I ask unanimous consent.

PRESIDENT EGAN: If there is no objection, would the president of the student body please come forward and be recognized. Miss Gloria Fredericks from Nenana School.

GLORIA FREDERICKS: Mr. President, Delegates to the Alaska Constitutional Convention and friends, I feel that we today are highly favored people, especially those of us fortunate enough to call Alaska our home. Certainly the privileges of living in this great northern fringe of American civilization are as great as those possessed by any of the other 48 states.

Alaska is not only the geographical crossroads of the world but is herself at the crossroads of her destiny. She can become a equal state under the great flag of our forefathers or she can be longer subjected to the tyranny of American colonialism so eloquently spoken against by our former Governor, Mr. Gruening.

Everyone today is searching means of conserving resources, both human and physical. Today the youth of our land constitutes a

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far more serious problem of juvenile delinquency. They constitute the sole means of perpetuating the continuity of our way of life. I feel that today's youth are more alert, more self-conscious, and more capable than the youth of any other nation in the entire world. Were we to doubt our advancement over other generations, we wouldn't admit the failure of our great American principles. We, the youth of 1956, are indeed alert to the changes of our day. We realize the significance of this Convention here at our great and growing University. Just as the University symbolizes our determination to enlighten our future generations, so does your work here provide basis for our hopes of the future. We feel highly honored to be able to attend this Convention. Perhaps it might convey to our minds something of that great group of men who sat in Philadelphia almost two centuries ago to draw up a constitution for our infant nation to be governed by a revolutionary type of government. Your task, though not as tremendous as theirs, is as important to the destiny of this portion of America. Some of us have never been fully Americans. Some of you have been colonials all your life. We can look forward to a great spiritual and physical growth under the new status of citizenship, full citizenship. Many of us here today will no doubt live to be able to vote for those who decide our economic and cultural as well as our political destiny. We will be citizens of the largest and eventually the greatest of all states, Alaska. I feel that your grandchildren will see your names on streets of the new state. Possibly towns and cities will be named for you. The future will judge your work here, and we are part of that future. Because of the work you are doing here I feel that some of us will help legislate according to this constitution. I feel we will amend it and flower it into full stature of American citizens.

We, the students of Nenana Public Schools, would like to thank you for the opportunity of appearing here before you and seeing you at work. It will be a day few of us will ever forget. Thank you. (Applause)

PRESIDENT EGAN: Thank you, Miss Fredericks. We would like you to know that we are very happy to have each of you here with us this morning. We hope that you will be our guests at the noon luncheon and if Mr. Coghill will present the President before our recess with the names of each of the students, the President will see that a delegate will take each one of you individually to lunch. Mr. Johnson.

JOHNSON: Mr. President, I move that the talk which we have just heard be spread upon the journal of today's proceedings. I ask unanimous consent.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the talk we have just heard be spread upon the pages of today's journal.

Is there objection? Hearing no objection it is so ordered. We will proceed in the same manner that we proceeded with Committee Proposal No. 14. There will be no amendments accepted or offered until after we have heard the Committee explanation, after the delegates have had an opportunity to ask questions of the Committee. Mr. Victor Rivers.

V. RIVERS: I will attempt to give you first a general discussion of the article on the executive. I want to say that there are no bricks or cornerstones in this which if you desire to change, you cannot do so with a reasonable degree of not failing to perform the functions we are trying to set forth. The Committee has produced a committee report in which we all concur. I do want to say, however, that there are minor points within the article which some of the members of the Committee did disagree and do desire to disagree on or may have amendments on, so I want the Committee members to feel free to inject their comments at such time as we come to those sections. We are all strongly agreed on the principle of the strong executive. In arriving at that principle some desired higher degree of strength in the executive than the others. We have tried to bolster the executive to where we can function efficiently and effectively as the head of the state government in these modern times. I might say that in first approaching the problem, the Committee went through all of the various constitutions that were available of the different states. We went through all material on the matter of reference and we also had consultants to advise with us in regard to modern practice and the best practice. As you must realize, however, there are many arbitrary decisions to be made in an article such as the executive. There are 55 opinions on this floor, and I assume that various of you will have opinions that you will want to express and try, if possible, to make it a part of this article. We went through the various state constitutions and in so doing we found that the older state constitutions with their many elective officials and many restrictions upon the powers of the executive could almost in their entirety be eliminated from consideration as reference matter. By the same token, we also found that the newer constitutions, such as the revised Constitution of the State of New Jersey, the Constitution of Hawaii, the model constitution, and some of the newer state constitutions, had in them matter we felt should be referred to and possibly some parts of it used in the section which we are presenting to you here. So in the matter of your reference to other state constitutions, you will find that if you keep as reference matter before you the guide book prepared for us by the PAS, and the constitutions of the State of New Jersey and Hawaii, and the model constitution -- occasionally we have referred to other constitutions and as we go along I will try to point out where we have referred to or used matter in other constitutions. In going through the article, we first, as you notice, invest the executive power in the governor, which is a formality, setting up his powers and

functions. He is the head of the executive department, but as such he has certain confirming powers in the judicial department, and he has certain appointing powers which are later confirmed by the legislature in joint session. He has certain appointing powers in the various functions of government, and he also has certain removal powers. In the matter of setting the governor's age, it was decided that he should have certain experience and certain background in order to be eligible to become governor, and we settled on the age as shown in here. We also felt that he should have considerable residence in the Territory of Alaska, so he would know the problems of the people from the broad and actual acquaintance with them and that he should have qualifications by reason of residence here that he could obtain in no other way to be governor of the Territory. For that reason you see a residence clause. We have provided for a standard election clause there and in the cases of a tie we have provided for the majority of both members of the houses in joint session to resolve such a tie. There are also provisions for the settlement of any contested elections. We have provided for the term of the governor's office to be a four-year term elective once to succeed himself, and after that not again to be elected until there has been a four-year break. We will discuss each of these sections as we come to them in more detail. We have provided for the governor to take office in the off year of the national election or the off second year of the national election rather than the on second year so he will be elected at the time when the presidential elections are not under way. Then the matter of the next elective officer came up for discussion. The next elective officer, as we have shown it in our article, would be entitled a secretary of state. He would not preside as the presiding officer of the senate. They would elect their own presiding officer. The term "secretary of state" to many of the Committee members was deemed to be a broader description with less restrictive connotations than the term "lieutenant governor". The majority of the committee decided for the title "secretary of state". In order to enforce and bulwark the strong executive, it was felt that we should provide some means by which he would come from the same political party which the governor came from, so, in the manner in which the President and Vice President is elected, we selected the joint ballot type of thing. They run jointly on the ballot and are elected jointly as is done for the President and Vice President of the United States. We also find that is the practice in the State of New York. Other states use different methods. Now the matter of other elective officials was discussed at considerable length. As you realize, the ideal of the strong executive is the one efficient head of government, the governor sitting there elected by the people and responsible to the people for the functioning of the executive department. Now, in theory, that is a strong executive and a very strong talking point. However, we felt there should be at least one other elective official and many of the committees felt there should be possibly two more elected officials. However, we show

the elected official in second place here to be the secretary of state, as I have mentioned, elected in the manner and jointly with the governor. I will reserve further discussion on that section until we come up to the actual section itself, but the intent there was there be two elective officers as the head of state government. That gave us a succession officer in the case of the removal or the death of the governor, it gave a succession officer who had been elected by the people of the entire Territory. The next order of succession would be the president of the senate, another elected official from the legislative body, but normally under our apportioning plan he would be elected from only a portion of the Territory. The fourth order of succession in case of loss of the other three would be the house speaker. He also would be an elected member of the house of representatives but there again would be a member elected from only a portion of the Territory and not all of the Territory. So that is the order of succession we have set up in this article. We have set up also the matter of qualifications of the governor, or if he fails to qualify, what shall take place. We have also set up an arbitrary period so when the governor leaves the Territory or is gone and absent from his duties for six months, the office will automatically be deemed to be vacant. This is done in some states and it is designed primarily to remove from office without any disgrace or discredit a man who may have become ill in office and who for sympathetic reasons could not otherwise be removed. Compensation of the governor and the secretary of state we have left up to the establishment by the legislature. Some other state constitutions, they set minimums, they set maximums, they fix salaries, so any change then must be made by an amendment to the constitution. We have left that matter open. Now contrarily, Hawaii in adopting their constitution set a minimum salary for their governor of \$18,000 and a minimum salary for lieutenant governor of \$12,000. We have left both of those salaries open to legislative action. They may not reduce them for the term in which any one governor is elected. That is the only qualification we put upon the handling of salaries. In order to enforce the strong executive and to bulwark his power we have given him power by appropriate actions or proceedings in the court, brought in the name of the state, to enforce compliance with any constitution or legislative mandate. That is specifically written into the constitution because we want to have a broad interpretation of the powers of the strong executive. He has no authority however to act in that manner in any proceeding against the legislature. The legislature is the supreme elected body and as such he is answerable to them and to their interpretations and handling of matters of law. We have provided that the governor will give a message to each legislature when they meet setting forth the things that he deems of value to them in solving the problems of the state. In addition to that, after much discussion, we decided to put in a clause that any governor should at the termination of his term provide a

written report for the records of the state with his comments as to the conduct of his administration and the recommendations that he might have to help guide future governors and the governor taking office. That came about, partly, because in the matter of seating the governor, and his term of office, we deemed it desirable to seat the governor on the first Monday in December. That would give him a term in office of perhaps seven weeks as we now have it set up now before his first legislature would convene. It would give him time to review his various departments of government, to go over and provide his program and his message to the legislature. It would give him a chance in other words, to get his feet on the ground, so that is one of the reasons for seating him in the first week in December. We have made the further provision that he shall be commander in chief of the armed forces which is more or less a formality. That makes him commander in chief of the National Guard and of any state militia we may have in peace times, and he has also the appointing power in the National Guard and in any militia we may have, subject to any requirements of the National Guard under the National Guard of the United States Department of Defense. We have a clause in here that the governor may proclaim martial law. You find that in some of the older state constitutions where there was conflict going on and where there was a possibility of rebellion or invasion. You don't find it in many of the intermediate states' constitutions. You don't find it in the Hawaii Constitution. You do find it in Puerto Rico. Feeling that we are located geographically like we are, the majority of the Committee felt the governor should have the power to declare martial law on short notice, so we have given him that power. The question is whether or not that power would possibly not be executed or handled first by the armed forces of the United States actually resident in Alaska at the time of any such rebellion or invasion, but even then it was felt and deemed desirable to specifically spell that power into the constitution for the governor. We also handled the matter of granting reprieves, commutations, and remittance of fines and forfeitures. That is a broad clause and was adopted after much discussion in Committee. We felt that the governor would possibly be very desirous of having a pardons and parole board to sit with him and make decisions along with him in the matter of pardons, reprieves, remittances, etc., so the section has also provided for the establishment of such a commission or body to whom he may delegate certain of his powers in arriving at his pardoning decisions. Now in the matter of the setting up of the state departments, the Committee in order to help effectuate the strong executive did not name department heads or departments as such. We established, as is done in the more recent constitutions, a group of principal departments not to exceed 20. In that matter of 20, it is a maximum figure and probably would never be arrived at in the foreseeable future because in the case of principal departments in the matter of major functions, any major function that could possibly arise could be handled under some branch or

some section of those 20 principal heads. So as we envision the state now, it would never have more than 20 principal departments, although there might be a great many subdivisions thereof. We vest in the governor the appointive power for the heads of these departments. That is subject to confirmation by the houses of the legislature meeting in joint session. All the way through here you will note that we have given the power of approval of the governor's appointments to a joint session of the legislature. We did so after checking with the department on the legislative which was following a similar procedure in the matter of approval of appointments. I might also add that the approval of appointments has been done in Alaska in that manner for many years by a joint session of both houses. In the matter of the major department heads we have left the power of removal in the hands of the governor. That I believe could be implemented by certain legislative law in regard to certain restrictions or hearings or appeals from the governor's removal powers, but it was intended that he should have a strong enough power to remove from office anybody without disgrace, mind you, we are not talking about impeachment, we are talking about just the removal of somebody who might prove to be incompetent or unable to perform the duties of the office. We have given certain power to the governor in setting up the executive or rather the administrative departments in that he may, in order to effectuate the strong executive and not be tied into any one of these departmental heads with any particular functions, reassign the functions to the different departments as the occasion and need might rise, but he will make those changes and would set them forth in an executive order which would not become effective until after it has been before the next succeeding legislature, and if they desired to, they could take an action disapproving that. If they did not take such action of disapproval, then the executive order as issued by the governor would become law, so he cannot go into the departments and make a quick shuffle without first having it submitted to the legislature and having their general consent by reason of their taking no negative action. That brake was thought necessary in order to maintain the stability in the administrative offices. Now we have set up in practically all cases, we hope the principal departments will be headed by a single executive, but we have also made provision that if there are multiheaded principal departments that they will be appointed by the governor, there again approved by both houses of the legislature, and they in turn may appoint an executive officer to perform as their functioning head. He will be subject to removal not by the governor but by the order of the board under such rules and regulations they may adopt. I might add, however, that we have left the removal powers of the board members of the heads of these principal departments in the governor's hands. I wanted to mention that the heads of all principal departments, along with their ability to perform their particular functions, will also have to have an acquaintance and a knowledge of Alaska under this requirement. We have

set up that they shall have been a resident of the state for at least three years preceding appointment to office. There again it was deemed by the Committee that any man who is to have a close hand in the handling of the Territory affairs, especially in regard to making policy, should have a close acquaintance with our country and with its people and with their needs and their desires. Three years was thought to be an absolute minimum for heads of principal departments who would assist in effectuating and carrying out departmental or state government policies. Now we have given the governor the power to fill any vacancy occurring during a recess. You will notice there are certain limits upon his power to fill those vacancies. If at the end of the session any of his ad interim appointments expire, or at the end of the next regular session is the way we have put it, but if he nominates somebody and they are sent down for confirmation to the legislature, the legislature does not confirm them during the session, then he may not nominate that same man for an interim appointment after the legislature has adjourned. We felt it was necessary there to have that restriction in order that the governor might not bypass the approving power of the legislature and make an ad interim appointment of somebody the legislature had refused to approve and did not confirm. I would like to ask if from my description here or my comments if I have omitted anything, I would like to ask any member on the Committee to further amplify upon the intent and thoughts of the Committee at this time before we go into a detailed discussion.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I think that we overlooked putting something in our last paragraph here, did we not? We first talk about appointments to be made by the governor with the advice and consent of the senate, or legislature in joint meeting. Our thought there was that possibly the legislature might pass an act providing that some certain appointee would be approved only by the senate, but then later on we neglected to put in the legislature in joint session. I am sure it was our intent that beginning with line 17 on the very last paragraph, the last page, "After the end of the session no ad interim appointment to the same office shall be made unless the governor shall have submitted to the senate or the legislature meeting in joint session," and then the very same thing in the very last line, "If the nomination shall have failed of confirmation by the senate or by the legislature meeting in joint session", that is the intent?

V. RIVERS: That was the intent and we will make a correction at the next recess on that so just keep in mind that it is the intent of the Committee that it shall read, "the legislature in joint session" there.

PRESIDENT EGAN: Are there questions? Mr. Johnson.

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JOHNSON: Mr. President, may I direct a question to the Chairman of the Committee?

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may.

JOHNSON: Mr. Rivers, with reference to Section 12 which gives the governor the right to declare martial law, I notice that it is restricted to two instances, that is in the case of rebellion or invasion or imminent danger thereof. Did the Committee consider the possibility of giving the governor the right to declare martial law, for instance, in the event of disaster such as floods or earthquakes or volcanic eruption, or something of that sort, or was that discussed?

V. RIVERS: That was discussed at length, and it was decided against for the reason they thought there might be under certain cases an abuse of the economic power, an abuse of that martial law power in declaring a disaster due to economic problems of any one or two segments of society. We thought the only two reasons should be invasion and rebellion.

JOHNSON: Mr. Rivers, in Section 16, in line 23, you provide that the heads of all departments shall be citizens of this state. I don't know whether that expression would require the appointees to be citizens of the United States as well as the state.

V. RIVERS: That is the terminology we intended to use, "United States, and residents of the state".

V. FISCHER: Mr. President, I rise at this point only to suggest that we might start the discussion with Section 1 and go through section by section rather than skipping back and forth. I think that will eliminate a lot of problems.

PRESIDENT EGAN: If there is no objection, we will adhere to that as much as possible. Mr. Coghill.

COGHILL: Mr. President, my question was on Section 16 so I will wait until that time comes up.

V. RIVERS: I would first like to ask if there are any other members of the Committee, who worked faithfully on this and who may desire to answer or may have something to say in a general way before we start the detailed discussion. In addition to myself, the members of the Committee are Mr. Barr, Mr. Boswell, Mr. Harris, Mr. Londborg, Mrs. Nordale, and Mr. VanderLeest.

PRESIDENT EGAN: Do any of the Committee members wish to make a statement on Committee Proposal No. 10a? Mr. Taylor.

TAYLOR: May I ask Mr. Rivers a question?

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PRESIDENT EGAN: You may, Mr. Taylor.

TAYLOR: Mr. Rivers, I was going to ask what the Committee had studied about the question as to requiring the approval, confirmation of heads of departments by light of both houses of the legislature in joint session?

V. RIVERS: That is as we had intended, and there is a place or two in here that says "senate". Actually, we mean by joint houses and by confirmation of the legislature in joint session, and I will make a few corrections on those items which I notice have gotten the word "senate" still there.

TAYLOR: The Committee then did mean the two houses in joint session?

V. RIVERS: Yes. There is one place where we say, "The governor may call both houses of the legislature into session or joint session or may call the senate into session alone". As you realize, under the legislative power the senate has been allowed the power of bringing the motion for indictment or impeachment, so if in the case of an impeachment proceedings it was felt to be imperative, and the motion was to be handled before the senate, the governor could call the senate into session alone in case he felt the situation was drastic enough to require a hearing by them as to whether the impeachment should be brought out. Then, if they brought it out, he could then convene the house in session and could have the hearing as the matter has been set up in the legislative section.

TAYLOR: There is one other matter in regard to impeachment of the state officer, what was the thinking of the Committee upon the reversal of the historic precedent in which the house brings the charges and the senate sits as the judges?

V. RIVERS: We had included a section in the executive covering impeachment which was set up in that manner, that the house would bring the charge, the senate would hear with one of the supreme court justices presiding. Under the majority of this body, myself and some others dissenting, that has now been reversed, so the charges will be brought before the senate and tried before the house, so we have provided in here that the governor may call the senate into session by itself if necessary to sit on that one particular problem only, that is, may call the session of the senate alone into session. That would be the only purpose or reason for them being called into session alone.

TAYLOR: Was the reason they reversed that, they felt the house had the more mature judgment to judge those matters than the senate?

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V. RIVERS: I don't know whether you were here that day, but that was discussed at considerable length on the floor, and I was one of those who spoke against it. Others who spoke for it could repeat their statements but they had reasons for feeling that the final trial should be before the house and that the indictment proceedings should be brought from the senate.

TAYLOR: Thank you, Mr. Rivers.

BARR: I want to add a little to what Mr. Rivers said. When this procedure was first brought up, I was against it, too. I suppose just from tradition, but the more I thought it over the more I thought that it made little difference whether the proceedings began in the house or in the senate. It was said that the senate had the older people in it and would use a little better judgment, they were a little more reserved and they might not do anything radical, but that also applies to starting the proceedings. They would not bring forth an indictment either for that very reason, so I can't see that it makes much difference, and there are more members of the house and the justice of the supreme court will preside and I believe that the larger the jury, the more fair the verdict, perhaps.

SUNDBORG: I move and ask unanimous consent that we recess for 15 minutes.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does any delegate have a question relating to Section 1 of Committee Proposal No. 10a?

HELLENTHAL: Mr. President, I have a question of Mr. Rivers.

PRESIDENT EGAN: Is it relating to Section 1?

HELLENTHAL: Yes. Mr. Rivers, was it the intention of the Committee in framing the suggested executive article, that the view of the United States government, the federal government, be adopted with regard to the executive, namely the view that the executive had inherent powers other than the powers expressly conferred upon him by law and by the constitution?

V. RIVERS: I think that was the intent of the Committee that they would have the powers normally delegated under a constitution of this kind within the limits of a state governorship. By that I mean to say we have adopted identical phraseology with some of the other state constitutions in setting up his powers

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without limitation. It might be that due to legal interpretations there have been other things crept in and some powers might be more broadly interpreted under some courts than others. If there is any reason for doubting the value or the completeness of this phrase, we are certainly open and willing to have discussion on it.

HELLENTHAL: You note in Section 10, "The governor shall be responsible for the faithful execution of the laws." That enumeration of the power of the executive might possibly be construed as contrary to the view of Alexander Hamilton which is the view of the inherent power of the executive and the view which the Committee apparently recommends, so with that thought in mind, do you believe that the language added to the first section, "subject only to the exceptions and qualifications expressed in this article" would be objectionable?

V. RIVERS: Speaking for the members of the Committee with whom I have discussed this, I think they would like to hear it discussed at more length, and there is no set conviction in regard to any change in this statement that would make a better defined statement as to his powers. Do you think that, "He shall faithfully interpret the laws..." etc., might be a limiting factor upon the interpretation of this phrase?

HELLENTHAL: Yes.

V. RIVERS: We are certainly open for discussion on that point.

PRESIDENT EGAN: Are there more questions on Section 1? Section 2? Mr. Robertson.

ROBERTSON: I understand, Mr. Victor Rivers, as inquired of you by myself during the recess, it is the intent in Section 2, that the governor shall be a citizen of Alaska. Would you have any objection to inserting after the words "shall be", line 3, Section 2, the words "a citizen of this state"?

V. RIVERS: If it accomplishes a useful purpose I would say that we have no objection. We gave it some thought and the question as to whether or not by being a citizen of the United States, and a resident of Alaska for that period of time, he would also be a citizen of the State of Alaska. If there is a reason that justifies putting it in to clarify it we have no objection, Mr. Robertson.

ROBERTSON: I think that legally there is a distinction between a citizen and a resident. A citizen of Alaska is necessarily a citizen of the United States, but a citizen of the United States is not necessarily a citizen of Alaska. There is a difference between residency and citizenship.

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V. RIVERS: I might point out if we decide to adopt that qualification there is one other place in the bill where it should also be applied in a like manner.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would be afraid of inserting this because I don't really understand this dual citizenship. It seems to me that you are liable to raise a terrific legal question. I think seven years of residence should be enough protection. When does a man become a citizen of the State of Alaska?

ROBERTSON: He does not become a citizen of Alaska by simply residing here. He has to actually become a citizen of Alaska but residency does not make citizenship of Alaska, and there is a dual citizenship. When we become a state the federal District Court of Alaska in certain cases provided will have jurisdiction over suits between citizens of Alaska and a citizen of the State of Washington because they have a different citizenship, although both are citizens of the United States.

BUCKALEW: Mr. Robertson, as this Section 2 is written, would you not think the courts would interpret this seven years to mean he would have to be a domiciliary of Alaska, and if he was a domiciliary of Alaska he would be a citizen of the State of Alaska?

ROBERTSON: Not necessarily.

BUCKALEW: What would be your definition of a citizen of Alaska?

NOLAN: Don't you have to declare intention of being a citizen, for instance, to take out a residence license?

BUCKALEW: That is residence again. That is residence for the particular purpose of hunting. I would not have any objection to putting it in except I'm afraid it would cause a lot of confusion.

NOLAN: I know of a case where a man obtained residency in Alaska although he lived in the State of Washington for 15 years.

TAYLOR: I don't believe it would be necessary to put that in this article. The fact that a man maintained a domicile in the Territory of Alaska for seven years, it would naturally be assumed legally that he is a citizen of the Territory of Alaska. Now I might say that the case of Texas, the States of New Mexico, Texas, and Florida vs. New York in which was a case deciding which state was to collect the inheritance tax from the son of Colonel Teddy Green, a United States Supreme

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Court case, and it finally held that although Teddy Green's son had been a colonel in the New Mexico National Guard regiment and had maintained a residence for a good many years in one place and then another and finally went back to New York and built a home on the Hudson River, and that is where he died and the Supreme Court held that although he had taken no affirmative action to relinquish his citizenship of either one or the other states, Florida, Texas or New Mexico, and as he had come back to New York where he originally started from and built his home there, it took no further action on his part to be considered as a citizen of the State of New York because he lived there for four or five years prior to his death, but those other states, who perhaps had an eye on this juicy morsel from his estate, well they lost out. They felt he was a citizen of their state.

V. RIVERS: Mr. President, it might clarify matters -- I have just been handed the Constitution of the United States -- it says under the heading on page 965, National and State Citizenship. "With the ratification of the Fourteenth amendment a distinction between citizenship of the United States and citizenship of a state was clearly recognized and established. 'Not only may a man be a citizen of the United States without being a citizen of a state, but an important element is necessary to convert the former into the latter. He must reside within a state to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.' It is quite clear then that there is a citizenship of the United States and a citizenship of a state which are distinct from each other and which depend upon different characteristics or circumstances in the individual." On that grounds, if this is an authoritative document, which I believe it to be, we probably should add the words "citizen of the state" as suggested, in order to bring this state citizenship into focus.

PRESIDENT EGAN: Are there other questions relating to Section 2? If not, are there questions relating to Section 3? Mr. Sundborg.

SUNDBORG: Mr. President, I just want to inquire, are we now offering amendments?

PRESIDENT EGAN: No. Mr. Victor Fischer.

V. FISCHER: Section 3, I would like to ask whether the last sentence is necessary regarding contested elections. In the legislative article when we discussed elections we had no similar phrase. Is this not a matter most generally handled by law anyway?

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V. RIVERS: As I recall the legislative article, it set up distinctly that they should be the judges of their own elections and should provide so by law, which would cover identically the matter here, in a sense that there would be a law provided for the handling of contested elections. We did, however, feel that by being silent on the matter there might be an implication that the contested election could possibly not be provided for by law. It was the general consensus of the Committee that it should show there. Now if the body decided it should be stricken, I am sure it will not materially alter the final handling of this matter by law.

McCUTCHEON: The matter that was in the legislative article pertained only to the legislature, no other office at all, so I think this is fitting and proper in here.

V. FISCHER: My question was not whether it was fitting and proper. My question was, is it necessary?

V. RIVERS: Speaking for the Committee, I believe we could say we are open to discussion on that and if the arguments bring out that it would be necessary for the legal effectuation of the constitution of that power, then, of course, we would try and leave it in.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: We had a shining example of the absence of a law governing a contested election in the last election, and it took a long time for the governor's office and the attorney general and everybody concerned to make up their minds how it should be handled. Our thought was, if this is here, it is a duty to the legislature to set up some kind of a procedure immediately to decide contested elections.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am wondering if a general clause could not be in the article on franchises and elections that would pertain to all elective officers. If that were planned, then this could be deleted.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That article already provides as follows: "It" -- by that is meant the legislature, and I am reading from Section 2 of the article, "The legislature shall provide the manner of determining contested elections by court of competent jurisdiction." Now Mrs. Hermann nods her head. The grammar of that is under review in the Style and Drafting Committee, and I think it should properly be reviewed, but we are dealing with principles here, and this has already been treated in the constitution.

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HERMANN: That was amended on the floor to say, "including the right of appeal to a court of competent jurisdiction".

R. RIVERS: A contested election oftentimes involves a recount which is a check-over by the canvassing board, and that should in any case be done before going to court, but if it says "including", as Mrs. Hermann states, then our general clause would cover this.

McLAUGHLIN: To clarify any doubts to the question, on the proposed Style and Drafting redraft -- Committee Proposal No. 1, under Section 3 we have "Secrecy of voting shall be preserved. Methods of voting including absentee voting and the manner of determining election contests, which shall include a right of appeal to competent jurisdictions, shall be prescribed by law." That is, the substance will be there, even if it is again reedited.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I am sorry I was not able to catch some of the conversation, but Mrs. Nordale called my attention during the recess to the words "by law". Whether or not that would permit a contested election to be decided by initiative or referendum because certainly the laws passed under the initiative and referendum are laws.

McLAUGHLIN: I think I can resolve that. In Style and Drafting they do not say that the contested election shall be determined. It merely says, "The manner of determining election contests shall be prescribed by law." That is, the authority is only given as to the manner, but not to the specific election contests. I suspect that might be one of the special laws that are forbidden under the constitution.

ROBERTSON: I don't think that meets the objection. It seems to me a statement of this kind ought to be by the legislature, specifically. You couldn't possibly put a contested election back out for a referendum to decide it. I think I would rather say "by the legislature".

SUNDBORG: I should mention here that in Style and Drafting we are having some trouble with this phrase "by the legislature" because I believe that the intent of the body in nearly every case where that was mentioned was merely that we were not spelling out a procedure in the constitution but we were leaving it for later legislation, and that later legislation could be either by the legislature or by the initiative, except in those cases where in our article on the initiative it is definitely precluded. That is, there are certain subjects which cannot be covered by initiative. I think I understand

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what Mr. Robertson is asking which is, can the specific election contest be determined by an initiative. It could not. As Mr. McLaughlin said, under the proposed language that the manner of settling all election contests shall be provided by law. That is, a procedure would be set up for settling election contests, and each contest would not be settled by initiative or by the legislature necessarily, although the legislation on it, whether it comes from the legislature or by the initiative, could involve the legislature.

PRESIDENT EGAN: Are there other questions relating to Section 3? Mr. Sundborg.

SUNDBORG: I have a question relative to Section 3, lines 11 to

16. There is a provision written in there for an eventuality which I think would never occur. I doubt whether it has ever come up before any state in the nation in all the years they have been electing governors. That is an absolute tie on the vote for the governor of the state. I am wondering if it is necessary or if it is, whether we should not put it in elsewhere governing all elections. That is an absolute tie for two candidates for the legislature or for two candidates for delegate to Congress, or I mean for senator or representative.

V. RIVERS: Well, that is a good point. It was discussed in Committee at some length. The phrase was taken, after discussion, from the New Jersey Constitution adopted in 1947. Now, as Mr. Sundborg points out, there is a possibility that that situation would never occur. If it did occur the language should probably be applied to all elective officials competitively running for office. I think that will have to be decided after further discussion by a majority vote of this body as to whether or not you desire to have it as a part of the constitution or whether you desire to broaden it. As I say, we discussed it in Committee, and there were some dissenting opinions but the majority of the Committee felt it was a worthwhile provision in the remote contingency that such a situation should arise.

PRESIDENT EGAN: Are there questions relating to Section 3? If not, relating to Section 4? Mr. Poulsen.

POULSEN: May we revert back to Section 2? I have two questions here I would like to ask in regard to the age of 30. Was there any consideration set to the age of 35 and also to the age of seven years to be a resident of the state? Was there any consideration to lower that to five years?

V. RIVERS: There was considerable discussion on these things and this particular item is somewhat arbitrary. We felt that the individual allowed to run for office should be old enough to have had a fairly good background of experience, and we also

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felt that he, in order to qualify for office, should have quite a good knowledge of the Territory of Alaska. There was a divergence of opinions in regard to the time ranging from five years, I believe from three years up to a period of ten years. One of our elder members said he thought it should possibly be 50, which brought a good laugh. Anyway, the Committee took a vote on the number of years of residence and the majority of the Committee arrived at the number of seven years, so that is why you see it in the report here. The matter of 30 years of age was that 35 was discussed as were younger years, and 35 was the oldest age discussed as an age limit. That was the one decided upon in Hawaii, and we there again arrived at the majority opinion of the Committee being 30 years in order to have had the background of experience and general knowledge necessary to make a good governor. We had considerable discussion as to the value of age and background of knowledge and experience. There are some extremely outstanding examples of young men like the younger William Pitt who was prime minister of England at the age of 24, if I recall right, but those were considered to be extreme exceptions rather than the general rule, and we wanted a general rule that would apply and have a mature candidate for governor.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I want to ask Mr. Rivers a question. Do you think that you should prescribe such a long length of residence of seven years for the governor when a person can become a chief justice of the supreme court of the Territory in one year?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, yes, I do. I think actually that the man who sits at the head of our government should have a broad general knowledge of Alaska and of its people and in order to do so, he should have an acquaintance directly by actually being here with the problems of all parts of the Territory. Now a judge of the supreme court I also felt and so argued on this floor, should also have such a background of experience and contact with the people and the Territory and its problems. However, the majority of this body held, I believe, it could be provided by law but they only require that he be admitted to the bar, as I recall it now.

NORDALE: As one member of the Committee who disagreed with these restrictions, I would like to just say a word or two. I feel that when you have a man running for office it does not matter too much how long he has been a citizen of the United States or how long he has been a resident. Naturally you want him to be a resident long enough, but I think the fact that he has to get a majority of the votes in the Territory is quite a

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determining factor and he could not just come here and overnight be elected for governor.

HELLENTHAL: Point of information. Some think we wasted a lot of time when we voted on the voting age, and I remember many people said they wished they would have an opportunity to have voted originally on whether or not the recommended age in the committee report should have been adopted. Now here we have three numbers -- 30, 20 and 7. Could consideration perhaps be given by the Rules Committee to permit in this case that the matter come up for discussion? I move that the committee report requiring seven years residence in Section 2 be adopted. I think it would save an awful lot of time of discussion.

PRESIDENT EGAN: Mr. Hellenthal, the Chair certainly does not understand how we could adopt a section as such that is in the proposal because we will have to vote on the whole proposal in third reading, and we might even vote the whole proposal down in third reading, and I don't see how you could vote on that, and with regard to the statement of 20 years, I think it should be in the record, if the Chair may, you did vote on the 20-year clause that you had in your suffrage article because when the delegates voted to take the age of 20 years out of that proposal, they voted on, in effect, the 20-year clause that they did not want, the 20 years and changed it, so they did vote on that question.

HELLENTHAL: They first voted on whether the voting age be 18, was my recollection.

PRESIDENT EGAN: But it was set in your article at 20, so they said they did not want 20.

HELLENTHAL: I don't want to belabor the point.

PRESIDENT EGAN: The Chair felt that should be in the record in light of that statement. Mr. Barr.

BARR: I would like to further explain the Committee's feeling on this matter. It is as Mrs. Nordale said, she favored a lower residence, I believe, a lower residence requirement and a lower age, but some of the Committee also felt that the candidate for governor should be a little older. I believe 35 was the highest figure mentioned and ten years was the highest figure on residence. This figure on the committee report I would say was an average of the opinion within the Committee, and I also feel that if this body voted on it we would come out with an average.

PRESIDENT EGAN: Are there other questions relating to Section 2, and 3? If not, are there questions relating to Section 4? Mr. Robertson.

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ROBERTSON: I understood Mr. Victor Rivers to say that this article provided that the governor should be elected biyearly as far as presidential election, but I don't see where that is provided for.

V. RIVERS: I didn't say that, Mr. Robertson, and I am not just sure what the discussion on that was, whether it would be determined by another section or why it was not put in here, but that was the intent discussed at the final decision of the Committee. It is in transitory provisions. There was some reason for it and I could not recall.

PRESIDENT EGAN: Are there questions with relation to Section 5? Mr. Sundborg.

SUNDBORG: I have another question relating to Section 4. The last sentence provides that no person who has been elected governor for two full successive terms shall again be eligible and so on. I am wondering in the case of a man who might have again been elected governor after being out of office for four years, as I read this, there would be no restriction on him thereafter being elected to the office forever more.

V. RIVERS: That is correct. We discussed it at some length and it seemed that as I recall it, about 65 per cent of the cases where a governor ran to succeed himself he was not successful. It was quite a high percentage. Mrs. Nordale worked up the figures on that as I recall, and we also felt that after the elapsed period of 12 years, if he wanted to seek two more terms, that would probably be limiting by the very nature of the actions of old "father time". He would not be in there after the second period of four terms in office.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can see Mr. Sundborg's point in that. However, I think it was the intent of our Committee that after the lapse and taking office, that it was not going to leave it then that he could just run and sit forever. I think the same should apply if he would go in again, two successive terms, I believe that was my understanding of it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I agree with Mr. Londborg that that was the general opinion of the Committee. It would be a limit of two successive terms at any one time.

SUNDBORG: You do agree that it does not now say that? It says, "No person who has been elected governor for two full successive

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terms..." That is the man who once has held two terms, shall be again eligible until the first Monday in December of the fourth year.

V. RIVERS: The two full successive terms clause would still apply in the thinking of the committee. A question of phraseology there might be discussed, but we thought the two full successive terms was enough to cover not only the first group of successive terms but the second and possibly the third.

SUNDBORG: I don't think it would ever come up.

PRESIDENT EGAN: Are there other questions in relation to Section 4? Are there questions relating to Section 5? Mr. Victor Fischer.

V. FISCHER: Mr. President, I would like to ask a question, "The governor shall not hold any other office or employment of profit under the state, or the United States, during his term of office." Now, what is the intent of the Committee, say the governor has served two years of his term and he runs for United States senator; his actual term of office is not over even if he is elected and resigns, is it? You want to permit him to run for Congress and be elected if he resigns, of course?

V. RIVERS: That was the thought of the Committee. By the very nature of filing he would not start office as a senator, but it was the intent of the Committee that he would be allowed to run, but if the term there means any term in which he ends his service, either voluntarily or by the nature of the end of the period set up as we visualize it.

V. FISCHER: It does not apply necessarily to a four-year term, it is while he is actually in office?

V. RIVERS: That is right. If he wanted to resign at any one time, the resignation would be the termination of the term, would you not agree?

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I thought not. I thought our point was that he could not, while he was governor, be elected to the United States senate and serve as a senator and governor at the same time, but the term of office is a four-year term.

V. RIVERS: Whenever he stops being governor.

NORDALE: He resigns when he is elected, but he can run while he is governor.

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V. RIVERS: He can run but not actually take office.

V. FISCHER: I just wanted to clarify that the term of office does not necessarily refer to the four years but only to while he is actually holding office.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: That raises a question in my mind. Does the governor have the right then to file for let's say as a candidate for the United States senate, campaign for office, and then does he still act as governor right up until the time of election or until the time he is sworn in as United States senator, or must he resign the minute he files?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Under the terminology here he would have a choice. He would have, I believe, a considerable moral obligation to resign at the time he filed, but there is nothing that says he must do so. It is common practice that most of the states observe that many of the governors run for senator while they are actually governor in office.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Rivers, has the Committee given any thought to the position of the governor in regard to another office not under the state or the United States, but under a private corporation?

V. RIVERS: We limit this only to public office. There is probably small doubt that a man who would be governor might have an interest in some small business or he might sit as a director on a private corporation, and that should probably be covered under a conflict of interest clause if there is a desire by this Convention to write in a conflict of interest clause. We have discussed that in various committees, not so much in the Executive, but we have seen a lot of conflict of interest discussion in the last few years, and maybe or maybe not would they desire to either set up a law or write a subject covering that into the constitution. However, it did not appear the desire of this Committee as a majority to bring that in.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: If the constitution does not contain a conflict of interest clause, can the legislature pass a statute to that effect and bind the governor?

V. RIVERS: That is something I would have to call upon some of the legal minds to answer.

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PRESIDENT EGAN: Do any of the legal minds care to attempt to answer that question? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am not an authority on that subject, but my conception is you are setting up three coequal departments of government, and you are setting out the basic qualifications in this article, and I doubt that the legislature could start throwing strings regarding the qualifications of the executive. If you are going to have that conflict of interest clause, I think it should be in the constitution.

BUCKALEW: On this occasion I am inclined to agree with Mr. Rivers.

PRESIDENT EGAN: Are there other questions relating to Section 5? To Section 6? Mr. Buckalew.

BUCKALEW: I have a question I would like to ask Mr. Rivers.

PRESIDENT EGAN: You may ask your question, Mr. Buckalew.

BUCKALEW: Mr. Rivers, don't you think that Section 6 makes it possible for a political hack with no qualifications whatsoever, except maybe that he comes from a different geographical area than the governor, to become the chief executive of the state?

V. RIVERS: I suppose that in all elective offices there are chances that they would be filled by hacks. That was discussed I might say. There was some question and considerable discussion on this point. It is, as I might point out, the case in the State of New York. New York was a prize example which we used. It is also the condition under the national administration, by which the Vice President runs with and on the same party ticket with the President. It has been my observation and after general discussion in the Committee, we accepted this particular type of thing in order to enforce or bulwark the strong executive. It has been my observation that some of the best chief executives in the United States as state executives have come through the chair of the governorship of the State of New York, first generally as the secretary of state, or rather as lieutenant governor, and next as governor. As you know, it is one of the states along with Ohio, which has supplied the greatest number of men who have been elected to the Presidency of the United States of any state in our union, so I think the experience has not been bad.

BARR: We also have a choice of whether or not we should have a lieutenant governor. It was generally conceded in the Committee that the general conception of a lieutenant governor is a man who has an honorary title without much work to do. That office is very frequently given to some political hack, to someone to whom the party owes a debt but not particularly qualified. Our

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conception of a secretary of state is a man who does work under a governor, not just an honorary title, he is, in effect, the general manager of the state under the governor, and in that case he will have a knowledge of all the work that is going on and all the problems, and if he takes over as governor, he will be highly qualified.

R. RIVERS: I would like to ask a question, when we tie the governorship and the secretary of state position together, I am wondering if they are separately nominated in the primaries?

V. RIVERS: The answer to that would be that they would be nominated jointly and elected on a joint ballot as they are in the State of New York and nationally, because you could not in any manner tie them together under a separate primary nomination and then have them run jointly in the general election.

R. RIVERS: I think to the contrary. The public ought to have something to say about nominating the person who is going to be secretary of state and then tie them together.

HELLENTHAL: Mr. President, I'd like to ask Mr. Rivers a question. How many states nominate and elect their secretary of state and governor jointly and then, secondly, how many states merely elect them jointly?

V. RIVERS: I will have to do a little digging on that to get the exact number for you. I keep referring back to the State of New York. I don't know what others there may be. I did look it up but I don't recall.

HELLENTHAL: Is it a modest number, a great number, or an average number?

V. RIVERS: I would say a very low number, possibly not more than two or maybe just the one. It might be three.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Well, some of the Committee thinking was along this line. Within the same political party you often have very opposing elements and our thought was that if you are going to have a governor who is going to carry out a policy, he is going to be elected, the person who succeeds him and works with him should be in the same faction of the party so that if anything happens to the governor the same, more or less, the same policies will be carried on, and he won't walk in and toss out the heads of all the departments and completely reorganize the government. I think any governor who wants to be elected is not going to saddle himself with a partner on the ballot who he

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thinks is just an incompetent or a political hack. He is still going to want to win the election for governor.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: One more question. Where does it say in here that the secretary of state is to be the general manager of the state, as suggested by Mr. Barr?

NORDALE: It does not say that.

V. RIVERS: It does not say that. The implication here and the Committee's thinking was all along the line of a strong efficient executive and in order to bulwark that strong executive we have given him broad powers and he would have a secretary of state who we hope and believe would be a competent effective individual preparing for possibly running for governor and who would actually learn and know the state and be a good second in command, and he is the successor to the governor when the governor is out of the state. I think that is what the general implication was by Delegate Barr.

BARR: In this section it does say that the secretary of state shall perform such duties as may be prescribed by law. Therefore, the legislature can outline his duties and also he shall perform such duties as may be delegated to him by the governor. The thought there was that he shall be the assistant to the governor.

V. RIVERS: That is correct.

BUCKALEW: I just wondered what the functions of this secretary of state are. He goes to work at 9 o'clock in the morning -- what is he going to spend his time doing?

V. RIVERS: I could very easily give a broad general answer. At the present time our government is handling in the neighborhood, the Territorial government handles some 16 to 18 million dollars a year. It is a big business and it has to be properly and efficiently administered. There are certain other things that could be considered the duties. First, you have a group of duties in the executive office which are executive duties, the meetings with the various department heads and the establishment of policies in various segments and areas. There is a recordkeeping function. There is a function, I believe, of intelligently working out a program and keeping a record of any problems that might arise in some parts of the Territory that might or might not be solved by the executive or might be subject to the legislative matter. I think any good executive handling the affairs of a state as large as Alaska should continually be studying the situation and preparing along with the governor a program for the betterment of the state, and I think that has

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been the function of all secretaries of state and that is the implication of the title. It is a broad general policy-making situation and also a program-arranging situation, and it is second in command to the governor. Now I think that you could either make that office as effective or as ineffective as the legislature and the governor desire it to be, but in the concept of the strong executive, we had the concept of a strong efficient second-in-command.

BUCKALL.W: One more question. Don't you feel that you would get a better secretary of state if the governor was allowed to appoint the secretary of state subject to approval by the senate?

V. RIVERS: Well, Mr. President, there we come back again to that problem of just how strong should a strong executive be. Theory and the ideal say that the strong executive should be a governor elected with the appointive power of all other officials. That has, we believed in the Committee or some of us did, there are exceptions, that that had a disadvantage in that there was no particular individual known to the people who had been exposed to the elective process being prepared to succeed to the governor, and we also felt that the people wanted an expression in the matter of just more than one individual as their elected representative. We also felt that an elected representative would make a better second-in-command in the absence or the death of the governor, that he would have then been elected by the popular will. So whether I believe or not that the lieutenant governor should be appointed -- personally, my stand was against just the one single elective head of government, the governor.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I want to get Mr. Rivers' thinking in this. Do you feel as an over-all picture that in the line of succession we would probably get a better man if the first person in line of succession was the president of the senate?

V. RIVERS: My personal thinking was and I think the majority of the Committee thought that as the third succession, that was sufficient because of the remote possibility that he would ever be an acting governor, but we all felt that there should be an elective official who had been elected by all of the voters over the entire Territory to be the second succeeding officer in the event of the death or absence or resignation or failure to qualify of the governor. And that expresses my personal feeling also.

WHITE: Mr. President -- Mr. Rivers, you said that under the sentence, "The secretary of state shall perform such duties as

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may be prescribed by law", the legislature can make that as powerful or as weak as they wished. Couldn't that phrase be used to assign to the secretary of state duties that might be the prerogative of the governor? Could it not be used to breach the idea of separation of powers, and couldn't a situation arise where the governor and secretary of state might have a falling out and the legislature could use this phrase to transfer almost all of the powers of the governor to the secretary of state?

V. RIVERS: Mr. President, there again that is a matter of opinion. I do not believe those circumstances possibly could arise. In the first place, in order to effectuate such a situation in view of the falling out between the governor and secretary of state, it would take a considerable lapse of time and a lot of legislative action. We are trying to visualize this strong executive in which we are not pinning down the duties of the secretary of state. We are trying to make them flexible enough so they can be assigned to fit into the scheme of the strong appointive department heads, appointed by the governor and confirmed by the legislature. We tried specifically not to enumerate the duties of the secretary of state but to give enough broad authority so he could be put to work and be given plenty of duties and kept busy. In order to effectuate this strong executive we felt there must be flexibility in the assignment of powers and duties of the secretary of state. So for that reason we have not just made him the keeper of the great seal, we have opened it so he could be given adequate duties to perform useful functions in the administrative departments. I don't fear the things you mention.

PRESIDENT EGAN: Mr. White.

WHITE: Do you know offhand, Mr. Rivers, how many states give their legislature a carte blanche to assign duties to the person who might be second in succession?

V. RIVERS: I can't tell you how many states do, but in keeping with the modern thinking of a strong executive, it is certainly the policy not to establish offices by name and to narrow down their functions in the constitution. The policy is to leave them broad and general and flexible enough so they can be adjusted to meet changing times and changing circumstances. That is a general answer, but I can't give you a specific answer.

PRESIDENT EGAN: Mr. White.

WHITE: There are two ways to make it adjustable. One would be that their powers would be adjustable within the executive department. The other way of making it adjustable is to give the powers to the legislature. I just wanted to get your thinking on the two different methods.

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PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this raises an interesting point. Perhaps we could say he should have such duties in aid of the governor as may be prescribed by law. When we come to that, we'll think of it some more.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, in looking through this manual for Hawaii it appears to me that there are very very few states that take constitutional provision for defining the limit of powers and duties of executive officers, and it says they are to be provided by law. On the other hand, too, I notice there are 38 of the states that elect their secretaries of state, which seems to indicate that they feel that is a strong measure. I just give that as a rough survey of these facts as they are established here, but when it says, "limits of powers and duties of executive officers" again and again it says, "no definition in the constitution -- to be provided by law."

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think that if we have an elected secretary of state we must be sure that he is a good man to fill the position of governor, and I think that as has been pointed out, there might be a danger that the governor who desires to be elected may very well choose somebody representing a different faction in the party rather than the same faction to fill out his thinking, just so as to attract additional voters. It would seem to me that a better way of electing and hearing them prior to the primary would be to take the top man who may run in the primary for governor in a particular party, take the top man who ran for secretary of state and then pair them for the general election, and the chances are that you will get a secretary of state who represents the same faction as the governor, and in that case the people have had a chance to already express their opinion. When we otherwise talk of an elective secretary of state we are actually, the people don't have the opportunity to vote for the secretary of state. All they are doing is voting for the governor and the other person just happens to be on the ticket. What I would like to point out, and I would like to know if you agree, that the language as stated in Section 6 refers to elected, line 20 for instance: "He shall be elected at the same time and for the same term as the governor, and the election procedure prescribed by law shall provide that the electors, in casting their vote for governor shall also be deemed to be casting their vote for the candidate for secretary of state shown on the ballot as running jointly with the respective candidate for governor." Actually,

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that would appear to leave the way open for the legislature to prescribe a separate primary for the two and pair them for the general election.

V. RIVERS: That is the thinking of the Committee Chairman, that this does leave the way open. I believe in the Committee we discussed that they run jointly through the primary and the general election. This wording would appear to me to leave it open to be prescribed by the act that was adopted in regard to the legislation. Maybe all the Committee would not agree with me on that, I am speaking from my own opinion.

NORDALE: My conception was that they would run just as the President of the United States and the Vice President run. I think when you invest a governor with as much power as this is and the full responsibility that you should not run the risk of electing his partner who might have very, very opposite views on many things, even though he might belong to the same political party. If you are going to carry it to an extreme, you will have to divorce them from the same party.

V. FISCHER: Actually, as I tried to point out, I think you are liable to get the person who agrees more with the governor if you take the top man who ran in the political primary. I would like to point out when we elect the President of the United States and the Vice President, these have not gone through the primary process, they have only been nominated by a political convention as a pair. This is a perfect example of where the people never have a chance to vote for the Vice President. Actually, they are voting for the President; very seldom is very much attention given to the Vice President.

V. RIVERS: Mr. President, I agree with Mr. Fischer that this section does leave open the method which the law would prescribe, at least that is my personal opinion, so the legislature could decide as to how the nominations would be made as I see it.

COOPER: Mr. President, this is really not a question, it is just merely an enlargement upon the word. The same interest or same faction within a party -- I personally believe that two individuals having the very same thoughts or within the same faction within the party, such as Mr. Fischer pointed out, is not good. You have one of these elective officials tied to the shirrtails of the other. One of the two will be weaker. Which one of the two I do not know. The secretary of state will be subordinate to the governor. The fact is that one of the two officials could represent another faction or a minor faction within the same party.

V. FISCHER: Point of order, Mr. President. This is not a debate. This is merely a discussion and it seems to me this

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enters the field of debate.

COOPER: I pointed out I do not have a question to ask.

HELLENTHAL: Additional point. He mentioned the minor faction, that has no part.

PRESIDENT EGAN: If Mr. Cooper is merely trying to get around to a question that he is bringing up to the Committee, it is in order.

COOPER: Don't you think then that the two factions, if there are two factions within a party being represented, it is a good policy of checks and balance?

V. RIVERS: With the elective primary?

COOPER: Yes. I am not particularly in favor of the elected primary. I happen to be in favor of something different altogether.

V. RIVERS: I did not quite get your question.

COOPER: The idea is, as I understand it, the way you have it now, you have the governor, representative of the party, to him you are tying another man with very similar thoughts and attitudes.

V. RIVERS: Yes, they are elected jointly in the general election. As I stated awhile ago, the method of nominating could be prescribed by law. Whether this is the best procedure or not, it was decided in the Committee at least we felt in order to effectuate the strong executive this was the best proper procedure.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, it was felt that the body here did want a strong executive and he should be able to appoint his department heads or most of them so he could carry out his program efficiently. Now, if we believe that we should have checks and balances to the extent that the secretary of state should perhaps represent another faction within the party to present an opposite view, then why not have 50 per cent of the department heads Republican and the other 50 per cent Democrats? Then we would have lots of checks and balances, but you would not get anything done.

LONDBORG: I would like to point out something else that went on in the Committee thinking, the possibility of leaving it open for someone other than maybe someone right within the party. There may be an independent or someone who has no particular

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affiliations. The one running for governor may wish to choose that one, or maybe work as a team or maybe a strong independent who would have a very good chance of becoming governor. We left all reference to party out of this, I think, for that purpose that whatever team could win the election should be the one in office and above all, the governor should have one working with him with like mind. If the people want something else for a check and balance then they don't want that man, and they don't want a strong executive, but with this you have not only someone working in harmony right in the office, but should the governor leave the office vacant through death or some other reason, you have someone to step in and there should not be such a disruption of the function of the office.

PRESIDENT EGAN: The Chair notes that the hour of 12 noon has arrived and before we might recess, these visitors from Nenana are to catch the 12:50 bus to go out to the Fairbanks High School. The Chair would like to announce at this time the manner in which he has delegated the noon luncheon to the different delegates. There are 18 children and two of the teachers, including the superintendent, Mr. Gavin.

(The President assigned a guest to each delegate for the noon luncheon.)

SUNDBORG: Subject to any further announcements, I move and ask unanimous consent that we recess until 1:30 o'clock.

V. RIVERS: The Executive Committee will meet at 12:50 upstairs in the large committee room. We would like to have you who contemplate amendments that are not too controversial to bring them up, and then the other longer amendments can be brought on to the floor.

RILEY: The Rules Committee will meet immediately to set a time to meet during the noon hour.

SMITH: The Resources Committee will meet at 12:50 in one of the committee rooms upstairs.

McNEALY: The Committee on Ordinances will meet at about 1 o'clock in the gallery here, and we are going to take up the subject of the ordinance of the location of the state capital. Four delegates at least have proposed ordinances. Those who want to speak to us or anyone else who cares to be in on it at 1 o'clock in the gallery.

PRESIDENT EGAN: Now if the delegates will try to find the students named as their guests, the Convention will stand at recess until 1:30 p.m.

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RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White.

WHITE: Mr. President, I ask unanimous consent to revert to the business of reading the journal.

PRESIDENT EGAN: If there is no objection, we will revert to the business of reading the journal at this time. Mr. White.

WHITE: The Committee to read the journal has read the journal for the 48th Convention day and recommends the following changes: Page 1, line 1: change 1955 to 1956. Page 1, bottom line: same correction.

HERMANN: I do not have a copy.

PRESIDENT EGAN: The Sergeant at Arms will please bring Mrs. Hermann a copy, the journal of the 48th day. Mr. White.

WHITE: That same line, bottom of the page, should be changed from 47th to 48th day. Page 2, first paragraph after the roll call, line 2: insert "Mr." before V. Rivers. Page 3, fourth paragraph, add at the end of the last sentence: "There being no objection, it was so ordered." Page 4, fifth paragraph, the question was called and on voice vote the amendment -- insert "to the amendment". It should read "the amendment to the amendment". Page 6, third paragraph, first line, after the word "motion" insert the words "to reconsider". Page 13, second paragraph, line 2, change the word "in" to "for". Mr. President, I ask unanimous consent for the approval of the journal for the 48th day with those corrections.

PRESIDENT EGAN: Mr. White asks unanimous consent for the approval of the journal for the 48th day with these corrections. Is there objection? Hearing no objection it is so ordered and the journal of the 48th day has been approved. The Chief Clerk will please read the communications we have before us.

(The Chief Clerk read the following communications: Telegram from the Cordova Fish and Cold Storage Co., recommending department of fisheries control sport and commercial fisheries. Telegram from the Cordova District Fisheries Union signed by Harold Z. Hansen, Executive Secretary, also recommending department of fisheries control sport and commercial fisheries. An invitation to the delegates by the Alaska Crippled Children's Association to attend a Silver Tea to meet Christian von Schneidau and to view his paintings. A letter from Sheryl Drake of Stockton, California, requesting information on the Constitution and Alaska for her history notebook.)

2014

PRESIDENT EGAN: The Chair would like to announce again at this time tomorrow evening the Veterans of Foreign Wars are having their stag party for men only and that Mr. Wilson, our Sergeant at Arms, or the messenger, would appreciate having the names of those people who will be present tomorrow evening, so if the delegates who are going to attend will do that, it will be appreciated. Mr. Victor Fischer.

V. FISCHER: I hope our secretariat will fill the request of the girl from California.

HERMANN: Mr. President, that is the function of the Alaska Statehood Committee, and I suggest it be turned over to them. We have sent thousands of these in answer to thousands of requests.

PRESIDENT EGAN: If there is no objection the communication from the girl in Stockton, California, will be turned over to the Alaska Statehood Committee. The other communications will be filed. Are there other communications to come before us before we take up Committee Proposal No. 10a? If not, we have before us Committee Proposal No. 10a. Are there questions relative to Section 6? Mr. Hurley.

HURLEY: Mr. President, I wonder if it would be apropos at this time for the Committee to make mention of anything that was decided at the committee meeting. If so, it might do away with a lot of these questions.

PRESIDENT EGAN: Mr. Rivers, if you would so choose, you may report on your Committee meeting.

V. RIVERS: We had a meeting and a number of the delegates appeared. I might tell you that we discussed a number of things. One was the insertion of the line "a citizen of this state". That affects also the article on judiciary before the Style and Drafting Committee. It was thought that, as I recall, we would ask for the insertion of that wording and then leave it up to Style and Drafting as to whether or not after considerable research they had decided it should be included to effectuate the full intent of the section. We also discussed another amendment which would put certain limiting powers, certain limitations on the pardon powers so there would be no chance of abuse. That was discussed but not actually adopted. It is my understanding that one of the delegates is going to discuss it further in regard to the legal implications. At our next recess we will have a meeting of the Executive Committee, and will discuss it with them at that time. The matter of the resolution in connection with the possibility of a tie vote in the election of governor was also discussed and the motion of Delegate Sundborg was that we strike all that matter relating to a tie

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vote and the Committee agreed to recommend that it be stricken with the understanding that it be considered in the general elections clause now in Style and Drafting that will be put before us in third reading, a general clause saying that a law or laws will be provided to resolve contested elections or other election problems or something that will cover both possibilities of ties and contests. That was the effect of our deliberations this noon, and we had one or two other delegates we did not get to hear whom we will hear in the first recess meeting that we have this afternoon.

PRESIDENT EGAN: If there are no other questions relating to Section 6, are there questions relating to Section 7? Are there questions relating to Section 8? Mr. Sundborg.

SUNDBORG: I did have a question relating to Section 7. In line 11 it mentions that when the secretary of state succeeds the office of governor, the powers, duties and emoluments of the office devolve upon him. I was wondering, is he in fact the governor?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Well, I could not answer whether he would be considered acting governor or whether he would be considered governor. I presume either one of these terms would apply because he would fill out the term until the next general election when it would be submitted to the voters. I imagine they would say "governor" or "acting governor", if the governor is only temporarily absent.

NORDALE: I believe that in the first case he would become the governor just as the Vice President becomes the President, but you will notice down below when the governor is just absent, it is the powers and duties that go, not the emoluments, when it is only a temporary absence.

SUNDBORG: I have a question about the section down below. What it says is, "In case of the temporary absence of the governor from office, the powers and duties shall devolve upon the secretary of state." Do you mean temporary absence from the state, from the jurisdiction? How would a governor ever be temporarily absent from office?

V. RIVERS: He could very well be incapacitated in the matter of physical or mental capacity. He might still be in the state and not be able to perform functions of his office or he might actually be outside of the state.

SUNDBORG: When the governor is outside of the state does this sentence beginning on line 19, come into power? Is he not still

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the governor although he may be in Washington, D. C.?

V. RIVERS: That is correct, but this man would then have the authority to act in his place instead for the state and in the state.

BARR: On Mr. Sundborg's first question, on line 9, I would like to ask the legal profession here, the wording is "he has qualified and assumed the office of governor" -- not the duties -- does that carry the title of governor with it?

BUCKALEW: I would say yes.

V. FISCHER: I am sorry I also missed the call for comments. It was my understanding in conference with one of the committee members that if the governor was not able to serve the complete term, that if the secretary of state took over before the general election two years after the governor was previously elected, that the remainder of the term be filled through election. Am I wrong on that?

V. RIVERS: Mr. President, Mr. Fischer asked me that question and without the draft of our section before him I answered him that I understood the election to fill the unexpired term would come up the next general election, but now that does not so read. It says "fill the unexpired term", so I will make a correction as to my statement at that time, but that was what was in my mind, the same as in yours.

V. FISCHER: In other words, the secretary of state may actually serve anyway up to four years as governor?

NORDALE: No.

V. RIVERS: This is the wording I referred to in Section 8, "If the office of governor becomes vacant and there is no secretary of state, the offices of governor and secretary of state shall be filled for the remainder of the terms at the next succeeding general election unless the vacancy occurs less than 60 days before the election; but no election to fill an unexpired term shall be held in any year in which a governor is to be elected for a full term." I understood that to cover it. That was what I was referring to at noontime's discussion.

V. FISCHER: Another question I have, in line 17, what does the word "removal" refer to? What other removal besides impeachment is there?

V. RIVERS: Impeachment or recall are the only two removal clauses we have.

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PRESIDENT EGAN: Are there questions relating to Section 8? Mr. Sundborg.

SUNDBORG: I have several questions relating to Section 8. This provides that the president of the senate and the speaker of the house shall succeed the secretary of state. I am wondering in the event, say, that the governor has died and the secretary of state has become the governor and it is between sessions of the legislature and the president of the senate then becomes the secretary of state, is that correct?

V. RIVERS: We did not so provide. We left the matter of the secretary of state office vacant until such time as the man then acting as governor who had been secretary of state might die. It was the general thought, in the discussions of the Committee, I believe I speak for the entire Committee, there would be no filling of the office of the secretary of state after he had once stepped ahead into the governorship.

SUNDBORG: Take the hypothetical case here both the governor and secretary of state both may have died or not be able to serve. Then the president of the senate becomes the governor?

V. RIVERS: Yes.

SUNDBORG: What happens to the man who is the president of the senate, becomes that because he is elected by the senate from among the membership to be the president? In the event of a change in the presidency of the senate, does a different man become governor?

V. RIVERS: It was our intent that the man who was actually president of the senate at the time when the governor's seat was vacant, would succeed to the governorship until the next general election, as set up here.

SUNDBORG: This thing could happen though, after a general election.

V. RIVERS: Yes, it could. We discussed one instance in the State of Oregon where three principal officers were killed in an airplane crash, and they had then the considerable difficulty in deciding as to how the succession took place. That was one particular case under consideration in discussing this matter in the Committee. We have always the possibility that some atomic or hydrogen bomb might wipe out the entire executive department.

SUNDBORG: Was it the thinking of the Committee that the man who succeeded to the governorship by reason of his being president

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of the senate or speaker of the house should be the man who occupied those positions at the time of the tragedy and that there should not be a change later after a man had occupied the office of governor just because the senate wanted to elect one other of its members to be its president?

RIVERS: That was the thinking of the Committee that when the president of the senate occupied the governorship that he would then have to vacate his senate presidency, and they would elect a new president of the senate who would not become governor while the other one was still acting, as I remember it. Maybe one of the other Committee members would like to amplify.

LONDBORG: I think that is correct, Mr. Rivers, since you mention that due to the fact of the extra load of both the governor and secretary being out of office, that the man could not act as governor and still retain his job as president of the senate. He would vacate that office.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I am curious about one thing. I think I see it, but I would like to have it explained. There could be no conflict to this process if there were a change of party in the power of the state and instead of having one party member as speaker of the senate you would elect another one from a different party. He would have no right to then claim the governorship for his party as having been elected speaker of the senate?

V. RIVERS: Not until the previous speaker or president of the senate had actually fulfilled the term or had been submitted to election and had either been elected or rejected by the voters.

PRESIDENT EGAN: Are there questions or discussion of Section 9? Mr. Victor Fischer.

V. FISCHER: Excuse me for fouling up the rotation. The more I thought of the points brought up in Section 7, line 20, that in the case of temporary absence of the governor from office, the powers and duties shall devolve upon the secretary of state -- I would like to ask the Chairman of the Committee if that might not automatically give the secretary of state complete jurisdiction over the executive department to the point of firing the appointees of the governor while the governor is absent from the state or otherwise not present.

V. RIVERS: Well, we discussed how much powers and duties he should have, and in the governor's absence there is a chance of that, but that was another reason why we felt he should be elected jointly on the same general policies and principles as the governor so they would be more or less identical in their

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thinking in regard to the organization. It is a possibility that could exist, but it seems that we must make some temporary conferring of powers on the secretary of state in order to act as governor while there is an absence in that seat due to the governor being either ill or out of the state. It is very questionable in my mind that would take place for any great length of time, or if it did take place there would be an abuse of that executive removal power. Both being elected in this manner, I don't think there would be a tendency for abuse.

PRESIDENT EGAN: Mr. Gray.

GRAY: I believe he used the term right there. I wonder if in the case of the temporary absence of the governor from office, the secretary of state shall be acting governor -- would that not kind of limit the activities of the secretary of state by designating him acting governor? You could not take over the full program of the governor and still he could carry out the governor's duties. I think that is your own wording, Mr. Rivers, on acting governor.

V. RIVERS: The point does not seem to me to be too badly taken. It seems it might be more inclusive or more descriptive than the term "powers and duties". I can only speak for myself because I have not discussed it with the other members of the Committee. There might be some limiting factor on the term "acting governor", or it might be just as broad as it would be under the term "powers and duties". I would like to listen to some discussion on the floor on that point before we resolve it. "Acting governor" might well cover it. Maybe some of the other Committee members might like to comment on it. Mr. Barr, do you think the term "acting governor" would be much different than "powers and duties"?

BARR: I don't believe it would make any practical difference, but it might point up our thinking a little more and might be a little better in there.

PRESIDENT EGAN: Is there a discussion of Section 9? Mr. Buckalew.

BUCKALEW: I have one question on Section 8. Mr. Rivers, don't you feel that it would be wiser to put the speaker of the house of representatives ahead of the president of the senate in the line of succession for the reason that the speaker would represent the latest expression of the people by reason of his most recent election?

V. RIVERS: Mr. Buckalew, that line of succession was jockeyed around in Committee. We accepted the traditional pattern of

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designating first the presiding officer of the senate, based upon the fact that the senate was, by the law requirements of this constitution, older in years in order to first run and probably longer in experience. This being exposed to the popular sentiment is another aspect, and my personal opinion would be that we hold to the procedure we have set up here. I do not speak for the rest of the Committee.

BUCKALEW: Mr. Rivers, do you think this article is inconsistent with the other provision whereby we provide that the house shall try impeachment proceedings instead of the senate? We reversed it there.

V. RIVERS: I don't think this is inconsistent with that. I also, as you remember, did not vote on the prevailing side on that particular issue. I opposed it on the floor for the same grounds I have stated here.

BARR: Mr. President, may I read from the Hawaiian Manual here on that subject: "Forty-four of the forty-eight states specify a second successor in case the first named person cannot fulfill the duties of governor. They are in order of importance: presiding officer of the senate, twenty-six states; speaker of the house, nine states; speaker of the unicameral legislature, one state (Nebraska); and secretary of state, eight states. Twenty states name three specific successors, but only five states go beyond this number (Alabama names seven; Delaware, five; Kentucky, four; Massachusetts, six; and Washington, seven)." It is generally conceded that the president of the senate is the first choice. That is the way it has been in the past.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I ask Mr. Barr a question. What nine states are those that have speaker of the house?

BARR: I don't see that right here. If I find it I will let you know.

PRESIDENT EGAN: Are there other questions? Mr. Taylor.

TAYLOR: I would like to ask Mr. Rivers a question. Has the Committee given it any thought as to the line of succession being to other officers of the Territory? We know the President of the United States appoints a cabinet and if the President dies the Vice President succeeds to the office; then following that, the Secretary of State who is an appointed officer, follows. Well, we have what we call a secretary of state, too, but I was thinking possibly that maybe the treasurer or some other elective official instead of the president of the senate or the speaker of the house should be designated. He is more familiar with the

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governmental matters. Had you thought about that, Mr. Rivers?

V. RIVERS: That was discussed in Committee. I might say that under the strong executive plan, all of the officers of the state except the officers named are appointive officers. It was not the majority opinion of the Committee that succession should go to an appointive officer, but should go down through the elective offices of the state.

TAYLOR: The Presidency of the United States would devolve on an appointive officer in the case of the death of the President and Vice President.

V. RIVERS: I would like to have that point clarified by some of the constitutional lawyers.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: If my memory serves me correctly, Mr. President, it seems to me that Congress not long ago changed the order of succession. It is now from the President to the Vice President, then the presiding officer of the Senate and then to the speaker of the House. I don't believe that the Secretary of State is in that line of succession any more.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: That was also the expression of one of the delegates, and it was his understanding that that the change had been made, and I was not entirely aware of it myself.

PRESIDENT EGAN: The Chair does not wish to speak on this, but if the Chair may, it seems to the Chair that the president of the Senate did not come into that but the speaker of the House did. The change was made about 1950, but I don't think the president of the Senate came into it. Mr. Buckalew.

BUCKALEW: I have something here: "The President shall not have been chosen before the time fixed for beginning of his term or if a President-elect shall fail to qualify then the Vice President-elect shall act as President until the President shall have been qualified, and the Congress may by law provide for the case wherein neither a President-elect or Vice President-elect shall have qualified, declaring who shall then act as President or the manner in which one who is to act shall be selected and such person shall act accordingly until the President or Vice President shall have qualified." That looks like everybody was wrong on that section.

PRESIDENT EGAN: What is the date on that?

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BUCKALEW: It does not have a date on it.

JOHNSON: That is the constitutional provision, but I am talking about an Act of Congress which was passed, I think, in 1950.

PRESIDENT EGAN: There was an Act of Congress passed somewhere around 1951 that would answer this question once and for all.

BUCKALEW: They left it up to Congress then.

PRESIDENT EGAN: Are there other questions relating to this section? If not, are there any questions relating to Section 9? Section 10? Mr. Fischer.

V. FISCHER: I was wondering about the power of the governor to enforce compliance with any constitutional or legislative mandate. I am reading on the top of page 5, "...or to restrain violations of any constitutional or legislative power or duty, by any officer, department or agency of the state or any of its political subdivisions..." I was just wondering whether the power of the governor to restrain violations of the constitution should be applicable only to his offices, departments, agencies and political subdivisions. If we were to strike the clause beginning with "by" on line 5 through "political subdivisions", would we not be setting the governor up to restrain violations of any constitutional or legislative power or duty, or is that infringing too much upon the judiciary? What I have in mind there is that if there is a violation of any civil rights or anything like that, the governor would be authorized to step in even though he was not personally involved through damage.

V. RIVERS: Mr. President, we have included in this, after careful discussion, this language for this reason. You see here, "to restrain violation of any constitutional or legislative power or duty, by any officer, department or agency of the state or any of its political subdivisions". Now in some of the older states they have not had that clause, and in many states -- you have seen in city government, county government, and other agencies of state government abuses grow up where you have heard of the various bosses of this city or that city, and they are practically immune from all executive control within the state, and this clause is a clause that was felt necessary to avoid any such occurrence in the State of Alaska, if and when it became a state. I speak particularly of men who have sat in high city and county offices, where they are practically unremovable. In the case of one mayor, he ran for mayor after having been in the penitentiary for a length of time. We have the case of a man named "Boss" Hague of a New Jersey city who had a great many convictions against him and was a man of extremely doubtful repute, but some of the actions of those particular bodies could

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not be even investigated by the state government because of the lack of such a clause in the constitution. The Committee went into this quite thoroughly and the wording as we set it up was intended to include such contingencies, that the violations of the constitution could be brought to the attention of the courts by the governor at the level of the state's political subdivision.

V. FISCHER: Mr. Rivers, my point, I fully agree with that authority. My idea was that possibly by this clause you are restricting his authority to go further and step in when the rights of any individual are being violated by another individual or of any group, even though no governmental agency is involved in it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Does not any individual have a right to go to court to protect his own constitutional rights?

V. FISCHER: That is right, but my thought was -- and I am not going to argue it too much -- my only thought was why not leave it up to the governor to also step in and to give him the chance to protect our civil rights even if no individual who made the first violation of civil rights steps forward in a case like that.

V. RIVERS: Mr. President, could we ask one of the lawyers?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, in the event of the violation of any constitutional right of the private citizen, this private citizen can bring an action and indict in the name of the relation of so-and-so, whoever the private citizen may be, and set up the fact that he has been deprived of his constitutional or legislative rights, for that matter. It will be brought in the Territory and then if he prevails in that it will be a binding decision covering that particular point. I think the wording of the section here is adequate for all purposes. The governor can't himself bring all these matters but any of his officers or agents can because they have the right when it is once into the courts, and then it will be the State of Alaska in certain matters against a certain person or in relation to certain proceedings, so then it is carried on by the legal department of the state. I cannot see that the section, as it is, isn't perfectly adequate to provide for any eventuality that might arise in regard to the violation of a legal right of any citizen of the state.

PRESIDENT EGAN: Mr. McNees.

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McNEES: I was going to ask a question on the subject.

PRESIDENT EGAN: Was this on this other? Mr. Victor Rivers?

V. RIVERS: I could clear up this other matter about the succession in Congress or the national administration, if you would like. I have just been handed by Mr. Hurley and Mr. Doogan this book which is called The Constitution of the United States of America and of course it is the discussions of the decisions that have been made in regard to it. "By a Congressional Act of July 8, 1947, the Speaker of the House and the President pro tem for the Senate are ahead of the members of the Cabinet in the order of succession." Does that answer the question? "When either succeeds he must resign both his post and his seat in Congress." That is the Act of 1947, as Mr. Johnson mentioned it a short time ago and the President mentioned it.

PRESIDENT EGAN: Mr. Rivers, who is the President pro tem of the Senate?

V. RIVERS: He is elected after the Vice President has succeeded to the Presidency. They elect from their own membership a President pro tem to function until the next Vice President is elected.

PRESIDENT EGAN: That answers the question. Mr. McNees.

McNEES: I would like a little amplification of the Committee's thinking on lines 13, 14, 15, in Section 10. "He may convene the Legislature, or the Senate alone, or the two houses in joint session, whenever in his opinion the public interest requires." For what reason, Mr. Rivers, might he wish, say, to convene the senate alone?

V. RIVERS: As we discussed this briefly this morning, the reason as we have it set up in our legislative act now that the motion for an indictment for impeachment lies in the senate, that is the only reason he might desire to convene the senate alone -- if there is an emergency situation, or some drastic abuse of some official, had been called to the governor's attention -- he might call the senate into session to decide whether they would impeach, then it would go to the house for trial. He would then call the house or the legislature or joint session if he merely wanted confirmation of appointments in an emergency nature, to call the house or the senate in joint session.

McNEES: One other question. My thinking on this then was if that were the case, and I am only amplifying the thoughts that were expressed on the floor here earlier this morning, there might be an instance in which you might want to call the house alone as a follow-up to the senate's original call. You have

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particularly exempted the house here from call as such and I wondered about that.

V. RIVERS: We did not quite understand it as such. We discussed that briefly and I might say it was thought that if and when he called the senate he might also call the house shortly thereafter to follow out if they did indict. The senate would then, of course, be dismissed and the house would then sit in joint session. The only reason for calling the house would be if the senate actually did move for impeachment. It was my thinking that we figured it was covered under the call of the legislature.

PRESIDENT EGAN: Is there other discussion to Section 10? Mr. Ralph Rivers.

R. RIVERS: Mr. President, it occurs to me that after the senate has preferred these impeachment charges that it might be excused and go home, and then the house would come into the picture for the purposes of that trial, so it might be, we ought to say, "call either house in separate session". I am only flagging the point so we can be thinking about it before the amendatory process starts.

PRESIDENT EGAN: Are there questions relating to Section 11? Mr. Hellenenthal.

HELLENTHAL: One question on Section 10. Is the last paragraph deemed vital?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: We thought it quite important. We discussed it in Committee and the outgoing governor would retire from office some five or six or seven weeks before the next legislature convened. The incoming governor would then take office. He would necessarily, supposing there was some antagonism between the outgoing and incoming man, it would be rather difficult for the new individual to get facts behind the previous administration unless such a report were required. It is not too common a practice, but some states require the same thing.

HELLENTHAL: It would seem to me if there were antagonism, it would just give him an opportunity to perhaps take a lefthanded swing at him, and if he were happy he would make the report anyway, and the modern tendency is to have legislative councils and a permanent staff, so that there would be little information that the man would have that would be vital, it would appear to me.

MCCUTCHEON: Point of order. I would like to find out whether Mr. Hellenenthal is asking a question or presenting his argument against the matter here.

PRESIDENT EGAN: It is hard to tell. Mr. Victor Rivers.

V. RIVERS: It is a matter of interpretation of the need. It was the thinking of the Committee that a reasonably sincere and honest man would try and point up the things that his administration had tried to do for his own justification as well as for the continuing record of the state, and that the new governor would have some advantage in the matter of preparing his program if he had that information rather than if he didn't have it.

PRESIDENT EGAN: Are there questions relating to Section 11? Mr. Cooper.

COOPER: Mr. President, in Section 11, in the model state constitution it says that the governor shall be commander in chief of the armed forces of the state except when they shall be called into the service of the United States. Has that been discussed? There doesn't seem to be any exception here, in Section 11.

PRESIDENT EGAN: Mr. Barr.

BARR: When the armed forces of the state are called into the service of the United States, then they are no longer the armed service of the state. They are part of the army of the United States.

V. RIVERS: Mr. President, Mr. Barr has expressed exactly the thinking that was brought out in the Committee at the time this was discussed.

PRESIDENT EGAN: Are there questions relating to Section 12? Mr. Buckalew.

BUCKALEW: Mr. Rivers, what is definition of a flag officer? "All general and flag officers", it says.

V. RIVERS: It is a term that normally applies to the navy but we understood in general discussion we considered flag officers -- Mr. McLaughlin, did you care to answer that?

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: "Flag officer" is any officer of the naval forces of the states who is entitled to a personal flag or a personal salute. That would be a commodore, a rear admiral, a vice admiral, and an admiral of the fleet which would be the Haines-Chilkoot ferry. (Laughter)

PRESIDENT EGAN: Are there questions relating to Section 12? Mr. Armstrong.

ARMSTRONG: Mr. President, under Section 12, one question was raised in Juneau as to how many times the governor could call for martial law without having the approval of the majority of both houses. There was a question they asked at that point. We tried to explain it to them, but I did not read it in here. It says, "shall not continue for a period longer than 20 days without the approval..." Could he stop if off at 18 days and then call it again?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I believe that would have to lie on the interpretation of the intent, and it would be that the intent, I would gather, would be that he could call it once for 20 days, not to exceed 20 days, but that is a personal opinion. If there is a real need for martial law I presume by that time the national administration would have stepped in and taken over. That is a matter of opinion, also.

PRESIDENT EGAN: Are there questions relating to Section 13?

TAYLOR: Are we off of 12?

PRESIDENT EGAN: We are off 12 unless you have a question, Mr. Taylor.

TAYLOR: I just want to ask Mr. Rivers as to the thinking of the Committee in regard to Section 12. I ask where you have included certain circumstances or conditions under which martial law can be declared, then where you have enumerated them, you could not call them out in case of an emergency and it did not come under these but which they should be brought out. I was thinking that possibly that first sentence should be ended after the word "it" in the second line. Was that considered in the Committee?

V. RIVERS: Mr. President, answering that question, it was considered in the Committee at some considerable length, and at the present time for any emergency such as the nature we mentioned, the governor could very well call into action the National Guard for the emergencies of flood, fire, or an act of God, Nature, but the martial law we felt should be confined to the call by reason of rebellion or invasion. He has other powers at his disposal for the cases you mention. The thinking was he should not be allowed to declare martial law for anything other than those two.

BARR: It might be that there is someone here who doesn't understand what martial law is. I would like to point out that if martial law is declared, civil law is suspended. The military is in complete charge, complete control.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Does "imminent danger thereof" apply to rebellion both and invasion?

V. RIVERS: We had a rather extensive discussion on that "imminent danger thereof" the other day. As we discussed it, I thought of our clause in this section. I would say that it applies to "imminent danger of invasion" or "imminent danger of rebellion", that it modifies both the words "rebellion" and "invasion".

PRESIDENT EGAN: Are there questions relating to Section 13? Mr. Fischer.

V. FISCHER: Mr. President, excuse me for rising, but I did have an awful lot of notes on the margin. Is the third sentence necessary: "A commission or other body may be established by law to aid and advise the governor in the exercise of executive clemency."? This would be strictly an advisory type or established by law. It would appear to me that the legislature has the authority anyway to establish that. Is that necessary in the constitution?

V. RIVERS: Well, we have discussed that in Committee, and I have discussed it individually. Some hold that the final responsibility for all of the pardon power should lie directly in the governor. Others believe it should be spread out in an advisory body that would temper his decisions and perhaps control any abuse of the pardoning power. The Committee as a majority group felt that the language should be there, that the pardon board should be separate from any other process that the law might establish, or the parole board, or that they might be made a joint board if the law so desired. We felt it was a wording that would have value, indicating intent. Maybe some of the other members of the Committee would care to mention that discussion.

PRESIDENT EGAN: Does any other member of the Committee wish to be heard? Mr. Harris.

HARRIS: Since I was one that wanted to put "shall" instead of "may" in there, maybe I had better give some reasons. I think that particular sentence was put in at my request because I thought a parole board should definitely be established to aid and assist the governor because the governor himself is never going to be able to go out and get the facts. There are some states, I believe, that do not have parole boards, it is entirely left up to the governor, but my thinking was at the time that there should be a parole board established and rather than use the word that a parole board "shall" be established to aid and assist the governor, it was decided in Committee to use the word

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"may", but it was merely a matter of establishing the intent of the Committee that one would be established.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I think it goes beyond what Mr. Harris just said. If you say that the governor may grant pardons, commutations, and reprieves and may remit fines and forfeitures without any qualifications I don't think that the legislature could then create a board which would necessarily process the pardon applications and have any general effect upon the governor. This is giving the legislature the specific authority, notwithstanding the grant of the pardons power to the governor, to set up a board or commission to handle these applications and assist and aid the governor in making his decisions. So I believe that should stay in there; then the parole is an entirely different thing. The parole is something which the legislature could set without any particular mention, but this says the legislature "shall" set up a parole system.

PRESIDENT EGAN: Are there questions? Mr. Taylor.

TAYLOR: I don't have a question, but I have a remark along the same line that it is the governor that grants the parole, so I think that the word "parole" should go after the word "pardon" in the first line of that section. He can grant pardons, paroles, commutations, reprieves, and the governor now can at the present time grant a parole, he can grant a commutation, or he can grant a pardon.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, a parole is quite a different --

McCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

McCUTCHEON: We are not discussing the merits or demerits of the thing. We are asking questions and opinions of the Committee.

PRESIDENT EGAN: That is right. Mrs. Hermann.

HERMANN: That's what I meant to do but I will still dispute Mr. Taylor's statement that the present governor can grant a parole; he cannot. I was on the pardon board for a good many years and understand that, but I think that that is necessary in there because parole is quite different from the other things that are mentioned up above and required the establishment of a board --

McCUTCHEON: Point of order, Mr. President. I insist that we are discussing the merits and principles here involved rather than asking for the opinions of the Committee.

PRESIDENT EGAN: Mr. McCutcheon, I believe that your point of order is well taken. Hereafter the members will ask the Committee members their opinions, and when we get to the debate we will do that when we come to the amendment procedure. Mr. Fischer.

V. FISCHER: Point of order, Mr. President. I think it is valuable if delegates do express their opinions. They certainly can do it in terms of questions, but the Committee has started the very desirable practice of going back into committee session and considering some of the ideas and opinions expressed on the floor, and if Mrs. Hermann can bring in a valid point I think it is worthwhile bringing it up instead of leaving it to future debate, which may take hours. In this case the Committee may decide one way or the other and just take care of the matter within minutes.

PRESIDENT EGAN: Mrs. Hermann, the Chair felt, was entirely within the jurisdiction inasmuch as Mr. Taylor raised the point, and Mrs. Hermann felt the point was not well stated, but whether or not we are going to have all the debate in this particular discussion, that is a question, or whether or not we are here to hear the reasons from the Committee members as to why the sections came into being. Are there questions relating to Section 14? Mr. Cooper.

COOPER: Mr. President, I have a question. I would like to know just a few of the boards or departments that this particular Section 14 includes. Say, for instance, at the present time.

PRESIDENT EGAN: Mr. Rivers:

V. RIVERS: Mr. President, in answering that question, I might first make a broad general statement that in effectuating the powers of a strong executive, as I stated before, we figured there was a need for flexibility. Under this we have set up, as you see, the possible, not more than 20 principal departments. In setting up those principal departments, it was also our thought that we could possibly under the state government eliminate as much as half or maybe more of the existing boards and incorporate them within the various departments under functional setups of each department. Now in the past, as a Territorial government, we have had no manner of expressing self-government except through boards. We have had no manner of having citizen participation in government except through boards. Consequently, we have had lots of boards established to much of the disgust of a good many of our members of the legislature and citizens; however, we feel that this manner of establishment will help eliminate a number of the boards. At the present time we have some

principal departments in government in the Territory. We have the Revenue Department; we have the Department of Fisheries, the Department of Labor, the Department of Mines, the Department of Health, the Department of Education. We also have divisions of Social Security under the Territorial statute. I believe that covers mainly the essential departments. Now it might well be that in establishing a department of mines, fisheries and things like that, they might all fall under separate department or division heads of the department of resources. I don't know what the final picture of state administration would look like. It seems to me that some of the functions I have mentioned would normally fall under one main head as a division of a main head rather than as a principal department.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Is it all right to go ahead to Section 16 because this has a direct bearing?

PRESIDENT EGAN: Yes, Mr. Cooper.

COOPER: It says, "The head of each principal department shall be a single executive, unless otherwise provided by law." Does that mean that then eventually literally everyone of these 20 principal departments which would be allowable with the make-up of same, would have to come from the legislature, isn't that right? In the event that it were more than one primary department head?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We have provided for multiheaded departments in the next section, Section 17, which covers a board-headed department of which is possible to visualize there will be some, such as possibly the department of education, or the department of health or -- I just can't recall others that might fall into that branch, but we do provide for appointment of members to the multiheaded department if and when they are established by law.

COOPER: That was primarily what I had in mind, the department of education.

V. RIVERS: We covered that point after considerable discussion.

PRESIDENT EGAN: The Convention will stand at recess in order that the stenotypist and others may have a slight break.

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PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the artists among us

once more that there will be a showing of art at the Traveler's Inn on Sunday. The Convention will come to order. Are there questions relating to Section 14? Mr. Hellenthal.

HELLENTHAL: Mr. President, a question for Mr. Rivers. Is it the intent of Section 14 to limit the number of boards to 20?

V. RIVERS: No, that applies only to principal departments, principal departments of government. At the present time I would imagine we have not over five that could be considered principal departments.

PRESIDENT EGAN: Are there other questions relating to Section 14? If not, are there questions relating to Section 15? To 16? Mr. Coghill.

COGHILL: Mr. President, in the executive article here on boards, I understand that through the conversation just a minute ago with Mr. Rivers and Mr. Cooper, that under Section 16 and relating to 17, that a department, such as the new state department of education, they could nominate a board, appoint a board by the consent of the senate and set up a board in that manner that they could provide for the executive offices. I also note that it is at the approval of the governor which comes right back to actually the governor approving it. My reason for asking this question, Mr. Rivers, is that in an administrative capacity such as the commissioner of education is, he should be answerable to a nonpartisan board. Has your Committee given that any thought?

V. RIVERS: Yes, we went into that quite thoroughly, Mr. President, and in connection with that we had a memorandum prepared showing the present setup under the Territorial law and in order to amplify on that, I think it would be best if I read it. With your permission I will. "Under Title 37, Article 1 of the 'Alaska Compiled Laws Annotated', the Territorial Board of Education, the Territorial Commissioner of Education, and local school boards are charged with administration of the public school system. The Territorial Board of Education consists of five members appointed by the Governor, one from each Judicial Division and one at large. These appointments are subject to approval by a majority of both houses of the legislature in joint session. The members serve for a term of six years which overlap. A board member may be removed by the Governor for certain specified causes, with the consent of a majority of the whole Board. The Board appoints and removes the Territorial Commissioner of Education and has broad powers over the policy and administration of the Educational system." Under the original proposal of the Committee we had, "All departments shall be single-headed departments, except as provided by law." That left the removal power of the multiheaded department in the hands of the governor. Under our revised

version here now the existing arrangement provided by law for educational administration could continue, except that the appointment of the commissioner of education by the board of education would require the approval of the governor. The department of education would of course be subject to reorganization by executive order of the governor as would any other agency of the government. Now it also provides that the removal power of this multiheaded board member would be, or rather the appointing power of the principal executive officer of such board would be subject to the approval of the governor before he was appointed. The general consensus of the Committee was that this covered quite well the desire of both the strong executive and the multiheaded department such as the department of education. Does that answer your question?

COGHILL: Yes, but, Mr. President, that answered my question in part, Mr. Rivers. It is then the thinking of the Committee that like the head of the department of education, although the governor would only be able to appoint say one or two members to that board when he becomes the governor, that he would have the power to remove, without just cause a good executive head of that board?

V. RIVERS: He would have both, yes. He would have the removal power of the board powers and also would have the removal power of the executive officer, subject of course no doubt to some considerable agreement with the board. He has the removal power now for certain causes with the approval of the board, as I read to you.

COGHILL: Do I get it right then that he has the power to remove all board members when he comes into office?

V. RIVERS: Mrs. Nordale, you might care to answer that.

NORDALE: He can remove the board members but the head of this multiheaded agency may be removed in the manner provided by law, which could provide for hearings and all sorts of things.

PRESIDENT EGAN: Mr. Walsh.

WALSH: May I ask a question, Mr. Rivers? I think to clarify this in the minds of several people here it might be well for me, that one of those serving on the Board of Regents of the University of Alaska, composed of eight members, and the Board of Regents select the president of the University. The governor, as I understand it, does not have the power of the removal of the president of the University. It is a matter for the Board. Would this situation change that, Mr. Rivers?

V. RIVERS: No, in regard to the University, this would not affect their present setup. They are a private corporation, or rather

a nonprofit corporation, and under the specific law providing for their make-up, and you would still have a board of regents appointed by the governor and confirmed by the legislature, and the powers as you now have them would be identical to what they now are as I visualize them.

WALSH: We still have the power to choose a president of the University?

V. RIVERS: Yes, this refers only to principal departments of government.

WALSH: There would be no change when this transformation takes place from the Territory to the State?

V. RIVERS: Unless it were made by law there would be no change, as I see it.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Rivers, was it the thinking of the Committee that if all department heads were single it might save a lot of trouble in the capital city?

V. RIVERS: The interpretation of many English words has great duality of meaning in many cases. Of course, this one here is one of those things that you could put most any interpretation on. The interpretation if you want the serious definition of that single department head, it was that it would help effectuate and make more efficient the strong executive type of government in the executive branch.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, in Section 17, in what Mr. Walsh was referring to, it says that such a board or commission and the members have been appointed by the governor and then approved by the senate, "Such a board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the Governor." It has no provision in there whatsoever about the governor removing the executive head, but the procedure has been reversed; rather than the governor appointing this board and being confirmed by the senate, which it does down to a certain extent, and then letting the board have the choice of its executive, now all of a sudden the executive of this board has to be approved by the governor.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: That is correct. The approval power of the governor who is the strong executive head of the state would be required

before the commission could appoint and submit the name to the legislature for approval, but you also have to have the approval of the legislature, and in the case of judges you have a very similar situation under our new judiciary. The judicial council recommends a judge to the governor who makes a selection from two or more and then it is approved by the legislature. I see no variation in the method particularly.

PRESIDENT EGAN: Mr. Cooper.

COOPER: It does not say though that this executive officer is approved by the senate or any legislators. It is merely that the appointment shall be subject to the approval of the governor. There would be no appointment of a principal executive officer. There would be the appointment and the confirmation of the senate of the five members, that is what the board consisted of.

V. RIVERS: That's right. There would be no approval of the senate of the executive officer. I misstated, I was thinking of a board member.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Rivers, did you consider the use of the expression "administrative board" instead of "quasi-judicial body"?

V. RIVERS: Yes, we considered a great deal of terminology there -- regulatory boards, nonregulatory boards, administrative boards, quasi-judicial bodies, and we tried to arrive at the wording which would most nearly express the intent and "quasi-judicial" means one more board exercising powers as we visualize it, that are semijudicial in nature and have certain powers to make rules and certain powers to make rules and regulations that might have the force of law.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: You are getting into the field of administrative law then, aren't you?

V. RIVERS: I presume that is the right place to put this matter.

PRESIDENT EGAN: Mr. Smith:

SMITH: Mr. President, I would like to ask Mr. Rivers, I am still not quite clear on what the difference between a principal department with a single executive, what the difference between that and the principal department under a board or commission. Now possibly I can make myself clear by referring to the Alaska Department of Fisheries. If that department were set up without a board, then would you say it was a principal department and

would come under Section 16?

V. RIVERS: Well, it is a matter for the organizational setup of the state to decide what principal departments they are going to establish. As I stated before, we have a number of departments now headed up by boards where it might be eventually they will be single-headed departments. It is the hope of many that they will have such single-headed departments. I for one think the Department of Fisheries could probably and would qualify as a principal department, although it might well fall under a department of resources as one of the fields of that particular department.

SMITH: It would depend then on how the state organization was set up as to whether it would come under Section 16 or 17?

V. RIVERS: That is correct.

PRESIDENT EGAN: Are there other questions relating to Section 16? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to go back just one, and I would like to ask Mr. Rivers, what is the purpose of Section 15? Why is it necessary at all? We have provided that each department head shall be appointed by the governor. Why do we need to say that each department shall be under his supervision?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, the governor under this setup is charged with the executive responsibility of the management of the state. As I recall, to effectuate that we felt that the phraseology of the model constitution was important, that he actually be indicated as being the supervisory head of all the departments under him. I will pick out the wording for you, if I can. I don't find it just at the moment, Mr. President. I will locate it and bring it out for you and show it to you as soon as I am able to locate it.

PRESIDENT EGAN: Are there questions to Section 17? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask a question in regard to 17. I will start first by mentioning Section 15:

"Each principal department shall be under the supervision of the Governor." And then in Section 17 it says: "Wherever a board or commission is at the head of a principal department or of a regulatory or quasi-judicial body, the members thereof shall be nominated and appointed by the Governor..." etc. I am wondering if in the case of a department of education which had a school board made up of members confirmed by the legislature who in turn appoint a commissioner of education to administer the

school system. I think probably the department of education would be one of the principal departments, even though it had a board to carry out the program, I am wondering if the governor is really the supervisor of that kind of a department. I might go along with saying the general supervision of the governor, or such, but actually I don't think he would be running the University through the Board of Regents either. I think the regents would be running it, and I think the board of education would be running the department of education, and it would be a very vague supervision that the governor would have in a case like that, and I am just wondering if there is any inconsistency there.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: First, I would like to say that the University of Alaska is not a principal department of the government. It is something apart from this. And second, actually our present government is a very fine example of what can happen when a governor does not have any supervision over departments. I don't believe our present governor, if he sees a certain department of government that is wasting public funds, that is hiring a great deal of personnel that it does not need, he has no authority to go and say to the head of that department, "Now look, you had better reorganize this thing and operate it more efficiently." That is what we want the governor of the state to do, to be responsible for seeing to it that each department runs as efficiently and economically as possible, as well as carry out the laws.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: On the supervision of these various departments, it was the understanding and intent of the Committee that the governor could require reports, and if necessary, make investigations down in to the functioning of these departments as to whether they could be improved upon, and of course would naturally have to do the same with practically all departments. The report-making power requested by the governor and investigating power of the governor into the functioning of the departments is the main supervisory function he would have.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Mr. President, I would like to ask a question in regard to that Section 15. Does that relate to the ability of the governor then to supervise these different departments in such a way as to coordinate their activities?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: The governor is the responsible executive to all the people for the proper functioning of these departments. This supervision power we mentioned would be a broad general power of investigating them and asking them for reports in regard to their functions and how they are performing, and perhaps even having them looked over by an efficiency expert to see if they could do their business in a better manner. That is about all that I would say the supervisory power consists of other than advising.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Rivers, have you in your strong executive, have you looked over the other provisions of the other states to find out just how many of the states function as such toward the boards of education or the departments of education, departments of welfare or health? Do you have those figures?

MR. RIVERS: Not in their entirety. As you know, many of the state constitutions are very old and quite out of date. We did, however, go through all that we felt applied and we eliminated some of those older constitutions that did not apply. We tried to accept and take the best parts of the model constitution and some of the other constitutions that are designed along the strong executive, such as New Jersey and the recent amendment, and the Constitution for Hawaii. We did have the consultants in with us on this, and the general idea was to effectuate the strong executive. Now you must realize that the need for the strong executive did not become too apparent until the government began to grow more and more important in our social and economic affairs. That change began taking place along in the late 1920's. Since then until the present time need for effective government has pointed up the failures of the old state constitutions, so we studied as nearly as we could the failures of the old state constitutions to properly provide for an efficient executive department. In this we tried to adopt the items which would make ours effective and efficient. The precedent in the matter of the strong executive is rather limited.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I would like to ask, Mr. Rivers, I note that in Section 16 for the single executive you have a qualification of citizenry and residency when the board or commission head of a principal department you do not require them to be citizens or residents. Is that the intent of the Committee?

V. RIVERS: The board or the commission would be established by law, and we presume they might have some requirements in the law, but that leaves it open to the legislature to make the decision on it.

PRESIDENT EGAN: Mr. Barr.

BARR: In Committee I assumed that this wording applied to all department heads, including a board. It says the heads of all principal departments appointed shall be citizens. Elsewhere here it stated that heads of departments shall be a single head or a board. The board is the head of the department. Therefore, they should be citizens too. That is the way I read it.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: My thought, my doubt, Mr. President, was presented by the fact that in Section 16, in the last sentence it says that: "The heads of all principal departments appointed under the provisions of this section..." That is apparently Section 16.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Would the Committee have any objection to the substitution of the word "article" for "section" in line 23, page 7?

V. RIVERS: I can't speak for the Committee on that, we would have to discuss it. I for one would prefer to see the statute provided rather than the constitution provide for board member qualifications.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Rivers, do you think that in the event you set up a rather technical department of some kind that this provision requiring a three-year residence would be a restricting limitation on the governor and might prevent him from getting a qualified person?

V. RIVERS: Mr. President, in answering that, I would say that all principals of principal departments of government are quite broad general administrative departments. They are not departments which have special technical men at their head and men who must have a broad administrative ability in a particular field, such as education, but I and a majority of the Committee members felt that they should also have an assured knowledge of Alaska, Alaska's people and Alaska's conditions, so we speak here of only principal department heads. We do not feel this forecloses those departments from obtaining the services of any of the best experts that they might need or desire.

BUCKALEW: Mr. Rivers, as a matter of fact, don't you think an elective governor would always take an Alaskan if he was qualified?

V. RIVERS: It is a matter of conjecture. He might or might not. However, in this case we felt that any member of the

government in a policy-making position, broad administrative policy-making position should have certain requirements of residence, and these were the ones that the Committee by majority voted to adopt.

PRESIDENT EGAN: Mr. King.

KING: Mr. President, may I address a question to Mr. Rivers?

PRESIDENT EGAN: You may, Mr. King.

KING: Mr. Rivers, Section 15, would this preclude the establishment of commissions, such as a game commission or commission for resources?

V. RIVERS: No, we specifically do not exclude them, we specifically include them under Section 17: "Wherever a board or commission is at the head of a principal department..." It could be a principal department and still be headed by a multiheaded department.

KING: One more question, Mr. Rivers. Then, the commission then has very little authority as I can see it because here it provides that, "The head of each principal department shall be a single executive", and further, "Such single executive shall be nominated and appointed by the governor...", etc. In other words, the governor does not have to go to the commission; he can appoint the executive under this commission himself?

V. RIVERS: No, it says, "Such a board or commission may appoint a principal executive officer when authorized by law..."

KING: And the governor can remove this director?

V. RIVERS: No, the governor cannot remove that director, but the appointment shall be subject to the approval of the governor, and that is only in the principal departments of government. It might well be that the department you are speaking of would be a principal department; then whoever would be appointed would have to have his approval, but they may appoint with his approval.

LONDBORG: For the record on Section 17, Mr. Rivers, if I may address him, "Such a board or commission may appoint a principal executive officer when authorized by law..." Then it mentions that the appointment shall be subject to the approval of the governor. Does the governor have the right to remove that particular principal executive officer?

V. RIVERS: I want to correct a statement I made previously in that regard. He would not have the power to remove unless the legislative act so provided. It establishes this commission by

law. The constitution sets up his approval of the appointment but unless the rules of the commission he established or the law which established it, give him some definite powers of removal, as I interpret this, he would not have the power of removal.

LONDBORG: Unless the law would specifically give him that power this principal executive officer when appointed with his approval would be subject to removal by the board then, or whatever the law would state.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: In this particular instance, the fact that it is subject to the approval of the governor does not seem to me to be a stumbling block. It is a little comparable to the governor's veto. It would be only if a man appointed by his own board were particularly objectionable in some respects that he would probably enter objection at this point.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I believe Mrs. Nordale was looking at me when she was speaking. I was wondering, I was not referring to the appointment but rather to the removal to make it understandable that the governor would not just usurp his political power and remove someone to get in one of his own, make it a political deal on that. Just so we had it clear.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to ask a question of Mrs. Nordale. The principal executive officer then would be the one that would be, in effect, that particular officer would be serving at all times? In other words, he would be the department head officiating the action? The board would advise. They could meet over certain periods of time but this principal executive officer would be constantly on the job and as such, having been approved by the governor, would have the steady job. I am not saying exactly what I mean.

NORDALE: Maybe I can clarify it. It seems to me we are setting up principal departments, no more than 20. Most of them we hope will be single executives, but there may be departments that are headed by a group of people. Now that is the head of the department, and they are the ones that operate the department. Now then, they appoint, if the law provides that they may, they appoint an executive officer who carries out their policies. The executive officer is set up by law, but the head of this multiheaded department is in the same position as the singleheaded department. The rest of it is set up by law.

COOPER: In other words, the principal executive officer is the acting manager, so to speak, of this department?

NORDALE: That is right, but he does just what the head tells him.

COOPER: The board then would be only acting in an advisory capacity, so to speak?

NORDALE: No, it would be the head of the department. There might be advisory boards in other departments if the law provides it.

COOPER: That is where I'm not exactly clear. You have a five-man board for the department of education. Now is that five-man board, are they going to be constantly on the job?

NORDALE: No, not necessarily. It is like a board of a corporation and a president.

COOPER: Out of this board that is nominated and appointed by the governor, which the senate approves, then only the governor has the right to approve the executive head?

NORDALE: He approves it after his board presents it.

COOPER: By that I understand then that the governor certainly has the right to reject any and all with the exception of one of this board.

V. RIVERS: No, in most cases, Mr. President --

GRAY: Mr. President, I would like a two-minute recess. Maybe we can explain that.

PRESIDENT EGAN: The Convention is at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, as soon as Mr. Rivers gets to the seat, may I ask him a question. Mr. Rivers, one thing that I think I have heard two answers that you have given on a subject here, and that is on your Section 17 regarding the board appointing and who removes that executive officer. If we establish a board of education under this which the governor will appoint those board members, they will be ratified by the senate, then they in turn will meet and they will appoint their chief executive officer. The only difference between your provision and the Hawaiian provision is that there is no approval or rejection by the governor.

The Hawaiian board of education has full reign as our board today has, but does the governor have the power under your act to remove the chief executive officer or does he have to instruct his board to do so?

V. RIVERS: Under this constitutional clause the governor would have no power of removal, but it might possibly be in the statute which set up the board, where it is right now in fact.

COGHILL: Mr. President, may I clarify my reason why I am asking that? It is because we have to have the permission of the chief executive of the board, he has to be answerable to somebody, and it is to the board that is appointed from around the state. That is the reason why I am so concerned.

V. RIVERS: I can assure you there is no intent on the part of this article that the governor should remove the principal executive officer when appointed by the board and appointed with his approval.

BARR: Mr. President, Mr. Coghill's chief concern is to keep the board of education out of politics and not have the director removed for any political reason, and I believe that we provided for that all right in this report. That was our thought, too, and of course we at the same time wanted this board of education, shall I call it, or commission, to be one of the principal departments and to be responsible to the governor under his supervision, but the governor, we assume, will leave all of the details to the commission, and we only wanted an approval of the governor on appointment of the commissioner of education, so it would keep him under the governor as one of his department heads, one of his assistants, one of his group, his administration. There was no thought of removing him or allowing him to be removed for political reasons.

PRESIDENT EGAN: Mr. Cooper.

COOPER: If the governor can't remove him, why must the principal executive officer then be subjected to the approval of the governor in the original case? What was the reason behind that?

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, the main reason behind that, Mr. Cooper, is the fact that he can't remove him and he would like to have somebody in there he can get along with and work with just as the president of any corporation would like to have people working with him and under him, the people he can get along with and work with. That is the reason for the approval of the governor. While I am on my feet, Mr. Coghill made the statement "with the approval of the senate". It is not with the approval of the

senate as we have it set up. It is with the approval of the legislature in joint session, and I'll make an explanation of that also. The reason for the legislature in joint session making the approval is the senate being 20 people, and if there were say, 20 appointments to be made for different boards, they would sit down and slice it up like a piece of pie and say, "I'll appoint my man here and you appoint your man there and if the governor wants the approval of the senate, he'll have to make these appointments." Therefore we have both of them in joint session so it would be the governor's selection and not the senate's or house's selection.

PRESIDENT EGAN: Are there questions with relation to Section 18? Mr. Hellenthal.

HELLENTHAL: Point of information. How do you call, "No further question"?

PRESIDENT EGAN: Whenever the body wishes to proceed to the amendment procedure. Mr. Nerland.

NERLAND: Mr. President, may I revert to Section 6 and ask Mr. Victor Rivers a question?

PRESIDENT EGAN: If there is no objection you may revert to Section 6 and you may ask a question of Mr. Victor Rivers.

NERLAND: Mr. Rivers, I believe it is conceivable that such a situation as this might arise in regard to the secretary of state: in one party's primary or both parties for that matter, there may be two candidates for governor. There might possibly be one person who would be a logical choice for secretary of state and he might go to these two candidates for governor and say, "Now I have no quarrel with you or with the other man, why don't you both put me on your ticket?" That could result in the people not having the choice for the secretary of state. Does your Committee contemplate any remedy for that situation or do you think a remedy is necessary?

V. RIVERS: That could come down to whether or not we set up any method of nomination in this article. The method of nomination would doubtless control that. Now, if we select, as was discussed here, the manner of nominating by popular ballot and then the two high men go in as governor and secretary of state, that would automatically be eliminated. The number of votes would determine who was nominated. It was pointed out to us during the noon meeting that it would probably be very unwise to pinpoint in the constitutional section here a method of conducting elections such as set up that the primary shall do this or that. There might not always be a primary. There might be some time when nominating conventions will be reverted to as

they are in some states. So if we pinpointed the matter of a primary in this thing, we might then pin down the type of the nominating elections we would have in the state for all time to come. It did not seem to me that we should do that in the constitution, so in direct answer to your question, it all hinges up on how the primary nominations are made as to whether that condition could occur.

NERLAND: Do you think some provision should be made some place to avoid such a complication?

V. RIVERS: The election procedure prescribed by law is the terminology used in this line, and I think it would then be left up to the legislature to make a fair and just manner of nominating these individuals so they could run on a joint ballot.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, Mr. Rivers, do you honestly think, I am referring to Section 16, that the governor of Alaska, if this three-year provision was in existence today, do you think he could fill the position of Commissioner of Health?

V. RIVERS: I might answer that by adding that in filling the position of the Commissioner of Health by a man who had been in Alaska for some 12 years at the time he was appointed -- I refer to Dr. Albrecht. Prior to that time we had Dr. Council who had been in the Territory for some 24 years, and who was our Commissioner of Health. I think that of the some 42 doctors in the Anchorage area and perhaps 30 or 40 here plus those in the Southeastern end, he would have no trouble in filling the Commissioner of Health's appointment.

BUCKALEW: Mr. Rivers, would it shake your confidence in your article if I told you that I attended a medical convention and I talked to every doctor there and there was not one of them that would take the job?

V. RIVERS: There are a number of men in different fields of medical practice, some of them are in general practice and others in specialized fields, and others in the field of public health. In this Territory of Alaska we do have some men like that available. There are a number of men who have been city health officials who are engaged in that field part time. There are other men in the medical field who are engaged in that job full time. We have men associated with different agencies of government and we have other secondary men in the Department of Health who are creating the necessary experience in the Alaska field who would be qualified for such an appointment. I for one have no fear that in the general administrative heads of these principal departments we could not find someone who both knew his

business and also knew the Territory and its people.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I notice that in the letter of transmittal to the President it mentions that Proposal No. 15 as being outside the terms of reference and not included in this and says it should be referred to another committee for consideration. I wondered what committee that had been referred to.

PRESIDENT EGAN: What was Committee Proposal No. 15?

HERMANN: Proposal by Mr. Smith that all the provisions of the constitution would be mandatory.

PRESIDENT EGAN: Would they have referred it to the Ordinance Committee, Mr. Rivers?

V. RIVERS: I don't remember, but our secretary has the minutes upstairs if you want it looked up.

PRESIDENT EGAN: I don't think that is necessary right at this moment, Mr. Kilcher.

KILCHER: Mr. President, in mentioning quasi-judicial boards in one place, don't you think mentioning that in the constitution would be sanctioning forever quasi-judicial boards, and don't you think that it is possible to solve all the problems that occasionally are solved by these quasi-judicial boards in a different manner, to split the duties between the executive and the judiciary as we have it? It is a vital question that has come up, and I wonder if the board has given it any special consideration.

V. RIVERS: Mr. Kilcher, consideration was given to the different types of boards, regulatory, administrative, and quasi-judicial. There seems among some of the delegates to be considerable opposition, or rather I should say, question as to the interpretation of the term "quasi-judicial", and it seems to be a point of some controversy. If that field of boards could be covered by another equally expressive term or more expressive term, I feel that possibly it should be, but in the lack of any other such term for that group of boards we felt that this one did cover it, "quasi-judicial".

KILCHER: Since "quasi-judicial" seems to have a fairly concise connotation, has the question come up whether they are desirable or not, and if they possibly were not desirable, if they could be prohibited in the constitution?

V. RIVERS: Well, there is nothing here that says any board, regulatory, quasi-judicial, or administrative must be established. It merely creates the authority for the legislature and defines the certain restrictions if such boards are established by law, so we make nothing mandatory in regard to establishment of quasi-judicial boards. That would be up to the legislature in making the law.

POULSEN: I move for a 15-minute recess.

PRESIDENT EGAN: Mr. Poulsen moves that the Convention stand at recess until 3:50. If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We now have before us Committee Proposal No. 10a in second reading and open to amendment. We will start with Section 1 for the purposes of amendment. Are there amendments to Section 1? Does anyone have an amendment to propose for Section 1 of Committee Proposal No. 10a? Section 2? Are there amendments to be proposed to Section 2? Mr. White.

WHITE: I have an amendment.

PRESIDENT EGAN: You may present your amendment, Mr. White.

WHITE: I think maybe I had better present it in two parts.

V. RIVERS: Before you take up that amendment, there are two minor committee amendments which I mentioned in the discussion. I would like to bring them to the attention of the body.

PRESIDENT EGAN: The Chairman of the Committee asks that the committee amendments be considered first. If there is no objection that is the manner in which we will proceed. The Sergeant at Arms will please bring the amendments forward. The Chief Clerk will please read the first proposed committee amendment.

CHIEF CLERK: "Page 1, line 11, place a period after the word 'governor' and strike the balance of the section."

BUCKALEW: Please read it again.

CHIEF CLERK: "Page 1, line 11, place a period after the word 'governor' and strike the balance of the section."

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

V. RIVERS: I will move and ask unanimous consent and I might say that that strikes all of the matter in relation to the solution of contested elections or tie votes. As I stated in the discussion, the intent of that motion was that Style and Drafting would include under suffrage and elections a general clause that would cover the matter of settling contested elections or tie votes, so we accede to this amendment on that grounds. I ask unanimous consent, and move the adoption.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the proposed amendment be adopted. Mr. Fischer.

V. FISCHER: I would like to bring a point of order. I don't think Style and Drafting has the authority to put anything into the constitution, Mr. President.

V. RIVERS: We discussed that and suffrage and elections is in second reading, but it will not come up for final vote, and it was brought out in Committee that if we desire to discuss this amendment into it at that time we would have to do so at a two-thirds majority under suspension of the rules.

PRESIDENT EGAN: Is there objection to adoption of the proposed amendment? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to be offered by the Committee? The Chief Clerk may please read the amendment as offered by Mr. White.

CHIEF CLERK: "Section 2, page 1, lines 4 and 5, strike the words 'and shall have been for at least twenty years'."

WHITE: I move the adoption of the amendment.

BUCKALEW: I second it.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment once more.

CHIEF CLERK: "Section 2, page 1, lines 4 and 5, strike the words 'and shall have been for at least twenty years'."

WHITE: Mr. President, I don't feel it is a terribly important matter. I point out to begin with that the President of the United States has only to be a citizen of the United States for 14 years to qualify, so I did feel this was a little high.

McCUTCHEON: He has to be born in the United States.

WHITE: I beg your pardon. I feel we should set up as few barriers as possible throughout this constitution to service the people of the State of Alaska and that citizenship in the United States for a number of years is not a very necessary qualification for a governor of the State of Alaska. I feel he would be subject to election by the people of the state, and

that in reference to citizenship in the United States, his qualifications should be obvious or not obvious. I don't think it has much bearing on whether or not he would make a good governor for the State of Alaska -- a resident of the state and some minimum residence requirement yes, but I see no reason for the 20 years as a citizen of the United States.

McNEALY: Point of inquiry, do we have anything before us?

PRESIDENT EGAN: We have the amendment as proposed by Mr. White. The Chair would like to inquire if the Chair may, now in the discussion that was held here previously, there is a difference between a citizen of the United States and a citizen of the state. It might be well if we did get together on it.

V. RIVERS: We had some discussion on that and I read an article from the United States Constitution handbook on it. There is some difference based generally upon the residency as was stated in there and the Committee discussed whether or not to include the words "a citizen of this state" and we did not elect to do so. However, we believe it will be moved on the floor and discussed further by one of the delegates.

WHITE: Mr. President, I meant to add that 27 states have no number of years specified as a United States citizen for their governors, only two have as much as 20 years, and the others range on down to two years, but 27 states specify no period of years.

LONDGORG: Mr. President, I believe one of the reasons for the Committee putting this in is the fact of our isolation from the United States, and the fact that a person could come directly over here from another country, and it might add to their familiarity with the American way of government if they had that requirement.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I want to recall to all of you that the Chairman of our Committee said that any member of the Committee who did not agree might feel perfectly free to express himself on the floor. This is a provision that I was opposed to right from the beginning because I never felt that anyone should have had to take out citizenship papers 20 years ago in order to be eligible to be governor of the State of Alaska. There are people who might come from Canada who are very familiar with us and our language and so on, and if they have lived in Alaska for seven years, I don't see why we should have to put in this requirement, personally.

FISCHER: Mr. President, the only thing I'd like to say is that I really don't think we will ever have a governor who has not been a United States citizen for 20 years, probably 30 or 40

years. I am opposed to this kind of provision because I don't think it is needed and in any case it is up to the people of Alaska, voting to express their preference whether they want a person who they feel is qualified, whether he has been a citizen for 19 years or 20 years or 50 years.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I ask Mr. Rivers a question? Is it not true in the early history of the Territory there was a governor who was not a citizen of the United States?

V. RIVERS: Yes, we had a governor of Alaska who was not a citizen of the United States, a Governor Strong, a Canadian citizen. He was appointed.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: That was the point that I want to establish -- Alaskans have no control over that situation.

V. RIVERS: Mr. President, I will yield to anyone who wants to discuss it further. I'd like to make a few remarks in closing.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: My principal objection to this provision is that it looks like it's admission against entrance. It would appear that the people of Alaska ought to be directed in their selection, like we would not have enough sense to select someone who would know what was going on. You would think there would be danger of electing some foreigner for example. I think there is no reason at all for it because the people are going to vote and they are going to use their own good judgment. I think it is an unreasonable restriction and meaningless.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I agree that the people probably would not elect a man who was not a citizen or even one who had been here only a short time, but language such as this would keep him from filing and confusing the issue and taking votes away from another candidate. Now I believe that the highest position in our state government, as an elector I should want a man of great ability there, but I also would want a man who would represent us, we citizens of the United States and the State of Alaska, so I believe that it is also an honorary position, and it seems to me he should have been a citizen for some time, I wouldn't say 20 years, but I would say for some time.

WHITE: If I may answer two things that have been said. Two speakers have referred to the fact that the candidate for governor should be a citizen. I want to point out the language does not strike the qualification that he must be a citizen, it only strikes the words "twenty years".

V. RIVERS: It seems to me an amendment of this kind expresses a certain desire on the part of some members to be and appear to be quite liberal, and I don't entirely disagree with that field of thinking. However, the purpose of taking out citizenship or having citizenship for a certain length of time is, as I see it, merely to insure certain things, to insure that the individual in question is familiar with our philosophy, familiar with and approves of our institutions and is familiar and advocates our type of ideology. It seems to me that it's basic that the very act of taking out the citizenship paper means little except that he has been here that long and he has become acquainted with things which we stand for, the things we believe in, and the things we want to continue in our form of government. It is a very mild form of insurance I believe in having such a clause that we do provide and insure certain things in certain backgrounds in the persons whom we allow to file for public office, where he is directing the affairs of our people and the government of our people. I would not say that 20 years is an ideal number, or anything wrong with it. I think in 20 years the average person could become quite well-acquainted with American institutions and American ideals. It seems to me that maybe ten years would cover that period of time, but to strike the clause altogether does not appear to me to be consistent with the things that we believe in and that we stand for and want in our government and the people who run it.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Point of order, Mr. President. Mr. Rivers yielded a little bit ago to permit others who had something to say, so that he could close the argument.

PRESIDENT EGAN: Mr. Rivers did not make the motion.

V. RIVERS: I made a mistake. I was not the mover.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I had intended to enter this argument honestly, but I have some figures here that the delegates should well consider before they vote, so they can vote intelligently. Please, will the Clerk first read the amendment.

PRESIDENT EGAN: The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 2, page 1, lines 4 and 5, strike the words 'and shall have been for at least twenty years'."

KILCHER: Mr. President, I had, without conferring with Mr. White, an identical amendment, that is, almost identical. I did not strike "and shall have been" which would have left it seven years a resident. If you don't strike "and shall have been", it would leave seven years of residence citizenship. However, I am not sure whether I should introduce an amendment to Mr. White's amendment. The argument would be the same, so I think I'll argue in favor of his amendment, and if it fails, I will bring this up later. A man that becomes a citizen of the United States in Alaska as a rule has been in this territory, state or country more than five years. Only if he marries a citizen is it three years. It is more than five years, and often a man, even if he comes directly to Alaska from overseas, be it Canada, England or another part of Europe, I don't think it is a detriment that he has not been in the United States before. I think Alaska is as good, possibly a better place than many of the states, to get acquainted with the philosophy that Mr. Rivers has mentioned awhile ago of American government and the American way of life. I think it applies to me. If you consider that a man comes here in the first place, if he comes to Alaska directly or the states it indicates that he has a liking and a knowledge of the country before he gets here, and he senses an affinity, and the fact that he has been here five years and it still implies that he has been a resident of Alaska seven years, so he certainly has been in Alaska seven years. I think the man certainly should not be barred from becoming governor if he is so capable to climb the political ladder to a point where he is approved by the parties, he should also be given a chance to be approved by the people and chosen, if the people see fit.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 29 - Armstrong, Awes, Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Lee, McLaughlin, McNealy, Marston, Nordale, Poulsen, Reader, Riley, R. Rivers, Stewart, Sundborg, White, Wien, Mr. President.

Nays: 25 - Barr, Boswell, Coghill, Collins, Cross, H. Fischer, Harris, Johnson, King, Knight, Laws, Londborg, McCutcheon, McNees, Metcalf, Nerland,

Nolan, Peratrovich, V. Rivers, Robertson, Rosswog,
Smith, Sweeney, Taylor, Walsh.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 29 yeas, 25 nays, and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment on the table, I think. I misunderstood -- I thought the Committee would put the amendment in, my amendment which I will make orally: Section 2, line 3; after the word "be" insert the words "a citizen of this state". I so move, Mr. President.

PRESIDENT EGAN: Mr. Robertson moves and asks unanimous consent that his proposed amendment be adopted.

BUCKALEW: Objection.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Robertson.

ROBERTSON: Mr. President, in the propounding of questions this morning, the Chairman, Mr. Victor Rivers and his Committee, and also in talking to Delegate Nordale, I had understood that the Committee itself was going to put in that amendment along with the committee amendments, but I submit, as Mr. Rivers read this morning from the book on the Constitution, that there is a dual citizenship; a person living today in Alaska -- we are not citizens of Alaska -- we are residents of Alaska and citizens of the United States. When we become a state, we will be citizens of Alaska; we will also be citizens of the United States. A citizen of a state necessarily must be a citizen of the United States, but a citizen of the United States does not necessarily have to be a citizen of any particular state, and that is the very reason as I mentioned this morning why we have the provision for the diversity of citizenship suits in the federal district court. Some years ago I brought a suit in the federal district court in Portland, Oregon, for a resident of Alaska who was a trustee in bankruptcy. My opponent challenged the jurisdiction of my suit on that very ground but fortunately he was trustee of a Washington corporation. Therefore, the court held that I was entitled to bring the suit, because there was a diversity of citizenship, in the federal district court of Portland, Oregon. A person might reside in Alaska for 10, 15, or 20 years and never become a citizen of Alaska. They can still retain their citizenship in Iowa, Nebraska, Washington, or wherever they

come from. Citizenship is required when you commence to participate in those things that citizens become. It is true, taking up your residency and exercising those rights such as the right of suffrage makes you a citizen of the State of Alaska, and I submit, it is very important that we have the governor specifically qualified as a citizen of our new state, and I hope that the amendment carries.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, if I have it right, the proposed language is placed after "shall be" in line 3. I would like to ask Mr. Robertson a question then if I may. I am wondering why it is placed at that point, Mr. Robertson, rather than in line 5 after the "United States". Is there any reason for it?

ROBERTSON: There would not be now, Mr. Davis, since Mr. White's motion carried. It could be inserted just as well after "a citizen of the United States and of this state".

DAVIS: I am wondering if it would not read better if you would move it down to that place.

PRESIDENT EGAN: Would you ask unanimous consent to withdraw the amendment and then submit it again?

ROBERTSON: I move that I withdraw the amendment and add it to line 5 by deleting the comma, and adding the words "and of this state".

PRESIDENT EGAN: Mr. Robertson asks unanimous consent that his original proposed amendment be withdrawn. Is there objection? Now he has moved that the proposed amendment be inserted after the words "United States" in line 5.

ROBERTSON: Just the words "and of this state".

PRESIDENT EGAN: The words "and of this state" be added. Is there a second to the motion?

TAYLOR: I second the motion and ask unanimous consent.

LEE: I object.

PRESIDENT EGAN: Miss Awes.

AWES: As I understand it, Mr. Robertson intends that the man must show three things -- that he is a citizen of the United States, a citizen of Alaska, and also a resident of Alaska. Is that right?

ROBERTSON: Yes.

AWES: Of course, when you get in this question of residence, it is one of the most complicated problems in the law, but I think used in this way that residence would be interpreted by the courts to being domiciled in the state. I think that is practically the same as being a citizen. I think the language is unnecessary.

ROBERTSON: I am unable to accept Miss Awes' theory that any court has held that domicile constitutes citizenship. It is true generally that citizens are domiciled in the state wherein they are citizens, but I submit that neither residence nor domicile makes you a citizen, you have to go further than that.

PRESIDENT EGAN: Mr. Lee.

LEE: May I address a question to Mr. Robertson?

PRESIDENT EGAN: If there is no objection, Mr. Lee.

LEE: My objection is based upon this fact that I have the Constitution of the State of Hawaii here and the Constitution of New Jersey, two of the most modern state constitutions, and each of these have language identical to that used in the original article proposed by the Committee. If it is so important, could you explain to me why they left it out in these two instances?

ROBERTSON: I can't explain that to you, Mr. Lee. I don't know why that is. It seems to me that it is a great mistake to omit it. In the Constitution of Hawaii it may not have occurred to them.

HELLENTHAL: Mr. President, I can answer the question for Hawaii. Hawaii says that in order to be a qualified voter you have to be a citizen of the United States. It says in order to be governor you must be a qualified voter, so in Hawaii you must be a citizen in order to be a voter. Wait, I am mistaken; I have that on United States citizenship. I withdraw that.

AWES: Mr. President, may I ask Mr. Robertson a question?

PRESIDENT EGAN: You may, Miss Awes.

AWES: It is simple to prove you are a citizen of the United States, you are either born in this country or you have a piece of paper. How do you prove you are a citizen of the state if someone challenges you on that point?

ROBERTSON: You become a citizen of a particular state when you begin to exercise the rights to citizenship. For instance, voting -- that is a right of citizenship. Of course, you might never vote and you might still be able to maintain citizenship, but residence alone does not necessarily make you a citizen,

and the only qualification here as to your relationship to the State of Alaska is being a resident of the State of Alaska, that is not necessarily as a citizen of the State of Alaska.

AWES: I think our article on voting, suffrage and elections, says that in order to qualify as a voter you shall be a resident. It seems to me only confusing to drag in another term.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: I know of a number of people myself that have lived in the Territory for five, six, or seven years and have always claimed their residence in the state from which they came. They have so signed citizenship and so signed papers to that effect. That is the reason I thought it should be in there. I know of a number of men who were in the Signal Corps the same way, they have always claimed their citizenship elsewhere while living in the Territory five, six, or seven years.

V. FISCHER: May we have a two-minute recess, please?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair was wondering if it might be wise in this instance to save time to appoint a subcommittee consisting of the Chairman of the Committee, Mr. Victor Rivers, Mr. Robertson, and Mr. McLaughlin to see if they can resolve this question as to whether or not the word "resident" adequately covers this problem.

ROBERTSON: I will eliminate all the delay. I will withdraw with unanimous consent, I will withdraw my suggested amendment.

V. RIVERS: I will object for a minute. I will explain my objection. The way we now have it, I understand that if the "citizen of the state" clause goes in, the "citizen of the state" carries along with it the "citizenship of the United States for seven years", as I interpret this. As we now have it with the 20 year citizenship of the United States stricken, an individual could come into the Territory of Alaska, take up residence and in five years receive papers and two years later file for the governorship of Alaska. I don't say that would happen, I say it could happen, so I believe that if this seven-year clause goes in the citizenship of the state naturally requires that he also be a citizen of the United States. For that reason alone, to defeat the possibility I have just mentioned, I would probably favor the insertion of this "seven years a citizen of this state"

because that would carry along with it the seven-year automatic clause of United States citizenship.

PRESIDENT EGAN: Mr. Davis.

DAVIS: It does not say anything about seven-year citizenship in the state under the proposed amendment. The proposed amendment is at the end of line 5.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I would move the adoption of an amendment providing for seven years as a citizen of the United States. The amendment is on the desk.

PRESIDENT EGAN: Mr. Robertson had asked unanimous consent that his proposed amendment be withdrawn. Is there objection?

HELLENTHAL: I object.

V. RIVERS: I will withdraw my objection.

HELLENTHAL: I object and move the adoption of the amendment.

PRESIDENT EGAN: It has been moved and seconded. Mr. Robertson.

ROBERTSON: I will state the reason of my withdrawing. During the recess Miss Awes showed me that amendment which is in the Constitution, the Fourteenth Amendment, which on quick reading of it indicates to me that a citizen of the United States becomes a citizen of the state wherein he resides, so apparently it is already covered if he is a citizen of the United States and resides here.

PRESIDENT EGAN: Is there still objection to Mr. Robertson's unanimous consent request?

HELLENTHAL: As a point of information, I have checked the New Jersey Constitution and the Hawaii Constitution, and in the New Jersey Constitution in Section 1, Roman numeral I, paragraph 3, refers to "any citizen and resident of this state". The Hawaii Constitution, in Section 7 of the transitional provisions, refer to "requirements as to residence, citizenship or other status or qualifications in or under the state", so both of them, Hawaii to perhaps a lesser degree, but both of these state constitutions do recognize state citizenship, and recognition should be given to it in our constitution.

PRESIDENT EGAN: Objection is heard. We have before us Mr. Robertson's proposed motion. The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the

Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 35 - Armstrong, Barr, Boswell, Collins, Cross, Davis, Emberg, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nolan, Nordale, Peratrovich, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sweeney, Wien.

Nays: 19 - Awes, Buckalew, Coghill, Cooper, Doogan, V. Fischer, Gray, Lee, McLaughlin, Marston, Nerland, Poulsen, Riley, Stewart, Sundborg, Taylor, Walsh, White, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 35 yeas, 19 nays and 1 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Mr. Buckalew.

BUCKALEW: I think the question before the body was whether he should be allowed to withdraw the amendment.

PRESIDENT EGAN: The question was, "Shall the amendment be adopted?"

UNIDENTIFIED DELEGATE: What was the vote on that?

CHIEF CLERK: 35 yeas, 19 nays and one absent.

PRESIDENT EGAN: Mr. Robertson asked unanimous consent that his proposed amendment be withdrawn. Mr. Hellenthal objected and there was no motion made by Mr. Robertson or anyone else to withdraw the amendment. The Chair stated that the proposed amendment as offered by Mr. Robertson be adopted by the Convention. Mr. Taylor.

TAYLOR: I now offer my amendment to Section 2.

WHITE: Point of order. My original amendment was all on one page. I asked when I presented it that it be presented in two parts.

PRESIDENT EGAN: Mr. White, you are correct. At the time, some time ago when you offered your amendment you did state that,

when you offered your first amendment. That is correct. Mr. Taylor, the Chair would have to adhere to the point of order raised by Mr. White. The Chief Clerk may read the other part of the proposed amendment as offered by Mr. White.

CHIEF CLERK: "Section 2, line 6, page 1, strike the word 'seven' and insert in lieu thereof the word 'five'."

WHITE: I move the adoption of the amendment.

COGHILL: I object.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I doubt if this amendment -- I think it is in conflict with the section, after Mr. Robertson's amendment has passed, I think it is in conflict.

PRESIDENT EGAN: It is not, no.

KILCHER: How can you be a citizen of a state for seven years and not be a resident?

PRESIDENT EGAN: There is no other seven years mentioned in this section.

KILCHER: But doesn't Mr. Robertson's amendment state "citizen of the state"?

PRESIDENT EGAN: No, it does not. There is no point of order there. Mr. Taylor.

TAYLOR: Mr. President, I am going to rise to the point of order. I believe I made the first motion for the passage of the motion.

PRESIDENT EGAN: What motion, Mr. Taylor? I mean what amendment?

TAYLOR: The amendment to provide for seven years as a citizen of the United States had nothing to do with Mr. White's and I moved the adoption of it.

PRESIDENT EGAN: Mr. Taylor, no other amendment has been read. Mr. White offered an amendment and at the time that he offered the amendment he said it was in two parts, and he would like to have the first part of the amendment acted upon first. In the meantime there was considerable discussion on Mr. White's amendment, and the Chair forgot Mr. White made that request. Mr. Robertson then offered an amendment; the Chair recognized Mr.

Robertson for that amendment, had it read and discussed, forgetting all the time that Mr. White had already offered his amendment and had this divided question before us.

TAYLOR: May I put in my order to be next on the list?

PRESIDENT EGAN: We will try to get you in next, Mr. Taylor. Mr. White.

WHITE: Mr. President, this follows the first part of the amendment. I should logically argue that no residency be required, but in this case I feel that Mr. Rivers and others have given very good reasons why a candidate for governor of the state should have some residence. I merely think it ill behooves us in this great future state to put the barriers any higher than is necessary. The only difference I have is with the figure. I would go on to point out that in the legislative article we set a residence requirement of one year for representatives and residence requirement of three years for senators and it seems to me logical that the figure "five" should follow in sort of an arithmetic progression for the residence requirement for governor, and that it would satisfy both the requirement and the thought that our barriers should not be any higher than necessary. If a person is to be qualified from the point of view of knowledge and experience in Alaska in seven years he probably wouldn't even try.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" Mr. Marston.

MARSTON: May we have the entire section read so we will know what we are voting on?

PRESIDENT EGAN: Would the Chief Clerk please read Section 2 as it would appear if this proposed amendment were adopted?

CHIEF CLERK: "The governor shall be not less than thirty years of age, a citizen of the United States and of this state, and a resident of this state five years next preceding his election."

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I just want to point out that if this is adopted, a person who then comes into the Territory of Alaska, resides here for five years without citizenship in the United States, as I interpreted the last amendment we adopted, or as Mr. Davis interpreted it, you could live in the Territory of Alaska five years, take out your full papers and the day after you got them you would then be eligible, I say it might not happen but then again it could, you would then be eligible to file for governor

of the State of Alaska as I interpret the present situation.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: One brief word on this. We considered the various residential requirements, some of the states do not have them, but I think there is a lot of difference from moving from one state, Nebraska to Iowa or places like that, than in coming up to Alaska. We have an entirely different situation up here, and I don't think we should take lightly the thought of having the governor be up here a little while before he files for election.

PRESIDENT EGAN: Mr. Barr.

BARR: There seems to be quite a movement to allow newcomers to come up here and take over our highest office. This is the land of opportunity. We welcome new people, new blood, and new money up here, but we must remember that the governorship is our highest office and a man should be entitled to it not only by ability but by his sympathy with our aims and ideals and his acquaintanceship with our problems here in Alaska. Let's let these new people come up here and give them good jobs and give them opportunities to make money, and then after they have some experience, let them take over some of our highest positions, but the governorship is a reward to be given, a reward to be earned, and it seems to me it should go to an Alaskan.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I hear Mr. Taylor's coming amendment? I think it has bearing on this question. I also think that five years is not enough for residence and citizenship for this high position. I would like to hear his amendment. I think it would have bearing on the situation.

PRESIDENT EGAN: Is there objection to having Mr. Taylor's amendment read?

COOPER: I object. We have an amendment before us, we've heard the argument, if there is another amendment, let it take its order. I move the previous question.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to say that I have an amendment here which provides for seven-years-United States citizenship before a person can file for election of the governor of the State of Alaska, and I have also got my bid in for high priority in the introduction of an amendment, and I hope to have it considered.

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PRESIDENT EGAN: Mr. Coghill.

COGHILL: Point of order. Mr. Cooper moved the previous question.

UNIDENTIFIED DELEGATE: It wasn't seconded.

BUCKALEW: I will second it.

PRESIDENT EGAN: There has been business that has transpired. There is no motion for the previous question.

COGHILL: I move the previous question.

BUCKALEW: I second it.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the previous question is ordered. The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Taylor, your amendment will be read at this time. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 2, line 4, page 1, after the comma insert the following: 'and shall have been for at least seven years a citizen of the United States'."

TAYLOR: I move the adoption of the amendment, Mr. President.

R. RIVERS: I second the motion.

McCUTCHEON: Question.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Line 4, page 1, after the comma insert the following: 'and shall have been for at least seven years a citizen of the United States'." Part of that is already in there.

PRESIDENT EGAN: What words were deleted previously?

CHIEF CLERK: We deleted before "and shall have been for at least 20 years".

PRESIDENT EGAN: How would the wording interfere with what we have there already?

CHIEF CLERK: It says "a citizen of the United States" twice.

PRESIDENT EGAN: Do you ask that that part of your proposed amendment be deleted, Mr. Taylor? Those words were still in there.

TAYLOR: Then I will ask "and shall have been for at least seven years". I ask unanimous consent.

PRESIDENT EGAN: You ask unanimous consent that that become a part of your amendment, the deletion of those words? Hearing no objection it is so ordered and the deletion of the words "a citizen of the United States" are deleted from the proposed amendment as offered by Mr. Taylor. Mr. Fischer.

V. FISCHER: May I address a question to Mr. Taylor. Is it your intent that we now have the following three qualifications: that a governor be a citizen of the United States for seven years, a citizen of Alaska for seven years, and a resident of Alaska for seven years?

TAYLOR: That is right.

V. RIVERS: Mr. President, I want to say a word on this in view of the fact that I was one of those on our Committee that favored the residency clause and that citizenship clause both. I call to mind that at the end of World War II there was a great deal of talk of bringing into Alaska a large number of deported persons. At that time there was considerable discussion of locating 30,000 or 40,000 of those people in the Alaska area. Under the clause the way it now stands, if we had a large group of people come into our unoccupied areas, those people could take out their citizenship papers in five years and two years later would be eligible to run for governor of Alaska and with a large group of their own people with them might well stand a very good chance of being elected. For that reason I very much favor this seven-year clause as a substitute for the one that was stricken.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adopting of the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mrs. Nordale.

NORDALE: I would like to call attention to something. Do you remember when we adopted Mr. Robertson's amendment it was

originally to have been placed after "shall be" and then because that line was deleted it was placed down there after the words "United States", so we have actually changed the whole concept of thinking, it seems to me.

PRESIDENT EGAN: How would it read now? Would the Chief Clerk please read the section as it appears now.

CHIEF CLERK: "The governor shall be not less than thirty years of age and shall have been for at least seven years a citizen of the United States and of this state and a resident of this state seven years next preceding his election."

PRESIDENT EGAN: It is in there properly. Mr. Marston.

MARSTON: Mr. President, if we become a state right away quick, do you have to wait five years to be a citizen of this State of Alaska before we can run for governor? Who is going to be eligible for governor? Do we have to wait seven years to have a governor?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I believe that in the transitory provisions there will be an article which provides that residence in the Territory of Alaska shall count toward residence of the State of Alaska, so I don't think we need to worry about that.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I predict that this clause will cause more litigation than any other clause in the constitution, because I don't think you are ever going to get a governor elected because the transitory measures can't cure this dual citizenship. We can't go back and create by transitory measures anything that does not exist, and we don't have dual citizenship here in Alaska.

TAYLOR: Point of order. There is nothing before the house.

PRESIDENT EGAN: That is correct, Mr. Taylor.

BUCKALEW: I just want to say we really goofed, that is all.

PRESIDENT EGAN: Are there other amendments to Section 2? If not, are there amendments to Section 3? To Section 4?

CHIEF CLERK: Wait a minute. What about this amendment of yours, Mr. Johnson?

JOHNSON: No, I don't want it.

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PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment to Section 3.

PRESIDENT EGAN: Mr. Sundborg's amendment to Section 3 will be read at this time. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 3, line 9, strike the sentence beginning 'The person' and ending on line 11."

SUNDBORG: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment.

CHIEF CLERK: "Strike the sentence beginning on line 9 of Section 3, beginning 'The person' and ending on line 11."

PRESIDENT EGAN: Strike the sentence?

SUNDBORG: The sentence says "The person receiving the greatest number of votes shall be the governor." I ask unanimous consent.

NORDALE: I object.

SUNDBORG: I so move.

AWES: I second the motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I submit that the language as we now have it, if it means anything, it means that the person running at that election who gets the greatest number of votes, no matter what he is running for, shall be the governor. If it does not mean that, it is unnecessary to have it in there because the sentence ahead of it says, "The governor shall be elected by the qualified voters of the state." If he is going to be elected by the qualified voters, obviously it follows that the man getting the most votes for that office is elected and I don't think we want to say that the person receiving the greatest number of votes shall be the governor. It might be the candidate for the United States Senate or it might be one of the legislators or something. I think it is meaningless. I stand corrected if there is a meaning to it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I would just like to say that if you want to say "the candidate for governor" I would have no objection,

but is it not possible if you leave this to the legislature they could say that the candidate receiving a majority of the votes cast, and it is conceivable that there may be three tickets in the field for governor at some future time, and why allow the possibility of requiring a majority of the votes cast to elect the governor?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, in reading this Hawaiian report a little while ago, I'd have trouble finding this same article right now, but it did state that in some of the different states there are different methods of selecting the governor: some say that a majority of the votes cast will select the governor; others state that the highest number of votes shall select the governor, and in case there are more than two candidates that complicates the question, and this solves it right here, I mean the committee report.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye"; all opposed "no". The "noes" have it and the proposed amendment has failed of adoption.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Could I have the privilege of the floor?

PRESIDENT EGAN: You may, Mr. Buckalew, if there is no objection.

(Mr. Buckalew at this time spoke on a matter of personal privilege.)

HELLENTHAL: Mr. President, point of order. When the matter was voted here that the recognition of state citizenship be made, there was no requirement at that time of seven years' citizenship in the United States. The amendment that was later offered pointed solely to the one subject, seven years' citizenship in the United States, and it did not qualify the prior action, and the prior action was merely a recognition of state citizenship with no year requirement whatsoever, so the point is ill-taken.

V. FISCHER: The same point of order. I specifically got up and asked Mr. Warren Taylor did he mean seven years' United States citizenship, seven years' Alaska citizenship, and seven years an Alaska resident, and he said "yes".

HELLENTHAL: Mr. Taylor was mistaken.

McCUTCHEON: Point of order, Mr. President. Mr. Buckalew rose on a point of personal privilege and these other people are speaking

without a point of personal privilege.

PRESIDENT EGAN: Your point is well taken, Mr. McCutcheon. Are there amendments to Section 3? Are there amendments to Section 4? To Section 5? Are there amendments to Sections 4 or 5? If not, are there any amendments to Section 6? Mr. Buckalew.

BUCKALEW: I have an amendment to offer, Mr. President, and would like it read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike Section 6."

BUCKALEW: I move its adoption.

PRESIDENT EGAN: Is there a second to the motion?

HELLENTHAL: I second the motion.

PRESIDENT EGAN: The question is -- Mr. Riley?

RILEY: Mr. President, I would like to hear some discussion on the matter.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I offered this amendment for this reason. Here is my thinking on this problem. The man that is going to run for governor is going to have to make a deal with somebody to come along as secretary of state, and I don't think that he is going to be able to get anybody that will have the qualifications to take over the position in the event he dies. It will be one of these deals where he will have to take somebody from another area of the state, hoping that maybe he can maybe pick up a few votes by carrying this individual along, and I don't think that even though the man that is running for governor would try to select somebody who would be qualified, I don't think he would get anybody that would have the qualifications to take this particular job. Now, this particular job, I don't care what you say about it here in the further articles, is going to be an unimportant job, and you are not going to get anybody with any ability to take that job, and I just think that the whole idea of the succession falling on this individual is ill-advised, and I think that the succession should fall on the president of the senate or the speaker of the house, and I believe that if something happened to the governor we are going to end up with a real "nincompoo". I move its adoption.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me that some of the discussion could be improved as to quality and the use of words. However, I want to say that Mr. Buckalew's opinion was not the opinion of the majority of the Committee as he has so moved by this amendment and as you can see by our proposal. Now, the question at stake is just how strong do you want the strong executive? Do you want the absolute one-headed form of government with one single elected official at the head of it, or do you want a certain amount of additional elected representatives put there by the vote of the people? We had a lot of discussion on that in the Committee. The ideal of the strong executive is the absolute executive, but there again if you will look back at our founding fathers with absolutism ruling, they had a great many problems and a great many difficulties. So for that reason they diffused all the powers of state down through many elected officials. They got a great deal of democracy out of that process but they didn't get much efficiency. Now we are trying to arrive at a situation where we get both a fair amount of democracy and a fair amount of efficiency. The question is to decide how strong do you want the strong executive? Do you want somebody also being groomed in the process of administrative government heads, such as this secretary of state who can succeed to the governorship, who will be qualified by experience, and if he does a good job will probably be eligible from the voters' point of view to become governor? Many people in this body think we should have more than two elected officials; some think we should have three or four. There is a good question there as to how many the people would like to have, but I believe that every time you start centralizing in the form of appointive power in the hands of one person, you take something away from the essential idea and principle of democracy. We approved of this compromise in Committee, showing two elected officials. I know there were two other proposals by a member of the Committee, asking for two more elected officials. They were submitted back to the floor. I presume there will be some further discussion and some further amendments in regard to the introduction of bills for elective officials. If you adopt the motion submitted by Mr. Buckalew, you go along with the intent of the absolute executive. I believe that there should be somebody else, second in command and elected by all of the people, who could take over the succession, and who would in the same process be training himself and becoming eligible to succeed the chief executive by election of the people.

PRESIDENT EGAN: Mr. Barr.

BARR: This amendment of Mr. Buckalew's is designed to do exactly what this section is designed to do, to eliminate a figurehead who receives a high salary and does nothing. Generally, most states have a lieutenant governor and he is a figurehead. Some of them have a secretary of state. The secretary of state traditionally is a keeper of records; most of them have an administrative

executive who is the work horse and does all of the work. Now the Committee, we proposed a secretary of state as a governor's assistant, a governor in training or a general manager of the state you might call him, and we thought that he should have the duties of all three of those people -- lieutenant governor, secretary of state, and administrative executive. Naturally the governor, in casting about for someone to run for him as secretary of state, would necessarily want to pick the very best man available, a man of ability and a man who would go along with his policies. Now, if you consider that a secretary of state is the same as we have in some other states, then it is a relatively unimportant position, but here we give him all of the duties prescribed by the legislature and prescribed by the governor, and eliminate the lieutenant governor. We want a strong man in that position, and that is what we provided for, and we figure that we should have a strong man there. In case he should succeed the governor, he would then be a man of experience and be well acquainted with the former governor's policies and programs, and I don't think that Mr. Buckalew's amendment would improve it at all. It would tend to do away with what he is trying to do in his amendment.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Rivers a question? As I understand your argument, you said that the effect of adopting Mr. Buckalew's amendment would be to give us the absolute executive, in principle?

V. RIVERS: You would have one single elected executive with all the appointive powers in the executive branch of government. I would consider that almost an absolute power.

AWES: I don't quite follow that argument because, as I understand it, the purpose of electing a secretary of state is to have someone who will be in line to follow as governor if something should happen to the governor, but I think Mr. Buckalew's idea is to later submit an amendment that rather than the secretary of state, that the speaker of the house or president of the senate would rather succeed, and they are elective officers, also.

V. RIVERS: I would answer that by saying, Mr. President, that if you adopt this particular amendment of Mr. Buckalew's, you had better seriously consider the balance of the whole proposal, because there is substantially little left. I don't think that if he intended to submit additional amendments to reconstitute this committee proposal, that we should vote this out until we find out how he is going to reconstitute it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I hesitate to talk on this because I think this is a wonderful enactment, and this is the only amendment that I have to offer to the entire matter, but I think it is basic. Now, therefore, I should like the indulgence of the delegates. Now, at the outset I favor a strong executive, never an absolute executive, and I don't think that the amendment would call for an absolute executive. I favor that the attorney general be appointed, that all other department heads be appointed, and I have no other amendment to offer. I do not intend to follow this up, to use this as a play to get the attorney general elected, no. I believe in a strong executive. Now, this proposed proposal has many implications. Mr. Buckalew used the word "deal" several times, and the political implications are not encouraging in this proposal.

PRESIDENT EGAN: Do you mean in this section?

HELLENTHAL: In the committee section, yes. I dispute the fact that the secretary of state would be elected by the people, which was stressed. It would not be exactly by the people. It would be a package deal. You would have to take him along with the governor, kind of a "buddy" system in the state, and the people would have nothing to do other than to elect their delegates at a caucus to the political convention, which would choose the "buddy", and I don't think that is very good. I don't think that is very good at all. Another point is this: It is a unique plan. Only one state in the entire United States seems to favor this system. Now, seven or eight, it is true, elect their secretary of state, but the "buddy" system is only found in one state. Now, why not just simply, and I don't think language is even necessary in the constitution, why don't we just let our governor hire someone to help him and fire him when he does not want him. Let him hire such other administrative assistants as he wants. What is wrong with that? It is conceivable that these pals might split up some time, that has happened before in politics, and go in different directions. Then where would we be? I don't particularly like this amendment, rather this section, and I don't think the alternative is despotism. I think that if we permit the governor to hire his assistants that we will secure efficiency; we will eliminate a tendency towards a rather undesirable political scheming process, and I think that we will bring about much better government.

PRESIDENT EGAN: Is there anyone else who has not been heard who wishes to be heard? Mr. Harris.

HARRIS: Being on the Committee that helped devise this plan, that we are now working over, we took quite a few things into consideration before adopting this particular plan. In the first place, under our apportionment article, which we knew something of before we adopted this plan, there has to be some succession.

If the succession does not go to the secretary of state, if you make it a succession directly to the president of the senate, the president of the senate is going to be elected possibly from one small senatorial district representing a very small majority of the total voters of Alaska. That will be your man who is going into your governor's office in case of the death of the governor, or the absence of the governor. The plan we have devised is this: That there is a man in training for the governor's position at any time, regardless of whether he ever takes the position or not, he is there when the governor is absent, he knows what the governor has been doing and he knows how to carry on. He steps into the governor's shoes when the governor is either called out of the state, is absent for physical disability, or in case of death of the governor; he has the ability to carry on the office of the governor. I can't see that it is a political football as Mr. Hellenthal or Mr. Buckalew would have you believe. The United States has been using this system for quite awhile in the same order, except for perhaps the nomination of the primary election, which in our article we have not set any definite rules of how they are to be tied up on the ticket. That is to be done later on by the legislature. Now, if this section is stricken, as Mr. Rivers says, most of the rest of the article might as well be stricken along with it because it is built primarily around your top executive and his successor. The whole form of government that we have built up is built around the governor, the strong executive, and if you have the absence of the strong executive, you move the president of the senate up in succession, then you no longer have the man in there that knew the job that is supposed to be our top man in the State of Alaska.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, what I have to say is very brief. I just want to say that I gather from the maker of this motion and also the proponents that they have something better that they will perhaps offer later on, and I think in fairness to the people that are opposed to such an amendment, before we take a vote on it, we should have some knowledge of what they have to replace it with. I don't think it is fair for anyone to get up here and say, "I want this stricken and sometime later on I will come in with something better". I think we should know if they want to make a deletion, I think they should have the insertion ready.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think I would just as soon rise on a point of personal privilege. We have only 15 minutes before our usual recessing time and I just would like to say that I hope this doesn't come up for a vote before we recess so that we make a

hasty decision on this. I would just like to ask that we might consider that, allow this for discussion time, and give the delegates an hour and a half to think it over because this will be the basic change in the whole plan if the amendment is adopted. We have worked on this proposal and it is the committee report; however, that doesn't mean necessarily that it is the wishes of the majority but I would like to have a little more time before we put the question.

PRESIDENT EGAN: Does anyone else wish to speak other than those who have spoken? Each delegate may speak once until everyone who wishes to speak has spoken. Mr. Hurley.

HURLEY: Mr. President, I am very much in favor of the suggestion. It is very difficult to discuss this whole problem without discussing what you might be in favor of doing if Section 6 were left in. So I will speak against the amendment because the amendment would strike Section 6 and I think Section 6 should stay in, with some modification. The modification I am thinking of is the matter of making it perfectly clear in there that it is possible to have a primary election at which the voters will determine what men are to go on the general election ballot as secretary of state, and so therefore in hoping that will come about, I shall have to vote against the amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: It is a controversial question, but not in my mind. I would like to see it stay as it is, but I believe we could save time and solve things and take care of Mr. Londborg's suggestion if the movers of the proposal would withdraw their proposal. You can always bring it back in again. We will come back to it again, if there is any question about more time to think about the thing.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I feel too that this should be given a little more thought, but I would like to say this: When we started, and I think the Committee members will agree with me, we were quite pleased with New Jersey because we felt it was a modern constitution and in New Jersey the governor is the only elected official. No other official is mentioned, I believe, except for perhaps a limitation on his being removed from office or something of that sort. But feeling that perhaps there were people in Alaska who felt that they wanted to elect the lieutenant governor or the succeeding officer, we introduced this idea of having two people who would run together, and so we devised this particular system to try to keep from weakening the governor and still please the people who might want to vote for his successor.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, personally I believe this is a very ill-advised amendment that is before us at this time, and the reason for that amendment seems to be based upon mere conclusion or conjecture as to what a secretary of state is going to do, what his duties are, and perhaps Mr. Buckalew's crystal ball might be a little more powerful than mine; he projects himself farther into the future and can see possibly clearer in regard to the duties of the secretary of state. But we have many, many things for a secretary of state to do. He will substitute for the governor. He will see that at the session of the legislature everything is in order for that, and under our system I think he will have a lot to do. Now the more that Mr. Buckalew was talking about this sinecure that was going to be set up, I thought he had ambitions to be the secretary of state, and then when he finally termed what he felt a man trying to fulfill this office, then I was sure of it.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to ignore the remarks just made and state simply that I basically agree with Mr. Hurley's stand. I would hate to vote in favor of such an amendment right now. I would like to see what we can make out of it. I hope the amendment will be withdrawn so we can improve it and make sure that the people have a chance in selecting such secretary of state as we might have. I would also like to say, Mr. President, that I don't think it is right to try to scare us by saying that if we knock out the secretary of state we have nothing left. I think there is a tremendous amount to this article, as was pointed out in New Jersey, they have a single elected governor. Here we have the model constitution we keep quoting from it. That provides for a single elected governor; it provides for a good executive branch, and I don't think that we must make a sweeping statement one way or the other. Anyway, I hope Mr. Buckalew will withdraw his amendment.

PRESIDENT EGAN: The Chair notes that Mr. Buckalew had attempted to get the floor. The Chair will recognize him if he wishes to withdraw the motion at this time or if he wishes to just give information about any other amendment he might be going to offer if this did carry but that is all until other members who have not spoken have had their chance to speak. Mr. Buckalew.

BUCKALEW: Mr. President, to save time I will withdraw the amendment, but because I am withdrawing it doesn't mean that I have changed my mind or have been convinced by any illogical arguments that I have heard on this.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that his amendment be withdrawn at this time for possibly just a limited

length of time. Is there objection? Mrs. Sweeney.

SWEENEY: I move and ask unanimous consent that we recess until 7 p.m.

PRESIDENT EGAN: If there is no objection, the amendment is ordered withdrawn. Did you ask unanimous consent now that we recess until 7 o'clock, Mrs. Sweeney?

SWEENEY: Yes.

McCUTCHEON: Mr. President, I will object for a moment. I just noticed another amendment was handed in and I would like to hear what it is.

PRESIDENT EGAN: Objection is heard.

SWEENEY: I will withdraw my request for a few minutes.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 6, page 3, lines 5 and 6, strike the words 'as may be prescribed by law and'."

WHITE: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second?

BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. White.

WHITE: Mr. President, I could stand corrected, but I don't think this is hurting the Committee's proposal any. As I understand it, in talking to a couple of them, they intended that the secretary of state be more than a figurehead and they were expressing the hope that he would be given some duties to do, but as I read these words, I am afraid they go beyond that. In Section 1 it states, "The executive power of the State shall be vested in a governor." Over here we come to the man who will in effect be the lieutenant governor and we say, "The secretary of state shall perform such duties as may be prescribed by law", which means the legislature, I think, could give him considerable duties that he should not have and as I said this morning, I agree with Mr. Hellenthal when he says the "buddy" system could easily come apart at the seams, and the secretary of state be given duties that would put him at odds with the governor. If I'm completely wrong, I'll withdraw my amendment, but I think this wording is dangerous.

McCUTCHEON: Point of order, Mr. President, I did not hear a second for that motion.

PRESIDENT EGAN: Mr. Buckalew seconded the motion. It was made a matter of record.

BUCKALEW: I will speak up, Mr. President. I didn't know if I was in order.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I had in mind offering an identical amendment, and when the Committee announced that it invited people who had amendments in mind to meet with them, I took advantage of that invitation and they convinced me it would not be a desirable amendment. It says, "The secretary of state shall perform such duties as may be prescribed by law and as may be delegated to him by the governor." It does not say "or as may be delegated to him by the governor". It was pointed out in the Committee meeting that it might be the desire of the legislature to say that the secretary of state shall be the keeper of the seal and the one who shall keep certain records and shall do the sort of thing which we now under our Territorial form of government have our Secretary of Alaska do. I think it would be proper if the legislature could do that which they could not do if we make the amendment proposed by Mr. White.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as I see this particular amendment, if it carries, I still believe the legislature could and would have the power to delegate certain authority to the elective officers of the state as well as the appointive officers. Under our department administrative setup, we will doubtless have a number of departments such as health, welfare, education, fisheries, resources, and I can readily visualize that the legislature from time to time will have to assign certain functions to each department. Now I can readily realize and visualize that such a thing will also be true under the department of state which will be headed necessarily and naturally by the secretary of state. It does not seem to me that there is any need to strike the words as specific authority to delegate powers to them is spelled out in those words, but I believe in all the other departments under the state government that the specific authority for the legislature to delegate duties to them will also be there, and that in itself is not spelled out. The governor is their supervisor and he is directly responsible for them, but I do not believe you can prohibit the legislature from setting up and assigning certain duties to each department.

PRESIDENT EGAN: Mr. Barr.

BARR: The way the Committee has this worded, allowing the legislature to prescribe duties for the secretary of state, I

believe that would prevent the "buddy" system. It would prevent a governor just carrying along a secretary of state, taking him along for the ride, prescribing no particular duties. The legislature is the body that will want the secretary of state to go to work and they can prescribe his duties.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I seem to be doing a lot of the talking. One of the reasons we called this particular official a secretary of state was that we did not want to have a lieutenant governor sitting and doing nothing. Now if you don't let the legislature prescribe something for him to do, he is going to be, in effect, a lieutenant governor, and the legislature could very well set up a department under somebody who is not called a secretary of state who would do all the work that a secretary of state normally does, and we would be right back with a lieutenant governor that most states are saddled with.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, there have been a number of the delegates who have spoken about duties of the secretary of state. I think that there can be many duties imposed upon the secretary of state by the legislature; for instance, in the State of New York and the State of Washington the secretary of state performs the duties of what the corporation commissions, and that is quite a job as a matter of fact. The duties of our own Secretary of Alaska used to carry on those duties years ago. Of course now it is carried on under the auspices of the Territorial Director of Finance, but I don't think we need worry at all about the legislature being able to find plenty of real duties to impose upon the secretary of state for his performance.

PRESIDENT EGAN: Is there anyone else who wishes to speak? Mr. White.

WHITE: I don't want to unduly prolong this and after Mr. Rivers spoke and Mr. Sundborg, I was about to withdraw the motion, but then two other committee members got up and they, if I understood them correctly, disagreed with Mr. Rivers. Now that is the same trouble I have with this thing. If I understood Mr. Rivers correctly, he said that anything the legislature prescribed would have to be approved, in effect, by the governor; then Mr. Barr and Mrs. Nordale say that the intent of this is that the secretary of state shall not merely be a figurehead, that he shall be more than a lieutenant governor. That is the danger I see in it. If I can be convinced that the governor cannot be circumvented by the legislature in designating powers to the secretary of state, I will be perfectly happy to withdraw any amendment, but

as I understand the committee members, there is disagreement between them.

V. RIVERS: I would like to explain that I did not see any divergence between the statements made by myself and Mrs. Nordale and Mr. Barr. I think you might have misunderstood me, but if I'm not clear, I'd like to make it clear that in this we gave the specific authority to the governor and the legislature to delegate duties to the secretary of state, and I for one am fully confident that he can be made effective and kept fully busy under the qualifications set up here.

PRESIDENT EGAN: Is there anyone else who wishes to have the floor? Mr. Hellenthal.

HELLENTHAL: I move that we recess until 7 o'clock.

BARR: Mr. President, I would like to answer that.

PRESIDENT EGAN: Mr. Barr, under Rule 38, which the President is going to invoke from here on out, it says, "No delegate shall speak more than twice on one question or more than once until all other delegates who desire to be heard have been heard, and the mover of the motion may have the last say." That is why, in order to expedite things and keep the business of the Convention going more orderly, we are going to adhere to the rule. Mr. Barr.

BARR: Point of information. Did not Mr. White ask a question? He was trying to resolve a discrepancy between the statements of the different members of the Committee and he asked a question.

PRESIDENT EGAN: That is right, and the Chairman of the Committee answered, Mr. Barr. The Chair only wants to say before we recess, the Chair brought this up only because, before we recess he wants to make clear in the minds of the delegates that they can only have the floor once until all other delegates have been heard who wish to be heard, then they are entitled to have the floor again. If they so indicate that they wish to withdraw a motion or something of that nature they will be recognized for that purpose. Mr. Hellenthal.

HELLENTHAL: I asked unanimous consent that the Convention stand at recess until 7:30 p.m.

SMITH: I would just like to announce that the Committee on Resources will meet at 6:15 upstairs.

NERLAND: The Finance Committee will meet immediately in the upstairs committee room.

PRESIDENT EGAN: Are there other committee announcements?

V. RIVERS: The Executive Committee will meet at 6:40 upstairs.

PRESIDENT EGAN: Are there other committee announcements? If there is no objection the Convention will stand at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the delegates that we finally have some speakers in the gallery that really work so long as the doors are closed. The windows are back in. By keeping the doors closed, our visitors can hear everything that transpires on the floor of the Convention. Mr. Ralph Rivers.

R. RIVERS: Mr. President and members, I call attention to the vote on the question of being a resident of the State of Alaska. I voted on the affirmative; that was the motion proposed by Mr. Robertson, and although he tried to withdraw it, it got voted in. I now serve notice that I will move tomorrow for a reconsideration of my vote on that question.

PRESIDENT EGAN: Mr. Ralph Rivers serves notice that he will reconsider his vote on that particular amendment. Mr. Buckalew.

BUCKALEW: Is that the amendment that says "a citizen of the State of Alaska"?

R. RIVERS: I meant "a citizen of the State of Alaska".

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, if I may direct a question to Mr. Rivers through the Chair, will Mr. Rivers have any objection to voting on it at this time?

PRESIDENT EGAN: Ralph Rivers?

R. RIVERS: I don't want to get into that two-thirds business, a suspension, and tomorrow will just take a majority to permit it. I'd just as soon present the merits of the matter now. It will come automatically tomorrow.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: We could rescind with 28 votes.

R. RIVERS: I'd rather continue on reconsideration.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, that's such an embarrassing provision that I think I'll move at this time to rescind our action on that particular proposal.

JOHNSON: Point of order, Mr. President

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Is the motion to rescind good where the matter has already been given on a notice of consideration?

PRESIDENT EGAN: The Chair on that question as to whether or not the notice to rescind can be made after a delegate has served notice of his intention to reconsider tomorrow is in order or not, the Chair is in doubt on that question. It never has arisen before, so far as I know. The Convention will be at recess for a moment.

RECESS

PRESIDENT EGAN: The Convention will come to order. The motion to rescind is made when the time for reconsideration has passed. I mean when you can't do anything else to come back to the question, then the motion to rescind can be made, but the motion to rescind is out of order at this time. Mr. White.

WHITE: Mr. President, I believe we have before us an amendment offered by me.

PRESIDENT EGAN: We have Mr. White's proposed amendment before us.

WHITE: During the recess I met with the Committee and have become convinced that the powers of the executive, of the governor, cannot be usurped by allowing the legislature to prescribe certain duties for the secretary of the state; therefore, I would, with the consent of my second, ask unanimous consent to withdraw my amendment at this time.

PRESIDENT EGAN: Mr. White asks unanimous consent that his proposed amendment be withdrawn. Are there any objections? There being no objection, it is so ordered. Mr. Cooper.

COOPER: Mr. President, I have an amendment to Section 6.

PRESIDENT EGAN: Mr. Cooper offers an amendment to Section 6. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 2, Section 6, line 19: delete the second word 'the'. Line 20, change the period to a comma, strike 'He' and insert 'Who' before 'shall'. Line 21: strike the word 'the'

before the word 'election' and insert the words 'under the same'. Line 22: after the word 'law' insert 'for governor'. Insert a period after 'governor' and strike the remainder of the section through the period after 'state' on line 4, page 3."

PRESIDENT EGAN: What is your pleasure, Mr. Cooper?

COOPER: I move the adoption of this amendment.

PRESIDENT EGAN: Mr. Cooper moves for the adoption of his proposed amendment. Is there a second?

HINCKEL: I'll second it.

PRESIDENT EGAN: Mr. Hinckel seconds the motion.

DAVIS: I'd like to have it again a little slower.

PRESIDENT EGAN: The Chief Clerk will please read the amendment once more.

(The Chief Clerk then read the proposed amendment again.)

PRESIDENT EGAN: Mr. Cooper, do you wish to explain what you are attempting to do?

COOPER: Mr. President, this is the way it would read: "There shall be a secretary of state who shall have the same qualifications as governor, who shall be elected at the same time and for the same term as governor and under the same election procedure prescribed by law for governor. The secretary of state shall perform such duties as may be prescribed by law and as may be delegated to him by the governor." I have very little to say on this; I think the people should elect the secretary of state such as the committee has proposed, but not tied to another elective official. The best argument that I have in support of this amendment are the very words of the Chairman of the Executive Committee earlier in the day "To get a reasonable amount of democracy and a reasonable amount of efficiency," he said, "I believe this would give you the greatest amount of democracy and the greatest amount of efficiency in that the people would elect an individual." The secretary of state will be an elective official, and for that very sake, I think that he should run on the merits of his own qualifications and seek office individually, not collectively, tied to another elective official.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, may I direct a question to Mr. Cooper?

PRESIDENT EGAN: If there is no objection, Mr. Boswell.

BOSWELL: How would you get the secretary of state and the governor to be of the same political party with this arrangement?

COOPER: In this particular instance I would assume that the secretary of state and the governor would be of the same political party, such as the case of the governor and the lieutenant governor, or of the President and the Vice President. I didn't go into the workings or the details; I have heard conversations on the floor about primary elections and that can all be ironed out, but this is merely setting up two high elective officials.

BOSWELL: The important thing seems to be here that we need a system whereby the two elective officials would be of the same political party.

PRESIDENT EGAN: Is there further discussion on the proposed amendment? Mrs. Nordale.

NORDALE: Mr. President, if you want to abandon our plan of having to run on the same ticket you might as well leave all this other out, because the same election procedure prescribed for the governor will be the election procedure that affects all elective officers, members of the legislature, and members of commissions, and you won't necessarily get two people who are going to be in accord at all, just as we have now in the Territory -- two Republicans and two Democrats in our elective officials.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I want to make my position clear in this matter. I'm going to vote against the amendment. I don't believe in an elective secretary of state. I can see no reason for it. The only reason that I can see that the Committee provided for an elective office was to take care of the succession. Everyone around here said that if you're going to strike this section, what do you propose? My proposal was that on the death of the governor, the secretary of state would take over and would be the acting governor, and he would call the legislature together, and the legislature in joint session would select the governor to fill the unexpired term, and that way you get the best man available. And I think that the people would certainly have a voice in it, because their representatives are the ones that are going to be selecting the governor; and not only that, the major political party that was in power would probably be the party that would be able to select the governor, which would mean that the functions of the government would proceed smoothly during the rest of the term.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, it occurs to me from what Mr. Cooper has said that he isn't going to accomplish what I think he intends to accomplish by this amendment, because, if I understood him correctly, what he wanted to do was to see to it that the secretary of the state and the governor were elected together, just like the President and the Vice President of the United States. Well, it occurs to me that the proposal as it originally came out of the Committee and as it is now, before amendment, accomplishes that purpose or comes more nearly setting up the required machinery for accomplishing that purpose. For that reason I can't vote for the amendment because I like the way the Committee set it up originally, and, if Mr. Cooper's purpose is to see to it that the governor and the secretary of state are elected from the same political party, then it occurs to me that the best way to handle it is as the Committee has suggested.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I support Mr. Cooper, at least his attempted amendment. I think it accomplishes the purpose of electing two officers of the state -- a governor and a secretary of state. Now I will readily admit that it is possible to elect a governor of one political party and a lieutenant governor of another political party. I can't help but admit that I have seen it happen on occasion at other times; but I'm very concerned that the people of Alaska should be able to vote for two of their state executive officials. Now I'm not entirely sure but what I might not prefer that they be nominated in a primary election, but as has been pointed out here, we may not some day have the primary, in which case they wouldn't be so. So I think this is the next best thing. I also call your attention to a thing that has been mentioned before that, "The secretary of state shall perform such duties as may be prescribed by law and as may be delegated to him by the governor." Now I am not quite so naive as to think that if the two are of separate parties, and antagonists in the political scene, that they will get along as they would if they were elected under the proposal as submitted by the Committee. But I do think that the type of people who are running for office will put the interests of the State of Alaska at least sufficiently ahead of their own problems to see that it operates. Now I have worked on a premise of a very unusual situation. I question in the national election whether we would have had such a situation had we been voting separately for President and Vice President of having elected a President from one party and a Vice President from the other, but I will admit it's possible. I think this amendment will not interfere with the wording, the practical ends sought by the proposal, admitting that if you do get that separation that it could cause some difficulty. So in that respect, in order to give the voters a chance to choose two of their executives at the polls without having, as Mr. Hellenthal speaks of it, the "buddy system, I think I shall support this amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as Chairman of the Committee on Executive, I, this evening, polled the committee members in regard to their thinking on this general subject. I do not believe I'm misstating the case when I state that all the members that I talked to, I believe all of them except the one absent, felt that we wanted to see this procedure of joint election carried on in the general election; certainly had no objection to seeing the nominations for the office be made whatever manner of primary the law should prescribe or provide. So if this amendment fails, I will ask that we insert the word "general" before the word "election" on 21 which will accomplish the purpose of individual nominations directly by the voters or in any other manner which the legislature may set up by law.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. Rivers, I understood you to say in your original presentation that the reason for putting in this second officer here on the ballot was because you just felt sure that Alaska wouldn't buy the procedure of electing a governor and letting him appoint the other officers on down. Am I correct in that? That is your conviction and feeling, that we should elect a governor, but putting in the second man on the ballot was a compromise for what you consider to be the feelings of Alaskans? Am I right or wrong at that point?

V. RIVERS: I purposely steered away from stating that I did not think the voters of Alaska would buy. I said I thought the voters of Alaska would prefer to have an elective officer in the second position in the order of succession, and I thought it would give them a more democratic expression to have the two elective officers there. But I want to correct the impression that I said I did not think the voters would buy the single elective executive. I did not intend to make any such statement.

ARMSTRONG: Well, I may have been paraphrasing you, but I got the idea from it that we were shying away from that concept, and I see difficulties in a number of these proposals that have been offered, and I have been in several dilemmas in voting through this Convention on many of these things where it seems to be a thin line of expression here; and at this point I find myself weighing many of these factors and come back almost certainly in my own mind to the fact that if we would elect the top man and let him form his cabinet all the way through that we would have a stronger administration.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, may I answer that question?

PRESIDENT EGAN: If you care to, Mr. Rivers.

V. RIVERS: That was discussed at length, and of course, it hinges upon how strong you desire to make the strong executive and what degree of succession you may desire to provide in the manner of having an elective officer elected by the Territory at large to succeed the governor. The ideal, as I pointed out, by the theorists is the strong executive, and that constitutes the single elective head. Now that was done in New Jersey. We have only that one experience there to point to so far in the operation of the theory of that strong executive. Now as you know in the State of Hawaii Constitution, which they adopted and was ratified, they had an elective lieutenant governor as well as governor. They apparently faced the same general problem and idea that we had in the matter. But the question is how strong and absolute do you want the strong executive to be? Do you want to condition and temper that somewhat, or do you desire to have this one elective official at the head of everything?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, point of information. If I, as a member of the Committee, get up to add a point to what the Chairman's explanation is, have I lost my privilege of speaking on the amendment?

PRESIDENT EGAN: Mr. Barr, if a question is put to a member of the Committee in a direct manner and the Committee Chairman asks that another member answer the question, or something like that occurs, the Chair will not adhere that strictly to the rule, not if it is strictly in answer to a question.

BARR: But the point occurs to me in this case that Mr. Rivers did bring out, as far as I know, in answer to Mr. Armstrong's question, so I won't bring it out. I don't want to lose my place.

ARMSTRONG: I'm still unsatisfied with it, Mr. President, and I'd like more information.

PRESIDENT EGAN: In answering the question, Mr. Barr, you may answer the question if you can, without losing your chance to speak.

BARR: If I'm not mistaken, Mr. Rivers didn't emphasize or bring out the point that when the governor dies or is replaced, the man who succeeds him should be an elective officer. In other words, if the governor appointed all his assistants, including the secretary of state, and the secretary of state took his place, it would be an appointive officer taking the place of the governor, and we didn't feel that this was right.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to address a question, if I may, to the Chairman of the Committee or to any member of the Committee.

PRESIDENT EGAN: You may, Mr. Fischer, if there is no objection.

V. FISCHER: There is a lot of stress laid here upon the matter of succession and the tremendous importance of succession to the governorship. I would like to have some statistics, if any member has them, as to how many governors during any given period have been succeeded by anybody having died in office or otherwise vacated the office.

PRESIDENT EGAN: Does anyone have an answer to that question as to statistics?

V. RIVERS: Mr. President, only in a general way can I answer it. There have been a number of governors succeeded from lieutenant governorship to the governorship. I think the most prominent one was the recent succession of Mr. Knight after Warren was appointed to the United States Supreme Court. That's the most prominent one that I have in mind, but there are many cases where a governor is elected to a congressional seat or a senate seat, and the lieutenant governor or the next order of succession takes his seat. I can't give the exact number.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I was not going to speak, and I thought some of the members of the Committee might bring out a point that I have been thinking of here that causes me to believe that the present article should remain as it is. Now this article, if adopted, is going to be disseminated widely throughout the Territory of Alaska. The voters of the Territory know that when they go to the polls they are going to vote for a governor and they are going to vote for a secretary of state. They know that the secretary of state in the event of a disability or death of the chief executive is going to succeed to the governor's position; and when they go to the polls they are most likely going to vote for who they think is the best man, because there is a liability and possibility that that man is going to be governor. So they are going to give possibly as much consideration to picking the secretary of state as they are going to pick the governor, the fact that he's the heir-apparent to the office of governor in the event of a casualty. Now in Oregon the governor and the lieutenant governor were both killed in an airplane crash. And what did it cause? It caused Alaska to get Douglas McKay. He happened to be the next in line, and so he succeeded to the governorship by reason of the fact that those fellows got killed. The voters didn't do that, but I think that that should be a strong consideration -- the fact that the people know they are choosing a man that might be governor in a short time.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, may I ask Mr. Rivers a question?

PRESIDENT EGAN: If there is no objection.

KILCHER: Couldn't the succession problem also be solved in the interim succession if the secretary were appointed? Would the people still have the privilege? For instance, an interim succession could take place and the people would still be given the satisfaction in the constitution to elect the successor. For instance, I was just thinking that that argument would fall away that the people are not given a chance to elect two officials, in that particular case. We are talking about succession now.

PRESIDENT EGAN: Would you care to answer that, Mr. Rivers?

V. RIVERS: There are a number of interim programs in different states. For instance, in the State of Maryland the pattern is patterned very similarly after the proposal suggested by Delegate Buckalew. There they have the assembly gather and elect a successor to the governor until the people next have a chance to vote. A number of the old state constitutions -- I should say the older state constitutions have somewhat similar provisions. A number of the other states have the provision of electing a lieutenant governor, and we have followed generally that pattern.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I'm supporting Mr. Cooper's amendment, not because I'm entirely satisfied with it, but because I feel that we would get a better secretary of state if we had one that was not merely picked by the governor-elect as a running partner. I think if we had a chance to select him ourselves in a primary election or some other way, I believe we would get a better man. I don't think that a strong man ordinarily is interested in merely running as a partner or second horse from the same stable, or something.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, it seems to me that under the provision as provided in the committee's proposal that we are apt to get a man who is eminently more qualified for the position than if we leave it to the option of anyone to file for the office. Certainly anyone who aspires to be governor is not going to pick a nonentity or someone who is obviously incapable of handling the position properly; he's going to go out and pick the best man that he can find and induce him to run for that position, because if he doesn't, he's going to have to carry some deadwood

into office with him, and he's not going to risk his own candidacy by having a poor candidate to run along with him on the ticket.

PRESIDENT EGAN: Mr. McNees.

McNEES: Mr. President, I'd like to support Mr. Nerland's arguments on this, and also the committee proposal. I feel that if the secretary of state and the governor both were to be picked independent of one another but by the same voting public, even then you could have a situation develop whereby the effectiveness of one could well be canceled by the other. I firmly believe that the committee proposal as compared to the amendment, has great strength and I'm going to continue to give it my support in lieu of something better.

UNIDENTIFIED DELEGATE: Question?

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I wish to close.

PRESIDENT EGAN: Is there anyone who wishes to speak before Mr. Cooper closes? You may close, Mr. Cooper.

COOPER: A lot of emphasis has been put on the primary election. There is nothing in here that states, or in any article that I know of on this constitution floor that deals with primary elections. The primary election doesn't concern me to any great extent. I asked earlier this afternoon of a person working for this Convention -- I asked for the figures of the last general primary election. I couldn't get them, and that person couldn't get them for me. I know the figures of the last general election. They were 27,000, that was the total number of votes, 27,000 in the last general election. The last primary election the votes were considerably less. Now as I understand a primary election, as under this committee proposal, there would be so many names submitted to the public on a certain party ticket for a governor; there would also be so many names submitted for the secretary of state. The most popular vote-getter for the position of secretary of state undoubtedly would be joined with the most popular vote-getter for the position of governor. Then that ticket, in turn, would be offered to the public on a party basis. The primary election doesn't concern me. The secretary of state under my amendment could be elected the same way as this "buddy" team as it was referred to earlier in the evening. As far as succession is concerned, there has been a lot made of that on the floor. I believe that the people will be voting and putting a lot of emphasis on the secretary of state, inasmuch as he is very liable to be the successor to the governor in the

event of disaster or some other form of a loss of governor. As far as the successor is concerned, in that he should be the president of the senate, I don't go along with that. The people elect that man as a senator, not a successor to the governor. They elect him for senator; if he falls into the position of being a successor to the governor, it's only after an accident. Now as far as the secretary of state, he would be O.K as a successor to the governor, automatically, if he is tied to the governor at the time of election. I picture this -- maybe I'm wrong but I don't believe so -- a popular vote-getter running for governor, and that is going to be a consideration for a man that the party puts up to be elected to the governor, he'll have to be a popular man. The man that runs with him as secretary of state will not be running on his individual qualifications. He will be running with a popular vote-getter. This vote-getter within one year or any small period of time after he takes office as governor, assuming that he is elected, can resign and run for the United States Senate or United States Representative. There are any number of things that he can resign for, so you automatically get his running mate as governor. You elected him as secretary of state, but you automatically get him as governor. The "buddy" system, as it was referred to and I have to refer to that again in the same terminology as that is what I really think it is, in my estimation could be carried a little bit further on into the senate and the house of representatives, one senator with two representatives, and elect them as a team. The people are electing the senators and the representatives individually on their own qualifications, and that's why I ask that my amendment be accepted. I want the secretary of state, who is next in line for the governorship, or would succeed the governor in the event of an accident or his removal, I want the people to be able to elect that man. I ask for your support on this.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Cooper be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 19 - Buckalew, Coghill, Cooper, Cross, Hellenthal, Hilscher, Hinckel, Hurley, Metcalf, Nolan, Peratrovich, Poulsen, Riley, Rosswog, Sundborg, Sweeney, White, Wien, Mr. President.

Nays: 33 - Armstrong, Awes, Barr, Boswell, Collins, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNeas, Marston, Nerland, Nordale, Reader, R. Rivers, V. Rivers, Smith, Stewart, Taylor, Walsh.

Absent: 3 - McNealy, Robertson, VanderLeest.)

METCALF: Mr. President, I would like to change my vote to "yea".

PRESIDENT EGAN: Mr. Metcalf changes his vote to "yea".

CHIEF CLERK: 19 yeas, 33 nays, and 3 absent.

PRESIDENT EGAN: So the "noes" have it, and the proposed amendment has failed of adoption. Mr. Buckalew.

BUCKALEW: I have an amendment, Mr. President.

PRESIDENT EGAN: Mr. Buckalew, you may offer your amendment. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 6: strike all of the section."

BUCKALEW: I move for its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves for the adoption of his amendment to Section 6.

AWES: I'll second it.

PRESIDENT EGAN: Miss Awes seconds the motion. Mr. Buckalew.

BUCKALEW: We find ourselves in this position, we are leaving it up to the people to rubber-stamp a "flunky" selected by the man that's running for governor; that's what we've done. There is no earthly reason for electing a governor under this plan and I think it should be defeated; and if my amendment carries -- and I trust that it will carry because I think it is a sane amendment -- I think it's the only sensible move for this body to take now. Now if this amendment carries, I propose to offer another amendment which provides that in the event of the death of the governor that the secretary of state shall be the acting governor until he can convene the legislature, and then the legislature in joint session shall elect a governor.

PRESIDENT EGAN: The Chair would like to state at this time that the Chair feels that in choosing the language in which we refer to proposals, we should attempt to keep in dignity with this body here, and that it can do nothing but create friction to use any language in argument that is out of the ordinary or that might be reflected upon any committee's consideration of any measure. Mr. Buckalew.

BUCKALEW: Mr. President, what language were you referring to? I don't remember what I said.

PRESIDENT EGAN: Mr. Buckalew, I think that the language "nincompoop" and the language "flunky" comes within that category.

BUCKALEW: Mr. President, "flunky" is a common expression, and has nothing to do with the Committee.

PRESIDENT EGAN: The Chair still feels --

McCUTCHEON: Mr. President, I move the previous question.

PRESIDENT EGAN: Mr. McCutcheon moves the previous question.

BARR: I second it.

PRESIDENT EGAN: Mr. Barr seconds the motion. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye". Opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Barr, Boswell, Collins, Cross, Emberg, H. Fischer, Gray, Harris, Hilscher, Johnson, King, Knight, Laws, McCutcheon, McNees, Metcalf, Nerland, R. Rivers, Rosswog, Sundborg, Taylor, Wien, Mr. President.

Nays: 29 - Armstrong, Awes, Buckalew, Coghill, Cooper, Davis, Doogan, V. Fischer, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, Lee, Londborg, McLaughlin, Marston, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Smith, Stewart, Sweeney, Walsh, White.

Absent: 3 - McNealy, Robertson, VanderLeest.)

CHIEF CLERK: 23 yeas, 29 nays, and 3 absent.

PRESIDENT EGAN: So the "nays" have it, and the previous question has not been ordered. Mr. McNees has been trying to get the floor. Mr. McNees.

McNEES: I was going to ask Mr. Buckalew a question, but I'll let it pass.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, I'm in favor of Mr. Buckalew's motion to strike that on the theory that if we are going to have a strong executive, I believe that the executive should not be burdened with a crown prince who substantially would be dictated by the

body that runs or supports the governor. Normally, that second-in-command is someone who is picked, not because of ability, but because of political considerations. He inevitably will come from a different part of the state, or appeal to that class of voters which the candidate for governor does not appeal to. It's a history of the Vice Presidency, and I suspect it would be the history here. We would not have as a successor a strong secretary of state; he would make a poor governor largely because the consideration of his selection would be political. On the other hand, I believe that the governor has a right, after election, to appoint him; I also believe in conformity. I also believe that if we are going to have an elective governor that he should appoint every member of his cabinet, and that includes the attorney general. That is, you give him the power, if you vote for him and him alone, and not on the basis of the man who is supporting him, I believe that you will get an independent strong governor. And if you give him the power to appoint all of his cabinet, then in effect what you have done, you make him run on his record, but if we are going to talk about a strong executive and then dilute the thing by permitting every other cabinet member to run, you haven't got a strong executive at all, and apparently many of the decisions that we made here prior to this have been based upon the assumption that we should have a strong executive. I will vote for Mr. Buckalew's amendment on the theory that it will make the executive strong.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, I would probably have supported Mr. Buckalew's amendment, but in view of the fact that he qualified it by saying that he would then offer another amendment convening 60 members of the legislature merely to elect his successor, to bring them from all over Alaska for one proposition, I would have to vote against the amendment. I can see where the succession could be transferred to the speaker of the house or to some other cabinet member, but certainly we ought to have enough brains to write in some line of succession without bringing 60 people from all over Alaska.

PRESIDENT EGAN: Mr. Buckalew, do you wish to clarify that?

BUCKALEW: Mr. President, I do wish to clarify that for the record. I don't know whether you could put any qualifications on the amendment or not, but if Mr. Nolan will vote for my amendment I offer it without qualifications.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, may I make my position clear? I'm not committed to anything but voting this down, and frankly, I think if it is voted down that automatically, without further

ado, the secretary of state, as such, is an appointive official.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, being brief, I'm for the committee proposal and against Mr. Buckalew's amendment.

PRESIDENT EGAN: Mr. McNees.

McNEES: Mr. President, I'd like to direct a question now that I was going to direct to Mr. Buckalew a little earlier, to Mr. McLaughlin, if I may.

PRESIDENT EGAN: If there is no objection, you may, Mr. McNees.

McNEES: In the event Section 6 is deleted under Mr. Buckalew's amendment, will we any longer have a secretary of state?

McLAUGHLIN: No, you'll not have a secretary of state, no more than you'd have anything else. They will be created by the legislature.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, reading from the News Miner, 13 January, 1956: "With two-thirds of their precious time used up and seven articles still to be considered, delegates of Alaska's Constitutional Convention are in the midst of a wild rush." Where are we rushing? We're just rushing around.

PRESIDENT EGAN: Mr. Marston, does this have to do with the subject?

MARSTON: Right on the subject, yes, sir. I think we should be going forward here. "Geronimo" here is brilliant sometimes, but I wish he'd work these amendments out a little more carefully and I think I'd go for them, but under the present condition and as slow as we're making progress, for the good of this whole Constitutional Convention, I'm going to stick by the Committee and vote "no" on this amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by Mr. Buckalew, be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Armstrong, Awes, Buckalew, Coghill, Doogan, Emberg, V. Fischer, Hellenthal, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McCutcheon, McLaughlin, Nolan, Nordale, Poulsen, Reader, Riley, Smith, White, Wien, Mr. President.

Nays: 29 - Barr, Boswell, Collins, Cooper, Cross, Davis, H. Fischer, Gray, Harris, Hermann, Johnson, King, Laws, Londborg, McNees, Marston, Metcalf, Nerland, Peratrovich, R. Rivers, V. Rivers, Stewart, Sundborg, Taylor, Walsh.

Absent: 4 - McNealy, Robertson, Rosswog, VanderLeest.)

DOOGAN: Mr. President, may I change my vote to "yes"?

PRESIDENT EGAN: Mr. Doogan changes his vote to "yes".

CHIEF CLERK: 26 yeas, 25 nays, and 4 absent.

PRESIDENT EGAN: 26 yeas?

CHIEF CLERK: Yes.

PRESIDENT EGAN: And 25 nays. So the "yeas" have it, and the proposed amendment is ordered adopted. Mr. Buckalew.

BUCKALEW: Mr. President, I think at this time I'd like to move for a 15-minute recess to get together with the Committee.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Do you so move?

BUCKALEW: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the Convention stand at recess for 15 minutes? All those in favor of standing at recess for 15 minutes will signify by saying "aye". All opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 22 - Armstrong, Awes, Buckalew, Coghill, Emberg, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McLaughlin, Marston, Nolan, Poulsen, Riley, Sweeney, White, Wien.

Nays: 29 - Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, H. Fischer, Gray, Harris, Johnson, King, Laws, Londborg, McCutcheon, McNees, Metcalf, Nerland, Nordale, Peratrovich, Reader, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, Walsh, Mr. President.

Absent: 4 - McNealy, Robertson, Rosswog, VanderLeest.)

CHIEF CLERK: 22 yeas, 29 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it, and the Convention will stay in session. Mr. Ralph Rivers.

R. RIVERS: Mr. President, inasmuch as the rest of the article needs redrafting, I move we adjourn until 9 o'clock tomorrow morning.

TAYLOR: I'll second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers moves for adjournment and is seconded by Mr. Taylor that we adjourn until 9 o'clock a.m. tomorrow. Mr. Riley.

RILEY: I have a committee report if it is possible to revert to committee reports. It will take a little time to distribute the matter which I thought we'd pass out during the first recess.

PRESIDENT EGAN: Is there objection to submitting a report before we put the motion for adjournment?

R. RIVERS: Mr. President, I'd be willing to go ahead and work on this Rules Committee business and then defer making my motion until after this rules business is over.

PRESIDENT EGAN: It might be that the Convention would vote such a motion down, or pass whatever you want to do.

R. RIVERS: Mr. President, I ask unanimous consent that my motion to adjourn be withdrawn, if my second will consent.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that his motion to adjourn be withdrawn.

TAYLOR: No objection.

PRESIDENT EGAN: Where does that put us? Does that put us back with the Rules Committee or back to Committee Proposal No. 10a?

R. RIVERS: Well, my intention being that we can go on with this rules business.

PRESIDENT EGAN: Mr. Riley.

RILEY: I ask that we revert to the committee reports.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the Convention revert to the report of standing committees at this time.

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Is there any objection? Hearing no objection, it is so ordered. Mr. Riley.

RILEY: I think it might be helpful to allow the members to stand at ease for a few minutes to digest this report.

PRESIDENT EGAN: If there is no objection the Convention will recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the report of the Committee on Rules. Would the Chief Clerk please read the report section by section, or by Roman numerals.

CHIEF CLERK: All the way through or just one at a time?

RILEY: One at a time.

CHIEF CLERK: "I.(a) After a standing committee chairman has explained an article and questions have been answered, a recess shall be called, if necessary, during which time Delegates with amendments may consult with the standing committee if they have not previously done so in order to reconcile ideas (if possible), consolidate similar amendments, and prepare amendments in suitable form. Proposed amendments shall not be in order during the initial section by section review of proposals unless previously presented for the committee's consideration or unless this requirement is waived by the committee chairman. Long or complicated amendments shall not be in order until mimeographed. (b) After the first section by section review of the proposal, another recess will be called to enable Delegates having further amendments to consult with the committees. In the second section by section review of the proposal, amendments may be submitted directly from the floor without previous consultation with the committee."

PRESIDENT EGAN: Mr. Riley, what is your pleasure?

RILEY: I move for the adoption of the rule as read, Roman number I.

PRESIDENT EGAN: Mr. Riley moves for the adoption of subsection (a) under Roman numeral I.

ARMSTRONG: I'll second the motion.

PRESIDENT EGAN: Mr. Armstrong seconds the motion. Mr. Riley.

RILEY: To refresh memories, I'll say that these proposed rules or modifications are in response to a request or direction of the Convention a day or two ago.

PRESIDENT EGAN: That's correct. Mr. Ralph Rivers.

R. RIVERS: Mr. President, point of clarification. I mumbled something about Sub. (a) but I notice that Chairman Riley had both (a) and of Roman numeral I read so we are acting on both (a) and (b).

PRESIDENT EGAN: Are we acting under both? Under the Roman numeral I, it includes both (a) and (b).

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed rule be adopted by the Convention?"

SUNDBORG: Since this is in fact a modification to the amendment of our existing rules, I suggest that it require a two-thirds vote.

PRESIDENT EGAN: Is there an objection to the adoption of this first rule?

RILEY: Mr. President, in view of the fact that it represents a procedure which in a large part has evolved here the last few days, I'll ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the first rule be adopted. Is there objection?

AWES: Objection.

PRESIDENT EGAN: Objection is heard. Miss Awes.

AWES: There is only one phrase that I object to, and that's the phrase, "...standing committee chairman has explained an article and questions have been answered..." I object to that "questions have been answered." Is it all right for me to express my views at this point?

PRESIDENT EGAN: You may, Miss Awes.

AWES: I think that it has been worthwhile to have the committee chairman explain the article, but it seems to me that the asking of the questions sometimes takes hours, and before we get through people are asking questions that they could find out for themselves if they read the commentary. The same questions are being asked three and four times, and since this provides for a recess to hold a meeting with the committee and interested people, it would seem to me that if the committee chairman has explained the article, we would save a lot of time if we didn't have it open for question.

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PRESIDENT EGAN: Do you still object, Miss Awes? Mr. Riley.

RILEY: Mr. President, I think I may speak for the Committee in suggesting that the Committee would be agreeable to striking offending language, without objection.

PRESIDENT EGAN: You ask unanimous consent that that language be stricken?

RILEY: I ask unanimous consent that that language be stricken and that the unanimous consent request for adoption be renewed.

PRESIDENT EGAN: Is there objection to deleting the words "and questions have been answered"? Mr. Coghill.

COGHILL: Mr. President, I'm temporarily objecting from the standpoint that I thought that that was the reason why we had the time to ask the questions to be able to project the intent of the committee's thinking upon the record for reference in future data of debate on constitutional matters.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I wasn't entirely in accord with the Section I personally, and this practice that evolved recently seems to me has been a fruitful one. But I wonder if the problem that Miss Awes brought up couldn't be solved by having, instead of a recess, a lengthy recess, afterwards having the chairman explain it, and have questions and answers in a special hearing or before the daily session or after even, or something, where five or ten people will bring in their main differences and where a lot of things could be reconciled as we have done here. I think that the same thought that is embodied in Section I - - the practice of the last few days could be elaborated on and save a lot of time without needless debates and get good results. I think the Committee on Rules is on the right track, but hasn't arrived there yet.

RILEY: I don't know if that question was addressed to me necessarily.

PRESIDENT EGAN: Objection seems to be raised as to the deletion of those words.

RILEY: We had in mind that for the last several days we have been utilizing the morning and afternoon coffee breaks to some measure, and also the noon and dinner hours for the members of the Convention getting together with the committee on just such propositions. And as far as this language, which is stricken is concerned, I don't think that there is a mandate there that questions shall be answered. I think that our rather informal

procedure the last several days has indicated that the committee members will endeavor to answer questions. Certainly, the body isn't foreclosed from asking questions under this language, and I think that possibly if we rewrite the measure here on the floor, it will take a considerable time, but if there is still objection, I'll move that it be adopted.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I'll withdraw my objection, I was just more or less --

PRESIDENT EGAN: Mr. Coghill removes his objection. Mr. Fischer.

V. FISCHER: May I ask a question?

PRESIDENT EGAN: You may ask your question, Mr. Fischer.

V. FISCHER: Is it the intent of the Rules Committee that if this rule is adopted, it shall apply tonight to any amendments that may be submitted?

RILEY: It shall what?

V. FISCHER: It shall apply to any amendments to the article currently under consideration. In other words, no more amendments will be considered, even if they have been placed on the desk of the Chief Clerk under the pending article, if we adopt this rule?

RILEY: On the pending article, I should say no. Certainly an effective time would have to be given this, and the very fact that this brings in the consideration of an article would not, in my judgment make it effective during the consideration of pending amendments now on the Clerk's desk. I do think that the body, as a whole, should state when it becomes effective though.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I haven't withdrawn my objection. Mr. Riley, another question, this last sentence in (a) "Long or Complicated amendments shall not be in order..." That means practically that amendments have been foreseen, that have been submitted to the committee or amendments that you have foreseen, but not ideas that eliminate any idea that comes up through discussion because it would entail a long complicated discussion.

RILEY: Not entirely, I would say. For one thing, you're required under this, as you suggest, to anticipate your amendment insofar as possible. That isn't always possible, of course, because so often the direction of thinking will change during discussion; but, in that event the device has often been employed of asking for a recess, or deferring consideration of that point until your particular amendment can get to the "boiler room".

PRESIDENT EGAN: Mr. Riley, you are asking now that the words "and questions have been answered", on line 2 of this be deleted from the rule?

RILEY: Yes, sir, to satisfy Miss Awes' objection.

PRESIDENT EGAN: Mr. Kilcher still objects. Is there a second to the motion as offered by Mr. Riley to delete the words, "and questions have been answered"?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the proposed amendment to the proposed rule be adopted by the Convention?" All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it, and the proposed amendment to the proposed rule is ordered adopted. The question now is, "Shall the proposed Rule No. I be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 53 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 0

Absent: 2 Robertson, VanderLeest.)

CHIEF CLERK: 53 yeas and 2 absent.

PRESIDENT EGAN: The "yeas" have it, and the proposed rule is ordered adopted. The Chief Clerk will please read Rule No. II. Mr. Sundborg.

SUNDBORG: I ask unanimous consent for the adoption of the following phrase on the first sentence: "The Committee suggests the following modifications to existing rules to become effective following consideration of Committee Proposal No. 10a in second reading."

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PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that these new rules will become effective after this Committee Proposal No. 10a has completed its second reading. Mr. McNees.

McNEES: Is there any reason why it shouldn't go in effect immediately?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I was going to object to Mr. Sundborg's suggestion, because part of this certainly could go into effect immediately. Now, the first part that we just adopted should not properly go into effect because it involves these amendments that are now under way, but as to how many people can speak on a motion, etc., there is no reason why it shouldn't go into effect right now, if the Convention wishes to adopt it.

PRESIDENT EGAN: Objection is heard. Mr. Sundborg.

SUNDBORG: I don't care to renew the motion.

PRESIDENT EGAN: The Chief Clerk will please read proposed Rule No. II.

CHIEF CLERK: "II. A delegate may speak only once to any motion or amendment except the mover who may open and close debate thereon. The same restriction shall apply to amendments to amendments."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, to that I would attach the amendment proposed by Mr. Sundborg and ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Riley would ask that this --

RILEY: That this rule become effective.

PRESIDENT EGAN: Mr. Riley asks that this rule become effective after we have completed second reading.

RILEY: I beg your pardon. Strike that, please. I ask unanimous consent that the rule, as read, be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of proposed Rule No. II. Mr. Londborg.

LONDBORG: I wonder if it wouldn't be well to make it possible for the chairman of the committee to have more than one voice.

For instance, there is an amendment, and then you have the statement for the amendment, the chairman speaks, and then others come up, and the committee should, I believe, be entitled to the chairman giving an extra voice.

RILEY: Whenever the committee chairman handles his side of the debate, he can always close, and he does have a half dozen members on his committee who can fill in for him. That was the contemplation of the Rules Committee, that where a member not a member of the committee, has a proposed amendment which the committee opposes, the entire committee may speak to it if they see fit.

LONDBORG: I'll withdraw the objection. I just wanted to get a little information.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed Rule No. II be adopted.

KILCHER: Objection.

PRESIDENT EGAN: Objection is heard.

KILCHER: For the purpose of information I mean. Mr. Riley, does this imply that you may speak only once about the question? I mean, what about information and questions about information. Would that be included in that once?

RILEY: I don't construe a question to be speaking on a motion or an amendment, and it has been so held here in the last few days a few times.

PRESIDENT EGAN: Mr. Kilcher, on that question, if a man or a delegate rises and asks a question, the Chair will never overrule them; but if it might be apparent that the delegate might be using the question to go into a lengthy debate, well, the Chair would feel that --

KILCHER: I have no objection, Mr. Riley.

DAVIS: I'll second the motion.

PRESIDENT EGAN: Mr. Riley so moves and seconded by Mr. Davis, that the proposed Rule No. II be adopted by the Convention.

KILCHER: Question.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, the progress that has been made in the last few days has been slow. I think the voluntary acceptance of certain procedures the last few days has helped a lot in

achieving results. I think that the Rules Committee has learned a few things, too, since we convened last fall. I think if the Rules Committee had spent more of its energy to organize the Convention, past, present and future, if they would get their material organized and lined up instead of expending its energy --

McCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

McCUTCHEON: My point of order is that he is castigating the Rules Committee.

PRESIDENT EGAN: The Chair will hold that your point of order is well taken. Delegates cannot make reflections about any committee or other delegates.

KILCHER: How about suggestions to a committee on the floor?

PRESIDENT EGAN: You can make suggestions, if you wish, relative to this proposed amendment for proposed Rule No. II.

KILCHER: Mr. President, I'm very serious about this point, and we have wasted time for lesser matters, and not by me necessarily. I'm serious this time. The more substantial of the articles, as far as I'm concerned, are past. The amount of interest that I will have in those to come depends largely upon how they are treated. If we are going to resort to proposals practically accepted by committees, why don't we accept them by experts if you want to be efficient. I think by organizing the material, as it is, by applying the rules as they are, some of them voluntarily upheld by the delegates, we could get just as far, or further, than adopting rules that might backfire on anybody. And I think -- I'd like to state on the record -- the future historians will wonder about some of the proposals that have come and will come out of this Committee. I hope that some of the substantive proposals, some that have concrete meat in it, the political proposals and issues, the compromises are necessary on the political basis, others on the theoretical basis. Some of them have facts, unless like the proposal we have now and some of the others, unknown to me, unsuspected to me, a much more political and concrete time bomb than I suspect. I hope that the proposals in the future will be given theoretical consideration and not be influenced by a fear; the fear number one that some party might profit or gain in the very immediate future by the outcome, or lose in the immediate future by the outcome of the proposal; and that theoretical considerations, which will not have anything to do with the next five years, the next 50 years, shall be given due consideration. That's what I'm afraid of, and that's why I urge strongly to consider before we employ "gag" rules.

McLAUGHLIN: I request a roll call.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, it is with some reluctance that I want to speak just briefly against this proposed rule. I have seen it happen too often here where delegates are in genuine doubt about an issue, perhaps not too many people are speaking on the issue. I've seen it happen too often when we need to hear badly a second time from some of the people who know the most about the issue at hand and have something to say about it. I have seen it happen too often where a delegate can't necessarily make his entire argument the first time he rises; new points are brought up that need to be answered. I have voted in the past and I will continue to vote for evening sessions, against unnecessary adjournments, but I feel that debate involves a certain amount of give and take, and with two times for each delegate, we have restricted debate enough. I think we can perhaps relax our reluctance to moving the previous question a little to move debate along, but I do think that speaking once, in all instances, is too restrictive and we'll find ourselves lots of times wishing we could suspend the rules.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I'm for speeding up the process as much as possible, and I stand corrected and say that I haven't tried to lag in any way through unnecessary talking which might have seemed unnecessary at times. I know I have talked more than some, and possibly less than others. I don't know, but I think our existing rules, if they are enforced pretty much by ourselves -- the President can't do it all, I think he's done a wonderful job -- but I think the existing rules, if we each one take them seriously, will speed the thing right along. But when we limit debate on a serious issue -- and it might be the one man that might hold the key -- in presenting very good evidence, he may not get it across the first time. About the only thing we can do is call for a recess so that he can pass information to another committee member, or can go and get help from someone else, take five or ten minutes that way and come back into session, so that someone else can take his information and pass it on that everyone needs to know. I don't think that speaking two or three times slows it down, if there is something worthwhile that should be on the record. Furthermore, if we have five minutes to speak, I think we will be more inclined to use the whole time trying to get all that we can possibly think of across, rather than say a pertinent point, sit down; and, if another thing comes up, get up and say it and sit down again.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, far be it for me or from any member of the Rules Committee to want to gag anyone. If we had the time to do it I would only be too happy to allow us to go on and on until everything was said that could be said on any subject. The problem is that we are in trouble here. A sign over there says "24 days left". I don't know whether that is exactly correct or not, but in any event it is close enough to being correct, so we have got to watch what we are doing. Looking over on the board there, there are apparently, I think, five substantive sections that we haven't even touched. We are in the middle of a sixth one. Up to now we have been spending an average of about three days per section. By simple multiplication, if we took five sections at three days per section, that's 15 days, plus another day and a half on the one we are on, it's 16 1/2 days. Now, if we were done with our work here when we finished in second reading, we wouldn't have any problem. But it must be obvious that when we are meeting day and night, that Style and Drafting has no time to work on these things, except in recess. We have been doing it, in fact there are either two or three of the articles that have been presented to us that are practically ready. But we can't, I'm sure, keep it up indefinitely. There is still more than that. After the things come back to the floor from Style and Drafting we are going to give them another go-around, and we hope that they will be in such good shape when they come back that it won't take long, but we can't be sure of that. After that is all done, they go back to Style and Drafting again to place them in the entire constitution in their proper context. That is going to take some time. When we get it all done, everybody has to go over the complete constitution and sign it. Now if we go on as we have gone on, we just are not going to have the time to do it. And it is true, I think, absolutely true, that in the last couple of days we have been more restrained on our debates than we have been previously; but certainly, I think, everybody in the room will agree that we have -- and I'm talking about me, too -- we have made ill-considered amendments, we have made ill-considered arguments; we have, all of us, been guilty of arguing two or three times on a question when once would do the job. This is a device intended to make us think before we talk.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, I want to support the proposed rule here. Just to state briefly, there have been many times when a subject has been up on the floor here where if it were a matter of law, on several occasions at least that I knew the answer, or as a matter of fact thought that I knew the answer, but it appeared it was going the right way; therefore, I didn't speak because others were, through the floor, taking up so much time speaking. Now this doesn't only apply to me. I talked to others here who have spoken a great deal less before the body than I have, whose opinions I consider very good. They expressed the same thought

that there are a number that are speaking so much, up two and three times asking questions and carrying on long harangues, using points of personal privilege and taking up the time that many of us felt constrained to speak. And I think that under this proposed rule here it will divide up the time, and maybe we'll have the thoughts of a greater number of the body rather than just a small group.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I wish to clear up just a couple of points. First, I'm not aware of any five-minute rule. It has been observed a time or two rather informally; and second, there is no self-starting on the Rules Committee in suggesting these rules. The body will recall that it was a voluntarily directed thing, and just as if adopted now it would be voluntarily adopted by two-thirds of those entitled to vote. And just as if someone has something compelling to be considered sometime and has used up his time, two-thirds again will allow him to speak.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I would like to assure the delegates that this sign is correct. We are in our 55th day, and we have a calendar here numbered back down to the day. I might also, in support of this amendment, would like to state that if we go along as we are right now, we are going to run approximately 80 hours over our estimated 150 hours on the tape. We are running at the average of 6 7/8's hours a day in plenary session. If we continue the pace that we are going in plenary session, the tape recording of the Constitutional Convention is going to cost an additional \$4,000 above the \$8,000 that we have already got appropriated for it. I wish you would consider that also in argument favoring limiting debate and having substantial argument before you get on your feet.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, I speak very little at this Convention, and I do favor wholeheartedly Mr. Riley's motion. I believe in reading over the history of some of these constitutions that were made back in the days of Davy Crockett, and they were made in about 45 or 60 days, and it seems to me in our modern age of jets and tape recorders and everything, that we ought to be able to beat that record a little bit instead of going behind it.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I don't like to speak against this amendment, but I do feel strongly about it. I don't like to be limited to only speaking once on a subject because apparently I don't

speaking well enough at times so I can get it over the first time; but I think that we should speed up our operation, and I agree with practically every argument along that line, but I think we could save more time by stopping to think before we speak as to whether or not what we are going to say is absolutely necessary. It seems to me that lots and lots of time people get up and repeat the same argument that somebody else has already made and unless you can contribute something to the effort by talking, I don't think it pays to talk, but I would like to be able to speak in rebuttal occasionally when I make a statement that is apparently misunderstood or misconstrued or distorted by another speaker.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I want to say that I am going to support the committee proposals, but with this understanding: that on two subjects -- the subjects of resources and local government -- I believe they are very broad subjects and of great importance, and I'm going to at that time ask that we resolve into a committee of the whole for a more complete discussion. I think we have a recourse in the committee of the whole to discuss those things that are of vital importance to all of us for the future Alaska.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed new Rule No. II be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 45 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Nays: 8 - Buckalew, Cooper, Harris, Kilcher, Londborg, Poulsen, Reader, White.

Absent: 2 - Robertson, VanderLeest.)

CHIEF CLERK: 35 yeas, 8 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it, and the proposed amendment to the rule is ordered adopted. Inasmuch as the mention of the cost of the tape, which was correct, was brought up on the floor, the Chair feels that it would be in order to have in the record a statement relative to our finances at this time, to the extent that it appears at this time that we are going to have a good many thousands of dollars left over to turn back to the Territorial treasury when this Convention adjourns, possibly in the amount of \$25,000 or \$30,000. The Chair felt that some of the delegates might feel that that meant we were running out of money, and I felt that it should be in the record.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I regret to note that we need two-thirds; I think 35 fails.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would ask the Clerk again to announce the results; I think it was announced incorrectly.

PRESIDENT EGAN: Would the Chief Clerk please read the tally.

CHIEF CLERK: It's 45 yeas, 8 nays, and 2 absent.

PRESIDENT EGAN: So the announcement is correct. Would the Chief Clerk please read the proposed Rule No. III.

CHIEF CLERK: "III. When a question has been put by the Chair, a roll call shall be in order upon the request of 10 delegates evidenced by a show of hands, provided that the Chair may order a roll call vote at any time."

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley moves for the adoption of the proposed amendment.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Riley.

RILEY: I have been advised that the full operation of a roll call vote requires five minutes or better of the Convention's time, and often times there may be 15 or 20 such occasions each day, which cost an appreciable amount of time. Now, if there is conscientious need for a roll call or a conscientious wish for a roll call, certainly it should be held. The figure "10" was

arbitrary, it's true. In the house of the Alaska legislature, it's my memory that five are required, but that is a body that is less than half the size of this, and, therefore, the Committee decided on the figure "10".

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, may I address a question to the Chair.

PRESIDENT EGAN: You may address your question.

V. FISCHER: I will support the proposed rule if the delegates can expect that if one person calls for a roll call that enough time be given for ten people to raise their hands instead of putting the question before the body.

PRESIDENT EGAN: The Chair would certainly attempt to give enough time that that could be accomplished.

V. FISCHER: I'll support the amendment.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I'd like to point out that I timed the last roll call from the time the President asked the Chief Clerk to call the roll until the announcement was made by the President. It was one minute and thirty seconds. Now perhaps there are other roll calls that have taken longer, but I think it can be done in that time, and I think the time lag for a show of hands will run us overtime.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to support this rule, but I think there has got to be some consideration given as to substance. I know the Chair will do that, but a good many of us in the matter of final passage of things may desire a roll call, and many cases wherever a roll call is to be reconsidered, where you're going to reconsider or move for rescinding action, I believe you must have a roll call in order to know what the vote was. You must in reconsideration, in any event. So when you adopt this rule, you're dealing with major substance matters and final passage, and you're also dealing with your right to reconsider.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I have the same objection as Mr. Victor Rivers, and besides that, it seems to me that this single request for a roll call is a fundamental right. It involves something

that every one of us has the right to know about every other one of us, and I don't care what the question is, if anybody in this house desires to know how I stand on the proposition and wants a record of it, I think he's entitled to it the same way that I am. I'm against this particular amendment to the rule.

PRESIDENT: Mr. Hurley.

HURLEY: Mr. President, I really had another question on this same thing. I have been a little confused not knowing about all this record business. I'm just concerned that the President may have heard differently than I did on something, and I think that maybe a roll call would be a good idea, and that, then, would come after the voice vote but before the announcement of the Chair's decision as to the results of the voice vote. And the way I read this, the roll call would only be in order when a question has been put by the Chair, and before the voice vote. Now I may be wrong on that.

PRESIDENT EGAN: Now usually, Mr. Hurley, it is one of the main reasons why the Chair tries to put the question, even though he has put it before and someone has objected in order to be heard in debate, he says it again in order to give an opportunity for everyone to know right at that minute what is before them, and also to give them an opportunity to demand a roll call, if they so choose.

HURLEY: Am I wrong, Mr. President, in thinking that it is still possible to call for a roll call after the voice vote has been taken but before the President announces the results?

PRESIDENT EGAN: The Chair has recalled one instance in which the Chair didn't hear the person asking for the roll call, but many times, as a roll is being called, or as the voice vote was being evinced, why the Chair has stopped and had the roll called because he heard delegates requesting a roll call. Now the Chair doesn't wish to be too strict on that part. If at any time the Chair hears someone asking for a roll call before he announces the results, he will then ask that the roll be called. Mr. Hurley.

HURLEY: Mr. President, if someone can answer my question, is it proper to call for a roll call between the voice vote and the announcement by the President, I'll be satisfied?

PRESIDENT EGAN: That is questionable. The Chair has felt that before he actually announces the vote, that there is nothing anywhere in Robert's Rules or in our rules that says that you can't demand a roll call at any time before the Chair actually announces the vote. We looked it up one day and could find nothing on it, so the president would feel that if you asked for

a roll call, you have every right to get that roll call, if the Chair has not announced a vote.

HURLEY: Mr. President, I would like to take one more step and the reason for that is that a great many times -- and I'm guilty myself sometimes -- people do not vote on a voice vote, and therefore, if it's fairly close, why I would feel authorized, if I were particularly interested, to ask for a roll call at that time. On the other hand, I hesitate to request a roll call before the question is put on a voice vote, because if it goes so far the other way, why clutter up the record with a roll call.

PRESIDENT EGAN: Mr. Hurley, you're absolutely correct there. There have been many many votes in which I'll bet there haven't been 20 people participate even on both sides of the voice vote call, and in cases like that, why, you can't possibly refuse anyone the right to have a roll call.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, it's been my observation that the Chair has been scrupulous in calling for a roll call vote, whenever, in his estimation, the vote has been light, indicating that all the delegates aren't voting and in the other cases where the vote has been close. Now I know as we sit here in the house it often seems to us that the vote is some other way than it appears to the Chair, and I think the reason for that is that each of us is sitting adjacent to several delegates, and if three or four right around us are on one side, it seems like that side wins. Well, the Chair is not in that unfortunate position; he's up there in a neutral position and he can hear from the whole house and I think that he's called every single voice vote correctly during this session.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I have a question of Mr. Riley. If this rule is adopted now, an amendment to it would take two-thirds, if we should amend it now -- this rule?

RILEY: Yes, that is correct.

KILCHER: Well, I move to amend the figure "10" to "5".

PRESIDENT EGAN: Mr. Kilcher moves that the figure "10" be changed to "5". Do you ask unanimous consent?

KILCHER: Yes, sir.

PRESIDENT EGAN: Mr. Kilcher asks unanimous consent that the figure "10" be changed to "5". Is there objection? Hearing no

objection, it is so ordered, and the proposed rule has been changed to read from "10" to "5" delegates.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed rule be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 33 - Barr, Boswell, Buckalew, Collins, Cross, Davis, Doogan, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, Nerland, Nolan, Nordale, Riley, R. Rivers, Rosswog, Smith, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Nays: 20 - Armstrong, Awes, Coghill, Cooper, Emberg, H. Fischer, Harris, Johnson, Kilcher, Laws, Londborg, McNees, Marston, Metcalf, Peratrovich, Poulsen, Reader, V. Rivers, Stewart, White.

Absent: 2 - Robertson, VanderLeest.)

CHIEF CLERK: 33 yeas, 20 nays, and 2 absent.

PRESIDENT EGAN: So the proposed rule has failed of adoption. The Chief Clerk will please read proposed rule No. IV.

CHIEF CLERK: "IV. Notices of reconsideration and of motions to rescind must be given within one hour of the vote sought to be reconsidered or rescinded and the appropriate motion made within three hours of such vote. Neither reconsideration nor rescission shall carry without at least 28 affirmative votes. The following two exceptions apply to this rule: (a) If a recess prevents adherence to such time limits, the notice or motion involved may be announced or made at the next earliest opportunity; (b) If a vote is taken too late in the day to afford the full time above allowed, notice and reconsideration or action to rescind shall be accomplished before adjournment that day."

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: Mr. President, this is the one on which I expected the oratory so I won't ask unanimous consent. I do move that it be adopted.

MCCUTCHEON: I'll second the motion.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I voted for every one of these rules so far, but I think if we adopt this rule we are hurting ourselves in trying to write a good constitution. I think that reconsideration is one of the most important tools that we have to correct errors in our own judgment. We have made some serious mistakes so far, and through reconsideration we have had a chance to go back and correct them. I think that we will find that we made an error today and we will probably correct it tomorrow. I feel that this three-hour limitation is fine in theory, "Let's get it over with," at the same time it presupposes that all a person does is go out in the corridors and talk to as many people as one can to change their minds about a certain vote. I think there are matters, the important ones, where research may be required, substantial research, to make sure that we are on solid legal ground. And I personally will vote against this kind of limitation upon our authority to write a good constitution.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I'll make it brief. If this goes through, Friday the 13th will be a bad day in the history of this constitution.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Mr. President, I wish to support the two arguments that have just been made.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall proposed Rule No. IV, be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Barr, Collins, Davis, H. Fischer, Hellenthal, Hermann, McCutcheon, McLaughlin, McNealy, Nordale, Riley, R. Rivers, Rosswog, Sundborg, Taylor, Walsh, Wien.

Nays: 36 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, V. Rivers, Smith, Stewart, Sweeney, White, Mr. President.

Absent: 2 - Robertson, VanderLeest.)

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed rule is not adopted. Mr. Riley.

RILEY: I find myself in on awkward position. Mrs. Sweeney has called to my attention one of the backstopping provisions of Robert's, which states that, "Standing rules may be amended at any time by majority vote if previous notice has been given." The question is, has previous notice been given? Certainly, we all have been aware that this report was requested, and a couple of times it has been referred to on the floor. I feel constrained to mention this with respect to Roman numeral III, which was just announced to have failed for less than a two-thirds vote. I'll leave it to the body as to whether notice was had in compliance with that provision.

PRESIDENT EGAN: Mr. Riley, the Chair would feel that the notice hadn't been properly given until the delegates all had copies available to them of what actually was going to come before them. Mr. Johnson.

JOHNSON: Furthermore, Mr. President, our own rules provide that in order to change them you must have a two-thirds majority vote.

PRESIDENT EGAN: You are correct. Robert's wouldn't apply.

RILEY: I am in no doubt as to what our rules provide, Mr. Chairman, but I feel obliged to mention this because it is a provision that goes beyond ours, and it was called to my attention.

PRESIDENT EGAN: Would the Chief Clerk please read the "Other Suggestions".

CHIEF CLERK: "Other Suggestions. (a) It is suggested that the Rules Committee prepare a tentative schedule for completing work on each proposal, and that the Committee announce the time to be allotted a proposal before the Convention considers it. (b) Adhere strictly to the period of time stated for each recess."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may we have about a two-minute recess?

PRESIDENT EGAN: The Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, I give notice of my intention to reconsider my vote on Mr. Cooper's amendment to strike Section 6 of Committee Proposal No. 10a.

PRESIDENT EGAN: Mr. Buckalew's.

SWEENEY: I mean Mr. Buckalew's amendment to strike Section 6 in Committee Proposal 10a.

PRESIDENT EGAN: You have heard Mrs. Sweeney's statement that she serves notice of reconsideration on the proposed amendment striking Section 6 as offered by Mr. Buckalew. Mr. Johnson.

JOHNSON: Mr. President, I move that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Riley.

RILEY: I don't believe we are quite through with the matter of putting an effective date on this report, and that would be to this effect: that paragraph Roman II shall become effective immediately, and paragraph Roman I shall become effective following consideration of Committee Proposal 10a in second reading. I ask unanimous consent.

PRESIDENT EGAN: You heard Mr. Riley's unanimous consent request that Roman numeral Rule No. I become effective immediately following the consideration of Committee Proposal No. 10a in second reading, not until then, but that Roman numeral No. II shall become effective immediately. Mr. Riley has asked unanimous consent. Is there objection? Hearing no objection, it is so ordered. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I wonder about the wish of the body in regard to the suggestion that the Committee prepare a tentative schedule for our work upon these proposals?

PRESIDENT EGAN: Are there suggestions from the floor relative to the other suggestions as submitted by the Rules Committee? I don't hear any at this time, Mr. Ralph Rivers. Mr. Gray.

GRAY: I'm more concerned with part (b) adhering strictly to the period of time stated for each recess. I don't care whether we recess for 10 or 15 minutes, as long as we get back here, and not wait around. I think if you want a 20-minute recess, ask for one; if you want a 30-minute recess, ask for one rather than elongate. I think we ought to get together on that, but I'm more interested in (b) than in (a).

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, is it the intention of the Rules Committee on this to -- if I may ask a question through the Chair to the Chairman of the Rules Committee -- to allot time and have a deadline date for a proposal, and we'll work all night to get the proposal out, or continue working on it until it is done?

PRESIDENT EGAN: Mr. Riley.

RILEY: Well, we had in mind in this suggestion, that a certain target date be established to be observed as far as reasonable.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Is that just a suggestion?

RILEY: That was a suggestion that that authorization be given.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that we adopt it into the rule.

PRESIDENT EGAN: Mr. Coghill moves that the suggestion under subsection (a) be adopted.

HELLENTHAL: Point of order.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: How can a rule be a suggestion that another suggestion be made?

PRESIDENT EGAN: Mr. Hellenthal, there you have a pertinent point. (Laughter) Mr. Ralph Rivers.

R. RIVERS: I had in mind that if the body is interested in seeing how a schedule like that works out, the body would adopt it after we have submitted it in detailed form. That's what I was thinking.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, I'd like to make one comment on that motion. It seems to me that this evening we have adopted two new rules which will probably speed up our work considerably, and I don't think anyone, including the Rules Committee, knows what rate of speed we'll progress at, and I think it would be a good idea to

go along for a couple of days and see how this works out, and maybe then consider this.

PRESIDENT EGAN: Obviously Mr. Coghill's motion, as it was made, wouldn't work very good in rules. So what is your feeling, Mr. Coghill?

COGHILL: My feeling is still strong, but I'll withdraw my motion.
(Laughter)

PRESIDENT EGAN: We have before us Committee Proposal No. 10a. Do you wish to continue beyond Section 6 at this time? Mr. Harris.

HARRIS: I make a motion that we adjourn until tomorrow morning at 9:05.

V. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion that the Convention stand adjourned until 9:05 a.m. tomorrow. The question is "Shall the Convention stand adjourned until 9:05 a.m. tomorrow?" All those in favor will signify by saying "aye", all opposed by saying "no". The "noes" have it, and the Convention is still in session. Are there amendments to Section 7? Miss Awes.

AWES: Reading Section 7 through 9, they depend so much upon what we do with Section 6, so wouldn't it be possible to pass them for this evening and to go on to Section 10, and then come back to them?

PRESIDENT EGAN: Is there objection to starting with Section 10 and deferring action on these three sections until we have handled the matter of the reconsideration? Mr. Taylor.

TAYLOR: I move and ask unanimous consent that we defer action on 7, 8, and 9.

PRESIDENT EGAN: If there is no objection, Mr. Taylor, it is so ordered. Are there amendments to Section 10? Do any delegates have amendments to offer to Section 10? Mr. Victor Rivers.

V. RIVERS: We have one committee amendment. This was submitted by one of the delegates during the recess. I have it here. I'd better read it to you. The amendment is in Section 10, page 5, line 5: strike the word "or" after "power" and insert a comma. After the word "duty" insert "or right". The line would then read "or to restrain violation of any constitutional or legislative power, duty, or right by any officer, department or agency of the state..."

PRESIDENT EGAN: Mr. Rivers, do you mean to insert a comma after the word "power"?

V. RIVERS: Yes, strike the word "or" after "duty" and insert the words "or right". It was thought by one of the delegates -- and it was agreed by the Committee -- that insertion of the words "or right" would broaden that particular power, and that he would then have the right to prevent possible discrimination, in that he would have the duty to enforce before the courts the rights under the constitution as well as the powers and duties of the constitution. I ask unanimous consent -- and the Committee is in unanimous agreement on this -- and I ask unanimous consent for the adoption of that amendment.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the proposed amendment to Section 10. Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: Mr. President, there was another amendment along the same general line, which I will submit on the floor for discussion. There is no committee recommendation on this particular item.

PRESIDENT EGAN: Would the Chief Clerk please read it.

CHIEF CLERK: "Line 7, after the words 'subdivision' insert 'or by any licensee of the state'."

PRESIDENT EGAN: What page?

CHIEF CLERK: It's on page 5, line 7.

PRESIDENT EGAN: What is your pleasure, Mr. Rivers? Mr. Fischer.

V. FISCHER: I'd like to move for the adoption of this amendment.

PRESIDENT EGAN: Mr. Fischer moves adoption of the proposed amendment.

STEWART: I'll second the motion.

PRESIDENT EGAN: Mr. Stewart seconds the motion. Mr. Victor Fischer.

V. FISCHER: I'd like to explain briefly what the intent behind this motion was. As the section presently reads, we are granting the governor authority to enforce compliance with constitutional and legislative mandates; to restrain violation of any constitutional or legislative power, duty, or right. Now this provision, as is presently stated, applies to the departments of the state

and the political subdivisions of the state. Now the intent of the proposed amendment would be to also give the governor the authority -- mind you, not require him -- but just grant him the authority, if he deems it necessary, he could step in and protect the rights of other individuals, the citizens of the state, whose rights may be infringed by any licensee of the state. I might just briefly explain the use of the term "licensee", and I have no pride of authorship that may be involved, but the state in performing its governmental functions gives its sanction to the carrying on of various businesses and functions. It seems to me that in compliance with the constitution, it would be quite proper for the state to require that whoever receives a license from the state, observes the mandates of the constitution, the bill of rights, or whatever other protections are granted in the constitution.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, may I ask Mr. Fischer a question?

PRESIDENT EGAN: If there is no objection, you may.

GRAY: You have a business and you get a \$10 license: does that mean that the governor can come in and run your business for you under this?

V. FISCHER: No.

GRAY: Like it was one of his offices or agencies?

V. FISCHER: No. My point here is, he would not run your business for you, but if you in running your business, for instance, practice racial discrimination, that you will not sell to certain customers, then the governor can use the authority of the state to step in and prevent this violation of an individual's constitutional rights.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President. Mr. Fischer, although this section probably wouldn't allow the governor to run your business, it is intended by you -- is it not -- that this term covers anybody who holds a business license under the state?

V. FISCHER: Yes.

DAVIS: And that's everybody that has any type of business, including attorneys and all sorts of professional men, and that sort of thing?

V. FISCHER: Yes, sir.

PRESIDENT EGAN: Mr. McNees.

McNEES: Couldn't it be so broadly interpreted, Mr. Fischer, to even a man who has a licensed automobile by the state?

V. FISCHER: I think it could. The point is, what does it apply to? It's not a matter of the governor using the authority of the state to discriminate against a man who has an automobile; it's the authority of the governor to step in when he sees a violation of somebody else's rights of guarantees of the constitution, to step in and restrain that violation through the courts.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I can understand the intent here, but the power is far too broad. Every person, every citizen in Alaska is subject to the laws and subject to the constitution, including the bill of rights. Such a provision as this would set these licensees aside as being under additional restriction or additional supervision by the governor, which I do not think is right. Everyone has recourse to the courts if their rights are not taken care of; and I don't believe that any licensee, any businessman or any other licensee should be discriminated against by being further supervised; and, I just think it's too broad and gives too much power to the governor.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may we have a one-minute recess?

PRESIDENT EGAN: The Convention will stand at recess, if there is no objection, the Convention will stand at recess for several minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer.

V. FISCHER: Mr. President, after discussing this matter with 14 attorneys, I would like to withdraw the motion I made. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer asks unanimous consent that his proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered. Mr. Victor Rivers.

V. RIVERS: Mr. President, there is one small amendment that has been called to my attention which I discussed in part with the

Committee, I will insert it at this time. It has to do with instead of calling the senate alone, call either house alone. That's on page 5, lines 13 and 14. Our motion would be to strike the words "the senate alone," and insert in lieu thereof "either house alone". I ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the amendment.

SUNDBORG: Mr. Rivers, there was a paper that has been passed up to the Clerk which would strike the balance of the line, also. Is there any necessity of having "or the two houses in joint session"?

V. RIVERS: We thought there was a necessity for calling the houses in joint session at the times they were meeting or to call them for joint sessions alone for purposes of confirmation in view of the legislative act. It was discussed in Committee, we thought the words were of value.

PRESIDENT EGAN: Is there any objection to Mr. Rivers' unanimous consent request for the adoption of the proposed amendment? Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "Strike the words on line 13 'the Senate alone' making it 'either house alone'.

V. RIVERS: And that was all there was to my amendment.

PRESIDENT EGAN: Is there objection? Mr. Johnson.

JOHNSON: Mr. President, I have no objection. I would like to rise on a point of information.

PRESIDENT EGAN: Your point of information, Mr. Johnson?

JOHNSON: If we leave in the language "or the two houses in joint session", would that in any way conflict with the legislative article which provides for the calling of special sessions?

V. RIVERS: We in the Committee didn't think it would. We thought we should have, in view of the rather large number of functions which the joint sessions perform, authority to call them in joint session. Now that could be subject to some discussion. I'm merely expressing the majority opinion of the Committee after some considerable discussion.

PRESIDENT EGAN: Is there objection to the unanimous consent request? There being no objection, the proposed amendment is ordered adopted. Mr. Barr.

BARR: Mr. President, I have a short amendment here. I'm going to submit it so I may tell why, and then if there is any objection by the Committee members, I'll withdraw it. On line 17, Section 10, page 5, after the word "prepare" insert "and submit to the governor-elect". I move the adoption of the amendment.

PRESIDENT EGAN: After the word "prepare" on line 17 --

BARR: Insert "and submit to the governor-elect".

PRESIDENT EGAN: Mr. Barr moves the adoption of the proposed amendment. Is there a second?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Barr.

BARR: Mr. President, my recollection may be faulty, but as I remember in Committee the idea of having the governor submit this in writing was to avoid any publicity in case he intended to castigate the incoming administration or to give weak excuses for his administration's performance of duty. In addition to this, the new governor makes an address before the new legislature, outlining his program. But the new governor has been in office only a very few weeks and really doesn't have too much information at his fingertips as to the past performance or the financial condition of the Territory; the old governor has that information. We thought that he should give that to the incoming governor so that he would have this at his fingertips and be better prepared to report to the legislature. But we realized there was a danger that the old governor -- if he were of a different party, or if he didn't see eye to eye with the incoming governor -- he might use that report, if it were published or broadcast, for his own personal reasons. So this amendment here is to point out that he is to submit this written report to the governor, and he is not to report it publicly to the legislature or to the press, or to anyone else. And that would obviate the possibility of him using it that way. Now does anybody in the Committee object to this or is my thinking wrong on it? May I ask the Chairman?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: In answering that question, there was some discussion on this point in Committee. We left the wording out after some discussion. I have no objection as an individual, but I can't speak for the other members of the Committee. At the moment I just don't recall their position on this.

BARR: Can you recall why it was left out?

V. RIVERS: Well, no. I just don't exactly recall the reason, but I remember we discussed it, but that was some time ago

BARR: The reason I submitted this, Mr. Chairman, is because I don't remember it being left out, and I think myself, that it is a little important.

PRESIDENT EGAN: Mr. Barr, the Chair does not wish to interrupt and the Chair does not wish to admit that he's watching the clock, but your amendment is before us, and if you would so choose to do so, we could hold the amendment in abeyance, and maybe you could have time to see the committee members on it.

BARR: Mr. President, subject to committee announcements, I move that we recess until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Are there committee reports or announcements of committee meetings? Mr. Coghill.

COGHILL: This is not in the way of a committee report. The Veterans of Foreign Wars dinner is tomorrow night, and if the Convention is not going to be in session, we would like to have you leave your name with Mr. Wilson as to how many wish to attend. General Dean will be our guest at the doing.

ROSSWOG: I'd like to have a Local Government Committee meeting for a few minutes in the gallery as soon as possible.

PRESIDENT EGAN: Are there other announcements? If there are no other announcements, the Convention will stand adjourned until 9 o'clock tomorrow morning.

ALASKA CONSTITUTIONAL CONVENTION

January 14, 1956

FIFTY-THIRD DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Charles Powers of the Church of the Nazarene in Totem Park. Reverend Powers will give the daily invocation.

REVEREND POWERS. Gracious Heavenly Father, we thank Thee for this another day. We pray that Thou wilt bless us as we convene at this time and undergo the governmental affairs of our Territory. We pray Thou wilt bless each delegate, Thou wilt encourage them and help them. Bless their families back home. May the spirit of God bless them at this time. We ask these things in the name of Jesus Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: One absent.

PRESIDENT EGAN: The Convention will come to order. A quorum is present and the Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. White?

WHITE: May we hold it in abeyance?

PRESIDENT EGAN: The report will be held in abeyance. Are there any petitions, memorials or communications from outside the Convention? Are there reports of standing committees? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to announce a meeting of Style and Drafting for the 10:30 recess at the rear of the gallery.

PRESIDENT EGAN: The Committee on Style and Drafting will meet in the rear of the gallery at the 10:30 recess. Are there reports of select committees? Are there any motions or resolutions? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to move at this time that it be the policy of the Convention to adjourn today at 5:40 p.m., to have no night session today, and when we adjourn to adjourn until 9 o'clock Monday morning.

GRAY: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that it will be the policy of the Convention today to adjourn at 5:40 p.m. to have no night session and to adjourn until 9:00 a.m. Monday morning.

RILEY: Mr. President, I would like to ask the mover of the motion if he would consent to an amendment for the next earlier bus to enable many people to accomplish quite a few chores that have been accumulating.

SUNDBORG: Do you know when the next earlier bus is?

GRAY: I have that information, when I see which set of figures I will use here. It leaves the University at 4:05.

SUNDBORG: May I have consent, Mr. President, to amend my motion that it will be the policy to adjourn at 3:45 p.m.

PRESIDENT EGAN: If there is no objection, the motion is amended to read that the policy will be that the Convention will adjourn at 3:45 p.m. this afternoon. Is it your reasoning, Mr. Sundborg, that Style and Drafting and Local Government, particularly, might have an opportunity of meeting over the weekend?

SUNDBORG: I can't speak for Local Government, Mr. President, but Style and Drafting definitely need a lot of time over the weekend and we will make use of those hours.

SMITH: I might say that the Resources Committee certainly will make use of that time.

PRESIDENT EGAN: The Resources Committee will also be able to make good use of that time. Is there objection to that motion? Mrs. Hermann.

HERMANN: I have no objection, but I think while we are on the matter of policy, if we are going to continue these night meetings, and it is very apparent we are going to have to, that we have a break in the middle of the week. I would like to see us not hold a night meeting say on Thursday, that night the stores are open and there is an opportunity for anybody who wants to take care of their personal business, but I think the long drag from Monday until Saturday might well be broken in the middle of the week instead of necessarily on Saturday in the future.

PRESIDENT EGAN: That matter might be brought up on Monday, Mrs. Hermann. Is there objection to this motion before us that this be the policy today that the Convention adjourn at 3:45? Mr. Marston.

MARSTON: Mr. President, it depends entirely on what we do today with this problem on our hands. If we go along and accomplish something, I think the plan is delightful, but if we don't do it and accomplish something, I propose we stay here all day Sunday.

PRESIDENT EGAN: Is it your idea, Mr. Marston, that we hold this motion in abeyance until later in the day?

MARSTON: I would be willing to, to see how they behave here on this floor.

SUNDBORG: It is only a declaration of policy and a motion to adjourn always is in order. We could keep meeting as long as there is no motion to adjourn, which would carry.

HERMANN: I don't think it is a matter one can vote on. It is just a declaration of policy.

PRESIDENT EGAN: That is right. It is just a declaration of policy. If there is no objection, that will be accepted as the declaration of policy. Mr. Metcalf.

METCALF: As I understand it, when we adjourn this afternoon it will have to be on a motion this afternoon?

PRESIDENT EGAN: That is right.

METCALF: If we don't accomplish anything today, some of us who want to stay here can ask to continue to stay?

PRESIDENT EGAN: The delegates would have to in any event, Mr. Metcalf, vote with the majority vote for the adjournment. We have before us Committee Proposal No. 10a. Mr. Barr had an amendment pending at the time we adjourned last night.

BARR: That has been moved and seconded, Mr. President. I don't propose to take up much time.

PRESIDENT EGAN: Would you state the amendment, Mr. Barr?

BARR: On page 5, starting on line 15 --

PRESIDENT EGAN: Would the Chief Clerk please read it?

CHIEF CLERK: "After the word 'prepare' on line 17, insert 'and submit to the governor-elect'."

BARR: The only change that it makes is that it directs to whom this report is made; in other words, it does not necessarily have to go to the legislature publicly or to the newspapers. My

only thought there was, as I stated before, was to prevent this report from being used for any ulterior motives or from belittling anyone. It is highly useful to the governor-elect to have such a report, so he will have the governor's opinion on what has been done, what should be done, the financial condition of the Territory, etc.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I would just like to inquire of the mover, do you think that your purpose is being accomplished by this language? I understand and I have no objection to the purpose of the amendment, but do you believe that this language would keep the report from getting into the hands of anybody?

BARR: It would not keep it from getting in the hands of a determined person, any reporters, etc. I thought it might be useful in case the governor did want to give it to a member of the Legislative Council to work on. It would not necessarily be secret but on the other hand it wouldn't be publicized, particularly.

JOHNSON: Do you think adding the word "only" after the word "elect" might tend to narrow it down a little?

BARR: That might be all right, then the governor could give it to some certain person if he wanted to. I would have no objection.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: May I address a question to Mr. Barr?

PRESIDENT EGAN: If there is no objection, Mr. Nerland.

NERLAND: Mr. Barr, in the event the governor is re-elected, to whom would you intend that he would submit this report?

BARR: No one. He has no successor.

NERLAND: Would you intend then that he submit it to the legislature, possibly?

BARR: No, that was not my idea.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I would like to follow in with this in line of the Committee thinking, when we thought of this report,

as I recall, it was to be given to the governor-elect, that was our intention. However, at the same time I think it was to be a report that might be of interest to history at the end of each term whether the governor succeeded himself or not. Whether it should be public or not, I don't think that should be the main issue.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention?" All in favor will signify by saying "aye", all opposed "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Barr, Collins, Cross, Emberg, H. Fischer, Harris, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, McCutcheon, Nerland, Nolan, Peratrovich, Poulsen, V. Rivers, Robertson, Smith, Taylor, VanderLeest, Walsh, Wien, Mr. President.

Nays: 26 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Davis, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Lee, McLaughlin, McNealy, Marston, Metcalf, Nordale, Reader, Riley, R. Rivers, Rosswog, Stewart, Sundborg, Sweeney, White.

Absent: 2 - Doogan, McNees.)

HURLEY: I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Hurley changes his vote from "no" to "yes".

CHIEF CLERK: 27 yeas, 26 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mrs. Sweeney.

SWEENEY: Mr. President, I would like to move reconsideration of my vote on Section 6 which was to strike the section.

PRESIDENT EGAN: Mrs. Sweeney moves reconsideration of her vote on Section 6.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, yesterday I voted to strike this section because I was not too happy with it, and then after it was struck

it appeared that, at least the feeling was drawn out that the whole proposal had almost been wrecked. I believe that section can be changed so it will be acceptable and for that reason I would like to have the reconsideration at this time with possible amendment afterwards if the section is retained.

PRESIDENT EGAN: Is there further discussion? Section 6 is now before us once more. Mr. Boswell.

BOSWELL: I would like to trace the evolution of this particular article through the Committee. Our first decision was, should we have a lieutenant governor? We decided that was a luxury which we could not afford in this new state. So our second decision was to try to set up a working successor to the governor, and it seemed a logical choice would be the secretary of state. Our third decision was regarding the election, whether this secretary of state should be elected or appointed, and we felt it would be a little more democratic, more acceptable to the public, give them more to say, if he were elected. Then the question was, how can we elect a secretary of state and be certain he would be compatible with the governor and be of the same party as the governor. I asked Mr. Cooper this question on his previous amendment, how he could expect this elected secretary of state to be of the same party and he could not answer. I realized I was tossing him a curve at the time because we could not answer it; so that was why we came up with this particular section and we decided then that we could accomplish the purpose we were after by nominating the secretary of state and the governor separately and pairing them to run in the final election so that we would at least be certain that they would be of the same political party, and I think that is the important thing on it. It would be obvious to all that if we had a governor of one party and a secretary of state of another party that they could not only not work together, but there would be terrific confusion if that secretary of state ever succeeded to the governor. I think when the people of Alaska have this opportunity to nominate a secretary of state and realize the important position that he holds, they are going to be very careful of the man they nominate, and I don't think he will be the type of man that Mr. Buckalew would have us think he would be. Now if you think the Committee approach has been illogical or if you want to "buy a pig in a poke", support Mr. Buckalew's amendment. If not, I think the committee proposal has merit.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: I seconded Mr. Buckalew's motion and I have always felt that Section 6, as worded for the reasons that we stated yesterday, injects an undesirable element in our constitutional government, and as far as a "pig in a poke", and I want to direct my remarks solely to that. There is an amendment on the desk

which reads as follows: "That Section 6 be stricken and the following substituted: 'There shall be a secretary of state who shall have the same qualifications as the governor. He shall be appointed by the governor. He shall perform such duties as may be delegated to him by the governor. He shall perform such administrative functions as are prescribed by law'." The amendment goes on and deletes the words "person elected" in line 12 of Section 7, and that is all there is to it. Now that amendment prescribes a constitutional secretary of state. The reason for that is so that the order of succession is preserved. It makes him an appointee of the governor, so the objection as to political faith is immediately removed. He will be of the same political party. It makes him a working secretary of state, because as far as executive duties are concerned the governor may delegate some to him. Administrative duties which of course do not infringe upon the executive may be prescribed by law. That avoids any conflict between a secretary of state working contrary to his governor, so this amendment preserves the order of succession exactly as it was in the original proposal, except only that the secretary of state is an appointive official, but the order of succession is preserved. Everything of the original proposal is preserved, and it is not "a pig in a poke". There are other equally, I think, desirable alternatives. There is no magic about this thing. It is very simple. In answer to Mr. Marston's statement, I am quite sure by 12 noon we will be all through with this thing. We could adopt many healthy proposals in that time, too, all of them better than the present Section 6. I have talked to other people who have equally sound alternative methods, none of which require huddles or delay, very simple, very clear and generally unobjectionable, so I say that if we do reconsider this matter, there are sound alternates and I do think though, that the present section or the section that was submitted to us must be improved.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, it appears to me that the only difference between Mr. Hellenthal's proposal as he has talked about it here, and the committee proposal is the point as to whether the secretary of state is going to be elected or whether he is going to be appointed. I am afraid we are going to get ourselves in a box here if we vote on the motion to reconsider. I am afraid we may be foreclosing the possibility of considering Mr. Hellenthal's amendment. I am wondering if it might not be more orderly to hold the matter of the reconsideration until after we have heard Mr. Hellenthal's amendment. I am afraid we will be in the same position we were in yesterday where we struck certain language and then we had to have an amendment to put the same language back in. As it now stands, we have stricken Section 6. If we take the motion to reconsider and if that

motion to reconsider is against Mr. Buckalew's amendment, we will be in the position then of having failed to strike the section and then we have another motion come along to strike the section over again. It seems to me that the primary question at the minute is whether the body does or does not want an elective secretary of state.

PRESIDENT EGAN: Mr. Londborg.

LONGBORG: Mr. President, I would like to speak another word for the committee proposal as we drew it up. As I see the difference in the remarks now of Mr. Hellenthal and his would-be secretary of state, and the one that the Committee provided for, is this, of a time element as far as when the governor picks his partner. In other words, has the Committee made it possible that the governor would have a perfectly compatible working partner; he would choose that man or the party would work together and pick that man before the election, or if the law so provided, he may be picked in the primary to be the running partner of the successful nominee of the primary for governor. Now, as I see it, the pressure that is going to come upon the governor in selecting a secretary of state will be just the same as the pressure if he were to pick him before he was elected as governor. This man that will be selected as secretary of state after the governor is elected, will be a man who can take over the governor's office for a period of three or three and one-half years, maybe even more should the governor die. You can be sure there is going to be just as much pressure on the governor to attach on to him somebody the people don't want but somebody to whom the party owes a debt; but if you have the secretary of state as just a working man and not succeeding to the governor's chair, that would be a different thing, but if he is to fall in line for the governorship, then we stand the chance of having a person become governor for a period of one, two, three, three and one-half, and a day short of four years. The people would as a whole perhaps reject just because of some pressures put upon the governor to put that man in as his secretary of state. I think the fair way to the people would be to have that man along with the governor on the general election ticket. Then if we don't feel that the governor chose wisely or the party chose wisely, they can both be rejected. The people have a choice. I can see that the strong executive would be one that would just pick all of his own men and those he doesn't want, he just throws away, but I think there are going to be pressures upon him in the selections, and that is one pressure that can be revealed before we take the whole "poke". We are going to know what we are getting and they can be accepted or rejected as a team.

PRESIDENT EGAN: Mr. Riley.

RILEY: In the line of Mr. Davis's suggestion and as a point of inquiry, Mr. Hellenthal has read his proposed amendment and has suggested there are other proposed amendments, or will be. In order that we have the full picture before us, might it be possible that all presently prepared proposed amendments be read at this time?

PRESIDENT EGAN: Mr. Riley, an instance such as we have before us at the present time arises, the Chair feels it is only in fairness and in keeping with proper information coming before the delegates that your request be granted, that it is in keeping with what is probably going on in the minds of most of the delegates if the proposed amendments were allowed to be known to the delegates. Mr. Victor Rivers.

V. RIVERS: Along that line, speaking for the Committee, as of yesterday I had an amendment prepared which would insert in Section 6 the word "general" before the word "election" in line 21. We discussed that and that would then leave the procedure as to the primary in the hands of the legislature, and it would prescribe only that the general election would be the one in which he would, by constitutional act, be required to run on the joint ticket. While I am on my feet, Mr. President, I would like to speak on this a little further. We put in rather a heavy day yesterday. Everybody was somewhat weary and probably somewhat tired of listening to me and others speak on this subject. We heard this referred to as a "pal", "buddy", "flunky" and a number of other package deal systems, but I just want to point out to you in all sincerity, regardless of the sarcasm or ridicule attaching to the presentation of this section by the Committee, it is the "granddaddy" system of the American system of government, inasmuch as it is a part of the national administration's original organization, which to my way of thinking has worked quite successfully. It is also the method adopted and used by the most populous and the wealthiest state of the union, the State of New York; and I want to say again that I for one feel that we have what you call the strong executive proposal in theory. It has been used in the State of New Jersey. However, in the time that it has been used it is quite evident to me that we have not yet had enough length of time to study the situation as to how it is actually working there. To amplify on that, I want to say that in the American system of political life and of government in the cases of where offices are opened up for the people to fill, there are in practically no cases any requirements for special skills, training or experience. But it has been my observation as you go through the elective life of our government, elected officers, that there are certain well established channels that present themselves through which the main group of your qualified people for handling government positions come. There are

certain channels which set up a flow from a young, inexperienced individual to average maturity in the political life, to the higher positions that they later occupy in our political life. I also want to say that from the State of New York have come some of the greatest men who have held some of the highest positions this nation has to offer. I cannot go along with this theory that we are electing when we put in public office by a vote of the people the type of man that has been described here. I know at times he probably will not always be the biggest or the best man that might be available, but on a great many of the average times you will pick out men who have caliber for growth, and by reason of their experience in these positions do grow. I just wanted to follow through the method by which many of our people become eligible to hold high public office. It seems to me, as you look back on people around us here in Alaska that many of them are first elected to school boards, city councils; they later become the mayor; perhaps from that office they go into the house or perhaps they go directly into the senate. There they are exposed to a certain amount of daily contact during the sessions with the government functions. There they gather a certain amount of insight into, experience with handling, and understanding of our system of government. From there they might go into a Territorial office, either elective or appointive. Of course, they become eligible for re-election to the one top office to which our people elect the delegate to the United States Congress. I just wanted to point out to you that the honorable Anthony Dimond came through that channel more or less. He was a school teacher at one time, a prospector, later an attorney, then he became a member of the legislature, sat for a number of sessions and gained the confidence of the people and then became our delegate and one that was highly respected. The next situation that you might notice is the channel through which Delegate Bartlett came. It was somewhat similar. He was first the reporter on the Fairbanks paper; then he was the secretary to Judge Dimond; then he returned to Alaska and was in charge of certain functions of the FHA when it was first introduced in Alaska; next he mined; then he went back into public life as the Secretary of Alaska. Next he was elected delegate. Now it seems to me that as we set up this pattern of government, the ideal of the strong executive, one man sitting up here, unbiased, with freedom to make a choice of all these men he is going to appoint, without any strings on him, basing his appointments strictly on merit, experience, and ability, that you could well say that was the ideal situation, but in practical everyday political life, can you say that the governor who is elected will not have obligations, will not have favors to repay to certain individuals and groups, will not have endorsements of individuals which he must consider? It would be very naive for us to think that that were the case because there are going to be many considerations that enter into the selection of his appointive officials, as there would be if the people were to

select an elective official. It seems to me that the states and the national government in their situation, similar to what we have proposed here, have provided for not only working individuals in those offices, they have provided an avenue of interest for experienced people to be presented to the voters of the Territory, men who have actually gone through the elective process, men who have held administrative office at the statewide level and men who are therefore generally qualified if otherwise acceptable to the people to be elected to high office. I feel that we must give consideration to allowing people to be presented to the public whom they know and whom they have every reason to trust based upon actual experience and knowledge of them. I know there is nothing more frustrating than to go into a ballot box and have a ballot and know one or two of the people and have before you all new untried names. They might be good names in business, in social or civic club work, but you don't know what they can and will do in the face of a government obligation, in sitting in a government office. It is very difficult to decide. Of course, the method of the American system of electing people to political life is that of trial and error, but as the trial and error system goes on into higher office, they gradually weed out some by reasons of failure of health, others by reasons of lack of desire or lack of interest, and others by reasons of inability or incompetence. It seems to me that in setting up some elective offices in the state you are preparing an avenue of ingress for the same people to be presented to the voters, and this method we have proposed is one of the methods used successfully in, as I said, the most populous and richest state in the union and in our national government level. So I personally do not feel you should attach too much importance to the "buddy-pal" package description of this type of administrative government, but weigh it strictly on its merits. I believe that by establishing this method we do open an avenue of ingress for people who have been subjected to the public will at the polls, and people who have been also subjected to day-by-day contact with our administrative government. I don't want you to get the impression there is one little channel through which people will flow to the head office of our state, but I think we must admit that in all high political offices other types of avenues have been opened. I think particularly in many of the states, it appears to me in the case of New Jersey for instance, the number of high appointive officials and the one elective governor, it seems to me the best avenue of ingress would then be through the legislature where they have been elected through part of the state, and that is always a fruitful field for people who are interested in and go to high places in our government, but also it seems to me that in casting around, the voters would probably indicate and select someone theoretically trained in political science. We have had the experience in our national life where men who come up for the offices of President or Vice

President are men who have either been state legislators, then state governors, then congressmen perhaps, but very seldom ever does the head of an administrative department be nominated for office of President. The same applies to Vice President. There have been exceptions where, for instance, they selected and nominated Woodrow Wilson, who had been and was a political science professor. There have been men who have come into high public office through the academic field; there have been men who have come in through the business field; but through the years a general pattern establishes itself where the main portion of people trained for public office are drawn upon to be voted on by the people at the polls, and that general avenue determines the success and quality of men they choose, and I submit to you that the men who have been chosen for the chief executive and the assistant chief executive offices in the State of New York have been on the average good or better than any of the executives chosen in any states of our union. Therefore, I again urge that you seriously consider the plan the Committee has submitted. As you noted, I will submit the amendment after the word "election" stating that they will be elected jointly at a general election. Nominations then would be made in any manner prescribed by the legislature.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: May I address a question to Mr. Rivers?

PRESIDENT EGAN: You may, Mr. Victor Fischer.

V. FISCHER: I have been trying to find out when the New York system was adopted. I see New Jersey instituted its system of a single governor in 1947. When was New York's adopted?

V. RIVERS: The New York Constitution is an old one. It was amended in 1948 and then amended again to its present form with minor modifications in 1953.

V. FISCHER: Was the joint election of governor and lieutenant governor adopted in 1958?

V. RIVERS: I can't answer.

HURLEY: 1938.

V. FISCHER: Thank you.

McLAUGHLIN: I would like to ask Mr. Rivers, in the last quarter of a century, could he tell me which governors of the State of New York served as lieutenant governors or in any subordinate capacity in the cabinet in the State of New York prior to their

becoming governor? For your information Mr. Rivers, I'll give you the names. Thomas Dewey, Alfred E. Smith, Herbert Lehman and Franklin Delano Roosevelt.

PRESIDENT EGAN: Mr. Armstrong, would you take the Chair? (Mr. Armstrong took the chair at this time.)

EGAN: Mr. Chairman, I would like to say that I realize that the Committee on the Executive has put in a lot of days, a lot of hours, just simply a lot of time on this particular question. What they have come up with they feel is the best that is possible. I know that and give them every credit and I have respect for their feelings, but I have not been completely in favor of this type of provision at any time since it was under Committee discussion. I am opposed to having the man who would be next in line in succession to the governorship not actually elected in some manner by the people of the new state. I would like to say as to that that I also have that feeling with relation to the Vice Presidency of the United States, that I am not in agreement with that particular means that we now use and have used all along through our history in providing for the Vice President of the United States. This feeling does not conflict at all with my feeling on the national level relative to that question. I feel that as Mr. Victor Rivers has stated, that if such an amendment -- I voted for the deletion of Section 6 -- with that feeling in mind, that actually a secretary of state won't be running for any office. The people won't have one thing to say about who shall be secretary of state under Section 6 as I read it. Someone will choose that particular man and he will become as Section 6 reads, "the governor of the State of Alaska." Now, if as Mr. Victor Rivers has stated, he will offer an amendment that will definitely guarantee to the people of Alaska that the man who will become secretary of state will be elected by the people in a primary election, then I would agree with going along with Section 6 if I knew that that particular amendment was going to be offered, and that we were going to have a chance to vote upon that. I also don't agree with the line of succession, with the secretary of state being appointed. I can see no reason why we should not have Section 6 as it is as well as accepting an amendment that would allow the governor to pick his own successor. I am not any more in agreement with that than I am with Section 6 as it is written now. In thinking this over, I am also not in agreement with having an amendment produced that will let the direct line of succession go from the governor, say in the manner that was suggested, that the secretary of state if the governor died, would call the legislators into session and then they would select the governor. I am not in agreement with that because the people do not elect the representatives to the legislatures and their senators with the idea that one of their number will become the governor of Alaska. I think that the best idea so

far that I have heard is this particular proposal that we nominate, at least give the people some choice in the matter, it will be a real choice. Let them nominate the man who will run in the package with the candidates for governor in the general election. I think that that would be a proper means of allowing the people to elect their governor and also the successor to the governor. I would go along wholeheartedly with such a proposed amendment. That is my feeling on this question, and if I knew that that amendment was going to be adopted, I would then vote against the motion to strike Section 6 from the proposal.

CHAIRMAN ARMSTRONG: Mr. Hellenthal?

HELLENTHAL: May we have a five-minute recess?

V. RIVERS: I object. I wanted to just make a statement to Mr. Egan to this effect, that I had such an amendment on my desk. Out of deference to the fact that Mr. Buckalew had submitted an amendment and had then withdrawn it, I felt that he had precedence last evening in presenting this amendment, so I allowed him to present it before I put this one on the floor for the reason I felt he had precedence in his original submission and withdrawal.

CHAIRMAN ARMSTRONG: I believe if we would recess until 10 o'clock we could probably get this worked out. The Convention is at recess.

RECESS

ARMSTRONG: The Convention will come to order. Mr. Egan?

(President Egan took the Chair at this time.)

PRESIDENT EGAN: The Convention will come to order. Mrs. Nordale.

NORDALE: Mr. President, I think that Mr. Davis put his finger on the problem when he said it was a matter of do we want to elect a secretary of state or do we want to appoint him. I am not too sure just how strong my convictions are, but I would like to say this, that one of the problems that has faced most of the states, and I think one of the reasons why there has been a swing away from elected officials is that for one thing, as the years go by the ballots become cluttered with elected officials. Of course, ours does not look as if it would be in much danger, except we do have our election of senators, representatives, and at least three members of Congress to elect plus initiatives and referendum and all that sort of thing, but the swing toward the appointment of officials has been to keep some sort of coordination in government. Any man elected by the people is pretty independent, and that is why you have a lack of coordination in government where you have a lot of elected officials. Another thing is that the voters become apathetic as time goes on and pretty soon you

have a small percentage of people electing your officials, whoever they may be. One reason I don't think we should be too fearful of the governor's making a bad appointment is that we are giving him the authority to make all the other appointments. The secretary of state is actually an administrative official, really. Normally he has a lot of administrative functions, just as our present Secretary of Alaska has. He does not have to necessarily have the qualities that would make him a good governor, although he should be in very close touch with the governor as he would be under our thinking here, so that in the event of an emergency the executive department would continue to run smoothly when the governor was absent. So there is a good deal to be said on both sides, and so it seems to me it does boil down to just one thing, do we want the people to elect this man or do we want him appointed?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, when the vote on the Buckalew amendment was announced, I was amazed. Do you remember when we were considering the initiative and referendum, how this body went wholeheartedly for allowing the people to have a hand in their government? It seemed to be the feeling of the assembly at that time that they should be allowed to initiate laws on their own without going through the legislative process. They should be allowed to recall officials and that certain matters should be referred to them by the legislature or the governor on occasion. Now the pendulum has swung the other way. We don't want the people to have a say in it at all. If we adopt this amendment of Mr. Buckalew's it will be the same as abolishing the republican form of government. It is true there is one official elected, only one, and he will be surrounded by his appointed satellites, and I would call that a dictatorship, in a mild form at least. Of course, his term runs out, but while he is in office it is a dictatorship. Now, it goes farther than that. If he appoints a secretary of state and the secretary of state succeeds him, he is appointing his successor. That is not done anywhere else under the American flag. It has been done in some South American countries. They tried to do it in Russia but one or the other of them is assassinated. That is not the American way. A dictatorship or ruled by one man, even if you don't call it a dictatorship, is efficient. The government can move quickly to accomplish anything. It is much more efficient than our usual government, but that is all that can be said for it. The American people have always chosen to elect their high officials, even if there are some disadvantages. They believe that it is worth it to have a say in their own government, and it is worth it in Alaska, too. I believe that the people should be allowed to elect more than two; not too many, we don't want

to clutter up our government with elected officials whose interests might run counter to those of the governor, he should be able to work with his own team, but there is some point at which we must stop. If we do reconsider -- Mr. Rivers has an amendment -- I would like to point out that is a committee amendment. It was not just approved by one man, and we believe that it will correct a situation in that it will insure anyone being able to file in the primaries for the position of secretary of state without the necessity of the governor handpicking the candidate. I believe that we should vote to reconsider and vote against the Buckalew amendment.

PRESIDENT EGAN: Mr. White.

WHITE: I will be brief. I agree with the line of demarcation as drawn by Mr. Davis and Mrs. Nordale. I think the thing to get settled here is whether we want an elected or an appointive secretary of state. I think the reason we got into this discussion probably was because the Committee compromised between a strong executive on the one hand and trying to give the voters another elected official on the other and I think we came out in all good faith, but as most compromises, it is something that is neither fish nor fowl. In answer to Mr. Boswell, I think it has been shown you can go the route of having a secretary of state elected; you can have candidates run in the primaries for governor and for secretary of state in both parties and then you can go on and say, pair up the highest in each race for each party and run them against each other in the general election; then you could have a truly elected secretary of state. The only trouble is that that promptly runs counter to the theory of the strong executive. As far as I am concerned, I don't have too strong of feelings one way or another, but this certainly has to be thrown in one direction or another. It appears to me that the Committee, in their anxiety to get this section back in, is talking more and more against the theory of the strong executive. I really feel that some amendment such as Mr. Hellenthal has suggested is more in keeping with the Committee's theory of the strong executive.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I have not spoken on this thing so far, and it occurs to me that maybe it is a matter of wording in our arguments here. I don't think the question is simply a matter of electing or appointing a secretary of state nor one of a strong or weak executive department. I think it goes a little further than that. In my mind it is a question of a very strong or a strong executive department. The word "strong" is a relative term. Certainly if we elected both officials at the general election separately we would have a stronger executive

department than a great many states do who elect a dozen or so officials, so it is a relative term. Now, I think our executive government will be strong enough if we reconsider our previous action and adopt a method by which the people will elect the governor and secretary of state at the primary election; as Mr. White said, at the general election pair them off and put them in which will guarantee them being at least from the same political party, so I shall vote differently than I did before and vote against the Buckalew amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: I'll speak once and forever more on this subject. To me, I feel that the Committee's plan is the best. We are talking about one thing, we are talking about the governor and his successor. The probability of a successor is possible but in general we can assume that the elected governor will carry out his term. There is a great deal of emphasis placed on the secretary of state becoming the governor. Now what we are talking about is efficiency in the state government, and we are selecting our man by the voice of the people and they are selected on a popularity basis with efficiency as a second regard. We try to get the most efficient man that is popular. In the Committee plan I do believe that you will receive the most efficient secretary of state, because if he is selected and if he is unpopular, it will be a detriment to the man running as governor. I believe like Mr. Nerland, I believe that in selecting a secretary of state we must select him for popularity but primarily for efficiency, which is the purpose of the whole executive department.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I support the Buckalew amendment and in turn the proposed amendment which Mr. Hellenthal is trying to submit. I feel that this issue is entirely a political issue within parties. I can see that under the particular system that we have here that we are just trying to pull a veil over the voters' eyes as to allowing them to elect a secretary of state because it ties them too closely to the governor. I could see that in a political convention that this Section 6, as written, would enable a party to set up a fairly strong piece of political machinery. I can't see where the primary election would do so good because we all know there are factions in political parties, and you know that from time to time in our past history we have had very strong feelings and splits in both major parties in Alaska, so I can see where we would have a strong man of one faction running for secretary of state and a strong man of the other faction running for governor, and if they were tied together

in the general election it would not give you your Utopia of a strong executive. I feel that by appointing, that your governor-elect or your governor that becomes elected, would be more or less the leading figure of the political party that gained control of our government, and feel that to this end he should have the prerogative of choosing his own cabinet or major officials.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, along the lines of information as to what a proposed amendment will be if Section 6 is restored, I have drafted this at the request of the Committee.

McCUTCHEON: Point of order, Mr. President. It seems like we are getting too far afield from the matter at hand. I think we should vote on this thing. Everyone understands that there are going to be a number of amendments submitted to adjust this to what we hope will be acceptable to all. My point of order is that if we get aside and start reading a lot of other amendments and other material that don't pertain to the question at hand, I think we are just wasting our time.

PRESIDENT EGAN: As to your point of order, Mr. McCutcheon, we had gone on the assumption that this was so important that we allowed other amendments to be read by general consent. Mr. Ralph Rivers.

R. RIVERS: Just for information, others have given information; I would like to give a little on behalf of the Committee as to what to look forward to if Section 6 is restored. Section 6, line 20, on page 2, after the word "governor", insert "he shall be nominated in the manner provided by law for candidates for other offices", and then we retain the rest of the section. That would mean that on any primary election system every candidate runs on his own candidacy. The secretary of state would run as provided by law for all other candidates, and if they ever abolished the system of primary election and went back to the convention system, your language would still be broad enough to make it flexible.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would like to say just a few words now. I think the matter of efficiency could be carried too far. If we wanted efficiency in government we possibly should hire a governor as well as the other officials. I think the people should have a chance to elect their governor and the second in succession and for that reason I would be against the Buckalew amendment, and

would be in favor of Section 6 provided it could be corrected so that the people have a choice of who is nominated.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I have not spoken upon this matter before. I believe there has been a misconception as to the meaning of Section 6. I have been against the Buckalew amendment because I felt that the Section 6 possibly could be amended so that the objections that have been voiced to it could be met. Now, my thinking upon this particular matter is that the secretary of state would be nominated by his political party in the same manner that all other elected officials of the Territory would be selected; that is, at the present time we have the primary system and the person would be selected in the primary. He is selected in the same manner as the legislators and as the governor. Whoever chose to run for secretary of state upon the Republican party or for the Democratic party would be entitled to file his application or his nomination papers the same as anybody else and then after the primary election the man having the highest number of votes in that party would be automatically paired with the man who received the highest number of votes for the nomination for governor, and they would run as a unit but not individually, so that a vote for the governor would be a vote for the secretary of state. So now, after listening to all this argument, after talking to quite a number of the members yesterday and this morning, I think that there was a thought in the minds of many that the secretary of state was going to be a handpicked man. But I have never had that interpretation of it. If I felt that the secretary of state was going to be handpicked, the people were not going to be allowed to select that secretary of state by our system of nomination which at present is by the primary, I would be against Section 6, but where he is going to go on the ballot of the general election, how would he get on that ballot unless he was selected by the people in the primary? It is the only way he could do it. Now I have cooperated with Mr. Rivers here in that amendment. I think that should remove all objections here so that he could be nominated in the same manner as all other elected officials of the Territory, and then we can put in there that after nomination the man receiving the highest number of votes in the primary for secretary of state would be paired with the man receiving the highest number of votes for nomination for governor, and they would run by unit or along that particular line. I think that removes the objection of every person in this Convention, and I think an amendment along that line would meet with approval and get this matter settled and I think the only way to do it is to vote down the Buckalew amendment, and we'll get a new start by amending that Section 6,

and get it back in there as amended.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I have heard a lot about this Buckalew amendment. I am not ashamed of the amendment even though one of the delegates referred to it as the "totalitarian amendment". I don't think I am a fascist because I introduced that amendment. If I said anything which was intemperate I apologize to this body, but I feel pretty strongly on this particular matter, and I seem to have strong feelings on practically everything that comes up on this floor. Maybe I got that from my mother. I don't know, but if I were the Chairman of this Committee and I had Mr. Hellenthal's amendment offered to me, and I had talked consistently and long for a strong executive, I would support Mr. Hellenthal's amendment without reservation. Now, I think that the Chairman of this Committee has got himself in an untenable position because even though we amend it according to the amendments that have been offered, you are going to, in effect, destroy the strong executive because we all know that in Alaska my party, which is the Democratic party, has splinter groups in it. The Republican party has splinter groups in it, and I can envision that you will have a secretary of state, although he is running under the same flag, who will be miles apart, and I support Mr. Hellenthal's proposed amendment, and I am for a strong executive, and I go along with Mr. Rivers' thinking on this matter to its logical conclusion. I think they should all be appointed.

SWEENEY: May I just have a few words to close, since it is my motion?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I just wanted to say that I want to have a secretary of state elected. I want him compatible with the governor. I want him nominated in the primary and I want him teamed with the governor in the general election. That is all I want, and I do not believe that it is destroying the strong executive. To talk about splinters in either party, I think if you did happen to get one from one faction or one from another, it might be just the thing that would cement your party, and I hope you vote down the Buckalew amendment.

R. RIVERS: Mr. President, point of clarification. Will the Chair explain what a "yes" vote means and a "no" vote means.

PRESIDENT EGAN: Yes, Mr. Rivers, the Chair will. The question is, "Shall the proposed amendment as offered by Mr. Buckalew be

adopted by the Convention?" Now if you vote "yes" you delete Section 6 from the committee proposal. If you vote "no" you retain Section 6 in the committee proposal. Mr. Robertson.

ROBERTSON: Mr. President, we have not voted on the reconsideration.

PRESIDENT EGAN: The moment Mrs. Sweeney moved her reconsideration it brought Section 6 before us automatically for debate, the amendment in its original form, and to vote "yes" you vote to delete Section 6 and if you vote "no" you vote to retain Section 6 in the proposal. The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 9 - Buckalew, Coghill, Emberg, V. Fischer, Kilcher, Lee, Poulsen, Sundborg, White.

Nays: 46 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Tavlora, VanderLeest, Walsh, Wien, Mr. President.)

CHIEF CLERK: 9 yeas, 46 nays.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption.

SUNDBORG: I move and ask unanimous consent that we recess until 10:45 a.m. sharp.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, for the purpose of announcing and recognizing that in the gallery we have the Commander of the Veterans of Foreign Wars of the Department of Alaska, and the Department Service Officer, James Brunette.

PRESIDENT EGAN: Commander Brunette, we are happy to have you here with us. The Convention will stand at recess until 10:45 a.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hilscher.

HILSCHER: Mr. President, the Constitutional Convention has in the hall at the present time Sir Hubert Wilkins. He is not only a noted Arctic explorer, but he is one of us insofar as the first honorary doctor's degree, which he has accepted, from our own University of Alaska. I ask unanimous consent that Dr. Sir Hubert Wilkins be given the privilege of the floor at this time and be permitted to make some remarks.

PRESIDENT EGAN: Dr. Wilkins, we will be happy to hear from you.
(Standing applause)

DR. WILKINS: Ladies and gentlemen, I might pull an old boner and say this is an unexpected privilege, but I feel sure that all of you Alaskans have met with unexpected privileges since the time you arrived in this country, and all of us who are interested in Alaska are expecting many privileges as a result of your meeting here today, and because all the people that I meet in traveling around the various states of the Union and in other countries as well are turning their attention to this part of the world realizing its importance. I find that when people ask me to speak at public meetings they welcome the title I give them, and that is the "Importance of the Arctic in World Affairs." I believe this is a stage where the importance will be spread through the wide world, and its significance will be understood. I am looking forward as you are to the development. I am only too sorry that my time does not permit me to spend more of my work in Alaska, do more here for you, but you can be assured that my sympathy is with you and every opportunity I have I will try to help with what you are trying to produce in this great country of yours. It is a great privilege to be here and I want to thank you very much and very sincerely for this recognition. (Standing applause)

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, in line with the remarks made before the last motion was voted on, to effectuate the ideas submitted and discussed in Committee and on this floor, I will submit an amendment at this time.

PRESIDENT EGAN: You may submit your amendment, Mr. Rivers.

V. RIVERS: It is the committee amendment, Mr. President.

PRESIDENT EGAN: The Chief Clerk will please read the proposed committee amendment.

CHIEF CLERK: "After the period following the word 'governor' on line 20 of Section 6 insert the following sentence, 'He shall be nominated in the manner provided by law for nominating candidates for other elective offices.' Delete the word 'election' on line 21; line 22, after the word 'law', insert 'for general elections'."

PRESIDENT EGAN: What is your pleasure, Mr. Victor Rivers?

V. RIVERS: I will move and ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection?

HELLENTHAL: I object.

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I might say this brings the matter up in regard to the election of the secretary of state in such a manner that he shall run in the primary in the same manner that the law shall provide for all other elective officials to run. It still also ties him into running on the joint ballot with the candidate for governor nominated for his party at the general election. That was the intent in discussing this that he would be nominated by the people.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Miss Awes.

AWES: I have an amendment, Mr. President.

PRESIDENT EGAN: You may present your amendment, Miss Awes. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 18, page 2, strike the words 'secretary of state' and substitute 'lieutenant governor'; line 21, strike from 'and' through word 'governor' ending on line 2, page 3; line 2, page 3, strike 'secretary of state' and substitute 'lieutenant governor'; lines 4, and 5, page 3, strike words 'secretary of state' on both lines and in each case substitute 'lieutenant governor'."

AWES: I move the adoption of the amendment.

PRESIDENT EGAN: Miss Awes moves the adoption of the proposed amendment.

BUCKALEW: I second the motion.

LONDBORG: May we have it read again, please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

AWES: Some of the delegates here were perhaps surprised at the amendment thinking that the idea of a lieutenant governor had been completely buried. That is what bothered me. I am afraid that the idea of a lieutenant governor was buried perhaps too soon. The only argument I have heard is that the lieutenant governor does not play too important a role and it costs money; therefore we should do away with him. Yes, it does cost something to have a lieutenant governor; you have to pay him a salary; you have a few extra lines on the ballot; you have to provide an extra room in the statehouse. When you come down to it, it costs only a drop in the bucket for the total cost of running a state. Therefore, I think the question is not what does he cost, but does he serve a purpose? I think he would serve one very real purpose. I agree we should elect a successor to the governor. I think Alaskans have been so fed up in the last 50 or 75 years with appointive governors that they don't want to hear the word again. However, it bothers me considerably to elect the secretary of state. I don't think we should put over what some people call a package deal and give the people the form of electing a secretary of state without the choice. On the other hand, to elect the secretary of state independently, we know there are not only different parties in Alaska but there is a lot of factionalism in the parties, and if you get a lieutenant governor who is of a different faction than the governor, because he isn't too effective while serving as lieutenant governor it would not make too much difference, but the secretary of state is right-hand man to the governor, and if you get a secretary of state who is of a different party or of a different faction in the same party, he can hamstring the governor and make our whole government ineffective for the whole four years he is in office, and I think the fact that we want a strong executive makes the problem even more pressing, and therefore I suggest that we consider or reconsider, as the case may be, the idea of having a lieutenant governor in the State of Alaska.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Miss Awes be adopted by the Convention?" Mr. McLaughlin.

McLAUGHLIN: I am a bit confused. Would the secretary read the section as it would read if it were amended.

PRESIDENT EGAN: Would the secretary read the section as it would read if it were amended.

CHIEF CLERK: "There shall be a lieutenant governor who shall have the same qualifications as the governor. He shall be nominated in the manner provided by law for nominating candidates for other elective offices. He shall be elected at the same time and for the same term as the governor. The candidate for lieutenant governor who runs jointly with a successful candidate for governor shall be elected lieutenant governor. The lieutenant governor shall perform such duties as may be prescribed by law and as may be delegated to him by the governor."

PRESIDENT EGAN: Mr. Riley.

RILEY: I would like to address one question to Miss Awes. In distinguishing between the two titles did you mean to distinguish between duties in your discussion, Miss Awes?

AWES: Yes, I did. I was proposing a lieutenant governor in the traditional sense and then have the usual appointment of secretary of state by the governor to perform the duties of a secretary of state.

RILEY: In the last sentence of the section, did you propose to submit another amendment in that respect?

AWES: Frankly, I did not know whether to strike that sentence or not, so for the time being I left it alone. If it is confusing it should be stricken because I am proposing a lieutenant governor in the traditional sense.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: "The candidate for the lieutenant governor who runs with the successful candidate for governor shall be elected" -- in leaving that sentence in, did you mean to retain the original idea that the two would run together at the general election? You struck that earlier part -- I just wondered what your thinking was.

AWES: I think maybe that sentence should be stricken too because I think the lieutenant governor should run independently the same as any other officers on the ballot.

PRESIDENT EGAN: You ask that one of the sentences be stricken?

AWES: Yes, I think the sentence Mrs. Nordale referred to: "The candidate for the lieutenant governor who runs jointly with the successful candidate for governor shall be elected." I think that should be stricken also.

PRESIDENT EGAN: Is that on page 3?

AWES: First sentence beginning on page 3.

PRESIDENT EGAN: You ask that the deletion of that sentence be added to your proposed amendment? Is there objection? Mr. White.

WHITE: Mr. President, I was confused. I think maybe now I am straightened out. You intend it to be possible for a governor to be elected from one party and a lieutenant governor from the other party?

PRESIDENT EGAN: Miss Awes.

AWES: Well, I think the two officers should be elected independently. I don't know too much about election procedures, I will frankly admit and the main thing is to get the idea of an independent lieutenant governor as they have in other states, before the people. As to procedure, if somebody wants to make further amendments to this section, I have no objection, but that was my idea that we have a lieutenant governor in the traditional sense as they have in most states.

WHITE: As your amendment now stands, it is distinctly possible to have a governor elected from one party and a lieutenant governor elected from another party, unless it is further amended?

AWES: As a practical matter I don't think that is apt to happen.

WHITE: But it is possible?

AWES: Yes, I think it is possible.

PRESIDENT EGAN: The addition to the amendment has been adopted and that is that that sentence on page 3, "The candidate for the secretary of state who runs jointly with the successful candidate for governor shall be elected secretary of state." That sentence has become a part of Miss Awes' original amendment. Mr. Taylor.

TAYLOR: I was just going to ask if the Chief Clerk read into this section the amendment that was just adopted.

CHIEF CLERK: Yes.

TAYLOR: And I would like to ask Miss Awes one question if I could through the Chair.

PRESIDENT EGAN: You may, Mr. Taylor.

TAYLOR: Miss Awes, then you intend to offer a further amendment in this matter so that if you elected the lieutenant governor, then you will make other amendments in Section 7 where the secretary of state is named?

AWES: Yes. There would have to be some changes made in Section 7. If I may, I would like to request about a two-or three-minute recess and ask unanimous consent.

PRESIDENT EGAN: Is there objection to the Convention standing at recess for two or three minutes? Hearing no objection, it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. Miss Awes.

AWES: If nobody else cares to speak, I will make my closing remarks.

BUCKALEW: Mr. President, I seconded Miss Awes' motion so I wanted to speak on it. I had no objections to changing the title of secretary of state to lieutenant governor, using the same machinery that we had, but as I understand Miss Awes' position now, he should run independently and perhaps even be of a different political party. I think that Miss Awes' amendment should be promptly voted down.

PRESIDENT EGAN: Mr. Barr.

BARR: I have always been a supporter of statehood, but, of course, I have always presumed that good sense would prevail, and in our first days of the statehood we would run it on a rather economical basis, and I would like to point out that Mrs. Hermann has stated that the chief objection to statehood by those who are against it has been the cost of supporting a state government. Now, if we had a lieutenant governor who, in the traditional method, has been nothing but a figurehead drawing a high salary, add that expense to the greater number of legislators provided, and the people reading this constitution, going to the polls to ratify it, I am afraid it will turn them against it. Now, if we merely change the title, if we take this same section and make the lieutenant governor a working man, give him the same duties as the secretary of state, but call him a lieutenant governor, that is still bad for the same reason that

people know what a lieutenant governor is. Traditionally throughout the United States he is a figurehead, and I'm afraid they won't quite absorb this and they will think we are putting a man on the payroll to do nothing. They might understand the title, secretary of state. A secretary usually works I know our secretary does. I think this is bad policy all the way around. We should support the section as it stands.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Yesterday, during all the debate here I think there was no one that spoke about a lieutenant governor unless they mentioned it was a front, you might say a public relations man in a way, and some referred to it as a sinecure, and I believe that that connotation as to lieutenant governor has been perhaps deserved in many instances. So I think now if we would set up a lieutenant governor by this amendment of Miss Awes we are just adding, you might say, a cushy job to somebody as a sinecure just for the purpose of having the name, but we still have to appoint a secretary of state to do the work that is contemplated under the way the section is now without any further expense. I think it would just be an added expense and an unnecessary officer in the state government if we adopt this amendment.

PRESIDENT EGAN: Miss Awes.

AWES: I will make a few remarks in closing. I think that the question was asked and the remarks made indicate some confusion as to the purpose of my amendment. In the first place, I think that I answered in my opening argument Mr. Barr's objection to the cost. I agree we should not create offices just to run up the cost of government, but I think that first we should consider, is this an office that we need? Does this office serve a purpose? And I think it does, and again, as Mr. Barr said and Mr. Taylor perhaps indicated, I just wanted to change the name from lieutenant governor to secretary of state and let the lieutenant governor perform the functions of the secretary of state. There is nothing further from my mind. The whole idea is that I think we should elect not only the governor, but also the successor to the governor, but I don't think that that successor who may be somebody who opposes the governor in policy should be the righthand man to the governor as the secretary of state probably will be. Therefore, I do think the lieutenant governor does serve a purpose. Now the question has also been raised, would it be possible to have a lieutenant governor of another party? I think perhaps it is possible. I think that the way it is set up in the states that it is possible. As a practical matter I don't think it will often happen, and if somebody could provide an amendment that would assure that the people elected a lieutenant governor -- not just in form, but actually a lieutenant governor

and still of the same party I would be the first to vote for such an amendment. I personally don't know how to do it, but I think the danger of having the two of separate parties, which won't happen very often, is still preferable to either not allowing in actuality the people to elect your successor to the governor or to let them elect independently someone who may hamstring the governor for four years.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Miss Awes be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "yea", all opposed "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: I now move reconsideration of my vote on Mr. Robertson's amendment to Section 2.

PRESIDENT EGAN: Mr. Ralph Rivers now moves reconsideration of his vote on Mr. Robertson's amendment to Section 2.

HELLENTHAL: I thought we were considering Section 6.

PRESIDENT EGAN: The move for reconsideration, Mr. Hellenthal, is in order at any time that the maker or the person who served notice so desires.

CHIEF CLERK: "Section 2, after the word 'states' on line 5, insert 'and of this state'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, after I voted for recognizing state citizenship yesterday, Mr. Buckalew came up with that rare stroke of brilliance which pointed out that thus far we have not been citizens of any State of Alaska; we are a Territory. Therefore, we have only enjoyed citizenship as citizens of the United States. After we injected in here that you had to be a citizen for seven years, a citizen of the state for seven years, we would be all disqualified to be governors for seven years, including the various proponents of that at the outset, and Mr. Buckalew said we had "pulled a boner" or words to that effect. I thoroughly agree with him. After we stop and analyze this thing we would have to wait seven years to be eligible in this particular respect, and it only confuses the matter. He said this was going to cause a lot of trouble and I think it would. So the purpose of the reconsideration is to have us vote again on that particular amendment. Mr. Robertson tried to withdraw it but encountered objection and it went to vote and we voted to insert "and of this state", but without fully comprehending what we did at that time, so I urge that we vote the opposite way this next time.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: I don't feel too strongly. I would like the term "citizen of the state" to be left in. Whether it makes any difference or not -- the ordinance of transitional measures will contain an ordinance to the effect that citizens of the United States residing in the Territory of Alaska will become citizens of the state. That is one of our general clauses along with the continuation of laws, so that particular point will be provided for. Now, if it is the wish of the delegates to also provide for it here, it would have no effect either way.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. President, I supported merely an assertion somewhere in the constitution of the principle of citizenship in the State of Alaska. I don't concur with Mr. Ralph Rivers that we imposed the requirement of seven years' state citizenship as a condition for nomination for the elected governor, but I will gladly agree and fully at this point with Mr. Ralph Rivers because of Mr. McNealy's statement that recognition of state citizenship is given in transitional matters.

PRESIDENT.EGAN: I wonder if it would be in order if the Chief Clerk would read Section 2 in its entirety as it would appear at this time.

CHIEF CLERK: "The governor shall be not less than thirty years of age, and shall have been for at least seven years a citizen of the United States and of this state and a resident of this state seven years next preceding his election."

HELLENTHAL: I think that displays some weakness in our system here because it was only through the timing that that clause got inserted after the words recognizing United States citizenship because when the vote was taken we merely voted to recognize state citizenship. There was no qualifying language on it at that time, so it is merely a procedural weakness.

PRESIDENT EGAN: Miss Awes.

AWES: I spoke yesterday against using the phrase "citizen of the state" in Section 2, and I will speak again against it today. My argument is pretty much a legal argument. The whole question of residence, domicile and citizenship is one of the most confused in the law. We have not been as concerned about it in the past as we will be when we get statehood because in the past we haven't been a state and there has not been this interrelation with other states. But the Constitution of the United States says that, "A citizen of the United States shall be a citizen of the state wherein he resides." Therefore, before we put in the

words "a citizen of the state" we provided that he would have to be a citizen of the United States and a resident of the state, and then by virtue of the words in the Fourteenth Amendment of the Constitution he thereby becomes a citizen of the state. I know enough about court interpretation to know that the court is interpreting a section of either a constitution or a statute, they say that the words were deliberately put in, they must mean something. They will say, "These people who drew up this constitution must mean something. What did they mean out of the ordinary in the words 'resided' and 'citizens'." It seems to me that there are two things we can accomplish by putting the words "citizen of the state" in there. We can cause confusion and we can make additional work for the lawyers for the next 50 or 100 years. I can't see we accomplish anything else. Yesterday, just before we voted, it was said that these words were used in two new constitutions, New Jersey and Hawaii. I got these two constitutions since we voted and I read them. In the qualifications for governor the language used is almost identical with what came out of the Committee. The particular sections in which the words "resident" and "citizen" were used in each case were dealing with an entirely different matter, and I don't think had any bearing on the particular problem before us.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I would like to point out in studying the article that the Executive Committee has put out, in Section 16 on page 7, they have provided that the heads of principal departments appointed under this division shall be citizens of the state and shall have resided in the state for at least three years next preceding their appointment. I would like to address a question to the Chairman of considering this provision at that place.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, it seems to me that it is at the appropriate place now. The "citizens of the state" was adopted prior to the adoption of "seven years citizenship of the United States", and after considering, as we have, the insertion of those words and hearing the arguments against the insertion of those words, I think they should be removed and possibly right at this time is the best time to do so.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The language of the Federal Constitution is brief and clear on this subject, and I think makes it unnecessary to have Mr. Robertson's amendment in the article. It says in the Fourteenth Amendment, "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of

the United States and of the State wherein they reside."

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, the only question that arises in my mind when we do attain statehood is, is there some fashion devised in some of the documents that are under consideration or will be under consideration wherein our residence in the Territory of Alaska carries over into residency of the state? If it is written up here that he must be a resident of the state, obviously we could not have any government until everybody had been here for three or five or seven years. The question is, in my mind, should we be a resident of Alaska to make it clear? Or is there a legal device in this constitution that will make a carry-over of residency into statehood?

BUCKALEW: The transitional measures will take care of that residence question.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I would like to call the delegates' attention to the fact that when I first offered this amendment I was going to insert it right after the words "shall be", and then Mrs. Nordale and Mr. Rivers asked me to put it in its present place, which I did, and my idea was not to make it citizen of the state for seven years, but to have him as citizen of this state. Now I submit to you, despite what the Constitution of the United States says, and I recognize its authority and its correctness, that you can be a resident of a state without being a citizen of that state and unless you have some qualifying language, modifying language of the word "governor", a person can become governor of Alaska under this section who is not a citizen of the State of Alaska.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, we originally included the word "citizen" as one of the qualifications for judges in the judiciary article as a requirement that he be a state citizen. I agree substantially with everyone in the place who has spoken on the subject of citizenship and to support Mr. Robertson among others, I will quote after the adoption of the Fourteenth Amendment they had cases that say, "The term 'citizen' is distinguishable from 'residence' or 'inhabitant'. One may be a citizen of a state without being an inhabitant or an inhabitant without being a citizen." They cite Travis against Yale and Towne Manufacturing Company, 252 US 60, which was decided long after the Fourteenth Amendment. Frankly, I am now in agreement with Mr. Rivers that if we put it in there now we will thoroughly

and thoroughly confuse because the word "citizen" and "citizenship", however, usually include the idea of "domicile". We are running around in a circle for the sake of clarity, and to save confusion, I recommend very strenuously, since there is so much debate and so much confusion, the words "citizen of the state" be stricken from the article.

PRESIDENT EGAN: We have before us the proposed amendment that has been offered by Mr. Robertson yesterday, and the question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" All those in favor of the adopting of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Johnson.

JOHNSON: Is this section still open for amendment?

PRESIDENT EGAN: At the present time we had reached Section 6. We will come back to that. Are there other amendments to Section 6?

HELLENTHAL: I have an amendment to Section 6.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment to Section 6 as offered by Mr. Hellenthal.

CHIEF CLERK: "Line 20, strike everything after 'nor' through 'state' on line 4, page 3, and substitute the following: 'He shall be appointed by the governor.' And on line 5 insert 'administrative' before 'duties'. Section 7, line 12, page 3, delete the words 'person elected'."

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal?

HELLENTHAL: I ask that the Secretary read Section 6 as it would read if this amendment is adopted. I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second?

MARSTON: I second the motion.

PRESIDENT EGAN: The Chief Clerk may read the section as it would read if Mr. Hellenthal's proposed amendment were adopted.

CHIEF CLERK: "There shall be a secretary of state who shall have the same qualifications as the governor. He shall be appointed by the governor. The secretary of state shall perform such administrative duties as may be prescribed by law and as may be delegated to him by the governor." And then down in Section 7 take out the words "person elected" on line 12.

PRESIDENT EGAN: The motion is open for discussion. Mr. McCutcheon.

McCUTCHEON: Point of order, Mr. President. As a matter of fact, he is seeking to amend two sections at the same time with one amendment. I have no objection; it is just a matter that I want to be sure we are not going to establish a precedent here by amending the whole article at one time.

PRESIDENT EGAN: It is an amendment that directly relates to this particular question, Mr. McCutcheon.

McCUTCHEON: I will yield.

PRESIDENT EGAN: Mr. Barr.

BARR: I thought maybe somebody wanted to talk on this. I don't particularly.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The "noes" have it and the proposed amendment has failed of adoption. There again the Chair noted that very few people voted; I mean the number that could have voted even in adopting the proposed amendment, while it was in the majority, it was easy to tell that lots of people did not vote at all. Are there other amendments to Section 6? Mr. Sundborg.

SUNDBORG: Mr. President, just on that point, I wonder, is it not the duty of every person to vote on every question whether it is a voice or roll call vote?

PRESIDENT EGAN: That is right, Mr. Sundborg. It is the duty of every delegate to vote on the voice vote same as a roll call. Mr. Kilcher.

KILCHER: Are we going to question Section 7 now?

PRESIDENT EGAN: If there are no other amendments to Section 6.

KILCHER: I just wonder whether Section 6 as it stands now is expressing what I understand to be the intent of the majority of the delegates. I for one am not seeing the issue clearly. I think we lost a lot of time and accomplished little this morning and last night. I don't know if that could be achieved.

GRAY: Point of order. What is the discussion before the floor?

PRESIDENT EGAN: There is nothing before the house. Mr. Kilcher.

KILCHER: Question of the Chair, if I so may. Since the next sections are tied in somewhat with Section 6, I think we should now frankly consider if any amendments are necessary. I have none.

PRESIDENT EGAN: You mean to make these other sections conform with Section 6 as they now read?

KILCHER: Yes, and to make the intent that has been generally expressed here implemented. I am frankly confused.

HELLENTHAL: Point of information. Could Section 6 as it now reads be slowly read to us so we can take it down? Could you read it slowly so I could take it down?

CHIEF CLERK: That is right there in the copy.

HELLENTHAL: My copy is so butchered up I have no place for insertions.

CHIEF CLERK: "There shall be a secretary of state who shall have the same qualifications as the governor. New material. "He shall be nominated in the manner provided by law for nominating candidates for other elective offices. He shall be elected at the same time and for the same term as the governor and the procedure prescribed by law." Delete the word "election". "The procedure prescribed by law for general elections shall provide that the electors in casting their vote for governor shall also be deemed to be casting their vote for the candidate for secretary of state shown on the ballot as running jointly with the respective candidate for governor. The candidate for secretary of state who runs jointly with the successful candidate for governor shall be elected secretary of state. The secretary of state shall perform such duties as may be prescribed by law and as may be delegated to him by the governor."

PRESIDENT EGAN: The Chair feels that the question that was asked by Mr. Kilcher was, are there any other necessary amendments to the following sections in order to make them conform completely with Section 6 as it is now written. Is that right?

KILCHER: Yes, Mr. President. Is this the first time we are going over this? Are you going over it again?

PRESIDENT EGAN: We will attempt to go over it once more. Mr. Cooper.

COOPER: In Section 7, starting on line 15, "In case of a vacancy in the office of governor because of his death, resignation, impeachment, or removal..." -- there is no mention made of temporary absence.

BARR: Point of order. I believe our usual procedure is to have the chairman of the committee explain the section. I know in this case it would answer Mr. Cooper's objections.

COOPER: I was just going to get to that. There was just one more thing I wanted to add to it. It was discussed yesterday and you asked if there were other amendments. Nobody got to their feet. Temporary absence should be covered in this section.

BARR: Look at line 19. If we could have the Chairman explain this Mr. Cooper would have his objections answered.

PRESIDENT EGAN: Of course, the Chairman has explained the whole proposal.

COOPER: May I have the floor on a point of personal privilege for one minute?

PRESIDENT EGAN: If there is no objection, Mr. Cooper.

(Mr. Cooper spoke on a matter of personal privilege at this time.)

COOPER: My reason for bringing this up is it states that the emoluments of the office of governor shall devolve upon the person elected secretary of state. He will get a higher rate of pay for serving during a temporary absence?

V. RIVERS: We discussed this yesterday and if you will notice in line 20, it says, "the powers and duties shall devolve upon the secretary of state. I believe it was Delegate Gray that made the suggestion that those words be changed: "Secretary of state shall become acting governor." That is only in case of temporary absence. That would cover your doubt, would it not?

COOPER: Yes, sir.

V. RIVERS: I was just drafting that amendment at this time to submit to the body. We talked this over at some length in Com-

mittee, and as I explained yesterday, I thought the words, "powers and duties" covered it. I see no objection to specifically stating that, "The secretary of state shall become acting governor", and I think I speak for the whole Committee when I say that I do not believe they would object to the wording either. It was your suggestion, was it not, Mr. Gray, along the same line as Mr. Cooper is speaking?

PRESIDENT EGAN: You have such an amendment to offer at this time, Mr. Cooper? Mr. Rivers?

V. RIVERS: I have it written out except for a couple of words.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: May I ask a question? Line 17, the word "impeachment" appears. Is conviction on impeachment, is that the same thing? Is impeachment only the process of leading toward conviction?

PRESIDENT EGAN: Mr. Rivers, do you have the answer on that?

V. RIVERS: I think I do. The actual act of impeachment is the actual removal from office. The motion for impeachment is brought and the hearing is had, and the impeachment itself, as I understand it, constitutes the actual completion of the process. There might be others who would care to add to that or differ from my interpretation.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: It looks to me that this matter is taken care of as clearly as it possibly could be.

PRESIDENT EGAN: We have a proposed amendment here, or is this on this question of impeachment?

TAYLOR: Yes, on this particular question. Because in the sentence it says, "In case of vacancy in the office of governor because of his death, resignation, impeachment, or removal, his powers, duties and emoluments shall devolve upon the secretary of state." Now each one, in each instance there, that vacating the office of governor is permanent. He certainly can't come back from death or resignation or impeachment or removal, but it was necessary to put in line 19 in case of temporary absence of the governor from the office the powers and duties only devolve upon the secretary of state during that temporary absence. He doesn't get the emoluments of the office which is the salary. He only performs the duties, he has the power to perform the

duties of the governor until he returns. That had to be stated that way because there is a difference. In one case he is coming back shortly, in the other case he is going away permanently.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as offered by Mr. Victor Rivers.

CHIEF CLERK: "Page 3, Section 7, lines 20 and 21, after the first word 'the' strike the words 'powers and duties shall devolve upon the secretary of state' and insert in lieu thereof 'secretary of state shall become the acting governor'."

V. RIVERS: I think, as I stated before, the Committee recommendation, "the powers and duties shall devolve upon", without mentioning the emoluments, and it states specifically what the secretary of state would become in the absence of the governor. I don't know whether the term "acting governor" would imply that by acting he should receive the emoluments or not. That is why we did not adopt that phraseology in the Committee. After further discussion, I feel that myself and many of the Committee members will desire to decide as to which wording is the more suitable.

PRESIDENT EGAN: Do you move the adoption of the proposed amendment, Mr. Rivers?

V. RIVERS: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the amendment. Is there a second?

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Now that there is something before the Convention, I would like to say that in other places here that in cases of death or the impeachment, or resignation of the governor, the secretary of state becomes the governor, not the acting governor. So he becomes the governor then, and that is why he is named as a successor of the governor in those particular cases, but for temporary absence he is not. I think that the amendment should be voted down and this should be left just exactly as it is because I think it expresses the sentiment of the Committee.

BARR: Could we have the amendment read, please?

PRESIDENT EGAN: Would the Chief Clerk read the proposed amendment?

CHIEF CLERK: "Page 3, Section 7, lines 20 and 21, after the first word 'the' strike the words 'powers and duties shall devolve upon the secretary of state' and insert in lieu thereof 'secretary of state shall become the acting governor'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I have an amendment to the amendment which I could submit orally. One line 17, after the word "removal", delete the rest of the sentence and substitute the following: "The secretary of state shall become the governor."

PRESIDENT EGAN: As an amendment to the amendment?

R. RIVERS: That adds a little wording at the same point in the article.

PRESIDENT EGAN: But it is on a different matter, Mr. Rivers.

R. RIVERS: Then, Mr. President, I will assure Mr. Taylor and others interested that if the present amendment passes I will offer this amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll. Mr. Buckalew.

BUCKALEW: Mr. President, may I ask one question. Is this a committee amendment?

V. RIVERS: This is submitted by the Committee only at request of delegates who feel it might clarify the wording. The Committee members should reserve their right on this in regard to their vote, because certainly we felt in bringing it out originally that the wording covered it. It is hard to interpret which is the better wording and so for that reason it is not necessarily endorsed by all of the Committee. They have the privilege of their own stand on it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 29 - Armstrong, Awes, Buckalew, Coghill, Collins, Cross, Davis, V. Fischer, Gray, Hellenthal,

Hermann, Kilcher, Knight, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Peratrovich, Reader, Riley, R. Rivers, Rosswog, Stewart, Sundborg, VanderLeest, Walsh, Mr. President.

Nays: 24 - Barr, Boswell, Cooper, Doogan, Emberg, H. Fischer, Harris, Hinckel, Hurley, Johnson, King, Laws, McCutcheon, Marston, Nerland, Nolan, Nordale, Poulsen, V. Rivers, Robertson, Smith, Sweeney, Taylor, Wien.

Absent: 2 - Hilscher, White.)

CHIEF CLERK: 29 yeas, 24 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Ralph Rivers.

R. RIVERS: I have an amendment to offer.

NORDALE: May I have the privilege of the floor for a few minutes?

PRESIDENT EGAN: If there is no objection.

(Mrs. Nordale spoke on a matter of personal privilege.)

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 7, line 17, after the word 'removal' delete the rest of the sentence and substitute the words 'the secretary of state shall become the governor'."

R. RIVERS: Mr. President, I move the adoption of that amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the amendment.

TAYLOR: I ask unanimous consent.

POULSEN: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Just briefly, it would read as follows: "In case of a vacancy in the office of governor because of death, resignation, impeachment or removal, the secretary of state shall become the governor." I think it is clear and simpler than to say, "The governor's powers, duties and emoluments shall devolve upon the secretary of state." I think we might as well say that he shall become the governor so I put it this way.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I am beginning to agree with Mrs. Nordale. On the last amendment I voted "yes" because I thought it was the wish of the Committee. Now, if we amend this, going back to an original question asked by Mr. Cooper, the word "impeachment" literally translated means the institution of any charges. If anybody institutes any charges in the legislature under Mr. Rivers' amendment, then automatically the governor is out of office, and the secretary of state succeeds.

R. RIVERS: Will you yield a moment?

McLAUGHLIN: Yes.

R. RIVERS: It is merely to a fact that that sentence says "vacancy caused by impeachment", so there is no vacancy if the impeachment charges don't carry. Therefore, we are not in conflict.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: A question, Mr. Rivers, if I may. If impeachment charges are upheld, does that not mean removal automatically? Could we not just leave the impeachment?

R. RIVERS: Right. A vacancy would be caused only if the impeachment is upheld, and the mere institution of the impeachment proceedings does not cause a vacancy, so we are not in conflict here. This is perfectly all right.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I just looked in the big book back here to ascertain what "impeachment" meant. I thought I knew what it meant, too. It says in part: "Calling before a proper tribunal for high crime." Now I agree with Mr. McLaughlin 100 per cent. He has exactly the same thing. Impeachment, if there is a proceeding instituted, it means in this case that the governor is out whether it carries or not. It is the actual trial of the matter, whether it carries or not.

McLAUGHLIN: Mr. Chairman, this is a littler book than he looked in, but "Impeachment of the governor", within the meaning of Section 16, Article VI of the Constitution, this is referring, I presume, to Oklahoma, "is the adoption of the articles of impeachment by the house of representatives, a criminal proceeding against a public office before a quasi-political court, instituted by a written accusation called 'articles of impeachment'." For example, a written accusation by the House of Representatives of the United States to the Senate of the United States against an officer, that is, the impeachment is the proceeding and not the conclusion, so literally under the interpretation of impeachment it means that you made the charges and he is automatically dismissed without a proceeding or a finding. That is why I recommend not changing the well-thought-out considerations of the Committee.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: The interpretation I gave on impeachment I based on impeachment proceedings in the United States Congress against President Johnson. Impeachment proceedings were instituted but he was not impeached. If there are different interpretations to the word, then I will certainly withdraw my interpretation because I am not adequately prepared to decide at this time whether or not the word "impeachment means the institution of the proceedings or the actual completion of the proceedings. I would like very much to have it clarified.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I want to ask Mr. McLaughlin if the institution of an impeachment proceedings would automatically cause a vacancy in the office of governor?

McLAUGHLIN: No. Under the interpretation here where we have impeachment or removal, the removal would seem to indicate that that is something that follows impeachment or results in a removal, but impeachment as such automatically the institution of charges would remove the governor under some interpretations.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I can't follow Mr. McLaughlin's interpretation of the word "impeachment". We are not acting upon impeachment here. We are acting upon the vacancy caused by the impeachment. If you carry impeachment out to its logical end, its removal, he is removed by impeachment. The vacancy is caused by impeachment. It is the whole proceedings, when you use the word "impeachment", that lead to the vacancy in the office, the

permanent vacancy, that the impeachment was upheld. It looks to me like it is kind of pontificating upon the obvious in this particular matter.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll, with the following result:

Yeas: 16 - Armstrong, Collins, Cooper, Davis, Kilcher, Laws, McNealy, Metcalf, Nerland, Nordale, Peratrovich, R. Rivers, Sundborg, Taylor. Walsh, Mr. President.

Nays: 37 - Awes, Barr, Boswell, Buckalew, Coghill, Cross, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Nolan, Poulsen, Reader, Riley, V. Rivers, R. Robertson, Rosswog, Smith, Stewart, Sweeney, VanderLeest, Wien.

Absent: 2 - V. Fischer, White.)

CHIEF CLERK: 16 yeas, 37 nays and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I now ask for a minute on the privilege of the floor.

PRESIDENT EGAN: If there is no objection, Mr. Rivers, you have the floor on the question of privilege.

(Mr. Ralph Rivers spoke on the question of privilege.)

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will try and answer the question in this manner, that it was the understanding as I interpreted the wishes of the Committee that his title, powers, duties and emoluments would succeed to the secretary of state. I don't believe that there was any controversy or dissension in the Committee on that point. As a matter of clarification of wording, I would say that the title was one of the implied things that would carry along with

the title, powers, duties and emoluments.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I objected and voted against the amendment for the identical purpose in accordance with Mrs. Nordale's wishes that we wanted to have it transferred to Style and Drafting.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I am a member of Style and Drafting and I am worried about this sort of thing. The section as it was clearly in my opinion stated the intent of the Committee. I think the amendment, either of the amendments offered, were totally unnecessary. Since they were offered, if they were adopted, that was fine and dandy, but if the amendments are offered and voted down as the last one was, I am fearful that Style and Drafting may not carry out the intent of the body by using that language because the body has voted it down. I think we should be careful about offering amendments where they are not necessary, where Style and Drafting can, in shorter language possibly or clearer language, state the intention of the body. I don't think we should offer amendments, but if they are offered, I think we should vote for them because we are tying the hands of Style and Drafting to take care of the matter.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think I might be able to clarify this. Follow the first part of Section 7 and this follows the thoughts as we had them in the Committee: "In case the governor-elect shall die", this is before that person takes office or in case he fails to qualify, "the powers, duties, and emoluments of the office of governor shall devolve upon the person elected secretary of state", and reading on down, "for the term which the governor-elect was elected." Now in that particular place we did not want to say he would become governor because then it would mean he would become governor in place of the one that was still filling out the remainder of his term. That applied to the governor-elect, and it might be that we carried that same language on into the second sentence. Now in that line I would say Style and Drafting could --

JOHNSON: Point of order. I don't believe there is anything before us. I therefore move we stand at recess until 1:30.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand at recess until 1:30. Are there committee announcements? Mr. McNealy.

McNEALY: Meeting of Ordinance Committee. I would like to have all members present in the gallery immediately following the recess.

PRESIDENT EGAN: A meeting of the Ordinance Committee in the gallery immediately following the recess. Mr. Victor Rivers.

V. RIVERS: There will be a meeting of the Executive Committee at 12:45 to hear any of the delegates at that time.

PRESIDENT EGAN: A meeting of the Executive Committee at 12:45 to hear any of the delegates who wish to be heard at that time. Mr. Smith.

SMITH: Mr. President, I would like to announce that the Resources Committee will meet in the lobby of the Northward Building tomorrow at 2 o'clock instead of in the Polaris Building as previously announced. It is merely a change of locality.

PRESIDENT EGAN: The Resources Committee will meet tomorrow in the lobby of the Northward Building at 2 o'clock. Mr. Sundborg.

SUNDBORG: Style and Drafting Committee will meet at 1 o'clock tomorrow afternoon at room 1013 of the Polaris Building.

PRESIDENT EGAN: The Style and Drafting Committee will meet at 1 o'clock tomorrow afternoon in room 1013 of the Polaris Building.

SWEENEY: Engrossment and Enrollment at 1 o'clock today.

RILEY: Mr. President, a one-minute meeting of Rules immediately upon recess.

COGHILL: Mr. President, your Committee on Administration would like to have the intent of the Convention as to their adjournment time this afternoon so as to notify the food service and also find out whether we could have our meeting. We would like to have a meeting this afternoon and I would call it for the 3 o'clock recess, but we might recess at that time for the weekend.

PRESIDENT EGAN: Does the Convention know its intention at this time? Mr. McNeas.

McNEES: Is there any reason why we should not work through until 9:30 as we have been doing?

COGHILL: Could we have a show of hands for 3:45?

PRESIDENT EGAN: A show of hands as to the 3:45 time? Without counting hands it seems evident that the Convention will adjourn at 3:45 this afternoon.

COGHILL: I would like to announce a meeting of the Committee on Administration at 1:00 p.m.

NERLAND: The Finance Committee will meet at 12:30 tomorrow afternoon.

PRESIDENT EGAN: If there is nothing else the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The President would like to inform the delegates that the stenotypist is ill this afternoon and will take the information off the tapes at a later time. Do we have a pending amendment? Mrs. Sweeney?

SWEENEY: Mr. President, may I revert to committee reports?

PRESIDENT EGAN: If there is no objection, the Convention will revert to committee reports at this time. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 5 has compared it with the original and finds it correctly engrossed and the enrolled copy will be placed on the desks of the delegates this afternoon. There is one typographical error in the mimeographed enrolled copy which you will receive, and it is just a matter on page 4, line 14, changing the "house" of the legislature, should be the "houses". That is the only error and I think it is not too bad. I move and ask unanimous consent for the adoption of the report.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent for the adoption of the report of the Committee on Engrossment and Enrollment with relation to Committee Proposal No. 5. Is there objection? Hearing no objection, the report is ordered adopted and Committee Proposal No. 5 is referred to the Style and Drafting Committee. Is there pending amendment to Committee Proposal No. 10a?

V. RIVERS: I have a couple of minor committee amendments to be submitted in just a moment or two.

PRESIDENT EGAN: Do you have them ready, Mr. Rivers?

V. RIVERS: I have some of it ready.

PRESIDENT EGAN: You may submit the proposed amendment. What section?

V. RIVERS: That applies to page 2.

CHIEF CLERK: "Section 5, page 2, line 14, strike the word 'term' and insert in lieu thereof the word 'tenure'."

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

V. RIVERS: I move and ask unanimous consent that the amendment be adopted. It is a matter of definition of "term" and "tenure" came up and it was discussed and was decided that the term "tenure" was best suited to that use.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection? Mr. Doogan.

DOOGAN: Point of information. Will it change the word "term" to "tenure" throughout the article?

V. RIVERS: No, only in that one particular case.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment? If not, the amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: I have another amendment.

PRESIDENT EGAN: The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 7, page 3, line 17, strike the word 'impeachment'; after the word 'his' insert the word 'title'."

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: It was felt in Committee that the word "impeachment" was covered by the word "removal" and that it was unnecessary in there and in view of the questionable interpretation of it during discussion, it was decided in Committee to remove it. The insertion of the word "title" was to cover the discussion from the floor this morning in regard to insuring that he had his title conveyed as well as the emoluments. I move and ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent --

ROBERTSON: I didn't quite get that where the word "title" comes in.

V. RIVERS: The word "title" comes in between "his" and "powers", line 17. "His title, powers, duties, and emoluments shall devolve..." It clarifies any question as to whether the title succeeds with the office.

PRESIDENT EGAN: Is there any objection to the unanimous consent request for the adoption of the proposed amendment?

V. RIVERS: Excuse me, Mr. President, that should be also inserted on line 11, the word "title", between "the" and "powers".

PRESIDENT EGAN: If there is no objection, that amendment will be included in the original proposed amendment, and if there is no objection, it is so ordered. If there is no objection to the adoption of the proposed amendment, it is ordered adopted. Are there other amendments?

V. RIVERS: I have one other amendment which I will read to you. I haven't got it completely drafted yet, but it is on page 4, line 4, after the word "acting", strike through the word "term" on line 15 and substitute the following: "A vacancy in the office of governor shall be filled as prescribed by law." Now the effect of this amendment is to wipe out the order of succession as established here after the secretary of state has become governor and allow it to be prescribed by the legislature. In Committee it was unanimous that that was agreeable.

PRESIDENT EGAN: That would include the insertion of a period after the word "acting"?

V. RIVERS: No, I believe the period would be stricken and the sentence would just be continued. It would read this way then, "If for any reason the secretary of state is incapable of acting, a vacancy in the office of governor shall be filled as prescribed by law." The line down at the bottom of that paragraph, "No election of a secretary of state shall be had in any event except at the time of electing a governor...", that would remain in. I will move and ask unanimous consent, Mr. President.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments?

V. RIVERS: There is one other amendment, Mr. President. On page 7, line 18, Section 16, place a period after the word "governor"; strike down to "successors" on line 20. That line would then read: "Such single executive shall be nominated and appointed by the governor, with the advice and consent of the

legislature, and shall serve at the pleasure of the governor." I move and ask unanimous consent for the adoption of that amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that the proposed amendment be adopted. Is there objection? Mrs. Sweeney?

SWEENEY: There seems to be a little confusion. I'm not clear that what he told us is actually what he means. On line 17, you change the word "senate" to "legislature"?

V. RIVERS: That was changed in a previous amendment. I asked that in an amendment yesterday morning, I believe. I named a number of them and have them marked on mine. We had referred to "confirmation by the senate".

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, with the cooperation of the Chief Clerk, we now have the amendment in the form that I desire to present it. I would now like to ask the Chief Clerk to read the amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 16, page 7, line 17, delete 'senate' and insert 'legislature in joint session'. Line 18, strike from the word 'governor' through 'successors' on line 20."

PRESIDENT EGAN: If there is no objection. Mr. Rivers, first the Chair will ask unanimous consent that the original proposed amendment that we did not act upon, be withdrawn. If there is no objection, it is so ordered. Mr. Victor Rivers.

V. RIVERS: I ask unanimous consent and move the adoption of this amendment. This is a committee amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the adoption of the proposed amendment. Mr. Johnson.

JOHNSON: I object to the striking of the word "senate" and including the word "legislature in joint session".

PRESIDENT EGAN: Is there a second to the motion?

R. RIVERS: I'll second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion.

V. RIVERS: I might explain that. This section in its present printed form, was set up prior to the adoption of the legislative section so now in order to make it conform to the legislative section we have to change the confirmation of appointees by the senate to appointees by the houses of the legislature in joint session, so that would make it in uniformity with what we previously adopted, Mr. Johnson. That is our problem, to make it uniform with the legislative proposal that was adopted.

JOHNSON: I still object. I believe we have adopted a bicameral legislature and we ought to operate as one.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye". All opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Robertson.

ROBERTSON: I didn't get the part he struck.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment that we have just adopted. Read the section as it will read with the amendment in it.

CHIEF CLERK: "Section 16. The head of each principal department shall be a single executive, unless otherwise provided by law. Such single executive shall be nominated and appointed by the governor, with the advice and consent of the legislature in joint session, and shall serve at the pleasure of the governor, except as herein otherwise provided with respect to the secretary of state."

PRESIDENT EGAN: Are there other amendments to the section? Mr. Victor Rivers.

V. RIVERS: Mr. President, I might add, before we close the committee reports, that there are three or four places in this proposal where we must change the word "senate" to "legislature in joint session". I will submit that at a later time so that we make this in uniformity with the legislative proposal we adopted.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, while we are discussing Section 16, I have an amendment to Section 16.

PRESIDENT EGAN: Mr. Buckalew, we hadn't yet really come to Section 16 except that the Committee was offering these changes in an attempt to make it conform, but you will have an opportunity to offer your amendment. Are there amendments to Section 7? Section 8? Section 9? Mr. Davis.

DAVIS: Mr. President, may I ask Mr. Rivers a question?

PRESIDENT EGAN: You may ask your question, Mr. Davis.

DAVIS: In line 20, page 4, Section 9, it provides that, "The salary of the governor shall not be diminished during his term of office." In the judicial article we adopted a somewhat similar provision in which we have said the salaries should not be diminished during the term in office except on a general decrease as to all state officers. I am wondering if it was the intention of the Committee to make a difference in that respect as far as the governor is concerned. Now I have talked with some of the Committee and they said it was your intention to make the governor different in that respect from what we had adopted in the judicial article. I just want to know.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Yes, Mr. President, the Committee was unanimously of the accord that if the governor ran for and was elected to office for a term of office that his salary that was established at the time he ran for that office should not be diminished during that term of office, so if they desire to decrease the salary, the legislature would necessarily have to make it effective at the end of some one term.

PRESIDENT EGAN: Are there amendments to Section 9? If not, are there amendments to Section 10? Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment to Section 10.

PRESIDENT EGAN: You may submit your amendment, Mr. Sundborg. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 10, page 5, strike lines 16 through 20."

BUCKALEW: I move the adoption of the proposed amendment.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the proposed amendment, seconded by Mr. Sundborg. Mr. Buckalew.

BUCKALEW: I had the identical amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I think this amendment speaks for itself. This is a paragraph which may have some merit. I am not sure that it does, but if it does, it can always be provided for by the legislature and at this point I might read to you, for laughs, something we did here early in the session, where we adopted a resolution saying, "It is the intent of this Convention that the constitution should be a document of fundamental principles of basic government and contain the framework for state government." This is a minor provision which I think could well be taken care of sometime in the future and not in the constitution.

PRESIDENT EGAN: Miss Awes.

AWES: I agree with Mr. Sundborg that it would be better taken care of by the legislature than by the constitution. Now I'm not sure if I were in the legislature that I would approve such a law either because I don't think it means much. Here you have a governor who is going out of office; if his successor is someone he is glad to see, perhaps someone in his own party, he will cooperate and give him this information anyhow. If it is someone he doesn't want to cooperate with, I don't think there is any way you could make this effective. You might mandamus him, but by the time you got through your legal proceedings, he would be out of the office and the new governor would know what he had to know, anyhow, or he could write a report which was slanted in such a way that it might be more harmful than helpful, so I just don't think it's a good provision.

MARSTON: Question.

PRESIDENT EGAN: Mr. Barr.

BARR: I do believe that this is fairly important. It could be left up to the legislature, but about 50 per cent of our other proposals in here could be left up to the legislature, also. It was expressly written so no harm would come from it. This report is written and it is to be submitted to the incoming governor. It's true that the governor could just fail to do so but what man in public life would violate a constitutional law? He would be dead as far as a political career is concerned after that. I think it's just a safeguard and that is what the constitution is, a safeguard, and this is one of them.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I think this superfluous for another reason and that is if there has been a change in the governor's office, why the governor-elect will probably have been telling the predecessor all about the conduct of his administration throughout the campaign. (Laughter)

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 10? If not, are there amendments to Section 11? Mr. Cooper.

COOPER: Mr. President, I asked yesterday about the armed forces after they have been called into the United States. I don't believe I had the exact question. This states that, "The governor shall be commander in chief of the armed forces of the state." There is a little doubt in my mind and I would like to have it explained a little further.

PRESIDENT EGAN: Could someone explain this? Mr. Victor Rivers?

V. RIVERS: I will repeat what I said yesterday. Once they are called into the service of the United States, they are no longer the forces of the state, and he would naturally be superseded by the commander of the theater in which they were active. We felt in the Committee that this language covered the cases where they were called into active combat under the national government.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, I believe that is unquestionably an accurate statement of the facts. Under Section 8 of the Constitution of the United States, this is granting to the Congress: "To provide for organizing, arming and disciplining, the Militia," that is the state militia, "and for governing such part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers and the Authority of training the Militia according to the discipline prescribed by Congress." They have the authority once they're called into service. They are lost to the state.

PRESIDENT EGAN: Are there amendments to Section 12? Mr. Armstrong.

ARMSTRONG: Mr. President, I take it that in Section 11 that the Committee is leaving up to Style and Drafting the title in the margin. There is no title.

PRESIDENT EGAN: That is evidently the case, Mr. Armstrong.

V. RIVERS: That will be left up to Style and Drafting. I think the title matter could well be and should be the subject matter for the Style and Drafting. It was an omission which I note, and I know it's been marked in. The original draft of our article has the titles on those paragraphs, I believe.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee would appreciate very much the opportunity to write some small part of the constitution. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 12? Mr. Fischer.

V. FISCHER: I have a question. If we, in line with the procedure to be consistent, on page 6, line 2, change "senate" to read "legislature", has that been done?

V. RIVERS: No.

V. FISCHER: Has it been sent to the Committee to alter that?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: There are three or four places, as I mentioned to you, that were set up before the legislative article was adopted, in which I will cover all of them with Committee amendments asking that they be changed, where they are in conflict with what we have adopted.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I would like to rise to a point of personal privilege.

PRESIDENT EGAN: Your point of personal privilege.

(Mr. Londborg spoke on a point of personal privilege.)

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: You do not yet have the engrossed copy of the article on the legislative, but if my memory serves me, the confirmation of the appointive offices of the state would be made by the houses of the legislature in joint session. Now it may be that I am wrong on that, but I thought that was adopted in the legislative section.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I wish to confirm what Delegate Londborg says. I have the engrossed copy before me and I withdrew it at the time the statement was made. The vote was taken on "the legislature in joint session". I cannot find it in the legislative article. I think it would have had a bearing on the vote.

SUNDBORG: Mr. President, I believe the Convention did take action on this. They took it in the judiciary article at the place where it provided for confirmation by the legislature of the appointment of the lay members to the judicial council, and at that time I had thought that we were settling the issue of how confirmations should be voted upon by the legislature, but, of course, every time it comes up, I suppose it can be argued over again.

PRESIDENT EGAN: This seems to be a situation where we should have a little recess and different people could get together and decide just what this amounts to. The Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, in checking with the Chief Clerk, it was my impression that yesterday I had made a unanimous consent request. However, it appears that that was not so. The records do not show that I had made the unanimous consent request to put these confirmations by the senate into conformity with what I had understood was adopted for the legislative article. I made this statement yesterday that conformity would be the approval of appointments by joint session of the legislature. Now it could be handled as we come to each one that we change it or we could make a motion here, I could make a motion here asking that the body go on record unanimously as to what method they desire to approve in confirming appointments. In that way, we could get this into conformity with the opinion of the body and of other sections. I would be glad to make the motion if that is the way you prefer to approach it, or we could approach it by each individual item as we come to it.

PRESIDENT EGAN: It seems to the Chair that at this time the body should make a definite decision on the question and a motion should settle the question once and for all in our different articles. Mr. Victor Rivers.

V. RIVERS: Speaking yet, without a motion on the floor, for the Committee, the Committee decided after the discussion in the judicial article in which the confirmation was by joint session that we would, as a Committee group, go along unanimously with the approval of confirmations by joint sessions of the legislature, so I will move and ask unanimous consent that this group express as a policy the intent that approval of appointments shall be confirmed by legislatures in joint session and that we will correct our proposals to conform to that policy.

RILEY: I'll second the motion.

PRESIDENT EGAN: Mr. Rivers moves, Mr. Riley seconds the motion. Mr. Victor Rivers.

V. RIVERS: I'll speak briefly on this motion. I might just say that the policy of confirmation by both houses in joint session is the present method by which we now confirm appointees to the various Territorial positions. It has been used for a number of years.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, this only applies to cases where provision is now made for confirmation by the house or the senate, period. It does not apply to all officers.

V. RIVERS: It does not apply to all officers. There is a paragraph in here that I might call your attention to. That is Section 18, where the governor fills vacancies. Now we don't know but what sometime there may come up a law which the legislature enacts that in the matter of filling vacancies they may be or may not be required to be confirmed by either or both houses, so it was our intent in that case on line 13 where it says, "...by the governor with the advice and consent of the senate or...". We were going to strike "of the senate or" and "with the advice and consent of either house". That would be the only exception where there is a possibility that the law would be enacted providing approval by one house, it's a matter of filling vacancies.

HELLENTHAL: Question. Do you realize we have set up the article on the composition of the advisory board on districting and those people are appointed by the governor. Now is it the intention that there be language superimposed there, by and with the consent of the joint houses assembled, or is this only to apply where in the present language the consent of one or the other body is required?

V. RIVERS: Yes, that is the intent. It reads this way: "The governor may fill any vacancy occurring in any office during a

recess of the legislature, appointment to which is made by the governor with the advice and consent of..." We would have it "of either house of the legislature".

HELLENTHAL: Then it would not apply to the redistricting board?

V. RIVERS: It would not apply to the redistricting board.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Well, I perceive it is a little bit useless for me to argue this point too much. However, I am convinced that we are being slightly paradoxical because we have already declared ourselves firmly in favor of a bicameral legislature and yet in the legislative article we diluted that by saying that vetoes of the governor shall be acted on in joint session instead of by each house separately. Now when this executive article first came out it contained almost uniformly the provision that appointments were to be made by the governor with the advice and consent of the senate, something that occurred to me as being extremely good. I believe firmly that we should have a strong executive and there has been a great deal of argument around here about expense. If under this article the governor can call the senate back into session, there is no reason why appointments couldn't be acted upon when he did so. However, now if appointments are to be acted on in that manner, he must call together both houses of the legislature and have them in joint session, and I disagree that the apportionment board or redistricting board, or whatever you call it, would not be covered by this language because, as I understand it, we are now adopting a general policy to cover all appointments in the future or present, and if we do that, then it will certainly cover the matter that Mr. Hellenenthal raised. At least I can't see why that should be excepted from the general provisions. I am certainly against this type of amendment. I am against this type of procedure. I thought we were proceeding along the line of ultimately adopting a constitution that we would have no trouble in selling to the Congress of the United States and now I am not so sure.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I agree with Mr. Johnson that this is a paradoxical situation; however, having seen this body change its mind several times, I'll say they are at least consistent in changing their minds. I am not in favor of this because I am in favor of a bicameral legislature. It is true that a joint session has been our method of confirming appointments, but I have never agreed with it because I have been there, seen

it operate, and it operates more or less as a rubber stamp, except on certain occasions, because a great many of these names that are submitted are not known to the majority of the group. However, if this were taken care of by one house or by each house separately, they would have time to consider these names and discuss them. I believe that if we want to stick to our bicameral legislature that is the way it should be done.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, in the original article, as we wrote it, had the word "senate" all the way through and I don't think there was any question until the judicial article went through calling for the joint session. Then I remember we discussed it in Committee and I conceded to the majority on that, not wanting to put in a minority report on such a possible minor thing. In fact, I went along supporting the whole thing, now it has been brought up and I am somewhat undecided which would be the best. I have not yet heard one good argument for joint session other than it has been done in the past here in Alaska. If we are going to do everything the way it has been done in the past, then we had better keep our appointed governor from Washington and a few other things. I would like to hear one good reason why we should run it with both houses.

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, I would like to give Mr. Londborg one good reason as it was pointed out to me. I think if I recall it to his memory, he will remember why we changed the article. There are going to be several appointive officers under the state. I don't know exactly how many, but there will be quite a few. Our house is going to be 40 members, our senate is going to be 20 members. As I stated once before on the floor, I believe, if you leave it entirely up to the senate to confirm the officers, then the senate is going to get together and say, "Well, if you will appoint this man, I'll help you and you help me, and we'll slice it up like a piece of pie and we'll all get our friends in." That's what we didn't want. We want the governor to make the appointments, not the senate.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I won't presume to suggest that this is a good argument, a strong argument, but I think it is a reasonable negative argument, and that is, I don't follow the suggestion that by strengthening the senate, you strengthen the executive.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, had it not been one of the senators that spoke on this, I would not have spoken, but on the line of the house of representatives, I just want to call attention to one thing that in my opinion is in favor of both houses recommending on these appointments, and that is this, that your representatives will be elected from 24 representative districts and it may be that one of the governor's appointees may be next door or right in the bailiwick of one of the representatives where he might live at some little distance from one of the senators, and I think it's a certainty that every member of the house of representatives should know one particular appointee, anyone that is appointed from his particular district, every representative would know and would be able to advise and vote intelligently and in that manner assist the senate in this joint confirmation.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, I personally haven't any particular preference whether it is a joint session or not, but I don't follow along where they say that it is necessarily going to help the governor out because the house was elected. I remember not very many years ago, in fact, only a couple of years ago, where the house that was elected was of the opposite party of the governor that was in then and he sent down the names and there wasn't anybody that was confirmed.

PRESIDENT EGAN: Mrs. Fischer.

H. FISCHER: Mr. President, the same thing could happen, in the particular instance where we have the hold-over senators and the new governor was elected and he desired to give his party the appointments, the same thing could happen if it was going to go back to just the senate. The senate could turn down all his appointments.

PRESIDENT EGAN: Mr. McNees.

McNEES: Mr. President, my point that I would like to make is that inasmuch as we have created a strong elected executive and the rest of our elective officials for the new proposed state would be your legislature, meaning both houses, that an appointment by your executive department and a confirmation by your legislature as a total would mean the truest reflection of your entire elective thinking. That is the best logical reason that I can think of for supporting the meeting of the two houses in joint session for approval of appointments.

PRESIDENT EGAN: Mr. Cooper

COOPER: Mr. President. Mr. Hellenthal asked the Committee Chairman a question that if certain boards or commissions were excluded. The answer was given as yes, but in Section 18 it says, "The governor may fill any vacancy occurring in any office during a recess of the legislature...", and Mr. Hellenthal pointed out that the board of apportionment, there might be a vacancy occur and before the governor could have a man seated on that board that could act with any legality whatsoever, both houses would have to be convened to confirm his appointment. Now you have a Legislative Council and it is my thinking that if the senate were to confirm at least some of these minor board members, the Legislative Council could poll the senate without even having to convene them. Certainly you do not want to have to fly 60 members to the state legislature to Juneau to appoint a member to the board of reapportionment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, the way I read Section 18, it says, "The governor may fill any vacancy occurring in any office during a recess of the legislature, appointment to which is made by the governor with the advice and consent of the senate or of the legislature in joint meeting." This refers to very specific appointments, not to just any old board, and so I don't follow that argument at all.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, you notice that the nonpartisan board of reapportionment does not require confirmation.

COOPER: I know that, but Mr. President, might I have the floor on a point of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Cooper, you may have the floor on a point of personal privilege.

(Mr. Cooper then spoke on a point of personal privilege.)

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President. Mr. Cooper and 175,000 other people have a perfect right to be confused, I believe. It was the intent of the Committee to exclude those appointments which did not have to be confirmed by the legislature, but according to the construction of this sentence, it is a little confusing. I would like to call it to the attention of the Style and Drafting Committee and I think they could take care of that.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I think that it is clear, but probably not as clear as it could be. I know of two suggestions which will clarify, it beyond any question. The thing should read like this: "The governor may fill any vacancy occurring in an office, appointment to which is made by the governor with the advice and consent of the senate or of the legislature in joint meeting during a recess of the legislature." Now if you put the word "an" in instead of "any", I think Mr. Cooper's objections will be met and it will be clearer.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment, or the proposed motion.

CHIEF CLERK: Mr. Rivers moved and asked unanimous consent that "The group express as a policy the intent that approval of appointments shall be confirmed by the legislature in joint session and we will correct this proposal to conform with the policy." That was the motion.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, after hearing the arguments, it may be that some of the delegates feel it is just too broad a handling of this subject and they may desire to handle it individually. I might say, that in all fairness to all delegates, I feel that if the thought of the body is that it is too broad an approach of policy, then it should be voted down and we handle this individually. I was trying to expedite the matter by making this motion, not to exclude anyone from a fair chance to be heard on each point.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I move and ask to withdraw the motion, Mr. President.

PRESIDENT EGAN: Mr. Victor Rivers has asked unanimous consent to withdraw his proposed motion.

R. RIVERS: I object.

PRESIDENT EGAN: Mr. Ralph Rivers objects.

R. RIVERS: The basis of my objection is that this is a fundamental proposition. We are not going to do it two or three different ways throughout the constitution. If we decide right now which way we will make all the articles conform. We've got it squarely before us which way we want to pursue. I think we just hashed it for 20 minutes, we've almost arrived at something, let's vote on this.

PRESIDENT EGAN: The question is, "Shall the proposed motion be adopted as the policy of the Convention in this matter?" Mr. Hurley.

HURLEY: Mr. President, I haven't been heard on this. If he wants to withdraw it, can't I second the motion?

PRESIDENT EGAN: Yes. Mr. Hurley.

HURLEY: Mr. President, it occurs to me from the wording that has been read to me that Mr. Hellenthal's original question is still a problem, where we provide in this constitution, as we may provide, that the governor shall appoint certain people without concerning ourselves with whether or not they are approved by the senate or house or both houses together. By adopting this thing, it applies to all of them that the governor appoints. If we don't mean that, I think we should stick in there that the governor appoints when such appointment is required.

PRESIDENT EGAN: I'll ask that we have a minute or two recess and try to work out that motion. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, after discussing this matter, some of the delegates felt that this motion should apply only to Proposal No. 10a, so I am going to again ask unanimous consent to withdraw my motion with the understanding that a similar one will be presented by Delegate Hellenthal.

UNIDENTIFIED DELEGATE: I'll object.

PRESIDENT EGAN: Do you ask unanimous consent for the withdrawal of your motion?

V. RIVERS: Yes, and I'll so move.

DOOGAN: I'll second the motion.

PRESIDENT EGAN: Mr. Victor Rivers moves that he be allowed to withdraw his proposed motion, seconded by Mr. Doogan. The Chair will rule that it takes a majority vote to withdraw it. The question is, "Shall Mr. Victor Rivers be allowed to withdraw his proposed motion?" All those in favor of withdrawing the proposed motion will signify by saying "aye". All opposed by saying "no". The "ayes" have it and the proposed motion is ordered withdrawn. Mr. Hellenthal.

HELLENTHAL: Mr. President, I move that where in this Proposal No. 10a, confirmation of a gubernatorial appointment is required of either or both houses of the legislature or both houses jointly, then in those cases it shall be the policy of this body that such confirmation be made by both houses of the legislature jointly assembled.

PRESIDENT EGAN: Do you so move the adoption?

HELLENTHAL: I so move.

TAYLOR: I second the motion.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed motion.

(The Chief Clerk then read the proposed motion.)

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, just a point of clarification, I would like to address to Mr. Hellenenthal. It is my memory that you used the term "it shall be the policy of" with respect to this article before us. Are you proposing a uniform amendment at every point covered by the language in your amendment relating to this article?

HELLENTHAL: I think that it is so proposed in this motion.

RILEY: The word "policy" is all I object to and only momentarily.

HELLENTHAL: I think that word accomplishes the purpose of the uniform amendment.

RILEY: Your motion is that we adopt such language in every such instance? Am I right?

HELLENTHAL: That, I believe, is the clear import of this motion.

RILEY: Thank you.

PRESIDENT EGAN: That refers only to this particular proposal, is that correct?

HELLENTHAL: Yes.

PRESIDENT EGAN: The question is, "Shall the motion as offered by Mr. Hellenenthal be adopted as the policy of the Convention with relation to this proposal?" All those in favor of the motion will signify by saying "aye", all opposed by saying "no".

The "ayes" have it and the motion has been adopted. Mr. Hurley.

HURLEY: Mr. President, I would like to ask for the purpose, at least for my clarification, a question.

PRESIDENT EGAN: If there is no objection, Mr. Hurley, you may ask your question.

HURLEY: Is it the intent of the Committee that interim appointments be approved by either house of the legislature or both houses of the legislature?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: It was the intent of the Committee that interim appointments could be made under this clause by the governor subject to being filled in the manner provided by the constitution which we understood would be by joint session of the legislature.

HURLEY: I guess I didn't make my point. If there is a vacancy in any appointive office and the governor appoints someone else to fill it and the legislature is not at that time in session, will it be necessary for that legislature to reconvene and approve the appointment?

V. RIVERS: No, that was not the intent. We are referring to recess or interim appointments. He may appoint under this clause without calling the legislature and they will fill it until the legislature meets, and then the policy would be to confirm them in joint session of both houses. Is that clear?

HURLEY: Yes.

PRESIDENT EGAN: Are there amendments to Section 13? Mr. White.

WHITE: I have a question of the Chairman, Mr. President, regarding Sections 11 and 12, just to make sure I understand it. Do I assume from these two sections that it is not necessary nor desirable to declare martial law in every event when the governor might wish to call out the armed forces of the state?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: As was pointed out yesterday, the declaration of martial law puts everything under the military and stops all the action of civil lawmaking and legislating bodies, and we felt that the intention here was that only in cases of invasion or rebellion or imminent danger thereof would he declare martial law. However, if you have an emergency such as was mentioned

yesterday, he could still under these sections call out his armed national guard forces or militia, if there was one, and they could take care of emergencies without the necessary declaration of martial law

PRESIDENT EGAN: Are there amendments to Section 12? Mr. Kilcher.

KILCHER: Mr. President, I have an amendment for Section 12.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 12, page 6, line 6, strike 'or invasion or imminent danger thereof' and substitute 'and actual or imminent invasion'."

PRESIDENT EGAN: Mr. Kilcher, what is your pleasure?

KILCHER: In order to bring this proposal in line with the bill of rights, they have a similar provision, I would like to move and ask unanimous consent to have this language adopted.

TAYLOR: I object.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Miss Awes.

AWES: Mr. President, as I recall, this wording that Mr. Kilcher proposes does bring it in line with the bill of rights provision as amended. The language used in Section 12 as it now stands, I think was also used to make it consistent with the bill of rights and now the bill of rights has been changed and so I think this should be changed, too, and make the two consistent. I think Mr. Kilcher's amendment is a good one.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Would you read the language in the bill of rights?

PRESIDENT EGAN: First, would the Chief Clerk please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

AWES: That is exactly what it says in the enrolled copy of the bill of rights.

HELLENTHAL: What is that first word?

CHIEF CLERK: "...in case of rebellion and actual or imminent invasion..."

PRESIDENT EGAN: Mr Hurley.

HURLEY: Mr. President, that is not the exact wording of the bill of rights as we have it on the enrolled copy.

PRESIDENT EGAN: The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Miss Awes.

AWES: I would like to correct a statement I just made. I did not hear the whole amendment as read. She read "and actual or imminent invasion". That differs -- the first word in the bill of rights is "or" rather than "and". There is that difference.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I think this speech is necessary. I have just talked to Delegate Mildred Hermann and she says her Committee on Style and Drafting can take care of everything on this question now before us and they have the power to do it. I am going to throw it back to Style and Drafting.

SWEENEY: Mr. President, this is one instance on which we voted to change from "and" to "or".

HELLENTHAL: No, it never came to a vote. Pardon me, I am out of order.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, the point is well taken. We should have the uniformity. As Mr. Davis said this morning, if we vote against this thing, then we have Style and Drafting in a "pickle". If we want the uniformity, let's vote for this amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: We will secure uniformity, complete uniformity, if the word "and" in this amendment is changed to "or". Then the two will be identical.

KILCHER: I move and ask unanimous consent to have the word changed to "or".

R. RIVERS: Now I, ll support the amendment.

PRESIDENT EGAN: Now, the question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye". All opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 12? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to inquire about something else. Where is the proposal containing the article on apportionment?

PRESIDENT EGAN: It is in the Engrossment and Enrollment Committee.

SUNDBORG: Did we ever read or adopt the part of that which contains the description of the boundaries of the election districts?

HELLENTHAL: No, and the reason for that is that it was prepared two days ago and it has been turned over to the geographers in the mining department here for checking. It is not something that need be passed on for this reason. The map that was used here set out the boundaries. They are now being reduced from the map to writing. They will be on the desk of every delegate here. It would have been possible to have them today, but I think it will be Monday now before they're out. At that time if there is any error whatsoever in the reduction of the map to the writing, each delegate will have the right to bring it to our attention, but we felt that it was merely the reduction, and just merely a mathematical thing. There was no discretion or use of judgment involved in it.

SUNDBORG: I believe, however, Mr. President, that in compliance with our rules, that should be read in second reading, whatever material it contains.

HELLENTHAL: It will have to be read, of course.

SUNDBORG: Then our record should show here that the proposal containing the article on apportionment has been referred to the Committee on Engrossment and Enrollment subject to later addition of the materials citing the boundaries of the election districts.

HELLENTHAL: Right.

PRESIDENT EGAN: Are there amendments to Section 13? Mr. Cross.

CROSS: I have an amendment on the Secretary's desk.

PRESIDENT EGAN: Will the Secretary please read the proposed amendment as offered by Mr. Cross.

CHIEF CLERK: "Section 13, line 10, after the word 'governor' add the words 'subject to procedure prescribed by law'."

PRESIDENT EGAN: Mr. Cross.

CROSS: I move that this amendment be adopted.

MARSTON: I'll second that motion.

PRESIDENT EGAN: Mr. Cross moves, Mr. Marston seconds the motion. The motion is open for discussion. Mr. Cross.

CROSS: As you will note under this section, the pardon power is the only one in this section that is not, by procedure, prescribed by law. This does not limit the governor's power. It simply gives the legislature power to prescribe a procedure that will be followed in exercising this power. It is largely a matter of protecting an honest governor from pressure. I might say that this brings this in accordance with the Constitution of Hawaii.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, how could this protect or change or in any way affect the governor's right to grant a pardon? That is an individual right and it is solely for him to determine and any law that might be passed by the legislature to devise ways and means to make up his mind. I don't see where that would be possible, let alone permissible. I think the language is perfectly adequate the way it is.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I believe this Section 13 is the governor's court of last resort and as soon as you prescribe anything by law, you may remove the individual's final chance of last resort in the case it is erroneous. I would prefer to see the section to remain as it is.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask Mr. Cross to just recite precisely what he had in mind. I heard him tell the story to the Committee a while back and I would like to have tell this body.

PRESIDENT EGAN: Mr. Cross, would you care to do so?

CROSS: I might say that at first, I put in language which would limit the governor's power. I was persuaded that should not be done and anything in the constitution should merely prescribe the procedure. I had in mind the objection that was just made, that this would interfere with the court of last resort. This in no way limits the governor's power if he wants to be in the open about it and wants to hear everything. A number of years ago, I had this matter brought very forcefully to my mind, because of a certain murder case of which I was interested in the prosecution. In this particular case, the man was convicted of murder and was sentenced to life. He served only a few years. That brought this situation to my mind, and I investigated the situation in that state. I found that the average man convicted and sentenced to life imprisonment, served shortly a small amount over 12 years. A great many pardons were made on the quiet. The people who were interested in the case did not know that a man was turned loose, or what became of him. In explanation, I might say that one of the great problems of law enforcement is the case of men who commit crimes over and over. We go to a great deal of trouble and expense to convict a man of a crime, he is sentenced, and in a comparatively short time later he is picked up again for the same crime. That is the thing I have in mind. If a court convicts a man, a judge sentences him, there should be a very good reason if he does not serve that term. I think the public is entitled to know just what happened. In the case that I mentioned, most people in the state knew nothing about the procedure and what was going on. It was a situation which could be easily corrected if a procedure had been set up so that the governor, who was in the "limelight", as we say, whenever he made a pardon or commuted a sentence or changed a life sentence to a certain number of years.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, as an illustration of procedure, the person applying for a pardon would have to file an application in the governor's office or with an advisory board and that would be on file for 30 days pending final decision. In other words, an open proceedings instead of an under-the-table deal where they are slipping them out the back door without the public knowing anything about it, just because a few years have elapsed and the public memory has waned. I think that without actually cutting into his basic pardon power, that this is a good thing to have so I am going to support Mr. Cross.

PRESIDENT EGAN: Mr. Barr.

BARR: I don't intend to argue, but I do have the Hawaiian Manual here and it shows that 16 states provide that the governor may

pardon with the consent of some sort of council or committee and 20 some states provide that he shall issue a pardon in accordance with law.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Cross be adopted by the Convention?" The Chief Clerk will please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment will signify by saying "aye", all those opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Fischer.

V. FISCHER: Mr. President, I move that the third sentence in Section 13 be stricken.

PRESIDENT EGAN: Mr. Fischer moves that the third sentence in Section 13 be stricken. Is there a second to the motion?

HURLEY: I'll second the motion.

PRESIDENT EGAN: Mr. Hurley seconds the motion. Mr. Fischer.

V. FISCHER: I would only like to say that this matter is taken care of under the amendment that we have just adopted. The legislature will have the authority to establish an advisory board. If we leave this sentence in, it is just another expression of policy, and not even a very strong expression of policy, since we say "The legislature may..."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I ask a question of Mr. Fischer?

PRESIDENT EGAN: If there is no objection, you may ask your question.

R. RIVERS: Do you propose to strike clear to the end of the section?

V. FISCHER: No, just the third sentence.

R. RIVERS: Very good.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will

signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there amendments to Section 14? Mr. Barr.

BARR: Mr. President, I have an amendment to insert after Section 13. It is on the Secretary's desk.

PRESIDENT EGAN: Between Section 13 and Section 14?

BARR: Yes, it will be a new Section 14.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 6, line 16, after Section 13, insert a new Section 14, and renumber the following sections accordingly: "An Attorney General shall be elected at the same time and in the same manner as the Governor, and his term of office shall be four years. He shall be the chief law officer of the State, shall represent the State in all courts of law, and shall see that all laws are uniformly and adequately enforced throughout the State. He shall be legal advisor to the Legislature and all State officers, and shall perform such other duties as may be prescribed by law. He shall be responsible to the Governor and the Legislature for the faithful performance of his duties. The Attorney General shall receive for his services a compensation fixed by the Legislature which shall not be increased or diminished during his term of office. He shall devote his full time to his office and shall not receive any salary, fees or other compensation from any other source. In case of vacancy in the office of Attorney General for any cause, the Governor shall appoint his successor to complete the term of office with the consent of a majority of both Houses of the Legislature in joint session assembled, or, when not in session, a poll of the members may be taken by mail by the President of the Senate and Speaker of the House."

PRESIDENT EGAN: What is your pleasure, Mr. Barr?

BARR: I move the adoption of this amendment.

PRESIDENT EGAN: Mr. Barr moves the adoption of the amendment. Is there a second to the motion?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The amendment is open for discussion. Mr. Barr.

BARR: Mr. President, as this is rather a long amendment --

PRESIDENT EGAN: The Chair would like to make an announcement at this time, before you proceed, Mr. Barr. The News Miner just called and Guy Rivers, brother of Vic and Ralph, was found alive and safe about 30 minutes ago. (Applause) He has been picked up and is now on his way back to Fairbanks. Mr. Barr.

BARR: I have had placed on all the delegates' desks a mimeographed copy of the text of this amendment. It is not the complete amendment showing the lines and paragraph, it is merely the text. It provides for the election of the attorney general, that is the gist of it. He shall be elected at the same time and manner as the governor. He shall be legal adviser to the legislature and all state officers, and shall perform such other duties as may be prescribed by law. It outlines his duties and it provides for his replacement in case there is a vacancy. Now, in presenting this amendment, I do not go against the thought of the Executive Committee in that we should have a strong executive. Some people will think so. I went along with their committee report and I still do not disagree with it; however, the reason I decided finally to put this amendment in was the fact that I met innumerable people, speaking to them privately, who thought that the attorney general should be elected. In fact, they stated it in broader terms, they said they would like to elect more officials than the state governor. None of them stated that they wanted to elect as many as we have now, that they wanted to reduce the governor's power, but they thought they should elect enough so that they felt they had a hand in the government themselves. I felt that if another official should be elected, it should be the attorney general. Why the attorney general? Because all these other department heads are there expressly to carry out the governor's program and should agree with him in every detail on his policy. That makes up a good working team. The attorney general also should work with the governor, he is the governor's legal counsel and the legislature's legal counsel and also counsel for all the department heads, but he has one other duty that does not quite conform to the usual idea of a department head's duty under administration and that is, he is called upon to interpret the law at times. That is a semi-judiciary function, I would call it, although it's not final. It is a temporary decision and may be taken into the courts. In interpreting the law, he should be impartial. Many times, of course, the governor might ask him to interpret the law to be sure that he is on the right ground when he proposes something. In case we had a governor who wanted to bulldoze something through anyhow, if it were a little bit questionable, the attorney general might feel that he was obligated to the governor if he were appointed and his opinion might be biased a little bit. I wouldn't say that he would flout the law, but he could be biased a little bit to either one side or the other.

And even if he were entirely honest and tried to render an impartial decision, I'm afraid his conscience would hurt him a little bit because he was obligated to the governor and went against the governor's wishes, so to remove him from that embarrassing position, I think that he should be elected. Now I grant you in electing any man we cannot be sure that we will get a good man, and on the other hand, by appointment we cannot insure that we will get a good man, but I believe that if we are going to elect another official because the people want it, then it should be the attorney general.

PRESIDENT EGAN: Any further discussion? Mr. Marston.

MARSTON: Mr. President, if my recollection is right, in the past 14 years that I have definite recollection of, there have been only two attorney generals and the reason is that they just can't get attorneys to run for that job. I'd want to know that there are attorneys that will step up and lend themselves to be elected to that job before we pass on this. I have no argument with the mover of this amendment, Mr. Barr, except that is information that I would like to have. Maybe we have some lawyers here that could enlighten me on that.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I think I could answer that. All the lawyers that favor the amendment will probably stand up, and those who don't will sit down. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Is there further discussion of the proposed amendment? Mr. Nolan.

NOLAN: Mr. President, at a meeting that I had, I think there were 12 people there on an hour and a half's notice, that was the one thing they were unanimous on. They wanted the attorney general elected by the people. They seem to think it was the one independent arm that they would have, and for that reason they were unanimous that the attorney general should be elected, and therefore I think I will support Mr. Barr's amendment.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, I voted against the governor and secretary of state as co-runners on the belief that we had merely one elective office in the executive arm and that would suffice, because my other voting had been predicated, and other proposals had been predicated, on that belief we were going to have a strong executive. This is merely the introduction to other offices. I notice we have a Delegate Proposal No. 45 submitted by Mr. Barr, and we have a Delegate Proposal No. 44 also,

providing for the election of a commissioner of labor. If we yield ground in one respect, we might as well elect our commissioner of welfare, our commissioner of education, and having provided those, I feel that we should go right down the list and completely dissipate the theory upon which the voting has taken place. It was with reluctance that I even voted in favor of the secretary of state as a co-runner for the governor. I am violently opposed to the election of the attorney general. I don't think the election of him accomplishes any purpose. The blunt fact is that there is a general misconception as to the function of the attorney general. The attorney general is a lawyer and his opinion is the equivalent of any other lawyer's. It can be attacked. Any recommendation he makes, if acted upon, can always be attacked in the courts by private citizens. His opinion is worth the paper it is written upon. It's impressive upon the state and the officials are bound by it until some irate taxpayer attacks it and the actions taken under the authority of it, and the courts can promptly overrule it. There is a misconception about the function of the attorney general, his functions are not quasi-judicial. He is another attorney giving an opinion, and if you could assure yourselves that he would have the wisdom of a deus, those lawyers don't exist in Alaska as it has been evidenced by the variety of opinions expressed here before this body. I do oppose it, I think if we are going to have an attorney general, the power should be vested in the governor to appoint him, and that is without any screening by any judicial council or anything of the sort. If you're going to elect him, elect him, but by and large if you're creating a strong executive, then give him the power to appoint his own attorney general. The discrepancy has been pointed out in New York under the series, Governors and Administration of New York, which is put out under the American Commonwealth Series, it's pointed out that because of the fact that the attorney general is an elective office under the constitution, that is, the governor, in substance, has to rely on a legislative act passed in 1900 authorizing him to have private counsel. You're putting a diverse and possibly a discordant element into the executive branch. It isn't necessary. The courts can protect the government from the opinions of an attorney general appointed by the governor, and that attorney general does, in a sense, bear the same relationship to the governor as any attorney bears to his private client. It is an attorney-client relationship and the relationship has to be based on faith and personal selection. I would strongly recommend that there be no other elective offices in the state.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, may I be allowed to close?

PRESIDENT EGAN: If there is no other person who wishes to be heard. Mr. Stewart.

STEWART: Mr. President, may I ask Mr. McLaughlin a question?

PRESIDENT EGAN: You may, Mr. Stewart.

STEWART: Is it your idea that the attorney general, as such, he is or should act as the counsel for the legislature, as well as for the executive?

McLAUGHLIN: He should, in substance, act as counsel for the legislature. In many respects, you also have the unusual circumstance where the attorney general is of one party and the legislature is predominantly of another party.

STEWART: He may have to give decisions in one case that might favor the executive and in another case might favor the legislature?

McLAUGHLIN: That's right.

STEWART: I think that is an unwholesome situation, and should be corrected by having the attorney general purely and simply the adviser for the executive.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this has developed to the point where I want to say a few words. I wasn't going to, but when I was attorney general, that office was legislative counsel for the legislature, advised the members of the legislature, advised the various administrative departments under the governor, and advised the governor, and wrote legal opinions interpreting the law. Since that time the legislature has created a Legislative Council, that Legislative Council has a political scientist in charge, Jack McKay. It could very well have a lawyer and is authorized to engage any legal services that may be required. The legislature has full power to hire all the legal assistance it needs during the sessions so that I believe that Mr. Stewart's thought is well taken, that the attorney general will be the attorney for the executive arm of the government and that if we have the governor appoint an attorney general, he is not going to be the adviser to the legislature nor the drafter of legislative bills. Now, he may draft proposed legislation for the administrative departments. If the department of health wants a bill, the governor will tell the attorney general to get out a good bill or the commissioner of health, or as the case may be. They'll fall back on the attorney general for some bill drafting

for the governmental departments, but the legislature from now on and under this setup, is not going to have the attorney general doing its bill drafting. It's going to have its own legal counsel. The present Attorney General, because of the press of business, gave up being legislative counsel for the legislature three years ago and told them they were too busy and were just looking after the executive department, and that they were to figure out how to get their own bills drafted. Two years ago that situation got so acute that the Legislative Council was created and it serves a very useful need, but I think that Mr. McLaughlin actually emphasized the wrong answer when he said that the attorney general would be the counsel for the legislature as well as for the executive arm, because under the present development with Legislative Council, he will be the attorney for the executive branch and the legislature can take care of itself. I might also say that I wrestled with this, I started out advocating that the attorney general be elected, but I wrestled with it, I told Mr. Barr that I felt the way he did four or five days ago. Because of my doubts though, I have talked to many people, they have said if you are going to let the governor's administration be held responsible for the conduct of that administration, you have got to at least give the governor an attorney of his own choice. Under this setup he might get an attorney of the opposite political faith. He might get one of his own party who is either inadequate or who is hostile to him, or who doesn't see eye-to-eye with him. In either case, the governor could say at the end of his term, if things haven't gone well, "We had a good program but that attorney general you foisted upon me wrecked our program." There again, you have got passing the buck as to who was to blame because things didn't go well. Now then, if we want to be sure that the strong executive who is going to have the responsibility of carrying out a successful administration is going to get the blame if he doesn't have a successful administration, let us not give him any outs. Let's not take him off the hook by giving him an attorney general that he can put the blame on.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I don't intend being an applicant for the position of attorney general either by appointment or election, but I don't quite see Delegate Marston's point that there are no attorneys in the Territory who are willing to run to be elected attorney general. I can't see how there would be any attorneys who would be willing to accept the appointment. I support Mr. Barr's position in this matter. I, too, am in favor of a strong executive, but I don't think that the mere fact that because under the appointive system of governorships that the governor virtually has no powers, that we should let that carry

us too far away. I think that it is a good thing for the people, to have their own elected attorney general who can check the legislation which the governor proposes to introduce and have introduced, and for that reason I am going to vote for this amendment.

BARR: Mr. President, may I close now?

PRESIDENT EGAN: You may, Mr. Barr.

BARR: I was also going to answer Colonel Marston much as Mr. Robertson did. If lawyers aren't available, they aren't available period. Mr. Rivers was talking about an entirely different thing. He mentioned our present Legislative Council. There is not a lawyer in charge. They do draft bills for the legislature. They have taken over a duty which the attorney general formerly did, that is as it should be. There is a lot of detailed work there, but it isn't legal work. If the legislature wants to ask a legal opinion, they will not go to our political science experts, they will go to the attorney general. Now he also stated that if an attorney general of the opposite political party were elected, the governor could pass the buck and say, "Well, you people see what you saddled me with here. I couldn't do anything. He wouldn't let me." Well, if there was an attorney general of the opposite political party there, he would make the governor toe the line pretty well as far as the law was concerned. All the governor could say to the people is, "You see that attorney general, he made me conform with the law." That's all this is designed to do. It isn't supposed to restrict his actions otherwise, just to conform with the law. Now, as Mr. McLaughlin said, because he was the legal counsel for the governor period, that this would not accomplish any particular purpose. It will accomplish several purposes. It is up to you people to decide how important they are. It might provide a little brake on the governor if he wants to go too far. If he wants to over-step the law just a little bit, but the principal purpose it has, the principal objective it will achieve is that it will allow the people to have more hand in the government and that is what we want.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: I request a roll call on this vote and will raise my hand to indicate that request. Under these rules, 10 people have to --

PRESIDENT EGAN: No, that rule failed of passage.

HELLENTHAL: Oh, I see.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Barr, Collins, H. Fischer, Laws, McNealy, Metcalf, Nolan, Robertson, Smith, Sweeney, Taylor, Walsh.

Nays: 40 - Armstrong, Awes, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, White, Mr. President.

Absent: 3 - Coghill, VanderLeest, Wien.)

CHIEF CLERK: 12 yeas, 40 nays, and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Barr.

BARR: Mr. President, I had another amendment which I had intended introducing providing for the election of a commissioner of labor. I would just like to state that the reason for that was that without destroying the powers of a strong executive, I thought the people would like to have a number of officials elected someplace between the number of two and four, but I can see that this body does not believe that that should be done.

McCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

McCUTCHEON: Isn't Mr. Barr speaking to a matter of personal privilege?

PRESIDENT EGAN: Do you ask to speak on a matter of personal privilege, Mr. Barr?

BARR: Yes, I will, if the tape is left on.

HURLEY: I'll move that Mr. Barr be allowed to speak on a matter of personal privilege.

PRESIDENT EGAN: If there is no objection, the rules will be suspended and Mr. Barr may have the floor on personal privilege.

BARR: I want to explain that since it is very clearly the intention of this body to have two elected officials, there is no point in me introducing this other amendment and holding up proceedings. I never intend to hold up proceedings at all. I realize the shortness of time here, so I will not introduce that amendment at this time, although in my own heart, I believe that we should have an attorney general and commissioner of labor elected.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe this would be an appropriate place to bring up the matter which has been bothering our Committee on Style and Drafting, if I may have the floor on that matter.

PRESIDENT EGAN: Yes, if there is no objection, you may have the floor.

SUNDBORG: I would like to know if we are creating anywhere in this constitution the office of the attorney general? And I ask it because in our article on direct legislation there is a provision that petitions for referendum and recall and the like, shall be filed with the attorney general who shall certify it to its sufficiency as to form, etc. Since we have not created that office, and I don't believe we should do it by indirection by assigning duties to the man whose office has not been created, I would like to be recognized at the end of this statement under the item of personal privilege, to make a motion and the motion would be that the rules be suspended and the Committee on Style and Drafting be instructed to make a substantive amendment in the article on direct legislation to provide that wherever the words "attorney general" appear, that they be changed to "secretary of state". I wonder if all of you recognize what the problem is. I think we have now agreed that in the executive department we are going to have one other officer at least besides the governor. He will be called the secretary of state. I wonder if all of you recognize what the problem is. I think we have now agreed that in the executive department we are going to have one other officer at least besides the governor. He will be called the secretary of state. It occurred to us in Style and Drafting that it would be entirely proper that the secretary of state should be the officer of the state with whom petitions under the initiative and under the referendum should be filed, that if he required legal services in order to satisfy himself that they were sufficient as to form, etc., he could get them from whatever officer of the state might be provided by

legislation or otherwise for that purpose, but I think we are probably being inconsistent and maybe we are making a mistake if we set up duties for an official called the "attorney general" and don't set up the office itself in the constitution.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, believing as Mr. Sundborg does --

V. RIVERS: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Rivers.

V. RIVERS: Mr. Sundborg was talking under personal privilege.

BARR: Excuse me.

SUNDBORG: I will now, Mr. President, I am at the end of my statement under personal privilege, am I recognized to make a motion?

PRESIDENT EGAN: You are, if there is no objection, Mr. Sundborg.

V. RIVERS: I object. I wish to make a statement first.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Under personal privilege, there was a minority group in the Committee who felt that the attorney general should be mentioned in the executive article and that rather than have any individual who had obligations to repay to the governor or had favors to receive from the governor by reason of political support, that he should have a certain amount of screening, he should not be limited to one individual. Now I have an amendment available as we get to the end of Section 14 which would cover that, if the body so decides to adopt it, or if the desire to wipe out the screening principle, it still would cover the appointive attorney general and the method by which he might or might not be removed from office. The present executive article is identical in the matter of not mentioning the attorney general, it is identical with the State of Hawaii Constitution in that they also did not set up an attorney general specifically, they allowed the departments to be established as we have done here, but in order to carry out the consistency in connection with the fact that we have mentioned certain duties of the attorney general, we have got prepared, or Mr. Harris and I have prepared here an amendment for discussion covering that point.

SUNDBORG: Mr. President, in view of Mr. Rivers' statement, I will withhold making my motion until the body decides whether it does wish to constitute the office of attorney general.

PRESIDENT EGAN: Are there amendments to Section 14? Mr. Buckalew.

BUCKALEW: I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment to Section 14.

CHIEF CLERK: "Line 23 and line 24, page 6, strike 'quasi' and 'judicial'."

PRESIDENT EGAN: Mr. Buckalew, what is your pleasure?

BUCKALEW: Mr. President, I move its adoption. Also, strike the "and".

PRESIDENT EGAN: If there is no objection, it may be added to the amendment.

BUCKALEW: I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the proposed amendment.

AWES: I'll second the motion.

PRESIDENT EGAN: Miss Awes seconds the motion. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 14, line 23, page 6, strike 'and quasi' and line 24, strike 'judicial'."

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: The reason I introduced this amendment is for the reason that there has been a dangerous tendency in the last 20 years to establish all kinds of boards that act almost in the capacity of a court. They have the power to fine, revoke licenses, and take all kinds of action. I think that it is setting a dangerous policy in the constitution to mention "quasi-judicial" boards with no limitations on it at all. I am opposed to quasi-judicial bodies and looking at this section with the rest of the sections, it seems to me you find yourself in the position of where you would have a fisheries board, for example, and then have at the same time have a board going

along with it which would be regulating fisheries, imposing fines and taking care of the violations under the regulations of the fishing boards. I think the language should be stricken.

V. FISCHER: May I ask Mr. Buckalew a question, Mr. President?

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may ask your question.

V. FISCHER: What does "quasi-judicial" mean? I know what "judicial" means, but what does the "quasi" mean?

BUCKALEW: I don't know exactly what it does mean, and I doubt if any lawyer in the body knows exactly what it means. It is a board that has fact-finding power and at the same time, it has the power to support its findings with some sort of punitive action so it's sort of a court, except it doesn't have the same kind of jurisdiction, but it is a combination -- I can't explain it. Mr. Hellenthal, can you?

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: It is precisely what Mr. Buckalew says it is. It is a board that has very limited functions, ordinarily assumed by specialized courts and within definite limitations so that there can be no abuses. The Interstate Commerce Commission is a very fine example of a quasi-judicial board. A utility commission is another excellent example, where they can prescribe fines for violation of utility regulations, but within a limited sphere. They can't execute you, they can't send you to the penitentiary. They can prescribe fines within a sphere set by the legislature, so there is no danger of anybody running away with anything, but the advantage of specialization is secure and that is why the quasi-judicial boards are created, so that expert men, in their fields, can interpret the laws of the legislature subject to checks imposed by the legislature.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to follow up with Mr. Hellenthal. He said a utilities board would be quasi-judicial. What is the difference then between "regulatory" and "quasi-judicial"? To me a utilities board would be regulatory.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Perhaps I can explain it in the terms best known to Alaskans. Very roughly, the Fish and Wildlife Service and the

CAB, the Fish and Wildlife Service can set down regulations. Normally if there is an infraction of those regulations, they pick up the offender and deliver him to a judicial body, that is to the United States Commissioner, or to the United States District Court. They have no power of absolute confiscation on their own, no power to deprive of money or rights. In the case of the CAB, the Fish and Wildlife, in substance then, sets down regulations, but in the case of the CAB, they go further than that. In substance, they determine as between carrier and carrier, who is privileged and who can be deprived of it. I think if you strike, it would be erroneous and possibly fateful if we strike that word "quasi-judicial" because as Mr. Hellenthal has mentioned, in the national sphere you have the RCC, FCC, things that are important and material to us. You might even destroy the possibility of ever creating an alcoholic beverage control board under the state, and dependent on your viewpoint that is good or bad, but I would recommend that it be kept in there, if at any time it becomes an intrusion upon the judicial power, I am sure that all of those nonpartisan judges of the superior and supreme court will rise up and destroy it under the constitution.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I have a question of Mr. McLaughlin, if I could ask it.

PRESIDENT EGAN: State your question.

GRAY: Mr. McLaughlin, I want to put this question to you. Do you have any recourse from the judgment of a quasi-judicial board by the courts, or is their action final?

McLAUGHLIN: No, their action is never final, particularly under our judiciary article.

PRESIDENT EGAN: Miss Awes.

AWES: I just wanted to state that I seconded the motion when it was made because I thought it was a matter that should be brought on the floor and open for discussion, but I don't want my second to be taken as approval of the striking of the word.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, in connection with this, two of the delegates who are on the Committee have checked the meaning of the word "quasi-Judicial". According to the interpretation of Webster's, which was checked and brought up by Delegate Nordale, the interpretation is given in reference to "quasi" when used

as a prefix means, "that which resembles". "Quasi-judicial, designating an act or proceeding of or before an administrative tribunal or official of the general nature of a judicial act or proceeding but not within the judicial power as defined under the Constitution." Now that is a broad interpretation of the term as we use it here, and it is the interpretation of Webster. However, Delegate Londborg has also looked the matter up in Black's Law Dictionary and it is practically the same. Do you have that here, Mr. Londborg?

LONDBORG: No, I don't.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: May I ask Mr. McLaughlin a question, or anyone else who would care to answer it?

PRESIDENT EGAN: You may, Mr. Hurley, if there is no objection.

HURLEY: If the amendment carries, and the wording is struck, it would read: "Regulatory bodies and temporary agencies..." In your opinion, if that were the case, would "regulatory bodies" imply that the legislature could, in setting up such regulatory bodies, give them quasi-judicial powers.

McLAUGHLIN: I think it could, but in view of Mr. Buckalew's attempt to strike it out, at any time when the courts go back to read the constitution, they see that Mr. Buckalew presented an amendment striking the word "quasi-judicial" on the grounds that they were getting too big and intruding on government, and they might interpret it as abolishing the right, that is abolishing the right of the legislature to create quasi-judicial bodies.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I would support Mr. Buckalew's amendment, not on the ground that the agencies are too big or not desirable, but because the thing is adequately covered in the other word used.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Mr. President, I would like to put a question before the body here. Under the language of this sentence, would it be possible to set up a board which was both regulatory and at the same time a quasi-judicial body? That is what I would object to.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, I want to speak in favor of the amendment, just on the point that Mr. Emberg raised, and as to the

interpretation of the words "quasi-judicial body", I think you'll find in the law, and I believe when I mention it that the greater share of the attorneys here will agree with me, we speak of "quasi-contracts" which are, in effect, contracts implied by law and the greater share of your court's interpretations which go further than the dictionaries here, would be to the effect that the word "quasi" here, in effect, means that it is an implied judicial body. I won't enlarge on it anymore than that, but I fear this one thing, that the nomination of regulatory and quasi-judicial bodies raise a condition such as, I'll only mention one, such as the Game Commission which can set up their own rules and regulations, send out their own men to enforce them, and I am very much in favor of game conservation and the game commission, but the abuses that we have known of that right, here in the Territory and specifically in the Fourth Division where it was necessary while I was district attorney, to take issue with the Game Commission because they did set up their own laws, they felt that it wasn't necessary to abide by the laws of search and seizure. They went out and broke the locks of cabins and caches, went in and searched for furs that they thought might be there, that were improperly caught, or caught too great a number. I'm not going off on that subject because it would take a half-hour to cover all of the violations that did happen and were possible under that, and in which I believe have to a great extent been simmered down, and some of the matters were resolved against the Game Commission at that time. Now there are others that are even greater offenders than the Game Commission and I speak of them, and I back the Game Commission 100 per cent in their purpose, but the point is that if you have the words "regulatory and quasi-judicial bodies" combined here, I fear very much that it is going to open it up where you are going to establish boards that not only set up the laws, but they enforce them, and when you do you are combining legislative, executive and judicial all in one branch and it is a dangerous situation, and I feel that I am starting to get a little steamed up on this. I ought to close on a bit of humor here. I believe that I should be against the amendment on the theory that the legislature might be able to set up some implied courts in opposition to Mr. McLaughlin's judicial system.

PRESIDENT EGAN: Mr. Peratovich.

PERATROVICH: I wish to support Mr. McNealy's views on that. I, too, question the language there, but before I start, I would like to direct a question to Mr. McLaughlin, if I may.

PRESIDENT EGAN: You may, Mr. Peratovich.

PERATROVICH: I just want to know, under this setup, the language used here, is it possible to limit powers of such a body? Is there a way that you can regulate the powers of such a body?

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I'll put it this way, this does not direct the legislature to create these bodies and it is my personal opinion that you could not attempt to define in the constitution the limitations of the powers on the regulatory or the quasi-judicial bodies. It would be an impossibility, because the vagueness of the term would require great definition and precision. Do I think that quasi-judicial bodies are necessary? I definitely do. I think if you specifically prohibit them in your constitution, you are hamstringing yourself. The legislature won't be able to create the boards that are necessary. You will have to rely on the discretion of the legislature that they will appoint the appropriate body, and the only difference then is that they will be our collection of thieves rather than those of the national government.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I would like to relate some experiences in support of what Mr. McNealy has related to you. I can't help but feel there is a possibility of abuse of power in such a setup. In the experience I have had is in the case of game wardens and the fisheries, like Mr. McNealy relates. We have known of cases in our division where our fishermen with some fish aboard, say with perhaps 300 or 400 fish aboard caught just before darkness and go inside of the line and anchor. There would happen to be a good harbor there, and perhaps during the night the fisheries commission warden would come in there and this man is pinched and if you can't defend yourself, if you can't talk and try to reason with a warden, then you're picked up and taken into the commissioner's court. I don't say they're convicted in all cases, but it does require time to prove that you are innocent. On the other hand, if a trapper is out on his line, on his boat, anchored in the bay, he is perhaps out on his trap line. When he comes back, he finds his hatch covers all off, his food lockers all open and everything else, and that is another case of where a game warden comes along on a plane and takes the liberty of going aboard to see if they had any illegal meat, fur or something of that nature. I feel that under a setup of this type, we don't have a way of regulating their duties. I don't think we can remedy what has transpired under our former government.

PRESIDENT EGAN: Mrs. Nordale had been attempting to get the floor. Mr. Hellenthal.

HELLENTHAL: May I ask a question of Mr. Peratrovich?

PRESIDENT EGAN: If there is no objection.

HELLENTHAL: Don't you, Mr. Peratrovich, and Mr. McNealy, both feel though that those poor regulations were due to Congressional action, and that an Alaska state legislature would never permit such a situation?

PERATROVICH: I agree with you, but I want to make it clear here, that I for one don't understand the terms that you lawyers use here, but I can see very dimly that there may be a possibility of correcting the errors that we have made under our Territorial setup. If we could remedy that under the state setup, then that is what I am for, and that is the reason I want to make it clear here. I am satisfied with your explanation.

PRESIDENT EGAN: Does anyone want the floor that hasn't had the floor? Mr. Ralph Rivers. Haven't you had the floor?

R. RIVERS: Not on this subject. I have refrained up to this point, but bearing on this is the proposition that we are talking about whether regulatory and quasi-judicial bodies shall be placed in principal departments or whether they shall be placed out of principal departments. If we knock out the word "quasi-judicial", the legislature could still create quasi-judicial departments but would simply be making principal departments out of them instead of keeping them out of the principal departments. I was going to make the same point that Mr. Hellenenthal made, that we can't get to first base protesting some of the abusive enforcement methods of an agency that is created back in Washington, that we would have to go back to Congress to get remedial measures, but after we have our own legislature here, which will have the power to create these bodies, even if we do strike the word "quasi-judicial" from this particular article, we have a legislature near at hand meeting every two years where the citizens can go down and complain about how this state agency is taking this highhanded method or the other, so if we need to leave this in the hands of the legislature, let's trust the legislature to put in the suitable restrictions and go to the legislature with our complaints every two years when the time comes.

PRESIDENT EGAN: Miss Awes.

AWES: The Convention expressed the desire to adjourn about 3:45 so they could catch the bus at 4:05, and I think that clock has stopped. Mr. Marston and I both have 3:50.

PRESIDENT EGAN: Whether or not we can get to this amendment by then, we'll see. The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will

signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Armstrong, Barr, Buckalew, Coghill, Davis, Doogan, Emberg, Hurley, Johnson, Lee, McNealy, Nolan, Peratrovich, Riley, Robertson, White, Mr. President.

Nays: 36 - Awes, Boswell, Collins, Cooper, Cross, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh.

Absent: 2 - VanderLeest, Wien.)

KILCHER: Mr. President, I would like to change my vote to "yes".

PRESIDENT EGAN: Mr. Kilcher wishes to change his vote to "yes".

CHIEF CLERK: He was "yes".

KILCHER: I mean to "no".

PRESIDENT EGAN: Mr. Kilcher wishes to change his vote to "no".

KILCHER: I also will give --

PRESIDENT EGAN: That is all you can say at this time, Mr. Kilcher.

CHIEF CLERK: 17 yeas, 36 nays and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Mr. Kilcher.

KILCHER: Mr. President, I give notice to reconsider my vote.

PRESIDENT EGAN: Mr. Kilcher serves notice of reconsideration of his vote on this particular amendment. Mr. Sundborg.

SUNDBORG: Mr. President, subject to committee and other announcements and other notices of motions to reconsider, I move that we adjourn until 9 o'clock Monday morning.

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PRESIDENT EGAN: Now, are there committee announcements prior to putting the motion? In case anyone is in doubt, the notice of reconsideration can be given even after the motion to adjourn has been put. Are there announcements of committees? Mr. Rosswog.

ROSSWOG: Mr. Chairman, the Local Government Committee will meet at 1 o'clock tomorrow afternoon in Apartment 19 in the Alaskan Inn.

PRESIDENT EGAN: The Local Government Committee will meet tomorrow afternoon at Apartment 19 in the Alaskan Inn. Are there other committee announcements for tomorrow? If not, the Convention will stand adjourned until 9:00 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 16, 1956

FIFTY-FIFTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Purviance of the Methodist Church. Reverend Purviance will give our daily invocation.

REVEREND PURVIANCE: Our Father and our God, we praise Thy Name that Thou has seen fit to spare us to be together once again. We come now in humility, asking for Thy wisdom, Thy guiding hand upon us, particularly now during these final days of this session that we may be prayerful and careful and that Thou may guide every thought and every motive. For we ask these things in the Master's Name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

HELLENTHAL: Mr. Harris and Mr. McLaughlin are both here but they are temporarily occupied with other matters.

PRESIDENT EGAN: The Chief Clerk will please show they are here. Mr. Buckalew is present.

CHIEF CLERK: All members present.

PRESIDENT EGAN: A quorum is present. Does the special Committee to read the journal have a report to make at this time? If not, we will hold the report in abeyance until later in the day. Are there any petitions, memorials or communications from outside the Convention? The Chief Clerk will please read the communications.

(The Chief Clerk read a telegram from Senator Marcus F. Jensen of Douglas requesting the separation of the resources of game and fish as worded in the proposal made by the Territorial Sportsmen, Inc.)

PRESIDENT EGAN: The communication will be referred to the Committee on Resources. Are there other communications? If not, are there reports of standing committees? Are there reports of select committees?

SUNDBORG: Mr. President, I would like to announce a meeting of the Committee on Style and Drafting for the morning recess at the rear of the gallery.

PRESIDENT EGAN: Mr. Sundborg announces a meeting of the Committee on Style and Drafting immediately upon the morning recess at 10:30. Are there other committee announcements? Mr. Sundborg.

SUNDBORG: Mr. President, I notice that just entering the chamber is a man whom we have summoned from Louisiana, Kimbrough Owen, who is going to assist the Style and Drafting Committee throughout the balance of the Convention. I would like to ask unanimous consent that he be introduced to the body at this time.

PRESIDENT EGAN: Mr. Owen, we would be appreciative if you could come forward and present a few remarks to the delegates. We are happy to have you here. (Applause)

MR. OWEN: Mr. President and delegates, since brevity seems to be one of the characteristics of this Convention, I would just like to say I am very happy to be here, and I am very profoundly impressed with the draft I have seen and I hope I can be of service. Thank you.

PRESIDENT EGAN: Thank you, Mr. Owen. (Applause) Mr. Rosswog.

ROSSWOG: Mr. Chairman, I have a report by the Style and Drafting Committee. The Local Government Committee worked all yesterday on their proposal and we hope to have the services of Mr. Owen for at least a short time, as he is experienced in local government.

PRESIDENT EGAN: Thank you, Mr. Rosswog, and we are sure you can obtain the services of Mr. Owen. Are there any motions or resolutions to come before us at this time? Is there any unfinished business? Under unfinished business we have before us -- Mr. Hilscher.

HILSCHER: Mr. President, I should like to take the time of the Convention for a few minutes to discuss a matter which I think is pretty important to us in the over-all view of the job we have to do.

PRESIDENT EGAN: If there is no objection, Mr. Hilscher.

HILSCHER: There has been no publicity on the Constitutional Convention on a national basis that we have heard of as yet, and there have been letters written to members of the Convention from friends in the states stating that they are interested in Alaska and the Constitutional Convention but unless they had heard from them they would not know that the Alaska Constitutional Convention was in existence. We have in this room representatives from 19 states and six foreign countries. I should like to suggest, Mr. President, that before too long the President of this Convention request or arrange for a committee to possibly meet with the Statehood Committee for the purpose of working out a publicity and public relations campaign. I can see where a photograph taken right at work here and a story with it should go to every hometown paper or every place of origin. Now we have five from Minnesota. It might be pretty important to the passage of the Alaska statehood bill, if and when it is presented to Congress, that we have the support of the two senators and the congressmen from Minnesota.

I can readily see where if one of our lady delegates who comes from Minnesota, if her picture appeared in the hometown paper, and there was quite a write-up, and the fact that she is the National Democratic Committeewoman from Alaska, it could create quite a bit of interest in her hometown. I also believe all of these should also be represented in their professional publications. I can see where photographs should go to the American Bar Association and to their publications, to the American Mining Journal. Mr. Harris is in the hotel business, there are a half-dozen hotel publications which would be very pleased to have a picture of Mr. Harris, all of which is in the nature of national publicity, to get the story out that Alaska is doing something about the constitution. Something should also be done about a poster contest in the schools on "Ratification of the Constitution" or "Understand the Constitution". Then if and when the people of Alaska decide to ratify the constitution a definite method should be worked out for the delivery of the constitution to the President and to the Congress. We have an end product to sell and there is just as much salesmanship involved in selling statehood or selling our constitution as there is in a pair of shoes or real estate or any other product. Therefore, Mr. President, I feel it is quite incumbent upon us to be aware of this fact and to decide whether or not we are going to do something about it or whether the Statehood Committee is going to do something about it, and I would like very much, Mr. President, to suggest this matter be taken under consideration by you. I should imagine that our Administration Committee would probably be a logical committee, or certain members, and I know there are several people in our Convention who are acquainted with publicity and such matters and I would strongly urge that definite action be taken on this in the very near future. I understand the Statehood Committee is going to hold a meeting next Sunday. Well, perhaps we can find out whether or not the Statehood Committee is going to do anything about it, but it certainly should be done with our cooperation and our assistance, or at least we should be a party to it. I don't know whether it is the function of the Statehood Committee, but something should be done.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Correction on meeting next Sunday. It is a meeting of the Executive Committee of the Statehood Committee, and not the Statehood Committee as a whole. I was under the impression that the Rules Committee had outlined this particular thing as one of the manifest and many duties of the Secretary of the Convention. If I am wrong I stand corrected.

PRESIDENT EGAN: If there is no further discussion we will take the matter under consideration. We have before us Committee Proposal No. 10/a. Was there a pending amendment? Mrs. Hermann.

HERMANN: Mr. President, I want to speak on a matter of privilege

on a matter that is far removed from Convention business.

PRESIDENT EGAN: Mrs. Hermann, if there is no objection.

(Mrs. Hermann spoke on a matter of privilege.)

PRESIDENT EGAN: Thank you, Mrs. Hermann. Did we have two reconsiderations of amendments that had been adopted, pending or was there one? The Chair only brings it up at this time inasmuch as it might be best if we consider any reconsiderations on this proposal as quickly as we can. That is, it would be up to the maker of the motion actually, but were there two reconsiderations or one?

CHIEF CLERK: One, I think.

PRESIDENT EGAN: If the Chair remembers it, Mr. Kilcher I think reconsidered on the last proposed amendment, but I had the feeling there had been another notice given during the day. If not, we will continue. Mr. Victor Rivers.

V. RIVERS: I have an amendment.

PRESIDENT EGAN: You have an amendment by the Committee?

V. RIVERS: By a minority group of the Committee, myself and Mr. Harris.

PRESIDENT EGAN: Mr. Victor Rivers, you may present your proposed amendment. The Chief Clerk may present the proposed amendment.

CHIEF CLERK: "After Section 14, page 7 of Committee Proposal No. 10/a, insert a new section as follows: 'Section 15.

The Attorney General shall be appointed by the Governor from two or more qualified persons nominated in the same manner as judges by the judicial council. He shall have been admitted to practice law in the State and shall have the other qualifications prescribed herein for heads of principal departments and shall be subject to approval by the Legislature in a similar manner.

The Attorney General may be removed by the Governor with the consent and approval of both houses of the Legislature meeting jointly.' Renumber successive sections to conform to the above insertion."

V. RIVERS: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the amendment. Are there copies available for the delegates? Is there a second to Mr. Rivers' motion?

HARRIS: I second the motion.

PRESIDENT EGAN: Mr. Harris seconds the motion. The matter is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, this matter of the office of attorney general came up for a good deal of discussion in connection with the strong executive and in connection with the matter of having some screening for the man who would be the attorney general. Some of the Committee felt that it would interfere with the strength of the executive. Others of the Committee felt they wanted to see the attorney general elective and not removable by the governor. It seemed that the only thing that was of main concern to a great many of us was that while we recognize the value of the strong executive, we are not naive enough to think that the governor who is elected will not have certain obligations, commitments, endorsements to meet when he goes into office. We realize that on all the other department heads there may have to be on his part some compromise with his desires under this plan as we have it. We did, however, want to try to eliminate any matter of the return favors or endorsements or obligations to the man who he appointed as attorney general. We are trying to remove that particular office by a screening process we have set up here, so the man who went in there, his appointment would be based on merit and not on any other consideration. As you will note, we have recommended that the attorney general be screened by the Legislative Council in regard to his qualifications, that two or more be screened in accordance with the requirements to fill the job satisfactorily both on the basis of qualifications and on the basis of the governor's desires. The only intent in this is that the attorney general shall be one who is appointed not from the point of view of any obligations from the governor to him, and also the other intent is that the attorney general cannot be removed by the governor without also the approval of the legislature meeting jointly as they approved the appointment of the attorney general at the time he was actually put into office. He would be removed in the same manner, and by that manner only. There has been a good deal said here about diluting the power of the strong executive. I am of the opinion that perhaps a governor going into office where he had to make a large number of appointments, where he had been supported in his campaigns by many individuals who might be men of high degree of competence or average competence, I would be of an opinion that a governor in that position would probably welcome the possibility of the chance of appointing one office in such a manner that he would not have to repay any obligations or indebtedness or favors in that particular appointment. I for one feel the attorney general's office should have removed from it the need for making any concession to competence or qualifications because of political support on the part of the applicant to the governor in seeking election. That is my opinion and I feel there is sound justification for that opinion. I realize there are many divergent opinions here on that subject.

PRESIDENT EGAN: Is there further discussion? Mr. Buckalew.

BUCKALEW: Mr. President, from the beginning I would like to state that I don't like this proposal. The first objection I see is that we are shoving off on the judicial council a function that is not one of their duties. The judicial council was created by Mr. McLaughlin's department. He set up a judiciary. Now we are going to let Mr. McLaughlin's department select an attorney general. Not only does the attorney general have to be approved by the judicial council, the attorney general then has to be approved by the legislature. If the governor wants to remove him he has to get the consent of the legislature. Now, I don't think this matter would even have come up if we had not discovered that the initiative and referendum article referred to the attorney general. The reason I bring that up is that I think Mr. Sundborg had an excellent suggestion that we just insert the words "secretary of state". That is probably one of his functions. That is the only reason I think this business came up. We decided yesterday that we were not going to elect the attorney general. The argument put up by the Committee was they wanted to have a strong executive and today they are going to water it down a little. I think we ought to be consistent and vote this amendment down.

V. RIVERS: I rise to a point of order. I stated this matter had been discussed some time ago in Committee. It did not arise yesterday. This amendment was prepared during the time of that discussion. I also object to referring to any department of this constitution as being the department of some one individual. I don't believe it is either Mr. McLaughlin's or mine or anybody else's; it is the constitution of all the people of Alaska.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I was going to correct Mr. Buckalew, but since Mr. Rivers has already done so, I will only state that I would favor this amendment. We talked about this quite a bit in Committee, and it is a check on the governor. It makes a bit of difference when the attorney general's word becomes law. It actually is law, unless it is disputed in court and found to be not exactly as it is supposed to be, then it is used as law. Therefore, we feel the attorney general should be a qualified man and in order to insure that his qualifications are up to par we needed some type of screening process. Now, we did not screen the man because we wanted to connect him with the judicial department as Mr. Buckalew suggests. The only reason for using the judicial council we feel is that the judicial council is qualified to screen the attorney general. Therefore, that was the reason for bringing up this amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I agree with Mr. Victor Rivers that the judicial

council is not the idea that it was limited to one person; it was the product of the Judiciary Committee's combined thought. I am personally opposed to such a method of selection. Within my knowledge there is only one equivalent method of selection of the attorney general, and that is probably in New Hampshire where the attorney general is selected by the justices of the supreme court. I believe that Mr. Buckalew is right in that he says that the attorney general is not otherwise mentioned in the constitution except in the initiative and referendum, and if you can recall, the only reason he was mentioned in the article on the initiative and referendum was originally they had a proposal as it came out of committee, my recollection is, that the 10 qualified voters could submit a proposition to the attorney general, and secure his opinion as to its legality. That is why the attorney general was mentioned. We chopped the portion requiring an opinion of legality from the attorney general, we chopped the portion, if I recall, requiring review of his opinion, and in substance what we did is we made it a function as it stands now, the true function of the secretary of state. The attorney general is in there by happenstance and no other reason. Yesterday we determined that the attorney general should not be elected and implicitly what we determined was it should be within the discretion of the governor subject possibly to confirmation that the governor alone in his discretion would select the attorney general and would be responsible for him. The attorney general, apparently, under the concept that we have implicitly accepted, is an attorney largely for the executive department. In any event, he is a political appointee, he is an executive appointee. I don't believe that we should be putting him through a means test and running him in substance through the judicial council. Under such circumstances, the governor may well say when the attorney general proves unsatisfactory to the electorate at large, the governor should have the direct responsibility, he should not be able to evade it by saying, "It was not my selection." I am opposed to it. The judicial council was designed in the constitution deliberately for one reason. That was for the selection of the justices of the superior and supreme courts, when in substance we are now utilizing them to provide a rather cathartic attorney general. I think that this is a mere compromise, it is not a majority opinion of the Committee on the executive and certainly it has not been considered by the Judiciary Committee. I cannot speak for them, but I feel sure that the majority would feel the same way. Our choice is not a compromise. He is either elected or he is appointed. If he is appointive and if he is going to be one of the consorts of the governor and one of his confidants, he should be selected directly by the governor and the governor should be responsible. If we accept this, then in premise we should accept a screening of every other public official appointed by the governor in his cabinet. I believe the attorney general, if he has to be mentioned, and I don't think it necessary, I don't think he should be embodied in the constitution. The attorney general should be like the attorney general of the

United States, appointed by the executive and the executive is responsible for him. This is, frankly, I think on its face, a compromise measure and I believe the attorney general is without our sphere, and in substance should not even be mentioned in the constitution, let alone nominated by the judicial council.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: May I ask a question of Mr. McLaughlin? Would we gather from your statements that the judicial council is limited only in its purpose to the selection or the recommendation of judges?

MCLAUGHLIN: That is not so, Mr. Rivers, because we have a specific provision in there saying that they shall perform such other duties as are provided by law. I am sure it was the intent of the Convention that their functions would be limited to the judicial. In fact, I think by error you did remark that the attorney general was selected by the Legislative Council when you supported this matter, but I would oppose it just as I would oppose the judicial council selecting the sites of the court houses. I think they are participating now in the executive functions of government and I believe the judicial council should be limited as it has been historically to judicial affairs and not to executive affairs.

V. RIVERS: Do you agree with the judicial council in the matter of screening this man as to qualifications, would be doing the same thing as if he were screening a judge? Isn't it for qualifications and to remove the judge from direct political election or appointment that we put up the judicial council? Isn't the process of screening identical in the two cases?

MCLAUGHLIN: Yes, the process of screening is identical except for this one thing. A judge is supposed to be dispassionate. He is not supposed to be acceptable to the people who appear before him. In the case of the attorney general the attorney general will have a client-attorney relationship to the governor and frankly I believe the governor should have wider choice and discretion. It is like selecting the presidential physician by vote of a selection board. The relationship is something that is intimate, and there is an intimacy of relationship that does not exist between the judiciary and the general public. We are selecting an attorney for the governor and saying, that's it, without regard to personality or anything of the sort.

V. RIVERS: I would like to ask another question, and that is, do you think the attorney general should also be removable at will by the governor at any time after he has been appointed and confirmed?

MCLAUGHLIN: I think that is so, yes.

V. RIVERS: Do you think the attorney general represents the people of the Territory in the matter of his interpretations of law, or does he represent the administration? I realize the interests at most times are coincidental and the same, but at times when there is any divergence would you also say he represents the people?

MCLAUGHLIN: Frankly, I think the attorney general represents the executive department of the government.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I cannot follow the reasoning either of Mr. McLaughlin or Mr. Buckalew. I think the screening set up in this proposed amendment to Article 10/a is I think a happy choice. It may be a compromise, but I think it is a very fine compromise, in between the two propositions that have been advanced in choosing the attorney general. I believe the judicial council is the proper body to, what you call, screen the attorney general. The duties if given to the judicial council will be the same as they are in regard to the justices of the supreme court and the judges of the superior court. It is to select a competent lawyer to fill the office of attorney general just as they are duty bound to select the best men they can for judicial office. The office of attorney general is a very important office. There has been numerous times in the history of the Territory of Alaska when we have had an extremely weak attorney general and the Territory has suffered by it. If we have a capable attorney general I think we will be a great deal better off if the attorney general is vigorous and follows out the instructions of the governor in fulfilling his office. I feel the attorney general is only, his duties should primarily be the attorney for the executive branch of the state government. In the past there has been times that the attorney general has had to be the legal officer for the executive, Legislative Council, and the counsel for all departments of the Territory. That was extremely a difficult position. I know Mr. Rivers had it for a number of years and he can explain, perhaps better than I can, the difficulties of filling of positions such as that, but I believe primarily the attorney general is the attorney for the governor and the department heads, the departments established by this constitution and who would be under the direct supervision of the governor. I feel that some provision maybe should be made here or the legislature should make one for the employment of a legislative counsel during the sessions of the legislature, and so the attorney general would not have to take a part in that particular matter. I feel that the adoption of this amendment with the governor being given the right to remove the attorney general without the consent of the legislature would be a happy choice.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, it seems to me from the arguments

we have heard that probably we are going at this backwards. The arguments have been as to how we should select an attorney general. Now it is my thought on the basis of the bill that we have here that probably what we want to decide is whether we want a constitutional attorney general or not. It seems to me on the executive department, as we have outlined it here so far, that we probably don't want a constitutional attorney general at all; that that matter should be left to the legislature as to whether we do or don't and to what his powers are when the legislature decides to set up an attorney general, and accordingly it seems to me pointless to discuss as to how the attorney general is to be selected. If it is wise in the view of the legislature when they set up an attorney general that he should be screened by the judicial council, these arguments could be made at that time, but at the minute we have not mentioned an attorney general, and it seems to me that the executive department is going to be a whole lot more what the Committee had in mind if we don't set up an attorney general as such in this article. Now I realize that if we don't set up an attorney general we are going to have to do something to the initiative, but that is a different problem and no problem from my standpoint.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: It has been said that perhaps we could omit mentioning an attorney general in this article and that the secretary of state could take over the function of the attorney general with regard to the initiative and referendum. In the initiative and referendum article we said that the initiative should consist of a petition with a proposed bill that the sponsors wished to have made into law and that the attorney general would scrutinize it as to sufficiency for form and the attorney general would condense the matter for appropriate petition heading so that the people that sign it would have an adequate draft as to what they are signing. Afterwards the attorney general shall prepare the ballot title, assuming that enough signatures were obtained and that this bill were to go before the voters. It is a little difficult I think for the secretary of state to engage in all of those legalities, and I think as far as the initiative and referendum is concerned, we ought to have that in the hands of the attorney general just as the initiative and referendum article suggests. However, I see difficulties with this proposed amendment. The judges are banned from politics. They are picked on an absolutely nonpartisan basis. The attorney general presumably should be a member of the same party as the governor. The attorney general, if he is a member of the same party, as attorney general, would take the normal part in politics, but if he is picked on a nonpartisan basis as the judges are, then we have to ban him from engaging in politics and he also could turn out to be somebody of the opposite party. So I believe we are getting crossed up if we try to put the attorney general through legislative council. I think we are getting -- the judicial

council I mean -- I think we are getting the judicial council into some little difficulties, etc., and from the political standpoint we want to keep them out of it. They can't hold any position or be active on the political scene. So if this particular amendment does not pan out, I am going to propose one as follows: The department heads appointed by the governor shall include an attorney general. Then we can leave the initiative and referendum functions right where they are.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, as it has been mentioned, this is a minority report from the Committee, and I think it is only right you hear from some of the rest of the Committee regarding this. We in our Committee felt that it would be the wishes of the majority of the Convention to have a strong executive. By that we did not mean a dictator, one who would get into power and be the absolute power in the state, but one who through appointive powers would be able to select his co-workers down through the various offices so that when the state's functions would be successful we could say that we had a good governor, and when they would not be successful we would know who to blame and could vote accordingly at the next election. Mention has been made not only here on the floor but also the same argument in the Committee that the governor would have certain obligations and would be expected to lean toward that obligation in the appointing of an attorney general, but I can't help but feel that that same trend of thought would run right down through the other departments, and I believe that there are other departments under the governor that are of equal importance and if the governor is going to bow to party obligations or other obligations in selecting of the attorney general, he will do the same thing all the way through his other department heads, and we won't have a man in there that we can be fully proud of, and I think we are going to want to elect a governor who will be able to stand on his own two feet and appoint the men that he feels should be in the office. I think if he is that type of man he will not only be respected by one party but by all of the people of the state. As far as the removal is concerned, if we worry that the governor may remove the man at will, if that is not best, we can always insert that he be removed with the consent of the legislature, that is another matter, but as far as the appointing is concerned, I think that is vital right now. As far as screening is concerned, I can see that it might have been good in the past to have the nominations for attorney general screened some way before they even face election by the people. Be that as it may, I think if we elect a governor it is his duty to screen and select a good attorney general. That is part of his job. We are electing him to do that very thing, and if he fails to select a good attorney general then he is that much more a failure as a governor, and he will stand that test in the coming election. If we feel that the attorney general must be screened so that we have the best possible attorney general, I think it is also

necessary that the head of the department of education, head of the department of welfare, health and labor, and all the other department heads be screened by somebody so that this governor gets the right men in his cabinet, so to speak. I certainly feel that he should be able to screen and select a good attorney general as well as select the other department heads. But I think there is one thing that is even more important and we discussed that in the Committee, and that is the matter of compatibility. We have felt in the past that we have not had attorney generals who have been entirely in sympathy with the governor and it has been due to the way the two have gotten to their office. We elect the one and the other is appointed out of Washington, and we have seen certain cases where they have not worked out in harmony. Now, if the attorney general is to represent the people alone, then of course he should be elected, but as he is to work under the executive department we want a man who is compatible with the governor and with his type of program that he wants to put over in the state, one that understands the governor, one that will work with the governor and ask the judicial council as set up, not to honor party politics but to work in a nonpartisan capacity. Yet I feel they will not be able to do that as far as the attorney general is concerned, and I don't believe there is any more reason to feel that a judicial council nominee would be any more compatible than one elected by the people of the state; if they are going to ask the governor, "Will this man work with you or will that man work with you, do you want this one or that one?" You might as well say, "Let the governor pick the man in the first place." If they are going to have the liberty to put up a man that will not work with a governor, then we spoil our whole plan for an effective administration. I believe, as Mr. Ralph Rivers mentioned, if we want the attorney general's office mentioned at all in the constitution, it would be very simple on Section 16, line 14, after "department" to insert the words "including the attorney general's office." That would make it very clear that the governor would have the appointive powers and that the attorney general's office would be one that he would have direct control over. That gives you, I believe, some of the Committee thinking regarding the attorney general being appointed by the governor.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I would like to ask Mr. Rivers a question, if I may. Mr. Ralph Rivers, are the services of the attorney general available to the secretary of state in case he needs them?

R. RIVERS: Yes.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I would like to ask Delegate Rivers a question through the Chair, if I may.

PRESIDENT EGAN: You may ask your question, Mr. Buckalew, if there is no objection.

BUCKALEW: Mr. Rivers, I notice that the proposal, that the caption is by Delegate Rivers. My question was whether this was a committee proposal or your separate individual proposal?

PRESIDENT EGAN: Mr. Rivers has already answered that question, Mr. Buckalew. He said that it was actually a proposal of his and of Mr. Harris. Mr. Victor Rivers.

V. RIVERS: In closing this discussion, I will make it brief. I just want to say, in my opinion it is no compromise opinion. If it had been a compromise we would not have this discussion on the floor. It has been pointed to as a compromise. Those of us who submitted this proposal honestly and actually think the attorney general should be screened. Now I wanted to clear up a point that Mr. McLaughlin made. He pointed out that certain appointive methods were used in the State of New Hampshire. They are. The attorney general is appointed by the governor and a council of five. In the State of Tennessee the attorney general is appointed for a period of eight years by the justices of the supreme court. In four states, as I am able to count, the attorney general is appointed by the governor by and with the consent of the legislature. In three states the attorney general is appointed by the governor and in the balance he is elected by the people. So if you add that up you will find about 38 states in which he is elected; in these two states I have mentioned, Tennessee and New Hampshire, he is appointed under a similar plan, and in the balance of the states he is appointed by the governor with or without the approval of the legislature, as the case may be. It is my thought, and I have observed this rather closely from some contact with the legislature, that while the attorney general is in essence not a judge, he does interpret the law which governs people until somebody challenges his interpretation, and then his decisions oftentimes and most of the time do have the force of law until they are upset or turned over or otherwise disturbed by having somebody appeal to the courts. It does not seem to me to be a bit out of line that the attorney general should be properly screened as to competence, and in the selection of the attorney general the governor should be relieved of the obligation to repay any favors or to make any particular discrimination in favor of any individual. It has been stated here that we tie the hands of the strong executive. Read this amendment over again. It does not say who the governor shall appoint. It says, "Two or more shall be screened by the judicial council and submitted to the governor for his appointment." He is not limited to the one man or two men or three men. If he can't make his choice he might even have four men, but he does have any obligation removed in making that appointment to any individual. It would be entirely free of a political aspect insofar as it affected the attorney general's competence. There is nothing in here that is counter to common practice, I refer

to the State of New Hampshire, the State of Tennessee, and others, but it costs you money if you go to court to upset an attorney general or any other similar official's opinion. That opinion as I have seen it many times, that opinion has the force of law and interpretation of any laws the legislature may have passed. While you might not view him as a judge, in essence he is a judge of what that law says until it's determined otherwise by the courts. In essence he is a judge of what certain things do that apply to the people. For that reason I think that he should be screened as to competence. I see nothing in that which weakens the strong executive. The governor might say of the first two appointees named, "I am unable to make a choice; submit me another name." There is nothing that stops him from doing that in the proceedings of the council. It seems to me that some determination which would relieve this office of having to be filled by any repayment of political favor or obligation should be set up, and that is why we have introduced this amendment. It is no compromise.

PRESIDENT EGAN: Mr. Victor Rivers had stated he was closing. No one objected. Unless there is someone who has not spoken -- Mr. McLaughlin.

MCLAUGHLIN: I wanted to ask Mr. Rivers a question. Mr. Rivers, when you say the council in New Hampshire, you mean that five elected executive council who are elected by the people together with the governor?

V. RIVERS: I stated the council of five. The council of five is elected for two-year terms along with the governor and they determine with the governor the appointment of the attorney general.

MCLAUGHLIN: But that is not a judicial council at all, is it?

V. RIVERS: I don't know what their duties are. They are a council of five, but whether they are constituted as ours is, I do not know.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers and Mr. Harris be adopted by the Convention?"

HARRIS: I request a roll call.

PRESIDENT EGAN: Mr. Harris asks that we have a roll call. The Chief Clerk will call the roll on the question.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Barr, Collins, Cross, H. Fischer, Harris, Hinckel, Kilcher, Metcalf, Nerland, Nolan, Peratrovich, Reader, V. Rivers, Robertson,

Rosswog, Smith, Taylor, VanderLeest.

Nays: 36 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Nordale, Poulsen, Riley, R. Rivers, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 1 - McNealy.)

CHIEF CLERK: 18 yeas, 36 nays and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 14? Mr. Ralph Rivers.

R. RIVERS: I have an amendment.

PRESIDENT EGAN: Mr. Ralph Rivers, you may offer your amendment. The Chief Clerk may read the proposed amendment.

R. RIVERS: May we have about a two-minute recess? I would like to consult with Mr. Londborg.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read the amendment as proposed by Mr. Ralph Rivers.

R. RIVERS: It hasn't been introduced yet, I was going to withdraw it.

PRESIDENT EGAN: No, it has not been introduced.

R. RIVERS: I won't even do that.

PRESIDENT EGAN: Are there amendments to Section 13 or 14 or 15? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question about Section 14. May I be permitted to address it to Mr. Rivers?

PRESIDENT EGAN: You may, Mr. Sundborg, if there is no objection.

SUNDBORG: Mr. Rivers, I am a little bit bothered about these

executive orders of the governor which may change the assignment of functions among the departments, and I am wondering just what force they would have in law, for example, where they contravene some law that might have been passed by the legislature saying that the function of a certain department shall be thus and so and then the governor issues an executive order which says here that it will become effective at the close of the next regular legislature. What happens to the law on the books? Is it of no avail?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, I am pleased to answer that question because it is one that we discussed at some length in the Committee, and in regard to organizational efficiency of the executive department, the governor would be able to recommend this change in his executive order. It would not become effective until after the legislature had reviewed it and could then take an action upon it. It is the same clause that goes along with, of course, the idea of the strong executive. It is also the same clause that is used in a similar manner for the reorganization powers of the President of the United States. It does give him the power to alter existing organizational structures that have been set up by law, but only after the legislature has failed to say "No, we won't let you do that."

SUNDBORG: Don't you feel we have to specifically give those orders the force of law in the constitution or otherwise before they could contravene an act of the legislature?

V. RIVERS: We discussed that and thought this wording would cover it by and with the advice and also discussion with more than one consultant on the matter. Occasionally there is a body within the organizational administrative setup of government where they have the power of making rules that have the force of law, and it was thought this wording covered it. Of course, none of the rules that are upset or changed, or become law are actually accepted until the legislature fails to take a positive repealing or negative action.

SUNDBORG: Would the governor have the authority, and I assume he would, to veto an act of the legislature which would undo one of these executive orders of his? If not, should we not say so?

V. RIVERS: This is a resolution, not an act. They would do it by resolution if they did not approve, and he has no veto power over a resolution. That is a joint action of the house or the two houses independent of any governor's approval in connection with resolutions as I understand it.

SUNDBORG: Does any state have a provision such as this?

V. RIVERS: I believe there are some of the newer state

constitutions, but I can't name them for you. It was generally discussed, and it was implied, and it was my understanding that there were some, and also they do have the same thing in the reorganization powers of the national government.

SUNDBORG: I don't oppose it necessarily, but I just wondered whether we have enough language to make it workable, and you are convinced we do?

V. RIVERS: Yes.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I was going to try to answer Mr. Sundborg from my own standpoint. It appears to me, Mr. President, as one delegate, that if we adopt the provision which is in the proposal, then that if the legislature should make some laws which would take away the power which we here give the governor, that the laws would be unconstitutional and that we are not running into the problem Mr. Sundborg mentions because there should not be such laws.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: First a question of Mr. Victor Rivers. Mr. Rivers, don't you feel that perhaps the last sentence of the section weakens the theory of the strong executive?

V. RIVERS: In respect to the fact that the legislature would have to approve his recommendations, is that as you visualize it and is that what you are talking about?

HELLENTHAL: Yes. Recommendation in the executive field would require some sort of concurrence of the legislature.

V. RIVERS: It would require it in the case of any major change. He has the authority within his structure, no doubt, to make the minor changes necessary, but where he is going to, as it says in here, "assignment of functions and units thereof", you are going to have to have some consent of the legislature, as the Committee viewed it, and I believe I speak for the Committee unanimously on that point.

HELLENTHAL: I believe that answers my question. My point similar to Mr. Davis's, generally the executive branch of the government is supreme when acting in the executive sphere. In that sphere it cannot properly be interfered with by either the judiciary or the legislative branch. That is our true doctrine of separation of powers, and the courts have so held, but here I think we are diluting that. We are permitting an overlapping of the

legislative into the executive sphere. The normal check on a thing like this would be the court, and here we have a constitutional check in language which I agree with Mr. Sundborg is not at all clear. Perhaps an illustration of this is where the President acting properly in the executive sphere is told by Congress to do something, and the President ignores the congressional order. For instance, oftentimes the President has refused to answer a subpoena from a legislative investigating council, the theory being that the President, as executive, cannot be interfered with. But here we are enshrining a vague sort of interference.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I just perhaps could amplify the Committee's thinking a bit on this. We were thinking primarily of laws setting up boards and sort of sloppy administration, as we have at the present time. Now then, when the governor sees there are too many departments set up functioning by themselves or functioning under boards and there isn't any coordination, he has the right to suggest a reorganization and a different assignment of functions. Where his executive order might be contrary to the law which originally set up this department or board, that part of his executive order would have to be disapproved by a legislature. That is the way it works, just like the President.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, just another word along that line, and I think Mrs. Nordale brought it out quite clear, now the other way would be if the governor wanted some reorganization he would have to go to the legislature and have a bill introduced by somebody or on his own request and that bill would be acted upon to make this necessary change. For instance, deleting a certain board or ceasing its functions and putting it under the single department head or something of that nature, whatever major change he would want he would have to depend upon the legislature to pass that bill and get it into operation. Doing it this way, he sets forth an executive order but it does not become effective until it slips through the next session of the legislature without being voted out by the legislature. I suppose you could call it reverse legislation. The governor makes a new law and if the legislature does not want it done away with, well, then they can let it go through, but I think it runs in line with the strong executive we have where he can set forth his changes and the legislature by being silent on it, in that way they approve of the order.

PRESIDENT EGAN: In the absence of any amendment before us, are there amendments?

BUCKALEW: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 14, line 23, strike the sentence beginning with the word 'Regulatory'."

BUCKALEW: I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the proposed amendment. The amendment that was carried over by virtue of a reconsideration only related to the quasi-judicial wording, is that right?

BUCKALEW: This is completely different.

PRESIDENT EGAN: Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Buckalew. Your point of order, Mr. Riley.

RILEY: Point of order. While the reconsideration is still before us, I don't believe this is in order; it would deprive the man of reconsidering.

PRESIDENT EGAN: The question would be whether or not this proposed amendment is all-inclusive. The Convention will stand at recess for two minutes if there is no objection.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew.

BUCKALEW: Mr. President, with the consent of my second I would ask unanimous permission to withdraw my proposed amendment.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent to withdraw his proposed amendment. Is there objection? Hearing no objection it is so ordered. Mr. Kilcher.

KILCHER: Mr. President, I move at this time the consideration of the amendment.

PRESIDENT EGAN: Mr. Kilcher moves the reconsideration of his vote on the amendment by Mr. Buckalew of the Saturday evening at this time. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: The question is, "Shall the words 'and quasi-judicial' be deleted from Section 14 of the Committee Proposal

No. 10/a?" Mrs. Nordale.

NORDALE: May I ask a question?

EGAN: You may ask your question, Mrs. Nordale.

NORDALE: Is the purpose back of your amendment, Mr. Buckalew, to put a quasi-judicial body under a principal department?

BUCKALEW: Will you repeat the question, Mrs. Nordale?

NORDALE: Is your purpose in removing the word "quasi-judicial", is your purpose to provide that those quasi-judicial bodies shall be allocated within a principal department?

BUCKALEW: My purpose was, if we are going to have to have quasi-judicial bodies, to have them independent of the executive arm.

NORDALE: That is, of course, what our sentence does. It says they need not be allocated within a principal department.

BUCKALEW: By inference it makes it possible to have them in the executive arm. They need not be but they can be.

NORDALE: Is it possible that it might be appropriate to have them in some instances in a principal department?

BUCKALEW: In my humble opinion, I don't think that would be --

NORDALE: The legislature would have to set them up in the first place, anyway, and put them somewhere, is that right? Under this they don't need to be in a department.

BUCKALEW: As I read the language they don't need to be but they can be. My point was if we are going to have these boards, which I think are inherently evil, they should be as separate from the other arms of the government as possible.

NORDALE: That is precisely why we put the sentence in because up ahead a little way it says, "All executive and administrative offices, departments shall be allocated by law within not more than twenty principal departments, insofar as possible..." So we made an exception that these need not be allocated within a principal department.

BUCKALEW: You will agree with me, Delegate Nordale, that the language makes it possible for them to be included within executive office? You'll agree with that?

NORDALE: Certainly, provided it is the sensible thing to do.

BUCKALEW: That was my objection.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew, deleting the words 'and quasi-judicial' from Section 14 of Committee Proposal No. 10/a be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes have it and the proposed amendment has failed of adoption. Mr. Robertson.

ROBERTSON: I would like to ask the Chairman, Victor Rivers, why is the word "administrative" omitted from that particular sentence? You refer to "administrative" in line 1 of Section 14, why don't you have the word "administrative" in there?

V. RIVERS: Which sentence is that, Mr. Robertson?

ROBERTSON: In line 23, "regulator and quasi-judicial bodies", why shouldn't you have the words, "regulatory, administrative, and quasi-judicial bodies" in there?

V. RIVERS: Well, as I understand it, it is our understanding that administrative bodies as a group should be under principal departments and this would make it possible to exempt them. Certain classes of administrative bodies, such as regulatory, quasi-judicial, and temporary need not be for the purposes of efficient administration, all of the major administrative bodies would fall under a principal department. That was the Committee intent.

PRESIDENT EGAN: Are there other proposed amendments to Section 14, 15, 16? Mr. Riley.

RILEY: I have an amendment on the Clerk's desk.

PRESIDENT EGAN: The Chief Clerk may please read the proposed amendment as offered by Mr. Riley to Section 16.

CHIEF CLERK: "Section 16, page 7, line 21, strike the last sentence." Is that right?

RILEY: Yes. Mr. President, I move its adoption.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed amendment.

GRAY: I second it.

PRESIDENT EGAN: Seconded by Mr. Gray. Mr. Riley.

RILEY: Mr. President, to a degree we have considered this problem with respect to the article submitted by the Committee on the Judicial Branch, and it is my memory that on that occasion quite a bit of discussion occurred, and it was the feeling of the body that we should not deprive ourselves of the services of

able people who might not happen to reside for a stated period in Alaska. In short, we should be able to use the services of those from other jurisdictions in the event and on the chance that efficient talent was not available in Alaska. Now, I think the proposition has even greater force as concerns the various administrative offices that will be provided for, for the State of Alaska. I can recall in my own observation over a period of eight or ten years that at least five occasions when language of this sort, or its absence, has been either disadvantageous or advantageous to the Territory. I think of five major departments, important departments, of the Territorial government before the question arose -- in two instances there was such a prohibition and the hands of the administrative board charged with the conduct of that particular agency were tied. In three instances that I recall, there was no such provision and the appointing authority in that instance was able to go elsewhere to find able, competent people where they had felt there were not qualified applicants from Alaska. I think if we were to have a strong executive who is to be charged with the responsibility for conducting a strong administration, he should properly be able to look over the entire field to find the proper people for administration of particular departments, especially in technical fields where not necessarily will he find in Alaska the people for such responsibilities. Now, I am familiar with the arguments that have been advanced in this respect in the two or three times it has been under discussion before, but I feel that once we have an elective governor the situation will take care of itself. Whomever we have elected as governor of Alaska will be keenly aware of the political implications of going beyond Alaska to fill key roles. Today the situation may not be the same as it would then under an elective governorship, but in any event an elective governor would first scan the field in Alaska, would first try to find qualified personnel here, but if he is to conduct a proper, a good administration, I do not feel that he should be deprived of the services of people from other jurisdictions if unable to find equally capable people here.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, may I address a question to Mr. Riley? Do you object to the provision that heads of departments of the State of Alaska should be citizens of the United States?

RILEY: No, I would not.

SUNDBORG: Were you present when the Convention amended line 23 to provide instead of "citizens of this state" that they shall be "citizens of the United States"?

RILEY: I must not have been.

SUNDBORG: That amendment has been made, and I wonder if you would agree to putting a period after the word "states" in line

23 and striking the balance of the sentence?

RILEY: I agree with that and in submitting my amendment I was not aware of that change. I would ask unanimous consent that that change be made.

PRESIDENT EGAN: Before the Chair puts the question -- Mr. Hellenenthal.

HELLENTHAL: Could we have the Clerk read us Section 16 as it now appears. I think there was another committee amendment that was passed by unanimous consent, but I want to be sure that my version is the same as everyone else's.

PRESIDENT EGAN: Would the Chief Clerk please read that sentence?

CHIEF CLERK: I don't have any record of the amendment Mr. Sundborg is talking about.

V. RIVERS: We put a period after "governor" in line 18 and struck "during his term of office" and struck down to "state".

CHIEF CLERK: I don't recall what Mr. Sundborg is talking about.

PRESIDENT EGAN: Mr. Sundborg was speaking of another section.

V. RIVERS: Line 23, we adopted by unanimous consent request, the words "citizen of the United States and". I have it marked on my copy.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe what Mr. Sundborg is referring to is on line 5, page 1, we struck "of the state" there, and I do have an amendment on the Chief Clerk's desk to strike. "shall be citizens of the state".

PRESIDENT EGAN: The Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley, during the recess did you determine just how the section actually reads at this time?

RILEY: I think the general agreement among those I've talked to, Mr. President, is that the amendment mentioned by Mr. Sundborg was adopted.

CHIEF CLERK: I don't have it.

PRESIDENT EGAN: If there is no record --

RILEY: In that case, Mr. President, I should like to ask unanimous consent that in lieu of the amendment I have put in, that the word "United" be inserted on line 23 just before the word "state" and ask that an "s" be added to the word "state" and a period be placed thereafter, and the balance of that line and the next two succeeding lines be stricken.

PRESIDENT EGAN: Do you ask unanimous consent that your original amendment be withdrawn?

RILEY: Yes.

PRESIDENT EGAN: Is there objection to Mr. Riley's unanimous consent request to withdraw? Hearing no objection, it is so ordered.

RILEY: I would also change the word "this" to "the" preceding "United States".

PRESIDENT EGAN: You have heard Mr. Riley's unanimous consent request for the adoption of his proposed amendment which would make this sentence read, "The heads of all principal departments appointed under the provisions of this section shall be citizens of the United States."

V. RIVERS: He did not ask unanimous consent for the striking of the words and the rest of it, did he?

RILEY: No, I did not.

PRESIDENT EGAN: Unanimous consent is asked that it be changed to read "the United States". Is there objection to that proposed amendment?

ROBERTSON: Deletion of the last clause?

PRESIDENT EGAN: Not in this particular request, no, Mr. Robertson. Is there objection to changing it to read "the United States"? Hearing no objection it is so ordered. Mr. Riley.

RILEY: Getting back to my earlier motion which was submitted perhaps under a misapprehension on the part of many of us here as to whether the "United States" had been adopted or not, I move that the last word on line 23 and the next two lines be deleted.

DOOGAN: I'll second the motion.

PRESIDENT EGAN: Mr. Riley moves that a period be inserted after the word "states" and the last word of that sentence and the following two lines be deleted from Section 16.

RILEY: All I shall say at this time, Mr. President, is that it

gives effect to my earlier thought and the argument on the original amendment is equally applicable here.

PRESIDENT EGAN: You moved the adoption of that amendment?

RILEY: I have and Mr. Doogan seconded the motion.

PRESIDENT EGAN: The motion is open for discussion and the Chief Clerk will please read that last sentence as it would appear if Mr. Riley's proposed amendment is adopted.

CHIEF CLERK: "The heads of all principal departments appointed under the provisions of this section shall be citizens of the United States."

PRESIDENT EGAN: The motion is open for discussion. Mr. Victor Rivers.

V. RIVERS: Was it your intent that they should not even be qualified electors of the state?

RILEY: My intent was they need not be, that the executive could request, recruit his help from whatever points he might feel he was able to find the best qualified.

V. RIVERS: Speaking against this motion, the wording the way it came out of the Executive Committee was the thinking of the majority of the Committee. It was not unanimous but I do want to say this, that here again comes this consideration as to whether or not the people in the policy-making positions of government shall be acquainted with Alaska. We have had a rash of appointments lately. I can name some of them -- the Finance Director, the Insurance Director -- I am not sure of the other one, but one other was the Fire Marshal, the Juvenile Board head, all appointed from the states. Now those would not be in any instance, except perhaps Finance, the head of a principal department. But I just want to point out there is a general trend and swing in that direction. I know of four, possibly five applicants that were submitted for the head of the fire marshal setup in the Territory. The board ended up by selecting a fire marshal who was an ex-detective from the police force in Seattle who stayed three months. I happen to know for a certainty there are qualified men in the fire practice who are residing in the Territory of Alaska and who were applicants for that position. However, under this clause which is being stricken, that particular section would not have applied. This would, however, establish a general policy. I want you to note, of course, that the Territory of Hawaii, in adopting their constitution, had the same feeling and did include a residence clause. It seems to me basic that people in principal heads of departments, should know something about Alaska as well as being qualified in special fields, and there is nothing in here that would stop such departments from having the services as an assistant or any

other manner of properly and qualified specialists. However, where they have a broad policy-making decision and authority in the state government of Alaska, I, for one, want to see them be competent and acquainted with Alaska's problems as well as having the qualifications to handle the particular job in which they are being appointed. It seems to me the offices we are talking about are largely of a general administrative nature. Any special services you may require under principal departments could and properly should be provided by specialists in the technical field in which you are dealing. I, for one, would not support that amendment.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I wish to support Mr. Rivers' viewpoint on this. I oppose the amendment. In addition to the example cited by Mr. Rivers, we have an example in Seward which is a matter of public record where the new commissioner appointed -- the former one was brought in from Utah -- he was new and stayed only slightly less than a year and one-half. I oppose the amendment, it will lead to nothing but trouble and confusion.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I should like to speak in favor of the amendment for this reason: we here in Alaska have been too prone to insist upon having our cake and eat it, too. If we carry this thinking to its logical conclusion we would not go to a doctor for medical attention unless he had been in the Territory for 50 years. Sure, I came to Alaska in 1906; therefore, I am thoroughly qualified for some executive office. If we want to join the United States and be equal partners with all of our citizens, then we certainly cannot build a wall around ourselves. I am heartily in favor of the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I am in favor of the amendment, and I believe that the arguments posed by Mr. Rivers and by Mr. Metcalf are not in point, as they are citing as the horrible example that which has occurred in the last two or three years under the present governor. I doubt whether any governor would have the temerity to even suggest that the head of his department should be brought in from the outside because the people and the party to which he belonged would frown upon it, and he would be practically committing political suicide by doing so, but under the appointive governor system, we have no say as to who they bring in and where they get them, but we have to take them and like them if they are of a likeable nature. If not, we just have to take them, so I don't believe you will have these abuses of appointing outside people to a great extent under the state government; and then again, there is a possibility that in certain lines we might be able to get an outstanding man who might be a citizen of the

United States but not a resident of the Territory of Alaska. We might be able to get a man like Dr. Benson, a fine person. I don't know how many of you people know Dr. Benson, but he is a man who has worldwide recognition as you might say, an agricultural engineer, an agronomist, and in his field he was ranked as one of the best in the world, one of the outstanding men, and he did a wonderful job here for the Extension Service, the Agricultural School here. If we could get a man like that we certainly would not want our hands tied so that we couldn't possibly get him and have him in Alaska. We know among a lot of the displaced persons in Europe there were brilliant men, men in their field who are highly recognized. In fact, we had one of the displaced persons from Europe, one of the men who fled for reasons of persecution, I think single-handedly he added more to the ending of the war than any person in the world, and I allude to Albert Einstein. He was a man who was forced out, and we have other men of similar stature, maybe not as well recognized as him but in among the ranks we may find other people, and we know we would, and I do not think we should shut the door on getting the best possible men; but I would certainly be in favor of that if we could get qualified persons in Alaska, they should be picked.

PRESIDENT EGAN: Mr. Londborg has been attempting to get the floor.

LONDBORG: Just a word or two further from some of our Committee thinking, I don't think any of us felt that there aren't men elsewhere in the world that would perhaps be better qualified from a technical standpoint. As far as a new doctor coming up here and saying that we would not go to that doctor, I think that is just a little far-fetched thinking. In fact, we might even send for a specialist to come and perform a certain operation be he an Alaskan or not. We have an entirely different situation here where you are going to have a man, and you are going to tie him up in Alaska for a period of, say four years, and I think one thing we should keep in mind that will make for a successful working of a department is to have people in that department who like Alaska, and I think we have seen many people come up to Alaska, they like Alaska, my, they are just all enthused about it, but then after a few months the newness wears off and then they sit there. They have a job and they can't perform it to the best of their ability. They don't like Alaska as much as they thought they did. Alaska is a lot different in many, many ways, climate and otherwise, and I don't think it is a bad policy to have a person go through a three-year waiting period, if you want to call it that, or at least prove they are really Alaskans. At least take a resident, one that has been here a year, a qualified elector and pick from that group. As far as the principal department heads, if they can find a man who is tops in his field, they can hire that man to come up and work and do the job under them. If they're not willing to come and work under a principal department

head, then they probably should be over the governor, also.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I was born in Alaska, and I have vigorously fought any movements that might be called "Alaska for Alaskans" movements. I wholeheartedly support this amendment. It does not belong in the constitution. I have faith in the executive; I have faith in the legislative; I am sure they will pick qualified men. It might be that those qualified men would be men of residence elsewhere and recent arrivals or they might even be sought out elsewhere. I am not the least bit worried about the thing, but I would be worried if such a restrictive provision were included in the constitution, and I therefore vigorously support this amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, the average Alaskan suffers from an inferiority complex. When I attended my first session of the legislature, there was a reporter there, Jim Hutcheson, who represented the Associated Press, and I asked him what he thought of our legislature, the senate in particular. I said, "How does it compare to other state senates?" And his answer surprised me. He had observed several other state legislatures in action, reporting them, including Washington, Oregon, and Massachusetts, and I believe one or two others, and he told me that our senate conducted themselves in a more dignified manner and was more industrious than any other state senate he had ever observed. Now, Mr. Hilscher asked why we should be confined to consulting only Alaskan doctors if there were better doctors outside. There have been many people who have gone outside to consult specialists who have been told they should never have left. We have as good an eye specialist in Alaska as there is anywhere in the United States. We have as good a bone specialist as any in the United States, and probably others, but Alaskans don't seem to know that. I am not foreclosing Alaska to outsiders. I believe the more population we have, the better. The more technical skill and knowledge we can import, the better, but this amendment refers only to department heads, and speaking of Dr. Benson, the agronomist, certainly we should import people like him but he is not a department head. Now a department head, his job is chiefly administrative. He should have some knowledge of his subject, of course, but if his assistant has the technical knowledge or other people under him, he is well equipped to do his job. My only interest in providing a restriction of residence for a department head is to see that that department head is fully qualified for his job and is the best man available. I don't believe that despite his past technical knowledge any department head can perform his job fully and ably unless he has a knowledge of Alaska. In some departments of course he has to have more knowledge than others. In the average department he should have

a thorough knowledge of our transportation system, of our climatic conditions, things of that sort, which are far different than any other place in the United States. He can import all the technical knowledge he wants, put them under him as assistants. I will always support provisions such as in this committee report to insure we have the best man available for the job.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I was born and raised in the Territory. I have been outside for a couple of very, very short periods, and I don't think I have an inferiority complex. If I do, I don't admit it. I have tried to fight qualifying language like this proposed section proposes. I maintain that any executive who has been put in the job of governor, first by a major political party and then elected by the people, if he can stand the gaff of going outside to get somebody he thinks he needs, let him do it. I think that we in Alaska, as has been said, sometimes try to build too much of a wall around ourselves. We are trying to adopt a constitution. We put qualifying language in like this, we complain to the Congress of the United States that they won't recognize us as citizens of the United States, and then we turn around and say in our constitution, after they do recognize us, that we are not going to recognize them until they live with us for a while.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I was one of the minority on the Committee along with Mrs. Nordale that was not in favor of the adoption of this particular language, and I would like to say I subscribe to the statements that have been made in favor of the amendment, and I have no fear it will be abused.

PRESIDENT EGAN: Mr. White has been attempting to get the floor.

WHITE: Mr. President, I was not going to speak on this because I think my feelings are well known and my arguments can be made much more effectively by delegates such as Mr. Hellenthal and Mr. Doogan who have lived here all their life. It really strikes me as funny to hear this kind of debate on this floor because whether we have lived here all our lives or whether we are relative newcomers -- I have only been here nine years -- we are all proud of two things. One thing we're proud of is that Alaskans come from every state in the union, opportunities are equal for all people who come here; we are proud of that fact. Secondly, we are proud of the fact that Alaskans say to a person, "We don't care where you came from, what your religious beliefs are, your economic position might be. We are interested in what kind of a person you are, if you can measure up you are welcome." For us to throw up barriers when we are thinking of forming what will be the biggest state in the union, strikes me as quite a paradox, particularly where we

are considering positions that will have to be filled by men who will have to measure up. They are answerable in this case to the governor and through him to the people. If they don't measure up, they will not be able to continue in the position. If they do we should have them here and make them welcome.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I was just thinking that in many of the professions, law and medicine and all, we have a reciprocity agreement with some of the states. It would seem too bad that if someone in New Jersey, or Missouri, or somewhere, would like to come here and practice law and might be qualified to be a head of a department and although he has reciprocity he cannot until after a two-year period. I am in favor of the amendment.

PRESIDENT EGAN: Mr. Smith has been trying to get the floor.

SMITH: Mr. President, I feel there are a few things that have not been said that should be said. Now as I see it, the entire theory of the strong executive can only be justified on the basis of efficiency and it appears to me neither reasonable nor logical to set up an executive branch on that basis and then deny the governor the right to select the best men available, wherever they may be. Now, when I first read this sentence, the first thought that came to my mind was the time not too long ago when the Alaska Department of Fisheries was established. I recall very well the problem which confronted the Fisheries Board. The Board had many applications from people in Alaska and I recall a great many of those applications and the qualifications that were set out. I can say without fear of contradiction there was not a man in Alaska at that time who was capable both from an administrative and the technical standpoint to set up and administer that department, and I shudder to think what would have happened had this sentence been in effect at that time. I am one of those who believe that in order to qualify for the position as the head of an administrative department, a man should have both administrative and technical ability. I believe that the interests of the people of Alaska in the efficiency of the administration of their affairs would outweigh by far their interests in guaranteeing employment to a very few residents.

PRESIDENT EGAN: Mr. McNees.

MCNEES: We have provided in our legislative article a three-year residence clause for either the senate or the house. We provided in our executive article a seven-year residence for the governor. I feel that in the light of this and the fact that there are many men available in specialized departments, particularly those connected with the various great universities across the nation, that an executive should not be limited in reaching out and picking up the best available man for his department head that he can find anywhere, irrespective as to

where that may be. I furthermore feel that there are substantive checks upon the executive's authority, changes that he might wish to make in his department heads, changes he might wish to make originally in the appointment of those department heads in our clauses relative to the legislative and executive departments, and I feel that the executive should be given this power of reaching out and picking up his appointive department heads wherever he might find them subject to the approval, of course, of the legislative group which will be Alaskans. Therefore, I am heartily in favor of the amendment.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I have heard many times people refer to that "blankety carpetbagger comes to Alaska", and I have heard about the great sourdoughs, a very great people and at one time not long ago you could not talk unless you had been here longer than this sourdough and I think they are a great people, but I think that a sourdough is a state of mind. If you have come to the country and you adopted it and were for it, God bless you, you are a sourdough. That everyone wants to be, and you can be it. A lot of people I know that come here and feel "I don't belong; I am an outcast." That attitude has been spread around here coming from the days when you were a closed fishing and hunting empire, but the day has passed and we hope to join the citizenry of the whole United States. We are a part of the whole, and I think we would show us to be very small and measly if we tried to give favors to one section of the North American continent. We are all one people, and I hope that we go on and vote for this amendment and make us a part of the world.

PRESIDENT EGAN: Mrs. Wien.

WIEN: Mr. President, there has been so much said for this amendment that I hardly feel that I need say more, except to say one thing that was brought out in the Fairbanks hearings, and that was that we have a wonderful University of Alaska but it is at the present time quite limited in its coverage in special fields, and I for one can foresee that with our scientific inventions and the new things that are coming, that we will have a department of government that we do not at the present time foresee which will need specialized heads, and being that the boards and commissions are appointed by the governor I feel that these boards with Alaskan experience should be able to go to the states to pick the executive and this was brought out in the Fairbanks hearings by a man whom I believe is connected with the University of Alaska as well as one of the department heads, and I also find in the Convention so often in comparing the evils of going to the states for appointments, and many other ways that we are thinking of the Territorial form of government rather than the over-all picture of the new state government, and it is something that I have to fight constantly in making decisions, and I think that each one of the delegates

must fight that in making comparisons of the past. I am definitely for the amendment.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I just wanted to say that I am one of the minority on the Committee, and I am heartily in favor of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I am leading the opposition on this amendment evidently, I just wanted to say these are principal departments, department heads. They do not apply to executive officers appointed by boards, they do not apply to the University, they do not apply to anything except those officers in charge of principal departments that make the policy of our government. I think you have seen when you open the way for certain individuals to come into government, pretty soon they have all the cronies from their state with them. I have seen in one department of justice here where a substantial number of all the appointees made have come from one state and of one religion. I have seen one of our big school systems here where the superintendent from one state draws practically 40 per cent of his new appointments from two states and also of one religion in the last three years. I say when you appoint the men here who do not have the Alaska background and the Alaska knowledge to know the country and making policy in major principal offices, you would be establishing a government of Alaska for Alaskans by Pennsylvanians, by Utahans, by Idahoans, or something else. This is policy-making. There are no specialists under this clause that cannot be hired and believe me, when you bring a man in from some outfit in another place and give him high powers of government, it is not going to be very long before he is surrounded by his own particular group, constituting his own hierarchy from the area from which he came. That has been evident all the way through. So in these high offices of principal department heads of making policy. I for one in this Committee and on this floor, strongly feel they should know something of Alaska, and I think three years requirement to know something of Alaska is an absolute minimum. I think it is one of the basic requirements of the job. This broad general gesture about these men coming in here in their specialized fields, there is nothing in this article that prohibits them bringing in any specialist they may need. It does prohibit them from putting a specialist or any other man in a principal department for making policy who would then be in the policymaking body of our government. It seems to me that it is a right that we owe the people to have people in these high cabinet offices who do know the Territory as well as knowing their business, and if they are such good men and they really want to be a part of Alaska they wouldn't hesitate to spend three years here in filling out their knowledge and knowing something about the country, and I do want to point out again that when

you put a man in a high policy-making office, it is not very long before the underlings, which we require no residency clause here, may also constitute the major part of that particular office because that has been the experience of us in Alaska in the past. I have seen it in city government; I have seen it in school government; I have seen it in departments of justice government; and I have seen it in other parts of the Territorial government where some man is put in a position of power and he is soon surrounded by his own people from his own state or his own general area.

PRESIDENT EGAN: Mr. Stewart.

STEWART: As a sourdough and, I think, observing the cautions Mrs. Hermann has on her desk, I want to support the amendment. I don't think this has any place in the constitution.

PRESIDENT EGAN: Mr. Riley.

RILEY: In exercising the right to close, I will forego further comment, Mr. Chairman.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Riley be adopted by the Convention?"

WHITE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Awes, Boswell, Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston, Nerland, Nordale, Poulsen, Reader, Riley, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 16 - Barr, Coghill, Collins, Cross, H. Fischer, Harris, Johnson, Laws, Londborg, McCutcheon, Metcalf, Nolan, Peratovich, R. Rivers, V. Rivers, Robertson.

Absent: 1 - McNealy.)

CHIEF CLERK: 38 yeas, 16 nays and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 16? If not, are there amendments to Section 17? Mr. Coghill.

COGHILL: Mr. President, I have an amendment to Section 16 but with the amendment now adopted I wish to withdraw that one. I do have an amendment for Section 17.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Coghill for Section 17.

CHIEF CLERK: "Page 8, lines 8 and 9, delete 'but the appointment shall be subject to the approval of the governor'.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that the proposed amendment be adopted.

PRESIDENT EGAN: Mr. Coghill moves for the adoption of the proposed amendment. Is there a second to the motion?

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Kilcher seconds the motion. The motion is open for discussion. Mr. Coghill.

COGHILL: Mr. President, in proposing this amendment, what it has done, in turn it has made the principal department boards that are appointed by the governor free of hand to appoint their executive officer and to keep in trust the thinking of the people as to the violation of political inference in particular service boards. I mainly am interested in the board of education and so, therefore, will refer my remarks to them. The Hawaii Constitution provides that a lay board of education be established and the board be given the sole power to appoint its chief state school officer and in turn that would be what we would call in Alaska our commissioner of education. I note that in 18 states the board is provided by the constitution and 21 states by statute and in all of these instances, or most of them, why the executive head or the head of the board, the administrative head, is appointed by this responsible lay board which is in turn answerable to the governor. I feel that this is a move to take any sort of partisan politics out of a service board or a service department such as the commissioner of education or the commissioner of health or welfare. I think that it would apply to all three of them. I might add that one of our great men in education provided that in a speech that he made that governors and state legislatures without exception are bound by state constitutions, by court decisions and their tradition to establish and maintain public schools free from political entanglements and the domination of any special interests or selfish interest groups, and I believe that by deleting this particular part of the last sentence that we would thereafter have no rash move on our strong executive power to remove a good man from office or to turn one down because of party or political affiliations.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. Chairman, we were discussing this matter Saturday to some extent with some of the members at this desk. and at that time I was prepared to bring in a similar amendment to what Mr. Coghill has brought in now to strike after the word "law" on page 8, because I thought it would affect the University of Alaska, and if it would affect the University of Alaska I certainly would be in favor of this amendment because the University of Alaska has a Board of Regents appointed by the governor and confirmed by both houses of the legislature and they in turn select the administrative officer which is the President of the University. I don't believe that a man so selected by that board should be subject to the approval of the governor, so I checked up with a couple of the attorneys here and we find that the University of Alaska would not be subject to, the appointive officer of the board of regents would not be subject to the approval of the governor because the University of Alaska is a corporation and its Board of Regents is the Board of Directors so to speak, and I will ask Mr. Riley, whom I consulted Saturday and again today, to bear me out on this point.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Walsh, I have not given the matter any independent study, but I have no reason to question anything Mr. Walsh has said. I think that others have provided the right source material on which his remarks are based.

PRESIDENT EGAN: Mr. Walsh.

WALSH: If the University of Alaska and the Board of Regents of the University of Alaska and their appointment of the administrative officers, if the appointment should be subjected to the approval of the governor, I am going to vote for this amendment.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I think it is clear in everyone's mind that the University of Alaska is not a principal department of government. We are dealing in this article only with setting up the departments of the executive branch of government, and it seems to me only consistent that the heads of those departments be approved by the governor. It is not very likely he would disapprove them since he has appointed the boards; naturally, the board should be in sympathy with his general viewpoint. Furthermore, there might be times -- the board of education is not going to be the only board -- I don't think there is anything dangerous about it at all. I think it is only consistent with a coordinated government, and never forget, the governor is responsible. I don't think any enlightened person in this day and age wants to see education in politics.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I raised a question on this Saturday also. It says "...at the head of a principal department or of a regulatory or quasi-judicial body..." Therefore, I feel that all boards or commissions eventually would be classed within those three limitations and that the governor would have to approve the appointment of the executive officer, and I agree with Mr. Walsh and others that eventually politics can possibly enter into some board or commission where it has no point of being and I support the amendment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to say that I do not consider education or anything else a "holy cow". It is a function of this state. It is part of the general administrative organization, and I do not believe that it deserves any kind of special treatment. I think that the commissioner of education should possibly be appointed by a special board of education, a nonpartisan board. At the same time, however, that commissioner will have to work with the governor. He will have to work with other department heads. For instance, the commissioner of education, I do not believe it would be right to leave the way open for the appointment of a commissioner of education who will just be separate from the general executive branch of the state and from that standpoint I am very much opposed to the amendment, and I stand by the article as it is written.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask a question of Mr. Victor Rivers?

PRESIDENT EGAN: You may.

HELLENTHAL: Mr. Rivers, would you have any objection if specific language excluding the University of Alaska were included in the section?

V. RIVERS: Mr. Hellenthal, I will stand by the committee report in this matter. It is one of the things we discussed at length. We feel we have solved it adequately and properly, and I would not care to see a specific inclusion, or exclusion made. I speak for myself and I think for the whole Committee on that.

HELLENTHAL: For example, would you object to saying, "Provisions of this section shall not be construed to apply to the board of regents of the University of Alaska."?

V. RIVERS: I would object. I understand that there is going to be brought in in connection with the actual indication of the University of Alaska as a state university, and if there

were to be some particular mention, I think it should be made there.

HELLENTHAL: Would you object to it being made anywhere?

V. RIVERS: Not in its proper place I wouldn't, but in this article I would.

HELLENTHAL: Then you will agree with me that somewhere in the constitution it would be proper?

V. RIVERS: I don't say I see a need for it. I said I would not object.

PRESIDENT EGAN: Mr. Riley.

RILEY: At Mr. Walsh's request and to clarify any impressions I may have left a moment ago, I don't see the need for Mr. Hellenthal's suggested language. I would not oppose it but I feel the University is clearly without the contemplation of this language as it has been presented by the Committee.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: To clarify Mr. Walsh, we looked it up in the code book, Alaska Code Book No. 2, and it does provide that the University of Alaska is an Alaska corporation and it is run by the regents and they are appointed by the governor, and has no reference to the executive head of the government.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I would just like to point out that I think we all agree that we would like to see the board of education appointment effective, and I'm not worried about it even with this language that we have, but we should keep in mind that at present there are some 20 boards in the Alaska administration which would also come under this same language if we strike it, and it would certainly hamstring the governor's administration not to be able to approve the heads of a lot of those other departments, so in voting on this you must keep in mind that it is not just the department of education, at present, and if these laws carry over, it's going to be a lot of other boards until we can straighten up our present laws.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, could we have a one-minute recess?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: If there are no other delegates that wish to speak on this, I wish to exercise the privilege of having the closing debate.

PRESIDENT EGAN: Is there any delegate who hasn't been heard that wishes to speak on this? Mr. Sundborg.

SUNDBORG: I would like to say a few words, Mr. President. If we should adopt this amendment we would be inviting and opening the way to principal departments of our state running wild without any reference to the policies of the governor; he couldn't say a thing to a man who might be the head of the department of fisheries, for instance, if they were a board of fisheries, as I assume they would be. He couldn't say anything to the head of the department of game about how his department's activities should fit in with those of the rest of the state government. I believe we would soon get back to government as bad and as irresponsible as we have now under the Territory of Alaska if we would adopt this amendment, and I hope we will not adopt it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The one thing that strikes a little fear into my heart in this matter of making such a broad, inclusive destruction of this particular section here by this amendment, is the fact that so many people mention politics getting into this and politics getting into that. The connotation of politics is the science of government, and we must remember if we strike this out, Mr. Sundborg's argument is perfectly valid -- we cannot fix responsibility, and if we are to have the executive that we hope the new state will have, we must be able to fix responsibility or we might as well redraft this whole executive department and do just as we are doing now. To strike this out strikes the very heart out of this section. We are a group of citizenry here who are, by and large, tired of rule by board. It may have been necessary in a protection in past years in order to eliminate too much influence from an absentee governor, or one appointed by absentees, in dominating our Territorial affairs. We have created boards for the purpose of getting away from Washington, D. C., and controlling our own affairs, but when we can elect our own governor, he sets up his upper cabinet and operates the government in conjunction with the legislative branch, we need have no fear that politics are going to get into this in the fashion in which most of the connotation of politics has been hurled here, and I am absolutely opposed, predicated on experience and analysis of this thing, that we strike this particular thing. If Mr. Coghill wants to set aside the Territorial Board of Education, if that is the way it is going to be governed, education by a board, then of course, let him do it by one specific amendment, or let the legislature take care of it. I don't believe that the legislature is going to

invoke the principle of political "ward heeler-ism", or whatever you want to call it, on our board of education or in education. It's been shown in the past that they don't want it that way and I don't believe that this is the way to get at the problem that Mr. Coghill fears.

PRESIDENT EGAN: Is there anyone else who wishes to be heard who has not been heard? Mr. Boswell.

BOSWELL: Maybe I will have to speak on special privilege since I have spoken once.

PRESIDENT EGAN: Are you asking for the special privilege of the floor?

BOSWELL: Well, I just --

PRESIDENT EGAN: If there is no objection, Mr. Boswell has the special privilege of the floor.

BOSWELL: Well, I just wanted to say, I can't speak for the Committee but I know that some language is being drafted to take the University out of this and satisfy Mr. Walsh in that manner, and if the Committee doesn't wish to introduce it, I will be glad to do it as an individual.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to say just a word. I sympathize with Mr. Coghill, as far as the board of education is concerned. However, I can see where this would leave the door open for every board head or every principal officer to be appointed if they are run by a board without any O.K. at all by the governor. I am wondering if it would not be better to put in the words, "appoint the principal executive officer when and as authorized by law". Then it would leave it entirely up to the legislature, if they want to set up a department of education completely independent, that is up to the legislature, and they are the people. They will be the people in the future, they will be the voice of the people. If they want to close the door down and make the others subject to the approval of the governor, that is fine, but at least we will have some out for the voice of the people to be heard in the future. I certainly feel that we must make certain allowances, otherwise we are going to tie the whole thing up and probably have some of our departments that shouldn't be politically operated, they still will be subject to politics.

PRESIDENT EGAN: Mr. Coghill, if no one wishes the floor you may make the closing argument if you so desire.

COGHILL: Mr. President, it looks like I stand alone on this issue. In closing, I would like to point out to the delegates

that in Section No. 16 we have set up, "The head of each principal department shall be a single executive, unless otherwise provided by law. Such single executive shall be nominated and appointed by the governor...." On Section 17 we have put a board at the head of these principal departments, and it is the head of that board that is responsible to the governor for the coordination of his executive branch with reference to that particular department. We are using, in reference to the board of education, we set up a board of education; we provide for a head of that board; they in turn hire an executive head. This executive head carries out the intent of that board and there is no reason why the governor should approve them because actually according to the way this section is written, he will not be sitting on the board, on the governor's cabinet or his executive committee or whatever it might be. The board is the one that is responsible to the governor, and in turn the board will meet and elect a president or chairman of the board, and he is the one that is responsible to the governor and not the executive. The executive has got to have one head that he will be responsible to. Is he going to carry out the wishes of this nonpartisan lay board or is he going to carry out the wishes of the governor? He will be in turn carrying out the wishes of the governor that are directed to him through the board and keeping in line their complete program, in consistency. That is why I have introduced the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Point of information. I would like to address a question to Mr. Coghill.

PRESIDENT EGAN: If there is no objection you may address your question.

BARR: Mr. Coghill, I agree with what you have said, but this board sits for only a short period. When they are not in session then who is running our department of education here in the Territory?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Barr, with reference to the board of education which I am familiar with, the executive officer, our commissioner of education is running the department by the program set forth in the board's meeting that they have annually.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to ask a question please of Mr. Coghill.

PRESIDENT EGAN: If there is no objection, Mr. Taylor, you may ask your question.

TAYLOR: Mr. Coghill, do you think it would be necessary under the state that we would have to have a board of education, that it would be just as advisable to have a commissioner of education answerable to the governor?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: No, I don't. I believe we should have a board of education. I believe we should have a board of education appointed from different parts of the Territory to sit in an advisory capacity.

TAYLOR: Is that answer based upon the fact we have had a board in the past?

COGHILL: No, that is answered on the basis that we have, out of the 48 states, a large majority run by boards.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Coghill be adopted by the Convention?" All those in favor will signify by saying "aye" --

COGHILL: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 4 - Coghill, Cooper, Kilcher, Londborg.

Nays: 50 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 1 - McNealy.)

CHIEF CLERK: 4 yeas, 50 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 17?

R. RIVERS: May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have a proposed amendment on the Chief Clerk's desk?

CHIEF CLERK: Mr. Robertson has one but I don't have it.

R. RIVERS: I offer mine now, Mr. President.

CHIEF CLERK: Mr. Robertson had already been recognized.

ROBERTSON: I think Mr. Rivers had the floor before I did.

PRESIDENT EGAN: That is correct, Mr. Robertson. The Chief Clerk will please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 17, page 8, line 9, at the end of the section, add the words 'except that such appointments by the Board of Education or the Regents of the University of Alaska need not be so approved by the governor.'"

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

R. RIVERS: I move the adoption of that amendment.

WALSH: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Taylor.

TAYLOR: I am going to vote against the amendment because it is absolutely useless, uncalled for and would have no effect whatsoever as the University is not a part of the Territorial government whatsoever; it is an independent agency.

R. RIVERS: May I open the argument, Mr. President?

PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: Mr. President, both Mr. Walsh and Mr. Coghill have a real point here, notwithstanding the fact that Delegate Fischer does not think that education is a "sacred cow". The very power of the legislature which creates a corporation known as the University of Alaska with the power to own land, to sue and be sued, has the power to dissolve that corporation. Mr. Walsh wants to be absolutely certain that whatever the governing board of the University is in the future, if that corporation is dissolved and a new administrative setup brought into effect, that the regents or governing board of that University may choose the President of the University without the sanction of the governor. The governor would no doubt have the power of making the appointments of the regents or whatever you might want to call them subject to the approval or confirmation by

the legislature, as would be the case in all those appointments. The department of education will have a board no doubt, and I think the same arguments that apply to the University of Alaska apply to the board of education. I agree with Mr. Sundborg and others that when you are dealing with the run-of-the-mill administrative departments that involve administrative policies and political considerations, as stated in the platforms of the various political parties, that you have got something that bears squarely on the controversial issues of politics. Education, I think, should be governed by a nonpartisan group of men with nothing but the long-range benefits of the particular educational institutions involved. We've been through it before. I feel that if the governor has to put his sanction upon the executive officer of the University or the administration of our schools that you are injecting a political element into that situation, and this is not useless or senseless as Delegate Taylor imports. I think he spoke a little hastily when he said that, and I am always opposed to calling the proposals of other people either silly or senseless, or insane.

TAYLOR: I rise to a point of order. I don't believe I used any of those words.

PRESIDENT EGAN: The Convention will come to order.

R. RIVERS: If I misquoted Mr. Taylor I apologize. I think the apology probably should come from the other direction. Mr. President, this is a serious consideration, and it seems I voted against Mr. Coghill's amendment because I agreed with those who thought that generally speaking on these administrative boards that the governor should have a say-so, but I think there is a very positive distinction between the rest of those boards and the board of education and the regents of the University of Alaska, and I consulted with Mr. Coghill and Mr. Walsh before I submitted this amendment. The wording may not be perfect but the thought is absolutely clear, and if this body agrees with me as far as the importance of this language is concerned, then we will certainly leave it to Style and Drafting to improve the language. Now I might say that where I have said the "board of education", you might say the "governing body of the department of education", whatever the name may be called by the legislature later. I'm not trying to freeze a board of education. Style and Drafting can use a broader term if it sees fit, but the principle I'm pointing out is absolutely clear in my mind and I hope the delegates will consider it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to direct a question to Mr. Rivers.

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may address your question.

V. FISCHER: Do you think it is better that the department of education be administered by a board or that it be administered by a single-head executive?

R. RIVERS: I strongly favor the selection of a nonpartisan board from various parts of the Territory, as Mr. Coghill has stated.

V. FISCHER: Mr. President, then I submit that this exception would open the way and probably encourage the establishment of the department of education as a direct staff department of the executive with the appointment of the commissioner of education directly by the governor. If we have any kind of a governor who wants uniformity in his administration he would certainly request that the legislature not provide for a commissioner of education who is completely exempt from his jurisdiction.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I wanted to make a point regarding the University of Alaska, referring back to this language that we're now drafting. Mr. Rivers has said that the legislature could change the University from a corporate body and this among other things will set it up as a corporate body that cannot be dissolved by the legislature and that would be one thing in its favor.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as Committee Chairman, I think we have the point covered in the committee article, and in present time, 1935 as I recall, the present board was set up, and in this present setup the approval of the commissioner of education lies with the legislature, but in any session in which I sat, in which a commissioner of education was actually approved, the appointment of the commissioner of education came down through the governor to the legislature. It also says in the same article that the commissioner of education may be removed for certain causes by a majority vote of the board of education, and also, there again by approval of the both houses of the legislature. Now, I think that the present system has worked very satisfactorily. As the article is at the present moment, rather than clearing through the legislature, the board would then clear their appointment through the governor. It would give some cohesion and some coordination to that department of government in connection with the over-all operation of government; therefore, I must oppose the amendment. Our present system is working satisfactorily. The only change, and would have no more political implication in this manner that we set up than it has now, the only change would be the matter of approval. The law could provide no doubt for means of removal, the law providing for the appointment of such a chief executive, and there again I assume it would be similar to what it is now,

recommendation and approval of the majority of the board and by and with the approval and consent of the legislature, I assume.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I move to amend the amendment by striking the words, "the board of education or" therefrom.

UNIDENTIFIED DELEGATE: I object.

RILEY: I second the motion.

PRESIDENT EGAN: Mr. Hellenthal moves, it was seconded by Mr. Riley. The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK "Strike the words 'the board of education or' so that it would read: 'except that such appointments by the regents of the University of Alaska need not be so approved by the governor.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be adopted by the Convention?" All those in favor of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment to the amendment is ordered adopted. Mrs. Nordale.

NORDALE: Mr. President, it seems to me unnecessary to mention the Board of Regents of the University. I think there should be an article in our constitution somewhere setting up the University of Alaska, possibly in similar language to that of the University of Hawaii. "It is hereby established as a state university and constituted a body corporate..." and then it goes on, and that would take care of the University and make it very clear that it can never be dissolved and that it is not part of the executive branch of the government.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: The Chairman of the Ordinance and Transition Committee is not here but I believe that is one of the provisions in the ordinances, the establishment of the Territory University as the State University and that would probably be a logical place to put that in.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That may be all very well. Such a proposal would doubtless be proper, and I would support it if there were a separate inclusion. I would support it unless I felt we were getting over into the legislative field, but I certainly agree with the principle, but I think we should right now give

an expression of how we feel on this matter by including the exception applicable to the University of Alaska. Later, if the proposal comes, then this could be deleted perhaps, and the other one left. That is a matter of Style and Drafting but now this is a question of principle. I support this amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: This whole section applies only to three classes of agencies. It applies to principal departments of the state, to regulatory bodies and quasi-judicial bodies. It is inconceivable to me that no matter what the legislature did it could ever put the University of Alaska under one of those three headings, and I am very much afraid here that if we read in here an exception saying that it shall not apply to the University of Alaska, that it would apply or that it could be construed to apply to any other state corporation because we had not excepted that from the language.

R. RIVERS: Mr. President

PRESIDENT EGAN: Is there anyone else that wishes to be heard before Mr. Rivers closes? Mr. Kilcher.

KILCHER: Mr. President, I think that whole question of the last 20 minutes was 10 minutes too long, but I don't understand Mr. McCutcheon's argument even in the former amendment which has bearing on this one, that this question is so vital as to the governor's authority and powers. The governor appoints the board. In nine cases out of 10, if he appoints the board, he will know, he can make his wishes be known whom he wants in there as head of the board, and the governor has the power to appoint the board, not the legislature, so one way or the other, it doesn't make much difference, and as pointed out here the University can be dealt with in a separate article, so let's vote this amendment down and leave this as it is and then vote, if necessary, for a special treatment of the University.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as amended, be adopted by the Convention?"

HILSCHER: Could we have it read please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment, as amended.

CHIEF CLERK: "Line 9 -- add 'except that such appointments by the Board of Regents of the University of Alaska need not be so approved by the governor.'"

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment as amended will signify by saying "aye", all

opposed by saying "no". The "noes" have it and the proposed amendment as amended has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to announce a meeting of the Style and Drafting Committee for 12:15 o'clock, a luncheon meeting. Subject to other committee announcements I would now like to move and ask unanimous consent that we recess until 1:30 o'clock.

PRESIDENT EGAN: Are there other committee announcements? Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration will have a meeting at 1 o'clock.

PRESIDENT EGAN: Mr. Smith.

SMITH: The Committee on Resources will meet at 12:50 in one of the committee rooms upstairs.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment immediately upon recess.

PRESIDENT EGAN: If there are no other announcements and if there is no objection, the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read any communications that are on her desk.

CHIEF CLERK: All of it?

PRESIDENT EGAN: You might summarize it.

(The Chief Clerk read a telegram from A. W. Boddy, President of the Alaska Sportsmen Council of Juneau urging that certain language be inserted in the resources article.)

PRESIDENT EGAN: The communication is referred to the Committee on Resources.

(The Chief Clerk read a letter from the Alaska Native Brotherhood signed by Mr. Herbert Bradley, Grand Vice President, endorsing the Alaska Sportsmen Council's recommendation regarding the resources article.)

PRESIDENT EGAN: That communication will also be referred to the Committee on Resources. It has attached to it a lengthy explanation of their stand on that same issue.

(The Chief Clerk read a letter from Delegate E. L. Bartlett enclosing a copy of a letter from Congressman Walter Rogers of Texas, acknowledging receipt of the copy of the telegram sent by the Constitutional Convention to President Eisenhower.)

PRESIDENT EGAN: The communication may be filed. Are there other communications?

CHIEF CLERK: I have none.

PRESIDENT EGAN: If not, does the special Committee to read the journal have a report to make at this time? Mr. White.

WHITE: No report, Mr. President.

PRESIDENT EGAN: We will hold the report in abeyance. Are there amendments to Section 18 of Committee Proposal No. 10/a? Mr. Robertson.

ROBERTSON: I have an amendment to Section 17.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 17, line 4, after the word 'be' insert the words 'citizens of the United States and'."

ROBERTSON: I move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Robertson for the adoption of the amendment. After the word "be" on line 4 insert the words "citizens of the United States and".

CHIEF CLERK: Between "be" and "nominated".

ROBERTSON: I ask unanimous consent.

PRESIDENT EGAN: Mr. Robertson asks unanimous consent that his amendment be adopted. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Are there other amendments to Section 17? If not, are there amendments to Section 18?

HERMANN: I have an amendment.

PRESIDENT EGAN: Mrs. Hermann, you may submit your amendment. The Chief Clerk may read the proposed amendment as offered by Mrs. Hermann.

CHIEF CLERK: "Section 18, on page 8, line 16, after the word 'unless' insert the words 'the appointee is confirmed by the legislature or'."

HERMANN: I move the adoption of the amendment.

PRESIDENT EGAN: Mrs. Hermann moves the adoption of the amendment. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "On page 8, line 16, after the word 'unless' insert the words 'the appointee is confirmed by the legislature or'."

HERMANN: Mr. President, the purpose of the amendment is to make it possible for the legislature to confirm the person who has been given an interim appointment. As it stands, they would not have that opportunity.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Mr. Victor Rivers.

V. RIVERS: It's just a matter of form. In line 13 where you find "the consent of the senate or of", it was the opinion of the Committee that in adopting that general article the other day we covered that, but this should have a little special wording. We would strike the words "of the senate or of" and insert the words "of either house of the legislature or the legislature in joint meeting", because some acts are apt to call for approval by either house or the legislature in joint meeting and in that way he could still make his interim appointments.

PRESIDENT EGAN: Did you offer the amendment?

V. RIVERS: I ask unanimous consent. In line 13, strike the words "of the Senate or of" and insert in lieu thereof the words "of either house of the legislature or". I ask unanimous consent.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent for the adoption of the proposed amendment. Is there objection?

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard.

V. RIVERS: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Rivers moves, Mr. Knight seconds the motion. Mr. White.

WHITE: May we hear how it would now read?

PRESIDENT EGAN: Would the Chief Clerk please read that portion as to how it would read if the amendment were adopted.

CHIEF CLERK: "Line 13 'with the advice and consent of either house of the legislature or the legislature in joint meeting'."

PRESIDENT EGAN: If there is no discussion -- Mr. Sundborg.

SUNDBORG: I would like to discuss it a little bit. Mr. Rivers, what would the occasion be in which one or the other houses of the legislature would confirm an appointment? Do we have anything in the constitution?

V. RIVERS: We do not have anything in the constitution, but we are trying to provide for the governor to fill vacancies. It is entirely possible that there will be legislation introduced that says that this appointee shall be confirmed by the senate or by the house or by the legislature in joint session, so this particular wording, we wanted to cover those three contingencies, in the event they were included in any law he could still fill the vacancy. It was not thought to be controversial, it merely clarifies.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Before going ahead, I would like to ask Mr. Rivers if the words "in joint meeting", line 14, is equivalent to "joint session" as we have used it in other places.

PRESIDENT EGAN: Could you answer that, Mr. Rivers?

V. RIVERS: I did not get the question, Mr. President.

PRESIDENT EGAN: Mr. Davis.

DAVIS: The word "meeting", Mr. Rivers, in line 14, it now would read "the legislature in joint meeting". I am wondering if that is equivalent to the words "in joint session" as we have used it the other places in this same article?

V. RIVERS: Yes, it is. It might be something for Style and Drafting, and they would probably adopt uniformity in that wording, but the intent was "in joint session". Some state constitutions use the terms "by joint vote", and there are other methods and other wording which covers it. Delegate Riley had a suggestion which I might mention here. Do you want to mention

that?

PRESIDENT EGAN: Mr. Riley.

RILEY: I am operating on the premise that if we adopt this section I would like to have it clear and complete. I am not out of sympathy with this particular provision, although even though this is adopted I may later move for its striking if others don't, but I think that while we are considering it, there is one omission and that is that it occurs to me that this section is wide open to misinterpretation. It reads "either house of the legislature or the legislature in joint session", I assume, but there is no provision for a legislative provision in the individual case. I think "as prescribed by law" might somewhere there improve it.

V. RIVERS: I have no objection.

PRESIDENT EGAN: At the end of the sentence, Mr. Victor Rivers?

V. RIVERS: Yes.

PRESIDENT EGAN: After the word "meeting" strike the period and add the words "as prescribed by law"?

V. RIVERS: Yes, I would ask unanimous consent to withdraw my first amendment and include that as a part of it. Would that be all right?

PRESIDENT EGAN: Your amendment is pending at this time. If there is no objection, the words "as prescribed by law" will be made an addition to the proposed amendment. Is there objection? If there is no objection it is so ordered and those words have become a part of the proposed amendment. The question is -- Mr. Hurley.

HURLEY: May we have the thing read now as it would sound throughout? We got into trouble once before on a deal like this.

PRESIDENT EGAN: Would the Chief Clerk please read that sentence as it would read now if the amendment would be adopted.

CHIEF CLERK: "The governor may fill any vacancy occurring in any office during a recess of the legislature, appointment to which is made by the governor with the advice and consent of either house of the legislature or the legislature in joint meeting as prescribed by law."

PRESIDENT EGAN: Mr. Victor Rivers, are you satisfied with that particular -- if there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce that a group photo of the entire Convention will be taken on Wednesday at 10:30 a.m. All 55 delegates are requested to be present. It will be taken inside on the staircase. With relation to this amendment, Mr. Victor Rivers.

V. RIVERS: We discussed this during the short recess and we feel that while the wording is rather bulky there now and it needs some revision in Style and Drafting, the intent is clear. There were some suggestions made but we felt that without further time taken on this, this would cover it and the matter could be somewhat condensed in Style and Drafting, but the intent here is clear as to our thoughts.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" Mr. Taylor.

TAYLOR: Mr. President, I am preparing an amendment that I think will possibly meet the objections of a lot of them, if I can have just a minute, and I'll offer that as an amendment.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I would like to ask a question of this. If this amendment goes in, we have an appointment which is made by the governor with the advice and consent of either house of the legislature or the legislature in joint session or meeting. Now, we could have the legislature in session and you could read that that the governor could go to the senate and get it confirmed and not worry about the house or he could go to the house and not worry about the senate or he could go to the joint session, and I don't think that is the intent either.

SUNDBORG: It says, "as prescribed by law."

PRESIDENT EGAN: Mr. Marston.

MARSTON: Even it seems fouled up to me -- this language -- it must be.

PRESIDENT EGAN: The Convention will be at recess then for a minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, in order to expedite the business of the Convention, I will withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent

request for the adoption of this proposed amendment? Mr. Victor Rivers.

V. RIVERS: I will now ask to withdraw the proposed amendment because there is going to be one there that will cover it in a manner acceptable, I am sure, to all of us.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to withdraw the proposed amendment. If there is no objection it is so ordered. Mr. Victor Fischer.

V. FISCHER: I have an amendment on the desk which has been there since before the recess. I would like it read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment offered by Mr. Fischer.

CHIEF CLERK: "Strike Section 18."

V. FISCHER: I so move.

HERMANN: I second the motion.

PRESIDENT EGAN: Mr. Fischer moves, Mrs. Hermann seconds the motion that Section 18 be stricken, be deleted from the proposal.

V. FISCHER: Mr. President, all I would like to say is that we presently have a law to this effect on our statute books. It was enacted by the last session of the legislature. I do not see why we must enact things like this which we have in our regular enactments of the legislature, why we must include them in the constitution. I think the discussion here has shown the difficulties and problems that may arise out of bringing in this kind of detailed procedure. I think that the subject can be very adequately covered by legislation.

PRESIDENT EGAN: Is there further discussion? Mrs. Nordale.

NORDALE: I favor leaving it in. Any act of the legislature can be removed by the succeeding legislature. We are setting up a strong executive and we are requiring that most appointments be confirmed in some manner or other. In the constitution it is by joint session. There may be many laws setting up other positions which will require only confirmation by only one house or the other. But nonetheless, I think that the people have a right to expect the governor will submit his appointments to the legislature for confirmation when that is part of the constitution. This is not without precedent may I say. The New Jersey Constitution which is reputed to be very short and concise and contains almost the identical language.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will say a few words along the same line, that this is one of the essential powers of the executive that we felt should be included in the constitution and we feel, as Delegate Nordale has stated, that while an act could be passed it might be changed and altered materially through the years, and that the governor with a different composition of the legislature from time to time might be faced with difficult problems of making interim appointments. It seems to us in the Committee, essential that we provide the power for making interim appointments when the legislature was not in session and also provide that the governor could not make interim appointments, jump the time the legislature was in session and then make another interim appointment of the same man. This does take care of that situation.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, we are, apparently, all of the opinion that we should have a strong executive and we have therefore given to the governor the power of appointment not only of the boards but of all of his officers of principal departments and minor departments. I think the mere statement that this is the law that we have at the present time is sufficient to describe it as a statutory measure and as a statutory measure it does not belong in the constitution. Any attempt to put into the constitution, a law, an actual statute that is already in effect, can only be construed to mean that we are substituting statutory law for fundamental law, which is what the constitution should contain. That is why I seconded the motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, deleting Section 18 from Committee Proposal No. 10/a, be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Taylor.

TAYLOR: I would like to offer an amendment to Section 18.

PRESIDENT EGAN: It has been deleted, Mr. Taylor.

TAYLOR: I will withdraw.

PRESIDENT EGAN: Are there amendments to Section 1 of Committee Proposal No. 10/a? Mrs. Nordale.

NORDALE: Mr. President, do I understand that that last amendment deleted the entire section? Then the governor has no authority to make interim appointments at all, is that correct?

PRESIDENT EGAN: Unless it is covered by statutory law, Mrs. Nordale.

The action of the Convention deleted Section 18, that is correct.

NORDALE: I just wanted to be clear on that.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: With respect to Section 17, lines 4 and 5, how do they read according to our Chief Clerk? Did we, in other words, amend that by providing with the advice and consent of the legislature in joint session?

CHIEF CLERK: That motion the other day that was adopted changes that automatically.

SUNDBORG: Is it the understanding of the Chairman of the Engrossment and Enrollment Committee that that will be done in each place where there is a mention of advice and consent of one of the houses?

SWEENEY: I have been making my corrections in ink when they have been adopted, and the one we were talking about this morning and also a couple of items in Section 18, where we added in the legislature meeting in joint session"; we talked about those and I put them down just as question marks, and so my understanding is there has been no change made in 17 except this addition of "citizens of the United States and" in line 4. Now the journal can show different.

CHIEF CLERK: No, it does not.

SUNDBORG: We adopted a motion by Mr. Victor Rivers saying that it is our intention to have that language changed, but I believe we have to do it specifically, don't we, Mr. Rivers?

V. RIVERS: In this proposal it was the intention that where we mentioned "confirmation" and "advice and consent of the senate" that the words be changed to "legislature in joint session", in this Proposal No. 10/a.

SUNDBORG: Is that sufficient to carry the language right into the proposal in the view of the Chairman of the Engrossment and Enrollment Committee? Would you write that in, in view of the action that we took on Mr. Rivers' motion?

SWEENEY: Not unless the body adopted it. It was my understanding that it was not adopted by the body.

CHIEF CLERK: Do you want me to read the motion that was adopted on Saturday?

PRESIDENT EGAN: Please.

CHIEF CLERK: "Mr. Hellenthal moved that wherein Committee Proposal No. 10/a: 'Confirmation of a gubernatorial appointment is required of either or both houses of the legislature or both houses jointly, then in those cases it shall be the policy of this body that such confirmation be made by both houses of the legislature in joint assembly.' Mr. Taylor seconded and on voice vote the motion was adopted." Does that change it?

SWEENEY: Yes, that would change it, and the Chief Clerk would so indicate on her copy of the proposal that the Engrossment Committee gets.

PRESIDENT EGAN: Are there other questions? Mr. Hurley.

HURLEY: Mr. President, may I speak on personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Hurley, you may.

(Mr. Hurley spoke under the question of personal privilege.)

PRESIDENT EGAN: The Chair has been thinking about that since Mrs. Nordale asked the question. There is a statutory provision at the present time that covers that and the transitional measures, I mean, if that is the wish of the body in striking Section 18, the transitional measures will probably call for the adoption of all Territorial laws, laws on the statutes to become the law of the state. Mr. Buckalew.

BUCKALEW: I am a little worried about Section 18. I doubt seriously if the governor would have authority to make a recess appointment.

PRESIDENT EGAN: Mr. Buckalew, isn't it true there is a statutory provision that gives the governor of Alaska a right to make interim appointments now and that if the laws are carried over into the new state government by the transitional measure, he will still have that authority?

BUCKALEW: The only thing that worries me is, suppose we don't carry over that particular statute? Suppose we don't adopt that statute?

PRESIDENT EGAN: It seems to me we would be in trouble more ways than one. Mr. Victor Rivers.

V. RIVERS: Before we put this section into the executive, I might answer Mr. Buckalew's question. I went through the hearings on the executive that we have in the State of New Jersey constitutional books upstairs, and the arguments were presented there as to what the powers of the government would be in the recess appointments in filling vacancies and I intend to go up there as soon as we have another recess and try to pick out that language because there are two or three cogent

points that I believe the body should know, and after making a brief talk on them I am probably going to ask that we rescind our action on that motion because I believe it will convince you that there are reasons why this section should be in to give him the power of filling a vacancy in recess appointments.

BUCKALEW: Mr. President, I wonder if Mr. Taylor had an amendment which I think would certainly cure any problem that might arise. I wonder if Mr. Taylor would now offer his amendment to Section 18.

TAYLOR: I would offer it but it would take a motion to rescind the former action before this could be, because 18 was wiped out, and so we only now are bound by the provisions of the code which will be carried over into the state.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment to offer to Section 18 which will not require any rescinding and which I think will take care of the problem.

PRESIDENT EGAN: You are offering a new Section 18, is that right Mr. Sundborg.

SUNDBORG: Yes sir.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 18. The Governor may fill any vacancy occurring in any office during a recess of the Legislature, as may be prescribed by law."

PRESIDENT EGAN: Mr. Sundborg, what is your pleasure?

SUNDBORG: I move the adoption of the amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the adendment, seconded by Mr. Buckalew. Mr. Victor Rivers.

V. RIVERS: That amendment does nothing more than give him an implied power that is already here. It doesn't take care of an appointment he may make. Suppose the governor makes an appointment of "Joe Doaks" to be a secretary of some department, or head of some department, the legislature does not confirm him. The governor submits no new name; the legislature goes out of session; the governor then turns around and reappoints "Joe Doaks" interim head until the next session of the legislature meets. By our wording we have taken care of that. By this wording it takes care of nothing that is not already an implied power. The

legislature already has the power to provide by law.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: My amendment would give the legislature the power to take care of that by whatever language or provision it desires. It does give the governor the right to make an interim appointment and then it says that the rules governing such interim appointments shall be laid down by the legislature.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there amendments to Section 1, Committee Proposal No. 10/a? Or Section 2? Mr. Doogan.

TAYLOR: Mr. President, I had one to clarify a matter that was brought up I would like to offer an amendment.

PRESIDENT EGAN: Mr. Taylor, the Chair had recognized Mr. Doogan and he has an amendment on the desk, if you could just hold that a minute. Will the Chief Clerk please read the amendment as offered by Mr. Doogan to Section 2.

CHIEF CLERK: "Section 2, lines 4 and 5, strike the words 'and shall have been for at least seven years'. Line 6, put a period after the word 'State' and strike the balance of the sentence."

DOOGAN: I move its adoption.

DAVIS: I wish you would read it as it will appear.

SWEENEY: Point of order.

PRESIDENT EGAN: Your point of order, Mrs. Sweeney.

SWEENEY: We struck the same language that Mr. Doogan plans to strike in the first half of his amendment now. The only difference being is the change from 20 to seven years.

PRESIDENT EGAN: Did we have any amendment, Mrs. Sweeney, that deleted the whole statement relative to years?

DOOGAN: Yes, we did.

PRESIDENT EGAN: Didn't we have an amendment that sought to do that previously?

SWEENEY: It did strike it, Mr. President.

PRESIDENT EGAN: Did it strike it entirely?

SWEENEY: It struck "and shall have been for at least twenty years" and then it was changed and reinserted with "seven years".

PRESIDENT EGAN: There is a serious question in the mind of the Chair but that your point of order is well taken, that to strike "seven years" now, after we had acted on striking this entirely -- the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair will rule that inasmuch as we have deleted this entire wording once relative to any number of years, that amendments could be offered to make it 19 years or one year or two or three years, whatever you would like, but in order to accomplish what Mr. Doogan is attempting to do would take a motion to rescind the previous action in which we had inserted this language again. Mr. Doogan.

DOOGAN: I don't quite know how to handle this. I will start off by serving notice I will move to rescind.

PRESIDENT EGAN: Mr. Doogan, it will take 28 votes to carry a rescinding action at this time, also 28 votes to carry a rescinding action tomorrow.

DOOGAN: All right, I will then move that the action we took in inserting "and shall have been for at least seven years" be rescinded.

PRESIDENT EGAN: Mr. Doogan moves that the action on that particular amendment be rescinded. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the Convention rescind its action taken in inserting those words in the section?" Mr. Doogan.

DOOGAN: If I may state my reasons for asking that this be rescinded, I have heard only two arguments for having this qualifying language in there. One of the arguments was that they did not want a national figure coming to Alaska sweeping the Territory and getting in as governor. My feeling on the matter is that if a national figure such as Warren or Stevenson, somebody of that caliber came up here and could sweep the Territory and get to be the governor of Alaska, first by being put up by one of the major parties and second, by being elected by the people, he is well entitled to the job and we should be thankful to get him. The other argument that I have heard is that at one time they were going to move a bunch of displaced

people into the Territory of Alaska and they felt those people should have to reside here something longer than what it would require for them to be citizens before they could get to be governor of Alaska. I maintain that if one of those displaced people could come here, serve their five years to get their citizenship, be put up by one of the major parties for governor, be elected by the people, he is certainly entitled to the job. I feel that qualifying language like this is not a discrimination against a person that wants to be governor. I feel it is a discrimination against the people who we are representing. We have voted in another article to give the people suffrage. We have lowered the voting age to 19 years of age. If we are going to give the people suffrage let's give them full suffrage. Let's let them by their vote pick the person who they want for the governor of Alaska without any qualifications attached to it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, that really would be something if we could elect anybody without any qualifications whatsoever. As it is right now he does not even have to be a qualified elector. He could come up here and run for governor. I would like to call your attention to the legislative article which we let go through second reading with the understanding that the representatives and the senators should have resided in Alaska at least three years immediately prior to filing for office, and I don't think we should have anything less than that for the highest office of the land.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: In reference to what Mr. Londborg has just said, as I understand it, the motion we have before us now would not touch the seven-year residence requirement, would it?

PRESIDENT EGAN: That is true, it would not touch it.

SUNDBORG: It is just a motion to rescind our action of several days ago when we inserted "and shall have been for at least seven years" which refers to a citizen of the United States and not to the resident. He would still have to be a resident for at least seven years even if we rescind.

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. Chairman, if I may clear this up, if this motion to rescind carries, I propose to offer another amendment to put a period after "state and delete the balance of the sentence and the end of the section.

SUNDBORG: But that is not embraced in this motion?

DOOGAN: No.

PRESIDENT EGAN: Mrs. Sweeney had been attempting to get the floor.

SWEENEY: I do not believe that Mr. Doogan withdrew his original motion which had both sections in it so probably that is where the confusion has come in. As I understand it, we are just talking about this first portion.

PRESIDENT EGAN: Mrs. Sweeney, it was not necessary for the motion to be withdrawn because the motion was never seconded, but the second part of it is not in the motion. Mr. Victor Rivers.

V. RIVERS: As I listen to these arguments, I recall one rather serious situation we had some years ago in which one of the Secretaries of the Interior, and if I recall right, it was Secretary Ickes, had proposed and recommended that Alaska be made a penal colony, as they used to do in the old days in England. They sent a lot of their convicts over to Australia, and the motion got some consideration back in Washington, and it looked at that time as if we might have to take some action on it, so the local bodies in various parts of Alaska did take action on it, and sent in considerable protests and the individual, and as I recall, I'm pretty sure it was Ickes, finally dropped the proposal, but these things I think are basic, and I notice that practically all constitutions have some residence requirement in the state, even though they are in a general area which has similar economic and geographic characteristics. We are in an entirely different situation up here. It seems to me it has been the temper of the majority of the body to open the gates wide open in the name of liberality, but there are considerable values attached to the customs, the traditions, and the precedent of having had, or seeking at least to insure, that we would have a bona fide resident run for office who understood something of the problem.

SUNDBORG: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Sundborg.

SUNDBORG: I believe that has nothing to do with the motion that is before us. The motion has to do with having been a citizen of the United States for seven years.

PRESIDENT EGAN: In the Chair's opinion Mr. Sundborg's point of order seems to be well taken because the seven-year residence in Alaska will still be required even if this motion carries.

V. RIVERS: Well, I might just say then that the New Jersey

Constitution has used the word "seven"; the Hawaii Constitution has used the term "twenty years of United States citizenship" and a great many of the other state constitutions require United States citizenship as a precedent to be allowed to even file for governor.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I understand that if this motion carries it shall be entirely stricken from here "and shall be at least seven years a citizen of the United States"?

NORDALE: No.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as offered and then read the section as it would appear if the amendment is adopted.

CHIEF CLERK: "Section 2, lines 4 and 5, strike the words 'and shall have been for at least seven years'."

PRESIDENT EGAN: Read the section as it will appear if this amendment carries.

CHIEF CLERK: "The governor shall be not less than thirty years of age, a citizen of the United States, and a resident of this state seven years next preceding his election."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Doogan be adopted by this Convention?"

UNIDENTIFIED DELEGATE: How do we vote on this, to get a rescinding action?

PRESIDENT EGAN: That is right, it is a motion to rescind. Shall we rescind the action taken on the amendment that inserted "seven years a citizen of the United States"? Mrs. Sweeney.

SWEENEY: Mr. President, voting "no" means that you want to leave "seven years" in there.

PRESIDENT EGAN: Voting "no" means that you want to leave "seven years" in there, that is correct. Mr. Hellenthal.

HELLENTHAL: Just briefly, we have got to make a distinction here. There is nothing wrong as I see it, that is my opinion, with requiring a residence requirement for an elective office like your governor, your senators, your representatives, but appointed officials are in an entirely different category, so I distinguish between those elected and those appointed, and I see nothing wrong in a residence requirement for an elected official.

SUNDBORG: Point of order.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think Mr. Hellenthal was not speaking on this at all. This has nothing to do with a residence requirement.

PRESIDENT EGAN: There seems to be so much confusion that the Chair is going to declare a three-minute recess so the people can get what this proposed amendment does clear in their mind.

RECESS

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall the Convention rescind its action taken in adopting the previous amendment to Section 2?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 14 - Buckalew, Doogan, V. Fischer, Hurley, Kilcher, Laws, McLaughlin, McNealy, Nordale, Peratrovich, Riley, Smith, Sundborg, Mr. President.

Nays: 37 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, King, Knight, Lee, Londborg, McCutcheon, McNees, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Sweeney, Taylor, Walsh, Wien.

Absent: 4 - Hilscher, Stewart, VanderLeest, White.)

CHIEF CLERK: 14 yeas, 37 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the rescinding motion has failed to pass. Mr. Johnson.

JOHNSON: Mr. President, I have an amendment with reference to Section 2.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Johnson.

CHIEF CLERK: "Line 7, page 1, after the word election, strike the period and insert a comma and the following words 'and be a qualified elector'."

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JOHNSON: I move the adoption of the amendment.

ROBERTSON: I second it.

PRESIDENT EGAN: Do you ask unanimous consent, Mr. Johnson?

JOHNSON: I ask unanimous consent.

BUCKALEW: I object.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent, objection is heard. The motion is open for discussion. The question is, "shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 2? Mr. Taylor.

TAYLOR: I have an amendment, Mr. Speaker, it is very short. I move that the words "this state" in line 6 of Section 2 be changed to "Alaska". That is for the purpose of clarification. The other day there was some question as to whether or not they would have to be a resident seven years of the state. This would be "of Alaska" which would include both the state and Territory. I ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent.

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Taylor?

TAYLOR: I so move.

KNIGHT: I second the motion.

RILEY: Matter of inquiry, Mr. President. Was "of this state" removed?

CHIEF CLERK: No, not on line 6.

PRESIDENT EGAN: It is the recollection of the Chair that those words are still in there.

CHIEF CLERK: "And of the state" at the end of line 5, those words were stricken.

RILEY: And they now appear on 6.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I might say I had this prepared but we got off of Section 2, and so I was holding it until we came back over it again.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All in favor of adopting the proposed amendment will saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 2? If not, are there amendments to Section 3? Section 4? Mr. Harris.

HARRIS: In Section 3 we use the words "of this state" again. Perhaps we should make the same change and be consistent all the way through.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I wonder, Mr. President, if you would indulge me for a moment. I am sure Style and Drafting will take care of matters like that without action on the Convention floor.

PRESIDENT EGAN: Are there amendments to Section 4? Section 5? Mr. Kilcher.

KILCHER: Mr. President, point of information. I have a note here that I remember of a conflicting interest clause that was mentioned that it might appear at some other place here. I think Mr. Rivers had given me an answer in that respect. Should there be a place in this article or some other place in the constitution?

PRESIDENT EGAN: Mr. Victor Rivers do you care to answer that?

V. RIVERS: I have discussed a number of times a conflict of interest clause, but we had no intention of bringing it into this article. It is possible that some other group will bring it in. Whether they do or not it would be to their judgment as to whether they should bring it in under their particular sections. I don't know if there are any bringing it in. I did mention it in debate.

KILCHER: Thank you.

PRESIDENT EGAN: Are there amendments to Section 5? Section 6? Section 7? Section 8? Section 9? Mr. Sundborg.

SUNDBORG: Mr. President, yesterday at a meeting of the Style and Drafting Committee we were working on the article on the judiciary; there is a provision in that saying that the compensation of judges and justices shall not be reduced during their terms of office unless by general law applying to all officers of the state. The point was made that if we provide here in

Section 9 that the compensation of the governor and secretary of state shall not be diminished even by a general law, which is the way it reads now, that that provision in the judiciary article would be nonoperative because such a general law would not apply to all officers of the state. I would like to know what the Convention wants to do. Do you want to except only these two officers from the provision that there may be a general reduction for all officers of the state, in which case we had better change it in the judiciary article because it could not apply to all officers of the state if it is by the constitution not applicable to the governor or to the secretary of state.

PRESIDENT EGAN: The Chair recalls that matter was discussed. Mr. Rivers, was it you that explained that?

V. RIVERS: I was looking up another item. Would you explain the question again?

SUNDBORG: I'm afraid I couldn't do it again. There is a conflict between the language in Section 9 here which does not provide for the diminishing of the salary of the governor and secretary of state during their terms of office in any event, and the article on the judiciary which provides that the compensation of judges may not be reduced during their terms of office except by general reduction applying to all officers of the state. If you don't make it apply, you cannot make it apply to the governor and secretary of state, it can't apply to all officers of the state and therefore can't apply to judges, but we do have it written into the judiciary article.

V. RIVERS: Well, as I explained that the other day, it was the intent of the Committee that when a man ran for office his salary would not be diminished until his term was over. But as I see the clause, an act could be adopted which would reduce the salaries of everybody but would not become effective until the time of this secretary and governor's term had ended. There may be a conflict there, but it does not seem to me so. These offices are elective offices, the others are appointive offices.

SUNDBORG: The judges are elective.

MCLAUGHLIN: May I inquire through the Chair of Mr. Sundborg, is it your intent to ask for the unanimous consent of the body that the Judiciary Committee change the intent of that provision currently in the judiciary article so we can say "all salaried officers except the governor". Isn't that your intent?

SUNDBORG: That was my inquiry to ask if we may not do that.

MARSTON: Mr. President, I don't see any reason why we are excepting these two people right here. I think they ought to

go right along with the rest of them and let the language cover everybody. I offer that amendment right now and ask unanimous consent.

PRESIDENT EGAN: How is it worded, Mr. Marston?

MARSTON: To strike "they are not exempt".

PRESIDENT EGAN: A period after the word "law", is that what you wish?

MARSTON: That is right and delete the rest of the sentence.

PRESIDENT EGAN: Mr. Marston moves to insert a period after the word "law" and the balance of the section be deleted from the section. Do you so move, Mr. Marston?

MARSTON: I so move.

PRESIDENT EGAN: Is there a second to the motion? It will delete the words "and shall not be diminished during their term of office". It would cover it because then the judiciary article would cover it. Mr. Victor Rivers.

V. RIVERS: Well, again we discussed this at some length in Committee.

KILCHER: Point of order.

PRESIDENT EGAN: Your point of order.

KILCHER: Do we have anything before us?

PRESIDENT EGAN: Was the motion seconded?

KNIGHT: I will second it.

PRESIDENT EGAN: It was seconded by Mr. Knight. Mr. Rivers.

V. RIVERS: Again, we discussed this at some length in Committee. I really shouldn't restate that because I guess it means very little, but the thought here was that with an opposition group in both houses they could diminish the salary of the governor and his secretary of state at will and the thought was here it should not be diminished during his term of office. I don't speak for the whole Committee but I would certainly have no objection to including the words "unless there is a general salary reduction of all state officials". It would not appear to me to be able to work an injustice in that matter, but if we adopt this amendment, I think a great injustice could be worked. I don't think it would be worked very often, but it could be worked unless we make some provision to cover diminishing, and I would not favor the amendment.

HELLENTHAL: Could we have a recess for one minute?

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Marston.

MARSTON: Mr. President, with the consent of my second, I wish to withdraw my amendment and add this one.

PRESIDENT EGAN: Mr. Marston asks unanimous consent for the withdrawal of his proposed amendment. Is there objection? Hearing no objection it is so ordered.

MARSTON: "Section 9, line 20, delete the period, insert a comma and add 'unless general law applying to all salaried officers of the state.'" I so move.

PRESIDENT EGAN: Mr. Marston moves the adoption of the proposed amendment. Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: The Convention will come to order. The motion is open for discussion. Mrs. Nordale.

NORDALE: I am opposed to the amendment. I think if a man runs for office and is elected, he runs with the understanding that he is going to receive a certain amount of money. In the case of a governor he moves his family to the capital city and expects to stay there for four years at a certain salary that he knew existed before he ran, and I certainly don't think that his salary should be diminished during the four years. If the legislature passes a law reducing that salary at the close of the current term of office of the governor, that is something else again, and I think that is quite all right; then he can make his choice at the end of his term whether he wants to run for office again at a lower salary, but while he is in office I don't think it should be reduced.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: In 1932, right after Roosevelt took office, during a great financial emergency, the federal government graded all salaries down 10 per cent from the President on down. I was a new district attorney at that time and came under that 10 per cent cut for about a year and one-half until the emergency eased off and they restored the full salary. In our judiciary article we discussed that and had that very thought in mind. A man who gives up a law practice to become a judge rather counts on having that salary intact, and our article on the judiciary says that it shall not be reduced during the term of office unless by a reduction applicable to all officers. In case of emergency the governor may want to be in with everyone else on that kind of a financial crisis for a reduction of salary, so let's leave it open to have it happen right during

his term of office and put him on the same basis as the judiciary.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Marston be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 9? Section 10? Section 11? The Chief Clerk will please read the proposed amendment to Section 11.

CHIEF CLERK: Mr. Hellenthal proposes the following amendment: "Section 11, strike lines 25 and 26, page 5, and strike lines 1, 2, and 3 on page 6, and substitute 'The governor, as provided by law, shall nominate, appoint and commission all officers of the armed forces.'"

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal?

HELLENTHAL: I move the adoption of the amendment.

PRESIDENT EGAN: Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The motion is open for discussion. Mr. Hellenthal.

HELLENTHAL: The present language dignifies flag officers and general officers in the state militia, I believe, out of proportion to the need. The matter is primarily legislative, especially on the state level and especially in a state where the federal government beyond any doubt would take full command of the military in case of trouble, and I just hate to think of some governor appointing Alaskan colonels or admirals in the Alaskan navy. I don't think it is necessary.

JOHNSON: Mr. President, may I inquire as to the exact wording of the suggested amendment?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Strike lines 25 and 26, page 5, and strike lines 1, 2, and 3 on page 6, and substitute "The governor, as provided by law, shall nominate, appoint and commission all officers of the armed forces.'"

JOHNSON: Mr. President, I think that I shall support this amendment because it takes away the necessity of the governor, apparently it does anyway, submitting these nominations for confirmation by a joint session of the legislature, and I am certainly in favor of that.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I note that the way the amendment reads, it seems a little incomplete. It reads "officers of the armed forces". I think it should have at least "of the state" in it.

HELLENTHAL: Yes, "of Alaska".

PRESIDENT EGAN: If there is no objection the words "of Alaska" will be made an addition to the proposed amendment. Is there objection? Is there objection to adding those two words? If not, it is ordered and the words have been added to the proposed amendment. Mr. Victor Rivers.

V. RIVERS: Is it on the floor for the discussion?

PRESIDENT EGAN: Yes.

V. RIVERS: All you are doing by the amendment, as I see it, is taking out the confirmation of the adjutant general, perhaps one or two other officers from the legislature. The governor here appoints the adjutant general under this amendment and he does not have to have the approval of the legislature for that appointment. That is a relatively important office in our Territory or what would be our state government. I oppose the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: I believe that Mr. Rivers overlooked one other thing. The amendment allows the governor to appoint and commission all officers. Now that would be the final authority. You just can't do that under the laws of the United States. These higher ranking officers, the appointment has to be sent in to Washington and approved there before they can be commissioned. That is why this committee report was worded this way. The higher ranking officers had to go to Washington for approval but the governor can appoint colonels and lower without that.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Now that everybody has got it fouled up, forgive me, I retract that whole statement. Mr. Chairman, I know something of the matter of which Mr. Barr speaks and the others. There are two types of services in the National Guard. You have the Alaska National Guard and you have the National Guard of the United States. It becomes too complex to discuss the matter. I would recommend the adjutant general of the state normally would be a brigadier general; properly he should be, and any flag officer is the equivalent of a brigadier general. General officers traditionally are provided in the state constitution for appointment by the governor and ratification by the senate. We are running counter, we are literally running

counter to the experience of most states in deliberately doing that. That is, I don't think the adjutant general should be any different from the head of a department, as he would be in the state, and I think that he should be ratified, and I believe that Mr. Hellenthal's objection largely is to an expression such as "flag officers". If that is an objection, it can be cleared up by generic words in Style and Drafting. I oppose the amendment as being contrary to what we have done here in the past as to other officers.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" All in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 10 or Section 11? If not, are there amendments to Section 12? Section 13? Section 14? Section 15? Section 16? Mr. Metcalf.

METCALF: May I ask Mr. Rivers a question?

PRESIDENT EGAN: You may, Mr. Metcalf.

METCALF: Mr. Victor Rivers, you say the head of each principal department, does that include the attorney general?

V. RIVERS: By specific mention of the will of this body the attorney general is not included in this section.

METCALF: Does he have to be confirmed by the senate at all, or the legislature?

V. RIVERS: Insofar as he would fall under the head of one of the principal departments, I assume he would.

METCALF: You assume he would be one of the heads of the principal departments?

V. RIVERS: It is merely an assumption.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: The attorney general question worries me very much, and I would like to submit a small amendment. It is three words, that is all.

PRESIDENT EGAN: Would you submit it please, Mr. Metcalf.

CHIEF CLERK: "Section 16, page 7, line 14, immediately following the word 'Department', insert the phrase 'including the attorney general'."

PRESIDENT EGAN: Mr. Metcalf, what is your pleasure?

METCALF: I move that it be adopted and ask unanimous consent.

BUCKALEW: Objection.

DOOGAN: Point of order.

PRESIDENT EGAN: Objection is heard. Your point of order, Mr. Doogan.

KNIGHT: I second the motion.

DOOGAN: My point of order is that we have already considered this matter once, and I take exception to the remarks by the Chairman of the Legislative Committee in that this body by their action implied that the attorney general would not be one of those principal departments. I take exception for this reason: that is, as it was so aptly pointed out by Mr. Davis, the thing they did not want to do was to set up the attorney general's office in the constitution but it could be set up as one of the principal departments.

PRESIDENT EGAN: As to the point of order raised by Mr. Doogan, we did consider spelling out that there be an attorney general once before in this section, did we not? Mr. Ralph Rivers.

R. RIVERS: I was about to offer an amendment so I got talked out of it, so it is the first time it has come up.

PRESIDENT EGAN: If this is the first time, the point of order would not be well taken at this time. Mr. Taylor.

TAYLOR: I was going to raise the same point of order as Mr. Doogan, but I think I am going to go even further because there was a specific amendment offered to provide for the establishment of an elected attorney general.

PRESIDENT EGAN: This does not say though, Mr. Taylor, that he would have to be an elected attorney general.

TAYLOR: Mr. Barr's motion to adopt an amendment to that effect would be.

PRESIDENT EGAN: But Mr. Metcalf's amendment does not include anything of that nature, so the amendment would be in order at this time, Mr. Taylor. Is there discussion of the proposed amendment as offered by Mr. Metcalf? Mr. Metcalf.

METCALF: I feel that mention of the attorney general's office should be made because we have mentioned it in the proposal under direct legislation, and in initiative and referendum, I think we mentioned it once or twice there. I am confused as to whether the senate is to ratify the nomination once every two years or once every four years. I am in a state of confusion

and I would like to have this spelled out a little more as far as this important office is concerned. That's my feeling on the matter.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: May I speak on this matter now. I don't believe that it is necessary to put an attorney general in there. If you do that you might as well put all the branches you are going to have, all the principal branches of the executive department in because it naturally falls into the category of one of the principal branches of the legislature, and I think we considered that the other day. It was felt that it was a legal department of the executive branch and should not be necessarily named because the governor would have the right under our present article to appoint the attorney general who sets up the legal department of the executive department, and I can't see whether if you add that attorney general on there including the attorney general, you had better put it including the highway department and all other things. I think we should leave it the way it is, and the other things will naturally follow and fall into the proper category.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Metcalf be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 16? If not are there amendments to Section 17? Amendments to Section 18? Mr. Sundborg.

SUNDBORG: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Sundborg.

CHIEF CLERK: "Strike Section 18 and substitute the following:

'Section 18. The Governor may make ad interim appointments to fill vacancies occurring during a recess of the legislature in offices requiring confirmation of either or both houses of the legislature. The duration of such appointments shall be prescribed by law.'

SUNDBORG: Mr. President, I move the adoption of the amendment.

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the proposed amendment, Mr. Rivers seconds the motion. The motion is open for discussion. Mr. Sundborg.

SUNDBORG: Mr. President, a little while ago I submitted another

amendment which I thought accomplished what this says, but I was advised by some of the technical staff it did not actually accomplish what I had intended, in that it left the possibility present that the legislature could by law actually prohibit the governor from even making a recess appointment under the existing language. This new section says that the governor may make a recess appointment but that the duration of the appointment shall be determined by the legislature.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" Would the Chief Clerk please slowly read the proposed amendment.

CHIEF CLERK: "Section 18, strike Section 18, and substitute the following: 'Section 18. The Governor may make ad interim appointments to fill vacancies occurring during a recess of the legislature in offices requiring confirmation of either or both houses of the legislature. The duration of such appointments shall be prescribed by law.'".

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" Mr. Hellenthal.

HELLENTHAL: Why the use of the last "ad interim", is that consistent with procedure as advocated by Style and Drafting?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Was the question addressed to me, Mr. Hellenthal?

HELLENTHAL: Yes.

SUNDBORG: I don't think Style and Drafting really adopted any standard in this matter and this is the phrase that was suggested to me by two of the technical experts and which I asked Mr. Rivers, the former attorney general what he thought of it, and he said he thought it was just right so I submitted it in that form.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

KILCHER: May the Chief Clerk please read it once again?

JOHNSON: Point of order. The roll call has already been commenced.

PRESIDENT EGAN: That is correct.

KILCHER: May I abstain?

PRESIDENT EGAN: Continue with the roll call.

(The Chief Clerk called the roll with the following result:

- Yeas: 35 - Armstrong, Awes, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Lee, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nordale, Peratrovich, R. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Walsh, Wien, Mr. President.
- Nays: 13 - Barr, Boswell, Collins, Knight, Laws, Londborg, McCutcheon, McNees, Nolan, Poulsen, Reader, V. Rivers, Taylor.
- Absent: 6 - V. Fischer, Riley, Stewart, VanderLeest, White, Hilscher.
- Abstaining: 1 - Kilcher.)

LONDBORG: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Londborg asked that his vote be changed to "no".

CHIEF CLERK: 35 yeas, 13 nays, 6 absent, and 1 abstaining.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 18? Are there any other amendments to Committee Proposal No. 10/a? If not, the proposal is ordered referred to the Committee on Engrossment and Enrollment. We now have before us Committee Proposal No. 9.

CHIEF CLERK: No, it is 12. That is next on the calendar.

PRESIDENT EGAN: Is 12 next on the calendar? The Chair stands corrected then. Mr. Rivers, was it your desire that those proposals come next?

V. RIVERS: We will hold to whatever the calendar prescribes. I understood that 11 and 12 would come up next.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading -- Mr. Sundborg.

SUNDBORG: I move that the rules be suspended and that the Committee on Style and Drafting be instructed to insert "secretary of state" at points in the article on initiative and referendum

where the words "attorney general" appears.

GRAY: I second the motion.

PRESIDENT EGAN: It has been moved and Mr. Gray seconds the motion that the word "secretary of state" be inserted in lieu of the words "attorney general" wherever they may appear in the article on initiative and referendum. Is there objection to that request?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard. Mr. Ralph Rivers.

R. RIVERS: I would like to back up the motion because I objected earlier in the day that we should have the attorney general draw the ballot heads and check the sufficiency of that proposed initiative bill, etc., but after I decided not to do anything about inserting "attorney general" in this section, it becomes necessary in the interest of consistency to say that those matters will be referred to the secretary of state who in turn can obtain the advice of the attorney general.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed motion as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of adopting the motion will signify by saying "aye".

SWEENEY: It is a suspension of the rules and I don't know how you could do it on a voice vote.

PRESIDENT EGAN: The Chief Clerk will call the roll on the adoption of the motion.

(The Chief Clerk called the roll with the following result:

Yeas: 46 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Walsh, Wien, Mr. President.

Nays: 4 - Cooper, Robertson, Sweeney, Taylor.

Absent: 5 - Hilscher, Riley, Stewart, VanderLeest, White.)

CHIEF CLERK: 46 yeas, 4 nays and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and it is so ordered. The Chief Clerk may proceed with the second reading of Committee Proposal No. 12.

UNIDENTIFIED DELEGATE: No, it should be 11.

PRESIDENT EGAN: You said that No. 12 was the next one on the calendar. The Chair does not have a copy of the calendar.

CHIEF CLERK: On the calendar it was 12, I am sure.

PRESIDENT EGAN: Whatever the calendar says. Mr. Cooper.

COOPER: Might I ask a question. On the previous vote prior to this last roll call, I was just sitting here listening to the results announced. I was quite sure it was 35 ayes, 18 nays, and 1 abstaining, and there were 6 at the time that were absent.

CHIEF CLERK: 35 ayes, 13 nays, 6 absent, and 1 abstaining.

COOPER: Thank you very much.

PRESIDENT EGAN: The Chief Clerk may then proceed with the second reading of Committee Proposal No. 12. Don't you think Committee Proposal No. 12 should be considered possibly after we get to transitional measures? Mr. Victor Rivers.

V. RIVERS: I think, speaking for the entire Committee, we would be perfectly willing to be governed by the Rules Committee selection for placing on the calendar in these matters. If there is a better order I think we will all agree to it.

PRESIDENT EGAN: All right, you may read it then.

(The Chief Clerk read Committee Proposal No. 12 in its entirety at this time.)

PRESIDENT EGAN: Mr. Victor Rivers, do you care to proceed with an explanation of the proposal?

V. RIVERS: I will try and explain as we go along the Committee's intent and purpose. The first clause, as you can see, would require that the state establish a civil service or merit system for its employees. It comes to my mind in reading it, and we had some brief discussion on it as to its interpretation applying to high appointive and elective officers under the state, I believe that that should either be specifically exempted if we do not agree that it is the intent that the word "employment" covers those people who are not elected or appointed to high offices. The question of the value and the use of the word "employment" there and where it would terminate has to be considered. The Section 2 is membership in employees retirement systems. In some of the retirement systems, there

was fear by some bodies that the legislature having the power to do so might abolish such a retirement system and they might then lose the benefits or the values of the monies they had paid into such a system, although it was a contractual relation, and they might lose the benefit retirements thereunder. I mentioned specifically in that category the present retirement fund for teachers and educational groups. The other section is an antisubversive section which is required, as we understand it, one of the required clauses of this constitution, and that is Section 3. Section 4 is of a similar nature and prescribes a standard clause for the oath of office to be taken by officials of the state government. Section 5 was included because we felt it was necessary to insure that we could have relationships with other states and possibly along our boundaries, with foreign countries such as Canada, within the limits prescribed by the national law. It so happens that some of the constitutions which do not state "respective legislative bodies may appropriate such sums", the court in some cases has held to a narrow interpretation that the legislature under their state constitution could not appropriate funds for uses outside of the state in the manner in which we have allowed them to do under this section. That is the reason for including this section in the constitution. There are court interpretations that would work against the use of any state monies for such cooperation unless we had such a clause in the constitution. I think that covers briefly the Committee thinking on it. We did not discuss the scope of the word "employment" too broadly in Committee in the Section 1.

PRESIDENT EGAN: Are there any questions to be asked of Mr. Rivers, the Committee Chairman? Mr. Coghill.

COGHILL: Mr. President, I would like to ask Mr. Rivers in Section 5, sir, on your last line, "In all intergovernmental relations involving the state, the Governor shall act as the agent of the state." He can delegate his power to one of his department heads, is that not true?

V. RIVERS: That is our understanding. I might say, under the Enabling Act, there are going to be rather broad transfers to the state of certain properties, equipment, and other things that are now in the hands of various departmental agencies functioning in Alaska. I refer specifically to equipment of Fish and Wildlife Service and some of the various highway agencies and others. They would have to be acknowledged and received by somebody for the state. This clause is intended to cover the governor in as the agent of the state in such matters.

JOHNSON: May I ask Mr. Rivers a question, please?

PRESIDENT EGAN: You may, Mr. Johnson.

JOHNSON: Mr. Rivers, with respect to Section 4 which covers the oath of office, I notice that there is a slight variance, I think, between the wording here and the customary wording. You say, "I will support and defend the Constitution of the United States..." Is not the term "and laws" -- for instance, "I would defend the Constitution and laws of the United States ..." Is that not inserted?

V. RIVERS: This was lifted, as you can readily see, from the standard form, and I'm not sure. This one did not include it. I presume it does include it in some. I think I would like to ask some of the other Committee members on that. Mrs. Nordale, do you recall the adaptation of this section? Is it from the Enabling Act?

NORDALE: My recollection is we took it right out of this bill. I think it is the same as the Hawaii Constitution. I will see if I can find it.

PRESIDENT EGAN: Are there other questions to be asked of the Committee? Mr. Fischer.

V. FISCHER: Mr. President, in Section 2, this would cover the eventuality that if one of these retirement funds ran out of money payments could be deferred? I mean a deferment of payment would not constitute an impairment of the obligation?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We discussed that point and we thought that under this clause, as I recall the general thinking of the Committee, that "shall not be diminished or impaired" would mean that we realize if the state went defunct, as I explained to some of the individuals who discussed it with me, if the state did go bankrupt in the sense that we visualize the state going bankrupt, they could not meet the obligation, but as long as there was monies in the funds they could and would. Of course, it has never been the history of any state that has occurred, and I don't foresee that it will occur here, but the question of the use of the word "impaired" that Mr. Fischer has raised may be a good one. It may be they could defer, under the word "impair", certain payments. They could not be diminished in the over-all payment, but they could be deferred if the fund went down. This section, I believe, will stand considerable discussion by all interested parties because it is an effort to try and protect those people who for many years pay into a fund and are entitled to receive the benefits under that contract, but still we can see the possibility that there might be a reduction of state revenues or the revenues of that fund to the point where they might have to reduce payments for a time. It was, as I interpret the thought of the Committee and recall it, it was the thought that, if there were any obligations like that reduced temporarily, they would later be

paid. I think the employee's retirement system, we felt in Committee the use of that terminology did not bring in under this section any of the National unemployment tenefits or employment security benefits that are paid by the national act. I hope I have answered the question.

PRESIDENT EGAN: Are there further questions to be directed to the Committee? Mr. Hellenthal.

HELLENTHAL: Was this matter of cooperation with foreign nations copied from any other state?

V. RIVERS: No, it was not. Most states of course, except along the northern and southern boundaries of the United States, have no problem where there must be some cooperation. It is highly limited under the National Constitution. It was foreseen and discussed in Committee that there are many places, doubtless, in negotiations between the Canadian government and our government, where we might desire to have one of our state officials intervene for the state and he might be required to travel to Washington D. C. or Ottawa or some place to speak for the people of Alaska within the limits of the National Constitution, and for that reason it was included, Mr. Hellenthal.

PRESIDENT EGAN: Are there other questions? Mr. Gray.

GRAY: Did you have specifically in mind, Mr. Rivers, the Yukon or the International Fish Commission, is that what these apply to?

V. RIVERS: We thought there were a number of places in which the state might desire to intervene, watersheds of the various rivers was one. Another one was in regard to the shore line, as you all realize now there is considerable discussion as to what amounts of entry through the various bays and harbors should be granted to the Canadian dominions, and if so what returns in the use of watershed power would be allowed to the Territory or the future State of Alaska. It seemed to Committee it was desirable to allow our legislature to appropriate monies for such intervention as the National Constitution would allow in behalf of the people of Alaska.

HELLENTHAL: What would that consist of, Mr. Rivers? Was any inquiry made to determine what intervention would be permitted by the National Constitution?

V. RIVERS: It was merely discussed. The extent and scope of that would be limited by the Constitution, but I cannot tell you what the scope would be.

HELLENTHAL: Didn't the Committee have in mind more that you would like, perhaps, the possibility of sending an observer?

V. RIVERS: Both that and intervention, somebody to speak for the will and wishes of the people of Alaska. Maybe some of the other members of the Committee would like to amplify on that, or answer.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, the Committee realized that the state would not have the power to sign any treaties or anything of that sort. That is up to our State Department, but before we reached that point we thought the state should be able to negotiate or sort of come to a meeting of minds on any particular matter that would be of interest to the State of Alaska. For instance, we share power sources, that is waterways with Canada, and fishing grounds. One thing that comes to my mind, especially, is in the matter of civil defense in the case of a mass evacuation, our governor would have to act quickly and he could negotiate with British Columbia and the Yukon Territory on the matter of housing, or such things as our civilians going out over the highway or by air. He should have the power to negotiate that way.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Did -- you have read the commentary on Section 5. Mr. Hellenthal?

HELLENTHAL: Yes.

NORDALE: I believe it was this same type of thing with which the states cooperate, educational matters and things that are pertinent to the welfare of both adjacent provinces. I am sure we had no idea that the state would ever have the authority to step in on a matter that was strictly the province of the federal government.

HELLENTHAL: I would not dream of that either.

NORDALE: No, I wouldn't either, really, but we also did provide that money could be appropriated to finance any program of cooperation on the part of our officials.

PRESIDENT EGAN: Are there other questions? Mr. Robertson.

ROBERTSON: May I ask a question of Mr. Victor Rivers?

PRESIDENT EGAN: You may, Mr. Robertson.

ROBERTSON: In Section 1, does the Committee intend to offer an amendment so it won't be applicable to the two elected positions of governor and secretary of state, and also these people from outside who seem to be so concerned about receiving appointments as heads of the principal departments?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: At the time we drafted this section we did not know just how many would be elective and how many would be appointive, but after we have gone through this, and in our next regular recess which is coming up shortly, I am going to ask the Committee for a brief meeting to cover the limitations we want to impose under that term "employment". I announce that meeting immediately after we recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess. Mr. Sundborg.

SUNDBORG: First of all, I would like to announce a meeting of Style and Drafting at the rear of the gallery during the forthcoming recess. I would also like to suggest that under our new rule this is probably the recess at which any delegate who has a proposed amendment should discuss and clear it with the Executive Committee.

PRESIDENT EGAN: If there are any questions or proposed amendments, please discuss them with the Committee during this recess. Therefore, the recess will last until 3:50. The Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there further questions to be directed to the Committee? Mr. Robertson.

ROBERTSON: I would like to inquire of Mr. Victor Fischer whether or not his Committee gave any consideration to the report of the Resolutions and Recommendations Committee which reported that Proposal 10, which was apparently the origin of your Section 5, was not constitutional matter and shouldn't be included in the constitution. We had that advice from a consultant, Henry Sheldon [Dr. Sheldon Elliott] and Mr. Sady also more or less told us.

PRESIDENT EGAN: The Convention will be at ease for a moment or two. The Convention will come to order.

V. RIVERS: Well, Mr. President, are we still in the discussion state now?

PRESIDENT EGAN: We are, Mr. Rivers.

V. RIVERS: In discussing this in the recent recess, after further discussion on Section 1, it was decided, with the advice of the consultants, that the present terminology covered the power of the legislature to place such limits upon the scope of the civil service system as they so decided because

the section says, "The legislature shall provide for a merit system..." That is a similar wording but not the same. The implication is similar to that of Hawaii and also of New Jersey. But we thought, after discussion there was an amendment submitted to us that might put in the words "except the principal officers of the state government as prescribed by law". The merit system is being prescribed by the legislature, and the term "employment" would be the term of employment up to the level they decided they should reach and also they, by their act, could not defeat or alter any of the intent of the appointive or elective officers as set up under this constitution. I asked them if the executive heads of departments as appointed by various boards could also be considered under that, and they so advised that the word "employment" could be limited to whatever top level of officers that were not treated by the constitution, and could be limited to stop at whatever top level of employees they wanted it to stop at. So the Committee has decided to stay with Section 1 as it is now shown on your draft. The other point had to do with Section 5 and it covers Proposal No. 10 by Delegate Fischer in which the other committee decided it was not constitutional matter. That is the item that Mr. Robertson just called to my attention. We went into it somewhat further after that proposal by Mr. Fischer was referred to us, and we found that there had been limitations imposed on interpretations by courts that limited the power of the legislature to appropriate monies for such actions, so we felt it desirable to include it so the legislature might appropriate funds as necessary for cooperation with other states and the national government. That point was discussed further, and Delegate Hellenthal felt that and to the extent consistent with the laws and the Constitution of the United States and of foreign nations was a matter that might give rise to some question in the minds of some of the Congressmen in reviewing this section. The Committee felt that perhaps they would like to have a little discussion of that item on the floor inasmuch as Delegate Davis also brought up a point. The Committee is willing and agreeable if after such discussion you want to put a period after "interest" and strike the balance of the line. We are in agreement that if it is the consensus of this body that we do so, we will go along with that. The thought there in Committee was that we would not want to put into the constitution anything that would alarm or possibly antagonize any of the members of Congress who are going to be considering this section, and as Mr. Hellenthal pointed out, it might alarm them to see that we are going to be allowed to participate even to the extent of the laws of the Constitution of the United States with any other nation other than that of the United States or its subdivisions. There was another point brought up and that was that Delegate Johnson wanted the words "Constitution of the United States and laws of the United States" inserted in the oath. Delegate Nordale quoted the oath as you take it and the word "laws" does not appear in there. We felt that the word "Constitution" covered all the matter that would

be implied by laws of both the state and the national government when you adopt and subscribe to the Constitution, it being the power from which all lawmaking springs. I don't recall the exact words of the oath of allegiance to the flag which we take, but it does not include the word "law", so the question of the insertion of "laws" after "Constitution", we felt the word "Constitution" covered all the laws that had sprung from it and that the words "laws" would not be necessary in the oath. I think that covers the things we discussed in that brief committee meeting, except for this one thing. It has been pointed out here and discussed earlier in the other section on the executive that we were going to introduce a section having to do with the University of Alaska. There has been such a section prepared and it was our thought that at the end of this section, after consideration of Section 5, we would then add Section 6 and present it to the body for consideration, and by that time we will have mimeographed copies for everyone. Oh, they have already arrived.

PRESIDENT EGAN: Are there further questions to be directed to Mr. Rivers relative to this proposal? If not, Mr. Rivers, is your Committee ready to have the proposal before the body in second reading and open for amendment after your Committee amendments have been considered?

V. RIVERS: There was just one thing, Mr. President, that gave me rise for a little consideration and pause and that was that during the time we were sitting, some of the members of Style and Drafting sent over word there were about three other miscellaneous provisions that they would possibly want to include under "miscellaneous". I see the Chairman of the Rules is not yet here. The suggestion was made that this section be held up until the very last of the basic articles or proposals of the constitution have been adopted and then try to group in there any inconsistencies or other miscellaneous sections, so I am not going to recommend for myself or the Committee on that point, but leave it exactly up to the rules and the body as to whether or not they want to do that. It seems there are going to be a few things come up and they should probably all be included under one miscellaneous group, and this is the miscellaneous group we are acting on now.

PRESIDENT EGAN: Mr. Rivers, even in the absence of the Chairman of the Rules Committee, don't you think it would be quite easy to get an expression from the delegates at the present time? I think it is a reasonable request.

V. RIVERS: I think it should be considered now before we go ahead on this section.

PRESIDENT EGAN: The Chair might put the question to the body as to whether or not it is the wish of the body to hold Committee Proposal No. 12 in abeyance until such time as all the

substantive proposals have been considered by the Convention. All those in favor of holding Committee Proposal No. 12 in abeyance until that time will please raise their hand. It seems to be almost a unanimous feeling that your suggestion would be followed, Mr. Rivers. That being the feeling of the body --

V. RIVERS: If that is the feeling of the body, I would now suggest that we now consider that one-paragraph item known as Committee Proposal No. 11 which deals with the interim election of the governor.

PRESIDENT EGAN: Mr. Rivers, as the Chair recalls, that was referred to the Committee on Ordinances after it was brought in. Is that a correct recollection?

CHIEF CLERK: That is right.

V. RIVERS: That was re-referred? Then I withdraw that last request.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: A point of information. Will Article 12 be referred back to the Committee for the inclusion of all these other miscellaneous matters before we again take up Article 12?

PRESIDENT EGAN: If there is no objection, and in order that the Committee might gather these matters together for inclusion in Committee Proposal No. 12, if there is no objection, the proposal will be ordered referred back to the Executive Committee until such time as they deem proper to bring the proposal back to the floor. Hearing no objection it is so ordered and we will now proceed with Committee Proposal No. 9, the proposal on finance and taxation. Mr. Nerland.

NERLAND: I have a request to make before we have Proposal No. 9 read. Inasmuch as four members of this Finance Committee are grouped in this immediate vicinity, the Committee has decided and has made arrangements with the others who are involved, that we would like to all group at this table here and I would like to ask permission of the Chairman and unanimous consent that a short recess be allowed.

PRESIDENT EGAN: If there is no objection, we will recess for that purpose, Mr. Nerland.

RECESS

PRESIDENT EGAN: The Convention will come to order. Would the Chief Clerk please read Committee Proposal No. 9 for the second time.

(The Chief Clerk read Committee Proposal No. 9 in its entirety.)

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, the Committee did not ask for a previous withdrawal of this proposal in order to make several very minor changes. There is a mimeographed sheet now on the desks of all the delegates and I will ask that the Clerk be allowed to read these proposed amendments and that they be accepted unanimously and incorporated as part of the committee proposal.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed Committee amendments to Committee Proposal No. 9.

CHIEF CLERK: "1. Page 2, Section 5: strike Section 5 and renumber subsequent sections.

2. Page 2, Section 8, line 25: after the word 'all', insert the word 'public'.

3. Page 3, Section 9, line 15: strike the word 'national' and insert in lieu thereof the word 'natural'.

4. Page 3, Section 10, line 21: strike 'within one year' and insert in lieu thereof 'prior to the end of the next fiscal year'.

5. Page 4, Section 13, line 24: strike the last sentence and insert in lieu thereof, 'All appropriations outstanding at the end of a period of time specified by law shall be void.'"

NERLAND: I move and ask unanimous consent that the amendments just read be adopted and accepted as part of the Committee Proposal on finance and taxation.

DAVIS: Mr. President, I don't appear to have a copy of that amendment.

PRESIDENT EGAN: Is there anyone else who does not have a copy of the proposed amendments? Mr. Ralph Rivers.

R. RIVERS: I think we ought to go through these one section at a time and everyone be able to write it in at that particular point. Otherwise, we get all mixed up. I want to see what these are, and I have one suggestion to make on the last proposal here.

PRESIDENT EGAN: The Chair wonders, Mr. Nerland, in line with these proposed amendments, it might be well to say, take a five- or ten-minute recess and have the members who have questions relative to the proposed amendments that you offer as committee

amendments at this time, discussed by you and your Committee, meeting in the back of the room.

NERLAND: That would be agreeable, Mr. President, or these are very minor changes and very easily explained.

PRESIDENT EGAN: Before you move their adoption, Mr. Nerland, perhaps you might explain each one of the amendments.

NERLAND: In Section 5 we have moved for the striking of that entire section; that is included in the later portion of a section from the legislative proposal that is being incorporated in its entirety by Ordinances. The wording is identical to our proposal so we request that that section be stricken. The other sections will be later renumbered but for the time being I will refer to them as they stand in our present proposal. In Section 9, page 3, line 15, the word "national" was a misprint. It was the intent of the Committee that that should be "natural". I passed up Section 8. The Committee felt that in inserting the word "public" after "all", making it "all public revenues" would eliminate the question regarding such things as donations or bequests by private individuals that might have specific purposes attached to them. Page 3, Section 10, at the time this section was considered by the Committee it was not the intention of the Committee that the borrowings should be paid back within that same year. It was inadvertently worded that way, but the Committee felt that the need for borrowing in any particular year might not be corrected before the end of that year, but it should be paid back within the next fiscal year. Consequently, we have requested the change to read "prior to the end of the next fiscal year". On page 4, Section 13, line 24, instead of, "All appropriated funds unexpended at the end of a period of time specified by law shall be returned to a state treasury" -- there were several matters involved there. One particular question was that the funds hadn't actually ever left the state treasury, and it was felt that this wording as stated in the proposed amendment, "All appropriations outstanding at the end of a period of time specified by law shall be void", better expressed the ideas and the opinions of the Committee. I ask for unanimous consent that these be adopted.

R. RIVERS: May I ask Mr. Nerland a question? It is on that last one, Mr. Nerland.

PRESIDENT EGAN: You may, Mr. Rivers.

WHITE: Point of order. Mr. Chairman, hasn't this decision been followed with other committee proposals, that by asking unanimous consent, in effect, the rules are suspended and committee deletions or additions are considered as part of the report. They are still subject to amendment or deletion later on.

PRESIDENT EGAN: The suggestion made by Mr. Ralph Rivers previously was that Mr. Nerland explain the proposed amendment and then possibly go on with his explanation of the article and then when we come to the amendment process the Committee Chairman would at that time attempt to ask that the proposed amendment be adopted to that particular section. It depends on what the Chairman, under our new rule, what the Chairman thinks would be best.

NERLAND: We certainly are willing that any of these suggestions are open to amendment when we come to the particular section.

R. RIVERS: I thought by asking you one question I might obviate an objection to your unanimous consent request.

NERLAND: I certainly have no objection.

R. RIVERS: Your last proposed amendment here contains the words "appropriations outstanding", and I was going to ask if your Committee would have any objection to saying "all appropriations uncommitted" because quite often warrants are outstanding that have not come back and actually the money deducted from the treasury yet, or from the Territory's bank account, and the word "outstanding", appropriations are outstanding until the money has been disbursed, but they are oftentimes committed, you see. So I was wondering if you would object to saying "all appropriations uncommitted at the end of a period of time specified shall be voided".

NERLAND: I believe that one of the purposes of this wording was to follow a procedure which I understand has been done by the legislature in the past, is to occasionally pass legislation to the effect that all previous appropriations outstanding are voided.

R. RIVERS: They revert. They no longer can be drawn against. I have picked up a better word -- "unobligated" -- rather than "uncommitted". That word "unobligated" is not in conflict with your thought, Mr. Nerland, and certainly they want to say that where money hangs over, unobligated, over a certain period of time, the appropriation shall come to an end where it may no longer be obligated after that.

V. FISCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Fischer.

V. FISCHER: I assume that this language as proposed by Mr. Nerland has been approved by the Committee and as Mr. White pointed out, in line with previous practice it might be best to permit them to include it and then amend it when we come to this particular section.

HELLENTHAL: Same point of order, Mr. President. This is hardly the time to urge amendments under the rules.

R. RIVERS: By the time we come to this section, we have lost track of this particular point, and I ask a simple question as to whether they would be willing to use the word "unobligated". I have not had an answer to the question, but I will back away, make no objection, but I will bring this up when we get to Section 13.

V. RIVERS: Mr. President, under the privilege of asking questions, which I understand is in order now, I have a question to ask along the same line.

PRESIDENT EGAN: Mr. Rivers, the Chair allowed Mr. Ralph Rivers to ask a question relative to these amendments that Mr. Nerland had asked be adopted at this time, but the ordinary procedure would be for Mr. Nerland to explain the article and then at the end of his explanation ask then the questions.

V. RIVERS: My question extended to the amendment which they are adopting.

PRESIDENT EGAN: If it extends to the proposed amendment that Mr. Nerland is asking unanimous consent on, you'll be in order, Mr. Rivers.

V. RIVERS: There again to avoid an objection I wanted to ask you if that wording you are adopting now, that if your Committee considered the fact that for a number of years there has been submitted to the legislature the idea of such a thing as continuing appropriations. For instance, we have had a program at different times presented in regard to continuing appropriations for so much a year to a fund for building purposes for the University of Alaska. When it reached a certain amount it could then be expended for a capital improvement which it was intended to construct. I wonder if this wording would eliminate the possibility of the legislature ever setting up a continuing public works improvement programs where they had a continuing appropriation.

AWES: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Miss Awes.

AWES: I think we're back on the same thing we were a couple of minutes ago.

V. RIVERS: Can't we ask questions?

AWES: I thought we were supposed to get the explanation of the Chairman first.

HELLENTHAL: If the Committee wanted to substitute "South Africa" for "United States" everywhere where it appeared in this report, that is their business. We take care of it by amendment after explanation, and I think it is definitely out of order at this time to question it.

PRESIDENT EGAN: Mr. Nerland is asking unanimous consent that these particular amendments become a part of the original Committee Proposal No. 9. Is there objection?

V. RIVERS: I will have to object unless I find out that this is not yet on the floor.

PRESIDENT EGAN: It is not yet on the floor and open for amendment.

V. RIVERS: O.K.

NERLAND: I so move.

PRESIDENT EGAN: Mr. Nerland so moves that these committee amendments be offered as part of the original committee report relative to Committee Proposal No. 9.

JOHNSON: I'll second the motion.

PRESIDENT EGAN: Seconded by Mr. Johnson. The question is, "Shall the amendments become a part of the original Committee Proposal No. 9?" All those in favor of the adoption of the proposed amendments as a part of the original report will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the amendments are adopted as a part of the original report. Mr. Nerland, do you care to proceed with an explanation of the proposal?

NERLAND: Section 1 of this proposal has been altered slightly from the usual wording of a number of state constitutions and also the model state constitution in that which, as some of you perhaps might have noticed, generally reads, "The power of taxation shall never be surrendered, suspended or contracted away." The Committee felt that definitely the power of taxation should never be surrendered so we inserted a semicolon, but we did feel that there would possibly be occasion and good justification in the future for such things as allowing an industry-wide exemption to encourage new industry to come in and that is the reason for the particular wording there. That is later provided for under Section 4. Section 2 is the wording that is required in House Bill 2535, and I believe no further comment should be necessary on that. Section 3, the committee felt that it would be very desirable for the legislature to establish the standards for the state and the political subdivisions to assess the property for taxation rather than to have various systems and methods used, but there is no intent here to establish the rate

or the amount. Section 4, the thought was to exempt the state in its political subdivisions from taxations under such provisions and such exceptions as the legislature may direct. There are certain conditions under which these properties might be subject to taxation, and the more or less standard phrase of all or any portion probably used exclusively for nonprofit, charitable, cemetery, or educational purposes as defined by law is exempt from taxation and this is the provision that allows for some exemption or inducement to industries or similar things. Section 5 has been stricken as explained. There are certain interests in leaseholds, contracts and other interests in United States lands that are subject to taxation, and Section 6 provides for such instances. Section 7 is to take care of the fact that no public monies, public property, or public credit should be used except for a public purpose. Section 8, "all public revenues shall be deposited in the state treasury without allocation for special purposes, except where state participation in federal programs will thereby be denied." There are some federal participation programs which do require specific things that might conflict with a total prohibition on this subject. You will notice also that we have provided that any funds, which are allocated at the time this constitution is approved, do not come under this provision; as most of you probably know, these particular provisions now are for the tobacco fund for schools and also highway and, I believe, some airports are earmarked. Section 9 is one regarding the contracting of bonded indebtedness, and it was the opinion of the Committee that this should be allowed by law on capital improvements only and should in each case be approved by a majority of the qualified voters of the state in the respective political subdivision to which the question refers, eliminating the exceptions -- in case of repelling invasion, repressing insurrection or defending the state in war, any natural catastrophe, or redeeming any outstanding indebtedness at the time the constitution becomes effective. Our thinking on this particular case was the result of a good deal of consideration. There was some thought of leaving it entirely to the legislature, perhaps with a two-thirds or three-quarters vote, but it was finally decided by the Committee that a referendum be called for and that in each case where the state or political subdivision desire to bond themselves, that the approval by the qualified voters be obtained. I would like to diverge just a minute, along that line; Delegate Ralph Rivers, early in the Convention, gave me some correspondence he had had with a firm of bond attorneys in New York, Wood, King, and Dawson, who had done some work on bond issues for the City of Fairbanks, and, I believe, for other cities in the Territory, and they very kindly offered to make any comments and offer any assistance or suggestions that they were able to from their past experience and all would be done without any charge. As a result, the Committee sent our completed proposal to them before the recess and we have had a reply from them which reads as follows, in part: "We received a copy of the report of the Committee on Finance and Taxation

presenting the article on finance and taxation, and at the outset we wish to compliment your committee on the general form of this article. We were particularly pleased to note that debt to be incurred must be approved by the voters of the state of the political subdivision with certain exceptions specified in Section 11. This is a provision which will react favorably in the future when the state or its political subdivisions are attempting to dispose of its obligations." They go on, however, and say, "However, there is one provision, which while not contained in all state constitutions, is contained in many of them, and we feel that the inclusion of this provision would also react favorably to the benefit of the state and its subdivisions in the eyes of the financial institutions called upon to loan money. This is a debt limit provision. Normally the debt limitation is specified as a particular percentage of the assessed valuation of taxable property. Indebtedness incurred for tax anticipation purposes and debt for public utilities where the only security is the revenue that the public utility would normally be exempted from such a debt limit. In some constitutions, also the limitation of general indebtedness is a certain percentage and an added percentage is permitted for revenue producing projects." The Committee did not include that in our proposal, although at various times we had under consideration specific amounts to include. Our final conclusion was that any particular amount or any specific amount that we might include as a maximum would perhaps be either inadequate, too high or too low, and would not offer any protection either way. We had no basis to include a percentage of the state assessed valuation in view of the fact that we have had no exact figures on total property valuation in the state, and in view of the fact that many states which do not have debt limitations in their constitutions are not high in their bonded indebtedness and the lack of a limit has not given unrestricted rein to creating bonded indebtedness. The Committee decided to omit any mention of a bonded indebtedness or debt limit in this proposal. I believe that that was all the explanation I had in regard to that section. Section 10, the Committee felt that there would possibly arise occasions when tax revenues might not come up to expectation during a particular year and it might be necessary for the state to borrow money which would likely be in the form of notes from banks as has been done in the past, to carry through that particular fiscal year. However, it was the consensus of the Committee that such borrowing should definitely be paid back during the following fiscal year. The next section refers only to the allowance of contracting of revenue debt without the restrictions of the previous section on general obligations. Section 12 --

R. RIVERS: Point of information. Are you using the new section numbers?

NERLAND: I am using the old section numbers inasmuch as they are numbered that way. Section 12 deals with the preparation

of a budget by the governor for submission to the legislature and this was done with the contemplation that the governor would take office approximately on the first part of December and the legislature would convene approximately 30 days later, the first part of January, giving the new governor an opportunity to prepare a budget from the material that was made available to him. Incidentally, there is no intention in this section that the legislature would be restricted in increasing the figures in the budget or the appropriations. Section 13 provided, "No money shall be withdrawn from the treasury except in accordance with appropriations made by law, nor shall any obligation for the payment of money be incurred except as authorized by law." The change and addition of the sentence was previously explained. Section 14 provides for the legislature to appoint an auditor and I believe that this wording and this section is similar to a law that is now in effect. The Committee considered the possibility of leaving it out and leaving it to the present law or such laws as might be passed along those lines but we felt it was something that should be in the constitution as a policy that should be permanent. Section 15 is again in accordance with House Bill 2535 and is a requirement according to that. I believe that covers it.

PRESIDENT EGAN: Are there questions? Mr. Johnson.

JOHNSON: Mr. President, are you going through section by section? Is that the idea?

PRESIDENT EGAN: You may ask your questions beginning with each section.

JOHNSON: I have a question with reference to Section 3.

PRESIDENT EGAN: Are there questions relating to Section 1, first? Are there questions with relation to Section 2? Mr. Taylor.

TAYLOR: I have a question, Mr. Speaker. I would like to ask Mr. Nerland why it is in Section 2, they say "lands or other property belonging to citizens of the United States shall never be taxed higher than the lands of residents of the state". That seems to me a little bit inconsistent. You might be a citizen of the United States at the time or you might be a resident of the other states and still not be a citizen of the United States. Would there be any differential in the tax levy upon the land?

NERLAND: I assume not, Mr. Taylor. I believe that wording was taken exactly from the enabling act.

TAYLOR: I believe, Mr. Speaker, possibly an amendment should be prepared to make those two descriptive words consistent. I believe that would be wrong.

PRESIDENT EGAN: Mr. Taylor, I believe Mr. Nerland will attempt to answer that.

NERLAND: As you know, these various points here that the enabling act states, "The Convention shall provide in said constitution..." and then starts numbering, and this is contained in No. 6 on page 31 and page 32 of the enabling act, and we just lifted it word for word from that act.

PRESIDENT EGAN: Are there other questions or amendments to be proposed?

NERLAND: It is also that exact wording in the Hawaiian Constitution.

PRESIDENT EGAN: Are there questions relating to Section 2, not amendments? Mr. Victor Rivers, did you have a question?

V. RIVERS: No, I have no questions.

PRESIDENT EGAN: Are there other questions relating to Section 2? Mr. Ralph Rivers?

R. RIVERS: Mr. President. Mr. Nerland, would it not be more clear in Section 2 if we said, "The lands and other property in Alaska belonging to nonresidents"? You have to stop and read it twice because you stop and wonder why we are taxing property of people outside the state, but it means the property in Alaska owned by people who live outside the state.

NERLAND: I am sure our Committee would certainly have no objections if it met with the provisions of this or any future enabling act. Could that be left to Style and Drafting more properly?

R. RIVERS: Yes.

PRESIDENT EGAN: Are there questions with relation to Section 3? Mr. Johnson.

JOHNSON: Mr. President, I have a question in reference to Section 3. I believe that our present enabling act in setting up the power of the legislature to levy taxes uses the word "uniform" with respect to assessment and collection and levy. Now, was it the thinking of the Committee that the legislature should still be required in setting up standards for assessment of all properties that those standards should be uniform?

NERLAND: I will ask Mr. White, who was our assessment expert.

WHITE: I hate to answer it as an expert, Mr. President, but the thought of the Committee, Mr. Johnson, here was to stay very carefully away from any uniformity Provisions because that

leads you into a lot of other difficulties that we wanted to avoid. The intent of this section is merely to suggest to the legislature that they should set up standards for assessment. In other words, a handbook providing a method of assessment that would be used by all assessing authorities within the state. Now, if that should lead to uniformity, fine, but we carefully avoided any mention of uniformity here because that gets into other things that we didn't intend to mention.

JOHNSON: Is it my understanding then that the Committee and your feeling is that the word "uniform" is unnecessary, shouldn't be there at all?

WHITE: That is correct.

JOHNSON: Thank you.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Was it the intent of the Committee to recommend that valuations be the same throughout the Territory?

WHITE: No, you mean that taxes should be imposed on the full valuation or per cent thereof, the answer to your question is "no". This again merely provides that the same standards, the same method of assessment will be used by all taxing agencies.

HELLENTHAL: Are you aware of the fact that, for example, Anchorage levies and assesses its taxes for the future calendar year in the preceding fall, whereas Seward levies and assesses annually for the prior calendar year?

WHITE: Yes.

HELLENTHAL: Wouldn't this establishment of standards prohibit that practice?

WHITE: Not at all.

HELLENTHAL: What would it do?

WHITE: It merely provides that both assessing agencies, Anchorage and Seward, would proceed with their assessment according to the same methods. It makes no difference whether they are assessing for the year ahead or the year behind. It doesn't say they should use the same percentage of the assessed valuation that they would eventually arrive at. It merely says they should both proceed toward arriving at their assessed valuation via the same method.

HELLENTHAL: What method?

WHITE: The method that would be established by a central agency

of the state.

HELLENTHAL: Pertaining to what?

WHITE: The word "method" is not in here. I think you are getting me into trouble that this section doesn't suggest. This section does not use the word "method". If it did, it might then say, "Anchorage and Seward would have to assess on the same yearly basis."

HELLENTHAL: Now, in Anchorage you self-assess personal property; in Seward you do not. Would you want both towns to self-assess or would you want both towns to leave that up to the assessor?

WHITE: No. If this section is followed, the method of assessing personal property as well as real property would have to be the same in both towns.

HELLENTHAL: How do you define this method? Where does it start and where does it stop?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I would like to try to answer that question. I believe that in using the word "uniform" would not apply to assessments, but I believe that Mr. Helleenthal is driving at the worst use of the uniform type of appraisal for real property valuation. You are thinking in terms of the actual valuation and appraisal rather than assessment of the same, isn't that it?

HELLENTHAL: No.

V. RIVERS: Many states provide for uniform methods of appraisal.

HELLENTHAL: Is that what you mean? Uniform methods of appraisal?

WHITE: That is correct.

HELLENTHAL: Why don't we just say that then?

WHITE: What does that say that this doesn't?

HELLENTHAL: "The legislature shall establish the standards for assessment of all property assessed locally or by the state."

WHITE: Well, just offhand I see no objection to the word "appraisal" except that we are talking about assessment and why not say so?

HELLENTHAL: Perhaps I am getting beyond the scope of questioning.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I don't think you are. I am right now liquidated of property in the State of Michigan, because I am away from there and they are assessing that property with excessive taxation. They raised the prices to 300 per cent over what it was when I lived there and the property adjoining. I have had the law audit, and no relief, so I sold the property and am now liquidating all the property there, because of that very issue and it is very important. I hope there is some way you can stop the board from unduly assessing property to get a higher tax on it. It is very small thinking and it should be prohibited if it can be done. I just liquidated property in the State of Michigan because of that very evil you are trying to avoid there. I hope you can do it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to ask a question if I may.

PRESIDENT EGAN: You may ask your question.

V. FISCHER: I assume the intention of Section 3 is that the legislature shall provide for the establishment of standards for assessment rather than the legislature itself doing it. Possibly that is something the legislature might prefer to delegate to a special commission or to an executive department, the actual preparation of the standards, is that your intent? Should the legislature put it in bill form?

PRESIDENT EGAN: Mr. White.

WHITE: Well, I think the intent is that the legislature "shall provide for". However, I think that is covered by the current wording without the words "provide for". Certainly, I don't think any of the Committee would have any objections to the addition of the words "provide for" if the group felt it was necessary.

PRESIDENT EGAN: Mr. Barr.

BARR: May I add a little bit to that? Now I am not an expert on assessment, but I know what the feeling of the Committee was, I think. The feeling was that the legislature should provide for a method of assessment or appraisal if you wish, and it was generally agreed that assessment and appraisal were rather technical questions. Everyone could not do it and do it properly. If the state provided for it they could have experts work out a system and that system could become the law and perhaps have manuals printed up which would be available to small communities instead of hiring their own experts, which perhaps would be beyond their means, they could go by

the manual. When we say the legislature should provide for it, we mean provide for a commission or one expert to set this system up and then enact it into law probably.

PRESIDENT EGAN: Are there other questions? Mr. Taylor.

TAYLOR: I was just going to elaborate a little bit on the meaning of this, what is meant by "assessment". My interpretation is that it is a system of arriving at the value of the property. Now we know that when they mention "the legislature shall establish standards for assessment of all property assessed", then the legislature will pass an act which will provide a uniform system of which they are going to arrive at the value of property. Now, the assessment necessarily carries with it the fact that there will be a compilation of a tax roll of all the property within the taxing district. That is completed and then there is an appraisal made of the property, appraises its value and then from that the taxing authority will assess so much taxes against it, because they know how much money they have to raise, so they put the millage rate which they are going to assess against that property, so I think the word "assessment" means all of those things. It is a system by which you compile a tax roll, the appraisal and the millage assessment on the valuation of that property.

HELLENTHAL: There is one more question, Mr. White. Why was the principle of uniformity of taxation thought improper or to be avoided?

WHITE: There is nothing wrong with the theory of uniformity of taxation, but taxpayers have recourse to the courts in the event of nonuniformity of taxation. You are amply protected under the Federal Constitution, and you have recourse to the courts. The trouble with inserting a uniformity clause in the constitution is that you then have to set up -- what is the word I am trying to think of -- classification or provision in order to differentiate between different taxing authorities or different types of property to be taxed. For instance, in the local government setup, if you have two different levels of local government taxing the same property at different rates, you have to provide for that. The thought of the Committee was that the uniformity clause didn't add any protection that the people do not already have. Once you insert it you then have to go on and make these other provisions to make the whole matter clear.

HELLENTHAL: A typical uniformity clause says "All taxes levied upon the same classes of property or persons shall be uniform." What is wrong with that?

NERLAND: Mr. Hellenthal, will you repeat your question again, please?

HELLENTHAL: "All taxes levied upon the same classes of persons or property shall be uniform." What is wrong with that type of a clause, a typical uniformity clause?

WHITE: I think it is hard without seeing it in front of me to figure out the right words at all. If I understood you correctly, you would run into the trouble I was just talking about. You are taxing the same people on the same property on two different levels of local government at different rates.

HELLENTHAL: No. Thank you.

PRESIDENT EGAN: Are there other questions? Mr. Victor Rivers?

V. RIVERS: I would like to pursue that a little further without adding to the words of the Committee. It seems to me that standards for assessment and the word "assessment" there and "standards" do not seem to hitch together. One city might have a property evaluation that they assess at eight mills or ten mills. Another city might assess that at 20 mills. The word "assessment", as I see it, would have to be amplified. The valuation, the appraisal by which you arrive at the property might be uniform if you are dealing with real property, but the standards of assessment could never in any way be equal in any given community unless it just happened to be a happenstance. The use of the word "assessment" seems to confuse some of us, including myself, and perhaps some of the other delegates.

WHITE: That was not the interpretation that the Committee gave to the word "assessment"; however, we could stand corrected. The only thing I wish to make clear is that it was definitely not our intent to set mill rates.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Chairman, as I understand the term, "assessment" means the valuation of the property, and when you are talking about mill rates you are talking about levy of a tax, which are two completely different things, as I see this thing. They are saying here that in valuing property, in other words, assessing it, they want uniform standards, or they want certain standards set.

PRESIDENT EGAN: Mr. Nerland, would you answer Mr. Davis's question?

NERLAND: Mr. McLaughlin has discovered a section out of a law dictionary here which states, "Assessment, as used in juxtaposition with taxation in a state constitution, includes all the steps necessary to be taken in the legitimate exercise of the power to tax."

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: All the steps necessary? Then thhat would include the filing of the return; it would include the listing of the property, it would include the claiming of the exemptions; it would include every process in the subject matter, but Mr. White says it was their intention merely to provide for the appraisal of property which is only one facet, as I see it.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I am quite sure that the generic definition of "assessment" is, as Mr. Nerland says, that is, it applies to the procedure of taxation. I think he was citing, I believe a Utah case in Black's Law Dictionary, and the general meaning of "assessment" in a state constitution or otherwise, otherwise unexplained does indeed include the substance and procedure from beginning to end of the taxing process.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I submit, Mr. President, that you do not assess property in the sense that they are talking about here. When you assess it you are valuing it. When you assess taxes, yes, you are correct.

BARR: May I read from this manual put out by the PAS on uniformity?

PRESIDENT EGAN: You may. Mr. Barr.

BARR: "Uniformity provisions have generally not achieved their purposes." Then it goes on to say, "It is generally true because of poor assessment methods..." etc. Then it says, "Uniformity provisions have occasionally had the unfortunate consequence of blocking or delaying the use of accepted techniques in the application of other forms of taxation. The difficulty has arisen primarily with respect to the constitutionality of graduated income tax rates. Laws providing for rate graduation and exemptions have run afoul of the uniformity provisions of some state constitutions. Where this has occurred it became necessary either to amend the constitution or tax incomes at a single flat rate." We were trying to avoid confusion later, that is why we eliminated it.

PRESIDENT EGAN: Are there other questions? Mr. Hurley.

HURLEY: I would like to ask, to pursue this uniform business a little bit. The matter of uniformity in arriving at an assessment has always appealed to me as being a desirable thing. Uniformity of levying taxes, or uniformity of millage levies, or uniformity of the amount of assessment, I think probably is not a good thing because of certain tax incentives, but are

you attempting, as I think you are in Section 3, to allow the legislature to provide, for example, that Seward and Anchorage both assess their personal property by the same methods? In other words, they both either use self-assessments or they both use assessment by individuals. And in the matter of real property taxes they both use a given basis of arriving at values. Is that the intent of the thing? And if it is so, is the word "uniform" in connection with that bad?

PRESIDENT EGAN: Mr. White.

WHITE: That is certainly the intent of the section, Mr. Hurley, and the only answer I can give you quickly is that any time you try and stick "uniform" in this paragraph, you run into trouble. This paragraph looks pretty simple, only two and one-half lines, but it has been the subject of more going-over probably than any other paragraph in this article, and it has been through the hands of every consultant we have had here and we played with a lot of different words, and the Committee feels unanimously, I am sure, that these words accomplish the purpose that we intend.

HELLENTHAL: Are those words used in any other state constitution?

WHITE: Not that I know of.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, may I ask a question of Mr. White?

PRESIDENT EGAN: You may Mr. Robertson.

ROBERTSON: Mr. White, I notice in your commentary on Section 3, you say that, "The legislature is authorized to set up, notwithstanding home rule or any system for the selection of assessors, uniform standards of assessment." I don't understand why you leave the word "uniform" out of the part on standards when you say in your commentary that is what you are doing.

PRESIDENT EGAN: Mr. White.

WHITE: I can only repeat my previous answer, Mr. Robertson, the commentary has not been subject to the same fine-tooth going-over as the actual section and that it was our experience that every time we tried to put "uniform" into this section we ran into trouble, and we came to the conclusion the word was not necessary to establish clearly the meaning of the section, so we left it out.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to ask a question. Was it your intention

that all communities assess on the same basis of valuation, that is on full valuation of 50 per cent valuation or 40 per cent valuation or something like that -- was that your intent?

WHITE: That was not our intent. It was the feeling of one or more of the Committee members -- I forget now how many -- that that also might be advisable. The majority of the Committee decided it was not, and we found that one previous section, as we had it worded, did suggest that possibility, so we deleted it and rewrote it, and as it stands now, it is the feeling of the Committee and of the consultants to which we submitted this, it does not say that you have to use the same percentage of assessed valuation in arriving at the final tax.

HELLENTHAL: What consultants have passed on this?

WHITE: It has been through the hands of Dr. [Shelden] Elliott, Dr. [Vincent] Ostrom, Dr. [Weldon] Cooper, Dr. [Dayton] McKean, and Mr. [Jack] McKay.

HELLENTHAL: None present now?

WHITE: That is right.

PRESIDENT EGAN: Mr. White, you stated also, didn't you, that the Committee made up its own mind as to the final wording of the section?

WHITE: Yes.

PRESIDENT EGAN: Are there other questions? Mr. Poulsen.

POULSEN: I might put myself on the spot and try to explain this word "standard", but I will try to. As I see it, and the way it was discussed in the Committee, the word "standard" to carry that out may take a good many years before they will really be in top shape, and it will take a special committee over a number of years to study it, to come up with a standard of assessment. The word "uniformity" could be included maybe, or will, for the next two or three or four years, possibly it will be in there and use the same form of taxation, but again the word "standard", it will take a number of years to put it in effect; maybe have a printed booklet that will go out to everybody, there will be no exceptions. Each locality in the Territory, how they'll be assessed, that is pretty hard for me to explain in the right way, but that is what may take 10, 15 years before they'll be ready, the same way we use this word "uniformity" now.

PRESIDENT EGAN: Miss Awes.

AWES: At the risk of being repetitious, I would just like to say a few words about my understanding of what the Committee was trying to do here. We discussed the problem in Committee

and the fact that knowing how to assess property is not only a highly skilled but a most technical field, and there is perhaps no one in Alaska who would be considered a specialist compared to some of the people in the states. I believe that a few years ago that Anchorage hired such an expert, I believe, to come in from the states and assess all the property, and that he worked at it a very considerable time and did a very good job, but then he left without giving the city of Anchorage the key to how he did it, so when new property was built there was no way of knowing what tests and standards were used. It was felt that perhaps in Alaska there is a need to have such experts not only to do the work but give us the standards by which to go by in the future. The city of Anchorage and perhaps three or four of the other larger towns are the only ones that could afford to do this, and we thought that by putting a provision in the constitution that the legislature could set up a program by which such experts were consulted, if they are available in Alaska, all right; if you have to bring them up from the states, the state could afford to do it, whereas the town of Seward, or Nome, or Igiak certainly could not do it. Once the state had hired these experts, have them set up the standards, whether you do it by square foot of concrete or by some other method, then when that program is all worked out, it could be put up in booklet form, or some other method, and sent to all the smaller towns and they would hire their own assessors, but they would have something by which to go, and in each place would not be put to the individual expense.

PRESIDENT EGAN: Mr. Barr.

BARR: I have a good reason here for not using the word "uniformity". I am quoting from the Hawaiian manual. It says, "In Illinois, Michigan, Pennsylvania, Tennessee and Washington, court decisions have prohibited graduated income taxes or classification of property, holding that such measures violated the uniformity clause."

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, first, it relates to income taxes, and we are discussing property. Second, the normal clause says "within the same class", which permits classification of property. Now in Illinois they may not have had that language, "within the same class", so I hardly think it is an apt quotation when we are discussing this Section 3.

BARR: When I came to the word "property", I emphasized it so you would understand that.

HELLENTHAL: I caught that.

PRESIDENT EGAN: Miss Awes.

AWES: I was going to raise a point of order. The other night when we adopted new rules, the first rule read, "After a standing committee chairman has explained an article and questions have been answered, a recess shall be called..." Before being adopted that was amended by crossing out the words "and questions have been answered". It seems to me --

PRESIDENT EGAN: With relation to your point of order, now the feeling of the Chair was that the reason those five words were deleted was that someone on the floor raised the question that you will never have all these things answered and that it was ambiguous -- not that questions were not in order but they felt that wording was in the minds of some of us, all the questions would never be fully answered. That was the feeling of the Chair when they were deleted.

AWES: I made the motion. It was not my understanding. I felt that these things could be better brought up in a recess that was called.

PRESIDENT EGAN: Would you ask that we stand at recess now?

AWES: It seems to me most of what has been said is either argument or questions about proposed amendments, and it seems to me it could be brought up better before the Committee in recess.

PRESIDENT EGAN: Are you asking that we stand at recess until 7:00 p.m. Miss Awes?

AWES: I would so move so the Committee could meet and talk to some people.

PRESIDENT EGAN: Miss Awes moves and asks unanimous consent that the Convention stand at recess until 7:00 p.m. Mr. Sundborg in order that the Committee may meet.

SUNDBORG: I announce a meeting of the Committee on Style and Drafting immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: A meeting of the Committee on Ordinances immediately following the recess.

V. FISCHER: Point of information. Where will the Finance Committee meet?

PRESIDENT EGAN: Where will the Finance Committee meet, Mr. Nerland?

NERLAND: Upstairs in the large committee room, immediately.

PRESIDENT EGAN: The Finance Committee will meet immediately upstairs in the large committee room.

NERLAND: I might announce, Mr. President, in meeting now, we will have to adjourn our meeting in time for the members to have their dinner before 7:00 o'clock.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, does that imply all the questions are asked now or will there be another question period after this recess where certain things are brought up? In other words, are we going to have another question period afterwards?

PRESIDENT EGAN: The Chair felt that those five words were stricken because it said "and questions have been answered". Well, they always are not answered, and the thought that it was just because of the wording itself that it was deleted, but the Chair did not feel that questions before we go into actual second reading for amendment purposes meant that they would be out of order.

AWES: I am not arguing with the court's interpretation of that. It just seemed to me that the type of questions and statements being made that it could be handled much more efficiently in Committee meeting.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess until 7:00 p.m. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Nerland, what is your wish at this time, to continue any questioning, or would you rather go into second reading and start the amending process?

NERLAND: Well, Mr. President, we held hearings during the dinner recess, and while we would have no objections to answering any questions at this time, there were a number of suggestions brought to us, and we have a few committee amendments to propose as we go through them.

PRESIDENT EGAN: Would you rather take up the committee amendments as we go through section by section, and as we come to them?

NERLAND: We would like to have the opportunity of presenting the committee amendments as each section is considered -- that is, first before any other amendments.

PRESIDENT EGAN: If there is no objection then, we'll start with the amending process in second reading and start with

Section 1. Mr. Johnson.

JOHNSON: Mr. President, before we do that, I would like to ask one question of the Chairman, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may ask a question of the Chairman.

JOHNSON: Mr. Nerland, with reference to Section 8 -- I believe it's Section 8 now -- it's the one on the matter of bonded indebtedness -- I think you mentioned the fact that you had an opinion from Wood, King and Dawson. I was wondering if anywhere in that opinion they had considered the point of marketability of bonds where there was no debt limit expressed in the constitution, or if that point had come up at all. I know the firm of Wood, King and Dawson; I have been in their office; they are a very fine firm, and I'm sure that I understood you to say in reading from their memorandum that there was some question in their mind as to whether or not a debt limit ought to be expressed.

NERLAND: Well, yes. They did express it in this letter, Mr. Johnson, as I read before, "However, there is one provision, which, while not contained in all state constitutions, is contained in many of them, and we feel that the inclusion of this provision would also react favorably to the benefit of the state and subdivisions, and in the eyes of the financial institutions called upon to loan money." However, the Committee in considering this felt that it would not be advisable in our case here to set either a dollar limit or a percentage limit.

JOHNSON: Well, in other words you don't believe that the failure to set a limit of any kind in our constitution would necessarily reduce the marketability of bonds of our future state?

NERLAND: Well, no, we didn't, and our findings were that in other states that had no debt limit, they apparently did not suffer from that lack of action.

JOHNSON: Thank you.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I would like to ask the Chairman of the Finance Committee one question before we go on to the amending process. Mr. Nerland, is it in Section 7 when you referred to the deposit of funds -- is that the section?

NERLAND: Is that the new or the old numbers, Mr. Coghill?

COGHILL: That is the new numbers. What I'm referring to, sir, is, are the funds that are now being allocated, like the tobacco tax and one thing or another, you provided for those special

funds? Is it the Committee's intention that that include the possible public lands that will be granted for school reserve purposes, such as our Sections 16 and 36 of our Territorial statutes or other states have? Do you recognize that as also a special fund?

NERLAND: Mr. Coghill, in this section by section review, when we come to Section 8, unless it is already prepared, the Committee is going to ask for a postponement of consideration of that. We have a number of changes that we shall recommend in that, and if you wouldn't mind, we'd prefer to postpone further questioning on that until that time.

COGHILL: There would be no amendment then, it would be just the thought of the Committee, because there is no assurance that our enabling act is going to provide that the grant of land given to the state -- the new state -- is going to be for school purposes, or just be turned over to the state to have it as state land; but it was a thought that I wanted to clarify in case there was a certain portion set aside for school funds, that it would be recognized as a fund existing when we become a state from Territorial status.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I don't know if I can add anything that the Chairman said, Mr. Coghill, but of course, the Congress could write a hundred thousand provisions in future enabling acts that we couldn't take into account in writing this constitution. The present enabling act and all recent enabling acts contained no earmarked school sections, so that this Committee has not provided for funds that would be thus earmarked. We felt it was safe to assume that the provisions in recent enabling acts are going to be followed in broad outline in that respect. The sale of land from the public domain, five per cent of the land from the public domain, after statehood would be given to state for school purposes, but that would be in compliance with the federal law.

COGHILL: That would be through the general fund, would it not?

WHITE: That's right.

COGHILL: It would be a permanent school fund under the provisions you're talking about? Do you understand what I'm driving at?

WHITE: That would be a further provision, and that could be covered by the language contained in Section 8, "except where participation of federal program will thereby be denied." In other words, the proceeds of the sale of land from the public domain, part of it being given to the state, we would not be entitled to that money under the terms of the enabling act unless it was used for school purposes. Now I don't know if that's a

permanent trust fund or not, but the point is that we couldn't get it unless we did use it for school expense, and this section provides for that.

COGHILL: Yes, I understand that. The thing that I was driving at, Mr. White, was the fact that if Sections 16 and 36 were set aside, as in each township, as an endowment towards our permanent school fund, then this section would take care of it, wouldn't it?

WHITE: It probably would, but moreover I think there is hardly any chance that that would be the case, I think this blanket grant of a hundred million acres will be the case when we get statehood.

COGHILL: I understand about the blanket grant, but if it was, this would take care of the provision.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I would like to ask a few questions of Mr. White.

PRESIDENT EGAN: If there is no objection, you may, Mr. Kilcher.

KILCHER: I have two thoughts in mind I'd like to have cleared on the record. One is in Section 9, when you talk of "capital improvements specified therein" in laws made by the legislature. Would you consider money used to improve farms in the Territory, a capital improvement to fall under this section?

WHITE: Just what did you have in mind, Mr. Kilcher?

KILCHER: Farm loans -- farm improvement loans on such things or farm subsidies.

WHITE: That wasn't discussed in Committee.

KILCHER: And capital improvements, you think that might fall under capital improvements, the farming industry just like any other?

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, I think that is already taken care of under existing funds. Your present Agricultural Loan Act provides for the loans, but as far as that being classified as a capital improvement, that wasn't discussed in Committee at all.

KILCHER: But I mean, being conversant with the matter in general, do you think that it could be classified under capital improvement in general -- these farm loan funds, etc.?

NOLAN: I doubt it very much.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, capital improvements, Mr. Kilcher, refer to capital improvements of the state or the political subdivisions, like a highway situation or waterworks. The money that the state lends to farmers is not a state capital improvement at all; that's a loan program to help the farmers to improve their lands, but that's not the subject we are talking about; we are talking about capital improvements of the state, or political subdivision.

KILCHER: Thank you. Then in Section 1, a similar question, in the second line, the power "shall never be suspended or contracted." Could you consider that the power of taxation -- could you consider that taxes could be suspended, taxes applying to farms as a part of an integral industry?

NERLAND: I would suspect that if all farms in the Territory were so included, that perhaps they could be.

KILCHER: Yes, that's what I had in mind. Thank you.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, in line with that, in our property tax, which is now repealed, there was a clause in there exempting homesteads from taxation until one year after the owner gains clear title from the federal government. That was the case of taxes exempt for short periods.

PRESIDENT EGAN: We will now proceed to Section 1. Are there amendments to Section 1? Mr. Nerland.

NERLAND: The Committee has no amendments for Section 1.

PRESIDENT EGAN: Does any delegate have an amendment for Section 1? If not, are there amendments for Section 2? Mr. Nerland.

NERLAND: Mr. President, to avoid arising on each amendment, unless I do arise I hope you will assume the Committee has no amendments.

PRESIDENT EGAN: All right, Mr. Nerland.

NERLAND: The Committee has no amendment to Section 2.

PRESIDENT EGAN: Does any delegate have an amendment for Section 2? Are there amendments for Section 3? Does the Committee have an amendment to offer?

NERLAND: The Committee has an amendment for Section 3.

PRESIDENT EGAN: We'll consider committee amendments first in all cases. Mr. Nerland.

NERLAND: I move and ask unanimous consent that in Section 3, line 10, the word "assessment" be struck and the word "appraisal" be substituted.

PRESIDENT EGAN: What is your pleasure, Mr. Nerland?

NERLAND: I ask unanimous consent that the amendment be adopted.

PRESIDENT EGAN: Mr. Nerland asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 3? Mr. Johnson.

JOHNSON: Mr. President, I have one.

PRESIDENT EGAN: You may submit your amendment.

JOHNSON: I haven't written it out. May I have a minute?

PRESIDENT EGAN: The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson, you may offer your proposed amendment. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 3, line 9: strike the word 'the' at the end of the line and insert in lieu thereof the word 'uniform'."

PRESIDENT EGAN: Mr. Johnson, what is your pleasure?

JOHNSON: I move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the proposed amendment. Is there a second to the motion?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The motion is open for discussion. Mr. Hurley.

HURLEY: Mr. President, I simply would like to state that I personally can see no reason why the "uniform" should not be put in there, but I certainly bow to the superior study of the Committee in deciding that it should not be put in there, so I shall vote against the amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I couldn't understand him, the last he said.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I said I was against the amendment.

JOHNSON: Well, I certainly am not intending to or I have no intention of attempting to quarrel with the Committee. I have made a cursory examination of three or four constitutions since the recess and find that in the Commonwealth of Puerto Rico, which constitution has been adopted by the Congress of the United States, the phraseology of this rule is stated thus: "The rules of taxation in Puerto Rico shall be uniform." In other words, everything regarding taxation shall be uniform. In the State of Illinois they also have a uniformity clause, and I lived in that state for a number of years, and I can recall that in one instance the legislature passed a sales tax which was limited to certain types of businesses and for that reason, the Supreme Court of Illinois held that the tax was invalid, and subsequently the legislature corrected the mistake and made it applicable to all types of businesses, and that tax was then declared valid; and I believe it is still on the books there. In Oregon, the phraseology used in the constitution is that, "The legislative assembly shall and the people through the initiative may provide by law, uniform rules of assessment and taxation." And they go on to say that, "All taxes shall be levied and collected under general laws operating uniformly throughout the state." And the purpose, of course, of the uniform provisions is simply to guarantee that any law respecting taxation shall be uniform in application to all classes of property, to all types of property, and to all classes of citizens. So while it is true that the Federal Constitution contains the Fourteenth Amendment that does have a due process clause, and while our constitution, up to now, also contains a due process clause, it seems to me that this simply follows along with those two items and is just a little additional safeguard to the uniformity of application of all tax laws that may be passed by the legislature. I don't think that we are borrowing any trouble; I don't concede that this is going to be a stumbling block at all; I think that we are just adding a safeguard that ought to be here.

PRESIDENT EGAN: Miss Awes.

AWES: I want to ask Mr. Johnson a question.

PRESIDENT EGAN: If there is no objection, Miss Awes.

AWES: I wonder if I misunderstood you. As I understand you want the word "uniform" to go before "appraisal"?

HURLEY: No.

JOHNSON: No, "standards". Strike the word "the" and insert the word "uniform" so that it is "uniform standards".

AWES: For appraisal?

JOHNSON: Well, appraisal of all property assessed.

AWES: As you use that word, does that intend to go only to the appraisal? Your argument sounded as if you intended it to go to everything, rates and everything else. What did you think was the effect of that?

JOHNSON: Well, I thought this was part of the general taxing clause and the clause that gave the legislature the power to assess and levy taxes. I may be mistaken as to the import of the entire section, but certainly if a legislature has the right to assess or appraise property for tax purposes, it ought to have the right to levy and collect the taxes, too. But the appraisal is the most important part of the matter as I see it - - either the appraisal or assessment, and the standards under which the machinery is set up.

AWES: Well, do you think that section goes beyond the appraisal?

JOHNSON: Well, it may not; I don't know, but I still felt that even with the appraisal that there should be no question as to the uniformity.

PRESIDENT EGAN: Miss Awes.

AWES: I asked Mr. Johnson a question, will that preclude me from speaking a little later on if I should want to?

PRESIDENT EGAN: The Chair will hold that you still have a right to ask a question Miss Awes. Mr. Ralph Rivers.

R. RIVERS: Mr. President, before they changed the word "assessment" to "appraisal", I think I would have opposed the amendment, because the Committee made it clear that if you couple the word "uniform" with the word "assessment" you're getting into trouble; but to say that "They shall establish uniform standards for appraisal of all property assessed", I don't think gets us into any particular trouble. It should be uniformly appraised.

PRESIDENT EGAN: (To the Clerk) When did they change the word to "appraisal"?

CHIEF CLERK: That was the Committee's amendment.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I ask Mr. Johnson a question?

PRESIDENT EGAN: You may, if there is no objection, Mr. White.

WHITE: I initially had the same feeling just expressed by Mr. Ralph Rivers, except that during your explanation of it I changed my mind and I decided that you intended going way beyond that. Now the question I wish to ask was, in your mind, does the insertion of this word "uniform" in place of "the", for example, make impossible the graduated tax on fish traps?

JOHNSON: No, not if it's applied to all traps alike, it wouldn't. Actually, I think we are getting into a discussion here that we shouldn't. I don't know whether a tax on a fish trap is a tax or a license, actually. If you want to start splitting hairs about it --

WHITE: Well, pursuing the question a little further, in your mind, does this use of the word "uniform" here turn this into what we would normally consider a uniformity clause?

JOHNSON: Well, it does as to the matter of appraisals, yes, and the standards for which the legislature must set up.

PRESIDENT EGAN: Is there further debate on this amendment? Mr. Hinckel.

HINCKEL: I would like to know if the Committee's intention is to have a standard set up that is not uniform; that is, do they want some kind of an unusual standard set up that would permit assessment -- appraisal, as it reads now, that would be something other than uniform?

PRESIDENT EGAN: Would the Committee answer that question? Miss Awes.

AWES: I'm a member of that Committee, I won't say I'm representing the Committee, but I think that this section I'm sure there is no doubt -- this section goes only to appraisal; and I think the word "standards" for "appraisal" -- I think the word "standard" really implies uniformity. You don't have standards in this sense unless you're putting uniform guides out, so, therefore, I don't think the word does any harm; I don't think it particularly adds anything either.

PRESIDENT EGAN: Is there further discussion? Mr. Metcalf.

METCALF: On the Missouri section on taxation, they use the word "uniform".

PRESIDENT EGAN: How is it used, Mr. Metcalf? Would you read the section, Mr. Metcalf?

METCALF: "Taxes may be levied and collected for public purposes only, and shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 3? Mr. Fischer.

V. FISCHER: I have one, sir.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. Fischer.

CHIEF CLERK: "Line 9, page 1, Section 3: strike 'establish', and substitute 'provide for the establishment of'."

PRESIDENT EGAN: Mr. Fischer, what is --

V. FISCHER: Strike the "the" also. Mr. President, I move adoption and ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer moves adoption of his proposed amendment. Is there a second?

MCCUTCHEON: I object.

R. RIVERS: Second.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion. Mr. Fischer.

V. FISCHER: Mr. President, there is a possible question here of whether "establish" covers delegation of the authority to establish; and these words would cover that. I checked that with the Chairman of the Committee, and he's agreeable to the change.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Fischer, what type of a delegation do you have in mind?

V. FISCHER: To a state agency, for instance, to a special commission, to set up standards. It is a delegation to the executive branch.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I ask Mr. Fischer a question?

PRESIDENT EGAN: If there is no objection, you may, Mr. White.

WHITE: May we assume that under the auspices of Style and Drafting throughout the constitution wherever it says "establish", as this does, if the meaning is not clear, then everything will be changed to something like "provide for the establishment of"?

V. FISCHER: Mr. President, I don't think that that could be done very readily. I think that there is a big difference between the legislature establishing something and providing for the establishment. Otherwise, I wouldn't have suggested the change at this time.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the only thing I can see here is that where it states "the legislature shall establish", to me there appears to be no difficulty. The legislature shall establish the law; they shall pass the law which shall delegate the authority, and there is no prohibition here about it that I can see. They can delegate our natural resources department if they're going to have the lands, or delegate to any other organization or arm of the government, the authority to proceed with this. They are delegating their authority by the law, they are establishing that authority as is directed here. I can't see where there should be any quibbling about it.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it, and the proposed amendment has failed of adoption. Are there other amendments to Section 3? Section 4? The Convention will come to order. Are there amendments to Section 4? Mr. Johnson.

JOHNSON: Mr. President, may I ask the Committee a question in reference to this section?

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may.

JOHNSON: Mr. Nerland, in this exemption clause, suppose that a nonprofit organization owns some income-producing property that it wasn't using for its own purposes but was renting out and getting income from, would that property be subject to taxation or would it be exempt?

NERLAND: It would be subject to taxation.

JOHNSON: Under this provision?

NERLAND: Yes.

JOHNSON: Thank you.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, why was the word "cemetery" put in there?

PRESIDENT EGAN: Can the Committee answer that? Mr. Barr.

BARR: Mr. President, yes I can. I looked over quite a few of these constitutions, and I might say it was put in there through tradition more than anything else; however, I will point out, it says nonprofit cemeteries. Of course, there are some cemeteries out in the large cities that do make a profit. Most of the constitutions provide a list of exemptions from taxation, and some of them have quite a long list. We have picked out those that were commonly exempted; these are practically in every constitution. I suppose that is through public demand or opinion that they are included.

HELLENTHAL: We've gotten along in Alaska for 50 years, cemetery property has never been exempt, and I know of no crying demand for exemption of cemetery property, do you, Mr. Barr?

BARR: (No comment)

NERLAND: I'd say it's a "dead" issue. (Laughter)

PRESIDENT EGAN: There is nothing before us. Mr. Hellenthal, do you offer an amendment?

HELLENTHAL: I'm trying to make up my mind. Now, the veteran's exemption was omitted. Now we had that for a long time. What was the reason for omitting the exemption for the veterans?

BARR: I don't believe there was any special reason for omitting that. If I'm correct, we decided to omit most of the exemptions, and there was lots of others that were --

HELLENTHAL: No. That was the only one that has been singled out.

PRESIDENT EGAN: The Chair holds that this is not an arguing portion of the amending process. Are there other amendments to Section 4?

HELLENTHAL: I move to strike the word "cemetery".

UNIDENTIFIED DELEGATE: Objection.

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Hellenthal moves that the word "cemetery"

be stricken from line 1 of page 2, and Mr. Knight seconds the motion. Mr. Marston.

MARSTON: Mr. President, throughout the United States there has been the greatest promotion in cemeteries in recent years that we have ever had. There were no failures -- ever -- in the cemeteries, they've been a success. (laughter) I think that they should be stricken. I'm going along with the amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, to make it perfectly clear, the only reason that I made the amendment is that Alaska law -- and I have it here -- for many years has exempted property used exclusively for religious -- we have covered that -- educational, and charitable purposes, and then the veterans, and that's all. We have omitted the veterans and thrown in the cemeteries. I think the cemeteries should go.

PRESIDENT EGAN: The question is -- Mr. Harris.

HARRIS: I don't know, but I kind of like to think that when I die, I'm free from taxation. (Laughter)

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I ask Mr. Hellenthal a question?

PRESIDENT EGAN: If there is no objection, Mr. White, you may.

WHITE: Mr. Hellenthal, is it your further intention to get rid of cemeteries and put in veterans? (Laughter)

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: No. I'm a veteran, and I've never known why the veterans' organizations, any more than any other organizations, like the Elks, Moose, or any other lodge, should be exempt. I can't understand that exemption, but I can't understand this cemetery exemption either.

PRESIDENT EGAN: Mr. White.

WHITE: I think I can speak for the Committee. I started out in the same way in Committee, wondering why cemeteries should be in there, and it was pointed out to me that in constitution after constitution these are the four standard exemptions, and if you go beyond them, you can list them for page after page, so the Committee, I think, decided to stick with what appears to be standard in most of the constitutions.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I gave some thought to that, and as the discussion went on that -- if I recall right -- there are a number of cemeteries around, outside of the incorporated city limits that are actually established by groups of people for the benefit of the community, and under the striking of this, and I refer to the Birch Hill cemetery in Fairbanks and the Palmer Cemetery outside of Palmer, and a number of others like them. If you strike this, I presume that you will make them subject to taxation, if and when the local government unit or the state ever imposed a tax, unless they were covered under the word "charitable", and I'm pretty sure most of them are not charitable, they are just self-sustaining, nonprofit groups.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I think in this we are scoffing because the problem doesn't exist at the moment in Alaska. We are scoffing at a problem that may very well become critical in the Territory of Alaska. That is, if you go into any of the larger cities of the state, you can well comprehend why many of these cemeteries could not be run at a profit, and most of them are nonprofit because it is the only method of avoiding taxes, and yet providing, in a sense, a permanent resting place for these people; and to scoff at it and say that it has to be under religious or charitable auspices is unjust, because in many instances it is a definite public service. The fact is that in Alaska we haven't been confronted with the problem, but if we lightly pass it off as a joke, we may regret it in the future, because in substance we may well waive one of the exemptions that apparently has been critical and important in every other state of the union. The mere fact that our people have, in substance, in most instances in the past gone outside to die is possibly because there aren't any cemeteries, is no occasion for suggesting now that we do away with the exemption because it isn't an immediate problem. I think that is near-sightedness on the part of many of these people who so violently oppose it. If it is so minute that it isn't a problem why not leave it in there and then if it does become a problem at least we have covered it in this constitution. Certainly, there was some justification for being included in so many constitutions so uniformly. You can treat it pettily and you can scoff at it, but it may become a matter of moment.

PRESIDENT EGAN: Is there anyone who hasn't spoken yet? Mr. Barr.

BARR: Mr. President, I haven't spoken since the amendment was moved. After hearing Mr. Hellenthal's amendment, I'm certain now that the old saying is right: "There's nothing certain except death and taxes," and probably taxes after death. Mr. McLaughlin certainly stated the case exactly. Our cemeteries here are a little different than those outside, because we can go out here and stake out a piece of ground in the tundra

anywhere and dig a hole, and it's a cemetery; but down in the states most churches have a cemetery in connection with them; they own the ground, and if it happened to be inside of a city, that ground would certainly have a high tax rate, and they do not make any money off of that. There may be a charge at first, but they also allow the cemetery to be used by indigent persons who can't pay anything. Mr. Marston mentioned these promotional deals where they make a lot of money, and certainly I agree with him, they should be taxed. But what we provide for that in here -- this is only for nonprofit cemeteries, meaning usually religious cemeteries.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, may I ask Mr. McLaughlin a question?

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal, you may.

HELLENTHAL: Mr. McLaughlin, this is no light matter with me at all, although it lends itself to some form of humor, I suppose. Can you think of one example of a cemetery, such as you spoke of in your remarks, which is not covered by the nonprofit religious or the nonprofit charitable exemptions?

MCLAUGHLIN: I can speak specifically for the city of New York. In the city of New York it's becoming something of a burden because of the fact that there are so many people who do not believe that they should be cremated. Many people are not of any specified religion and may not qualify to be interred into special religious cemeteries, and when you have a great mass of population, you have to establish a cemetery. The cities -- I speak specifically of Anchorage, the one of which I know -- cannot go on for years providing a private cemetery. In substance, some day they will insist that some private organization -- nonprofit and not necessarily religious -- take over and exercise the duties that the city is now performing. I might point out that in the city of Anchorage in their cemetery that they do have areas set aside for Moslems; I know specifically they have a section set aside for the Masons. Would that qualify as a religious organization? It would qualify as a nonprofit, and those are things that are going to rise and face us. We are not faced with the problem today but with the growth of population, it's going to come. We are in substance, all of us, nothing more or less than rural communities, and the rural communities can beat it in their small religious cemeteries but the time will come when we will have to set aside large plats and those places can't support themselves if they are not exempt, even though they be nonprofit, if they are not exempt from taxes, they cannot maintain themselves with the prices they charge. That's an experience that's true in the United States --

HELLENTHAL: Point of order, Mr. President. I asked a question

and wanted to know what kind of a cemetery do you have in mind that isn't covered by the nonprofit charitable language. Name me one.

PRESIDENT EGAN: That was the other question, wasn't it?

HELLENTHAL: Well, in this I'd like to be heard on it. You can't name it.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I don't believe because he can't answer the question, and he can't give a definite example, that that is proof that it shouldn't be written in here. It may make all the difference in the world between a ragged, dismal-looking place on the outskirts of a city and a place with perpetual care that is an edification to us, and as we go by someone cares for that place. I don't see why we can't afford to leave it in here. If there is any doubt, then it should be left in here.

PRESIDENT EGAN: The question is -- Mr. Metcalf.

METCALF: Mr. President, may I ask Mr. Hellenenthal a question?

PRESIDENT EGAN: If there is no objection, you may, Mr. Metcalf.

METCALF: Mr. Hellenenthal, if you subject any kind of a cemetery to taxation, isn't it possible that 50 years from now that the taxes may become delinquent on that cemetery and the sheriff comes around and sells it at a tax sale. What are we going to do with the remains there? (Laughter)

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: If I can close at the same time as I answer your question -- I know of no cemetery in Alaska, or anywhere else, nonprofit, that wouldn't be justified from exemption from taxation under the charitable clause that we have. And I think that we are opening the door here to a possible abuse. Now take Juneau; I'm quite familiar with the Juneau cemetery. They have an Elks' plot, they are free from taxation because the Elks is a charitable organization; they have an Odd Fellows' plot, I believe, and the same principle applies there; they have the Serbian lodge there, a charitable institution, and it's also tax exempt; they have the Moose plot, it's tax exempt; the Legion plot -- all charitable organizations. The Masonic plot -- everywhere are charitable organizations. And I know of no case anywhere, even New York, where the cemetery plot wouldn't be exempt because of the charitable nature of its sponsoring organization; however, if you open the door to a nonprofit cemetery association, I know of a few of those that are organized primarily so that the leader of it can draw a very handsome

salary in this nonprofit organization, and he's entitled to it under the law, and he more or less maintains himself perpetually through the tax exemption because it is the tax exemption that pays his salary. Now there have been abuses of that and we all know that these exemptions should be curtailed to the minimum; and, unless there is a very, very good reason for creating a new one, I see no reason why we should do it here.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 4? Mr. Smith.

SMITH: Mr. President, I don't have an amendment; I have a question, and that's in regard to the last sentence of this section where you say "other exemptions of like or different kinds". Isn't that, in effect, saying that exemptions of any kind may be granted?

NERLAND: Yes, that was the purpose of it.

PRESIDENT EGAN: Are there amendments to the new Section 5? It was formerly 6. Mr. White.

WHITE: Mr. President, the Committee would like to state for the record to amplify a little bit in an answer we gave to Mr. Johnson's question earlier, and that is as to the exemptions extended to property used by the nonprofit, religious, charitable, cemetery, and educational purposes, and that is that this is carefully drawn to provide that even any part of property owned by such organization or used for such purposes which is used for profit could be taxed. For example, the case of an office building owned by an educational institution, part of which is being occupied by the institution itself for its own purposes, and part of which is rented out at a profit. It's the intention here that the part which is rented at a profit could be taxed.

PRESIDENT EGAN: Are there amendments to Section 5? Section 6? Mr. Nerland.

NERLAND: Mr. President, the committee has an amendment on Section 5: after line 19, after "United States" insert a comma and add "the state and its political subdivisions".

PRESIDENT EGAN: You offer that as an amendment, Mr. Nerland?

NERLAND: I offer this as an amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Nerland asks unanimous consent for the adoption of the proposed amendment. The Chief Clerk will please

read the proposed amendment once more.

CHIEF CLERK: "Section 5, line 19: after the word 'States' insert a comma and add 'the state and its political subdivisions'."

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Nerland for the adoption of the amendment? If there is no objection, the proposed amendment is ordered adopted. Are there other amendments to the new Section 5? Mr. Barr.

BARR: Mr. President, I just happened to notice. The heading of that paragraph should be changed. It is now entitled "Taxation of Interests in U. S. Property". I would move that we strike the "U. S." and substitute "government".

PRESIDENT EGAN: Mr. Barr moves that we strike the "United States" and insert in lieu thereof the word "government". Do you ask unanimous consent?

BARR: I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Barr asks unanimous consent that the amendment be adopted.

V. RIVERS: I wonder if Mr. Barr would consent to make the word "public property". I think that would be more inclusive.

PRESIDENT EGAN: Mr. Barr, do you have any objection to the request as made by Victor Rivers?

BARR: I don't think I do.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for about 60 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hurley.

HURLEY: Point of order, Mr. President.

PRESIDENT EGAN: Mr. Hurley, what is your point of order?

HURLEY: I didn't think the paragraph headings were subject to amendment, and the Style and Drafting Committee has been freely changing them around, and I hope that situation will continue.

PRESIDENT EGAN: The Chair feels your point of order is well taken. Mr. Barr.

BARR: I believe they are subject to amendment, but I ask unanimous consent to withdraw my amendment and to refer it to

the Style and Drafting Committee.

PRESIDENT EGAN: If there is no objection, it is so ordered, and the proposed amendment has been withdrawn. Are there amendments to the new Section 6? Mr. Smith.

SMITH: Mr. President, once again I don't have an amendment, and I ask the question merely to get the Committee thinking into the record. Was it the intent of the Committee here to prohibit the sale of public property for other than public purposes? I see that you have here: "No tax shall be levied or appropriation of public money made or public property transferred, except for a public purpose." And, of course, in the resources article we make it possible to transfer property from the state public domain to private individuals. I simply wanted to either get this before Style and Drafting or get the Committee thinking on the record.

NERLAND: Mr. Smith, the Committee took into consideration Section 9 of resources, and it was the feeling of the Committee that the transfer of public property, when money was being received for it, would constitute a public purpose. It was not the intent of this Committee to interfere with the operation of your Section 9 in resources.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I'd like to ask a question. Mr. Nerland, the same answer would apply to surplus property which the state is putting up for sale, would it not?

NERLAND: I would say it would, Mr. Rivers.

PRESIDENT EGAN: Are there amendments to Section 6? Are there amendments to the new Section 7? Mr. Nerland.

NERLAND: Mr. President, the Committee would request that further consideration of Section 7 be temporarily postponed until we have our proposed changes ready for it.

PRESIDENT EGAN: If there is no objection, the Convention will adhere to the Committee's request and proceed to other sections. Are there amendments to the new Section 8? Mr. Fischer.

V. FISCHER: I have an amendment, Mr. President.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment to Section 8.

CHIEF CLERK: You mean Section 8 instead of Section 9?

PRESIDENT EGAN: That's right. It's Section 8 now.

CHIEF CLERK: "Page 3, line 7 and 8, strike 'or any political subdivision thereof'. On line 11, strike 'or of the respective political subdivisions'."

PRESIDENT EGAN: What is your pleasure, Mr. Fischer?

V. FISCHER: I move the adoption of this amendment.

ROSSWOG: I'll second the motion.

PRESIDENT EGAN: Mr. Fischer moves the adoption of the proposed amendment, and Mr. Rosswog seconds the motion. The Chief Clerk will please read the proposed amendment again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, the provision here regarding the debts of political subdivisions is in direct contravention of the concepts that have been developed by the Local Government Committee over the last number of weeks. The way the Local Government Committee has approached the whole field of political subdivisions is that in our article in the constitution we create the general framework of the local government system of the state and set up its general form of operation. Insofar as fiscal affairs are concerned, it has been our consideration all along that the state, through the legislature, has the supreme power over local government units in the matters of taxation, bonding, and similar fiscal matters. Now we have gone further and visualized that relationship, not just as one where the state imposes a duty upon its local subdivisions, but as a cooperative venture where the state takes an interest instead of just saying, "Thou shall not do this", and putting on various limits where the state actually works towards the development of better local government finances. I could go on at length on that subject, but what I would like to point out is that we are dealing here in the finance article covering the fiscal establishment of this state -- emphasis on the state -- things that we don't put in here are left to the legislature. In other words, what we want to put in here are the things we want to insure they get done. I mean, we are the only group that can tell the legislature of the State of Alaska what it can and cannot do. But in relation to the local government units that will be created under this constitution, the legislature will still be in that same position in which we find ourselves. The legislature can tell the local government units that you must put up any proposed bond issues for referendum; they can set up a limit on the total amount of bonding authority of local government, and establish similar restrictions. I don't feel that it is necessary or proper to put in these provisions here. I would further like to point out that we presently have laws on the books that provide that before a

municipality can bond itself, before a school district can bond itself, before public utility districts could bond themselves, it has to submit the proposition to the voters. Now I would further like to point out that in drafting those laws the legislature has had a chance to provide additional provisions that are not included here. This is not directed towards the local governments; this is directed towards the state government. The political subdivisions throughout just seems to be thrown in here. We have a phrase, for instance, in line 8, "unless the debt shall be authorized by law for capital improvements". Does the legislature pass a law authorizing the city of Fairbanks to bond itself to build a bridge or something? That is the kind of question. In line 15, "meeting natural catastrophes", a local government unit couldn't meet natural catastrophes; the exemption applies only to the state. It would seem to be much better to leave this matter up to the state and let the legislature make the necessary restrictions which, by the way, are much more stringent now. Here it is provided in line 10, "approved by a majority of the qualified voters". At the present time in most general obligation bond issues a 65 per cent majority is required in our municipalities. The legislature further restricted it to authorize only property owners to vote on these propositions. In other words, instead of putting on a restriction, we are loosening things up, we are removing the flexibility that can be provided by giving this power to the legislature and let the legislature meet the needs as they may occur instead of freezing it in this inflexible document.

PRESIDENT EGAN: Is there further discussion? Mr. McNees.

MCNEES: Mr. President, I read this article quite differently than Mr. Fischer has outlined it, and if I may ask him a question. I'd like to -- supposing we leave out these six words "or in behalf of the state" and read it this way, "that no debt shall be contracted by any political subdivision, unless the debt shall be authorized by law for capital improvements specified therein and be approved by a majority of the qualified voters of the respective political subdivisions." I think that's quite logical.

V. FISCHER: My point, Mr. McNees, is that it may be logical, but this is what the legislature has done in the past; it has done it, I might say on a different basis with much more study, and the specifications, for instance, that we have for bonding are much higher now. You're opening up to the local government units a much easier floating of bonds than we have at the present time. Mr. President, I might still answer Mr. McNees now. I'm not against requiring a referendum before a local government unit can issue bonds; I'm only saying that that is a determination that the legislature has to make.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, the Committee was fully aware of the present regulations regarding this, but they were also very determined that this should apply also to the political subdivisions. Granted that there are certain restrictions in effect now by law, but also it is conceivable that future legislatures might remove those restrictions entirely; and the Committee felt that having the state or the political subdivision or the governing body thereof, authorize the debt by law, and then have it referred to the voters on a referendum, would be a necessary safeguard against excessive bonding.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I think this line where they go into the detail of "approved by a majority of the qualified voters" is ill-advised and I can't hardly believe that the property owners of the state will go for it. It would be decidedly to their detriment, particularly in the area that I'm familiar with, we have a very large percentage of people --

AWES: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Miss Awes.

AWES: I think he's going on a different matter. I don't think he's talking about the amendment that is before us at the present time.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 8, page 3, line 7 and 8, strike the words 'or any political subdivision thereof'. On line 11, strike the words 'or of the respective political subdivisions'."

HINCKEL: Well, I'd like Miss Awes to explain to me what she thinks I am talking about.

AWES: I'm sorry.

HINCKEL: By following the logic of the man that spoke ahead of me, why, he is requesting that we strike certain provisions here so that among some of the advantages of striking those provisions would be the thing that I'm talking about, and that is the state would then be able to set up something other than this very provision in here which says that 'the majority of the qualified voters in any political subdivision, for instance, the city of Kodiak could authorize the voting of bonds, or, the city going into debt, and leaving about 15 per cent of us to pay the bill. That's what I'm objecting to.

PRESIDENT EGAN: Miss Awes.

AWES: I'm a member of the Finance Committee, but I would just like to state that I am going to support Mr. Fischer's amendment. When this question came up in the Committee, I did not favor putting those words in. I'll admit I was a minority of one, but I don't approve of putting them in for the reasons Mr. Fischer gave. I think that the state has the full authority to regulate the local government's right to go into debt, and the method in which it can do it. There might be one of a dozen different ways that the state legislature would want to put restrictions on the local government; this just specifies one particular limitation that the state constitution would put on them. The state legislature might want to put this one, only in a more restrictive form even, or other; and I just don't think it serves any particular purpose, and by putting this one restriction in, it might be implying that we didn't want the legislature to put other restrictions on. So I favor Mr. Fischer's amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would like to say that I believe this whole Section 8 is really a legislative matter, and particularly where it affects the political subdivisions, and so I would like to support this amendment. I know in our consideration of local government we felt that we should give the local government a certain amount of self-government, of course, subject to limitations by law and under the state government. The idea of setting up in the constitution this limit would certainly stop reasonable borrowing by the cities. I know that even at the present time, with the limitations that are on borrowing by the smaller towns or medium sized towns, why, it's often hard to borrow a small amount that they need. I hate to think what would happen to our national economy, or to our federal government, if a limitation such as this was in effect there. I think there should be reasonable limits and it should be set by the legislature. The letter that was read, of course, from a house that is interested in selling bonds, is naturally from their angle -- the less debts you would have, or if you were unable to make debts except through bonding, why, it would be to their advantage, but I don't think that enters into the question here. I think it would be very hard on the local government units and I think these limitations should be set up by the legislature.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I'd like to make a statement, but first may I address Mr. Ralph Rivers to get a legal opinion?

PRESIDENT EGAN: If there is no objection, Mr. Barr, you may get your free legal opinion. (Laughter)

BARR: Voting on improvements within a city where only the property owners are allowed to vote, what is that, a city ordinance or a state law?

R. RIVERS: That's prescribed in our present laws of Alaska, purely a legislative matter.

BARR: The point I'm trying to bring up is this, we are dealing with two things here -- the state and -- we'll take the cities, to make it simpler. Now we can't say that only property owners should vote in a state election, because we have no tax rolls on property owners. And in here, when there is an election for public improvement within a city it says it should "be approved by a majority of the qualified voters of the state or of the political subdivision voting". In other words, it seems to me that in that case if a city requires you to be a property owner to vote, and the state law also says that that is permissible, then you're not a qualified voter of that city in that case unless you own property.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I have once already spoken, but may I call to Mr. Barr's attention that the qualified voter is one thing, but that doesn't mean he can vote on a bond issue; it's a different qualification. It is set up differently in the Territorial laws.

PRESIDENT EGAN: Mr. Barr.

BARR: It says here "by a majority of the qualified voters of the state", which is one thing. We all know what that is, "or of the respective political subdivision". If they specify that in addition, it must mean that they must be qualified under the ordinances provided for by that political subdivision and also in respect to what the state allows. If the political subdivision requires you to be a property owner, then you're a qualified voter -- if you're a property owner.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, we recently conducted a bond issue in the little town of Nenana, and in going through it we found out -- in answer to your question, Mr. Barr -- that there is a Territorial statute that limits our bonding capacity of a small community, and also that the only people that are eligible to vote on a bonding issue are property owners.

BARR: That proves my point.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHALL: Mr. President, -- Mr. Barr, what is the intention

of the Committee to prescribe minimum qualifications here?

BARR: You mean qualifications for voting?

HELLENTHAL: For voting on a matter of involving the authorization of debt. Maybe if I put it this way, did the Committee want to leave it open so that Kodiak, for example, could superimpose additional qualifications to those set out in the constitution?

BARR: I believe so, that's why the two are divided. It says, "the qualified voters of the state or of the respective political subdivision".

V. RIVERS: Mr. President, I have a question which I think bears very closely on this. I wonder if the Committee gave attention and thought to the matter of revenue bonding for the purposes of capital improvements to existing structures where they earn their way out. Now in cases like that at the present time, I believe, on revenue bonding, I'm not sure, but it seems to me that they do not require a vote, is that correct? But on a general obligation bonds a vote is required of the people whose property will be generally obligated to retire that debt. I wonder how this would work as to revenue bonding? Could somebody answer that for me?

AWES: Mr. President, I think Section 11 lists certain exemptions that Section 8 doesn't apply to, and I think that is specifically taken care of in that section, that is, in the new Section 10.

PRESIDENT EGAN: Is there further discussion? Mr. McNealy.

MCNEALY: Mr. President, I'd like to support Mr. Fischer's amendment here, and along the same lines that Mr. Hinckel spoke about, our population within the Territory is not too stable, and I think if there is any question here that it be left open, where, by a simple majority of the voters within a city, that they could obligate and put that city in debt for capital improvements; then the boom dies out there, and a majority of the people move to another town and leave the property owners stuck with the debt. I believe the present Territorial law is much better in this regard as to cities and political subdivisions than it would be if it had to be drawn under this particular article of the proposed act.

PRESIDENT EGAN: The question is -- Mr. Riley.

RILEY: I believe that the confusion that has been expressed as to the meaning of "qualified voters" as applied to two different levels of government would be dispelled altogether with the adoption of Mr. Fischer's amendment, which is just one additional reason, as I see it, for supporting that amendment.

WHITE: Mr. President. In answer to some of the arguments that have been presented, first of all, Mr. Fischer said that on line 15 that it was silly to think of a city in terms of borrowing money to defend the state in war, or in meeting natural catastrophes. I call his attention to line 12 where the foregoing words are provided that "the state may by law..." So from line 12 on down we are only speaking of the state. Now it's very true that this authority is possessed by the legislature, but I think the majority of the Committee felt that subjecting such bond issues to referendum on the local level constituted the basic framework that we would like to see in the constitution on this matter. Now the Local Government Committee, in Section 5, says, "The governing body of the borough shall be the assembly." If you want to get even more basic than that, you can say, "The borough shall have a governing body." It is a question of how far you want to go on leaving things to the legislature, and I think the majority of the Committee felt that this basic restriction of submitting bonding issues to the people, as we do now, should be retained with the full understanding that the legislature can always impose additional restrictions. Mr. Fischer said that he is not opposed to submitting bond issues to referendum and we have here provided them. When you get into additional limitations, the Committee did think this should be left because then you are into the matter of dollar limitations or percentage limitations which can logically vary from year to year or generation to generation. So we pointedly left that kind of restriction out, but of course the legislature can always impose additional restrictions, and I think the fact that the legislature has provided with something in the past, that there is a statute now on the books, and therefore we needn't include it in the constitution, has been settled to our satisfaction several times here before. Merely because the law is now on the books is not sufficient reason for not including a similar provision in the constitution. Mr. Rosswog says that this provision would make it very hard on the cities; Mr. Fischer says it would make it too easy for the cities. I think we are kind of following it along the average there. Mr. Fischer pointed out to us in committee meeting that the word "law" on line 8, and the words "qualified voters" on line 10 might lead to difficulties. I think the Committee is inclined to think not, but should this amendment be voted down, it certainly isn't beyond us to change or improve those words if they do lead to difficulties. I think I'm expressing the intent of the Committee when I say that it was not our intent to settle who should vote on bond issues in local government units. Now if that language is not clear here, it's certainly subject to amendment, so that Mr. McNealy's point that this would leave the settling of local bond issues by referendum to a simple majority is not necessarily so. We don't feel that the language does so, as it stands, and if it does it certainly is subject to amendment.

KILCHER: Mr. President, I withdraw my question.

LEE: Mr. President, I'm not too interested in the majority

vote or the two-thirds vote; I'm primarily interested in a basic principle involved here. We are writing a constitution here that is supposed to give us more freedom of self-government. Now in the past, under Territorial status, we have had more self-government than this will provide. I think that we should go the other way and try to give all the home rule we can to the cities and to the other local governments.

DAVIS: Mr. President, for what it's worth, I hope that Mr. Fischer's amendment will be defeated. It is true that if we strike these words here that the legislature will still have the right to say how far cities can go or what they have to do to bond, but it seems to me that we are writing basic things here as to what can be done and what can't be done by the legislature as well as by the units of local government, and it seems to me absolutely basic that the units of local government, as well as the state, should be governed by some basic rules before they can bond. My only objection to the language, as written here, is that it doesn't go far enough. I would make it still more restrictive before either the state or the political subdivisions could bond.

BUCKALEW: Mr. President. I'll be very brief. I think the amendment has merit, and I think it's unwise to forever tie the growth of all the various political subdivisions that will be created by this amendment.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? Mr. Fischer is about ready to close the argument if no one else wishes to be heard. Mr. Fischer.

V. FISCHER: In closing, I would only like to say that we have tried, in drawing the local government article, to provide for a system that will be flexible, that will be able to meet growing needs of Alaska. I think that that can be best achieved through a cooperative attitude between this state and the local government units, and the best way of achieving that will be by leaving this matter to the legislature which can meet the needs as they arise and impose the kind of restrictions that can best meet the needs of the local government units at our various stages of growth.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Fischer be adopted by the Convention?" Mr. Rivers.

V. RIVERS: I'll ask for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Awes, Buckalew, Cross, Emberg, V. Fischer, Harris, Hinckel, Hurley, Kilcher, Lee, McNealy, Nordale, Riley, R. Rivers, Rosswog, Smith, Mr. President.

Nays: 33 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Johnson, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, V. Rivers, Sweeney, Walsh, White, Wien.

Absent: 5 - Robertson, Stewart, Sundborg, Taylor, VanderLeest.)

CHIEF CLERK: 17 yeas, 33 nays and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. If there is no objection, the Convention will be at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 8? Mr. Hurley, do you have an amendment?

HURLEY: Mr. President, I would like, first, to ask a question of the Chairman, if I may, so I may not have to offer an amendment.

PRESIDENT EGAN: If there is no objection, Mr. Hurley, you may.

HURLEY: Mr. Nerland, on line 8, the last word is "law". It says, "unless the debt shall be authorized by law for capital improvements..." Is it the intention of the Committee that the word "law" also would mean local ordinance or resolution of the particular political subdivision that was involved in the capital improvement?

NERLAND: That's correct, Mr. Hurley, and we would assume that if that wording is not satisfactory to Style and Drafting, that they will change it accordingly, but it's our intention that it be by law or ordinance or whatever other authority that the state or political subdivision might enact.

HURLEY: And it's not the purpose that the state should by law specify a capital improvement in a particular locality?

NERLAND: No, that wasn't our intention.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I have an amendment on the Chief Clerk's desk.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. Johnson.

CHIEF CLERK: "Section 8, page 3, line 10, after the word 'voters' add the following: 'whose names appear on the current tax rolls'."

PRESIDENT EGAN: What is your pleasure, Mr. Johnson?

JOHNSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the amendment. Is there a second?

MCNEALY: I'll second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. The amendment is open for discussion. Mr. Victor Rivers.

V. RIVERS: I would like to ask a question. What current tax rolls do we have of the state with the taxpayers' names? We do not have any property tax roll. I'd like to ask how this would put us in connection with a vote on a state bond issue?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: It's conceivable, Mr. President, that one of the first acts of the first legislature would be to pass a property tax, since undoubtedly we are going to need more money, and the basic form of taxation, as we have heard for many years, is a property tax; and I can conceive of the first legislature producing that tax law immediately, and we thus would have a tax roll all over the state. I don't think that's an argument against the amendment, because it is very conceivable that immediately we would have a property tax law which would put us all on the current tax roll of the state.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I believe that the amendment by Mr. Johnson is too restrictive. It sets out a tax roll. I prefer to see something, such as "subject to other qualifications by law", that would include the tax roll or whatever we have coming up against it in the future. I believe your qualifications is too limited, you've just got it down to one item. At this time I'd like to ask the Chairman of the group: when you say "a majority", do you mean "at least a majority of the voters", or does that mean a maximum figure to the Committee?

NERLAND: Mr. Gray, I think perhaps that might be construed

in several ways, but in answer to your whole statement, and the question to Mr. Johnson and myself, I believe there is an amendment being prepared right now that would be more satisfactory, both as far as the "majority" and also as far as the "qualified voters" are concerned. In the interest of saving time, I think that even perhaps Mr. Johnson would be willing to withdraw his motion after he hears the context of that amendment.

PRESIDENT EGAN: Could you read that, Mr. Nerland?

NERLAND: Mr. Davis is preparing that, I think. Do you have it ready, Mr. Davis?

PRESIDENT EGAN: Mr. Davis, for information purposes, would you care to read the proposed amendment in light of the suggestion as made by the Chairman of the Committee?

DAVIS: I had a proposed amendment, and I wasn't listening to Mr. Nerland. I'm sorry.

PRESIDENT EGAN: We'd like to have the proposed amendment read, Mr. Davis.

DAVIS: On line 10, insert "not less than" before the word "majority". Line 12, after the word "question" delete the comma and insert a period. Add another sentence as follows: "additional requirements may be provided by law." Start a new sentence with the word "provided" and continue as in the proposal.

PRESIDENT EGAN: We have the proposed amendment as offered by Mr. Johnson before us at this time. The question is -- Mrs. Nordale.

NORDALE: Mr. President, I'd like to ask a question.

PRESIDENT EGAN: If there is no objection, Mrs. Nordale, you may.

NORDALE: In case of debt contracted by the state, aren't people who pay their income tax entitled to vote just as much as people who pay real estate property taxes -- since their money goes -- I don't know, I'm just asking?

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I think I can answer that. When a city defaults on its indebtedness or any local government --

NORDALE: I'm not talking about local government, I just mean state debts.

HELLENTHAL: Well, on the state level, I can't answer.

R. RIVERS: Mr. President.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: The full faith and credit of the state is explained on every bond issue, and that is a debt service that applies to all taxpayers -- income taxpayers, fish trap payers, and all licensed payers, and I don't think that we want to compel a registration of all property within the state, providing the legislature does not see fit to have a state property tax act just in order to have a tax roll so people can be qualified to vote as property owners in statewide elections. I think everybody should vote in a statewide election.

PRESIDENT EGAN: Mr. Johnson, the Chair might ask, if there is no objection, what is it actually your intention, to have this provision apply only to local governments, or subdivisions of the state government, or to the whole state?

JOHNSON: Well, I had intended it for general coverage, but largely based on the fact that right now in school districts and cities, bond elections are submitted, or referendums are submitted, only to those people whose names appear on the current tax roll, and that is done because they are the property owners who pay the taxes. Now if this amendment that I have in isn't the way to solve the problem, then I will withdraw it, but I don't think that Mr. Davis's amendment answers my objection, which is the same as Mr. Hinckel's that I think, unless we spell out some sort of provisions under which bond elections are to be held and do it in the constitution, there is too much chance for injustices and inequalities to creep in.

PRESIDENT EGAN: Do you ask that your amendment be withdrawn, or would you just --

JOHNSON: I ask that it be withdrawn.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that his proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered, and the amendment has been withdrawn. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I'm concerned about this statement here, "unless the debt be authorized by law". Mr. Nerland said that he thought that meant that a political subdivision could go ahead and bond itself just on the strength of its own ordinance, the idea being that its ordinance would be the law. But generally a political subdivision has only such powers as are delegated to it by the legislature. And "authorized by law" to me means that the legislature has authorized a particular city to indebt itself for a specified purpose. It seems to me that there are so many factors here that need studying and that inasmuch as Section 7 has been withheld for further study to be

submitted later, I'd like to see Section 8 be held back by the Committee, and perhaps with a little consultation, Section 8 could be clarified too, along with Section 7.

PRESIDENT EGAN: Mr. Kilcher has been attempting to get on the floor.

KILCHER: Mr. President, I got an amendment for the old Section 9 on the table.

PRESIDENT EGAN: Amendment to Section 8? These sections have already become Sections 8, 9, 10, etc. The Chief Clerk will please read the proposed amendment to Section 8.

CHIEF CLERK: "Section 8, line 10, after the word 'majority', insert 'set by law' and strike 'voters' and substitute 'votes cast'."

PRESIDENT EGAN: What is your pleasure, Mr. Kilcher?

KILCHER: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Kilcher moves that his proposed amendment be adopted by the Convention. Is there a second?

KNIGHT: Second.

PRESIDENT EGAN: Mr. Knight seconds the motion. The Chief Clerk will read the proposed amendment again.

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: At this time the amendment is open for discussion. Mr. Gray.

GRAY: Mr. President, I'd like this to be under consideration of the Finance Committee and several ideas, and we're all trying to work around the same idea. I would like to follow Mr. Ralph Rivers' suggestion and defer action until --

PRESIDENT EGAN: Do you ask that?

GRAY: Well, we already have an amendment on the floor, and if the Committee wishes to withdraw, I wish they would have the chance for that consideration and, if Mr. Kilcher could withdraw his amendment, I think under that consideration he could take his amendment up with the Committee.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, if the Committee should decide to withdraw this Section 8 for further consideration, I would like to have this amendment deferred to the Committee.

PRESIDENT EGAN: Is there objection to the request? Mr. Victor Rivers.

V. RIVERS: Mr. President, I object only for the moment to give notice of reconsideration on Mr. Fischer's amendment to Section 9, which is now Section 8.

PRESIDENT EGAN: Mr. Rivers, you voted --

V. RIVERS: I voted on the prevailing side.

PRESIDENT EGAN: Mr. Victor Rivers serves notice of reconsideration of his vote on the amendment of Mr. Fischer.

V. RIVERS: I now withdraw my objection to its being withdrawn for further committee study.

PRESIDENT EGAN: Is there objection then to having Section 8 withdrawn for further committee consideration? Hearing no objection then, the section is deferred until a later time. Are there amendments to Section 9? Mr. Nerland.

NERLAND: Mr. President, the Committee has an amendment which reads as follows: After the words "The State" add "and its political subdivisions thereof".

R. RIVERS: Without the "thereof", if you use the word "and", Mr. Nerland.

NERLAND: That's correct. "...and its political subdivisions."

PRESIDENT EGAN: What is your pleasure, Mr. Nerland?

NERLAND: I move and request unanimous consent that that be adopted.

PRESIDENT EGAN: Mr. Nerland asks unanimous consent that his proposed amendment be adopted. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Section 9: after the word 'State' on line 18, insert 'and its political subdivisions'."

PRESIDENT EGAN: Is there objection to the unanimous consent request? If not, the proposed amendment is ordered adopted. Are there other amendments to Section 9? Mrs. Sweeney.

SWEENEY: Mr. President, I don't have an amendment, but I'm wondering -- it states here that the debts must be paid prior to the end of the next fiscal year. What happens to loans which the state makes and one which we now have which has four years to run. I mean, do we have any time up to four years to pay it, if it's a debt that we can't pay in one year?

PRESIDENT EGAN: Mrs. Sweeney, perhaps the Chairman of the Finance Committee

NERLAND: I'm not sure that I understand just what debt you're referring to?

SWEENEY: At the present time we have a three-million dollar loan on the ESC and we have four years on that, and here we are, in Section 9, asking that it be paid up in one year.

NERLAND: Well, would you think that Section 15 might cover that -- Section 14, the last section.

SWEENEY: Well, Mr. Riley just whispered over here that this is money borrowed to meet appropriations, so I guess my example wouldn't fit in here, probably.

PRESIDENT EGAN: Are there other questions, or are there other amendments to be offered to Section 9? Mr. McLaughlin.

MCLAUGHLIN: Mr. Nerland, in Section 9, the first sentence, "The State and its political subdivisions may by law..." Do you have any objection to striking "by law" merely as being somewhat confusing?

NERLAND: No, I don't.

MCLAUGHLIN: I ask unanimous consent that that expression "by law" in line 18, Section 9, be stricken.

PRESIDENT EGAN: The two words "by law"?

MCLAUGHLIN: "...by law".

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent for the adoption of the amendment.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. McLaughlin?

MCLAUGHLIN: Rather than raise the issue, I withdraw and will take it up in Style and Drafting. I just wanted to get it cleaned up.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I'm not going to offer an amendment, but just for the record, I'd like to have in there that I do not like to see any legislature, or any city council, or any governing body of any political subdivision borrow beyond the anticipated revenues of their term of office.

PRESIDENT EGAN: Are there any further amendments to Section 9? Are there any amendments to Section 10?

BUCKALEW: I have an amendment to Section 9, but Mr. Fischer's amendment didn't take so I will have to redraw it, so could I reserve the right to present it tomorrow?

PRESIDENT EGAN: You have it on your desk, Mr. Buckalew?

BUCKALEW: It's on the Chief Clerk's desk.

PRESIDENT EGAN: It's never been presented yet.

BUCKALEW: Well, that's fine. I'll just wait for tomorrow.

PRESIDENT EGAN: Are there amendments to Section 10? Mr. Nerland.

NERLAND: Mr. President, in Section 10 I have a Committee amendment. On page 4, on line 4, after the semicolon following "corporation" strike the rest of the section on lines 4, 5, 6, 7, and 8, and substitute "or to special assessments". I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Nerland moves the adoption and asks unanimous consent. Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Page 4, line 4, after the semicolon following 'corporation' strike the rest of the section on lines 4, 5, 6, 7, and 8, and substitute 'or to special assessments'."

PRESIDENT EGAN: Is there objection to Mr. Nerland's unanimous consent request? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 10? If not, are there amendments to Section 11? Are there amendments to Section 12? Section 13? Are there amendments to Section 13? Mr. Gray.

GRAY: Mr. Chairman, I'd like to ask the Chairman of the Committee if a certified public accountant is an independent of the executive under your proposal here? Is he in the position of what you might call a controller general? Might he be considered as a position of controller general, or just auditor?

NERLAND: I would say just auditor, it's not a permanent position, Mr. Gray. I could possibly be corrected on that.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, this conforms with the law that was passed at the last session, and this auditor works for the legislature; he audits the books of all the departments and is

answerable to the governor and the legislature only.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I have a question in regard to Section 12. I noticed that here the governor and the board of the budget prepare the appropriations bill and submit the bill to the legislature along with another bill for any appropriations above that regular appropriation bill. I wondered where that practice was drawn from. May I ask the committee that?

PRESIDENT EGAN: That's Section 11. Mr. Nerland, could you answer that? Mr. Barr.

BARR: It was taken from several other constitutions. It says, that "The governor shall also submit a general appropriation bill to authorize all proposed expenditures." It doesn't say there that that will be the final appropriation bill. That is within the authority of the legislature, but it could be a suggested appropriation bill. He sets forth his ideas in that bill as to how much should be appropriated for each department. However, the finance committee and the ways and means committee could take his bill and work it over and submit that to the legislature.

PRESIDENT EGAN: Are there other questions relating to Sections 11, 12, or 13, or other amendments? Mr. Doogan.

DOOGAN: Mr. President, I'd like to move that the words on line 7, Section 13, "governor and the" be stricken.

PRESIDENT EGAN: What is your pleasure, Mr. Doogan?

DOOGAN: I move for the adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Doogan moves for the adoption of the proposed amendment. Is there a second to the proposed motion?

KNIGHT: Second.

PRESIDENT EGAN: And Mr. Knight seconds the motion.

DOOGAN: Mr. President, my purpose in doing that -- as I understand, this post auditor that the legislature employs here in the last few years is that he audits the books of the Territory, and as such, he is auditing the executive branch of the government for the legislature, and if that is the case, then I don't believe that he should be responsible to the governor at all; he should only be responsible to the legislature.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, he is actually responsible to the

legislature because the committee is your speaker of the house, chairman of the ways and means committee, chairman of the senate finance committee, and the president of the senate. The reason to report to the governor is just for information purposes for the governor, that's all. The committee itself is prescribed, the duties as prescribed by the legislature of this committee has complete control. It's just merely a matter of information that the report is given to the governor so that he knows what is going on in all the departments of the Territory, all the fiscal proceedings of the Territory have been reported to the governor, that's all.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, is it the intention of the Committee, or has there been any thought given to the fact that the postauditor shall follow down the accounts of the new state, even to municipal level, and other levels wherever there is any state money expended in matching funds or any other fashion; that the postauditor is directly answerable to the legislature, and he shall go right on down to the financial disposition of those funds.

NOLAN: That is the procedure. Any place where the state has expended or appropriated any money, will come under his audit.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this also says, "It is the duty of the auditor to conduct such postaudits as may be prescribed by law." That means that the legislature could have him audit just the principal departments on a particular year, and maybe have separate audits on matching funds through the controls which they exercise over those matching funds, so the extent of it would depend upon the legislature. I think I rather favor Delegate Doogan's amendment because I see they give priority to the word "governor". They say, "He shall report to the governor and the legislature..." That conveys the wrong emphasis. We either got to reverse those or else carry out Mr. Doogan's amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I would have no objection to reversing it, but there can be no misunderstanding when the legislature appoints this man and says that he shall report to the legislature; he can't be under the control of the governor in that case; but it's important that he report to the governor, because the legislature is not sitting perhaps at the time he completes his report, and if we are going to have a strong executive, this executive must have all this financial information at his fingertips; therefore, it is important that he report to the governor on this audit.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Doogan be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it, and the proposed amendment has failed of adoption. Are there any amendments to Section 13? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I got left behind on Section 12. (Laughter)

PRESIDENT EGAN: Mr. Rivers, if you have an amendment to Section 12, you may submit it. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 4, Section 12, line 25" -- it has already been stricken, Mr. Rivers. Something was substituted by the Committee.

PRESIDENT EGAN: If there is no objection, the Convention will recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has been informed that we have with us in the gallery the Fairbanks Chapter of the American Association of University Women. We are happy to have you with us this evening. (Applause) Mr. Smith.

SMITH: Mr. President, I would like to ask unanimous consent to revert to the introduction of committee proposals.

PRESIDENT EGAN: If there is no objection, Mr. Smith, we will revert to the introduction of committee proposals at this time.

SMITH: I would like to offer for the action by the Convention, Committee Proposal, No. 8/a introduced by the Committee on Resources, and I would like to ask that each delegate, that if they have the opportunity sometime this evening or tomorrow morning, to read the committee commentary, so that when we go into the article they will be as familiar as possible with it.

PRESIDENT EGAN: Would the Chief Clerk read Committee Proposal No. 8/a for the first time.

CHIEF CLERK: "Committee Proposal No. 8/a, introduced by Committee on Resources, STATE LANDS AND NATURAL RESOURCES."

PRESIDENT EGAN: The proposal has been referred to the Rules Committee for assignment for the calendar. Mr. Davis.

DAVIS: Has that been distributed?

PRESIDENT EGAN: It has just been distributed.

SMITH: It has been distributed and anyone who does not have a copy of it can get it from the Sergeant at Arms.

PRESIDENT EGAN: Any delegate that needs a copy of Committee Proposal No. 8/a, inform the Sergeant at Arms. Mr. Ralph Rivers.

R. RIVERS: I have an amendment to offer.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 4, Section 12, line 25: insert the word 'unobligated' before the word 'appropriated'."

PRESIDENT EGAN: What is your pleasure, Mr. Ralph Rivers?

R. RIVERS: I offer the amendment for adoption.

PRESIDENT EGAN: Mr. Ralph Rivers moves for the adoption of the proposed amendment. Is there a second?

NORDALE: I second it.

PRESIDENT EGAN: Mrs. Nordale seconds the motion. Is there discussion on the proposed amendment? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I pointed out before that there is a slight difference between appropriations outstanding and those that are unobligated, because sometimes contracts have been made before the warrants have gone through the treasury, so if we say "unobligated appropriations outstanding" then we have clarified the matter beyond a doubt.

PRESIDENT EGAN: The question is -- Mr. Barr.

BARR: Mr. President, I can see the purpose in this; it is a good purpose, but it seems to me that there might be some abuse. If I were a department head and I had a million dollars to spend within a certain period, if it weren't obligated within a certain time, I would see that it was obligated before that time. Of course, I might spend a little more money than necessary for fear I wouldn't get a bigger appropriation the next time. I think this takes more thought than we have given it.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, could I address a question to Mr. Barr?

PRESIDENT EGAN: If there is no objection, Mr. McNealy, you

may.

MCNEALY: Then your thought, Mr. Barr, would be to strike the entire last sentence?

BARR: No, that is not correct.

MCNEALY: Well then, would you explain why putting in the word "unobligated", or by leaving out the word "unobligated", would that make the department head any more loath to release the appropriation without attempting to obligate it or get it outstanding?

BARR: If he spends 50 per cent of his appropriation, the appropriation would end at a certain period. Now I'll admit that he might do the same, he might try to get all these funds obligated within a certain time. But this is just, well, I might say, telling him what to do; pointing out how it should be done.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Barr, isn't this normally a legislative matter?

BARR: Yes, it is, but this makes it permanent. Some states at periodic intervals put in actual law saying that all funds left over from an appropriation should be returned to the treasury; and, I believe we have one. I'm not sure whether it passed or not, but I remember this was argued in the legislature, and it was pointed out that there was a balance from some of these appropriations that have been in special funds for years.

HELLENTHAL: The sentence says, "All appropriations outstanding at the end of a period of time specified by law," that is, the legislature, shall be void. Well, the legislature has to get on this process to specify the period of time. So as long as they have to get into it, why don't they go a little bit further and say, "Unless it is still outstanding at the end of this period, you've got to give it back."

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: For once I have to agree with Ralph Rivers on this situation of adding a word in here, which does clarify the situation. Perhaps Mr. Barr doesn't understand the principle under which our fiscal operation of the Territory now functions. In other words, each quarter the department heads must come up to the preauditor, and he has to substantiate his quarterly demand for his withdrawal on the appropriation. Consequently, if there were monies additional left over that hadn't actually been budgeted out on the basis of his reporting and his demand for a budget on the legislature, some of those funds were not

expended, it seems to me that it would be highly unlikely that he could go to the preauditor in the last quarter and substantiate the obligation of these funds that hadn't already been obligated. Consequently, I think that this is a good amendment here. I don't see how the situation could possibly arise which Mr. Barr says will arise under our new fiscal arrangement for the Territory.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no".

MCNEES: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

DOOGAN: Point of order, Mr. Chairman.

PRESIDENT EGAN: Your point of order?

DOOGAN: You already stated the verdict.

PRESIDENT EGAN: The Chair hadn't actually stated the verdict. The Chief Clerk will call the roll.

MCNEES: I'll withdraw the request for a roll call.

PRESIDENT EGAN: Is there any other request for a roll call, other than the one made by Mr. McNees? If not, the "ayes" have it, and the proposed amendment is ordered adopted. Are there other amendments to Section 12? Are there amendments to Section 13? Mr. Kilcher.

KILCHER: Mr. President, I move and ask unanimous consent that the words "governor" and "legislature" be interposed.

PRESIDENT EGAN: You're moving, Mr. Kilcher, that those four words be deleted and in lieu thereof the words "legislature and the governor" be inserted?

KILCHER: Yes, sir, reversed.

PRESIDENT EGAN: The Chief Clerk will please read --

NERLAND: The committee has no objection.

PRESIDENT EGAN: Do you so move for its adoption, Mr. Kilcher?

KILCHER: I ask unanimous consent.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Line 7, Section 13, the words 'governor' and 'legislature' be reversed so that it will then read: 'and to report to the legislature and the governor'."

PRESIDENT EGAN: Is there objection to the unanimous consent request? If not, the proposed amendment is ordered adopted. Are there other amendments to Section 13? If not, are there amendments to Section 14?

MCNEALY: Point of inquiry, Mr. President.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Section 14 here is -- I assume that there is no harm done to be in this section, however, it is generally carried either under the schedule or in the miscellaneous provisions in the constitution. Now that may be a matter for Style and Drafting, and if it is -- however, we in the Ordinance Committee will also have a similar provision to bring up before the miscellaneous provisions and we would like to have that also considered at that time.

PRESIDENT EGAN: Mr. Nerland, do you have anything to say to that?

NERLAND: Well, I'm sure I can speak for the Committee in saying that we would have no objection as to where it might appear; it's part of the last enabling act that it must appear.

PRESIDENT EGAN: It could be a matter for Style and Drafting. Are there other amendments? Mr. White.

WHITE: Mr. President, I have a comment on that point. The only thing that came up in the Committee about keeping this particular paragraph there was brought out by one of the consultants who said that there might be debts owed to the Territory for a long period of time before they were cleaned up, and in that light, there might be some reason for keeping this particular section under the finance section rather than in the ordinance or transitory section of the constitution.

PRESIDENT EGAN: Because of the fact that we have two sections held in abeyance and also a notice of reconsideration on an amendment, the Chair would entertain a motion for adjournment at this time. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Are there any committee announcements to be made at this time? If not and if there are no objections, the Convention will stand adjourned until 9:00 o'clock tomorrow morning.

ALASKA CONSTITUTIONAL CONVENTION

January 17, 1956

FIFTY-SIXTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Reverend Orland Cary of the First Baptist Church. Reverend Cary will give our daily invocation.

REVEREND CARY: Our Father, we are grateful for this day and the opportunities that it presents to us. We are grateful that it has pleased Thee to give us a little part in the daily work that affects the people not only of this present time but in the generations that are to come. We pray, Lord, that as we plan our work that we may plan it wisely, that we may have the wisdom of God to direct us. We pray especially that Thy blessing shall be upon the men and women that are at work today in this Convention, shaping and forming the policies that shall be important in determining the lives of our children and those that shall come after us. These things we ask for Jesus' sake. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Three absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time?

DOOGAN: No report until after lunch.

PRESIDENT EGAN: The report will be held in abeyance. Are there reports of standing committees? Of select committees? Are there any motions or resolutions? Are there any communications from outside the Convention? If not, we are now down to our unfinished business which is -- Mr. Hilscher?

HILSCHER: Mr. President, I would like to ask the privilege of the floor for a moment.

PRESIDENT EGAN: If there is no objection, Mr. Hilscher.

(Mr. Hilscher spoke under personal privilege at this time.)

PRESIDENT EGAN: We now have before us Committee Proposal No. 9. Mr. Nerland.

NERLAND: Mr. President, after conferring with the Chairman of the Rules Committee, it appears that the work on two sections,

which has been held for further consideration, this proposal as well as some other committee work could well be accomplished at this time, so I will move and ask unanimous consent that we set a recess until 10:10.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess. Mr. Hellenthal.

HELLENTHAL: Would it be possible to proceed with the reading of the next report and its explanation during this interval so that we can keep pushing forward?

PRESIDENT EGAN: The only thing, Mr. Hellenthal, there will be quite a number of delegates off the floor, not only from the Finance Committee, but also from the other committees. The two sections that are referred to, the Chair understands that the Committee has a rewrite, and perhaps this one recess might put all the committees into shape where we won't have to have many long recesses in the future, but it wouldn't be very well to have the full explanation where 8 or 10 of the various committee members are off the floor and then have to go through it again, probably when they came back on the floor. Mr. Davis.

DAVIS: Mr. President, as an alternate, might it not be possible to read and explain the next section which is coming up? Just defer any action at all, at the minute, on the present Proposal No. 9, and then on the noon recess, let them work on their No. 9. Possibly we wouldn't lose any time at all of the Convention that way.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Your Committee on Administration has several things that can be taken up and it would be a pleasure to have that time for us to get caught up on our administration report.

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: Is the motion to recess debatable?

PRESIDENT EGAN: No, it isn't debatable but under the circumstances, it coming at this time that is unusual, the Chair felt that each delegate should know why the recess was being asked. Is there objection to the unanimous consent request that the Convention stand at recess for one hour? Mr. Sundborg.

SUNDBORG: Mr. President, if there is a recess, the Committee on Style and Drafting will meet at the rear of the gallery.

PRESIDENT EGAN: If there is a recess the Committee on Style and Drafting will meet at the rear of the gallery. Mr. Smith.

SMITH: Mr. President, the Committee on Resources will have a meeting in one of the committee rooms upstairs.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: How long is this recess going to be?

PRESIDENT EGAN: It will be called for one hour.

ROSSWOG: The Local Government Committee will meet at 10:00 a.m.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: All the available members of the Ordinance Committee will meet immediately upon recess, upstairs.

NERLAND: Mr. President, the Finance Committee will meet in the committee room upstairs.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration will meet immediately upstairs.

PRESIDENT EGAN: If there is no objection then, the Convention will stand at recess until 10:10 a.m. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Doogan, do you have a report of the special Committee to read the journal?

DOOGAN: On the 49th day, January 10, the only correction I have is on page 11, fourth paragraph from the bottom, second line after "Section 6", insert "presented the previous day". I move and ask unanimous consent that the journal be approved as corrected.

PRESIDENT EGAN: Would you read the proposed correction once more, Mr. Doogan?

(Mr. Doogan read the correction again.)

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the journal of the 49th day be approved with the correction as suggested by the committee. Is there objection? Hearing no objection, the journal for the 49th day is ordered approved as corrected by the Committee to read the journal. We have before us Committee Proposal No. 9, in second reading. Mr. Nerland.

NERLAND: Mr. President, the Committee has a proposal which has been mimeographed and is on the Clerk's desk that I would like to present at this time.

PRESIDENT EGAN: The Chief Clerk will please read the proposed Committee amendment to Committee Proposal No. 9.

CHIEF CLERK: "Section 7, page 2, strike lines 25 and 26 and insert in lieu thereof the following: 'Section 7. The proceeds of any state tax or license or part thereof shall not be allocated to any special purpose,'."

PRESIDENT EGAN: What is your pleasure, Mr. Nerland?

NERLAND: I move for the adoption of this amendment and ask unanimous consent.

MCNEALY: I object for informational purposes.

PRESIDENT EGAN: Objection is heard, for informational purposes.

KNIGHT: I'll second it.

PRESIDENT EGAN: You so moved, did you not?

NERLAND: Yes.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. McNealy.

MCNEALY: Mr. President, the objection I made was only for purpose of inquiry about the use of the word "license". Would that, in effect, prevent the allocation of license money for, say for example, the game commission only?

WHITE: Mr. McNealy, you have to read further. The first two lines on the next page goes on to say, "...except where state participation in federal programs will thereby be denied." Now in the case of the Dingell-Johnson or Pittman-Robinson federal bills which allocate to the various states funds for the uses set forth in those bills, provided the state earmarks in turn certain licensed revenues, would come under the meaning of that qualification. Does that answer your question?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: This probably is looking ahead too far, but in the event that the federal program were discontinued, then this licensed money could no longer be allocated for these special purposes?

WHITE: That is correct.

MCNEALY: Mr. President, I'll withdraw my objection.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, this being a new amendment, I would like the privilege of asking a question on it.

PRESIDENT EGAN: You may ask your question, Mr. Hurley.

HURLEY: There has been some talk, in fact I think presently in the Territory it is done, that a portion of the proceeds received from a given tax is refunded or kept by the person who collects the tax for the purpose of defraying the cost of administration and collecting the tax. There has been some consideration given to doing the same thing with the net income tax. It looks to me as if this would prohibit the utilization of any of the proceeds of the tax for defraying part of the cost of collecting that tax if the legislature so chose to make provisions therefor. Was that considered?

WHITTE: I'm not sure if I understand your question, but if I do, it seems clear to me that the cost of collecting any tax is deducted before you arrive at the proceeds of the tax. The proceeds would then be more or less a net after the cost.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to ask a question if I may, Mr. President.

PRESIDENT EGAN: If there is no objection, Mr. Smith, you may ask your question.

SMITH: Was it the Committee intention that this wording should be read in conjunction with the last sentence of this section, also?

WHITE: The last sentence of the section remains in the section by a majority vote of the Committee.

SMITH: And the same answer would be made here as was made to Mr. McNealy's question? I simply want this for clarification in the record.

WHITE: Now, this is a little different. The last sentence provides for the continuation at the will of the legislature.

"Any allocation for special purpose" or, in other words, earmarking that now exists. That is not dependent on any federal programs.

SMITH: But the legislature still would be able to make provisions where any allocation that now exists, that allocation could be continued. Is that correct?

WHITE: Under this sentence any present allocation could be continued or discontinued at the will of the legislature.

SMITH: That answers my question.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I was going to ask Mr. White if this conflicts with some of the proposals that have been brought before the delegates in regard to a special commission on wildlife, where it is their proposal that funds be set aside solely for the operation of that department.

WHITE: This does conflict with the -- I don't have that proposal in front of me -- suggestions made in that proposal, in that this limits earmarking of such licenses in the case where it is necessary to participate in federal programs, where as I understand their suggestion, they want all licenses, fees, and other revenues deriving from the fish and game field, to be earmarked whether or not it is necessary to participate in federal programs. So this is at variance with that proposal.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. Davis.

DAVIS: Mr. President. Mr. White are you answering questions on this one?

PRESIDENT EGAN: If there is no objection, Mr. Davis, you may ask Mr. White a question.

DAVIS: I read the memorandum that was distributed yesterday and one of the suggestions was that this be broadened to allow setting aside special funds for sinking funds for paying bonds and that sort of thing. Now I wonder if you have taken care of that with the language you have used here. Supposing the state should bond. It appears to me on the language that you have used, you have prevented setting up a sinking fund to pay the bonds. Am I wrong on that?

WHITE: Mr. President. In answer to your question, Mr. Davis, this suggested committee change came about because under the old language where it said, "All revenues shall be deposited without allocation..." we ran into a situation where we had listed seven exceptions that we were afraid we were going to have to make. By going to the tax itself and saying that the tax shall not be earmarked, we eliminated all seven of those exceptions. Now in this case the sinking funds for bonds, all this prohibits is the earmarking of any special tax to that sinking fund. You could still set up a sinking fund from the general fund or the state treasury.

DAVIS: That answers my question.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: I would like to ask you a question, too, Mr. White. I notice under the language of this section, the federal funds that are available for the benefit of game and sports fish are provided for under the qualification that federal programs are available. Now as commercial fishermen, they have, to my knowledge, no federal funds set up so that it will not be possible to allocate the commercial fishing licenses to a program of research or help for the commercial fisheries. I don't think I will make too much of an issue of this. It's going to throw the only hope for finances for the rehabilitation and for the necessary research for the commercial fisheries in the hope that we can get some money out of the general fund. Now I want that clear in the record, that this is in a way discriminatory against the commercial fisheries and they are in trouble as everyone knows.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Emberg, the Committee's idea here is to prevent earmarking for anybody except in the case outlined where state participation in federal programs would thereby be denied. That is something over which we have no control and we would further compromise as set forth in the second paragraph, "The existing earmarked funds will be allowed to remain at the will of the legislature." I think I can speak for the majority of the Committee in saying that you can go on making exceptions to this for deserving groups ad infinitum. But the Committee feels that if you accept the principle of not earmarking, it puts everyone in the same position and that the legislature will then be in the position being able to decide each case on its merits. If you go the other route and allow for earmarking or start drawing up all the exceptions that everybody would want to have drawn up, you are then back to the situation that most states now find themselves in, where an ever-increasing percentage of their revenues are earmarked for special purposes and an ever-decreasing amount is available to the general fund. To arrive at the position Texas is in, for example, where 90 per cent of all their funds are earmarked and the legislature has only 10 per cent left to work with, and the further disadvantage is the fact that as these earmarked funds get set up and get embedded in your economy, boards to administer them get set up and the legislature loses control that it should have over the workings of the state government. So the Committee would suggest that the Convention accept the idea of preventing earmarking or reject it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, may I add to that a little?

PRESIDENT EGAN: You may, Mr. Barr.

BARR: On this list I have, there are nine presently earmarked

funds. Most of them bring in very small amounts, but the commercial fishing license is now earmarked. Perhaps Mr. Nolan could tell more about that but as I remember, it was 60 per cent that goes toward sick and disabled fishermen's fund. Is that right, Mr. Nolan?

NOLAN: That is just the fisherman's license that he pays individually.

BARR: Yes, the commercial fishermen's licenses.

PRESIDENT EGAN: Is there further discussion? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I appeared before the Committee on this and heard the discussions pro and con. Now we have had a very brief discussion on the merits of earmarking as against the merits of earmarking and I stated that I did not have any particular objection to the matter of earmarking taxes. The question of earmarking licenses has raised a considerable question in my mind. I do know this, from when I served in the legislature, that general funds which have to be appropriated for certain special purposes every session, often suffer in interest of the general operating expenses of the government. I do know that unless you have had a fair share of earmarked funds for special certain purposes, particularly public works and construction works and improvements, that you often times do not get them. Now the example of Texas has been cited here as one having a lot of earmarked funds. I might also say that they probably have some difficulty in the matter of what is left for their general appropriations. I might also say that in driving through Texas they have probably the highest degree of physical development in the matter of public buildings -- school houses, roads, airfields -- than any other state in the union. So there are advantages as against disadvantages. Now I got the impression that some members of the Committee were very strongly against earmarking and, in the general sense, I also have been that way. However, including of licenses here in the constitution as an exclusion from the earmarking it, seems to me to be just a little bit too broad. Getting back to matters of personal interest, at the present time I sit on a board which is the Engineers' and Architects' Board which the licenses for that particular service, part of them go into the board fund and part of them go into the general fund. I can readily see where other groups such as the fish and wildlife group in the matter of game and fish licenses and similar professional groups and others who pay a certain fee for just their own supervision and for their own particular purpose, might be somewhat seriously pampered by this clause "or licenses", but my thought was that we would hear from some member of the Committee who had strong convictions on this point and a fairly broad argument and discussion as to for or against the merits of earmarking both the taxes and licenses.

I am still not entirely convinced in my own mind that we should include licenses there from what we have heard. I do want to say that in the Territory in the past in order to avoid some difficulties in regard to a tax clause in the Organic Act, that we have called certain taxes by the name "license" just for the purpose of getting around or rather not having to comply with the terminology of the Organic Act. I can see here that perhaps in establishing the fish and wildlife service they might issue to each person, instead of a license, a certificate of convenience; charge them for that service and cover that into a fund. It might then avoid the term "license". In the same breath I would still like to hear from some of the strong proponents of this on the Committee as to their research in the matter of why their convictions are so strong and what the experience has been in more states than just the State of Texas. I would like the pro and con to everything and the experience of Texas shows that while they have a problem in one respect they have benefited in another and I think the members of the Committee that are convinced on this must have some strong arguments and I would like to hear them before making up my mind.

PRESIDENT EGAN: Is there further discussion? Mr. King.

KING: In the event, as I understand it, in the repeal of the Pittman-Robinson Act and the Dingell-Johnson bill, which would provide these funds for the purpose as stated by Mr. Emberg for research not only in commercial fishing but for fish and game and covers the whole field, in case that was repealed this would then say that that license fee that we pay for our hunting and fishing licenses could not be earmarked for the use as intended now under the present law.

WHITE: That is correct. In the event the federal laws were repealed and it came under the meaning of this sentence, then the companion earmarked funds in the State of Alaska would no longer be earmarked.

KING: I wanted to be clear on that point.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I would like to ask Mr. White a question.

PRESIDENT EGAN: If there is no objection, you may.

GRAY: There is nothing in this article to preclude the legislature from appropriating to the particular body that amount of money that they have collected through the licenses. In their appropriation they could use these figures to appropriate that amount of money to the respective bodies.

WHITE: That is absolutely right, Mr. Gray. You appropriate

the exact amount that has been earmarked in previous years, year after year after year, it is just an automatic appropriation.

GRAY: That is the way I see it. It doesn't earmark it but the talking point that these organizations have for the use of this money that is rightfully theirs, why, they haven't been precluded, they just have to sell their viewpoint to the legislature and if they need the money, why they probably could get it if they could talk them into it.

WHITE: They have to sell their viewpoint along with everybody else. If I may while I am on my feet, Mr. Rivers, I am sure other Committee members could probably answer your question better than I, but I think in your discussion you pointed out one of the reasons why the Committee feels that licenses should be included in this section, because when you say that in the past, revenues have been defined as licenses to avoid the word "tax", you see what could happen if you deleted the word "license" from this section. Instead of imposing a tax you would impose a license which would then not come under the earmarking restrictions, so that that would be an out, a way around earmarking just as it has been a way around a uniformity clause, or anything else in the past. And, also, I would like to ask you in the case of the board upon which you sit, if it isn't the case where the funds that you retain that do not go into the general fund, aren't in the nature of expenses which you would be able to retain anyhow?

V. RIVERS: That is correct, and all money that is above expenses do go back into the general fund if there is any left over. I would like to ask Mr. White a question.

PRESIDENT EGAN: If there is no objection, you may.

V. RIVERS: Do you think by issuing a hunting certificate or a fishing permit, or something like that, that would then have gotten out from under the term "license"? I'm thinking in terms of, again, the idea that the funds derived from some special purpose might be brought out from under the term "license".

WHITE: I wouldn't want to qualify as a legal expert on the definition of words, possibly the term means something "license" does not.

V. RIVERS: What is your thinking then -- that permits and things of that nature for service charges would be under the term "license"?

WHITE: I'll defer to Miss Awes.

PRESIDENT EGAN: Miss Awes.

AWES: I think if this constitution limitation is adopted and then instead of passing taxes or licenses, the legislature started passing fishing permits and that sort of thing, I think the odds are all in favor of the court saying these are all licenses in fact, and bringing them within the restrictions of this section. I would at this time, if I may, like to make a few comments to Mr. Rivers' remarks of a minute ago. I am not one of those strong proponents who can just set forth a case one way or the other. I agree with Mr. Rivers that there are arguments on both sides. However, I think I might give a few indications of the Committee thinking at the time we adopted this proposal. The latest figures that we had before us, about 27 per cent of the funds of Alaska were earmarked and with the figure 27 per cent, I think Alaska was right among the lowest ranking with the states in the matter of earmarking. Then the states earmarked progressively more. Texas is the extreme example with 90 per cent. I think the majority of the states earmarked from around 50 per cent up to 75 per cent of their funds. I believe that it is Colorado or one of the Western states that ranks next to Texas with about 80 or 85 per cent earmarked. In theory I think that earmarking is bad; from an accounting standpoint it is bad. It is inefficient, undoubtedly, because it deprives the legislature of that adaptability that you get when you take a certain amount of money with no strings attached and allocate it without limitations. I think inefficiency is one of the big arguments against earmarking. I think the other one is that eventually you do get so many funds earmarked that the legislature just does not have the money to work with for current operating expenses. The chief arguments that were brought before us in the matter of allowing earmarking were, I think two: the one that Mr. Rivers brought out that certain things like capital improvements are more apt to be taken care of if you allow earmarking; and the other argument that is often given is that it is easier to pass along for a new tax if you allow earmarking. An automobile driver is more willing to pay an extra gasoline tax if he thinks he is going to have better roads as a result. The fisherman is more apt to pay a larger license tax without complaining if he thinks he is going to have improved harbors or retirement fund for his group. I think those are the main arguments for earmarking. The Committee felt, though, after seeing the extent to which earmarking is growing in the states and the impossibility of doing away with earmarking once you get it, that the advantage is weighed in favor of limiting earmarking and that is the reason that we adopted the provision that we did.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I am a little bit troubled by that statement that Mr. Gray made and which Mr. White said was correct, that there was nothing to prevent the legislature from appropriating the amount that did come in from a specific

purpose to that specific purpose. It seems to me that that is certainly poor compliance with the budgeting section of this same finance article and just because \$50,000 or \$60,000 comes in from some specific fund into some specific tax or license, let us say, I cannot think that it would be very sound practice for the legislature, without any reference whatever to the budget and the needs of that particular department, say we are going to turn that entire amount over to that particular department. It seems to me that it would completely nullify the benefits of a budgeting report, and as I understand the Finance Department which was recently created by our Territorial legislature and which I assume we will have a similar department under statehood, does go to considerable trouble to prepare a budget covering every function of government and if the legislature was in no sense bound by that and can just sit down and turned an entire fund to a particular activity, it seems to me that it is in conflict with your own provision covering the budget in this very proposal that you have produced.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. President, I just want to say very briefly here that I was in the minority when this question was being discussed in the Committee and I foresaw that it was going to be very controversial when it hit the floor, and my anticipation was correct. I do know that the earmarking of funds can be, perhaps, overdone as some of the experts have told us, and on our staff papers we read of such conditions. However, I think there are some benefits derived from such a program. In the Committee I used the argument of building of school houses which you get the funds from a cigarette tax. I can tell you of at least three that are now under construction from that setup which is a very good thing. Also, on the gas tax, and I understand in your area up here in some small communities it has been made possible to build little airstrips which is very good as I can see now for this particular section of Alaska. Down in our area, we require floats, and in some cases little strips of roads. So there are two advantages there. Now I do not say that we should go overboard and earmark all the revenue that we take in for the Territory but I think we are going to have to realize there is some good derived from such a program. Now I want to stick to the record on the fisheries benefit also. For years an attempt was made in the legislature in the Territory to bring, down documented boats under the Marine Act which entitles them to hospitalization. It was impossible to do that for the simple reason that they were undocumented and there were several attempts made to create some beneficial program for them, particularly the trollers could be taken care of like the men that work on the larger boats, and I think finally the compromise was the earmarking of this so-called fisheries tax. Now there is legal friction there also, but we have been told in the past that

the fisheries tax is not exactly a tax, it is a license fee. In fact, that argument has been presented in defense of the fish trap revenue, etc. For that reason I was satisfied with the language here. I figure that the compromise, that the allocations that are now in existence would be retained and this amendment here takes in the license and it seems to me that it should satisfy our trollers, etc., inasmuch as there is a question about interpretation of the meaning on whether it is tax or license fee. But I do think this amendment is all right and it will take care of the three major existing earmarked benefits as I see it.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I want to go along with Delegate Rivers here and I am glad to know that there is a minority report on this Committee. Now I live out in Spenard and we pay lots of taxes, gas tax, and they are happy dollars going in there because we are going to get roads out there, we hope. We have happy dollars in that treasury because it is earmarked for roads and happy dollars are the best kind of dollars and there will be more dollars in there. I am going to go along on a kind of ballot deal. I would like to see half of our funds earmarked, not more than half and I hope that our taxes go to build roads. Am I correct on that or not?

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, point of order. Mr. Marston, as the committee proposal stands, even if you adopt the amendment that is before us now, the funds that are currently earmarked would remain in existence. The tobacco tax for school construction, the motor fuel tax of which you are speaking, would remain in existence. This committee proposal, as it stands, even with the amendment before us, does not seek to wipe out those earmarked funds.

MARSTON: That is what I wanted to make sure. I am very happy about that.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, in reference to the remarks of Delegate Hermann on the legislature appropriating a like amount for that particular department, it is true there is nothing to prevent the legislature from appropriating a like amount, there is nothing to prevent the legislature from wiping out the whole budget, there is nothing to prevent them from wiping out the whole Finance Department, and going back to an auditor and a treasurer as we had before, but they always consider the budget before making any appropriations. When the final appropriation bill comes out it is a compromise between the requests of all the different departments. I am sure they would never appropriate

a large amount for a certain department if it were more needed in some other department. They always take that into account, and in regard to the remark made by Delegate Marston, I have always fought for roads and airports especially, and also for schools and I agree with him, we just could not get a hold of too much money for those purposes, but I have also noticed that Delegate Marston has also fought for the Native people in Alaska and we don't have money to go around for everything and one of the great needs of the Native people is tuberculosis control, and aid to the blind, and new schools, as well as roads, etc. The health program demands an immense amount of money so, therefore, the legislature should have a fair-size sum in the general fund subject to appropriation for those purposes. I am afraid if we had 50 per cent of our funds earmarked, we would have practically nothing left for our health program and things of that sort.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I wish to offer an amendment to the amendment.

PRESIDENT EGAN: Mr. McNealy, you may offer your proposed amendment to the amendment. The Chief Clerk will please read the proposed amendment to the amendment. But before the Chief Clerk proceeds, the Chair would like to ask that if it is necessary for the delegates to communicate with each other while we are in session, it would be appreciated by many of the other delegates if you would not speak aloud at the time you communicate to each other while we are in session. The Chief Clerk may read the proposed amendment to the amendment.

CHIEF CLERK: "Strike the words 'or licenses' in the first line of the amendment."

MCNEALY: I move the adoption of the proposed amendment to the amendment.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the proposed amendment to the amendment.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds the motion. Mr. McNealy.

MCNEALY: This matter has been pretty well discussed and I don't think this will take up much time of the body here. The only purpose for offering this is that we have the word here, which I have checked on, also, that about 27 per cent of the funds are now earmarked in the Territory and I believe that the license fees are not a big part of the income of the Territory as compared with the collection of the state taxes, and I

am speaking on this only from one point, thinking of the Game Commission and the fishing industry, the sports end of it as well as the commercial, and thinking that if the next Congress or any Congress in the future would withdraw this federal program, then it means that the funds from licenses will be no longer earmarked and I would like to go along with the thinking that we have heard from members, at least at the public hearing that was held here in Fairbanks, from the Tanana Valley Sportsmen Association where I think they spoke, in one respect, for all the sportsmen that none of us who like to hunt and fish would object to paying \$25 or even \$50 a year for a license if we knew those funds were earmarked for a special purpose, and I am afraid to trust -- in one point, the legislature may appropriate the amount of funds that would be required; on the other hand, the legislature might not acquire the amount of funds and in view of the fact that my opinion that the majority of licenses are already earmarked, could not affect this amendment too much; and the other is that licenses are a small amount of the total income of the state. As I say, there may be others, but speaking from my point of view, the sport fishing and hunting and the commercial fishing, I believe this should be struck out and the proposed amendment to the amendment should be adopted so that in the future we are not going to have difficulty in supporting these particular branches.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I address a question to Mr. White?

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may ask your question.

JOHNSON: I believe that you stated, Mr. White, that the present funds which were earmarked would remain in that category even though this committee amendment should pass. Is that correct?

WHITE: At the will of the legislature.

JOHNSON: Well now, that was the point I was getting at. The language used on page 3, lines 2 and 3 of this section says that, "This provision shall not prohibit the continuance of any allocation..." Is that a prohibition against the legislature from doing away with those earmarked funds?

WHITE: No, Mr. Johnson, we worded that so as to mean that the legislature could eliminate earmarking if they so desired but in the absence of any such action those earmarked funds would remain in existence.

JOHNSON: Then as a matter of fact there is no protection for the present earmarked funds? It is the will of the legislature?

WHITE: As a matter of fact, there is none. That is my understanding.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to know if the present business license fees and liquor license fees and things like that are presently refunded to cities, communities, what their status would be under this arrangement?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. Hinckel, they are earmarked at the present time and, therefore, that would continue. While I'm on my feet, I would like to mention the amount of license fees at the present time. In the 1954-55 fiscal year, the total tax coming in was \$15,700,000; the amount of license fees including business licenses was approximately \$2,100,000. Two million out of \$15,000,000, I would say is a fair-sized amount. The greatest portion of that is earmarked right now, but there might be further licenses later on and that is what we would like to prevent earmarking on.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, after listening to all of this, I wonder, or I might ask the Committee this, has the discussion been such in Committee, that an earmarked fund, after reaching a certain percentage of surplus, anything over that percentage of surplus could then be reverted to the treasury so that an earmarked fund could never run away with itself such as the public school fund in Texas. I could go just a little bit further, a percentage, say possibly 50 per cent of the annual operating budget of that particular earmarked fund is used for, anything over 50 per cent surplus could be reverted to the treasury.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. Cooper, in our present law there is a limit set on the amount that shall be used for administrative purposes. There is no limit in the law, or in this provision, that limits the amount to be used for construction. I understand in some states their building funds just get fat, bigger than the general fund sometimes, but that would never be the case in Alaska. You have been around and you know how many roads we need. Five years ago it was quoted to me that it takes \$20,000 to build one mile of dirt road, not surface, and we have millions of square miles here. We have so many schools that are needed at the present time. Some villages are without any buildings and more than one-half of the buildings they have in the outlying districts are falling down right now and need replacing. I don't think that within the next 50 or 60 years we will ever get too much money for roads or school construction.

PRESIDENT EGAN: Miss Awes.

AWES: I would, if I may, like to make a little further comment on Mr. Johnson's question. He asked if, under this section, the legislature would still have the authority to abolish existing earmarked funds if they wished to do so, and that question was correctly answered. However, the reason for this section is that earmarking is one of those things that grows and grows and never dies and the earmarked funds that we have now have no constitutional protection but I think they are almost killed off as a practical matter. I would like to make a few more comments on the amendment that is now before us. I think the question is much more fundamental, much more basic than just the question of whether we will strike "or licenses". The question goes right to the heart of the matter. Do we want earmarking or do we not? Once you strike "licenses" and then you make this exception and that exception, and what it really amounts to is an admission that you really don't want to do away with earmarking. When this matter was discussed in Committee, I said that as long as we could limit earmarking I was for it, but as soon as there were exceptions being made, then I thought that we should show we wanted to continue earmarking and that a motion should be made to just strike the section and leave matters as they are now, and I still believe that is so. As soon as exceptions are made to this section, then I think the section should be stricken.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I have a question on this amendment. You have the two categories of earmarking that may continue. I will address this question to Mr. White. One is, those presently in existence and the other is, where prohibiting earmarking will deprive us of participating in a federal program which requires earmarking. Does the sports fishing and hunting license earmarking that exists now, would that be regarded as one of the things that is presently allocated and which would carry over, even if the federal government drops its matching requirements?

WHITE: Mr. Rivers, it is my understanding that those revenues are not now earmarked because we do not participate in the federal programs concerned. That is, by the way, one of the good arguments for statehood because if my understand is correct, it would entitle us to something in the nature of \$600,000 annually under those two acts, but those revenues on licenses are not now earmarked.

R. RIVERS: The federal government at the present time does require earmarking from the states, but they might carry out a program in the future whereby they will make an offer to match funds with the states but without requiring earmarking. In a case like that the legislature would have to do the matching

without the earmarking. Is that right?

WHITE: That is right.

PRESIDENT EGAN: Mr. Nolan has been attempting to get the floor.

NOLAN: For those that are worried about the legislature not taking care of the sports fishermen and the game license, when the legislature first decided to go into the planting of trout streams, sports fishing, etc., they appropriated a sum, I think it was \$50,000 and I think the Territory only took in about \$20,000. We have gradually increased that amount every year to more than what we were taking in and this biennium we will just about reach what the legislature has appropriated. The legislature has always been very generous on any of these items that come before it and I doubt if at any time, from my experience in it, that any of these items would be decreased and as far as Mrs. Hermann's objection, I think it would be a very very unusual exception rather than the rule, but the procedure is there in case the federal earmarking was dropped, the legislature would still have the right to appropriate, which was a very good provision, I think.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I am not at all satisfied that a clear distinction has been made here this morning between "tax" and "license" and I am not going to do it on an ad lib basis. I have no doubt that Mr. Barr's figures probably come from the Tax Commissioner's office or some equally reliable source but I am not sure that even that segregation would satisfy a legal distinction between a "tax" and a "license". Because of that I am opposed to the amendment to the amendment and only because I feel that it is extremely remote that the federal government will ever change fundamentally the provisions which we now know as the Dingell-Johnson and Pittman-Robinson measures.

I think that unless we are absolutely clear in our minds as to the distinction between a "license" and a "tax" that we may well endanger these two programs which the sportsmen across the nation enjoy by adoption of the amendment to the amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I wanted to speak on the same matter in the matter of extinction but in an opposite direction. In the past the Organic Act has said that we would, in order to pass certain types of taxes, have to call them "licenses" but there has been no close supervision of the terminology. It is my opinion that if we eliminate the word "license" that under the strong executive, with the Territorial governor and the Territorial attorney general, that they would make every effort to confine what was truly a tax to the tax category and what was a license to the license category even though they had to go

into the courts to do so, and it is also my opinion that under that particular terminology of tax without the use of the word "license" that some of the existing acts such as the business license tax which is both license and tax would come in under the terminology "tax" and not "license" and I think the figures that Mr. Barr quoted would be materially altered downward in regard to what were actually licenses. For that reason I support the amendment, that the matter of the interpretation of the word "tax" could not be evaded by the mere mention of a license as it has been in the past, because the people of the state and the administration charged with the responsibility would be sure to make the distinction clear either by interpretations of the attorney general or by court decision.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I know of no provision of the Organic Act that permitted, encouraged, or made desirable the practice of calling black, white. An imposition is either a license or a tax. The courts decide which it is. No legislature anywhere can call a tax, a license, and avoid constitutional provisions relating to taxes, and by the same token, no legislature anywhere can call a license, a tax, and avoid the constitutional provisions regulating licenses. I cannot follow this argument, apparently from history. It is true certain people do try to call black, white, but they don't get away with it very long.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I am opposed to Delegate McNealy's proposed amendment. I think the word "license" will be read here by context to mean "revenue raising license". You have got the word "license" in our terminology in Alaska, in our taxation by Congressional Act of 1899 when it first levied taxes on certain occupations doing business in Alaska, and throughout that ever since we have levied our revenue raising measures when based upon occupations, called them licenses but they are taxes and I think the only thing in this that makes any doubt about it is that the Committee didn't put "revenue raising" before the word "license" but I believe the courts would construe this "license" to mean "revenue raising license" and it should be kept in the amendment as proposed by the Committee.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as proposed by Mr. McNealy be adopted by the Convention?" Mr. Victor Rivers.

V. RIVERS: Roll call, please.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 10 - Emberg, H. Fischer, Johnson, King, Laws, McNealy, R. Rivers, V. Rivers, Rosswog, Smith.

Nays: 44 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, Robertson, Stewart, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 1 - Sundborg.)

CHIEF CLERK: 10 yeas, 44 nays, and 1 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment to the amendment has failed of adoption. We have before us the original amendment. Mr. Armstrong.

ARMSTRONG: Mr. President, I wonder if we could have a short recess before we come to the vote on this matter.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for three minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have the committee amendment before us at this time. The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" The Secretary will please read the proposed amendment.

CHIEF CLERK: "Section 7, page 2, strike lines 25 and 26 and insert in lieu thereof the following: 'Section 7. The proceeds of any state tax or license or part thereof shall not be allocated to any special purpose, '."

PRESIDENT EGAN: The question is. "Shall the proposed amendment as offered by the Committee be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 7 - Cooper, Davis, Emberg, King, Laws, McNealy, Sweeney.

Absent: 1 - Sundborg.)

CHIEF CLERK: 47 yeas, 7 nays and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Johnson.

JOHNSON: Mr. President, I have an amendment to Section 7.

PRESIDENT EGAN: Mr. Johnson has an amendment to Section 7. The Chief Clerk may please read the proposed amendment.

CHIEF CLERK: "Page 3, lines 2 and 3, strike the words 'prohibit the continuance of' and insert the words 'apply to'.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I move the adoption of the amendment.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the amendment, Mr. Taylor seconds the motion. The Chief Clerk will please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Would the Chief Clerk please read that sentence as it would appear if the proposed amendment is adopted.

CHIEF CLERK: "This provision shall not apply to any allocation for special purposes existing upon the date of ratification of this constitution by the people of Alaska."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to speak briefly in favor of that

amendment. I have in mind that the legislature might reorganize the road program and repeal existing laws and re-enact a new program. If you retain the present language which says "shall not prohibit the continuance of" and if a legislature in reorganizing something happened to repeal the existing law and then tried to re-enact it, why then you have an argument as to whether you had to stick with that old law forever or whether they could re-enact something like that, and so I think Mr. Johnson's proposed amendment clears that up.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I am very much in favor of this amendment to that particular section, and I happen to be the author of the original tobacco tax and when I see the good that was done in regard to the school system, which is in a very rundown condition, and it is continuing to be of such use to them, I felt it should be a protection, this is a protection given to this for the roads and given to the schools. I think it should be retained.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Of course I am against the amendment because I think it just freezes it completely and I think that in the future there might be a need for a change, and therefore as I say, I am against the amendment. My recollection of this tobacco tax, I thought Steve McCutcheon was the author of that. (Laughter)

TAYLOR: I was the author of it in 1945. Mr. McCutcheon raised the tax.

PRESIDENT EGAN: Mr. White.

WHITE: May I ask Mr. Johnson a question?

PRESIDENT EGAN: You may ask your question.

WHITE: Could this change, if adopted, be interpreted to mean that the present allocations for special purposes would be retained?

JOHNSON: Yes.

WHITE: It could not be discontinued?

JOHNSON: That is correct.

WHITE: Your intent in offering this amendment then, is slightly different than Mr. Rivers' reason for supporting it?

JOHNSON: Well, it includes Mr. Rivers' reasons, but it is a little broader.

WHITE: I would like to have you explain if you would, how the words "apply to" in place of "not prohibit" accomplishes what Mr. Rivers wants.

JOHNSON: Well, perhaps, Mr. Rivers can explain that better than I can.

WHITE: I should have addressed that part of my question to him.

PRESIDENT EGAN: Mr. Rivers, would you care to answer that?

R. RIVERS: "Shall not prohibit the continuance of" means that you could stick to an existing law as long as you could manage to do so. If you wanted to repeal the existing legislation and rewrite a new program, then you are getting into the subject of re-enactment. Then somebody would say, "That's not a 'continuance of', you have already killed that one." You are not continuing any more and under the prohibition you may not re-enact it.

WHITE: I was wondering, Mr. Rivers, then if you should get the word "continuance" to accomplish your purpose, rather than inserting the words "apply to".

R. RIVERS: No. It is a continuance factor that I am talking about, but if you say "shall not prohibit continuance", when you strike out the word "continuance" then you say "shall not prohibit" as to programs already in existence, then you have arrived at the same thing by the same words. I don't concur with Mr. Johnson that this would freeze present earmarking. I think if you don't put any particular prohibition in the constitution, the whole subject is in the hands of the legislature. They wouldn't be prohibited under Mr. Johnson's amendment from repealing some of our existing earmarkings, but they would not be prohibited from later reinstating them as I understand it, Mr. Johnson.

PRESIDENT EGAN: Would the Chief Clerk please read the sentence as it would appear, once more, if this amendment is adopted.

CHIEF CLERK: "This provision shall not apply to any allocation for special purposes existing upon the date of ratification of this constitution by the people of Alaska."

PRESIDENT EGAN: Where did we lose the words "continuance of"?

CHIEF CLERK: "Prohibit the continuance of" are the words that he wanted stricken.

JOHNSON: My amendment eliminated those words. "Prohibits the continuance of", those words are stricken.

PRESIDENT EGAN: The Chair just wanted to be certain that that

was the intent.

JOHNSON: You then insert in lieu thereof "apply to".

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask Mr. Johnson a question?

PRESIDENT EGAN: You may.

NORDALE: Mr. Johnson, would your amendment mean that, say 50 years from now, if the legislature was saddled with some earmarked fund, they could do nothing about it?

JOHNSON: Without an amendment to the constitution, yes.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. Johnson, is it your intent that a motor fuel tax could never be reduced? Is that the intent of the amendment? I don't quite follow that.

JOHNSON: No, I don't believe that is the intent of the amendment at all. It simply means that the motor fuel tax money cannot be used for any other purpose than what it is now used for, to build the road that Colonel Marston was talking about, small boat harbors, and small airfields. The amount of the tax has nothing to do with earmarking.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, as far as I am concerned it appears to me that the legislature set up these earmarkings in the first place. They are very desirable now and I am particularly interested in the tobacco tax which has done a lot of good, but I can't say that 5, 10, or 20 years or any number of years hereafter that the earmarking may be desirable. For that reason I don't like to freeze them as they now are. I think the words ought to stay something as they are now.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, it seems to me that the changing of this to "apply to" would be an invitation in the next few legislatures before statehood to jump in and earmark just as many funds as they could so that they would remain frozen. It seems to me that that would be a bad feature.

PRESIDENT EGAN: Mr. Stewart.

STEWART: How would royalties, for instance, on the production of oil be regarded under this provision? Would they be considered taxes or licenses?

PRESIDENT EGAN: Does the Chairman of the Committee have the answer for that question or anyone on the Committee? Mr. Nolan.

NOLAN: Mr. President, I would imagine they would just go right into the general fund.

STEWART: I was thinking if they were earmarked until the end of this, that we can see the very, very large revenues deriving from oil lands. If they were earmarking them, for instance for schools even, it might be that the revenue from those lands would amount to millions and millions a year, far beyond even our requirements for schools.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: They wouldn't be earmarked because they are not under any existing law now, the earmarking of them, so this section would not apply to it. It would go into the general fund.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I want to say that in my opinion, the words "apply to" would be better than the present wording because I think if the provisions of this section did not apply to allocations already in existence when the constitution was adopted, then the legislature could raise, lower, eliminate, replace any of the ones that they might have, at the time they might see the need. I believe the words "apply to" wouldn't give a great deal more flexibility to the operation of existing ones than the raising, lowering, eliminating or replacing of them, than would the present wording. Therefore, I favor the amendment.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I challenge the legal conclusion that this would freeze existing earmarking. I have tried to make it clear --

MCCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

MCCUTCHEON: I think Mr. Ralph Rivers has spoken once on this already.

PRESIDENT EGAN: Your point of order is well taken. Mr. Riley.

RILEY: I am not especially satisfied that this language does allow range within which to work as has been suggested and if it will interest anyone, I would suggest a five-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will

stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Johnson's proposed amendment to Section 7. The Convention will come to order. The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" Mr. Johnson.

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll. Mr. Cooper.

COOPER: Mr. President, before I can vote on this, I would like to hear a little more of the decision on this. I don't know exactly how to vote. If these words "apply to" mean that everything is frozen then I am not in favor of it. And I understood the recess was a matter of getting a little more clarification and I would like to hear that before we vote on that.

PRESIDENT EGAN: Before any name has answered to the roll call, he is in order if anyone can answer or wishes to answer. Mr. Marston.

MARSTON: I asked the maker of the amendment and he said this would guarantee the road in Spenard and that is what I want to see built. I'd like to see that road built. We have raised the money, we have paid for it, it isn't built yet and we want that money to build that road. If it will do that I am going to vote that amendment.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I am opposed to the amendment. Alaska has a potential of such magnitude that its future cannot be reasonably predicted by anyone. I should hate very much to see something go into the constitution that froze all of these appropriations that are now earmarked to the same purpose in perpetuity because I very strongly feel that some of them are not going to be necessary as earmarked funds for too long a period of time and I think the amendment should be defeated.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, I think I can speak for at least the majority of the Committee, perhaps the whole Committee, but we would oppose this amendment because it was the intention of the Committee that the present allocated earmarked funds be allowed until such a time as they might be removed from the books but it was not our intention that they be removed and

then put back in again at some later date, so we would oppose that and any other change of wording that would allow that.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I hadn't intended to get into this act but I am afraid I shall have to say a little something about it. I am not opposed to earmarked funds, particularly when it involves a matter of schools and matter of roads. I served on the Board of Road Commissioners for quite some time until my sudden demise in the last legislature. However, during that period of service I found out the value of having an earmarked fund for the purpose of building roads, small airports, airfields, and small boat harbors. We have seen many instances in the past when before this earmarked fund was established, back in 1945 or 1946, I know before that many times the legislature would appropriate large sums of money for roads and then in the process of adopting other measures that required specific appropriation, they would make the raid on the road fund because that seemed to be the best way of doing it and I can never imagine when Alaska will get so big that it will not need roads. Mrs. Hermann seems to think that at some time when roads will be of no consequence, but that to me is inconceivable.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: Mr. Johnson is not sticking to the amendment at all in this regard. He is talking about keeping a fund for roads and that isn't what it says at all, and I didn't say anything about roads.

JOHNSON: Well, it is an earmarked fund, so let me put it that way. But I do believe that in this manner there can be no question but if this amendment is adopted that the legislature will not be permitted to tamper with the funds that are now set up for specific purposes and that is my intent.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 13 - Emberg, H. Fischer, Hinckel, Johnson, King, Laws, McNealy, Marston, Peratrovich, V. Rivers, Smith, Taylor, Mr. President.

Nays: 40 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hurley, Kilcher, Knight, Lee, Londborg,

McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, Robertson, Rosswog, Stewart, Sweeney, VanderLeest, Walsh, White, Wien.

Absent: 2 - Hilscher, Sundborg.)

CHIEF CLERK: 13 yeas, 40 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Kilcher.

KILCHER: I have an amendment.

PRESIDENT EGAN: You may submit your amendment, Mr. Kilcher. To Section 7?

KILCHER: Yes.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, line 5, change period to comma and add: 'but discontinuance shall be approved by a two-thirds majority in both houses.'" "

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Kilcher moves that the proposed amendment be adopted. Will the Chief Clerk please read the amendment once more.

(The Chief Clerk read the amendment by Mr. Kilcher again.)

PRESIDENT EGAN: Is there a second to Mr. Kilcher's motion?

HELLENTHAL: I'll second the motion.

PRESIDENT EGAN: Mr. Helleenthal seconds the motion. Mr. Kilcher.

KILCHER: Mr. President I think the amendment will, in this controversial question, show a middle road in the matter. I am fully aware of the importance of some earmarked funds and I would hate to see them largely discontinued without very good consideration in future legislatures of the state. Being from a country that is in great need of capital improvement and having firsthand seen the benefits of earmarked funds in regards to schools and roads, I would like to see these earmarked funds continued as long as possible, and I would like to see it take more than a simple majority in the future legislature

to discontinue these earmarked funds and I think the amendment here would at least for these specific earmarked funds would show a reasonable possibility of compromise that might suit the majority.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I am opposed to the amendment. The earmarking that we have now was adopted by simple majority of the legislature and I don't think we should set up an extraordinary majority like this for any changes in existing funds.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is -- Mr. Kilcher.

KILCHER: Mr. President, may I close the debate and answer Mr. Fischer's question?

PRESIDENT EGAN: You may.

KILCHER: These earmarked funds when they were set up by a simple majority, it was not then foreseen that a prohibition might arise in the future, in the constitution for further earmarked funds. This trend is new and I think it is, in general, an exception which should be made for those existing.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Coghill, Emberg, H. Fischer, Johnson, Kilcher, King, Laws, Londborg, McNealy, Marston, Peratrovich, Robertson, Rosswog, Smith, Taylor, Mr. President.

Nays: 37 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Knight, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Stewart, Sweeney, VanderLeest, Walsh, White, Wien.

Absent: 2 - Hilscher, Sundborg.)

CHIEF CLERK: 16 yeas, 37 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: I have an amendment to offer, Mr. President.

PRESIDENT EGAN: You may offer your amendment. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, line 3, delete the words 'the continuance of'."

R. RIVERS: I move the adoption of the amendment.

COGHILL: I will second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment, seconded by Mr. Coghill. Mr. Rivers.

R. RIVERS: Mr. President, I am trying to not get at cross purposes with the Committee, but to clear up what I think is a basic point and I think to improve the situation for the future operations of the legislature. Now when this says, the language being at present. This provision shall not prohibit the continuance of any allocation for special purposes existing upon the date of the ratification of this constitution." That sounds as though you are freezing the exact rate that is now allowed, or the exact rate that is now specified, and it also raises the question of giving some flexibility on that rate. Now, if this amendment of mine passes, it would read: "This provision shall not prohibit any allocation for special purposes existing upon the date of ratification of this constitution." If it shall not prohibit such allocations, then the legislature could not go above the existing allocations but it could plausibly drop below the existing allocations. It could knock off on an allocation for 10 years and come back with the same allocation. It could repeal an existing earmarking law and rewrite it and re-enact the same allocation or a lesser rate of the same allocation. I know it is a little hard to carry through an idea which is on the technical side but I sincerely feel that this is not undermining the Committee's thinking and we will give more flexibility to the future legislature and is a distinct improvement on this freezing everything to a continuance of present allocations.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I support this amendment, too, on the same grounds that Mr. Rivers has just spoken on and I believe that under this provision that we have, in our 31 school districts in Alaska at the present time, each one of them are bound by a resolution to the Alaska Public Works or the Department of the Interior on finance of school projects, buildings, and whatnot, and upon the completion of those projects they may want to do away or suspend down the now present five cents a package on tobacco tax. I believe that this gives the legislature a lot more flexibility in allowing for growth or the

decline of the problem that we are facing today and if we do get another influx into the Territory in different areas, it could again be re-enacted back to this phase.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, to me I read this the same as the previous amendment. I see no difference between this provision, 'shall not apply to any allocation' than the provision "shall not prohibit any allocation". To me it has the same identical meaning that we have already acted upon. Point of order. I believe that we have acted on this unless the mover could show us the difference.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, to say that the prohibition of this particular section "shall not apply to existing allocations" means that they could double those allocations or the rate involved. Mine would say that I retain this thought of prohibition. This provision, "shall not prohibit any allocation for special purposes existing at the time this constitution is ratified" but no future legislature could go above, under this present language, existing allocation rates, but if you say that the section does not apply then the legislature could double.

RILEY: Mr. President, subject to committee announcements, I move and ask unanimous consent that we recess until 1:30.

PRESIDENT EGAN: Are there committee announcements at this time? Mr. Smith.

SMITH: Mr. President, the Committee on Resources will meet at 1:00 in one of the committee rooms upstairs.

PRESIDENT EGAN: Committee on Resources at 1:00 upstairs. Are there other committee announcements? Mr. Rosswog.

ROSSWOG: The Local Government at 12:40 upstairs.

PRESIDENT EGAN: The Local Government at 12:40 upstairs. Mr. Davis.

DAVIS: Mr. President, the special committee consisting of some members from Style and Drafting, some members from Judiciary, some members from the Committee on Direct Legislation will meet in the gallery at 1:00.

PRESIDENT EGAN: The special committee to meet in the gallery at 1:00. Are there other committee announcements? If not, Mr. Riley asks unanimous consent that the Convention stand at recess until 1:30 p.m. Mr. Nerland.

NERLAND: Finance Committee will meet at 1:00 upstairs.

PRESIDENT EGAN: Finance Committee at 1:00 upstairs. If there is no objection the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hurley.

HURLEY: I ask unanimous consent that we revert to the matter of communications.

PRESIDENT EGAN: If there is no objection, Mr. Hurley, we will revert to the matter of communications at this time. You may present your communication.

HURLEY: Mr. President, I have a communication here from Mr. Ben Hitchcock of Caribou Creek pertaining to certain items in the constitution which I ask to file with the Secretary for perusal by the committee chairmen as they see fit.

PRESIDENT EGAN: If there is no objection, Mr. Hurley, the communication will be placed in the Chief Clerk's files. The Chief Clerk may please read the communications.

(The Chief Clerk read an invitation from the YMCA Board of Directors inviting the delegates to attend the open house of the new Young Men's Christian Association on January 22, between 1 and 5 p.m. Also, a telegram from William L. Paul, Grand President of the Alaska Native Brotherhood, endorsing the proposal that fisheries, game, and fur be controlled by separate commissions, was read.)

PRESIDENT EGAN: The communications will be filed. Are there other communications or anything else to come before the Convention before we proceed with the second reading of Committee Proposal No. 9? The Chair notes that the Finance Committee is not with us yet. Would the Sergeant at Arms inform them that the Convention is in session? You may be at ease for a moment or so. The Convention will come to order. We have before us the proposed amendment as offered by Mr. Ralph Rivers, as the Chair recalls the situation when we recessed. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, line 3, delete the words 'the continuance of'."

PRESIDENT EGAN: The Chair notes that Mr. Rivers is not here at this time. Mr. Victor Rivers.

V. RIVERS: He will not be back for about a half-hour.

PRESIDENT EGAN: Do you think it would be proper to proceed with the amendment? What is the wish of the body?

V. RIVERS: I wouldn't presume to speak for him. I suppose we could go on to other matters.

PRESIDENT EGAN: We could hold this amendment in abeyance until Mr. Rivers arrives. Are there other proposed amendments to Section 7? Does the Committee have an amendment for Section 8? Mr. Nerland.

NERLAND: There is a proposed amendment on the Chief Clerk's desk.

PRESIDENT EGAN: The Chief Clerk will please read the proposed committee amendment to Section 8.

CHIEF CLERK: "Section 8, page 3, line 10, before the word 'a' insert the words 'not less than'. Line 12, after the word 'question' delete the comma and insert a period. Add a new sentence which will read as follows: 'Additional requirements and qualifications may be provided by law.' Start a new sentence with the word 'Provided' and continue as in the proposal."

PRESIDENT EGAN: Mr. Nerland, what is your pleasure with relation to this amendment?

NERLAND: Mr. President, during the noon recess we had this mimeographed and it is now being distributed and I think there is a slight difference in wording. May we substitute the mimeographed version, please?

PRESIDENT EGAN: The Chief Clerk will please read the mimeographed version.

CHIEF CLERK: "Amend Section 8 as follows: 'Section 8. No debt shall be contracted by or in behalf of the state, or any political subdivision thereof, unless the debt shall be authorized by law for capital improvements specified therein and be approved by not less than a majority of the qualified voters of the state or of the respective political subdivision voting on the question. Additional requirements and qualifications may be provided by law. The state may by law contract debt for the purpose of repelling invasion, suppressing insurrection, defending the state in war, meeting natural catastrophes, or redeeming outstanding indebtedness of the state at the time this constitution becomes effective.'"

NERLAND: Mr. President, I move and ask unanimous consent that this amendment be adopted.

PRESIDENT EGAN: Mr. Nerland moves and asks unanimous consent that this amendment be adopted. Mr. Johnson.

JOHNSON: Point of order, Mr, President.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: As I recall it, before we adjourned yesterday, someone had given notice of reconsideration on a matter that pertains to Section 8. Will that notice of reconsideration interfere with this proposed amendment?

PRESIDENT EGAN: Mr. Johnson, your point of order might be well taken in that it relates to this particular section. Mr. Victor Rivers.

V. RIVERS: This amendment does not in any way affect the subject matter of the reconsideration. It is identical in wording to what the reconsideration is on, even though there has been some words added, it is not altered as I see it. I am waiting to see whether we amend this section or not as to whether I amend it -- not in accordance with this but, perhaps, in such a way that I would not care to submit the reconsideration.

JOHNSON: I had no objection, you understand.

PRESIDENT EGAN: Yes. Mr. Riley.

RILEY: May I have the floor for a moment, Mr. President, on the point of personal privilege?

PRESIDENT EGAN: Yes, if there is no objection, Mr. Riley, you may have the floor.

(Mr. Riley spoke on a point of personal privilege.)

PRESIDENT EGAN: How do you mean, it should be considered in conjunction with the one before us, Mr. Riley?

RILEY: My whole thinking there, Mr. President, is that they go to the same matter and I should like to feel that the members had read each before acting on either. If the other mimeographed proposed amendment to Section 8 is before them, I think it would be well if each member acquainted himself with the provisions of each of the pending amendments.

PRESIDENT EGAN: Objection was heard. Mr. Nerland had asked unanimous consent. Did you object, Mr. Johnson?

JOHNSON: I don't object. I simply had that point I wanted brought out.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, on a point of order, we're considering an amendment to this section now. I believe I have a copy of Mr. Riley's so-called amendment. It is not an amendment at all, it is not only a new section, but it wipes out the purpose of the

original section. The purpose of the original section was to not allow any indebtedness except by referendum to the people and this eliminates that, if I have the right one here in my hand, so therefore I don't think it is an amendment.

PRESIDENT EGAN: The only thing we have before us is Mr. Nerland's unanimous consent request. Is there objection to Mr. Nerland's unanimous consent request?

HURLEY: I object.

PRESIDENT EGAN: Mr. Hurley objects. Is there a second to the motion?

METCALF: I'll second it.

PRESIDENT EGAN: Mr. Nerland so moves, seconded by Mr. Metcalf that the proposed amendment by the Committee be adopted by the Convention. The amendment is open for discussion. Mr. Nerland.

NERLAND: Mr. President, it was felt that there was some opposition to the original wording wherein it was specified that a majority of the voters would be required, and, also, no qualification was actually put on the people that should vote. The Committee felt that this underlined wording would place the majority as a minimum and allow the legislature to supply additional requirements both as far as the percentage of the majority required and the additional qualifications of the voters or other regulations regarding the voting on the matter.

PRESIDENT EGAN: Is there further discussion? Mr. Coghill.

COGHILL: May I ask a question, Mr. Chairman?

PRESIDENT EGAN: You may.

COGHILL: Mr. Nerland, does the additional requirements and qualifications that may be provided by law include in that the objection that was raised yesterday to property holders voting on a bonding issue in a local subdivision?

NERLAND: I believe that it was the intention of the Committee that the legislature would have that authority under this wording.

COGHILL: That takes care of my objection.

PRESIDENT EGAN: Is there further discussion? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I can't read this as meaning anything but what it says. It says, "The majority of the qualified

electors in any political subdivision..." Now maybe I can't read. Maybe there is written into this something that says the legislature may prescribe requirements, but it says "additional requirements". This is a minimum requirement. If you vote for this amendment, you did what Mr. Davis said yesterday, it merely strengthens the effect of the first section as he said he desired to do rather than meeting the objections of those of us who felt that the legislature should have power in setting up requirements for referendums in the local political subdivisions. So, as I see this, if you adopt this in the constitution, you forever foreclose any vote by only property holders on a general obligation bond issue. Now the present method of voting on revenue bond issues is that all the people vote, but on the matter of general obligation bonds, it has been limited to property owners. So, if you adopt this you are forever eliminating the property owner, only, as having a vote in regard to general obligation bonds. I, for one, strongly object and prefer to see the matter of what type of referendum may be allowed. I am perfectly willing to accept that there be a referendum in the political subdivisions but allow the legislature to establish the rules by which those referendums may be conducted rather than write it in to the constitution that a majority of the qualified voters shall have to act on every bond issue. Now you are taking the power of voting on obligations against the property tax rolls out of the hands of the property owners. You are putting it into the general electorate of the community and I believe that in some cases it should be there, but I believe in other cases it should be in the hands of the people who are the property owners. So, I don't see how under this amendment there has met any of the objections under which I asked reconsideration, and in which others objected to, I don't see where any of those objections have been met. If anything, the substance matter here has been to strengthen the thing which we desire to not be done, that the legislature could not establish regulations for elections on bond issues in local political subdivisions.

COGHILL: Mr. President, may I ask Mr. Rivers a question?

PRESIDENT EGAN: You may, Mr. Coghill, if there is no objection.

COGHILL: Sir, has it been your interpretation that the line that says that "not less than a majority of the qualified voters of the state or of the respective political subdivisions voting on the question" means in here that the legislature in making additional requirements can't provide that a majority of the qualified voters are property owners of that subdivision?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: It is my opinion that the qualified voters have nothing to do about whether or not they are property holders.

It just says "qualified voters" and as I understand the interpretation, that is a person that has been one year in the Territory and 30 days in their precinct.

COGHILL: So the "respective political subdivision" does not qualify him as a resident or property holder of that?

V. RIVERS: That is exactly right and I am sure that the courts will hold it that way.

COGHILL: Well, then I am opposed to it.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I had something to do with helping to write this amendment and if it says what Mr. Rivers says that it means, certainly I didn't do a good job, because what I intended in writing a somewhat similar amendment which I gave the Committee, was that the legislature could establish qualifications of voters in these elections -- something more than just being a qualified voter and that something more could very well be only property owners and certainly that is what I hoped it would be. I am still consistent with the position I took yesterday. I don't believe that bond issues should be passed, at least in local districts, with anybody except property owners voting on them and it would be my idea that the legislature probably would make that provision. The language is drawn to the best of my ability to allow them to do that if they thought it was wise.

PRESIDENT EGAN: Mr. Hinckel has been trying to get the floor. Mr. Hinckel.

HINCKEL: I would like to ask a question of the Committee. I submitted to them a suggestion and if they had adopted my suggestion this would now read, "be approved by not less than a majority of the voters of the state or respective political subdivision qualified to vote on the question". I thought that would cover it and I just wondered if they had some good reason for feeling that that was not an acceptable suggestion.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President. Mr. Hinckel, in considering the two amendments, Mr. Hinckel, we thought that Mr. Davis's and yours both did the same thing except that when we got Mr. Davis's, it had the words "not less than" in it and yours at the time we got it, did not. I am sure the Committee is trying to arrive at the same goal that both you and Mr. Davis are trying to arrive at because that was what we had intended originally. The only reason we adopted Mr. Davis's amendment was because we thought it accomplished that purpose.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Davis, we use these words "qualified voters in a general election". I wonder if the term "qualifying voters" wouldn't clear up the general election "qualified voters".

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Gray, I think it might be, I believe that Mr. Hinckel has a better answer to that particular problem than using the word "qualifying". The only thing is that, as I see it, Mr. Hinckel's language goes one step further than mine. It would require the legislature, by implication at least, to set up some procedure which would require, or which would set what the "qualified voter" was. Now the language I have used does not. I would hope that the legislature would do so but I have left it strictly up to the legislature as to what they wanted to do in that line.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, there were some of the others of us that worked on an amendment and I rather thought that it would be taken care of when Mr. Davis met with the Committee and our suggestion was to strike "qualified voters" and insert "voters qualified to vote on the particular issue as the law may provide". Then if it is a state level they could specify that the qualified voters would be the electors. If it is a local issue the qualified voters or those qualified to vote on that issue may be the property holders. The law could put a blanket rule one way or the other and I think you would have the whole thing taken care of on that.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I think the Committee has done an excellent job on this question and if Mr. Hinckel's or Mr. Londborg's suggestion is followed to its logical conclusion a very necessary bond issue could be defeated by merely staying at home. To make it concrete, this is the important language: "a majority of the qualified voters voting on the question". Now if you adopt Mr. Hinckel's suggestion, as I understand it, if there were, say, 9,000 qualified voters in Juneau, it would take 4,500 affirmative votes to pass any bond election.

HINCKEL: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Hinckel.

HINCKEL: He referred to the amendment that I mentioned here and the words on lines 11 and 12 "voting on the question" were not deleted so it would still be the ones voting.

PRESIDENT EGAN: You have a different amendment to it, Mr.

Hellenthal? Don't you have Mr. Riley's proposed amendment?

HELLENTHAL: No, I think I am speaking on Mr. Hinckel's suggestion. Now that is unduly harsh.

KILCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: Are we debating a suggestion or are we debating an amendment?

PRESIDENT EGAN: We are debating the particular amendment, Mr. Kilcher.

HELLENTHAL: I merely illustrate this to show why the choice of the words "a majority of the qualified voters voting on the question" -- in other words, I think the Committee's choice is most wise.

NERLAND: May we have a two-minute recess to see if we can resolve this?

PRESIDENT EGAN: Is it the desire of the body to have a recess? If there is no objection the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Nerland.

NERLAND: Mr. President, after considering various phases and various suggestions that have been offered here, the Committee definitely feels that this present amendment does cover all objections that have been raised and since the wording will allow the legislature to place additional requirements on the percentage of the majority that is to be required and additional qualifications of the voters, such as being on the property tax roll, etc., the Committee is in favor of allowing the present amendment to stand.

UNIDENTIFIED DELEGATE. Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all those opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 30 - Awes, Barr, Boswell, Collins, Cross, Davis, Gray,
Hellenthal, Hinckel, Johnson, Kilcher,

Knight, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, Smith, Stewart, Taylor, Walsh, White, Wien, Robertson.

Nays: 19 - Buckalew, Coghill, Cooper, Doogan, Emberg, H. Fischer, V. Fischer, Hermann, Hurley, King, Laws, Lee, Londborg, Nordale, Riley, V. Rivers, Rosswog, Sweeney, Mr. President.

Absent: 6 - Armstrong, Harris, Hilscher, R. Rivers, Sundborg, VanderLeest.)

CHIEF CLERK: 30 yeas, 19 nays and 6 absent.

PRESIDENT EGAN: And so the "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 8? Mr. Kilcher.

KILCHER: I am sorry I have to ask a question of Mr. Nerland. There is something very unclear in my mind about this.

PRESIDENT EGAN: If there is no objection, Mr. Kilcher, you may ask your question.

KILCHER: At the end of the first sentence -- "voting on the question" -- now is that the subdivision voting on the question or is that the qualified voters voting on the question?

NERLAND: It is the intention of the Committee that that be the voters voting on the question whether it be the state or the political subdivision on the particular question that might be involved.

KILCHER: So "voting on the question" does not pertain to the last part of the sentence that starts "or of the respective political subdivision"? It pertains to "state", too?

NERLAND: That is correct.

KILCHER: Thank you.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have an amendment to the committee amendment that was just adopted. It is to Section 8.

PRESIDENT EGAN: You may submit your amendment, Mr. Cooper. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 8, lines 4 and 5, delete 'not less than'; line 6, delete 'qualified voters of the State or of the respective political subdivision voting' and insert in lieu thereof

on line 5, the following: 'votes cast by voters qualified to vote'."

PRESIDENT EGAN: Will the Chief Clerk please read the section now as it would read if the proposed amendment is adopted.

CHIEF CLERK: "Section 8. No debt shall be contracted by or in behalf of the State, or any political subdivision thereof, unless the debt shall be authorized by law for capital improvements specified therein and be approved by a majority of the votes cast by voters qualified to vote on the question."

PRESIDENT EGAN: Mr. Cooper, what is your pleasure with relation to this?

COOPER: I move the adoption of this amendment, Mr. President.

PRESIDENT EGAN: Mr. Cooper moves the adoption of the proposed amendment. Is there a second to the motion?

HINCKEL: I'll second it.

PRESIDENT EGAN: Mr. Hinckel seconds the motion. The motion is open for discussion. Mr. Cooper.

COOPER: Mr. President, this would, I believe, satisfy the argument of Mr. Hellenthal in that it would be the majority of the votes cast by the qualified voters, or the voters qualified to vote on the question, and in addition, would not delete the additional requirements and qualifications that may be provided by law.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I am fully satisfied by the amendment that was just adopted. It says a "majority of the qualified voters voting on the question". That, to my mind, is identical to saying "majority of the votes cast at the election".

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: May I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may, Mr. Rivers, if there is no objection.

V. RIVERS: Don't you think the words "qualified voters" have a legal implication beyond what you are trying to read into them or think the legislature could read into them?

HELLENTHAL: None whatsoever, Mr. Rivers.

V. RIVERS: "Qualified voters" has a meaning and intent and

interpretation that makes this wide open for every voter that will fulfill our legal requirements?

HELLENTHAL: No. Mr. Rivers, I am quite impressed with your argument as to local elections, that the property requirements should be required, and I wonder if you might consider offering an amendment along that line?

V. RIVERS: I don't mind if we could clarify the situation. I want it to be clearly understood that our intent as I understand this body was as we just voted, I want it understood that it was the intent that the legislature could establish qualifications and modify the meaning of "qualified voters".

HELLENTHAL: "Qualified voters" is very clearly defined in the constitution and I think this committee proposal we have just adopted is excellent and unambiguous.

V. RIVERS: May I have the privilege of the floor for a moment?

PRESIDENT EGAN: You may, Mr. Rivers, if there is no objection.

(Mr. Victor Rivers spoke under the personal privilege of the floor.)

HERMANN: I had a little bit of trouble with that phraseology, too, because it seems to me that there might be a great many more qualified voters in a district or in an election precinct than actually voted and how are you going to discover what a majority of them is? I think there should be something in there that a majority of them who voted on the issue rather than just the flat term "qualified voters".

HELLENTHAL: May we have a recess for a minute?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the amendment proposed by Mr. Cooper. Is there further discussion on the proposed amendment? Mr. Hurley.

HURLEY: Mr. President, I know there is a lot of room for different interpretations and although the amendment as offered may be a little confusing in itself, to me it is less confusing than the term "qualified voters". I am sorry that I can't share with Mr. Helleenthal the certainty that "qualified voters" means what the Committee says that it does mean, so I think that discretion is the better part of valor and I shall vote in favor of this amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Cooper be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 30 - Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Lee, McNealy, Metcalf, Nerland, Nolan, Reader, V. Rivers, Rosswog, Stewart, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 19 - Awes, Collins, Davis, Gray, Hellenthal, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNees, Marston, Nordale, Peratrovich, Poulsen, Riley, Robertson, Smith, Taylor.

Absent: 6 - Armstrong, Harris, Hilscher, R. Rivers, Sundborg, VanderLeest.)

CHIEF CLERK: 30 yeas, 19 nays and 6 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 8? Mr. Robertson.

ROBERTSON: Mr. President, could we have the amendment read slowly?

PRESIDENT EGAN: The section as it reads now. Mr. Robertson?

ROBERTSON: Yes, please.

PRESIDENT EGAN: Would you please read the section as it reads now with the adoption of that amendment.

CHIEF CLERK: "Section 8. No debt shall be contracted by or in behalf of the State, or any political subdivision thereof, unless the debt shall be authorized by law for capital improvements specified therein and be approved by a majority of the votes cast by voters qualified to vote on the question." The rest is the same.

PRESIDENT EGAN: Are there other amendments to Section 8? Did we have a proposed amendment by Mr. Riley? What was to be your disposition of that, Mr. Riley?

RILEY: It is my memory, Mr. President, that this was the first time around on this particular section. It was postponed last

evening and I would like to defer immediate consideration of the amendment on the Clerk's desk.

PRESIDENT EGAN: Are there amendments to Section 9? We have been through all of these sections once, so we should start with Section 1, probably for the second time around. Are there amendments to Section 1? Section 2? Section 3? Section 4? Section 5? Section 6? Section 7? Mr. Emberg.

EMBERG: I have an amendment to offer for Section 7 but I don't know whether it is proper to put it in at this time, since Mr. Rivers hasn't come back and has a prior amendment to it.

PRESIDENT EGAN: Mr. [Ralph] Rivers' amendment, was it on Section 7 or Section 8?

CHIEF CLERK: Section 7.

PRESIDENT EGAN: You might read your amendment.

EMBERG: It was simply to strike Section 7.

PRESIDENT EGAN: This amendment proposes to strike Section 7, Mr. Rivers.

V. RIVERS: I think probably the amendment is in order. You might desire to act on the other one first. When Ralph [Rivers] left, he told me he would be back at 2:00 o'clock, so he has now run past that time so I could not ask the indulgence of the body any longer.

WHITE: Mr. President, I don't know if I could add anything to that or not but I rode into town with Mr. Ralph Rivers at the lunch hour. He told me that he had mentioned to one or more other delegates that if they thought his amendment was worth pursuing, to go ahead and do so; otherwise, to let it go.

PRESIDENT EGAN: The Chair was thinking of the reconsideration notice that had been served by Mr. Victor Rivers.

V. RIVERS: Mr. President, I was waiting to see whether we adopted some clarifying words in there and inasmuch as we did, I am not going to ask for reconsideration on that question.

PRESIDENT EGAN: With relation to Section 7, Mr. Emberg, we have the amendment hanging fire here that Mr. Ralph Rivers had offered and in some way we would have to act on that amendment before we could accept yours. Is Mr. Ralph Rivers in the building at this time?

UNIDENTIFIED DELEGATE: He is coming now.

PRESIDENT EGAN: Mr. Ralph Rivers, we are now bringing before

the body once more your proposed amendment as it was before we recessed.

R. RIVERS: I presented an argument in favor of it before I left. I think it would improve matters to change that wording but I don't seem to be getting any great enthusiastic support so I will submit it; if anybody wants to support me they are welcome to do so.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, line 3, delete the words 'the continuance of'."

PRESIDENT EGAN: Is there further discussion? Mr. Barr.

BARR: This amendment, I don't see that it adds anything to this at all. We are speaking in this paragraph of an allocation, not of any law or of any rate of taxation, just saying that money received from a certain source should be allocated. It says, "This provision shall not prohibit the continuance of this allocation." That is what we mean. It has nothing to do with any law, or wiping out our present law, or enacting a new one. If it did that, if they put in a new law, it would still have to be allocated. I don't see why we should discontinue those words at all.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I am awfully sorry that I am so dense here but I don't read it that way. I happen to read the following line, too, and it says that it existed "the date of ratification of this constitution". Now, I can see and I certainly hope that I'm not way off base in taking up time here, but I have to speak for myself, that it is quite possible that the Territorial legislature may, after the ratification of this constitution, eliminate one of these allocated funds and thereafter prior to the going into effect of this constitution, restore that allocated fund, either in the same amount or less, and it occurs to me that if they do that, why perhaps we should keep it. If it doesn't say that why then obviously I am wrong but I think that this refers to that, if at the next primary election this constitution is ratified the allocated funds that existed as of that date will not be affected. That is very true but if the legislature thereafter should cut those out and then at that time there would be no longer a possibility of having allocated funds whereas if they should put the same one back again it still would not follow through. I don't know if that is going going to happen or not but I can see the possibility. Now I hope I haven't taken up the wrong time here.

PRESIDENT EGAN: If the Chair might ask a question, is there any

manner in which this constitution can bind the legislature until the enabling act is passed by Congress and we become a state? Mr. White.

WHITE: Mr. President, I can't answer that definitely, I can only tell you the advice the Committee got. That is, the constitution can be retroactive in this respect, as set forth in this section.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, Mr. Hurley might like an illustration of what I'm getting at. The business license tax right now allocates 40 per cent of the amount of money which stems from businesses within incorporated cities to the cities. No, they allocate 60 per cent to the cities and they retain 40 per cent for the Territory of Alaska. If you keep these words "continuance of" in there, if the legislature decides to drop that 60 per cent allocation to the cities down to 50 per cent and then later tried to go back up to 60 per cent, you would have a partial abandonment of that particular 10 per cent and then you have a barrier in the constitution that prevents them from going up to 60 per cent again. In other words, you are putting in a barricade and taking away a little flexibility from the legislature. That does not exactly bear on your question though, does it, Mr. Hurley?

HURLEY: My mind is perfectly clear, you don't have to worry about that.

PRESIDENT EGAN: The Convention will come to order.

R. RIVERS: It is pretty hard to get through a fine distinction.

UNIDENTIFIED DELEGATE: Use the gas tax.

R. RIVERS: Well, the gas tax is a percentage allocation five per cent. We may continue five per cent but the legislature might some day want to go up to six per cent, but they couldn't because that would be additional freezing of what would be allowed here. If they want to drop down to three and then go back to five, once they drop it down to three per cent, they have a partial abandonment and then they couldn't go back again up to five. That is this continuance business. All you can do is continue. Anything you let go of you can never come back up on again. I've said if they want to do something and then re-enact up to the ceiling which they've got now, give them the power to drop below and re-enact again but I can't seem to get any aid on that.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe I've joined the ranks of those that are not so bright today. I get a different meaning out of this thing than Mr. Rivers, that he makes his amendment on. I kind of feel the same as Mr. Hurley does. I was trying to analyze this and I've got this that the subject matter of this amendment is the allocation for a special purpose and the article says, "This provision shall not prohibit allocation for special purposes existing upon the date of the ratification of this constitution." I think it means that any law on the books, that is earmarked funds for special purposes, that is law at the time that this constitution is ratified, may be continued. I cannot read any raise or decrease in the revenue from those revenue measures which bring in those funds as to whether an increase or decrease would invalidate it. I believe that what I get of Mr. Rivers' amendment, at this time it allows the allocation of those funds from a particular purpose for a special purpose to remain in effect. That is what I see of it, and I don't get the rest of it.

R. RIVERS: May I make a correction? When I was illustrating the gas tax about the going up to six, no that would be wrong, because absolutely allowing allocations as exist at the time this constitution is ratified would fix the ceiling, I am sure, as to how high they could go. I'll call this the closing, if you wish, Mr. McCutcheon. But certainly they could go through. Now, when Mr. Taylor read my proposed amendment, he said "allocations allowed at the time this goes into effect" and he may have inadvertently omitted "continuance of". All I'm objecting to is this "continuance of". I'm in accord with their idea of not letting any more allocations come along, but when you say "continuance of" allocations I immediately think of the rate of allocations as well as the subject matter. Now if they are only going to allow allocations on particular subjects that are now covered by allocations then I have no quarrel with them whatsoever but I am sure that's not the intent of the Committee. The Committee intends to allow such rates of allocations as will exist when this constitution is ratified but no one may go beyond those rates in the future and if they ever drop down, this continuance business does not allow them to re-enact.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, if as Mr. Rivers deduces, the terminology of this sentence means that the rates are frozen. The principle behind this sentence is not that the rates are frozen, it is the principle of allocating earmarked funds. It is not a matter of percentage wise, it is a theory of earmarked funds and I can't see his argument in this by striking out "continuance". He proposes that this is going to cure the proposition of a freeze. He thinks it is a freeze. It is not a freeze in any respect of the word as far as I can see; it is a matter of a theory of earmarked funds and doesn't have anything to do with dollar and cents or percentages.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask the Committee what their intent was on that. I would like to hear what they say.

PRESIDENT EGAN: Do you wish to answer that, Mr. White?

WHITE: I think I can answer for all the Committee on that, Mr. Rivers. It is not the intent of the Committee that this be interpreted to mean a freeze in any way, shape, or form. The Committee feels that the objections raised by Mr. Rivers are covered by the existing language. The reason the Committee resists the deletion of the words "continuance of" is that it would then mean that the legislature could discontinue a presently earmarked fund next year and then 50 years from now bring it back into being. We do not intend that that be the case.

V. RIVERS: If you are not freezing an amount, could they raise an existing allocation under this? On the gasoline tax could they raise that to six per cent according to your thinking on this?

WHITE: Certainly they could.

V. RIVERS: If they lowered it down to three could they then reenact two more after that?

WHITE: The Committee intends that this not have any reference to rates at all. The Committee intends that this apply to the allocation of particular taxes to a particular purpose and no more than that.

V. RIVERS: I just wanted this in the record. Now if they wipe it out altogether, discontinue it, it's gone forever, is that right?

WHITE: That is right.

V. RIVERS: But if you discontinue half of it, you can raise it back up?

WHITE: That would mean that.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 7? Would the Chief Clerk please read the proposed amendment as offered by Mr. Emberg.

CHIEF CLERK: "Strike Section 7."

EMBERG: I move the adoption of the amendment.

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Emberg moves the adoption of the amendment. Mr. Knight seconds the motion. Mr. Emberg.

EMBERG: I think Section 7 is a compromise dedicated on the principle that there will be no earmarking of funds; then it goes ahead and provides for them, and this also raises in my mind the question, the real issue here is whether or not we wish to provide in this constitution a constitutional rule against the earmarking of funds. I say from my own point that a lot has been brought in on this subject for both sides from the previous debate on this subject so I won't go into that too much but I say I prefer to leave it to the legislature and if they feel that is the best, the most efficient way to use the funds of the Territory, that the continuity of programs in scientific research, capital improvements, roads, schools, in the opinion of the legislature that they should earmark funds, then I am for it.

PRESIDENT EGAN: Is there further discussion? Mr. Rosswog.

ROSSWOG: Mr. President, I think I'm against earmarking of a lot of funds but I do think this should be left to the legislature. I think when you put provisions in the constitution like this it means that they will just try to find ways around them.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I don't see anything in Section 7 that has anything to do with earmarking funds. Maybe I have the wrong section.

R. RIVERS: It's a new number.

HERMANN: What's it about? What is the subject?

PRESIDENT EGAN: "All revenues shall be deposited in the state treasury without allocation for special purposes..."

HERMANN: I have that marked 8.

PRESIDENT EGAN: Is there further discussion? Mrs. Nordale.

NORDALE: Mr. President, I think it would be a great mistake to eliminate this section from the bill because it is a very difficult thing to un-earmark earmarked funds once they're set that way because your lobby groups are very powerful and I think you ought to think twice before you throw it out.

PRESIDENT EGAN: Mr. Cooper.

COOPER: All I have to say is that I am not particularly in favor of earmarking all the funds but I would like to transpose the word "never" for the word "shall not" and I don't think that restrictive a clause should be put in our constitution. Eventually, at some time during the life of this constitution, there will be the need or the requirement of earmarking some fund which will be derived either by a special tax or a state tax or a license. Therefore, I support the amendment.

DAVIS: I wonder if he would tell us what line he is working on there?

COOPER: Section 7, the last line as amended by the Committee. It now reads: "The proceeds of any state tax or license or part thereof shall not be allocated to any special purposes." In thinking of this, merely thinking of it as being "shall never be allocated to any special fund". I say "never be" extends too far from the scope of this Convention sitting here.

DAVIS: May I ask what Mr. Cooper wants to put in place of that?

COOPER: I don't want to put anything in there. I merely use that as support for Mr. Emberg's argument that there is or can possibly at a future date, be a need or a cause for earmarking some fund for some state tax or license.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Just to clarify it for the delegates, in striking this Section 7, as proposed by Mr. Emberg, it would therefore leave no restrictions whatsoever on the legislature nor would it provide that any existing funds that we have now earmarked and that we have to safeguard would have any constitutional backing. It would just leave it strictly to the legislature as it is right now.

PRESIDENT EGAN: Mr. Barr.

BARR: In Colorado, approximately 90 per cent of the tax collections are earmarked. In Texas, 85 per cent, Kansas has over 140 dedicated funds which embrace over 80 per cent of the state's revenue. Now the thought was suggested here that we should leave it up to the legislature. Over a period of years we have several different legislatures made up of different people and the feelings of these people towards earmarked revenues vary from year to year. We might have a legislature that sometime would earmark approximately 90 per cent of our tax revenue, and once it's earmarked it is frozen. We have heard here how the sportsmen want all the licenses earmarked and they

are not unique in that respect by any means. The commercial fishermen's license is earmarked, goes to the sick and disabled fishermen's fund and if you want a fight on your hands just try to get that un-earmarked. In the last session of the legislature it was proposed that all the fuel tax should go into the general fund and we were flooded with wires of protest from all over the Territory, especially by organizations, truckers, etc., who use gas. Our other largest earmarked fund is a tobacco tax to be used for schools and I believe it should and that is one thing that the people of this Territory want is that tobacco tax for the schools because they realize the great need for schools and all you have to do is earmark another fund and it will never be un-earmarked. If we leave this up to the legislature, to succeeding legislatures over a period of years, we will end up like poor old Texas and Colorado. We won't have anything in the general fund for appropriations.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: If we should happen to strike Section 7 it will be a very, very great mistake. Like Mr. Emberg said over here a little while ago, this was a compromise in your Committee. That is true, there was a couple of us who were for striking all earmarked funds but we compromised on account of the various ones who were interested in schools and roads, etc. I, personally, am in a peculiar position. I happen to believe in the fish and wildlife very much and would like to see somehow that it was earmarked but being against earmarking on other things that are coming up I would have to vote against it. There is also another thing to come into this if you strike it there will be more and more earmarking. It can become a political issue. People will go out and tell certain parties they'll do this for you if you vote for me, I'll see to it that this is earmarked for a swimming pool, or some such thing. That is about the best way I can explain it but I certainly hope that everybody here will consider this very, very carefully, because this is an important item.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: One more observation. The people in this assembly shouldn't overlook this fact, that the earmarking of funds is the fashion in which higher taxes are foisted upon segments of industry or the public. The people in these various classifications of industry or public feeling that this money is coming to them, are willing to submit to higher taxes, and it is not a matter of good fiscal arrangements to be taxing segments or classifications of our society or industry for special purposes at higher rates than should be charged or properly assessed against that classification or that group of industry. Consequently, I am opposed to the striking of this section.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I also am opposed to scratching Section 7. I think the real evil inherent in earmarking is that it so often leaves the general fund short of funds on which to operate. I can recall one occasion in our Territorial history, during the war when the road fund had been built up to quite a considerable amount and it was impossible to build roads. There was no material available and no help available and that sum pyramided up to a very considerable amount while at the same time the Territory was borrowing money in order to meet its monthly current obligations. Now, I know we can't legally borrow money but the fact of the matter is that we did, and I am not opposed to funds for roads as was suggested here this morning and I think the funds that are already earmarked are probably properly earmarked but I would hate to see the door left open to earmarked additional funds with the probable effect of reducing the general fund to the point where the services to the citizens of the Territory and the expense of operating the Territory had to be seriously curtailed. I oppose striking Section 7.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Emberg be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Roll call, please.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 8 - Cooper, Emberg, H. Fischer, Kilcher, King, Rosswog, Sweeney, Taylor.

Nays: 41 - Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Walsh, White, Wien, Mr. President.

Absent: 6 - Armstrong, Doogan, Harris, Hilscher, Sundborg, VanderLeest.)

CHIEF CLERK: 8 yeas, 41 nays and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 7? The Chief Clerk will please read the proposed amendment as offered by Mr. Kilcher.

CHIEF CLERK: "Section 7. Add to Section 7, after changing period to a comma, 'but discontinuance shall not preclude reinstatement'."

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PRESIDENT EGAN: Mr. Kilcher, what is your pleasure on that?

MCLAUGHLIN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I think we have already decided that issue before.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment again.

(The Chief Clerk read Mr. Kilcher's amendment again.)

KILCHER: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Kilcher moves that the amendment be adopted. Now on Mr. McLaughlin's point of order, is it a point of order? If there is no objection the Rules Committee may decide the question. The Chair does not know what Mr. McLaughlin means.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin.

MCLAUGHLIN: I'll remove my point of order.

PRESIDENT EGAN: Mr. McLaughlin removes his point of order. Is there a second to Mr. Kilcher's motion?

V. RIVERS: I'll second it.

PRESIDENT EGAN: Mr. Victor Rivers seconds the motion. Mr. Kilcher.

KILCHER: Mr. President, I think the problem is simple. In making a compromise between allowing any or no earmarked funds at all, this would make compromise strongly in favor of earmarked funds, that those funds that are earmarked that we used to receive earmarked and that are earmarked now and that will be earmarked in the early stages of the state, if they, for some reason or another should be discontinued temporarily, discontinuation should be considered temporary; that, in other words, it would permit this category of earmarked funds to be earmarked at will by the legislature; that temporary discontinuation should not remove that category from earmarked funds forever; that the practice could be taken up again after a year or two, that may be after learning, for instance, that discontinuation has brought harm in one quarter or another. The next legislature might have learned by the experience and be permitted to reinstitute the practice that has been going on for 10 or 20 years. That is the intent of the amendment, and I think it

should be given due consideration.

PRESIDENT EGAN: Is there further discussion? Mr. White.

WHITE: Mr. President, I would like to take the occasion of this amendment to make a statement on Section 7 and in so doing, I will close the amendment. I cannot leave this section in good conscience without agreeing with Mr. Emberg when he says that this is a compromise. Actually, I don't see how you can be against earmarking in principle and allow for the continuation of existing earmarked funds. Now I am a minority of the committee in this respect. I do not intend to submit a minority report and I do not intend to submit an amendment to strike this sentence. However, if anyone should, I would certainly support it. I am afraid it is a matter of political expediency that we are keeping this sentence in here. I certainly would not say that because the sentence is in we should strike the whole section because I think this is probably as far as we can go. I think it very probable that if such an amendment were offered -- an amendment to strike the last sentence -- we would here and now have a very good illustration of how difficult it is to get rid of earmarked funds. Mr. Kilcher's amendment is far from making it easier to retain these earmarked funds, and I would like to put myself on record as thinking that we should eliminate the ones we have now.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I support Mr. Kilcher's amendment as stated and for the reasons he stated.

PRESIDENT EGAN: Mr. Barr.

BARR: I would like to add a little to what Mr. White said. He was only in the minority in wanting to abolish all earmarked funds. The Committee was unanimous in being against the principle of earmarking funds. Some of us, including myself, fought to retain the earmarked funds we now have but we were unanimous in agreeing that the principle was bad. Now, the question here on this amendment is, whether or not you want to retain a certain percentage of our tax revenue as earmarked funds. This amendment would do that from now on. Under the present wording, it would retain it until such time as the legislature wished to repeal some of our present earmarking laws. If you are against the entire principle of earmarking, of course, you would want to retain this language.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, if earmarking is good now, which the Committee grants us, I think that it should be good in the

future. I am not for a lot of earmarking but I don't think we in the Territory of Alaska earmark too many funds. We still haven't got that road built in Spenard and we paid for it several times and I am not sure we're going to get it next year and I am going to go along with Mr. Kilcher's amendment, so that we can have earmarked funds in the future if it is a good thing.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? Mr. Kilcher are you closing?

KILCHER: The words "political compromise" has been brought up and I certainly would be one that would oppose any such compromise. I have done so in the past, but I think we should compromise in the principle. We could compromise in the principle so far as our spheres have shown that there have been advantages so far in earmarking certain funds. About others I don't know the problem, but we should preserve that part of the principle that believes in earmarked funds. We should preserve that in the future and at least give it a good try. If, after abolition of some earmarked funds, the legislature should find out it was a good thing to abolish it, I trust the legislature if they want to reinstitute it, but if the legislature should find out it was a bad thing to abolish it, it should have the power and be given the chance to reinstitute it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?"

KILCHER: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 20 - Coghill, Cooper, Cross, Emberg, H. Fischer, Hinckel, Johnson, Kilcher, King, Londborg, Marston, Metcalf, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Taylor, Mr. President.

Nays: 29 - Awes, Barr, Boswell, Buckalew, Collins, Davis, V. Fischer, Gray, Hellenthal, Hermann, Hurley, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, Robertson, Walsh, White, Wien.

Absent: 6 - Armstrong, Doogan, Harris, Hilscher, Sundborg, VanderLeest.)

CHIEF CLERK: 20 yeas, 29 nays and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Buckalew.

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BUCKALEW: I have an amendment.

PRESIDENT EGAN: Mr. Buckalew, you may offer your amendment. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 7, page 3, line 2, delete the last sentence."

PRESIDENT EGAN: What is your pleasure, Mr. Buckalew?

BUCKALEW: I move its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the proposed amendment.

WHITE: I second the motion.

PRESIDENT EGAN: Seconded by Mr. White. The question is open for discussion. Mr. Buckalew.

BUCKALEW: Mr. President, I had drawn this proposed amendment yesterday. I am not going to argue it extensively. I just want to point out to the delegates that the Committee has admitted that it is bad practice to earmark funds; they have admitted that the sensible sound way to run a state is to abolish this practice which leads to evils as far as the fiscal management of the state is concerned. I ask you to let the new State of Alaska and the Territory start off with a clean slate and no earmarked funds at all. I ask you further to forget about the political implications in voting to do away with existing earmarking of funds. It is a good practice but I think we have a duty to the new State of Alaska to vote on what we think is fundamentally sound and I ask all of you to support the amendment.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I would like to ask Mr. Buckalew a question, if I may.

PRESIDENT EGAN: You may ask your question, Mr. Coghill.

COGHILL: Under your proposed amendment, Mr. Buckalew, you have struck the provision that allows the continuance of these particular earmarked funds. What would you propose that the new state would do with the 31 school districts in Alaska that have mortgaged themselves to the Alaska Public Works on the intent of the revenue brought in by the Alaska tobacco tax distribution?

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Very simple. They would just appropriate the money that comes into the 31 school districts.

COGHILL: Wouldn't that be a special appropriation and discrimination, a special appropriation to different schools?

BUCKALEW: I wouldn't think so. They would have to take care of the old obligations and the only way they can do it is to appropriate the money and pay off the obligations.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I would like to express my view on this thing. I think we could see a fine example of what happens when we don't give a thorough consideration of our actions. Now as far as I am concerned, I participated in the deliberations of the Committee. As you all know, from your own experience within your own committee, you have to compromise and one of my compromises was this provision that we had here. I, too, felt that after I heard the arguments in the Committee, that perhaps it was dangerous to give free rein to the new state in earmarking funds. However, I realize, as I stated here today, that there was some good being accomplished by those earmarked funds that we have on the books today and I feel that I cannot support this on that condition. I don't see how the rest of my committeemen can go along with this amendment for the simple reason our proposal here is the outcome of a compromise. We went both sides of the question and we felt that perhaps it is a good thing to retain the provisions that we now have on the books but not permit any further earmarking of funds. I am, therefore, against this amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, like Mr. Peratrovich, I can see nothing wrong in a committee compromise nor can I see anything wrong in a compromise by the Convention. I believe it was Benjamin Franklin who said that a constitution is a bundle of compromises, and that is the way it should be.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I would have to speak against this amendment, particularly in regard to the gasoline tax. Any time that a tax of that percentage of the cost of an article is put against anything, why the people who are using the article and are, therefore, paying the tax, should be allowed to benefit from the tax and it is only through the earmarking of the gasoline tax for roads and boat harbors and airfields, etc., that the people do get their money back. I just couldn't support this amendment at all.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: I believe it was the opinion of the majority of the Committee that these present earmarked funds were of such

importance in their specific nature and considered so important by so many people in the Territory that in spite of a feeling by the Committee that earmarked funds in general should be frowned upon, it was felt that those now on the statute books should be left in effect as long as the legislature saw fit to leave them there. We anticipated that perhaps sometime in the future that there may not be the need that there is now and the legislature could remove them. I want to register my disapproval of this proposal.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I see in this amendment one purpose which I don't approve of and that is if the amendment passed, it is simply a veto to Colonel Marston's road. Therefore, I am against it. (Laughter)

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I already addressed myself on this section on the previous amendment so I will be brief. I think most of the delegates that have been speaking have tried to maintain that the present earmarked funds are good because their end product is good. I think there is no quarrel with that statement. The end product of any earmarked fund is good but if the end product is good and desirable it is perfectly reasonable to assume that future legislatures will see it the same way and will appropriate sufficient funds to carry out the programs that are now being carried out through earmarked taxes. I can only say that I agree with Mr. Buckalew that if this Convention decides -- as it apparently has decided -- that earmarked funds are bad, then all earmarked funds are bad and we should have the courage of our convictions and wipe them out here and now. I think it is a matter of expediency -- I shouldn't have said "political" previously -- but a matter of expediency, that of leaving them in and I have enough confidence in the voters of the future State of Alaska to feel that they would not defeat any constitution merely because some pet project, some pet earmarked funds are wiped out herein.

PRESIDENT EGAN: Mr. Coghill, you asked a question?

COGHILL: Mr. President, the first time I arose I asked a question and this time I rise to speak against the proposed amendment from the standpoint of not only the road tax but our Alaska tobacco tax which I think has been accepted by all of the people of Alaska as a fair and equal tax to its end product. I believe that the answer that was given by Mr. Buckalew to my question for appropriation destroys the fact of local initiative to provide further to the end that they can get a good educational system set up in a local school district. I believe that the authors of the tobacco tax law had in mind of stimulating local interest, public interest, along with providing a token towards

building up the school system. Therefore, I oppose this amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 7? If not, are there amendments to Section 8? Mr. Coghill.

COGHILL: I have an amendment, Mr. President.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 8, after the word 'question' on line 12, strike period and insert a comma, delete 'Additional' and 'may' and insert 'to' in sentence inserted by Committee amendment."

PRESIDENT EGAN: What is your pleasure, Mr. Coghill?

COGHILL: I move and ask unanimous consent for the adoption of the amendment, Mr. President. I have the mimeographed sheet here that was adopted, and that was the one that I was amending. It would read, "The votes cast by voters qualified to vote on the question, requirement and qualifications to be provided by law."

PRESIDENT EGAN: The Chief Clerk will please read that portion of the section as it would read if the proposed amendment was adopted.

CHIEF CLERK: "No debt shall be contracted by or on behalf of the state or any political subdivision thereof unless the debt shall be authorized by law for capital improvements specified therein and be approved by a majority of the votes cast by voters qualified to vote on the question, requirements and qualifications to be provided by law."

PRESIDENT EGAN: Is there objection to Mr. Coghill's unanimous consent request?

BUCKALEW: I'll object.

PRESIDENT EGAN: Objection is heard. Is there a second?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The motion is open for discussion. Mr. Coghill.

COGHILL: Mr. President, there was quite a lot of lengthy discussion on this subject and I thought by my amendment, it would just clarify the requirements and qualifications to be provided by law. Otherwise it would just state that the votes cast by voters qualified to vote on the question and there is still no reference to what the qualifications are and then there was an additional sentence that said, "Additional requirements and qualifications may be provided by law." I was just trying to clarify the intent of the Convention as to the amendment that was made by Mr. Cooper.

HELLENTHAL: Would you read your amendment again?

COGHILL: It says, "votes cast by voters qualified to vote on the question, requirements and qualifications to be provided by law". Take out the "additional" requirements and just provide that "requirements and qualifications are to be provided by law". In other words, leave it up to the legislature.

HERMANN: May I ask Mr. Coghill a question?

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. Coghill, do you mean to leave it entirely to the legislature or to the initiative and referendum, also? That is also going to pass law, you know.

COGHILL: "To be provided by law" and then an initiative law, a referendum law is a law.

HERMANN: The second time you said "by the legislature". I wanted to make sure --

COGHILL: "Provided by law".

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Coghill be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Boswell, Coghill, Cooper, Cross, Emberg, H. Fischer, Hurley, Johnson, Kilcher, King, Laws, Londborg, McNealy, Marston, Metcalf, Peratrovich, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney.

Nays: 26 - Awes, Barr, Buckalew, Collins, Davis, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Knight, Lee, McCutcheon, McLaughlin, McNees, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, Taylor, Walsh,

White, Wien, Mr. President.

Absent: 6 - Armstrong, Doogan, Harris, Hilscher, Sundborg,
VanderLeest.)

CHIEF CLERK: 23 yeas, 26 nays and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 8? Mr. Riley.

RILEY: Mr. President, for the last time today I shall presume on the Convention's time by asking for a recess of five minutes.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Robertson.

ROBERTSON: I would like to make an amendment to Section 8. It is very simple. It is only two words and I'll make it orally, if I may. It is in the amendment offered by the Committee which has been adopted. At the end of the line reading "additional requirements and qualifications" insert the two words, "of voters" and I so move.

PRESIDENT EGAN: After the word "qualifications" Mr. Robertson?

ROBERTSON: That is right.

PRESIDENT EGAN: Mr. Robertson so moves.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor asks unanimous consent that the proposed amendment be adopted. Is there objection? If there is no objection, the proposed amendment is ordered adopted. Mr. Gray.

GRAY: May I address a question to Mr. Robertson?

PRESIDENT EGAN: If there is no objection, you may.

GRAY: In your opinion when you have additional requirements and qualifications of voters, do you mean to include in that the percentage of voters?

ROBERTSON: No. I agree, apparently, with the others. I heard Mr. Davis and others discussing it. I think this specifically limits to a majority, the legislature can't increase it to a

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65 per cent or 55 per cent. The majority is just one over one-half but this way we then know if we can qualify the voters so they will have to be property owners.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have an amendment to Section 8. May I present it orally?

PRESIDENT EGAN: If there is no objection.

COOPER: Insert the words "not less than" before the words "a majority". I removed them in my original amendment but it was also tied in with some insertions; therefore, I now move that the phrase "not less than" be inserted before "a majority".

HELLENTHAL: I'll second the motion.

PRESIDENT EGAN: Was your original amendment, was it adopted, Mr. Cooper?

CHIEF CLERK: Yes, it was.

HELLENTHAL: I ask unanimous consent that the motion be adopted.

PRESIDENT EGAN: It is actually a suspension of the rules, but under a unanimous consent request it can be done. Is there any objection to the unanimous consent request? If not, then the proposed amendment is ordered adopted. Does the Chief Clerk have it in the proper place?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I'm still not clear on this and I would like to ask any one of the Committee or whoever would care to answer it for me, that on that "votes cast by voters qualified to vote on the question" -- where and how and in what manner are we providing for those qualifications? Are they property owners, are they just legal voters of the state or of the town? You are a legal voter of a community if you have lived there for 30 days. Is that what it means or does it mean you have to be a property owner to vote on it?

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, that does not mean that you have to be a property owner. It means that you must be a citizen of the United States, a resident of Alaska for over one year. Let me go at it again -- an actual and bona fide resident of Alaska for over one year, 19 years of age or over, a resident 30 days in the voting precinct in which you vote, not disqualified from

voting by virtue of being unable to read or write, not disqualified from voting by any other provision of the law. Those are the qualifications of voters.

UNIDENTIFIED DELEGATE: You mean in a state election?

HELLENTHAL: In a state election, state and local elections, and I refer to the article on elections and suffrage which starts out, "The qualifications for voters in all state and local elections shall be as follows..." and then they list them. Now property qualification is not such a qualification nor should it be because when you vote for your legislators and everything, property has nothing to do with it but under the provisions of this language where it says, "additional requirements and qualifications of voters may be provided by law", the legislature may properly, if it sees fit, impose a property qualification as an additional qualification but we are leaving it up to the legislature in the case of bond elections on the state or local level.

COGHILL: That answers my question. What I wanted to know was -- that was the purpose of my amendment -- I wanted to know whether with the "additional" requirements set in there, would it allow the legislature to provide for residency or property holding section in a locality where a bond issue is being circulated.

HELLENTHAL: Yes.

COGHILL: Thank you.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 3:40.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to be offered to Section 8? Mr. Riley.

RILEY: Mr. President, I have one to offer to Section 8, but I would like the benefit of full attendance if possible.

BUCKALEW: Mr. President, I move for a five-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for one minute. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, at the risk of trying the patience of everyone in the room, I have submitted an amendment which, in substance, was submitted this morning under the names of

half a dozen or more delegates. I haven't had an opportunity to check with each of them since, so unfortunately it bears my name alone. The amendment, which was passed out a few minutes ago, breaks the subject matter into two sections, one confined solely to state indebtedness and the other to political subdivisions. Strike all of Section 8 as we now have it and substitute these two sections for Section 8. Now I don't profess to be a short-term expert in any sense in the field of finance. However, certain shortcomings of language were called to my attention yesterday and again today, and I believe that many of those who joined with me earlier had the same feeling that improvement was possible. There are two features which should receive special attention in considering this amendment. As a matter of fact, I haven't asked for its adoption and I so move.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Strike Section 8 and substitute the following two sections and renumber the remaining sections:

'Section 8. No debt shall be contracted by or in behalf of the State unless the debt shall be authorized either by a two-thirds vote in each house of the legislature, or by a majority vote in each house with ratification by a majority of the qualified voters of the state voting on the question, provided that the State may by law contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural catastrophes, or redeeming outstanding indebtedness of the State at the time this constitution becomes effective.'

'Section 9. No debt shall be contracted by or in behalf of any political subdivision of the State, except for capital improvements and then only upon approval of at least a majority of those voting on the question and qualified to vote as prescribed by law.'"

PRESIDENT EGAN: Do you so move the adoption of the amendment, Mr. Riley?

RILEY: I do, Mr. President.

BUCKALEW: I'll second it.

PRESIDENT EGAN: Mr. Buckalew seconds the motion. Mr. Riley.

RILEY: Now this provision which starts on line 2 of the proposed amendment, stating "either by two-thirds vote in each house of the legislature or by a majority vote in each house with ratification..." is of course new matter, new concept in this discussion. While I personally won't press that issue too vigorously, I would like to point out that other states have

adopted it and apparently with full success as to the marketing of their obligations. From the Hawaiian Manual I read: "Massachusetts and South Dakota set up barriers to borrowing by requiring a two-thirds vote in each house upon all debt-creating legislation, while in Delaware three-fourths of the legislators must approve bond measures. Among the constitutions which explicitly provide for a state debt, only the Maryland constitution sets no debt limit or super-majority vote, qualifying legislative carte blanche only by the requirement that when a debt is incurred, provision be made concurrently for taxes to pay interest and principal." In this respect I submit only that this thought is not new, that it has been applied successfully elsewhere. Among other thoughts I have had on the subject and which have been confirmed by others is the statement on our Section 8 as it now stands that, "No debt shall be contracted by or in behalf of the state or any political subdivisions thereof unless the debt shall be authorized by law." That question arose last evening. There was doubt in the minds of some of the delegates whether "by law" meant that it was necessary that the legislature authorize the contracting of debt by lesser political subdivisions. I think that it was reasonably well resolved here on the floor last night. Understanding was reached that this would allow ordinance but it does not so state, it is not clear and I think that question is obviated in the amendment now before us. To pursue my reference to Section 8 as it now stands, the language "a majority of the votes cast by voters qualified to vote" has created doubt also as to the necessity of the voters of the state having to authorize capital improvements in Anchorage or Fairbanks or in Juneau. If such doubts are valid I would say that those two are cleared up in this proposed amendment now under discussion. I do think that handling the matter in two separate sections to differentiate between the two levels of government is a far cleaner approach and much more readily understood.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I speak in opposition to the amendment. As to the first section, I think there should be a debate on the subject of whether or not two-thirds vote in each house of the legislature or an alternative proposition, that is, ratification by the majority of the qualified voters. I think there should properly be a debate on that, but when we get into Section 2, or now called Section 9 of this amendment, it is not Style and Drafting as is suggested. There are basic omissions in Section 9 that I have before me over what we have just adopted. I have listed three and I have only had a few minutes to look at it. There is a complete omission of an authorization by law to precede the submission of the question to the qualified voters. Now it was explained that that was not meant that state law, the operation of state law precede the submission on the local level but I see absolutely no justification for omitting any reference to "unless the debt shall be authorized by law" from the language.

There is also a complete omission of the requirement that was voted by this body that the legislature could prescribe additional qualifications for voters. Now this is not at all clear in Delegate Riley's amendment and "qualified to vote as prescribed by law". Now that could mean the normal qualifications of voters for governor, senators, members of the house of representatives, and it could very easily be so construed when what is meant by this body is that additional qualifications including a property qualification can be included if the legislature so desires. Under this Riley amendment I don't think it is clear at all that the legislature could prescribe a property qualification if they wanted to and we are going to substitute uncertainty and ambiguity for the clarity of the amendments that were adopted a few moments ago. And the third thing and I think the most important thing that is omitted in the new Section 9 is this -- you will recall the original one, the one that is now adopted requires that a "majority of the qualified voters of the respective political subdivisions approve the bond issue". Under the Riley amendment those others are completely omitted. This brings me back to some remarks that Delegate Fischer made late last night. He said that he didn't like the provisions of the committee report because it would interfere with the borough plan. Now I think the interference with the borough plan is completely removed because the words "of the respective political subdivisions" have been removed. This amendment that we now have before us would permit the voters of say, an overlapping district a portion of them only could bond the whole district. I think it is dangerous. It substitutes not only uncertainty and ambiguity but it substitutes a possibility where a portion of a political subdivision could bind the adjoining areas to an indebtedness. I don't think it is sound, I think it is definitely unclear as to especially this second portion that deals with local government. Now when we get up on the state level, I don't operate on the state level too often and that is another problem as to when the new state shall be able to incur indebtedness. That is a new problem there which should be debated but to throw in with the "baby's bath" an entirely new version of local government indebtedness with three omissions, all of which are going to promote trouble, is too much for me.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I note another omission; it seems to me, from Section 9 by Delegate Riley's amendment, we have just adopted, put back in the words "not less than a majority" and he has a bare majority. Another thing I don't see is what is the use of having the clause commencing with "provided" in the fifth line in Section 8, at all. The reason I take it that the Committee put the first one in their amendment, was because the debt must be authorized by capital improvements specified therein so they made an exception by saying that the state "may by law contract debt for the purpose of repelling invasion..." etc. Now, there is no such condition preceding in Section 8 so

I don't see any sense at all in having the language "provided" because the first four and one-half lines give them authority to create any debt if they create it according to this proviso and that could be a debt to repel invasion or put down war or anything else, so I can't see the necessity of having that "provided" clause in there.

PRESIDENT EGAN: Is there further discussion? Mr. Buckalew.

BUCKALEW: Mr. President, I am going to only confine my remarks to Section 8. I want all the delegates to seriously consider Section 8. I think it does two things. It provides two different ways by which the state can incur indebtedness for capital improvements; one, by a vote of two-thirds of each house; the other method is by a majority of each house and then referring it to the people. Now the only reason that you have any limitations or restrictions on the legislature is to prevent the legislature from impairing the credit of the state. You don't want to get a runaway legislature and deplete the treasury or obligate the people for something that they can't pay for. Now it seems to me that if you are going to leave it up to a two-thirds vote of each house, that we are protecting the state more adequately than we are with the present Section 8 as we know it because you are going to have to get 14 members of the senate to go for this capital improvement. You've got another point. If you pass some sort of act to provide for capital improvements and you don't get the two-thirds majority in either the senate or the house, then you refer it to the people. I think the people are going to give that particular matter more consideration because they are going to know that one of the houses of the legislature turned it down. There is another consideration. I think it is going to save the State of Alaska a lot of money because initially you are going to have all kinds of items to vote on. There is going to be a lot of capital improvements that the new state is going to have to take care of and the people are going to be voting on all kinds of items. People from Naknek are going to be voting on some kind of improvement in Juneau and vice versa, and people are not going to know too much about it, but the legislature is going to be adequately and well-informed on any issue that comes up in this sort of nature and I think that two-thirds of each house will more adequately protect the credit of the state and I think this Section 8 should be supported and should be adopted; and another consideration, I think it is going to save the state a lot of money by providing that the legislature can adopt it on a two-thirds vote and I think that if you send all of these things out to the people, they're not going to understand it as well as the legislature and I think that as far as the bond buyers are concerned, my guess is that they will be more satisfied with Section 8 as Mr. Riley has drawn it than with the way that we now have it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can see some advantages in having the two sections where you specify the local political subdivisions separately. However, I can also see some of the questions raised by Mr. Hellenthal and I have an amendment that I believe will clarify that and in this amendment we merely insert between the word "vote" and "as" on the last line, "on the particular issue", and that would mean then the ones "qualified to vote on that particular issue."

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK: "Section 8, last line, insert after 'vote' the words 'on the particular issue'."

PRESIDENT EGAN: Mr. Londborg, what is your pleasure?

LONDBORG: I move the adoption of the amendment to the amendment and also would like to ask unanimous consent that in addition to that, instead of the words "at least" put "not less than" and that will conform with the original proposal by the Committee.

PRESIDENT EGAN: Then your proposed amendment to the amendment would include that, also, is that correct?

LONDBORG: That is right, Mr. President, if there is no objection and it would then read "...then only on approval of not less than a majority of those voting on the question and qualified to vote on the particular issue as prescribed by law." Now, that would give the legislature or whoever makes the law the right to specify what percentage of majority, if it is 50 per cent or 65 per cent or whatever they may wish, it may vary in the future, it would give the law the chance to specify whether they be property holders or not, it would also give them the right to specify who shall vote on the particular issue if it be those living in that particular subdivision, they are entitled to vote, or whoever it might be, leaving it entirely up to the law to specify but I think that should take care of nearly all of the objections that have been raised to this section.

PRESIDENT EGAN: You ask unanimous consent for the adoption of the amendment or did you so move?

LONDBORG: I so move that it be adopted.

PRESIDENT EGAN: Mr. Londborg so moves. Is there a second to the motion?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. White.

WHITE: By a little stretch of the imagination I would like to speak on the amendment to the amendment. It is probably a good amendment but I would like to suggest that we deal with the basic differences between this proposal, this proposed Section 8 and Section 9, and the existing Section 8. First of all, vote it up or vote it down. If by chance it is voted up, then get in to amending it because if we take this tack, we could be here all night.

LONDBORG: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Londborg.

LONDBORG: I believe that a person has a right to improve an amendment so that if it carries you are voting on the whole thing. Should this amendment as submitted by Mr. Riley carry and these not. I certainly would not want to have voted for the original amendment. I believe the issue should be on the amendment to the amendment.

PRESIDENT EGAN: Your point of order is well taken. The argument should be on the proposed amendment to the amendment. Mr. Hellenthal.

HELLENTHAL: I raise a point of order.

PRESIDENT EGAN: Your point of order.

HELLENTHAL: This Section 9 permits debts for capital improvements with no restriction. It says, "No debt except for capital improvements..." So capital improvements is no restriction.

PRESIDENT EGAN: Mr. Hellenthal, that would not be a point of order. The question now is on the proposed amendment to the amendment. Is there further discussion on the amendment to the amendment?

UNIDENTIFIED DELEGATE: Could we have it read please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed section as it would read if the proposed amendment to the amendment were adopted.

CHIEF CLERK: "Section 9. No debt shall be contracted by or in behalf of any political subdivision of the state, except for capital improvements, and then only upon approval of not less than a majority of those voting on the question and qualified to vote on the particular issue as prescribed by law."

PRESIDENT EGAN: Mr. White.

WHITE: Are we voting on the amendment to the amendment?

PRESIDENT EGAN: We are voting on the amendment to the amendment. Mr. Kilcher.

KILCHER: Mr. President, may I address a question to Mr. Londborg?

PRESIDENT EGAN: If there is no objection, Mr. Kilcher, you may address your question.

KILCHER: Mr. Londborg, "as prescribed by law", is that pertaining to the particular question or to the qualification of the voters?

LONDBORG: As I would take it, it would specify those who are qualified to vote. That is the way I intend the amendment to be. "The majority of those voting on the question and qualified to vote on that particular question." One law would tell us then who could vote on that one and then whatever majority is up to vote, that is fine.

KILCHER: I wanted to get this intent on the record, it is not plain from the language.

LONDBORG: My purpose of the amendment is merely to clear up what I think is an objection to the amendment and then beyond that you can argue the main issue. It is just to clear up what I believe is an objection.

KILCHER: In that case I am for the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 36 - Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Lee, Londborg, McNealy, McNees, Marston, Nordale, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Nays: 14 - Collins, Hellenthal, Johnson, Knight, Laws, McCutcheon, McLaughlin, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Robertson, White.

Absent: 5 - Armstrong, Doogan, Gray, Hilscher, VanderLeest.)

ROBERTSON: Mr. President, I would like to change my vote from

"yes" to "no".

PRESIDENT EGAN: Mr. Robertson changes his vote from "yes" to "no".

MCNEES: Mr. President, I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. McNees changes his vote from "no" to "yes". The Convention will come to order while the Chief Clerk tallies the ballot.

CHIEF CLERK: 36 yeas, 14 nays, and 6 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment to the amendment has been adopted. Mr. Riley.

RILEY: Mr. President, referring to Section 9, line 2, I now ask unanimous consent that the comma after the word "state" be omitted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the comma after the word "state" be omitted. Is there objection? Hearing no objection it is so ordered. Mr. Fischer.

V. FISCHER: Mr. President, in line with Mr. Robertson's suggestion of before, I would like to move that in line 2 of Section 8, after the word "authorized" the following three words be inserted: "for capital improvements". I ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent for the adoption of the proposed amendment. Is there objection?

UNIDENTIFIED DELEGATE: Could we hear the amendment again?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 8, line 2, after 'authorized', the following three words, 'for capital improvements' be inserted."

PRESIDENT EGAN: Did you still ask unanimous consent, Mr. Fischer?

V. FISCHER: Yes.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment? If there is no objection the proposed amendment is ordered adopted. Mrs. Nordale.

NORDALE: Mr. President, may I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may, Mrs. Nordale.

NORDALE: Was your very strong objection to this amendment based upon the fact that it did separate the two problems -- state debt from local debt?

HELLENTHAL: No. I think as a matter of style, that state debt should be separated from local debt but I object to the three omissions that were made in the separated portion dealing with local debt.

NORDALE: That could be corrected by amendment, couldn't it?

HELLENTHAL: Then we are right back to where we started.

NORDALE: Except that isn't it clearer to have them separated?

HELLENTHAL: As a matter of style, yes. But I think that we are amending the action we have already taken by three glaring omissions made in this Section 9.

NORDALE: Could those be remedied by amending?

HELLENTHAL: Sure.

NORDALE: Do you think it is better to handle them in a separate package?

HELLENTHAL: I think Section 9 should be stricken in this amendment. We have already acted on the matter, we have adopted a very sensible rule with regard to debt on the local level and I see no reason to go through the agony all over again.

PRESIDENT EGAN: Mrs. Nordale.

V. FISCHER: Could we have a recess, Mr. President?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the proposed amendment as offered by Mr. Riley to Committee Proposal No. 9. Is there further discussion? Is there anyone else who wishes to be heard before Mr. Riley closes?

RILEY: I didn't have closing in mind as much as amendments to the amendment, after consultation with Mr. Hellenthal and others. First it be that there be added to Section 9 the sentence, "Additional requirements and qualifications of

voters may be provided by law."

PRESIDENT EGAN: You offer that as an amendment to the amendment?

RILEY: I do. It is the language adopted earlier, adopted with respect to the present Section 8. "Additional requirements and qualifications of voters may be provided by law.

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Johnson.

JOHNSON: Point of inquiry, Mr. President. Would you say amendment?

PRESIDENT EGAN: Amendment to the amendment.

RILEY: A second point, Mr. President, would be the insertion after the word "question" on the last line of Section 9, "within the respective political subdivision". I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment to the amendment as amended. Will the Chief Clerk please read the proposed amendment to the amendment.

CHIEF CLERK: "In new Section 9 insert the following after the word 'question': 'within the respective political subdivision'.

PRESIDENT EGAN: Unanimous consent has been asked. Is there objection to the proposed amendment to the amendment? Mr. Hellenthal.

HELLENTHAL: That is singular, is it not?

RILEY: Yes.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment to the amendment? If there is no objection the amendment is ordered adopted. Mr. Barr.

BARR: I wonder why we are going to all this trouble with all these minor amendments to the amendment. We are using up a lot of time and every time we amend this amendment it gets closer to our original Committee report. If we like the original one why not accept it? There is a difference in that Mr. Riley's amendment here separates the matter dealing

with the state and the matter dealing with the local subdivisions, but the Committee on Style and Drafting has authority to rearrange matters such as that. I don't see why we're bothering with this at all. It seems that we liked the original report. Why didn't we stick to it?

HELLENTHAL: Mr. Riley has one more amendment, I think.

PRESIDENT EGAN: Mr. Riley.

RILEY: I was deferring to the Chairman of the Style and Drafting for a statement of his authority on that. I doubt that it extends that far. The third proposed amendment to the amendment is the use of the language "unless authorized by law" to be inserted on the second line following the word "state". Now, subject to Mr. Hellenthal's views on this, I am in doubt as to that being the proper spot for its placement, lest we get in trouble with "except for capital improvements".

PRESIDENT EGAN: Mr. McNees.

MCNEES: I have a question. Does this pertain to Section 9 now?

RILEY: Yes, Section 9.

PRESIDENT EGAN: Where was that offered?

RILEY: It was offered following the word "state" on line 2, but I would like to direct a question to Mr. Hellenthal.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Well, I think the original said, "No debt shall be contracted by or in behalf of the state..." then come some commas and then you read, "unless the debt shall be authorized by law". I think we have it in precisely the same place as it was in the one that has been adopted.

RILEY: How about using it as a preface to that sentence?

HELLENTHAL: I have no objection to that.

RILEY: I would prefer that lest we get in trouble on the language covering capital improvements, and so suggest that the first sentence, or that Section 9 starts "unless authorized by law" and I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment to the amendment as amended. Is there objection? If there is no objection the proposed amendment to the amendment is ordered adopted. Are there other amendments to the proposed amendment as amended? Mr. Smith.

SMITH: Mr. President, I don't have any amendment but I do feel that the major difference between the amendment as offered and the Committee section has not been brought out. The amendment allows a legislature by two-thirds vote to create a debt and personally I don't like that. I think the people should be allowed to vote on whether or not the state shall become indebted and the statement that the legislature is usually more informed on subjects of this kind than the people, I don't believe to be true. I don't think we would have to go very far back in the history of the Territory to bring out some very strong examples of actions by a legislature that would bear me out, and for that reason and that reason alone, I oppose the amendment.

PRESIDENT EGAN: Is there further discussion? Mr. Davis.

DAVIS: Mr. President, I would like to ask Mr. Riley a question.

PRESIDENT EGAN: If there is no objection, Mr. Davis.

DAVIS: I am wondering if having put the "unless authorized by law" in the place you have put it, if you haven't now made it say that, "No debt shall be contracted except as provided by law except for capital improvements." Isn't that how it will read now?

RILEY: That is what is disturbing me and that is what prompted my query of Mr. Hellenthal a moment ago. I confess that I think your point is well taken.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: I think we can all agree on one thing, that my initial reference to trying the patience was perhaps correct. We have, again I believe, come forward with a little improvement and I would read Section 9 as now proposed -- an amendment to the amendment. "Section 9. Unless authorized by law for capital improvements no debt shall be contracted by or in behalf of any political subdivision of the state and then only upon approval of not less than a majority of those voting on the question within the respective political subdivision and qualified to vote on the particular issue as prescribed by law. I won't read the last sentence.

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: I ask unanimous consent for that rearrangement.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed amendment to the amendment be adopted. Would the Chief Clerk please read Section 9 as it would appear.

CHIEF CLERK: "Section 9. Unless authorized by law for capital improvements no debt shall be contracted by or in behalf of any political subdivision of the state and then only upon approval of not less than a majority of those voting on the question within the respective political subdivision and qualified to vote on the particular issue as prescribed by law. Additional requirements and qualifications of voters may be provided by law."

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment to the amendment?

UNIDENTIFIED DELEGATE: May we have it read again, please?

PRESIDENT EGAN: The Chief Clerk will please slowly read the proposed Section 9 as it would read if the amendment to the amendment was adopted.

CHIEF CLERK: May I ask Mr. Riley a question?

PRESIDENT EGAN: You may.

CHIEF CLERK: What you do in this amendment is take out "except" and put "for capital improvements" after "unless authorized by law"?

RILEY: That is right, yes.

(The Chief Clerk again read the amendment to the proposed amendment.)

PRESIDENT EGAN: Unanimous consent has been asked for the adoption of the proposed amendment to the amendment. Is there objection? Hearing no objection the proposed amendment to the amendment is ordered adopted. Mr. White.

WHITE: Mr. President, I have an amendment to the amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment to the amendment as amended.

CHIEF CLERK: "Line 2 of the amended Section 8, strike 'either by a two-thirds vote in each house of the legislature or'."

WHITE: I move the adoption of the amendment to the amendment.

PRESIDENT EGAN: Mr. White moves the adoption of the amendment to the amendment.

MCNEES: I'll second it.

PRESIDENT EGAN: Mr. McNees seconds the motion. Mr. White.

WHITE: Mr. President, this gets us back to the point, I think. The major difference between the committee proposal as amended here all afternoon on the floor and this amendment to the amendment to the proposal is this matter of allowing debt to be incurred by a two-thirds vote in the legislature. In opening the argument for the adoption of this amendment, Mr. Riley said that it had the added feature of clearing up doubts, that apparently still remained in his mind anyway, as did the original committee proposal which really is a side issue. Those doubts can always be cleared up by amending the committee proposal as it now stands. The basic issue here is whether or not you want the incurrence of debt to be approved by the voters of the State of Alaska, or whether you do not, and I offer this amendment to get us back on the subject. It is the opinion of the majority of the Committee that such debt should be approved by the voters of the state as a minimum requirement. I think I am safe in saying the basic reason lying behind that is because incurring debt is different from most any other type of legislation in that it not only goes directly to the pocketbook of the people concerned, but all the people of the State, but also to the pocketbook of future generations and that is why, in my mind anyway, so many states, so many local political subdivisions, always require debt to be approved by the people. Now, Mr. Buckalew said that the only reason for putting restrictions on the legislature in this matter is that, the legislature might impair the credit of the state. That is true but I submit that a bond proposal to the people via referendum is the greatest way that you can take as a minimum requirement to insure that the credit of the state will not be impaired. How you can logically argue that you can take any better step to preserve the credit of the state than referendum I do not know. It has been said that not too many people voting on a referendum know what they are voting about. I think rather that when they are voting on money which they will have to repay, in which their children will have to repay, they know in their own minds very clearly whether they want to vote for that debt or not, whether or not they know an awful lot about the project that is anticipated should the debt be incurred. I think the basic question here is whether or not you want the people of the state to pass on an incurrence of debt or whether you want to leave it to the legislature.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, I would like to speak in favor of the amendment to the amendment. Allowing two methods by which a state or political subdivision may provide for bonded indebtedness cannot help but cause favoritism by the bond investment houses for one method or the other, and I think there is no doubt

but that this would result eventually in the bonds of the state being classed into two different categories and there is not much question, in my mind, which issue would take the lowest interest rate. There is no doubt, I think, but what a bond house would look upon those that were passed by a majority vote in each house with ratification by a majority of the qualified voters. They would certainly prefer that over bonds that had been just approved by two-thirds of the vote in each house of the legislature. Any of the delegates here who had experience -- and it would probably be on the city level -- of bond issues, will know the very critical attitude that bond houses take towards all bond issues and this is particularly true in Alaska. We are paying a penalty up here in interest rates. Many of our bond issues are, in many cases, safer than bond issues in the states that enjoy a very much more favorable interest rate and putting these two methods implies that we are trying to seek out the most expedient way at the time that the bond issue was required and I feel very certain that it would eventually result in two classifications on general obligations of the State of Alaska and I ask that this amendment to the amendment be voted for.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER. Mr. President, I disagree with Mr. Nerland that we're setting up two separate classifications of bonds which would be worse than what is being set up in the committee proposal. The committee proposal in Section 10 authorizes the floating of bonds by public corporation when the only security from such indebtedness is the revenue of the enterprise or public corporation. The Committee, in putting that in, has specifically told us in the commentary that they're condoning a practice which is used in every state as a means of getting around this kind of bonding restriction as we currently have in Section 8. In other words, we put the provision in Section 8, it is a cumbersome provision. We are telling the state that that of course is of too much bother. Therefore, go ahead and create a separate corporation; if you want to build highways, set up a toll road, set up a separate corporation. If you want to put up public buildings, set up a separate corporation and many states have done that, float bonds and then the state purchases those buildings from that corporation. What happens in those cases? In those cases the credit of the state is not pledged, the interest rates are much higher. In other words, if we follow that procedure we are leaving ourselves open to much higher rates than anything that would be created in authorizing the enactment of bond legislation by two-thirds vote because when we do it by two-thirds vote the credit of the state is pledged. I would also like to point out that in the past anyone who has followed a bond market knows full well that it is not the procedure for the enactment of bond legislation that will govern the interest rates, it is simply the ability to repay and the faith that the bond buyers have in the

governmental entity. We have the picture perfectly right here in Alaska. What has been the interest rates in Alaskan cities? Over recent years it has been running 4 3/4 per cent to 5 per cent. Only within the last year or so the city of Fairbanks had to sell \$3,000,000 worth of bonds and I think at an interest rate at 4 3/4 per cent. That is phenomenal. The average interest rates in the states run around 2 1/4 per cent, 2 per cent, 1 3/4 per cent. At the same time the city of Anchorage only last summer sold bonds at an interest rate of 3.67 per cent. That wasn't done because the law under which those bonds were sold are any different than those at Fairbanks. It was done because they could show the bond buyers that they have a secure investment. That is the only thing that will bring these bond rates down. What we are trying to do here in the adoption of the two-thirds vote in each legislature for capital improvements is to provide means whereby we won't force the state into circumvention of the intent that we have. It won't force the state into a means of selling bonds to establishments and separate corporations which will, in the end, force a much higher interest rate on the taxpayers of Alaska and thus will cost us more in the long run than anything that would be contained in this. I think just in terms of our pocketbooks we should vote down the amendment to the amendment.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? Mr. Riley.

RILEY: I wish only to state, even though the debate seems interminable, I think it is clearly within the memory of everyone that in introducing this subject initially this afternoon I called specific attention to this particular feature. It is at variance with Section 8 as we now have it. To reply just briefly to the suggestion of Mr. Smith, someone today may have suggested that the legislature might be better informed than the people but certainly I didn't venture that opinion.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, just in closing, briefly, in answer to Mr. Fischer I think he has brought a side issue in here by mentioning Section 10. If Mr. Fischer can draft language that would eliminate the necessity for Section 10, I'm sure the Committee would go for it. The reason Section 10 is in there is because it has been found that no matter what you do, as far as the Committee can find, that way can be found to get around debt limitations, and, therefore, if in order to avoid suits in court you might just as well make the authority clear. I would suggest to you, if you don't like Section 10, to work on drafting some language that could eliminate it effectively. In any event, should your two-thirds rule in the legislature apply, you could still find it out via Section 10 if you couldn't muster two-thirds vote, so that it seems to me that all this reference to Section 10 is a little superfluous. Actually, if

bonding the state via a special authority should result in higher interest rates, that is merely an added inducement to go back to the referendum where such issues ought to be. And secondly, if the legislature wants to take this end way around of getting at it and going to special authorities they are subject to check by the people, the people will know what's being done and they will react accordingly if they are not in favor of it. I think the basic issue here is, and was and remains, do we want the people to vote on inebting themselves and their children and their children's children or do we not?

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. White be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Please read the proposed amendment again.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK: "Strike 'either by a two-thirds vote in each house of the legislature or'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. White be adopted by the Convention?"

POULSEN: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 29 - Boswell, Coghill, Collins, Cooper, Cross, Davis, Emberg, Gray, Hellenthal, Hinckel, Hurley, Johnson, Kilcher, Knight, Laws, McLaughlin, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, Robertson, Rosswog, Smith, Stewart, Sweeney, White, Wien.

Nays: 19 - Awes, Barr, Buckalew, V. Fischer, Harris, Hermann, King, Lee, McCutcheon, McNealy, Marston, Nordale, Riley, R. Rivers, V. Rivers, Sundborg, Taylor, Walsh, Mr. President.

Absent: 7 - Armstrong, Doogan, H. Fischer, Hilscher, Londborg, McNees, VanderLeest.)

HERMANN: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mrs. Hermann changes her vote to "no". The

Convention will come to order while the Chief Clerk tallies the ballot.

CHIEF CLERK: 29 yeas, 19 nays, and 7 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment to the amendment is ordered adopted. Are there other amendments to the proposed amendment, or is there further discussion? Mr. Metcalf, you may offer your amendment to the amendment. Would the Chief Clerk please read the proposed amendment to the amendment.

CHIEF CLERK: "Line 4, delete 'a majority of the qualified voters of the state voting on the question' and insert in lieu thereof the following: 'not less than the majority of the votes cast by the voters qualified by law to vote on the question'."

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I move for its adoption and ask unanimous consent.

PRESIDENT EGAN: Mr. Metcalf moves for the adoption of the proposed amendment and asks unanimous consent. Would the Chief Clerk please read that sentence as it would read if the proposed amendment was adopted.

CHIEF CLERK: "No debt shall be contracted by or in behalf of the state unless the debt shall be authorized for capital improvements by a majority vote in each house with ratification by not less than the majority of the votes cast by the voters qualified by law to vote on the question."

PRESIDENT EGAN: Unanimous consent has been asked for the adoption of the amendment. Is there objection?

V. FISCHER: I object.

METCALF: I so move.

PRESIDENT EGAN: Objection is heard. Mr. Metcalf so moves. Is there a second?

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Metcalf.

METCALF: I feel that this part of the constitution is going to be acceptable to the people next April, especially those folks who are property holders. I think there should be some additional qualifications put on that phrase "qualified voters" on line 4. I like it to concur in the old Section 8. It isn't written in king's English but leave it up to the legislature and I'm willing to trust the legislature and I definitely don't like

this phrase in here of the question of voting indebtedness being left up merely to qualified voters. I think there are many of us who came years ago, some of us came just last year who had faith in the country to invest our money in businesses, homes, actual buildings, and this phrase "qualified voters" could mean a class of people who are transients, who may live on our military bases, have been here for a year, and according to Mr. Riley's amendment will be qualified to vote on incurring indebtedness. I am strictly opposed to it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask Mr. Metcalf a question?

PRESIDENT EGAN: If there is no objection, Mrs. Nordale, you may ask your question.

NORDALE: Mr. Metcalf, what kind of restrictions are usually placed on the qualifications for voting on a state debt?

METCALF: I couldn't answer that, Mrs. Nordale. I do know that down in our part of the country, I believe the city of Seward, Mr. Hellenthal may be able to correct me, I think it is 65 per cent of the property owners that vote on general bonds and I think everyone can vote on revenue bonds.

NORDALE: That is within a city?

METCALF: That's within a city. I kind of like that way.

NORDALE: Would you say then that only people who own property in the state, even though they pay income tax, school tax, tobacco tax, and all the other taxes should be allowed to vote on state debt?

METCALF: I think there should be some property qualifications as a part of the checks and balance system, I think there should be some qualification or indication that they are going to be here and live with us for awhile.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: This is the same as Mr. Cooper's amendment that was voted upon favorably by the delegates a few minutes ago, is it not?

METCALF: Almost the same, Mr. Hellenthal.

HELLENTHAL: I think you put in just two extra words, "by law" but they don't change the effect of Mr. Cooper's amendment. This is identical then?

METCALF: Almost.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to point out that the language in the proposed Section 8 that is supposed to be deleted by Mr. Metcalf's amendment is exactly that we had in the original committee proposal before Mr. Cooper's and all the other amendments. Those other amendments were required because in one section we were dealing with local government and with the state bonding indebtedness. I think that where we have separated them, this is perfectly clear language as it should be.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Metcalf be adopted by the Convention?" All those in favor of adopting the proposed amendment to the amendment will signify by saying "aye", all opposed will signify by saying "no". The Chief Clerk will call the roll.

MCNEES: May I be excused from voting based on the fact that I was out of the room when the question was called?

PRESIDENT EGAN: You may be excused.

(The Chief Clerk called the roll with the following result:

Yeas: 8 - Coghill, Kilcher, McNealy, Metcalf, Nerland, Nolan, Robertson, Wien.

Nays: 41 - Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Mr. President.

Absent: 5 - Armstrong, Doogan, H. Fischer, Hilscher, VanderLeest.

Abstaining: 1 - McNees.)

CHIEF CLERK: 8 yeas, 41 nays, 5 absent and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment to the amendment has failed of adoption.

MCCUTCHEON: Question on the main issue.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?" Mr. Barr.

BARR: I am going to vote against this amendment although

I agree with everything stated within the amendment. My vote is a protest on what we have been doing. We have spent the afternoon on getting back to the original committee proposal by amending an amendment.

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as amended be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 28 - Awes, Boswell, Buckalew, Coghill, Collins, Cross, Emberg, V. Fischer, Harris, Hermann, Hinckel, Hurley, King, Lee, Londborg, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Mr. President.

Nays: 22 - Barr, Cooper, Davis, Gray, Hellenthal, Johnson, Kilcher, Knight, Laws, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, Robertson, Taylor, Wien.

Absent: 5 - Armstrong, Doogan, H. Fischer, Hilscher, VanderLeest.)

CHIEF CLERK: 28 yeas, 22 nays and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment as amended is ordered adopted. Mrs. Hermann.

HERMANN: Before anybody gets the notion to make a motion to recess I want to bring up a matter on which I spoke Saturday, I think, about the desirability of breaking the weekly night sessions by not meeting at night either on Wednesday or Thursday. I realize we can't make a motion to that effect but several people are anxious to make or break engagements they have already made for whatever day we do decide to break the night sessions on. I don't know if we are going to decide it or not but I think it would be a good idea if we could have a show of hands on how many would be willing to break this weeklong night session streak by not holding a night session either on Wednesday or Thursday and we could decide which later.

PRESIDENT EGAN: Mrs. Hermann, before we ask what the feeling of the delegates would be on that, the Chair would feel that perhaps Thursday night would be better because by the end of tomorrow night we might be pretty well along with some other proposal. It just seems to the Chair it might be better on Thursday night.

HERMANN: My only question was, whether we would be breaking again on Saturday night and if we do, Thursday would only give us one night in between while Wednesday would give us two.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, as a matter of principle of everybody being tired, etc., about this night session, I say stay in night session. We have got a lot of work to do and we don't have time to fiddle around. We spend a couple hours fiddling around here and we have adopted a whole section which was virtually identical to another section that we spent all day hassling with and I think if we have to fiddle around with this type of thing we had better stay in night session until we get our job done that the people sent us here to do.

PRESIDENT EGAN: What is the feeling of the delegates with relation to the subject? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I think we should have one night off in the middle of each week to avoid getting "cabin fever" and we would make better progress.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I support Mr. Rivers' view. I think that the delay today was not only a matter of two hours but practically the whole day was caused by lethargy and inability to think, which I think is caused by overwork.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would ask that you ask for a show of hands on the nights of first, Wednesday and then, the night of Thursday as to which is preferred by a majority of the Convention.

MCNEES: First we should ask for a show of hands on whether we want a break or not.

PRESIDENT EGAN: Then the first question would be, by a show of hands please indicate as to how many of you wish to have a break either Wednesday or Thursday night? It seems that almost a majority of those present would desire a break, or more than a majority, some 30 arms it looks like to the Chair. How many would prefer Wednesday night in preference to Thursday night? It looks like 18 or 19 prefer a Wednesday. How many would prefer Thursday?

COGHILL: Mr. President, could we have a two-minute recess?

PRESIDENT EGAN: If there is no objection the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We don't know where we are on this matter right now. Mr. Sundborg.

SUNDBORG: Mr. President, could we have another show of hands on whether we prefer Wednesday or Thursday?

PRESIDENT EGAN: All those who prefer Thursday night please raise your hand? All those who prefer Wednesday night please raise your hand? Thursday night has it and it will be the policy that the Convention will adjourn every Thursday evening at the close of the day that day. Are there other amendments to Section 8 of the proposal? Are there amendments to Section 9?

DAVIS: Is that the new Section 9?

PRESIDENT EGAN: Yes, the new 9. Pardon me, Mr. Davis, these will have to be renumbered again. Are there amendments to Section 10, then? Section 11? Section 12? Section 13? Section 14? Are there other amendments to be proposed for Committee Proposal No. 9? Mr. Fischer.

V. FISCHER: I would like to ask just one question of the Finance Committee, if I may.

PRESIDENT EGAN: You may ask your question.

V. FISCHER: Under the provisions that I assume will be in the transitional article, the laws of the Territory will continue under the state unless in conflict with the constitution. Now, at present we have a bonding act for municipalities, school districts, and public utility districts. That act will be in conflict with the constitution and I wonder if the Committee might consider the drafting of a transitional measure to continue bond acts until such time as they may be revised by the legislature.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: I would certainly be agreeable to that, Mr. Fischer.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I believe I voted on the prevailing side on the question of the two-thirds vote of the house. Is that not right, Mrs. Alexander?

CHIEF CLERK: Yes.

METCALF: I serve notice of a reconsideration.

2444

HARRIS: I move that we take up the matter of Mr. Metcalf's reconsideration at this time.

PRESIDENT EGAN: Mr. Harris moves that we take up the matter of Mr. Metcalf's reconsideration at this time. Is there a second to the motion?

NOLAN: I'll second the motion.

PRESIDENT EGAN: Mr. Nolan seconds the motion. The question is, "Shall the Convention consider the reconsideration of Mr. Metcalf at this time?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hinckel, Johnson, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, Smith, Stewart, Sundborg, Taylor, Walsh, White, Wien, Mr. President.

Nays: 10 - Barr, Coghill, Hermann, Hurley, Laws, Londborg, V. Rivers, Robertson, Rosswog, Sweeney.

Absent: 6 - Armstrong, Doogan, H. Fischer, Hilscher, Riley, VanderLeest.)

DAVIS: I'll change my vote to "yes".

PRESIDENT EGAN: Mr. Davis changes his vote to "yes".

BUCKALEW: I'll change my vote to "yes".

PRESIDENT EGAN: Mr. Buckalew changes his vote to "yes".

V. FISCHER: I'll change my vote to "yes".

PRESIDENT EGAN: Mr. Fischer changes his vote to "yes".

COOPER: I'll change my vote to "yes".

PRESIDENT EGAN: Mr. Cooper changes his vote to "yes". The Convention will come to order. The Chief Clerk is tallying the ballot.

CHIEF CLERK: 39 yeas, 10 nays and 6 absent.

PRESIDENT EGAN: So the "yeas" have it and the reconsideration of Mr. Metcalf's vote on the amendment that is referred to is before us at this time. Mr. Metcalf.

2445

METCALF: Briefly, Mr. Chairman, I'm a little ignorant on the customs so I will have to ask.

PRESIDENT EGAN: The amendment is before us once more, Mr. Metcalf, and open for discussion.

METCALF: At this time the question comes up on whether or not the constitution must be approved by a two-thirds vote in each house. I shall vote "yes" for it. I feel that in the matter of adjusting the checks and balances in our government that this will add another check, especially in voting indebtedness on the state. My philosophy that the voters who will vote indebtedness on the state ought to have a little property qualifications. Maybe I'm right and maybe I'm wrong, but anyway this is the way I'm going to vote.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Point of information. It is a little difficult for us to know without better identifying the amendment that he is talking about.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment. It refers to the amendment by the whole -- was it the amendment to the amendment as offered by Mr. White?

CHIEF CLERK: Yes, the amendment to Mr. Riley's amendment, striking "either by a two-thirds vote in each house of the legislature or".

PRESIDENT EGAN: Is there further discussion? Mr. Kilcher.

KILCHER: Point of information. A "no" vote will uphold the section as it is, the two-thirds requirement?

PRESIDENT EGAN: That is correct.

KILCHER: I think that Mr. Metcalf was mistaken when he stated that he would change to a "yes" vote.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The amendment offered by Mr. White would strike the words "either by a two-thirds vote in each house of the legislature or" and it carried, the "yes" votes prevailed and so it carried and it was stricken. Now Mr. Metcalf has asked to reconsider. Anyone who favors having that "either by a two-thirds vote in each house" in there would, on this motion, vote "no".

MCLAUGHLIN: That is right.

NORDALE: May I ask a question, please?

PRESIDENT EGAN: You may ask a question, Mrs. Nordale.

NORDALE: This whole amendment has been adopted with that stricken. Supposing it should come back in. Will we have to vote on the whole thing again?

PRESIDENT EGAN: Mrs. Nordale, it would mean then that the amendment has been adopted. If Mr. White's amendment would be adopted now, it would mean that that is out of the original amendment, the section as it appears in Section 8 because the reconsideration, while we voted on the whole thing, the reconsideration of Mr. Metcalf on that particular amendment just brings that part of it before us for a vote.

NORDALE: My question is this though: the thing has been adopted; his amendment carried didn't it; that was stricken?

PRESIDENT EGAN: Yes.

NORDALE: Then the section was adopted. Then supposing on a second vote, supposing it is not stricken, then it goes back in, but it doesn't affect the final vote on the adoption of the amendment?

PRESIDENT EGAN: It would not.

NORDALE: I would like to know for sure before I vote.

PRESIDENT EGAN: That would be the ruling of the Chair. Mr. Davis.

DAVIS: Mr. President, I voted "no" on adopting the Riley amendment but I am sure there are people who voted "yes" for that amendment who would not have voted "yes" if the language "either by a two-thirds vote in each house of the legislature" had remained in. I am sure there are people who voted for that who would not have voted for it.

PRESIDENT EGAN: Mr. Davis, I think the question that Mrs. Nordale has raised is a valid one. Now have we done something here that a reconsideration cannot reach? Only by rescinding the entire action could we accomplish what Mr. Metcalf is attempting to do and the Chair was wrong in allowing a motion of reconsideration on that amendment after we had actually adopted the section. The Chair was not really thinking, the Chair will admit that. Mrs. Hermann.

HERMANN: I move that our action in regard to the reconsideration be expunged from the record.

PRESIDENT EGAN: Mrs. Hermann moves that the action with relation to the motion of Mr. Metcalf's move for reconsideration be expunged from the record.

HELLENTHAL: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal.

HELLENTHAL: I know of no rule that permits expunging anything from our record, no matter how desirable or undesirable, and when I speak of rules, I mean the rules of this body which said that a complete record should be made of all plenary sessions and I think it is out of order and not only out of order, I think it is an undesirable practice.

PRESIDENT EGAN: Mr. Hellenthal, under that rule you might have a good point of order. If there is no objection the Convention will stand at recess for one or two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has already stated that the Chair was in error and apologizes to Mr. Metcalf for not catching it sooner, in allowing the reconsideration at that time. It would have to have been done by rescinding; but as to a motion to expunge, a majority vote of the members can do it. If our rules are such that the body wishes to expunge something they could do it by a two-thirds majority vote of the Convention but there has been no second to any motion to expunge. The motion that Mr. Metcalf could use if he so chooses to pursue this matter would be asking that we rescind our action in actually adopting Section 8. It would take 28 votes to rescind the action on that particular action. Mr. Metcalf.

METCALF: Mr. President, I so ask that.

PRESIDENT EGAN: Mr. Metcalf, you move that the Convention rescind its action in adopting the proposed amendment to Section 8 as offered by Mr. Riley. Is there a second to the motion?

SUNDBORG: I'll second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion.

UNIDENTIFIED DELEGATE: Is the motion to rescind debatable?

PRESIDENT EGAN: The motion to rescind is debatable.

SUNDBORG: I would like to ask Mr. Metcalf a question. Is it your purpose in offering this motion that you want to get at the language in Section 8 and change it, if we do rescind our action?

METCALF: Mr. Sundborg, I liked the original Section 8 this afternoon much better. In fact I think it would be easier to get ratification next April. If you want my honest opinion

about it I liked the Section 8. There isn't too much language and there isn't too little. It leaves it pretty much up to the legislature and I like Section 8 as it reads in the original proposal.

SUNDBORG: Thank you.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the Convention rescind the action it took when it adopted the amendment as offered by Mr. Riley?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 14 - Barr, Cooper, Hellenthal, Johnson, Kilcher, Knight, Laws, McCutcheon, McNealy, McNees, Metcalf, Robertson, Wien, Mr. President.

Nays: 37 - Awes, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hinckel, Hurley, King, Lee, Londborg, McLaughlin, Marston, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White.

Absent: 4 - Armstrong, H. Fischer, Hilscher, VanderLeest.)

CHIEF CLERK: 14 yeas, 37 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed motion has failed of passage. Mr. Johnson.

JOHNSON: Mr. President, I move that we stand at recess until 7:00 o'clock this evening.

PRESIDENT EGAN: Are there committee announcements to be made at this time?

SUNDBORG: Mr. President, I move that Committee Proposal No. 9 be referred to the Committee on Engrossment and Enrollment.

HELLENTHAL: I'll second the motion.

PRESIDENT EGAN: It isn't necessary, but Mr. Sundborg moves, seconded by Mr. Hellenthal that the Committee Proposal No. 9 be referred to the Committee on Engrossment and Enrollment.

V. FISCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

V. FISCHER: You called for additional amendments for this particular article. There were no additional amendments, the Chair can refer that without a motion.

PRESIDENT EGAN: That is right, if the body wishes.

SUNDBORG: But it had not been referred, had it, Mr. President?

PRESIDENT EGAN: It has not been referred.

SUNDBORG: And it could not have been referred at this session if we had adjourned at that point?

PRESIDENT EGAN: If we had actually adjourned but we hadn't. If there is no objection the proposal, Committee Proposal No. 9 is referred to Engrossment and Enrollment.

SUNDBORG: I'll withdraw my motion.

PRESIDENT EGAN: Are there committee announcements? Mr. Rosswog.

ROSSWOG: Local Government, immediately upon recess.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting will meet at 6:30 at the rear of the gallery.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, the Committee on Finance will not meet again.

PRESIDENT EGAN: The Committee on Finance is not going to meet. If there are no other committee announcements the Convention stands at recess until 7:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may proceed with the second reading of Committee Proposal No. 8/a.

(Committee Proposal No. 8/a was read for the second time.)

PRESIDENT EGAN: Does the Chairman of the Committee wish to explain the article at this time? Mr. Smith.

SMITH: Mr. President, first I would like to apologize for the Chairman and the Secretary, and other members of the Committee for being a few minutes late; and I would like to assure you that it was not through reluctance to face the ordeal. I would

like to call your attention first to the letter of transmittal accompanying the article, which refers to various delegate proposals, and I think that the letter is self-explanatory. I would like to emphasize two paragraphs, the one at the bottom of the first page of the letter, beginning at the bottom of the first page, which refers to a resolution or some other form of proposition to the Territorial legislature asking that a comprehensive study of necessary legislation in the resources field to implement this article be undertaken at the earliest possible time. The second is the delegate proposal which dealt with the fish trap question. Again, in conferring with the proposer of that proposal, I think that it will be satisfactory to refer that to the Committee on Resolutions, or to handle it as a resolution or as an ordinance. That, of course, can be taken up later. The first thing that I would like to say in regards to this article is the fact that in no state constitution will you find an article as comprehensive as this proposed article. For this reason I am sure that I can say, on behalf of the Committee, that we ask that each of you give this proposed article the closest possible scrutiny. We know that this article is not perfect. We have had a tremendous amount of help. We've had help from officials in both the Territorial and the federal government within the Territory. We have submitted it as widely as possible, and insofar as substantive changes are concerned, I don't think that we have had any recommendation, with one possible exception, which has not been met. Now, I, as Chairman of this Committee, I am sure, am in a more favorable position than has been any other committee chairman. This Committee has had as its Secretary a very able attorney in Mr. Riley; it has three competent and experienced mining men in Mr. Stewart and Mr. Boswell and Mr. Reader. Mr. King has had wide experience in the game, fish, and wildlife field; Mr. Emberg and myself have been commercial fishermen for a good many years; and Mr. White and Mrs. Wien have represented the public viewpoint. My reason for making this statement is that I intend to take full advantage of their capabilities. In explaining this article, due to the fact that so many of the questions which will be asked are of a technical nature, I am going to ask Mr. Riley, the Secretary of the Committee, to take over the explanation of the article.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, in the last day or so, since the revised article was distributed, the Committee has heard from very few of the members as to proposed amendments. We will have a sheet of amendments coming out shortly, and as Mr. Nerland did yesterday, I would like to say that the Committee concurred in all of these. Some of them are merely typographical errors -- others go beyond that. We would like to have them accepted as a portion of the article as submitted by the Committee. We'd like to have these changes incorporated in the article at this point. I'll ask unanimous consent. I won't ask for immediate action

on that until the members have had a chance to have a look at them. I believe it is the Chairman's thought that we start with the statement of purpose and go right through the article. A few of the articles haven't anything in the nature of a preamble because we are operating somewhat on uncharted seas here. We thought it desirable to include in the outset a statement of purpose, and we feel that shows the Committee's basic thinking; the doctrine of putting all of our resources, both to maximum use while, at the same time, safeguarding the public interest in the avoidance of waste. The second paragraph, which is Section 1, simply repeats the enabling bills and boundary coverage. That's the identical language contained in House Measure 2535. Section 2 indicates the state's proprietary interest, which shall provide for utilization, conservation and development of all of the resources. Now, it was proposed to the Committee by, I believe, Delegate Hurley, yesterday, that our recital of various acts in this language in accordance with provisions and applicable acts of Congress, including the act admitting Alaska to the union, might be redundant, and I'll go along with that. It probably is, but I think it calls attention at once to the Congress that our proposal is subject to the very act which to the Congress is of prime importance as concerns Alaska statehood. I think that it might have some merit, even though redundant, for that reason. Section 3 states that replenishable resources shall be administered on the sustained yield principle. I won't go into that in detail here, beyond saying that, in our reference to sustained yield, we have in mind no narrow definition of "sustained yield," as is used, for example, in forestry, but the broad premise that insofar as possible a principle of sustained yield shall be used with respect to administration of those resources which are susceptible of sustained yield, and where it is desirable. For example, predators would not be maintained on a sustained yield basis. Section 4 merely states the general reservation of fish, wildlife, and the waters. Section 5 is the controversial section which Mr. Smith referred to when he stated that with few exceptions the Committee has gone along with recommendations which have come to it from outside the Committee proper. The members will all recall that we have been advised of the wishes of many in the Territorial Sportsmen Association and the local chapters of that organization. It was the consensus, not unanimous, of the Committee, that the language set forth in Section 5 go into the committee proposal. I'm sure that when we come to that, later, further comment will be made. Section 6 might be a little obscure. Its purpose is to authorize the state to provide those aids and facilities which might assure the fuller utilization of resources, such aids as roads, for example, to undeveloped areas; the provision of soil studies in agricultural areas should the Territory in its administrative structure have such talent at hand to go out in the field and assist settlers in testing their ground for particular agricultural capacity; forest management, advice from any forestry agencies which might be sought from the owners

of wood lots or timber stands, and various related aids. In other words, they aren't prevented. We don't know what the legislature will provide, but it is enabled, in this language, to enter such areas should that be its wish. Section 7 is a general declaration that all laws and regulations shall have uniform application as concerns the use and disposition of natural resources. This language, it has been held by some, is awkward, but it happens to be, almost verbatim, the language of an opinion in a Washington State Supreme Court case of 15 or 20 years ago, which has been cited and approved many times since. We feel that it has over-all application to the resource field. Section 8 reflects some delegate proposals whereby particular areas or sites or objects may be set aside apart from the disposable public domain for their historic, recreational, or cultural interest to the people. Section 9 goes on to define the state public domain as lands, interests, including submerged tidal lands, possessed or acquired. The thought behind "possessed or acquired" is to include both the prospective acquisitions and those held on attainment of statehood. That section also gives general authority to the legislature for the selection and administration of land in the state public domain. And, with respect to selection, of course, we face the immediate great problem before the state in the selection of some hundred million acres of land, which will be an enormous task and awareness of which has been a very real part of the problem in writing the resource article. Section 10 gives general leasing authority and states some qualifications. And Section 11 has the same coverage as to sales or grants. Section 12, by contrast with many state constitutions, gives very brief mention of the fact that the legislature shall establish appropriate safeguards of the public interest in measures it takes for the disposition of natural resources. Section 13 recognizes the reservation stated in the last several enabling bills, recognizes the thinking of Congress in those enabling bills. It assumes that the Congressional thinking will probably continue, but it leaves the door open in the event that Congressional thinking should change. Insofar as possible, we have sought to establish arrangements whereby prospectors and miners might be on familiar ground in dealing with the state in making their mineral entries, and in holding their ground and operating it. We've adopted, insofar as possible, the same language, limited to the extent we felt necessary to observe the reservation imposed by the Congress, or which we feel probably will be imposed by the Congress. At the same time we have, I feel, left ample escape provision in the event of a change in conventional thinking. In speaking of setting up a system of mining disposition or mineral disposition parallel to the federal, with which we're all familiar, I refer both to the metallic and nonmetallic minerals, and to the staking of the metallic minerals and the leasing of the others. Section 14 is concerned solely with water rights. The Committee has felt that the appropriation doctrine was the proper one for Alaska. We're familiar with it up to now; it has been the one adopted in most, if not all, of

the Western states. Section 15 provides access to navigable or public waters of the state to all citizens of the United States or residents of Alaska. Section 16 is the provision whereby there shall be no exclusive right or special privilege of fisheries. Sections 17 and 18, I should say, are related, and have to do with eminent domain. In the one instance, Section 18 provides access to resources for their extraction, removal; Section 17, eminent domain as concerns use of waters or interests in lands, or improvements affecting either. The beneficial use concept is pointed up in Section 17. In the Committee thinking it is contemplated that legislatively or by legislative delegation a schedule of beneficial use will be established whereby there will be superior beneficial uses and inferior beneficial uses on down the scale. Section 19 is simply a statement of residual powers, a statement that the powers specifically set forth herein are not positive limitations. While I'm on my feet, Mr. President, I see that the correction sheet has been handed out. I'd like to run down those just for a moment. Page 1, line 8, is simply a matter of typing transposition in the word, "Alaska"; page 3, line 21, strike comma after "use" and insert "and"; the following line, a period after "conditions", striking the balance of the line; page 3, the last word substitute a colon for a semicolon; page 4, line 16, at the end of the line add the words, "force during". Now, as to line 18, we had considered a suggestion of another delegate, presumably, I believe, based on 1955 legislation, but we have stricken that from our correction sheet, and I shall try to speak during the first recess to the delegate who proposed it, because we're not offering it as a committee correction. On line 21, after the word "permits", the Committee asked that the words "and transferable" be inserted just prior to "licenses". On the same page, line 18, the first word will be changed from "to" to "in". We discovered the other evening that "sulphur" is spelled s-u-l-f-u-r, the preferred spelling in the latest dictionary, and we're changing that spelling on line 8 of page 5. And, on line 5 of the same page, the second word will be changed from "and" to "or".

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, on line 3, "uses" for "use".

RILEY: Was that on our correction sheet, Mr. Kilcher?

KILCHER: No.

RILEY: You suggest that? I wouldn't object to that.

PRESIDENT EGAN: Will you accept that as part of your amendments Mr. Riley?

RILEY: Yes, I will, Mr. President. On the other hand, I will ask that the Committee corrections as suggested be adopted as

a part of the proposal submitted.

PRESIDENT EGAN: Mr. Riley asked unanimous consent that the Committee changes, as read, be adopted as a part of the original Committee Proposal No. 8/a. Is there objection?

TAYLOR: I object.

EGAN: Objection is heard. Do you so move, Mr. Riley?

RILEY: I so move.

PRESIDENT EGAN: Is there a second?

STEWART: I second the motion.

PRESIDENT EGAN: Mr. Stewart seconds the motion. Mr. Taylor.

TAYLOR: Mr. President, I was intrigued by the Committee's spelling of sulfur, s-u-l-f-u-r. S-u-l-p-h-u-r is the preferred spelling, and sulfur is used by some American chemists for sulphur and its derivatives.

MCCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

MCCUTCHEON: I believe the matter of the spelling of a word is a matter for the Style and Drafting Committee.

PRESIDENT EGAN: It could well be a matter for the Style and Drafting. Mr. Stewart.

STEWART: May I reply to Mr. Taylor?

PRESIDENT EGAN: You may reply to Mr. Taylor.

STEWART: I have a new dictionary, a Webster-Merriam that was just given to me the other day and it gives "sulfur" first. It is the same text as this one but a much later edition.

PRESIDENT EGAN: Mr. Riley, did you have anything else, then, that was to come before the Convention, with relation to the suggestion made by Mr. Kilcher? Do you ask that that be held until after the recess?

RILEY: Yes, Mr. President.

PRESIDENT EGAN: The Chair would like to ask at this time, is it the wish of the Committee now that you have a recess at this time, as the rules might seem to call for, or should we go on and have a question period? Mr. Sundborg.

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SUNDBORG: May I ask whether Mr. Taylor withdraws his objection?

TAYLOR: Yes. I withdraw my objection.

SUNDBORG: Then we have now adopted the Committee's changes?

PRESIDENT EGAN: No, not as yet. The Chair hasn't --

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent has been asked. Has the objection been removed?

TAYLOR: I withdraw it.

PRESIDENT EGAN: If there is no objection the amendments as proposed by the Committee are ordered adopted as part of Committee Proposal No. 8/a. Mr. Smith.

SMITH: Mr. President, I would like to ask if anyone has amendments they would like to present to the Committee. If they have, then I would think it would be advisable to ask for a recess, and to discuss the amendments with anyone who has amendments prepared.

PRESIDENT EGAN: At this point are there any amendments that the delegates wish to submit to the committee? Is there any delegate who at this time has a proposed amendment he would like to speak to the Committee about? If not, Mr. Smith, evidently there are no actual amendments.

SMITH: Mr. President, then I would suggest that we proceed with the questions.

PRESIDENT EGAN: Mr. Ralph Rivers, did you say you had a question?

R. RIVERS: Yes, Mr. President.

PRESIDENT EGAN: Mr. Rivers.

R. RIVERS: Mr. Smith, I refer to Section 6 on page 2 and ask --

MCLAUGHLIN: Excuse me, Mr. Rivers, but, would it not be more advisable to proceed section by section by section to ask the questions, so that we have some system, tonight?

PRESIDENT EGAN: It would be, if that is the wish of the Committee, we will proceed in that manner. Does anyone have a question with relation to Section 1? Mrs. Hermann.

HERMANN: Mr. President, not a question in relation to Section 1, I just want to inquire if all these references to different

committees that are included on the message to the President have been made to the proper committees.

PRESIDENT EGAN: Mr. Smith.

SMITH: I'm not sure that I understood. It's only through this letter, Mrs. Hermann.

HERMANN: Then, Mr. President, I have a point of information. By just what method are they referred to other committees when they come in on reports like this? I'm a little bit concerned that something may be left out that properly belongs in the Convention. It is awfully hard to detect it if it never occurs. But, I would just like to know what procedure has been set up for reference to other committees when reports like this come in suggesting that they be referred to other committees.

PRESIDENT EGAN: Of course, up to now, unless the committee had come back with a specific request for referring it to another committee, why, we have just taken for granted that each delegate, having had a copy of these statements of proposed referrals, has perused them and taken them under the proper committee's consideration. Mr. Victor Rivers.

V. RIVERS: In the Executive Committee, Mr. Chairman, we elected to report them back to the Secretary with our recommendations for proper filing or for recommendation to other committees, and so did.

PRESIDENT EGAN: That is correct. The Chair recalls that.

SMITH: Mr. President, I have a recollection in which I might be wrong, that it was decided that reference could be made where necessary, by committee chairmen to the various committees. I don't recall in any of these references to delegate proposals, other than one where reference to other committees was necessary, but I certainly will check, and if there has been an omission, I will correct that omission.

PRESIDENT EGAN: Are there questions with relation to Section 1? If not, are there questions relative to Section 2? Are there any questions on Section 3? Mr. Peratrovich.

PERATROVICH: I asked the question before, but before we took a recess, and I'm a little bit concerned on this sustained yield program as far as fisheries are concerned. Did the Committee go into detail on it as to how that would apply?

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, yes, the Committee discussed that very thoroughly, and as Mr. Riley pointed out, this term "sustained

yield principle" was not intended to apply in the strict sense in which it does apply in the management of forestry land. The Committee realized full well that it would be impossible to determine the exact sustained yield in the fisheries; but the Committee felt that there was a definite indication that would be of value that, insofar as possible, the fisheries should be maintained on the sustained yield principle.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, then it is the opinion of your Committee, sustained yield basic program will be left, as far as fisheries are concerned, to the state legislature? Am I correct in that?

RILEY: I would say yes, Mr. Peratrovich, and probably by the legislature delegated to the fisheries agency. In the course of our work on this article, we felt obliged to assemble a glossary insofar as possible; and, I might read what we have agreed on amongst ourselves as the meaning of the term employed in the article. "As to forests, timber volumes, rate of growth, and acreage of timber type can be determined with some degree of accuracy. For fish, for wildlife, and for some other replenishable resources, such as huckleberries, as an example, it is difficult or even impossible to measure accurately the factors by which a calculated sustained yield will be determined. Yet, the term 'sustained yield principle' is used in connection with the management of such resources. When so used in this article, it denotes conscious application insofar as practicable, of principles of management intended to sustain the yield of the resource being managed."

PERATROVICH: Well, that answers my question. I just wanted to know how much consideration goes into that section.

PRESIDENT EGAN: Are there questions relating to Section 4? Mr. Sundborg.

SUNDBORG: If I may go back for a moment, the statement of purpose on page 1, line 6, where the Committee uses the phrase, "all peoples". Ordinarily, that, I think, would be meant to mean all the various races and nations of peoples of the earth. Is that what you mean?

PRESIDENT EGAN: Mr. Riley.

RILEY: Recognizing that preambles are sometimes couched in flowery language, we had in mind that all comers to Alaska were welcome. Does that answer your question, Mr. Sundborg?

SUNDBORG: I guess it does. You really do mean all peoples? You don't mean all citizens or all residents?

RILEY: Citizenship is not necessary now to participate in some of our resources.

SUNDBORG: What would you think of Style and Drafting dropping the word "peoples" entirely, and just extend to all the opportunity..."

RILEY: I don't think that would make it any more vague than it is now. (Laughter)

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That somewhat contradicts, though, an equally basic statement contained in Section 15.

PRESIDENT EGAN: Mr. Riley.

RILEY: I agree, Mr. Hellenthal, it does. We had in mind in that recitation of resident Alaskans, or citizens of the United States. The fact there had been hostile aggressors here coming by sea in the past, if it's possible to reconcile those two --

HELLENTHAL: "Persons" might be the way to do it.

PRESIDENT EGAN: It is an easy matter that Style and Drafting could handle. Are there any questions relating to Section 4? Mr. Poulsen.

POULSEN: Section 4, for example, if you have a farm, and have a lake on the farm, and you should stock that lake with fish, would the public be allowed to go in there and fish?

PRESIDENT EGAN: Mr. Riley.

RILEY: It would be my impression that if you stock your own lake for the purpose of providing yourself and your neighbors or friends, or even the public, at a price -- the privilege of fishing in an extensive fish culture area, that those fish are not in a natural state. You have built up the fish population of that area with the particular purpose of marketing them. As a matter of fact, if clear ownership is established, and this is easier to illustrate if you have a pond, we'll say, the boundaries of which have been in some measure determined by you, if you have constructed and built a pond, certainly those fish are not in a natural state, and there is an exclusive right of fishery for you and your invitees. The problem is where it is a natural lake.

POULSEN: For example, if I have a homestead, and it is 160 acres; 80 acres of that is a lake. Would that be private, as long as it is within the boundary lines of the homestead?

RILEY: I would say, perhaps not.

POULSEN: That is the way I interpret your commentary.

RILEY: That has been a real obstacle all the way. I've done, more or less research on this and I'm not satisfied yet that any general and sweeping answers are possible.

PRESIDENT EGAN: Mr. Buckalew.

RILEY: I would like to pursue this just a moment, if I may, as soon as I find my reference here.

PRESIDENT EGAN: Mr. Riley, you are still attempting to find the answer to Mr. Poulsen's question?

RILEY: Yes, he referred to a homestead and we have some coverage to the effect that the United States will not convey lakes as he describes. Rather than hold up the Convention, perhaps Mr. Poulsen and I can get together afterwards on that point, if that's agreeable.

POULSEN: Yes, that's agreeable.

PRESIDENT EGAN: That's contained in Section 4 of the general reservations, Mr. Riley. It says the ownership of water is generally recognized as vesting in the state. Private rights can be acquired only to the use of the water. Mr. Buckalew.

BUCKALEW: Mr. Riley, I understand from your answer to Mr. Poulsen that Section 4, in the situation that he gave, would authorize a trespass by the public. That isn't what you meant, is it?

RILEY: We have a reservation procedure established and accepted whereby access shall be available.

POULSEN: The reason I'm so interested, Mr. Riley, is that I have such a farm.

BUCKALEW: I do too.

RILEY: I missed that, Mr. Poulsen. I'm sorry.

PRESIDENT EGAN: If there's no objection, the Convention will be recessed for one or two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Returning to Mr. Poulsen's question, the only parallel I can give immediately, this is taken from Surveying of Boundaries -- a very recent volume -- with voluminous footnotes of cases. "The Interior Department cannot grant title

to private parties of land covered by a navigable lake and such patent to that extent would be void." The Interior Department has administratively set up, I believe, 40 acres as the minimum area of a lake, which it would meander. The use of waters can be granted, but the ownership cannot be.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think, for the record, we should make an additional statement. As I understood Mr. Poulsen's question, he said that, suppose he had a natural lake in the middle of his homestead, could anybody enter his homestead to fish. Your answer was, "Yes". My question was, does Section 4 then authorize a trespass on somebody that holds a fee title?

RILEY: No, I didn't intend to say that trespass would be authorized.

BUCKALEW: That's what I added.

RILEY: On page 4, top of the page, it reads, "All sales or grants of State land or interests therein shall contain such reservations to the State of all mineral or water resources as are required by the Congress, or the State, and shall provide for access thereto, and to all other resources reserved to the people; except..." and here we get into the legislative field, "that the reservation of access shall not impair the owners' beneficial use, prevent the control of trespass, nor preclude compensation for damage." Now, how those will all be assured is conjectural at this point. But I'm confident that the state agency charged with transfer of these lands from the state to the private individual will have to write in such reservation in all of its deeds, and will have to establish by means similar to those that the federal government has adopted in issuing patents; that at certain places, if need ever arises where the owner's use will not be impaired, rights-of-way may be had across. It is relatively complex, I grant you, to make a generalization as to how that access will be accomplished without impairment of use.

BUCKALEW: May I ask a question on Section 11 while I've got the floor?

PRESIDENT EGAN: We're going down, section by section, Mr. Buckalew. Mr. Hellenthal.

HELLENTHAL: I have a question along the same line that I think might clarify it. Did the Committee intend, in the case of a pond surrounded by private property in single ownership, to prevent the owner from exercising exclusive control over that pond?

RILEY: I will say, in reply, Mr. Hellenthal, that that very

question is one which has been constantly before the Committee, and positive solution has not been had. I think it accurate to say that the Committee unanimously endorses the view which your question suggests, that we felt that a pond, which I assume would be relatively small -- maybe the size of this room -- should be under the exclusive control of the owner of the surrounding land. But, I think that the state, were such language adopted in the constitution, would have to set up by administrative regulation standards such as the federal government has employed in the past whereby minimum area would be established. The federal government refers to --

HELLENTHAL: That's very well, but where in this provision have you provided that language which would permit the state to so do?

RILEY: I cannot guarantee that it is provided, beyond calling attention to the paragraph at the top of page 4, which says --

HELLENTHAL: Well, just a minute. Do you think that does it?

RILEY: I'm not confident that it does. No.

HELLENTHAL: Don't you feel that when you say in Section 4 that "waters, occurring in their natural state", that would be a pond -- "are reserved to the people for common use." You've achieved the opposite result from what the Committee intended?

RILEY: I don't know that you can find it possible to convey water. The use of waters can be conveyed.

HELLENTHAL: I think it would be impossible to convey water under Section 4 -- yes. A pond anyway.

RILEY: It is my belief, from my scant familiarity to date with the question, that this is no particular departure from existing situations.

PRESIDENT EGAN: Are there other questions? Mr. Lee.

LEE: Mr. Riley, in comparing Section 4 with your commentary on Section 4 I note that you classed fishing in private ponds or commercial fur raising -- you compare them to registered trap lines if authorized by law. It seems like the thought of having registered trap lines authorized by law would be in conflict with the term "common use". It seems like it's kind of dangerous to have in a commentary.

RILEY: Well, as I'm sure we all recall, the proposal for registration of trap lines has been made time and again in the past. Should registered trap lines ever be authorized in the state, I think it would be a parallel situation to the exclusive right of fishery you would have in an artificial pond which you

stocked and made available to all invitees at 50 cents a fish.

LEE: I see. You wouldn't intend that it would be a public domain -- that registered trap line?

RILEY: I don't know where else it would be. I have never advocated it, but it has been advocated in the past, and this language is proposed by a committee member, just against the chance that such registration of trap lines should ever be authorized. "If" is the key word there, I would say.

LEE: Yes. Well, it seems -- I've done some trapping, and from the country that I'm familiar with, if anybody had an exclusive trap line in that area, why it would be a very exclusive right of your natural resources.

RILEY: Exactly. You are acquainted with the arguments pro and con, that have accompanied every proposal of a registered trap line, I'm sure.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Riley, it is my understanding that by your Section 4 you did not intend to deprive anyone of property rights, presently existing property rights, such as Mr. Poulsen would have in his lake in violation of the Fourteenth Amendment -- this would affect only public property, which is subject to appropriation or already vested in the State of Alaska, is that not right?

RILEY: I hope that is right, Mr. McLaughlin.

MCLAUGHLIN: But it is your intent that the Committee will appreciate that it can't deprive people of their presently existing property rights?

RILEY: Yes.

MCLAUGHLIN: That's clear, and the only reason why you say in "their natural states," I presume, that is ferae naturae of the common law?

RILEY: Yes.

PRESIDENT EGAN: Are there other questions relating to Section 4? Mr. Gray.

GRAY: As long as the subject is up, I don't believe it is possible under your constitution to have registered trap lines. Is that a definite statement from your Committee, that it is impossible to have registered trap lines under your proposal?

RILEY: Well, under the general reservations of fish, game and

wildlife, and so on, I would say that it would be arguable. It might be remote, if there were any possibility of registered trap lines. I might add that that suggestion was brought into the commentary last Sunday as an afterthought which seemed to parallel the artificial fish pond.

GRAY: I believe, like Mr. Lee here, that it would be absolutely impossible in certain sections of the country, only in isolated areas, because it would be in direct conflict with Section 7, which gives equally to all persons in a similar situation, equal use and disposal. As soon as you put in a registered trap line, what that does is keep other people out of that area. So as long as the reference came up to it, I would say Section 7, and if there wasn't anybody in that area you wouldn't need registered trap lines, but if you put registered trap lines in there, it's going to be in direct conflict with Section 7. I'd like that understood at this moment.

RILEY: It does. It should be understood that, to my knowledge, no member of the Committee advocates registered trap lines, not only the matter of the conflict you suggest, but I think we all agree that in certain areas it would mean civil war.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I'm going to ask Mr. Riley a question. Is it not a fact that many of the advocates of registered trap lines do it for the purpose of preventing a breach of the peace?

RILEY: That may have been the experience in Canada. I understand --

TAYLOR: They have registered trap lines there. And, to illustrate, a man might go down -- puts up his headquarters; and then, maybe 10 miles away, he puts up another camp, and 10 miles, he goes back and forth. Well, if a man does not have that registered, sometimes he has to fight for the occupancy of his own cabin. That's happened right up here. I've known several matters that have been brought to my attention in my office for help because somebody would take over the cabins, because there was no way of registering. The cabin was on public domain, they'd just get there first and take it. I don't believe there'd be any doubt but what they could register trap lines.

RILEY: Well, actually, the matter of whether they should or should not is not in the contemplation of this article.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President. Mr. Riley, in order to make Section 4 less broad so that the state could limit the people in

their common use of wildlife, fish, and waters, could we not add to the section, after the word "use", such language as "under limitations prescribed by law" without hurting the intent of the Committee?

RILEY: My offhand response would be that that wouldn't do any particular violence to the section.

R. RIVERS: Very well.

PRESIDENT EGAN: Are there other questions relating to Section 4? Mr. Taylor.

TAYLOR: I'd like to ask Mr. Riley one more question. Mr. Riley, isn't that a fact that your Committee discussed this matter, and set them out in the way they did so that the legislature would implement the policies you've established in this article?

RILEY: Oh yes, we conceive that there will be considerable legislation essential to give this any meaning or application.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Riley, could you conceive that the question of these small size lakes or ponds, which are very frequent in my part of the country, that if such a small lake or pond were included in a homestead and constituted part of the acreage of the homestead, that this particular body of water -- which a lot of homesteaders, by the way, are draining for purposes of farming -- that this particular lake included in the acreage -- accounted for in the acreage -- in other words, reducing the man's acreage for the purposes, couldn't that be considered private domain?

RILEY: Well, I think, in fact, Mr. Kilcher, that there is very little enforcement of the statement that the United States cannot grant titles to the underlying land, because the lake is there, and no one -- unless the lake is drained -- thinks in terms of the land below. As you look over any map put out by the Public Survey Office, it is my memory that a 40-acre piece of ground which may have an 18-acre lake on it is shown in land area, 22. Am I correct?

KILCHER: No, not to my knowledge, I think it's the other way around.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: In small bodies of water the lines of the surveys do not meander around small bodies, and oftentimes the small body can be included in the 40 acres, and still the acreage is actually shown. The larger bodies do meander, and the water is

deducted, but the question is here, the statement that Ralph Rivers brought up, I think would be good, that certain limitations as to sizes should be imposed in regard to what would be a minimum size in connection with water and other uses of this nature.

KILCHER: Also, the term "navigable water", Mr. Riley, I think navigation means to go from one place to the other, and if the lake is navigable, it could, maybe, float a battleship if it is no more than 200 yards long. But you wouldn't go from one place to other on your place. So the term "navigable" should probably be circumscribed too.

RILEY: If we start on "navigable" we won't adjourn on February 7, I assure you. (Laughter)

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Riley, one thing that did bother me -- I think it probably was a slip -- you don't contend that lack of enforcement amends the constitution?

RILEY: No, no. As a matter of practice, I simply suggested that any fine hair distinctions made as to what is conveyed are probably observed mostly in a breach.

PRESIDENT EGAN: Are there other questions with relation to Section 4? Mr. Buckalew.

BUCKALEW: Mr. Riley, maybe I misunderstood you, but you gave an example where a man created an artificial lake and sold coupons to fish for 50 cents, and you said that those people would be invitees. Did you mean licensees? I don't know whether it's important or not, it might be when you're discussing it with the rest of the section.

RILEY: We've seen in recent years where intensive cultivation of fish is had in an artificial pond, we'll say, simply a commercial operation to attract those interested in easy fishing. It was suggested that such a situation was either planned or existed in this immediate area, and the illustration was used only to show an instance of an exclusive right of fisheries. The artificial pond, the deliberate culture of the fish for particular commercial purpose took it out of the general language of the article.

BUCKALEW: I just had a different understanding of the word "invitee" than you had.

RILEY: Well, I think you're right, yes.

BUCKALEW: I just wondered if you were using that interpretation when you considered Section 4, as to what an "invitee" was as

compared to a "licensee".

RILEY: I'll settle for the "licensee".

PRESIDENT EGAN: Are there other questions with relation to Section 4? If not, are there questions relative to Section 5? Section 6? Mr. Ralph Rivers.

R. RIVERS: Mr. Riley, Section 6 speaks of utilization of lands, and development and utilization of fisheries, wildlife, and waters. Does the expression "utilization of lands" include forests? Did you leave out mention of forests on purpose?

RILEY: I would say that the term "land" in this usage would mean lands and the products of land.

R. RIVERS: I asked that for the record.

PRESIDENT EGAN: Are there other questions? Mr. Kilcher.

KILCHER: Mr. Riley, would you include under reclamation the drainage of swamps?

RILEY: Yes.

KILCHER: Drainage of shallow lakes?

RILEY: Yes.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Riley, wouldn't Section 6, in turn, just give the opposite answer to what you gave for Section 4, on trap lines?

RILEY: Well, frankly, I wish trap lines had never come into this discussion.

COGHILL: The reason why I brought the subject up is because the area I'm representing in this Convention, a big part of them are in that business, and I do know that, as you say, by bringing it up you will have more or less extended the civil war but I have known cases where the unregistered trap line has almost become civil war in that area. By your Section 6 you say the development of fisheries, wildlife, and waters -- on line 19 -- that would more or less take care of it where the state in turn could make some sort of a registration.

RILEY: Well, I don't know whether that would be development of wildlife, it would go to the utilization, perhaps, or the extraction.

COGHILL: Usually, a person in any one given area has been

going back there and trapping for many years, conducts a program of conservation of their own. Otherwise, their trap lines would be assumed diminished and that would probably be well brought under that.

RILEY: I'm rather confident that the matter of trap lines was not in the contemplation of any member of the Committee or any consultant when these two sections were drafted. It was an afterthought which hit the commentary.

COGHILL: I see it's in the commentary. So, it must have been brought up at some time.

RILEY: It was. Sunday last.

PRESIDENT EGAN: Are there other questions with relation to Section 6? Mr. Kilcher.

KILCHER: Mr. Riley, would you think that, under facilities, improvements, and services, there may be financial assistance or financial participation of the state?

RILEY: Conceivably there would be. Certainly, if you were to have an agronomist to come out to your homestead and take some soil capability tests for you, there would be indirect financial assistance. Roads would be a direct financial assistance to open up your area.

KILCHER: I'm more specifically thinking of reclamation and clearing of land, putting it in to agricultural use.

RILEY: I would say that this section would not prevent continuance of existing programs of that nature.

KILCHER: Thank you.

PRESIDENT EGAN: Are there other questions on Section 6? If not, are there questions with relation to Section 7? Mr. Hellenthal.

HELLENTHAL: Mr. President, isn't Section 7 pretty much a basic concept of law that need not be included in the constitution? It will be there whether you state it or not.

RILEY: Well, I should say that may be safe to rely on. That's simply based on the Fourteenth Amendment. The members of the Committee liked the language particularly for its application in the resource field, and the origin of that language from the resource field.

PRESIDENT EGAN: Are there other questions relating to Section 8? Mr. Johnson.

JOHNSON: Mr. President, may I direct a question to Mr. Riley on Section 8?

PRESIDENT EGAN: You may.

JOHNSON: Mr. Riley, in setting up Section 8, was it the intent of the Committee to cover such things as archaeological deposits which might be discovered, and might, for scientific purposes, want to be set aside for use by scientists for that purpose alone? Do you know whether or not, under the language of this section, that that could be done?

RILEY: When you say for use of scientists alone, Mr. Johnson, you mean that the particular items would be removed from their natural setting and transported elsewhere?

JOHNSON: No, what I had in mind was, for instance, Doctor Skarland goes around quite frequently throughout the Territory and explores for fossil deposits, and sometimes they find them, and frequently they might be equipped, it's conceivable that they could be found in large quantity, and it might be advisable under circumstances of that kind for the purpose of scientific study, to enable the person discovering to have it set aside under the auspices of the state and used until the study was complete, so as not to prevent any destruction or loss of the deposits.

RILEY: Well, that is a thought which I don't believe had occurred to any of the Committee before -- your thought of restricting traffic through the area might endanger the object.

JOHNSON: I noticed you used the term "scientific interest may be acquired" and I wondered if it were the intent of the Committee to cover the thought I mentioned by that language.

RILEY: With reference to the people's "use, enjoyment and welfare" which gives me my only hesitation there to say yes. Conceivably, if the scientists concerned could advance some reason why it would be in the interest of the people, generally, to follow that course, I would say it would fall in this section. It's a thought that hadn't occurred, as far as I know, to the Committee.

JOHNSON: Doctor Skarland spoke to me about it one time, and he mentioned that a number of states, and countries for that matter, have provisions of that sort for protecting archaeological deposits, and he thought it advisable that we have some such protection in our constitution and I just wondered if this would do it.

RILEY: I think it might be desirable to frame language to accomplish that purpose within this section.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: When you do, I might suggest that you read the National Archaeological Act, a federal act which treats this same subject and does not permit anyone to interfere with such objects.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I happened to be about three years ago trying to get an old village turned over to the village of Unalakleet, and I ran into the antiquities law. And that antiquities law said you shall not do anything about it, but we can dig up the bones and the relics and take them away, but you can't have them. And, I said, "You're not digging them up, or anybody else. We're keeping them." So they agreed we'd leave them there. One village, the village of Unalakleet -- the antiquities law.

HELLENTHAL: It applies in every state.

RILEY: Well, I shall appreciate, and I know the Committee will, any assistance in this respect towards redrafting this particular section to arrive at that result.

PRESIDENT EGAN: Are there any other questions with relation to Section 8? Are there questions on Section 9? Mr. Fischer.

V. FISCHER: I would like to ask Mr. Riley exactly what the Committee means in line 7 by "lands and interests therein"? Does the interests therein refer to forests, minerals and other resources, as used by the Committee?

RILEY: This is a question Mr. Fischer and I have discussed a little bit today, and I think that he has an excellent point that so often we're thinking of a document, a leasehold or a deed or a patent or a partial interest in a mining claim. I feel that the Committee intent was to cover the resources therein, the mineral below the surface, forests above, and so on. And some improvement of language or clarification may be necessary at that point. As a matter of fact, "interests therein" has been used throughout the article. In some instances it might have a meaning in one sense, and in some the other, and I'm very much pleased that we have the talent we have in Style and Drafting.

PRESIDENT EGAN: Are there other questions on this section? If not, are there questions with relation to Section 10? With relation to Section 11? Section 12? Mr. Metcalf.

METCALF: Mr. Riley, on Section 12, I take it it's the meaning and intention of the Committee that before the state can lease or sell any land or interest they'll be publicly advertised

so the highest bidder may have the chance to get it, and not be handled the way it is now?

RILEY: That's the underlying thought. Some state constitutions spell all this administrative procedure out in detail. "The sale shall be at 10:00 a.m. on the courthouse steps after 30 days advertising..." and that sort of thing and we felt that to be a legislative concern, and we need only suggest it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I'm a little perturbed about the narrow definition that you seem to suggest would be implied to the word "interests". Do you mean to interpret it narrowly?

RILEY: I suggest, Mr. Hellenthal, that I thought that there were two possible interpretations.

HELLENTHAL: Which did the Committee intend?

RILEY: The Committee had in mind largely the surface of the land and everything it contained.

HELLENTHAL: Then, you intended the broad interpretation?

RILEY: I do.

HELLENTHAL: Well, then I certainly wouldn't leave it to Style and Drafting to superimpose their interpretation.

RILEY: As a matter of fact, I would like to quiet any fears on that score. I think Mr. Fischer and I are going to go through this and check each reference to "interests therein" and see if, perhaps, other language might be desirable.

HELLENTHAL: And be sure to bring it to the floor when you do.

RILEY: Oh, yes, before third reading.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I tried to keep up reading, and I had a question for Section 11.

HELLENTHAL: Before --

KILCHER: I'd like to ask a question if I may.

PRESIDENT EGAN: Mr. Kilcher has the floor. You may ask your question Mr. Kilcher.

KILCHER: There is again, on line 5, the question of "access thereto", and line 9 the word "damage" is mentioned. Would you

consider it to be a case of damage when a man has built his private roads, and there is a question of public use to use them? I happen to be in such a position, personally. I am the owner of a private road that is not travelled, and the road is, of course, in rainy weather, abused by people who are not conversant with that type road. Would you consider this "damage"?

RILEY: Well, conceivably you've been damaged. I don't know the full circumstances, and I wouldn't undertake to say yes or no, but what we're trying to do here is to indicate to the legislature that provisions shall be made for the compensation of damage, where it's established. I hesitate to rock the boat further by getting into this subject. It has been so well expressed for the record by Mr. McLaughlin, and I would like to abide with that for the Committee.

KILCHER: Offhand, would you say that the establishing of toll bridges or toll roads would be excluded -- private ones -- would be excluded or included in this section?

RILEY: No, toll roads was never mentioned.

KILCHER: I mean, I'm asking you, offhand.

RILEY: Well, offhand, I'd have to think about it. I don't quite see the application.

KILCHER: Well, thank you.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, just on behalf of the Committee, I suggest that the personal problems -- we have 14 attorneys in the Convention -- and they will all handle the matter.

KILCHER: Mr. Chairman, I hope the Convention understands that I am mentioning a personal problem because that's the one I am most conversant with, but they serve a general application, of course.

PRESIDENT EGAN: Are there any questions with relation to Sections 11 or 12? If not, are there questions on Section 13? Mr. Barr.

BARR: I have a few questions. Mr. Riley, on page 5, starting on line 10. You have a paragraph there dealing with "leases and prospecting permits giving exclusive right of exploration..." Now, in the first part of this proposal you say that all these resources shall be open to the general public, everyone treated alike, and also on prospecting and staking out mineral claims you say first come, first served. Now, why do you propose giving exclusive rights for exploration in this paragraph?

RILEY: Mr. Barr, in our mineral coverage in this article we have sought to be guided by the existing federal practice, in order to divulge to the people a system as familiar as possible to them. You will note in that paragraph that the substances, the minerals concerned are those which today are all disposable under lease from the federal government. This is simply an extension, or an adoption by the state of the existing federal practice.

BARR: Well. I can understand the word "leases" but "prospecting permits" sort of stops me. It sounds like no one can enter on any land for the purpose of prospecting, I mean, the original discovery, in other words.

TAYLOR: May I explain that?

RILEY: I refer you to Mr. Boswell.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: In the matter of prospecting permits, it probably applies to coal most forcibly. Under the federal Mineral Leasing Act you can get a permit to prospect for coal. Now, that permit is not nearly as expensive to get, nor as hard to maintain, as a lease is, and after a definite period of time, you can then either abandon your permit or you can take it ahead and get a lease. And that is why we have included this exclusive permit in connection with the coal, and these other leasing act minerals. Now, down at the bottom of the last line it says, "for the use of geophysical, geochemical and similar methods of prospecting for all minerals." Now, that is a rather new conception, and those are new methods. In order to use such a method, it is necessary to work over quite a large area of ground; and it is the intent of the Committee to interpret this narrowly so far as this last type of permit is concerned. In other words, we don't feel that many of these permits should be given, and they should be given to reliable parties, so that we don't have our land cluttered up with a lot of permits. You can have a situation where someone would ask for one of these permits and then, perhaps, through no fault of his own, not do anything about it and, of course, that would tie that land up for the time of the permit. So, as I say, we feel that this particular thing is a good thing, but it should be applied in a rather narrow way.

BARR: Well, the way I read it, then, if I want to take a scintillator out here in an airplane and prospect, I have to get a permit.

BOSWELL: No, I wouldn't say that type of prospecting would be included, there would be no permit necessary.

BARR: Of course, there are two types of prospecting. One, you

have no knowledge of any minerals in the area, and the other, you know there is some, but you have to dig a hole to find out how much. In other words, one involves labor and the other involves walking around quite a bit. You're speaking mainly of exploration by development when you're speaking of prospecting this way?

BOSWELL: Yes, that's right. Now you're talking of using a scintillator, that would be for a type of mineral that you would locate. It wouldn't be a type that you would get a lease on. We're talking, in this case, about these leasing act minerals, not the metallic minerals that you normally locate under the federal laws.

BARR: Well, I still don't understand some of it, but I'll get together with some of the Committee during recess and go over it a little more.

PRESIDENT EGAN: If there's no objection, the Convention will stand at recess for five minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other questions with relation to Section 13? Mr. Cooper.

COOPER: Mr. President, I have a question. In line 5, page 5, the word "or" that was inserted by the Committee. I want to know just exactly why the word "or" was inserted in lieu of "and", and, if possible, shouldn't it be "and/or"?

BOSWELL: I think Styling and Drafting will rule that out. The thought there was that we might have a situation where the extraction would be on one claim and the processing on an adjacent claim. And it seems like it would be a little broader to say "or" instead of "and". That's about the only answer I can give on that.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Well, I had in mind, for instance, cinnabar, which is a rather costly extracting process. Now, eventually, according to this, the mineral claimant could extract on one claim, and the basic processing of said mineral could only be on another claim, is that right?

BOSWELL: I beg your pardon?

COOPER: The extraction or the excavation could be on one claim, but the processing could only be on another claim?

BOSWELL: No, that's not the intent. The extraction and basic

process, they could be on one claim, but, if we have "or" in there, then if you had an adjacent claim where you were not doing any extracting, you could still have basic processing on that claim, or you could use it for tailings or any other of these things that are necessary in the mining operation.

PRESIDENT EGAN: Are there other questions? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question. Mr. Riley, why is it considered desirable, in Section 13 on page 4, lines 16 and 17, to refer to the federal mining laws enforced during the year 1955? It occurs to me that that might seem to be a rather strange date to enshrine in our constitution which may not go into effect for several years hence. It's already 1956.

RILEY: That has occurred to the Committee. We feel that we know what a federal mining law was in 1955. A cut-off date must be established by one means or another. Conceivably, between the time this constitution is adopted by the Convention and the time it goes in force, many changes might occur in the federal mining laws which we do not anticipate. I might say it's perhaps remote, because there have been notably few changes in the last 80 years, but in any event, the Committee felt that some certainty should be established as to what federal mining legislation we were speaking of. What was its condition, what were its terms at a given moment?

SUNDBORG: Doesn't the term "those minerals subject to location under the federal mining laws..." etc., isn't it exclusive of the "coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals" mentioned in a later part of this section?

RILEY: Yes, generally speaking.

SUNDBORG: And you wouldn't mind -- in that regard, you say. "and other minerals as may be prescribed by law"?

RILEY: That's another question, if I'm not interrupting.

SUNDBORG: Go ahead.

RILEY: It was brought to our attention not long ago that, assume this had been adopted 15 years ago, assume that uranium, for example, took the important place it has since, and that no Atomic Energy Commission had been provided. Uranium would not have been in our contemplation. Possibly, various complications would have arisen. It may be those elements and those minerals which have no foreseeable commercial value today which may become very important in the future. And that's the occasion for the "such other minerals" language, on wherever it appears. It's touched on in the other group of minerals on page 5, lines 8 and 9, and line 18, page 4.

SUNDBORG: You wouldn't consider it safe to say, instead of 1955, as of the date of ratification?

RILEY: "Ratification", I think, would be safe because that, we hope, is just a period of a few months in the future.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I have a question I'd like to address to Mr. Boswell, if I may.

PRESIDENT EGAN: You may ask your question, Mr. McNees.

MCNEES: There was no intent on the part of the Committee, was there, to make necessary the use of a permit? Something like a hunting and fishing license in the prospecting for minerals on the public domain, only insofar as they would want an exclusive right to prospect, is that correct?

BOSWELL: Absolutely correct.

PRESIDENT EGAN: Are there other questions? Mr. McNealy.

MCNEALY: I would like to address a question to Mr. Boswell.

PRESIDENT EGAN: You may ask a question, Mr. McNealy.

MCNEALY: It occurs to me that when the federal government makes a grant of some 100,000 acres in excess of land, that it will embrace a good number of mining and mineral claims that are presently being worked or being held. I wonder had the Committee given any study to whether or not it would be the intention of the federal government, in transferring these lands to the state, to reserve under the present miners or those working mineral claims, to reserve them their rights under the federal mining laws?

BOSWELL: The present enabling act is very specific about any ownership of land in the federal government will remain with the person who has it, even to a claim that is staked. Even if that claim has been staked, presumably it can be carried right on through the patent if it is staked before that land is taken over by the state, it can be carried through to patent under the federal government.

PRESIDENT EGAN: Are there other questions on Section 13? Mr. Buckalew.

BUCKALEW: Then I understand, Mr. Boswell, we don't have to cover that situation in the transitional measures.

BOSWELL: I don't believe so.

PRESIDENT EGAN: Are there other questions? Mr. Boswell.

BOSWELL: This is 2535, following the matter of selection of land, "Provided that nothing herein contained shall affect the continued validity of any such lease, permit, license or contract, or any rights arising thereunder."

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have another question. I don't know which one of the Committee members would answer this. On a geochemical prospecting permit giving exclusive right of exploration, would that include an entire watershed or would it be more or less localized?

BOSWELL: Well, it probably would include quite a considerable area. That's one of the features of geochemical prospecting. They start at the lower part of a stream and work up, and when they find some indication in their geochemical work, they might go up a certain tributary. These permits, as I said, would be for limited periods; and I would also call attention to the language in line 11 -- these leases and prospecting permits may be authorized. It doesn't say that they "shall" be, or anything like that, it's just leaving the door open for the legislature to permit it if we should ever want it.

PRESIDENT EGAN: Are there other questions on Section 13? If not, are there questions with relation to Section 14? Mr. Hurley.

HURLEY: Mr. President, on line 21, Section 14 -- whoever wants to answer it -- it says that, "Priority of appropriation shall give prior right." Now, my understanding is that you're adopting, in a general way, the doctrine of beneficial use. Now, with a statement such as "priority of appropriation shall give prior right", would you still feel that that right would be subject to beneficial use of the waters?

RILEY: I would say the next sentence does carry that concept and that has been clearly in the minds of the Committee.

HURLEY: Mr. Riley, I did read the next sentence, and my interpretation of the next one had reference to the relative beneficial uses that might be determined, and not to the particular beneficial use of the water that had been established by the prior claim. "The priority of appropriation shall give prior right" language is again an effort to stay with familiar concepts in Alaska, just as we mentioned with respect to mining locations. As is well known, the notion of "first in time, first in right," has long been followed up here, but I think, too, that it's generally established that some beneficial use, if you will, must continue.

HURLEY: I'll call your attention, Mr. Riley, to page 8 of your commentary, the third line of which you say, "the preservation of a prior appropriation right to water requires continued beneficial use," which answers my question as far as your intent is concerned, but I wonder if the section itself is perfectly clear to that extent.

RILEY: Well, there is a long line of cases to the effect that the evidence of a valid appropriation of water is first, an attempt to apply it to a beneficial use, existing or contemplated, and an actual diversion and application of it to that particular use within a reasonable period of time.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President. Mr. Riley, don't you think that the separate reference to fish and wildlife at the conclusion of Section 14 might be construed to take fish and wildlife out of the operation of the preferential system with regard to beneficial uses?

RILEY: Well, I hadn't thought of it in that way, Mr. Hellenthal, but since you raised the question, I assure you we will think of it.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I'd like to ask Mr. Riley a question.

PRESIDENT EGAN: You may ask a question, Mr. Taylor.

TAYLOR: Mr. Riley, isn't it a fact that Section 14 is, more or less, a reiteration of the body of law that grew up through the utilization and appropriation of water in the Western states over -- in fact -- the last 100 years?

RILEY: Yes, I agree.

TAYLOR: And that the last sentence as to fish and wildlife, that you cannot contaminate the waters such as to kill off the fish or ducks or any other wild animal?

RILEY: Right. That was our thinking. We'd set up a general reservation earlier and felt obliged to call attention to it.

TAYLOR: When you use the words "a long line of cases", that is the cases of the Western states?

RILEY: The Western states, yes.

TAYLOR: Innumerable cases in which they define the rights of appropriation of water and the beneficial use of it, and the continued use.

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PRESIDENT EGAN: Are there other questions on Section 14? If not, are there questions on Section 15? Mr. Gray.

GRAY: I'd like to ask here, Mr. Riley, in Section 15 why do you employ the use of navigable waters when they're expressly under federal jurisdiction?

RILEY: Well, I'm not sure that I can field that one, Mr. Gray.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: If you don't mind my volunteering -- what might be navigable under state law might not be navigable under the Federal Constitution. And what might be nonnavigable would still be public waters of the state. There isn't a distinction between navigability of state waters and navigability of waters under the Federal Constitution.

PRESIDENT EGAN: Are there any other questions relating to Section 15? Section 16? Mr. Sundborg.

SUNDBORG: Mr. Riley, in your opinion, does Section 16 prohibit the operation of fish traps without any further legislation by the state?

RILEY: I would say no.

SUNDBORG: Would it permit the abolition of fish traps by statute?

RILEY: I don't think that question necessarily arises in connection with this section. Perhaps you have read the last paragraph in our letter of transmittal.

SUNDBORG: I have.

RILEY: The White Act specifically forbids the exclusive right of fisheries, and yet has never been the means for abolition of fish traps. That, perhaps, is a very superficial answer.

SUNDBORG: Is there anything in the constitution, as we have considered it here in second reading, which in your opinion would prohibit the abolition of fish traps?

RILEY: No, I think not once the constitution is in force.

SUNDBORG: You believe that the state does have the authority to abolish it?

RILEY: I do, or it will have.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: On this exclusive rights and special privilege, would

Bristol Bay where they have set netters, Cook Inlet set netters, on the Yukon where the Natives have special rights to catch salmon, and so forth, could they be stopped under this?

RILEY: I would like to refer that to Mr. Emberg, our specialist on that.

EMBERG: Mr. President, I don't know how much of a specialist I am, but I should say that we have had in effect since 1924 in Alaska a Federal act called the White Act, which says there shall be no several right or special privilege of fishery. That language has not operated to prohibit set nets with resident qualifications being operated in the Bristol Bay fisheries any more than it has operated to prohibit fish traps in other places, so I don't see how you can restrict it here.

POULSEN: Oh, I'm for it. Don't get me wrong.

PRESIDENT EGAN: Are there other questions relative to Section 16? Mr. Buckalew.

BUCKALEW: Mr. Emberg, we have a proposed ordinance which we've drawn, which simply states that there shall be no traps for the commercial taking of salmon. That ought to do it, wouldn't you think, Mr. Emberg?

EMBERG: Yes, if you would have said there will be no fixed gear operating, you would cover set nets, too, but you didn't; you specifically mention traps.

HELLENTHAL: Don't you think that this fixed set net should be excluded from the operations?

EMBERG: Well, certainly, I don't want them abolished by this constitution. I think they are a legal form of gear, and they are mostly fished by residents of Alaska, and I don't think it would be to the interest of the state or its people to provide for the abolishment of all forms of fixed gear.

HILSCHER: Mr. President, may I ask Mr. Riley a question? In this discussion just the last few minutes, I believe I understood you to say that you felt that the state had the authority to supervise or to abolish fish traps under this constitution.

RILEY: Yes, it will by statehood itself.

HILSCHER: Did you mean to indicate, then, that a specific ordinance would not be necessary in ordinances and transitions?

RILEY: When statehood is achieved, the state itself may act, with or without an ordinance, meanwhile.

HILSCHER: Thank you.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, may I ask Mr. Emberg a question?

PRESIDENT EGAN: You may, Mr. Kilcher.

KILCHER: Do you think, Mr. Emberg, if the words "no exclusive rights or special privilege" is interpreted right, that this section might make it mandatory that the state should abolish fish traps?

EMBERG: I think that inasmuch as they operate in the line of being an exclusive right or a special privilege that this common sense application, whether their legal definition doesn't cover that same sense, that this is a good indication that that type of fishing would be frowned upon under the constitution.

KILCHER: That it might be considered unconstitutional? Fish traps might be considered unconstitutional if this is going to be the constitutional language?

EMBERG: Not so far as I know under the doctrines of fishery rights, as I understand them that have been decided in the state supreme courts or in the federal courts. I wouldn't rely on this section to abolish fish traps. It would take a specific act of Congress, or of the state legislature, or a constitutional provision, or an ordinance. I want to say, too, for the record, that in regard to the questions about the authority of the state to abolish fish traps, it would also have the authority to abolish any presently legal form of gear, so this is not discriminatory.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Riley, suppose that the present Secretary of the Interior, Douglas McKay, or whatever his name is, provides by an Act of Congress, that fish traps shall be abolished over a ten-year period, say, starting six months from now, do you think that would deprive the State of Alaska of their inherent power to abolish the traps?

RILEY: I confess that thought has occurred to me as to whether any such motivation might have prompted it. I feel, without having done any research on the subject, that when the state comes into being and sovereign rights may be exercised, that any administrative directive as to fish traps lasting five years or ten years, will have to give away to the decision of the state made known in its sovereign capacity. I don't profess to have looked into the subject at all, but I rather doubt that our sovereignty could be limited by that device or its full exercise. And certainly I think it is a subject which we might concern ourselves with.

PRESIDENT EGAN: Mr. Peratovich.

PERATROVICH: I want to ask Mr. Riley one question, if I may.

PRESIDENT EGAN: You may ask a question, Mr. Peratrovich.

PERATROVICH: Then it's the feeling of the Committee that perhaps it is best not to single out any type of gear in respect to the fisheries? There was a suggestion made, could it not be spelled out in the form of an ordinance, and I think Mr. Emberg spoke of that -- your explanation was against that, if I understood it correctly. Is it the feeling of the Committee that it's best to leave this particular subject out of the constitution, or ordinances?

RILEY: I reply in this manner -- the Committee feels that it's desirable that this Convention express itself on the subject of the abolition of fish traps as has every deliberative body in Alaska since 1913, every legislature, I should say. We do not feel that it should appropriately be a provision frozen into the constitution as such. We feel that that expression may be made effectively by ordinance, and it can be made by resolution, but that the Constitutional Convention should go on record in that respect. For one thing, if it were to be placed in the constitution, to be there forever, I think it would detract from the dignity of the document in appearing to be a matter of permanent record of economic sanctions.

PERATROVICH: I was satisfied with the explanation that you gave in your answer to someone here, that you felt, under our constitution that there be a possibility of our legislature taking that action. That's the reason I mentioned this question.

RILEY: When Doctor Gabrielson appeared in public hearings here, I think he echoed the feelings of many when he said he felt he knew what the number one act would be in the first state legislature, barring earlier action to abolish fish traps by this group.

PRESIDENT EGAN: Are there other questions in relation to the section? Mr. Sundborg?

SUNDBORG: Mr. Riley, if we can go back to the hypothetical case proposed here by Mr. Buckalew a moment ago, about the possible adoption by Congress of an act which would abolish fish traps over a period of years, can you see any possibility that Section 2 on page 1, where it states that the state shall provide for the conservation and so on, of resources "in accordance with provisions of applicable acts of Congress", might tie our hands, or tend to do so, if we should wish to abolish fish traps within the period which would be provided in that federal legislation?

PRESIDENT EGAN: Mr. Riley.

RILEY: There, too, Mr. Sundborg, that's a question which hadn't earlier occurred to us. I'm glad to see it out in the open. I think that we would do well to consider that language in terms of your question.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: May I go back to the question that I asked Mr. Riley, and I thought I got one answer, but it turns out now that I have the opposite answer?

PRESIDENT EGAN: You may, Mr. Hilscher.

HILSCHER: It is my understanding, Mr. Riley, that when Alaska becomes a state, it has the sovereign right to decide what to do with fish traps.

RILEY: That has always been my understanding, Mr. Hilscher, until a moment ago when Mr. Sundborg raised what may be a substantial reason to re-examine both Section 2 and all present proposals of the federal government.

HILSCHER: Discounting --

RILEY: Apart from that, I would say that the answer to your question is yes, unqualifiedly.

HILSCHER: Well, thank you. Then, if the answer is yes, then why should we have a specific ordinance brought into the constitution which says fish traps shall be abolished by the State of Alaska?

RILEY: I'm saying simply as a policy matter, for myself alone, although I think it is shared by the Committee, that I believe this Convention should go on record with an expression of some sort on the subject of fish traps, because that is of such vital concern to all of Alaska.

HILSCHER: I would be inclined to think that we are just asking for trouble by so doing.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I can answer Mr. Hilscher's question. If we provided it by ordinance, fish traps would be illegal the day Alaska was admitted to the union, and we wouldn't have to wait for the legislature to act. We could knock them out perhaps six months earlier. That would be the advantage of having an ordinance.

RILEY: We are in agreement, the Committee, on that.

PRESIDENT EGAN: Mr. McNeas.

MCNEES: Coming back to an answer here on this Section 2 on page 1, the acts of the Department of Interior are not necessarily an act of Congress.

RILEY: That isn't what Mr. Sundborg had in mind if I understood his question. He was assuming that there would be a Congressional measure adopted to abolish fish traps over a period of years.

SUNDBORG: Mr. Riley, has not the present Secretary of Interior and have not previous secretaries and the heads of the Fish and Wildlife Service, all said that they have no authority to abolish fish traps without an act of Congress?

RILEY: Yes, I believe that most of them have said that. I have heard it asserted otherwise.

SUNDBORG: But not by them?

RILEY: Not by them.

PRESIDENT EGAN: Are there other questions relating to Section 16? If not, are there questions relating to Section 17? Mr. Ralph Rivers.

R. RIVERS: Mr. Riley, Section 18 says that eminent domain proceedings may be undertaken for obtaining private ways of necessity to permit essential access for extraction or utilization of resources. Section 17 says that no person shall be involuntarily divested of his right to use of waters, his interests in lands, or improvements, other than by operation of law. I wondered why you didn't mention eminent domain in Section 17 as well as in Section 18.

RILEY: Well, we felt that "operation of law" would be the institution of condemnation proceedings. We might suggest that eminent domain will be covered elsewhere in the constitution. In Section 18 we give particular stress to eminent domain as concerns the utilization of resources, the getting to resources. This language has appeared in a number of the Western state constitutions. I believe this is almost verbatim from Wyoming.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Riley, it is true that eminent domain has already been covered by Section 17 of the bill of rights, which has been adopted in second reading by this group, and that reads, "Private property shall not be taken or damaged for public use without just compensation." Now, you'll recall, when the federal government took the city of Anchorage's rights in the Eklutna dam, that was public property, and I can't find any provision anywhere in the constitution or the proposals which provides for compensation for the taking of public property.

Can you refer me to any such provision?

RILEY: No, I think not.

HELLENTHAL: Would you object, then, to adding the following language following Section 18: "and just compensation for such taking, as well as the taking or damage of inferior property rights, shall be made." Now, that language would cover the taking of an inferior private or an inferior public property right in the process of this balancing of the beneficial interests and in the hierarchy of beneficial interests that you set up in this article. Would that language be --

RILEY: I see no objection to it, Mr. Hellenenthal. I'd like to get the full expression, though, if I may.

HELLENTHAL: That answers my question. I can give it to you later.

PRESIDENT EGAN: Are there other questions relating to Section 17 or 18? Mr. Taylor.

TAYLOR: Mr. President, I might say, with regard to Section 18, I believe that matter is partially taken care of in the present statute, in that the state reserves a strip of land along the section lines which will be used for roads for access, the egress and ingress to property. Then if there was no such a way, why, a person who has property, then the only way for access to it is over somebody else's land, they always have the right of eminent domain to secure a roadway across somebody else's land. The general law takes care of that to a great extent.

PRESIDENT EGAN: Are there other questions relating to Section 19? Mr. Riley.

RILEY: Mr. President, regarding Section 19, there too, there will be other coverage in the constitution which may well eliminate need for this, but the Committee felt obliged to throw in a statement on residual powers just to call attention to it for an appropriate place in the constitution.

PRESIDENT EGAN: If there are no other questions at this time, Mr. Smith, is it your pleasure that we hold up the amendment process until you have had time to have a committee meeting, and that each of the delegates who might have proposed amendments or questions that might lead to amendments meet with your Committee?

SMITH: I would so suggest, Mr. Chairman.

PRESIDENT EGAN: The Chair was wondering, Mr. Smith, just as a suggestion, if it might be that you would ask for a meeting in

the morning at our ordinary adjournment time, if that meeting might last for an hour or so, that the actual convening time or adjournment time of the Convention this evening might be set a little later, in order to allow your Committee to meet, and all delegates who might have questions know that the meeting would be set for that time, and be here and present to express their views? Mr. Boswell.

BOSWELL: It would occur to me that if we have an idea of how many might have amendments, it would give us an idea of how long we would need in the morning to meet with them. Could we have a show of hands of those that have amendments or questions that they would like to be heard upon before the Committee?

PRESIDENT EGAN: It seems that there are quite a number all right.

BOSWELL: About an hour, I would say. I would move that we stand adjourned until 10 o'clock tomorrow morning, and that we will meet with all those interested in discussing this article at 9 o'clock.

PRESIDENT EGAN: Mr. Boswell moves that the Convention stand adjourned until 10:00 a.m. tomorrow, with the understanding that the Resources Committee will meet at 9:00 a.m., and that all interested delegates be present at that time to be heard, and offer suggestions or amendments, such as they might have.

SMITH: Mr. President, I wanted to announce a meeting of the Resources Committee at 9:00 a.m. tomorrow morning in the gallery.

PRESIDENT EGAN: The Resources Committee will meet in the gallery at 9:00 a.m. in the morning. Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee will meet at 9:00 o'clock in one of the committee rooms on the third floor.

PRESIDENT EGAN: The Style and Drafting Committee will meet in one of the committee rooms on the third floor at 9:00 a.m. Mrs. Sweeney.

SWEENEY: The Engrossing and Enrollment Committee at 9:00 a.m. tomorrow, also.

PRESIDENT EGAN: The Engrossing and Enrollment Committee will meet at 9:00 a.m., also. Mr. Hilscher.

HILSCHER: I should like to remind the membership that we have arranged for the one and only group photo of everybody tomorrow morning at 10:30, and would the gentlemen please have their hair combed and look nice?

PRESIDENT EGAN: Group photo will be taken at 10:30 a.m. Is that right, Mr. Hilscher?

HILSCHER: That's right.

PRESIDENT EGAN: Now are there other committee announcements or any other announcements to be made at this time? Mr. Victor Rivers.

V. RIVERS: Mr. Rosswog was to announce a committee meeting.

PRESIDENT EGAN: Does anyone know what time the Local Government Committee plans to meet in the morning? Mr. Fischer.

V. FISCHER: We have a meeting scheduled for tonight, and I assume that we will decide at that time. Tonight's meeting will be in town at Apartment No. 19, at the Alaskan Inn, as soon as the Committee can get there.

PRESIDENT EGAN: The Local Government Committee will meet this evening at Apartment 19 at the Alaskan Inn. Are there other announcements? If not, unanimous consent is asked that the Convention stand adjourned until 10:00 a.m. tomorrow. Is there objection? Hearing no objection, it is so ordered.

ALASKA CONSTITUTIONAL CONVENTION

January 18, 1956

FIFTY-SEVENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us today the Reverend John O. Jeffcoet of the Native Baptist Church in Fairbanks. Reverend Jeffcoet will give our daily invocation.

REVEREND JEFFCOET: Our gracious Father, we pause now to recognize Thee as the sovereign Ruler of our universe and as the great Advocate of man's freedom and as one who has manifested Himself down through the years in a very lovely way in behalf of man. "And behold what manner of love Thou hast bestowed upon us that we should be called the sons of God." Our Father, we want to thank Thee for this present day and for every expression of Thy love and Thy beauty, and we pray, our Father, Thy blessings upon this Constitutional Assembly. We pray Thee that they may have strength of body and mind for the labors and duties that are before them this day. In Jesus' name we pray. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: All present.

PRESIDENT EGAN: A quorum is present and the Convention will proceed with the regular order of business. The Chair will declare a recess at this time. The group photograph will be taken and the Convention will convene immediately following the photographing of the delegates. The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: Mr. President, the Committee on the journal of the 50th day has the following corrections to report: page 10, fourth paragraph from the top of the page, strike the letter "s" from "Mrs."; page 13, sixth paragraph from the top of the page, delete "proposed" and insert "proper"; page 15, after the last roll call vote, eighth line from the bottom of the page, change "ans" to "and". With those corrections, Mr. President, I move that the report be adopted and ask unanimous consent.

PRESIDENT EGAN: Mr. Knight moves and asks unanimous consent that the journal of the 50th day be adopted by the Convention with the proposed corrections. Is there objection? Hearing no objection it is so ordered and the journal has been adopted. Are there any petitions, memorials or communications from outside the Convention? The Chief Clerk will please read the communications.

(The Chief Clerk read the following communications: a telegram from the Tlinget tribe No. 4, Ketchikan, urging provision for separate wildlife and commercial fishing commission; a telegram from Ketchikan Rod and Gun Club, recommending the proposal of the Alaska Sportsmen Council for the wildlife conservation section of the constitution of Alaska be used verbatim; telegram from J. F. Krause, President, Southeastern Seine Boat Owners Association, opposing fish and game setup in constitution and recommending that game department should be set up by the legislature on same setup as our fisheries department is set up.)

PRESIDENT EGAN: Are there other communications? Are there reports from standing committees? Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee wishes to report to the Convention three items which concern other committees and the Convention as a whole. First, we would like to suggest that the Rules Committee develop a procedure for scheduling the consideration on the floor of the reports from the Style and Drafting Committee which will include the revised language of proposals which have been referred to us. Specifically, we would like to suggest that the Rules Committee prepare a calendar for consideration of the reports from our Committee on the floor. The second item is a suggestion from the Style and Drafting Committee that the Rules Committee prepare an amendment to the rules which would separate articles which have come upon the floor and have been considered jointly with other articles in single proposals, as in the example of the article on preamble and bill of rights was considered along with the article on health, education and welfare; and I believe that was done in at least one other case. We believe it would speed up the work of the Convention and cut down on a lot of work in the boiler room if we could consider the articles separately rather than have to consider the proposals which might contain several articles at the same time. The third item is a report that we have referred directly to the Committee on the Judiciary and to the Committee on Initiative, Referendum and Revision, an apparent inconsistency in several of the articles where in some cases we speak of things being done "by the legislature" and others as being done "by law"; and we have asked those committees to resolve the inconsistencies and make some recommendations

to our Committee.

PRESIDENT EGAN: What is the pleasure of the Convention? The Rules Committee will take the suggestions under consideration. Are there other committee reports? Reports of standing committees? Or reports of select committees? Are there any motions or resolutions? If not, we have before us Committee Proposal No. 8/a in second reading. Mr. Smith.

SMITH: Mr. President, during the morning recess the Committee on Resources discussed with various delegates proposed amendments, and the Committee has adopted several committee amendments, and Mr. Riley, being the shorthand expert, will present those amendments.

PRESIDENT EGAN: Mr. Riley.

RILEY: The Chief Clerk will read the proposed amendments.

CHIEF CLERK: "Page 1, line 4, place a period after the word 'interest' and strike the rest of the paragraph."

RILEY: Mr. Chairman, I ask unanimous consent for the adoption. It was the feeling of the Committee after discussing the matter with others that the statement of purpose was left largely intact and some economy effected in words by that change.

PRESIDENT EGAN: Mr. Riley, is it your understanding now that we are in the amendment process, or are you asking that that become a part of the original Proposal 8/a?

RILEY: Actually, I thought we were in the amendment process.

PRESIDENT EGAN: Unanimous consent is asked that the proposed committee amendment be adopted. Is there objection?

LONDBORG: May we have it read again?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 1, line 4, place a period after the word 'interest' and strike the rest of the paragraph."

PRESIDENT EGAN: Is there objection to the unanimous consent request? If there is no objection the proposed amendment is ordered adopted. Mr. Riley.

RILEY: Mr. President, is it the wish of the body that all of these come in chronologically from the Committee before we start the amendment process from the floor?

PRESIDENT EGAN: The Chair would feel that would probably be the best manner to handle that. The Chief Clerk may read the proposed committee amendment.

CHIEF CLERK: "Page 2, line 7, strike the comma after the word 'waters' and insert 'as defined by the Legislature,'."

HERMANN: What was that?

CHIEF CLERK: "Page 2, line 7, strike the comma after the word 'waters' and insert 'as defined by the Legislature,'."

RILEY: I would call attention to the comma following "legislature".

CHIEF CLERK: "Legislature comma".

DAVIS: To keep from running into the same problem, is there any objection to saying "as prescribed by law" at this point to keep from running into that same trouble?

RILEY: Subject to the views of Style and Drafting, I think the Committee will go along if "law" is preferable.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, "as defined by law" would include the initiative and that is the reason I understand that they used the word "legislature" there so that wouldn't be for Style and Drafting.

HELLENTHAL: That is correct. At the meeting it was decided to use "legislature" deliberately rather than "law".

RILEY: Mr. Hellenthal is right on that point. I thought Mr. Davis had raised this question in behalf of Style and Drafting, which Committee has been confronted by the problems constantly.

PRESIDENT EGAN: What is your pleasure then, Mr. Riley?

RILEY: The Committee adopted "legislature" for the reasons assigned by Mr. Rivers and Mr. Hellenthal.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Is there objection? Mr. Hurley.

HURLEY: Mr. President, I think maybe there is not a full understanding of this particular problem. While I will grant that a person has a perfect right to believe that this particular definition should not be prescribed by the initiative, still I call your attention to the fact that if, throughout this con-

stitution, we are confronted with "by the legislature" and "by law", we will be in conflict with our initiative provision unless we prescribe in our initiative provision that all these things cannot be done by the legislature. That is what concerns me. I think, practically speaking, it would be absurd for an initiative provision to define "waters" to begin with. Now I will grant the possibility that it could happen, but it being so unusual to have such a thing, it will be a much better constitution if we use "by law" recognizing that it could possibly be referred to initiative.

RILEY: The Committee, as Mr. Hellenthal pointed out and those who were present this morning, used the word deliberately just against that remote possibility. Now, sooner or later I am sure that the matter will probably be threshed out here at the instance of Style and Drafting, but in any event, we submit it as "defined by the legislature".

PRESIDENT EGAN: Is there objection to the unanimous consent request?

TAYLOR: I will object, because I would like to ask a question. Mr. Riley, does the amendment "as defined by the legislature" refer back to fish and wildlife, too?

RILEY: No, it does not. "Wildlife, and waters as defined by the legislature,".

PRESIDENT EGAN: If there is no objection, the proposed committee amendment is ordered adopted. Are there other committee amendments? Are there other committee amendments. Mr. Riley?

COGHILL: Mr. President, could I ask a question on this proposed amendment to Mr. Riley -- on the one we just finished?

PRESIDENT EGAN: You may ask a question if there is no objection.

COGHILL: On that, Mr. Riley, it would be the feeling of the Committee that the legislature could not regulate any of their wildlife to the point of say, domesticating moose or providing for such development of any source of wildlife that is held in their own natural state?

RILEY: No, that was not in the Committee's contemplation at all. We wished simply to meet the objection raised last evening by Mr. Poulsen, as you will recall. He and others, including the Committee, have been quite concerned about the problem as stated by him as concerns small bodies of water on privately owned property.

COGHILL: I understand that, Mr. Riley. Is there some other place in your article that would cover such a movement, say, to domesticate moose or to take a block of land and raise fox or something like that in his natural habitat?

RILEY: Are you speaking of refuge?

COGHILL: I am speaking, more or less, of a commercial refuge.

RILEY: Conducted by the state?

COGHILL: Conducted by a private person. I am afraid it would be against the constitution.

RILEY: It has not been discussed, as I recall, within Committee, precisely the situation you described.

COGHILL: I was thinking, more or less, along the lines that there has been in past years a movement to try and domesticate moose or to bring them under domestic control some way or other.

RILEY: Sort of like the reindeer program?

COGHILL: On that same order, but they would have to be ranged in their natural state, and would this clause then prohibit such a movement?

RILEY: The language here has a lot of history behind it. I see that I overlooked one -- no, I didn't either. The language in this section harks back to the old tradition whereby wildlife in its natural state was in the presumed ownership of the sovereign until reduced to possession. Frankly, I see problems arising in the situation which you suggest, and I don't know that this would prevent that if one could domesticate moose. They aren't in a natural state once domesticated.

COGHILL: I see your point, now.

RILEY: I would be pleased to discuss it with you in recess but I am somewhat nonplused at the moment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, may I ask the Committee -- it now says: "and waters as defined by the legislature" -- would that be a local or special act in most cases or in all cases?

RILEY: I would say one of general application is what we had in mind.

COOPER: Is there the chance it could be a local act? If so --

RILEY: It would generally be in conflict with the --

COOPER: With the legislative?

RILEY: Yes, you're right.

COOPER: And what I wanted to bring out was the fact that if as "defined by the legislature", to answer Mr. Poulsen's question last night, that is primarily the reason why this is in here?

RILEY: Yes. It is not his problem alone, mind you, but the problem of everywhere.

COOPER: Yes, but the legislative article says, "No local act will take effect until approved by a majority of the qualified voters voting thereon in the district to be affected." It would really be in conflict.

RILEY: No. The thought behind this language is for general application alone, the issuance of such definition either directly by the legislature or through its delegation by the administrative agencies.

PRESIDENT EGAN: Mr. Gray.

GRAY: I don't like to pursue any further, but in Section 4, I don't understand "waters, fish, wildlife, and waters" -- when over on Section 14, you practically repeat the same thing. You say, "All waters reserved to the people for common use shall be subject to appropriations." For just a cursory glance I do not see any reason why "waters" is mentioned in Section 4 at all.

RILEY: That is a statement of general reservation. In Section 14 we have some general coverage of waters. The general reservation touches on the other resources as well. Section 14 is confined to a statement on waters. As a matter of fact, we have another amendment coming up on Section 14.

PRESIDENT EGAN: Are there other committee amendments on the Chief Clerk's desk?

CHIEF CLERK: "Section 11 -- "

R. RIVERS: What is the ruling on Section 4?

RILEY: It was asked unanimous consent.

PRESIDENT EGAN: It was ordered adopted, Mr. Rivers.

CHIEF CLERK: "Section 11, page 4, line 3, strike 'mineral or water', and strike on lines 5 and 6, 'and to all other resources

reserved to the people', and retain the semicolon."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I ask unanimous consent for its adoption.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment once more.

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: I ask unanimous consent and will state we have stricken "mineral or water" on the one line and "all other resources" on lines 5 and 6 and used all-inclusive language for resources, generally, so it reads without a recital of various resources, "reservations to the state of all resources as are required by the Congress or the state," simply a cleanup of language.

PRESIDENT EGAN: Mr. Riley, do you ask unanimous consent for the adoption of the amendment?

RILEY: I did, yes.

PRESIDENT EGAN: Is there objection? Hearing no objection to the unanimous consent request the proposed committee amendment is ordered adopted. Mr. Riley.

RILEY: I believe there is one more.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 11, page 4, line 7, strike 'beneficial'."

RILEY: Mr. President, I ask unanimous consent for its adoption. It leaves the word "use" intact. The provision now reads: "except the reservation of access shall not impair the owners' use"; we felt that was broader and certainly included the types of use.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed committee amendment. Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Mr. Riley.

RILEY: Mr. President, I will ask consent of the body to put the next two or three amendments in orally. I have not been able to keep ahead here on the preparation of these. On the same page, page 4, lines 16 and 17, strike the words "during the year 1955" and in lieu of that, insert "upon the date of ratification of this Constitution by the people of Alaska".

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PRESIDENT EGAN: Mr. Riley asks that on page 4, lines 16 and 17, strike the words "during the year 1955" and insert the words "upon the date of ratification of this Constitution by the people of Alaska".

RILEY: "During the year 1955" -- that was put in last night.

DAVIS: May we have it again, please?

RILEY: Strike "during the year 1955" -- that was inserted last evening. We insert "upon the date of ratification of this Constitution by the people of Alaska".

PRESIDENT EGAN: Mr. Riley, the Chair wonders in that particular wording, and the wording has appeared in other articles --

RILEY: It appears in the finance article, Mr. President.

PRESIDENT EGAN: It is a proper wording rather than "the time after the enabling act"?

RILEY: It is our wish to effect an early cutoff date. I ask unanimous consent for its adoption, Mr. President.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed committee amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Riley.

RILEY: Mr. President, on page 5, line 10, after consultation with other delegates this morning, the Committee moves that the word "prospecting" be removed, feeling that it is covered in the following line by the word "exploration". I ask unanimous consent that the word "prospecting" be deleted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed committee amendment be adopted. Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Riley?

RILEY: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Riley so moves, seconded by Mr. Knight. The question is -- Mr. Taylor.

TAYLOR: I would just like to say a word or two. I believe in the exploration for coal, oil, and gas under the federal act, and

I assume that we will have an act very similar to the federal act, that the person applying for a prospecting permit should have a priority and an exclusive right to prospect a certain defined area. At the present time it is an area of 2,560 acres. Now, if prospecting for these particular minerals -- oil and gas -- that is a very expensive proposition, and if a man goes to prospecting them, maybe he will spend \$100,000 in prospecting or in a couple or three years, which he has to prospect it, and it could maybe be done by various methods -- geophysical or geochemical methods -- but they are all very expensive. So that is why the government gives the exclusive permit to a particular area in blocks of 2,560 acres, and I think it should define that the prospector has the exclusive right of exploration for a specific period and area. I think it should be left in.

RILEY: May I address a question to Mr. Taylor? Mr. Taylor, is it your belief that the word "exploration" need not necessarily include prospecting?

TAYLOR: Well, they are synonymous in the federal meaning, the "exploration" and the "prospecting" are the same.

RILEY: The use of the word "exploration" on line 11 would that, in your judgment, avoid the need for the word "prospecting" on 10?

TAYLOR: No, because if you leave the exclusive right it might be that the person administering the land laws and the mineral laws for the Territory of Alaska could give three or four different parties the right to prospect this particular block of land that they are asking for.

RILEY: If we leave the word "exclusive" --

TAYLOR: Leave the word "exclusive" in there.

RILEY: Yes. I don't follow you there. We are not taking it out. We don't propose to take it out. The word "prospecting" is the only word we are deleting under our amendment.

TAYLOR: First, you get from the Bureau of Land Management a prospecting permit; that is, what is, just a permit for prospecting an area of land. It might be three, four, or five people go in and they each apply for 2,560 acres and then they have a large block. They can go in and group their prospecting to possibly 25,000 acres, and I think the "exclusive" should be in there and the "leases" and "prospecting" because the leasing follows your "prospecting".

RILEY: In this instance the Committee had in mind that exclusive permit for exploration would be issued. It probably would be referred to, loosely, as a prospecting permit.

TAYLOR: That is what it would be.

RILEY: But it was brought to our attention that the word was considered superfluous by others of the delegates, and for that reason we submit the amendment.

TAYLOR: I have had considerable experience in regard to coal permits, and oil prospecting permits, and leases, and I believe that section should go in just the way it is written, that paragraph of that section.

RILEY: I believe there is a motion on the floor.

PRESIDENT EGAN: There is a motion on the floor, Mr. Hilscher.

HILSCHER: May I ask Mr. Riley a question? Mr. Riley, is it your intent to follow the general procedure as is now in the federal leasing and permit system?

RILEY: It is.

HILSCHER: Then it is immaterial whether the word is in or out because that is so clearly covered by the wording of the permits that are issued.

RILEY: As a matter of fact, the state would have a ready-made procedure set up for it, should it accept assignment of any federal leases in existence at that time, which would appear to be the wise course.

HILSCHER: Whether it's in or out, then, is immaterial.

HELLENTHAL: I rise to a point of order. I think that under the modification of the rule we have adopted that amendments to committee reports are not subject to debate. I know some hesitate to debate them fully at this time when they will be considered twice more at another time under our rules, and I feel that debate on the committee report is out of order.

PRESIDENT EGAN: No, it is not, Mr. Hellenthal. The Chair will have to hold that your point of order is not well taken in this instance. Mr. Riley.

RILEY: The Committee was given that opportunity this morning and waived it and considered it to be in second reading.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, Mr. Taylor has stated that the terms "exploration" and "prospecting" are synonymous. If that is true, it isn't needed twice there. The harm the word "prospect"

would do is this: prospecting covers all types of prospecting, including the oldtimer who goes out with a pack on his back with pick and shovel. We are dealing with oil and coal here, but a lot of people are going to read this constitution, and these individual prospectors, when they glance at this, they will see that the state is allowed to give out exclusive rights for prospecting and they won't like that. Of course, if they read further and saw it was the right of exploration for coal and oil that would be different. But since they are synonymous and we don't need that word "exploration" and it might give rise to a little anticonstitution feeling, I think we should strike it.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the proposed committee amendment will signify by saying "aye" opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments, Mr. Riley?

RILEY: On line 25, Mr. President, page 5, the Committee proposes that a period be placed after the word "legislature" and the balance of the paragraph stricken. This general reservation of fish and wildlife has been stated elsewhere and I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed committee amendment. Is there objection?

AWES: May we have it read.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Line 25, page 5, insert a period after the word 'legislature' and strike the balance of the section."

RILEY: Mr. President, there may be other committee amendments to succeeding sections, but this is as far as we went this morning before being called back to session. I am not certain, Mr. Hellenenthal, but I may be overlooking one of your suggestions that the Committee may have adopted, but this was just at the end of our deliberations and we are not certain that it was.

HELLENTHAL: No.

PRESIDENT EGAN: If there is no objection, the proposed committee amendment is ordered adopted. Are there other amendments to the preamble of the article of Proposal No. 8/a? If not, are there proposed amendments to Section 1? Are there proposed amendments to Section 2? Mr. Sundborg.

SUNDBORG: Mr. President, may I be permitted to ask a question, please?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg.

SUNDBORG: Mr. Riley, has your Committee considered the point which I raised last night about this language, "in accordance with provisions of applicable action of Congress" in connection with possible legislation on fish traps?

RILEY: We have considered it this morning, conversationally, with a number of delegates present. Without having conducted any study on the point, since you raised the question last evening, the Committee does not feel that a danger exists here. I should say that probably within the next day or two, if that view is not confirmed, I feel sure we could put it back in second reading should it have progressed beyond that.

SUNDBORG: Is the Committee pursuing the matter to be absolutely certain?

RILEY: Yes. The title of 2535, for example, and every other enabling bill that has been proposed, points up the congressional view that each state admitted is admitted on equal footing, but I should say the Committee's final reply should be held in abeyance on that.

DAVIS: Mr. President, may I ask Mr. Riley a question?

PRESIDENT EGAN: You may, Mr. Davis.

DAVIS: Mr. Riley, in Section 2, line 14, or actually lines 12, 13 and 14, it says, "The State of Alaska shall provide for the utilization, conservation and development of all of the natural resources, including lands and waters belonging to the State." It appears to me that as that is written it is broad enough to cover all natural resources, no matter whether they are privately owned, publicly owned, or what they may be. I am wondering if you did not intend to put a comma after the word "waters" at the end of line 14, so that it would then become clear that we are only talking about natural resources belonging to the state.

RILEY: That would be my conception of it, Mr. Davis.

DAVIS: There wasn't any intention that the state is going to develop natural resources on either federal land or privately owned land, is that right?

RILEY: No. The sections covered in the commentary states all resources over which the state has a proprietary interest, and I think that point is well taken.

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PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, did he ask unanimous consent?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mrs. Nordale had just made a suggestion that I think is even better, if it is all right with the Committee. Take the words "belonging to the state" and place them after "resources", so it would read: "All the natural resources belonging to the state including lands and water."

RILEY: I think the Committee would be receptive to that.

PRESIDENT EGAN: Mr. Davis, are you so moving the disposal of that wording?

DAVIS: I would, and ask unanimous consent for that transposition of words.

PRESIDENT EGAN: Does the Chief Clerk have that transposition?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Are there other amendments proposed to Section 2? To Section 3? To Section 4? Are there amendments to Section 5? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I don't want to make an amendment, but I would like to ask the Committee -- I notice in this place, it is the only place that a natural resource is put under a commission and I would like to find out just why it was necessary. I know there is a controversy in that matter, and I would just like to have it explained.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I would like to ask Mr. King to answer that question first.

PRESIDENT EGAN: Mr. King.

KING: Mr. President, of course we all know this has been a very controversial matter, and the feeling of the persons, organizations, and the wildlife agencies as to -- they expressed a desire to spell these things out in the constitution. It wasn't in detail, setting up various departments, of course, but it wasn't the feeling of the Committee that such should be done

here, that it should be confined to basic constitutional provisions. Now, the thing, of course, we know, being part of the controversy, is a difference of opinion between the sportsmen organizations and the Fish and Wildlife Service as to separation of the departments into commercial fisheries department and into fish and game departments, which would include sport fish. We thought here that this would be a compromise. Now, on my way through Juneau, and letters we have from Mr. Anderson of the Territorial Fisheries Department, the Director, I spoke to him on my way back here and he had no objection, whatsoever, to the commission form. Now, as we know, one of the most successful operations while we have been under federal control in the Territory of Alaska, has been the Alaska Game Commission. That is a commission that was established and has lived without criticism. The organizations throughout the states, the three states -- the Pacific Coast states which are more closely related to us than any other people, have established forms of commissions to do this work that we are talking about here; and we thought here that this would only provide guiding lines to the Territorial legislature, giving them permission to establish a commission or commissions that would govern this type of resource.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to address a question to Mr. Smith.

PRESIDENT EGAN: If there is no objection, Mr. Fischer.

V. FISCHER: With the provision here for the establishment of a commission or commissions, would it preclude the creation of an over-all department of resources including not only fisheries, wildlife, but also lands and whatever other resource subdepartments there might be?

SMITH: In my opinion, Mr. Fischer, it would not. I think under the present Territorial law we have such a resources board and under the present Territorial setup we also have the commission-type management for our fisheries department. I do not believe it would preclude the establishment of such an over-all resources board.

V. FISCHER: I am not speaking in terms of a resources board. I am speaking of a department within the executive branch.

SMITH: I would say that the answer would still be "no".

V. FISCHER: Thank you.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I have an amendment on the Chief Clerk's desk in relation to Section 5.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as offered by Mr. Johnson.

CHIEF CLERK: "Section 5, lines 12 and 13, strike the words 'to a commission, or'."

JOHNSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the amendment. Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Johnson.

JOHNSON: We have had a great many communications in the last few days regarding this matter, and it seems to me that if the words "to a commission, or" were taken out of the section that it would more nearly be in compliance with the wishes of the people that have been communicating with us. I don't think that it detracts in any way from the section, and if we just direct the legislature to set up a separate commission for each branch of the fisheries, then I think we are complying with the wishes of the largest group of the public.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I will have to speak very definitely against this amendment to the motion. I know that there are two thoughts on this matter and the men that are making their living on the fisheries are very definitely opposed to two separate commissions, and I think if the matter is left up to the legislature and where it is handled in the proper manner, it would be fine, but I know if this motion should carry we would be doing harm to a lot of our citizens who are depending for their livelihood upon fisheries.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, probably, I should say I am speaking for myself and not for the Committee. This question has been discussed widely both before the Convention and since that time. From my viewpoint the insertion of Section 5 in its entirety was a concession to the pressure brought by the sports fishing organizations or the game fishermen's organizations. Actually, my thought was that all this section did, as it originally read, was to say that game fish, wildlife, and commercial fish

should be delegated to a commission or to commissions leaving it up to the legislature as to whether that should be one all-inclusive commission or two separate commissions. Frankly, I would have preferred to see no mention made of the subject in the constitution. I think the constitution throughout, I think the Convention as a whole has throughout the consideration of all of the articles stayed away from setting up commissions or departments in other things in the constitution, and my preference here would have been to follow that procedure in this instance. However, you are all aware of all of the flood of telegrams, communications, etc., that have come in. Just today I received three telegrams from commercial fishing groups in support of leaving this entirely to the legislature. I had not intended to ask that those be read, in the hopes that we might not get into this argument. I would like to say further that before the Convention began, I took this question up with all of the fishermen, the commercial fishermen and the sport fishermen whom I could contact in the Ketchikan area, and I expressed to them my thoughts that the whole matter should be left to the legislature, and they were in agreement. I also submitted this question to the Alaska Fisheries Board which held a meeting just before this Convention began, and I also expressed to them the thought that this should be left to the legislature and they were in perfect agreement. The fact that we have not had more communications from the commercial fishermen, and those who advocate leaving this to the legislature, I am sure is due to the fact that it had been discussed and agreed that this matter should be left to the legislature.

PRESIDENT EGAN: Mr. Stewart.

STEWART: May I ask a question of Mr. Smith? Did you not also receive communications from Mr. Anderson, the head of the Territorial Fisheries Board urging that it be left to the legislature?

SMITH: That is absolutely correct, Mr. Stewart. The Committee and I received communications from the Alaska Fisheries Board and from the Alaska Department of Fisheries, recommending that this matter be left entirely to the legislature.

STEWART: May I make an amendment verbally?

PRESIDENT EGAN: An amendment to the amendment?

STEWART: I move we strike Section 5.

WHITE: I second the motion.

R. RIVERS: Point of order.

PRESIDENT EGAN: The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, I move and ask unanimous consent to withdraw the amendment which I had offered to Section 5.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent for the withdrawal of his proposed amendment to Section 5. Is there objection? Hearing no objection, it is so ordered. Mr. Stewart.

STEWART: Mr. President, after having discussed this matter a little bit with others, I, also, at this time withdraw this amendment.

PRESIDENT EGAN: Mr. Stewart asks unanimous consent that his proposed amendment be withdrawn. Mr. Taylor.

TAYLOR: Mr. President, I have an amendment to offer.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Taylor.

CHIEF CLERK: "Strike Section 5."

TAYLOR: I move the adoption of the amendment.

WHITE: I second the motion.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the amendment, seconded by Mr. White. The proposed amendment is open for discussion. Mr. Taylor.

TAYLOR: I would like to speak on that, Mr. President. Now, under the executive article the power was given to establish up to 20 departments of the state and I cannot see where there is any doubt but what there will be a committee, a commission, or a department of resources under which would be commissions to administer the fisheries, the commercial fisheries, and a commission to administer the game fish and game. That would be one of the most important departments of the new state and they would have the inherent power and the all-power that would be given to them by the state to do just what it intended to do under this; but we are trying to confine this subject of such importance to a commission, that I think it should be stricken and let the resources department do everything it is supposed to be in here. I have no doubt but what, due to the great difference in commercial fishing, and the game fishing and game, that a separate bureau or a commission could be set up under the department of resources to handle those particular matters. And I think by leaving this in here we are going to do the state

a disservice, the fact that that will preclude a department of fisheries or a resources department that would be setting up the way they want to handle it, because they would be then confined by this constitution to having a commission or commissions to handle it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, thousands of people in this Territory feel strongly about this. I would say maybe as many as 10,000 and a good many of them have taken the trouble to send us letters and wires urging that we have a provision of this kind in the constitution. If we leave the language exactly as it is in Section 5, I believe we have met the desires of everyone of those people who have wired to us. If we strike it, we are inviting criticism and trouble, and trouble on the ratification of the constitution from those people who do feel very strongly, and I feel with good reason, that with our heritage of fish and wildlife up here, we should be very careful; we should be more careful than any state that has ever entered the union before this, to see that they are administered and regulated by commissions which would not be subject to the political control of the state as it may go from administration to administration. I feel very strongly that we should leave it as it is. Now, all of the things that Mr. Taylor says should probably be done or would be done by a legislature, can still be done if we leave it alone. We can have an over-all department of resources which would have under it a commission for the administration of the fisheries and a commission for administration of the wildlife or a single commission for the administration of both. I don't think it ties the hands of the state or does a disservice to the people of the state in any way, and I think if we strike that, we are really going to be in hot water. Now, I don't like to yield to pressures just because the pressures have been built up, but I feel these people do have a good case, and we ought to leave Section 5 alone.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. President, in the time we have been here we have all taken cognizance of any opinions that the various lawyers had to take because we have felt that we could trust their opinion because that is their business. This is getting back to my business. I am going to vote against the amendment, and I hope that you will do the same.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, as a member of the Committee, I would like to explain why I seconded the motion and why I support it.

Mr. Sundborg has stated, correctly, that we have had large numbers of communications representing very large numbers of people on this subject, but the section, as it stands does not, Mr. Sundborg, solve their problems or satisfy them except insofar as one of their requests was that management of the fisheries and wildlife be delegated to a commission. If we are to follow the next step of their request, it would be that it be relegated to separate commissions, as Mr. Johnson suggested in the amendment that he withdrew. If we are to follow it to its complete conclusion, we would include a page, or two pages here, setting out an entire plan, something similar to the Missouri Plan, so this has been boiled down to a compromise which really doesn't satisfy any of the parties to this controversy except those that suggest that these matters be delegated to a commission, or separate commissions. Both points of view are represented there in any event, and I feel that to make an exception in this one case, to state that it will be a "commission" is not constitutional matter and that it would be more properly treated as a resolution from our Committee or the Convention to the first state legislature.

PRESIDENT EGAN: Mr. King.

KING: Mr. President, I will have to take exception to Mr. White's remarks that this does not satisfy anybody. I think that is certainly contrary to the common belief. Dr. Gabrielson spoke to the Convention here and told them what type of thing that was best for this; Dr. Bartley appeared before our Committee; they all expressed, these different people. As I spoke before, I talked to the Director of Fisheries on my way through this time. I sat with him and talked to him. He was not opposed to a commission form that they are talking about here; I talked to him, I have letters from him; he was not opposed to this. I don't think you are talking about pressure here when you are talking about telegrams and letters. You are talking about the will, the wishes of people; I can't say that those are pressure groups. Those are people just like the rest of us. I belong to three or four sportsmen organizations. I don't think I am putting any pressure on anybody; I think it is the will of the people, the will of 2,000 people alone in the Alaska Sportsmen Association, and this is just one of them. I think this is a very good thing; I think this is just a guide; this has been very successful all throughout the Western states, this type here, and it is a guiding line to the Territorial legislature to make a successful operation.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I want to speak on this amendment because under the executive the same problem arose. We discussed there, not only one board or commission or department

but the interests of a great number, so under the executive department we have provided that there shall be departments with single heads as principal departments; there may be multiheaded departments; there may be regulatory boards as established by the legislature. Now, I think we would be doing a grave injustice to the commercial fisheries and wildlife groups, both of them, if we failed to allow them the freedom that we allow other departments of government. If we let this stay in we are forever tying them under this constitution to a commission form of government. They could have this form under the present executive. They could have a multiheaded department under the present executive; they could have a singleheaded department, either separately or jointly as the importance of their function in the state government desired or required. Now if we tie them forever to a commission form of government, that is it; but if we leave it as it is under the executive, they may have their choice for the present or may change as they desire in the future. They may adopt any and all of these forms they recommended or any of the other forms of government that we have provided for in the executive. I for one would favor striking of the word "commission" but with the full understanding that they have now the power to have this type of administration if they so desire, and this way you would limit it to the one thing, and the one thing only, for all time.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I feel called upon to speak against this amendment here. The sports fishing and game and commercial fishing are among the greatest resources of the Territory, and if they are properly conserved they are going to continue to be a great resource, and I believe it is a resource that is great enough to be dignified by leaving this section in the constitution and leaving it in, in its present form. It was a compromise on the Committee; I feel it should be a compromise upon this floor. Now, we have already, under the article on finance and taxation, have arranged so that if the federal government ever stops paying funds into the fish and wildlife, it will be an earmarked fund, and it will no longer apply. We have taken that whack at the sports fishing and game commission in the Territory of Alaska, and I disagree heartily with Mr. Victor Rivers. It is true that in the executive branch of the government, the proposal that has gone through second reading here, that they have set up the very machinery whereby a commission of this kind could go into effect. That was the thought I had when they established the 20 principal departments and said there may be other regulatory or quasi-judicial departments there, that they meant by that something along this line, a commission form that could be set up. This is the only time I am going to speak, Mr. President. I will have to ask the delegates to bear with me just another minute here; but as to Mr. Anderson, who is presently head of the

Department of Fisheries there, I want to point out to the Convention, I don't go strongly on what Mr. Anderson says or what the head of any present department of the Territorial government says. I have served on the ways and means committee and have seen these various heads of departments, and among the leaders of which was Mr. Anderson, who are desirous of only one thing, that of perpetuating themselves in office, and naturally it is a desire, if we transfer suddenly over to a state, that Mr. Anderson would like to become the head of all the departments covering everything here. Well and good, if there is one commission set up by the legislature, I have no particular objection to Mr. Anderson being the head of that department, but if it is his desire there to interject, or attempt to interject, as a department head, things into this Convention that are going to harm the sports fishing and the game commission of this Territory, then I am opposed to Mr. Anderson. It is simply a purely and a wholly selfish view as it is with the heads of practically every one of these departments; and if you serve on one of these committees, the finance in the senate and ways and means in the house, and see the attitudes that the heads of these departments take to perpetuate, and the attempts to perpetuate themselves in office, then you can very readily see through any stand Mr. Anderson might take upon these things. Now as I say, this matter here was a compromise in the Committee. I hope it can be a compromise in the Convention with the sportsmen here. I have been presented with material, as all the delegates have, and requested to make amendments, and could go on making amendments ad infinitum here, but I have felt that if this can be held in, it still leaves it up as the legislature shall prescribe, and if they want to set up one commission, well and good, or if they feel it is necessary to set up two commissions under it, or under a principal department head, or however they care to do this, at least we are recognizing this one great segment of our population, or if you will, two great segments of the population and also the future, because of the thousands of people who will move to the Territory with the thought in mind of hunting and fishing either on the sportsman level or the commercial fishing.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I have not --

PRESIDENT EGAN: Mr. Riley, the Chair does not wish to interrupt, but the Chair would like to state, with your pleasure, that the photographer is set up in the gallery for a picture during the noon recess. He has been ready for quite some time. It will only take about five minutes and upon the recess, if every delegate would remain here and go into the gallery, and it might be well if we have that done at this time, because we are holding him here. If it is the wish of the Convention, we will hold this

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amendment over until following the noon recess. Mr. Sundborg.

SUNDBORG: Mr. President, subject to committee announcements, I move that we recess until 1:30 o'clock.

PRESIDENT EGAN: Mr. Sundborg moves that we recess until 1:30 p.m. Mr. Smith.

SMITH: I would like to announce a meeting of the Resources Committee at 1:00 o'clock in the gallery.

PRESIDENT EGAN: There will be a meeting of the Resource Committee at 1:00 o'clock in the gallery. Are there other committee announcements? Mr. McNealy.

McNEALY: A meeting of the Ordinances Committee at 1:00 o'clock in the committee room upstairs.

PRESIDENT EGAN: There will be a meeting of the Ordinance Committee at 1:00 o'clock in the committee room upstairs. Mr. Sundborg.

SUNDBORG: Mr. President, Style and Drafting Committee will meet immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Local Government Committee will meet at 1:00 o'clock.

PRESIDENT EGAN: Are there other announcements? If there are no other announcements and if there is no objection, the Convention will stand at recess until 1:30.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McNees.

McNEES: Mr. President and delegates, we have in the gallery Miss Sally Carrighar who has written numerous articles for the Saturday Evening Post and who has made her home here in Alaska for some time.

PRESIDENT EGAN: Miss Carrighar, we are happy to have you with us and hope you enjoy the proceedings this afternoon. (Applause) We have before us the proposed amendment as offered by Mr. Warren Taylor to Committee Proposal No. 8/a. The proposed amendment is the deletion of Section 5 from the proposal. Mr. Sundborg.

SUNDBORG: Mr. President, I raise the point of order of asking whether Mr. Taylor discussed this amendment and cleared it with the Committee as required by our rules?

PRESIDENT EGAN: Mr. Taylor, did you discuss the proposed amendment with the Committee?

TAYLOR: Yes, I did and they said to bring it up on the floor of the Convention. They said they did not want to make any changes in the Committee, and if there were any amendments, they were to be brought up on the floor.

PRESIDENT EGAN: Is there further discussion on the proposed amendment? Mrs. Hermann.

HERMANN: I would like to ask a question. I would like to know if this word "commission" as it appears in the text refers to a board or a department such as the Department of Fisheries that Mr. Anderson at present heads.

PRESIDENT EGAN: Could anyone answer that question of Mrs. Hermann's? Mr. Riley.

RILEY: Mr. President and Mrs. Hermann, I have in mind that all of the proponents of a commission or commissions have been thinking in terms of the commission that we know as the Alaska Game Commission, the commission which is charged with the administration of the Department of Fisheries. Is that responsive to your question?

HERMANN: Well, I just am not sure whether it would restrict, whether the language you have in there would restrict the governor to the appointment of a board rather than a department of wildlife, such as the department of fisheries is.

RILEY: All of whom I have discussed it with have suggested that they had in mind a board or commission charged with running a department or a section of a department confined solely to the fish or game field, as the case might be, with two commissions. I have heard during the noon recess questions with respect to the same section and I think in the same nature as yours. I believe it fair to say that most of those have been concerned with two words: "and administration". I am not in a position to speak for the Committee in this respect, but in adopting this language the Committee has had in mind a commission that would issue, promulgate regulations in these two areas and would be charged with overseeing the executive agency which had the responsibility for management in this field.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Was it the Committee's feeling that the legislature would not have that power unless it was included in this proposal?

RILEY: I don't know that that question arose. I see it is a valid question and some doubt is left by this language. I have no recollection that the Committee discussed depriving the legislature of the regulatory function.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, there is no doubt in my mind, whatsoever, in the absence of this section that the legislature would have that power.

HERMANN: In the absence of this section? Then, Mr. President, I would like to state my position in regard to the amendment to strike. I am very much opposed to boards and commissions on general principles, and I do not believe that they should be made a part of a constitution. I think that the legislature, if it has that authority to create a board temporarily and dissolve it at its later pleasure, should not be tied down by a permanent provision of the constitution requiring them to administer fish and wildlife by the commission or board form of regulation; and if the legislature does not have that authority or if there is any doubt in the minds of any of the delegates that the legislature has that authority, we could easily amend the section by saying that the regulations, etc., should be prescribed by the legislature. Personally, I am of the opinion that it does have the authority, and I would certainly hate to see a permanent part of the constitution advocating the control and regulation of any of our natural resources or any of our departments of government by the commission or board form of government. I shall have to vote for the amendment, though I am not averse to having two commissions if the legislature wishes to prescribe them, and I am not averse to putting in provisions that will carry out the wishes of the Sportsmen's Association; I think we have the authority already.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I have the same feeling toward this section as Delegate Hermann has and I feel that the language is covered very well under Section 17 of our proposal 10/a which provides that the legislature may put principal commissions at the head of departments, and I feel that if we are going to make an exception of not putting in any language as to any one board in the judicial item, I don't see why we should have the fish and wildlife commission provided for in the constitution. I think the legislature should have full and a free hand to do as they want because they will do what the people wish them to do.

PRESIDENT EGAN: Is there anyone else who wishes to speak in the negative? Mr. Barr.

BARR: Mr. President, I would like to ask a question and also make a statement. I personally wish that this had not been brought up, but I think a great many people do want a statement in the constitution as to how the fish and wildlife will be administered in the state. I would like to ask Mr. Riley, or any member of the Committee, that if there had been no communications to us on this matter, would the Committee still have thought it wisest to have a commission administer the fish and wildlife matters in the state rather than a single department head?

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. Barr, would you repeat the last part of your question?

BARR: If none of us had received any communications regarding this matter from anyone outside the Convention, would your Committee have still thought that the fish and wildlife resources should be administered by a commission rather than a single department head?

SMITH: I can only answer that this way, Mr. Barr, and probably again should speak for myself in regard to my views as to what the Committee would have done. It is clear in my mind that had it not been for all of the communications there would have been no mention of any commission or commissions in this article.

BARR: You never heard any member of the Committee mention that they would be against a single man being the head?

SMITH: I don't believe that the question would have come up at all and that is subject to the expression of individual opinions by any member of the Committee.

BARR: Like Mrs. Hermann, I am against a great many boards and commissions. We are afflicted with a great number of them at the present time and I think the trend is going to be the other way. I believe that the legislature from now on, and especially after statehood, will eliminate most of them. I can see where there may be a very few that are necessary. I see Mr. Coghill does not believe that this is necessary but a lot of people believe that the education of the Territory should be administered by a board. I do, too. It seems to me this might be one of them, and if that is true, to prevent the legislature abolishing our present commission, it would be necessary to put it in the constitution, if we feel that that is the way we want our wildlife affairs administered.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I believe that if this section were left in it could be improved to take care of Mrs. Hermann's objection to it and some of the other objections. I think the point, the important thing here is whether a commission is the better form of regulating these sort of things, and I don't mean a commission right up at the top but rather we would have a head of a department and have an advisory commission or commissions at some lower point to advise that particular head of department, and I think if we could work out a section here that would accomplish that purpose we would satisfy the sportsmen and the commercial fishermen and still not get something in our constitution that is going to tie our hands for the future. The one reason, in speaking for myself, that I felt it was better not to have separate commissions, was that as I understand it, at the last legislature the sportsmen wanted the single commission right down to practically the end of the legislature; then they changed their minds and wanted separate commissions and I feel that if they did not know well enough at that time what they wanted, perhaps they don't know well enough now and we should not tie their hands to something in the constitution, and that is why we have two single commissions or two separate commissions, and I believe if we would retain this section and then correct it to accomplish what we would like to do, that we would be better off.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to be heard. I am concerned about this language "regulations shall be delegated". That sounds almost as though you are commanding the legislature to delegate legislative power to a commission. There are various levels of regulations. Regulations can be by law, where basic factors are covered and with the administrative regulations, delegated to administrative boards or bodies. But unless, as Mr. Boswell suggests, this thing can be reprocessed, I will have to vote in favor of the present amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: I am going to speak in favor of leaving the section as it is. The principal reason is that regardless of whether you strike it or not, you are going to end up with basically the same thing. It has been proven in the administration of wildlife resources and fisheries, a commission form of administration has been the most successful in the wildlife resources. Whether they are tied together or separated is a matter of time. In some states they are tied together and in other states they are separated. In some states as the times changed they are combined and as times

change they are separated again. That has been provided for. Regardless of what is done by this body, the Section 5, I am pretty positive Section 5 will be the standard they will do by. Now, if you leave out Section 5 you create a danger of implying to those people who are interested that you are taking away something from them, primarily because we have set up a very very strong executive department. As long as you set up this strong executive department, I believe the delegates should allay the fears of these people, not only in the sports fishing but in the "bread and butter" fishing too. I think there is no question or doubt about the method of administration of the wildlife resources. I think we should allay the fears of the people who are interested, as you have heard. I think the fisheries will always be with us, as the wildlife will be. There is no state where the impact of fish and wildlife is so great on the people as it is in Alaska, and I believe it can and does deserve special attention. If you strike this section, I don't see how you can keep away from leaving to these people that have been so concerned, that you are actually denying, you are taking away something from them they are used to; they have been used to the Alaska Game Commission. They have set up their own board of fisheries that appears to be the desire of our fishing people. That is what we had. At the present feeling of the people, we want to continue that way, and if you do turn it over to the legislature they will continue, but you do not help but imply that you are going to take away something from the people if you strike this section. I wish the section would remain as is.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I feel impelled to support the motion to strike this particular section. I predicate my decision on the fact that first off, as Mr. Gray has already so aptly pointed out, we do have a strong executive. Secondly, in the event the executive, who is elected by the people of Alaska and who will certainly be particularly sensitive to the will of the people and a good many of those sportsmen are voters, he will be very concerned about this particular department, and I am sure that he will take that into consideration when he is establishing, under his various departments and or in his cabinet, this particular thing that we are concerned with here. Secondly, if the governor does not provide properly for it, it is within the realm of the legislature to establish such method and fashion in which we can operate satisfactorily this particular type of fish and wildlife resource. Thirdly, and what no one has mentioned yet, is we have initiative. The people can initiate and certainly a group of sportsmen who are so pressure-minded as to have flooded this Convention hall, with various types, both pro and con of communications, they will not be bashful about

initiating a type of legislation that is necessary to prosecute the very desires that they seek to do. The last reason I oppose this section is I dislike seeing a board enshrined in our constitution. There is no reason why we have to make this particular exception. As Mr. Fischer said the other day, it is no "holy cow" to me. I don't see why we have to bow down and enshrine this particular type of a commission or board in our constitution. There are ample remedies, not only at the polls, but by their own initiative, so I am supporting the motion to strike.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I have to agree with Mr. Gray and vote against this amendment. I think the fish and wildlife is an important enough resource of ours it should be mentioned in the constitution. I do believe that it could be corrected by an amendment later.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: It seems to me that this section is very bad as it is written. It removes the whole regulation and administration of the commercial fisheries from the executive branch of the government, because it says "regulation and administration shall be delegated to a commission", and I don't believe that we want any department set up separate and apart from the other main branches of the government. Our executive article says that regulatory bodies need not be put into a principal department, and right here it gives complete force and effect to that. They would never put it under the executive branch, they would not have to. I don't like the way it is written.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I rise for a question to the Committee. Don't you think that in being so insistent upon the commission being enshrined in the constitution that most people advocating it thought it also would carry along with it a certain number of earmarked funds? Don't you think that was the main intent rather than just the body itself?

SMITH: I would like to ask Mr. King if he would like to answer that.

PRESIDENT EGAN: Mr. King.

KING: I don't believe so, Mr. Rivers. As you know, I am a minority of one on this Committee, but I don't believe that the Committee felt that at all.

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V. RIVERS: I did not mean the Committee. I meant the request to the Committee, had envisioned this request having this unalienable source of revenue?

KING: I don't think so.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I wonder if the Committee would consider the rewording of Section 5 as something in this order -- that the management of the commercial fisheries --

PRESIDENT EGAN: Mr. Armstrong, at this time we have an amendment by Mr. Taylor before us; whether or not the Committee, if it has anything to do with that particular question at this time, as the Chair sees it, although others have mentioned it.

ARMSTRONG: It seems to me, Mr. President, if we could arrive at a wording that would retain the section some would vote then against the amendment.

R. RIVERS: May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White.

WHITE: Mr. President, I would like to answer a question posed by Mr. Victor Rivers if I may in which he was inquiring about earmarked funds and commissions. The Alaska Sportsmen's Council in a letter dated October 24, 1955, advocated the inclusion in our constitution of certain sections of the Missouri State Constitution, Sections 40, 41, 42, 43, 44, 45 and 46, as a complete program. It says in part, "The fees, monies or funds arising from the operations and transactions of the commission shall be expended and used by the commission for certain purposes and for no other purpose." So it was certainly, originally an integral part of the plan. We have now come down to retaining only the idea of a commission or commissions and I think no one can say with certainty that all people who favored the whole plan would favor the retention of the commission without the other parts of the plan.

PRESIDENT EGAN: Is there further discussion? The question is -- Mr. Taylor.

TAYLOR: I would just like the opportunity of closing.

PRESIDENT EGAN: Is there anyone else who wishes to be heard before Mr. Taylor closes? Mr. Armstrong.

ARMSTRONG: I shall offer an amendment to retain part of this wording and I think correct some of the abuse that some people seem to feel is inherent in this which would make it possible to have commissions if the legislature so ordered.

PRESIDENT EGAN: That is, after we vote on this amendment. Mr. Coghill.

COGHILL: I rise to a point of information on Delegate Armstrong. It is already provided for in your executive article and you don't have to have it in here at all.

PRESIDENT EGAN: Mr. Taylor has the floor.

TAYLOR: Mr. President, possibly the membership of this Convention might believe that I am against the sportsmen of Alaska, but I am not. I am just as much interested and desirous of conservation and the regulation of fish and game as I think any person in this house. But the fact that I am interested in these matters is for the reason that I am offering this amendment to strike this section because I believe it would be a disservice to the fishermen and the hunters of the Territory by leaving it in. I think it would be a disservice to the other people of Alaska who are not particularly interested in hunting or fishing. Now, if this section in its present form became a part of the constitution, we would be reversing a stand which we have taken here and which many members of the legislature have taken for a number of years in regard to commissions, and instead of eliminating or abolishing some of these commissions, we are saddling by this constitution, the state with not only one commission but maybe two to handle one subject; fish and game. It looks to me like we are trying to backtrack in this thing. Now, if we adopt this in the Convention, and the legislature did then take action upon this particular section and they did establish two commissions, one for game and one for fish or one for commercial fishermen and one for game fish and game, there is no way we can abolish either one of those commissions unless we amend the constitution of the state, which is not an easy thing to do. So, I think that the Convention should think twice before they pass this section in its present form because if we read this and give each and every word its common and accepted meaning, the construction of this section is that the executive departments and the legislature surrendered to some unknown commissioners on a game commission their power and prerogatives which we have given to them in all other matters in this constitution except the game fish and game; because we once set up the commission in the matter that is provided for in here, we have

delegated to them all the power to deal with those particular matters, and who are they answerable to? Nobody, they are the commission; they are the regulators and the administrators. They might have to answer to the legislature -- nothing in here that says they would. So, then we have one independent commission or possibly two, which no matter to what extent they go, we cannot get rid of them unless we have a constitutional amendment and do we want to go so far as that that we are going to surrender our rights and our prerogatives? When I say "our", I mean the legislature's and executive department's prerogative, to this commission. Now there are quite a number of us here who have been in the legislature, have been in there one or two or more times, and we know when the legislature is in session down there the corridors of the capitol building are cluttered with commissions that are appearing there to report and have meetings and spending the taxpayers' money. So, why should we make an exception in this particular instance of something we are trying to get away from, the establishment of more boards, more commissions? Now, also, I have listened to Mr. McNealy; he is all for this commission. I have listened to Mr. Sundborg; he was all for this commission; also, Mr. Gray. Mrs. Hermann, perhaps, expressed her opinion as to this commission matter in much better language than I can, and I am going to adopt Mrs. Hermann's speech as my sentiments in that particular matter. We know recently the political winds have started to blow --

McLAUGHLIN: Mr. Chairman, point of order. I think, perhaps, these remarks might be interpreted as being personally addressed. I am sure Mr. Taylor does not mean them as such.

TAYLOR: If they are, I apologize.

HELLENTHAL: Don't they involve the five-minute rule?

PRESIDENT EGAN: Do we have any five-minute rule? But the Chair would ask that all delegates would preclude any political feeling on the floor. Mr. Taylor.

TAYLOR: I'm not going into the political field; I was just saying to these members here that possibly have been kissed by the political breeze that has been blowing at this Convention, that this Committee would not have thought about this unless it had been for the clamor put up by this particular segment of our population. Perhaps this political breeze, as I say, that has kissed the cheek of prospective legislators might be the reason that this is in the resources section.

PRESIDENT EGAN: The Chair feels that references such as that are reflections upon the delegates and that they are not in order. You may proceed with your arguments on the proposed amendment.

TAYLOR: Mr. President, we had here some experts that we paid quite a lot of heed to. We had experts in the judiciary field and we had experts on the resources field. Now on January 16, 1956, a Mr. Ostrom, who was supposed to be an expert upon resources, wrote a letter, January 16, just a few days ago; and among other things he said in this letter, he said, "I am still much concerned about the serious consequences of constitutional reference to the delegation of regulation and management of fish and wildlife to a commission or commissions." Now there are the words from the man we spent thousands of dollars to bring up here and help the Resources Committee. We have also a communication dated earlier. This was a week ago, and this was from Mr. Anderson, Director of Alaska Department of Fisheries. Those who know Mr. Anderson know of his conscientiousness to duty and desire to aid the fisheries of Alaska; and among other things he says, "The creation of boards and/or commissions for supervision of the various natural resources should be a legislative prerogative." He doesn't want it in the constitution. Now, if my amendment is carried and this Section 5 is voted down, I don't believe it would take the Committee over five minutes to sit down and write a section to take its place which will express the intent of this Convention and will not delegate all the powers of the executive, the chief executive, and the legislature, to a commission; and I hope that my amendment carries.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

JOHNSON: Mr. President, may we have a roll call?

CHIEF CLERK: "Strike Section 5."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Awes, Buckalew, Coghill, Davis, Doogan, Emberg, V. Fischer, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, VanderLeest, White, Wien, Mr. President.

Nays: 21 - Armstrong, Barr, Boswell, Collins, Cooper, Cross, H. Fischer, Gray, Hellenthal, Johnson, King, Laws, Lee, McNealy, Nolan, Peratrovich, Reader, Riley, Sundborg, Sweeney, Walsh.)

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CHIEF CLERK: 34 yeas, 21 nays and none absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Armstrong.

ARMSTRONG: Mr. President, I would like to move a new Section 5 of Proposal 8/a which would read as follows --

R. RIVERS: Point of order. It appears to be long enough to be handed to the Clerk.

ARMSTRONG: I believe the Clerk has it in the form of deletions and additions.

R. RIVERS: Those don't apply now because the section is --

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a couple of minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher.

KILCHER: Point of order, Mr. President, and information at the same time. If we move to strike a section without substitution, just to plain strike, wouldn't that then express the will of the majority to consider the matter dead?

PRESIDENT EGAN: It is not the opinion of the Chair that moving to strike a section makes it, by that action, dead as you might say. It is dead at this moment. If someone offered an amendment to change the intent or the meaning of the original section, it would be in order so long as it was not the same thing. It is not correct, no, that when you strike a section it is dead forevermore. Mr. Armstrong.

ARMSTRONG: Mr. President, I will try to see whether it is dead or not by trying again. My parliamentary procedure seems to get off the track, but I have left an amendment with the Clerk by way of Burke Riley's shorthand. So we will ask the Clerk if she would read it, please.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

HELLENTHAL: Slowly.

CHIEF CLERK: I will. "Section 5. Regulation of the commercial fisheries and of the wildlife, including game fish, may be delegated to a principal department of the state or to a commission

or to separate commissions under such terms as the legislature may prescribe."

PRESIDENT EGAN: What is your pleasure, Mr. Armstrong?

ARMSTRONG: I would move for the adoption, sir.

STEWART: I ask unanimous consent.

McNEALY: I second the motion.

PRESIDENT EGAN: Mr. McNealy seconded the motion. Mr. Riley.

RILEY: I wish to disavow authorship. That is all I have to say on the matter.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Point of order. I simply want to know if, in accordance with our rules, this has been previously presented to the Committee or whether the Committee Chairman has waived that requirement.

SMITH: Mr. President, the amendment was presented to the Committee. The Committee took no action.

PRESIDENT EGAN: The question is -- Mr. Smith.

SMITH: Mr. President, I would like to say just one word on this. I think if you read this carefully you will see that it simply says that laws may be passed by the legislature for the regulation of the commercial fisheries; they may delegate those powers to principal departments or commissions. The same situation would exist exactly without this language in the constitution. Therefore, I am opposed to the amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I will have to vote against this amendment for the principal reason that before we were voting on merely the implication of the language in the constitution; they are going to eventually end up, they are going to end up the same way with the same thing, and all we are voting on is the implication that you are trying to take away things, and the way things are; and this amendment, as presented, is the same as striking out, in my own personal opinion, the implication is there.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, the original report said that the legislature should delegate their authorities to a commission. It

eliminated the single department head. Now Delegate Armstrong's amendment allows them to do as they wish but they already have the authority to do as they wish; we are just telling the legislature they are empowered to enact a law considering these matters, and they already have the power to enact a law, so the amendment is unnecessary.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Section 16, the executive article, says, "The head of each principal department shall be a single executive, unless otherwise provided by law." And another article says the legislature can provide boards and commissions, so I think they have the power already.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Armstrong be adopted by the Convention?" All those in favor of the adopting of the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments? Are there amendments? The Chief Clerk will renumber the sections following the original Section 5. Mr. Robertson.

ROBERTSON: Mr. President, may I have the privilege of asking a question about Section 3?

PRESIDENT EGAN: If there is no objection, Mr. Robertson, you may ask a question, relating to Section 3.

ROBERTSON: I would like to ask either Mr. Smith or Mr. Riley if they think the word "replenishable" is the apt word to use or has enough scope? As I recall at our hearing in Juneau a doubt was raised as to that particular word. I don't know as I recall particularly, but I think it was raised by Mr. Greeley, the Regional Director of Forests. The forests are not replenishable, but they are renewable. I was just wondering if any thought was given to that word being the correct word.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Chairman, I believe Mr. Robertson and I have discussed this very briefly before and probably during those hearings. The Committee has considered the use of both "renewable" and "replenishable" and from a number of sources I had thought up until now, including Mr. Greeley, we decided to adopt "replenishable". Now, after discussing it during our hearings, Mr. Robertson, I did endeavor to find a legal definition of the two words and it was my conclusion that a fuller definition had been given to "replenishable" than had been given "renewable". I

recall that two or three people who have appeared before the Committee have expressed a preference for "replenishable", people who have served in the resource management fields, including the consultant whom we relied on to a large extent.

PRESIDENT EGAN: Are there amendments to the new Section 5? To the new Section 6? Mr. Boswell.

BOSWELL: Mr. President, I just wanted, for the record, to speak in connection with Section 6, that this section is not intended as authorization for the state's entering business in competition with private industry. That appears in our commentary, but I thought it should be in the record.

PRESIDENT EGAN: The new Section 5 or new Section 6, are there amendments? Are there amendments to new Section 7? To the new Section 8? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask the Committee if they have considered rephrasing the words "interests therein". During the question period we were a little bit dubious about that expression.

PRESIDENT EGAN: Mr. Riley.

RILEY: We have -- I should say I have, with other delegates, given it some attention and I thought possibly there would be an amendment from the floor. I am not sure that is going to be the case, but we have not come up with other language yet and perhaps during the next recess further attention may be given that.

PRESIDENT EGAN: Are there other questions relating to the new Section 8? Mr. Davis.

DAVIS: Mr. President, Mr. Riley, calling your attention to the language in the last sentence, "The legislature shall make provision for the selection and administration of lands in the state and public domain." I don't know just what you mean there by that word "selection". I am wondering if you intended that to apply to selection of lands for the state public domain from the federal public domain under any enabling act that may be passed.

RILEY: That was our thinking, yes, selection of the lands to be granted by the United States through the enabling legislation.

DAVIS: I can see where your language covers administration of the land, but it seems to me you haven't accomplished your purpose on the selection.

RILEY: I think your point is well taken from the time standpoint, and perhaps that, too, should be subject to further Committee consideration at the next recess.

PRESIDENT EGAN: Are there proposed amendments to the new Section 9? Mr. Barr.

BARR: Mr. President, now it says here that the state may lease any part of the public domain subject to reasonable concurrent uses. Why don't you use the same reasoning in that section dealing with mining? Why can't you give a coal lease and still allow somebody to drill an oil well on it or prospect for gold?

PRESIDENT EGAN: Mr. Riley.

RILEY: I am badly mistaken if we don't do that.

BARR: The word is "exclusive" use in your mining section.

RILEY: I see your point, Mr. Barr. That distinction, touching on the minerals now subject to lease under the federal government, may be qualified elsewhere in the section. I will have to check the text on that.

BARR: The last part of Section 5.

RILEY: Throughout we have held to the concept of concurrent use wherever practicable -- that is concurrent use if it should under the circumstances be possible is what we have sought to achieve and here again, rather than offering an off-the-cuff solution, I will try to consider that during the first recess.

BARR: I would just like to have you appear consistent.

PRESIDENT EGAN: Mr. Smith.

SMITH: I get the feeling we do appear consistent in that the terms of lease could provide for concurrent use.

BARR: But you are using the word "exclusive" right in the section.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Barr, it seems to me in the section you refer to it says "leases giving exclusive right of exploration". The parent clause on leases, Section 9, provides that leases can be given subject to reasonable concurrent uses. There is no reason why they could not be of another use, concurrent to right of exploration.

BARR: It is interesting, Mr. White, but that answer does not quite satisfy me.

PRESIDENT EGAN: Are there amendments to the new Section 10? Mr. Robertson.

ROBERTSON: May I ask Mr. Riley a question? I notice in this section, Mr. Riley, in line 17, you use the word "interest" and you have used that also in Section 8 and in subsequent sections. Would not the word "estates" be a better legal terminology to be used instead of "interests"?

RILEY: We were thinking also of stating resources. We get to the physical resource itself.

HELLENTHAL: If we are discussing this matter --

PRESIDENT EGAN: We are not discussing it, if you have questions or amendments, Mr. Hellenthal. Are there amendments to Section 10? Mr. Marston.

MARSTON: Mr. President, Delegates, this is the reason I came to this Convention. I waited two months to get here and I hope you will keep your minds and hearts open for a few minutes.

PRESIDENT EGAN: Mr. Marston, do you have an amendment to offer?

MARSTON: It is being passed out. I have it in there.

PRESIDENT EGAN: Perhaps if the Chief Clerk read the amendment first -- would the Chief Clerk read the proposed amendment?

CHIEF CLERK: "Insert the following as Section 12 and renumber the succeeding sections in sequence: 'The Legislature shall provide for translating the traditional rights of Alaskans of Indian, Aleut or Eskimo ancestry to the use of land, fishing, hunting and trapping areas into approximately equivalent homestead or other property rights. Provision shall also be made for just compensation for the impairment or extinction of such rights resulting from grants of land or timber or mining rights in the State public domain. Nothing in this section shall be construed to be in lieu of or prejudicial to any aboriginal rights or claims now pending or later to be filed.'"

PRESIDENT EGAN: Mr. Marston, we might go on and finish with Sections 10 and 11 and then come to your section. Are there amendments to the new Section 10? Or the new Section 11? Mr. Metcalf.

METCALF: May I ask a question of Mr. Smith? As I brought out before the Committee, on line 4, page 4, "and shall provide for

access thereto;" I would like to have it clear, if I own a section of land adjacent to the highway and the state leases a piece of land beyond my land, just what process will the state use, according to this phrase here "and shall provide for access thereto"? Is that just a legal right-of-way, or is it an actual road, or do they go through the process of eminent domain? Can you explain just how that will work?

PRESIDENT EGAN: Mr. Smith.

SMITH: Being a technical question, I will refer to Mr. Riley.

RILEY: This is the same question we discussed in Committee earlier this afternoon and the same illustration, and at that time, I believe we were all of one mind that the paragraph concerns reservations that will be withheld by the state in conveying state lands. However, under other provisions, Mr. Metcalf, access could be had by condemnation across your ground which might so lie as to cut off the state grounds beyond.

METCALF: Now, who would compensate me for this right-of-way? Would the state do that?

RILEY: Whoever condemned.

METCALF: The private individual would pay the cost and the state would not be put to that expense?

RILEY: If the state condemned it would be the state, or otherwise it would be the private party. That is not actually covered by this language. This section doesn't touch your problem as I see it.

METCALF: I am interested from an expense standpoint whether the state is going to pay for condemnation or whether the private party that leased the land.

RILEY: Whoever wants to get across your ground and sees fit to condemn a right-of-way would have to go through the usual condemnation proceedings.

METCALF: They would have to pay for that and the state would not have to pay the expense, is that right?

RILEY: Not unless the state were the condemning party.

METCALF: I am just wondering where it says "shall provide"; the state could be the condemning party.

RILEY: This has to do with the sale of parcels of real estate owned by the state, the state sale on some of its own ground,

and in selling its own land this authorizes the state to reserve or to retain access across the land so sold.

METCALF: That would not apply to leases then, would it?

RILEY: Access would be possible, too, in the event of lease. The United States today in issuing patents, reserves some comparable rights of way.

METCALF: It is all right with me if the lessee should pay the cost of the condemnation, but if the state is going to have to pay it, I am opposed to it.

RILEY: The lessee would hardly do it because he would be leasing the property in the first place and he would be able to use it at random; unless it is the lessee behind your property you are speaking of, and in that case he would be the one to condemn, I suspect.

METCALF: He would be the one who would have to pay then?

RILEY: The cost would be on him.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, five years ago our legislature passed a law reserving a strip along each section line for highways, I believe it was 120 feet wide which would take 64 feet off of each section. In other words, if Mr. Metcalf acquired this land from the state within the last five years he does not own a section of land, he owns a section less a strip surrounding it, 64 feet wide and this preserves that same intent.

PRESIDENT EGAN: Are there amendments to new Section 10 or the new Section 11? If not, Mr. Marston, do you move the adoption of your proposed amendment?

MARSTON: I move the adoption of this proposed amendment.

PRESIDENT EGAN: Mr. Marston moves the adoption of this amendment. Mrs. Sweeney.

SWEENEY: Mr. President, I am wondering if this has been cleared through the Committee?

MARSTON: I went to the Committee on two occasions and they are in sympathy with what this amendment calls for, but they took refuge behind HR 2535, and the evidence from the legal stand will be presented here showing that that does not necessarily hold.

PRESIDENT EGAN: Is there a second to Mr. Marston's motion?

LONDBORG: I second the motion.

PRESIDENT EGAN: Mr. Londborg seconds the motion. Mr. Marston, you have the floor.

MARSTON: Delegate Peratrovich has talked about this, and the delegate I talked to during lunch time says this has come up at every Indian or Native convention he has attended. It comes up because it is never settled and every morning here we pray to the God above to guide us and direct us and I wish that His ambassador, Jesus, were here this afternoon and would show you the way to vote on this question. Here is a letter addressed through me to this Convention from an Eskimo living up on the Bering Sea, and there are many more letters here, but this is a typical letter addressed to the Alaska Constitutional Convention at the University of Alaska so it is addressed to you through me. In the second paragraph: "I have something to bring up myself in connection with our land problems, mostly of our fishing camps and our homes. Around here in Unalakleet, and also around outlying villages, we have fishing camps, from way back without anything to show in papers, claims or clear titles -- only fish racks, tent frames and cache stands to show, and there are particular places for fishing and camping, whether they are in the beach or on the rivers, they are in the main places we are to catch our winter needs each year. By what I have gone through I can say this much -- it is pretty hard winter when some outfit gets into his camp and uses it for nothing -- I have not fished at my camp site for three seasons because some outfit is working in it. I would suggest strongly we need to have our fishing camps rights, and settle it. Settle it to have any outfit or any organization as a group to pay for using any camp site instead of doing anything as they please with any camp site. This part of Alaska is still hard living. It is not developed yet, no roads built yet to go any place where we want to or to go near our trap lines. We still use dogs to go places in winter. We need to have our seasonal living livelihood to get by each year until something is done in this part of the country. Also, our homes here in Unalakleet, and in other villages, too, we don't own lots for our homes. We don't have any clear title for our homes. We have been under reservation too long. Most of us young people begin to realize that. Reservations are just getting us behind in many ways of living as an average American citizen. We begin to realize that we have been put aside as Natives too long. We young people would like to see our children grow up as any average American living citizen, living with equal rights as white men. We are just as good a human as anybody from black to white. Here's wishing you lots of luck, your friend, George Lockwood, Unalakleet, Alaska." This is the plea that has been coming across the desk

of the white man ever since he came to this country. It has not been heeded, it has been pushed aside just like now it is pushed aside because of HR 2535. I wish that this delegation would make this document live by putting heart and soul and justice and taking care of the needs of a thing present in our midst. This man is appealing to you for his little livelihood; for what he already owns, these titles were good. All this bill asks for is that you give clear title to the home ground where he lives and to his camp site. Those titles were good in the Native land when the Natives lived there, but the oncoming civilization which is crossing over an older civilization has made inoperative those titles that were once good and I maintain it is up to us to make good those titles. These people, now in our preamble -- we speak of the pioneers of Alaska. Well, they are great. You see a man with boots on, a packsack, a pick and shovel, and a pan. We speak much in our Convention here about founding fathers -- great men they were, but greater men and many more of them lived long before the founding father or before the prospectors hit Alaska, and there are 30,000 of those people living here now in Alaska, and we have passed them by, as George Lockwood says, too long. These great people have done great things for us. We would not be here now if these people hadn't come here and had taken up this land and showed us the way. What do the Indians, the Natives give us? They gave us corn which has fed millions of people and is feeding millions now and making tens of thousands wealthy by growing corn, one of civilization's greatest blessings, I think. It gave us wheat; the Indians gave us corn. Our new civilization is running over the old civilization. It is a great civilization coming here. After the war a new group are coming -- not to get rich and get out -- but they are coming to raise families and make their homes in Alaska. They want to do right by the people that are here, but this Convention can do something about it, can correct an evil. Many people, Eskimos, Indians, and Aleuts have born, lived, and died waiting for the blessing of the great "white father" to settle on them under the aboriginal rights and they have not been treated right. They have missed their blessing, and the time has come when the great "white father" to settle down on these people what he has promised them. "A pal's last need is a thing to heed; a promise made is a debt unpaid." George Lockwood is my pal and your pal, and he is pleading to you now; and there are many George Lockwoods over the Arctic and in many places asking you to come and help them out. It is not their fault -- they don't want anything different than anybody else. They want to be just like you and me -- equal. We have destroyed their title by our new civilization. The government has promised them great blessings. Generations have come and lived and died and the blessing has not settled upon us. We can make this document live if we will just make clear the title and here is all I want you to do under this amendment. Mr. Londborg, will you show them this location here

of George Lockwood? I can show it to you. Here is all this does. (Mr. Marston took the map up to front of room.) This is all that amendment asks for. George Lockwood lives at Unalakleet, right here. He lives right there (pointing to map) on a little piece of ground and he wants a title to it. He has a fishing camp up here. He would like to have title to that five acres. There is where the military is now occupying camp for three years, and pushed him aside. The cats have destroyed his blueberries, the beach where his kiddies played they can't play there anymore, and for three years he has been dispossessed of that position by the military who are building a radar station up here. If he had title to that ground, as you and I would have, he would have no complaints, so in the name of decency and honor and common ordinary right, I ask this Convention to adopt this amendment and let George have his ground saved for him and a little camp site where he makes his living by fishing and hunting. That is all this amendment does. We can make this Constitution with heart and soul and justice in it if we just do that little thing and not forever pass by these people that are pleading to us. We have problems here; let's recognize them. I believe this Convention has the honor and the justice and the will and the free-wheeling among them to do this job which the United States government has been unable to do. Aboriginal rights have nothing to do with it. It merely clears title for his home site and for him camp site and that is all that does. I present it the best I can. I have a very humble way of presenting it, but I hope you realize the moment and the greatness of this little request by George Lockwood. There are many more letters here if you want to read them, but this letter tells you the story. I have told you the story and it is up to you. Let your conscience be your guide.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I would like to point out a parallel, if I may, between the situation as Colonel Marston has described it, and our own situation as residents of the Territory of Alaska. I was born and raised on a Blackfoot Indian reservation. I grew up among the Yakimas and the Nez Perces. I came to Alaska as quite a young man and I feel I have been living on a reservation ever since, and I resent it. I resent it so much that for at least 15 years I have held hard to the fact that some day we would be sitting in a Constitutional Convention such as we are today, expressing ourselves as a free people and a desire for freedom of action. I do feel, furthermore, that these Native people of Alaska who have made such a great contribution to our own civilization as it exists here in the Territory, are entitled to a voice within our constitution. I would like to have a serious discussion, serious consideration given to this proposal. I am neither supporting it now nor am I denying it, but I am saying in this constitution we must

make provision for these people who have made such a great contribution to our own civilization.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I would like to just say a word or two regarding this. I have not had a chance to read over this particular proposal before now, although I think I understand the intent of it. When a white person wants to come to Alaska he is usually pretty sure of getting a job or some security of some kind. There are some that just hit the trail and see what they can make out of it, but usually there is a sense of security that all of us want if we are going to settle and live in a place. Now, most of us are secure; we have our homes; we fight to get title for our lands; I don't think you would put up a building of any size using, maybe, the greater share of your earnings on a little plot of ground in a city unless you had some title to it, and somehow or other, we have worked it out so that the white people can get title to lands in the cities and out around other places, the Homestead Act for those who care to do that, and yet for some reason or other the government has just overlooked the basic need of the Native people. Now, this is not giving them, as I understand it, any large tract of land; it is not giving them anything that's new; it is just giving them security to what they are claiming right now, and as Mr. Marston said, have claimed down through the generations. Last night it was brought out very clearly the problem in connection with trap lines; some kind of a right to a trap line. Well, the Native has always had a right to his particular trap lines; I have seen it in operation where a family will have a trap line and they have had it for two or three generations, and it will be passed on to their children, and if someone marries into the family, then they have their share in that particular trap line. But a white man can come along, maybe under some government work or something of that nature, and just disrupt the whole economy of that particular family; no apology is made. It is just part of the white man's civilization, and it rolls on and on. This reference to Mr. Lockwood is just one single incident that has happened many many times. I am personally acquainted with that; Mr. Lockwood had this particular little site; he had a place built for summer home where he and his family would spend time fishing each summer and then in the winter time they would be back in the village so their older children could go to school. The children play with our children a lot; we are very well acquainted with this family; yet now his whole fishing site has been disrupted. The construction company has moved in; they have disrupted the home site that they have and, of course, if Mr. Lockwood could go on the white man's standard and get a job for a construction company, maybe he would be satisfied, but inasmuch as the unions have the right to say who can work, he can't do that. I think it would bear

some very serious consideration here in the Convention as far as this proposal is concerned.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, this amendment was not cleared with the Committee; however, I think that the Committee would all agree to waive that presentation to the Committee in order that we might not delay Mr. Marston's presentation. I am sure that the Committee is in full sympathy with the problem presented, but I am just as sure that there is nothing we can write into this constitution which would correct the problem or fully solve the problem presented by Mr. Marston. Now, the Committee did discuss this question with Mr. Marston on Sunday. The Committee's thinking was gone into very thoroughly at that time, and I would like to ask Mr. Riley if he would care to express the Committee sentiments.

PRESIDENT EGAN: The Convention will be at ease for a moment.

(Mr. Egan requested Second Vice President, Ralph Rivers, to take the Chair at this time.)

SECOND VICE PRESIDENT: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, as Mr. Smith has said, Delegate Marston did appear before the Committee on two occasions, I believe, and the Committee in transmitting its article to the Convention called attention to Delegate Marston's similar delegate proposal introduced at the outset of the Convention. Our transmittal carried this language: "Proposal 26 was considered to be beyond the province of the Committee and without the scope of the Constitution. However, the Committee recommends that the Convention adopt a suitable resolution addressed to appropriate federal agencies now in position to remedy the situation which Proposal No. 26 seems to reach." It has been suggested to me, during the recess a moment ago, that the Committee on Miscellaneous Provisions might also appropriately consider this matter, but I think there are good and sufficient reasons why the Convention, as such, cannot cover this matter in the constitution. Now, we have heard frequent mention this afternoon of fairness and decency and obligation and morality and that sort of thing, but I think there is a greater morality involved here, as far as the constitution itself is concerned, and that is that we should not offer any gifts that we are not in position to deliver and may not ever be in position to deliver, at least as far as this specific piece of ground is concerned, or any other specific piece of ground. The enabling bill, every bill that has been proposed in recent years has required the new state to commit itself to certain disclaimers, and language from the

Committee hearings on Senate 50, last year, 1954, I believe, states: "In order to make certain that the protection afforded the Natives of Alaska by the required disclaimer clause is applicable to all lands actually in their possession as defined, and is not confined only to land which such Natives have a legal interest. The committee amendment specifically extends the protection of the disclaimer not only to lands actually owned by Natives but to lands which for periods of at least three years prior to the enactment of this act have been in the possession and actually in the use or occupations of Natives." I do not agree with Colonel Marston that we have made no recognition of this large segment of our population, this very important segment. I think we have made precisely the same recognition of them as we have for all of the people in our bill of rights and every other section of the constitution which concerns the rights of citizens generally. I do feel that existing machinery in the federal government, if accelerated, would ultimately get to this problem. I know that it has not to now on a satisfactory basis. In recent years the Bureau of Indian Affairs has sent hearings examiners, I believe their title is, to Alaska in an effort to accomplish a sort of a tribal probate, or a probate in the Native tradition, to establish ownerships and lines of succession to the use of particular properties. It has been a grievously slow process, and it is one of several means whereby the federal government, if it were to speed up the process, could ultimately get to this very problem. That was our purpose in suggesting appropriate resolutions from the Convention to certain of the federal agencies involved. I think that if the Convention were to refer the matter to the Committee on Miscellaneous Provisions that perhaps further strength could be given it there.

SECOND VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: Mr. President, I should like to be heard in favor of the adoption of this amendment. We have listened to ambiguous language, which reminds me of a Southern senator discussing a civil rights bill in the North, or a Northern senator discussing an antilynching bill in the South. It looks like we are walking on eggs when we discussed this subject in the Committee. This is not a complicated subject. This is the kind of a subject that school boys and the average man understands and understands thoroughly. It is a matter of common decency, Christian decency if you were, and there is no complicated legal problems about it; there is none of this double talk or nonsense necessary. This is a very simple fundamental and elementary problem, and a very, very pressing problem in Alaska. Now, first, do not confuse this problem with the problem of aboriginal rights. Aboriginal rights deal with the group right of tribes and groups of people to enter into areas and pursue certain occupations and the like. This refers to the individual right

of a human being to pursue a small trap line, a fishing wheel, to go to a blueberry patch, to occupy the land around his house, and to follow his traditional pursuits. So, let's first put the thing in its proper perspective. Let's analyze what Congress did about it. Congress did not say that the Alaska constitution should not treat this subject. Congress could have said that very simply and easily but Congress did not say that. Congress did not trust you and me. Congress did not trust Alaskans. They were so afraid that we would not take care of our own people that they said, "This is one subject that we want to hold the whiphand on just in case you do not act like Christians, in case you don't act justly and don't act fairly to your own people." Any language in this house bill, and I have it before me, merely is more of an urging and an invitation to us to be decent and what it says, in effect, is that if you are not decent, we will be decent. Now, for many years in Alaska I have watched the old battle of "let's try to hook Uncle Sam into doing something that we normally should take care of ourselves", and I can see where it would be nice if Uncle Sam would dish out the money and I don't think it would be an enormous sum of money to take care of these individual rights, but I think it would be a black mark on our conscience if we did not face this problem and solve it in our constitution. Now, this amendment deals first with the individual rights of our own people; it applies to the state lands that will become the patrimony of the new State of Alaska. It is not retroactive; this is what we will have to do under normal condemnation procedures if Uncle Sam doesn't do it. Now, follow that again. To compensate these people, our people for these rights, as provided in this amendment, is merely a duty that we will have if Uncle Sam doesn't have, and this duty exists in the absence of this language even. Let's face it. Now, I want to make it concrete. We all agree to this grand principle that has been enunciated in this article before us, of the balancing of rights and where a superior right comes along that the lesser rights must give in, with compensation. In other words, if the legislature decides that Alaska needs a great dam on a fishing river, under this article, this beautiful article that we have before us, we enunciate the principle that in the public interest the dam will be given priority; the fishing rights will be compensated for. That is fine; that is nice; that appeals to the chambers of commerce; that is big stuff; that is high-level thinking. Let's bring the same thinking down to the low level, to the average man, the poor man that doesn't have the articulate chambers of commerce to support him. A small mine, if you were, goes into an area where there is a river; they need to use that land to further their placer mining. In the middle of the land they desire is a blueberry patch that has been used by an individual Native, and I don't laugh at that because that is the way those people eat, and that is the way they were brought up; that is the way they

live and there is nothing funny about it. Those people, they must yield; they must give to the miner because in the hierarchy of value the mine is more important to the people as a whole than that poor individual. He is compensated for his blueberry patch; if it is a trap line he is compensated for his trap line, and that is the way it goes. Now, that is basic; that is just decency, and I think that the language in the house bills that was referred to as having been in each one is not necessary because we Alaskans are going to take care of our people, and we should take care of our people. Now, people undoubtedly will jump up here and say how much this is going to cost us -- we are writing a blank check. Well, you have got to take some risks with statehood and this is the kind of a risk that I want to see taken.

LONDBORG: May I ask Delegate Riley a question or two?

SECOND VICE PRESIDENT: If there is no objection, yes.

LONDBORG: Mr. Riley, you mentioned something about the fact that saying we are going to give something that we don't have a right to give. As I take it, you mean that we would say here we're going to settle the issue where they live and then the national government would not give us that particular land to give to them. Is that right?

RILEY: I was simply cautioning against our offering something that we might not be in a position to give. I say there is no certainty the state will ever collect George Lockwood's five acres in order to give it to him.

LONDBORG: Or that the national government may hold it back and not give it to us?

RILEY: Either would be possible. I don't know what status it is in today; whether it is subject to any federal reservations or otherwise withdrawn which would deprive the state of any opportunity of selecting it. We should not build up hopes today for something we may or may not be in position to act upon at some indefinite time in the future.

LONDBORG: In other words, if the government, for some other reason, holds it back, it ceases to be our responsibility, but if we should acquire it, then it would seem the inclusion of this amendment would show us what we are intending to do with it.

RILEY: If we could be sure we would acquire that particular property and perhaps 10,000 other small properties at random, checkerboarded throughout Alaska, I would say that we had firmer ground to stand on in making such an offer.

LONDBORG: Would there be any objection of asking for such, that you can see at all? After all, we should have our villages included in Alaska.

RILEY: Certainly, as I envision it, the state will ask for the most attractive land it possibly can find, including land adjacent or near to established communities because to the degree that it is near established communities, there is some likelihood that it will be of value.

LONDBORG: I will go along with that. Then if we would ask for land like that and the federal government would not give it to us, then the responsibility is theirs; we have at least discharged our duty, but if we get it then this could be our intent if we adopt this?

RILEY: Do you wish to suggest an amendment to this?

LONDBORG: No, if it is just understood, that it is public domain, when it becomes Alaska, if this --

RILEY: If this becomes public domain we are agreeable to its being given in five-acre parcels to the occupants. I think that would make the picture clearer for those in the position of George Lockwood.

LONDBORG: Certainly I can see that, and I realize they have been promised too many things that they have never gotten. I think we should be clear on the issue; however, if that should be the point, I think we could discuss probably at the next recess such things that would make the issue a lot clearer. I just wanted to bring that up if that was the objection that we may not get the land; either we don't ask for it or the federal government does not give it to us.

RILEY: That was one of the hazards that I suggested.

LONDBORG: If I may indulge for a moment --

McCUTCHEON: Point of order, Mr. Chairman. Mr. Londborg has spoken.

SECOND VICE PRESIDENT: Right. Mr. Davis.

DAVIS: Mr. President, this is something that is very hard to talk to after the eloquent and emotional appeals that have been made by the two previous speakers. As a matter of fact, so far as I am concerned and I believe I speak for all 55 of us, we consider the Eskimo and the Indian a citizen just the same as all the rest of us. We don't consider that he is any better than we are, and we don't consider that he is any worse. He is a man just like we are; and he is entitled to all the rights

and privileges and all the duties of citizenship, just as we are; and he is covered by the bill of rights that we are adopting here, just as we are. Now I will start out with the proposition that the Eskimo and the Indian ought to have title to his house, and ought to have title to his fish camp, just as you and I are entitled to our property. I will go further and I will say that these restrictive deeds we have been passing out to them are a shame and a disgrace. I would like to see them have their property. But as Mr. Riley pointed out awhile ago, this is not ours to give. And if we tried to adopt something like Colonel Marston has requested us to adopt here -- in the first place, we couldn't possibly fulfill it; in the second place, we have for some reason or another attempted to make people think that possibly we can do what we can't do. Now, the Eskimos and Indians being citizens should be entitled, and I think are entitled, under existing law to have their towns platted out and to get their property just as it has been done before. Now, I am not certain, we talked, of course, about Unalakleet awhile ago, but it is one town in one part of Alaska, and of course we have other towns in all parts of Alaska that will have the same problem. I started to say I don't know whether Unalakleet is or is not presently a reservation. I was informed that it is, and I don't know whether it is or not. If it is, of course, then there is nothing we can do about that particular town except to try to get the reservation removed if that is what those people want. I don't know whether it is or not because these reservations, at least the recent reservations, were established by the will of the people involved. Maybe they have changed their mind or maybe for that matter it is not a reservation, but the trouble with this whole thing is that even if we had the right to do what Colonel Marston has asked, the proposed section here doesn't even come close to accomplishing it. Let's read it. "The Legislature shall provide for translating the traditional rights of Alaskans of Indian, Aleut, or Eskimo ancestry to the use of land, fishing, hunting, and trapping areas," and I want you to note that word "areas" -- "into approximately equivalent homestead or other property rights." There isn't any question at all if you take that the way it is written, that there won't be any public domain of the State of Alaska because certainly some Indian, some Eskimo, some Aleut had an interest either in trapping, hunting, or fishing rights in every foot of Alaska at one time or another. And I don't think that is what Colonel Marston intends to do, I am sure it isn't. What he wants to do is to give these folks their five acres of ground for a headquarter site for their home, and I would like to see them have it, but as of today that land all belongs to the federal government. I think we ought to do everything that we can do as individuals or as a group to see they get their rights as citizens to that property. When and if Alaska becomes a state and gets this public domain we have

been talking about, if in that public domain there appears some of these homesteads, some of these homesites, some of these villages, I would be all in favor at that time, if they have not previously gotten title, in seeing that they get title to their property if we can do it, because as I said to begin with, they are citizens just as you and I, not because they are Indians, Eskimos, or Aleut, but because they have the right to own their property just as we do. But in my opinion this proposed section will not do what it is designed to do. It would certainly upset the entire possibility of Alaska having any public domain and would be setting up one group of our citizens as against the rest of our citizens. I hope that the proposed amendment will be voted down.

SECOND VICE PRESIDENT: Mr. McNealy.

MCNEALY: Mr. President, I am in favor of the amendment. I believe there should be some amendments to it, however, to make it workable, I am going to speak now in favor of the amendment. In regard to the leaving of the matter up to the Congress, and there we come into the matter of restrictive deeds, I have had correspondence here from parties who are opposed in some of the villages, and I speak for this particular area now, the central part of Alaska, if you will, and that they fear that -- they have the letters where titles were issued to the Natives by the federal government and leaves that land within the town or towns to be incorporated as nontaxable. Now, the reason I mention that fact is if this matter is taken care of by the federal government first, then we have nothing to say on it if they give them the deeds prior, but if they do not, I think provision should be made, and made in this constitution, for the state to give them deeds to their property or take care of it out of the public domain. I grant the fact that that land Congress grants to the state -- it is silly to talk about giving them land that is not granted to the state -- but land that is granted to the state, the state will have the right to give. I think of the numerous villages up and down the Yukon and the Kuskokwim rivers where I imagine the conditions are the same as Unalakleet -- I am not acquainted over there, but where the people have lived for years and years and years in these villages; they have established their homes there and they have no more title to them than the man in the moon. It is not going to do any good, ladies and gentlemen, to refer this matter to the Committee on Miscellaneous Provisions because it may as well be argued out on the floor at this time rather than taking up the time to argue it out later under miscellaneous provisions. I think that some definite provision here should be provided for these Americans who were here long before most of us were in this country. As in closing, as to writing a resolution, I hope the delegation is not affected or anyone by what I might state in

writing a resolution on this subject; if there is going to be a resolution written to the Congress or anybody else, then let's write the resolution with disappearing ink on a roll of toilet tissue.

V. RIVERS: I move and ask unanimous consent that we recess until 3:50 p.m. It is now 3:34 p.m.

SECOND VICE PRESIDENT: If there is no objection, the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there further discussion on the proposed amendment as offered by Mr. Marston? Mr. Boswell.

BOSWELL: I would like to ask a question of Mr. Hellenenthal.

PRESIDENT EGAN: There's no objection, Mr. Boswell, you may ask a question.

BOSWELL: Mr. Hellenenthal, would title pass from the state to these Indians or Eskimos or Aleuts under this amendment?

HELLENTHAL: No, not at all.

BOSWELL: No title will pass?

HELLENTHAL: No title would pass. Their rights only would be recognized.

BOSWELL: Well, how would they be recognized? Mr. Marston spoke about a five-acre plot here and 160-acre plot there.

HELLENTHAL: I think that the word "areas" is misplaced in Mr. Marston's amendment. It should be "land areas, fishing rights, hunting rights, and trapping rights" to make it clearly understood. In other words, that would protect the occupant in his lands, just as the federal government now does, where they go in and survey. The occupant would be protected in the occupancy of his lands, and he would get a title to it, and the rights, which, of course, are lesser and very inferior interests of fishing, hunting and trapping, would be recognized. Envision a situation where a Native person has a -- I mentioned this to Senator Nolan -- envision your own house and lot in the new state patrimony. Say, you get in there and you get a piece of land, and you build a house and lot on it in this new area that will be given to the new State of Alaska: a Native walks through your yard in pursuing of his trapping rights. Now, by recognizing his trapping right, you're not giving him your house and lot, you're merely letting him go through your lands in the pursuit of his trap lines. It isn't giving him any lands -- just recognizing the right.

BOSWELL: Well now, just a moment ago you said it would give title just like the federal government now does.

HELLENTHAL: To lands, the right of the owner and title would, I believe, ultimately be recognized, yes.

BOSWELL: Well, that's the point I wanted to bring out. Now, we have all of Southeastern Alaska as a national forest, and all of the Prince William Sound, including Kodiak Island. Now, that land will never be state public domain.

HELLENTHAL: We're not concerned with that land at all. We're merely dealing here with the state patrimony, and not trying to tell the federal government what to do. This is what we will do as a state when we're given these lands by the federal government.

BOSWELL: But, the point that the Committee was thinking about was that we had no moral right to put in our constitution something that would make the people in Southeastern Alaska think they had a right that may never be realized.

HELLENTHAL: Well, I'm not so sure they can't realize it.

BOSWELL: They could never get title.

HELLENTHAL: Now, what kind of title are you talking about?

BOSWELL: Title to this five-acre plot of ground.

HELLENTHAL: You say now, if a Native in Southeastern Alaska has lived for years --

BARR: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Barr.

BARR: Is the Chair being addressed in this debate?

PRESIDENT EGAN: Mr. Boswell has the floor.

BOSWELL: I'm sorry it has gone to this length. I'll relinquish my right.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I feel compelled to speak on this question. If I don't, I'll be a mighty poor Indian. I tried to avoid it as long as I could, but I think it has come to a point in where,

perhaps, a little light on the question, if I can contribute to it, will be of some help. Now, from the proposed amendment and also listening to the discussion, I get the feeling that you cannot compare the Southeastern Alaska in this respect -- that is, the Tlingits or the Indians you might call them, and the Eskimos together, for the simple reason, I think we had a little advantage, or more so, perhaps, than the Eskimos and Aleuts had, because we've had the white contact long before they had the privilege of doing so. For that reason, I think we saw our needs, and in a period of time it was necessary for us to organize into a body as you folks do in your various organizations, like your Red Men and Elks, etc. Now, through this organization we have attempted to have what we feel is our aboriginal rights. And that has nothing to do, as I see it now, with the proposed amendment here. We have advanced to a point where this question of aboriginal rights will be aired in a court of claims in Washington, D. C., on March 2. Now, those of you that have been closely connected with this question, particularly from Southeastern Alaska, are familiar with the difficult discussions and conflicting ideas, perhaps, we've had in regards to this. I personally have agreed with the majority of these people of that particular section that this question has hindered the progress of the Territory of Alaska, and I do feel that way. It seems to me, and I speak for, perhaps, the entire Indian population from this section, that the sooner this question is decided one way or the other, the better it will be for the Territory of Alaska. And, with that thought in mind, I have rendered services to the best of my ability to push this particular question so that it may be settled, and I'm happy to hear -- I just had correspondence here a week ago that this question will be aired in a court of claims on March 2, this year. Now, I appreciate the fact that I've had advantages and consideration as a citizen of this Territory -- perhaps more so than a good many of my friends from my own race -- and I appreciate that. But, however, I cannot help but look back and see sometimes -- I don't like to use this term "injustice" -- being put in practice here and there in regards to some of our people. Now, it's well for perhaps some of you to say, "Well, an Indian can go out here and get land if he wants to under the homestead law, etc." Now, that's been tried by some individuals. Unfortunately, it's not the younger generation. It's the older people that are looking far ahead -- looking for security, just like you are doing, and they wish to take advantage of these laws. But, unfortunately, I don't know where the bottleneck is, but it has never worked successfully in this respect. Now, for that reason I maintain that unless you give this man from up North here some consideration, I think you're going to have the same problem here, perhaps, 20 or 30 years from now. Now, I don't want to ask any special privilege for myself or any of the members of my tribe, you might say. We

have Haida and Tsimshian down there, too, and I don't think they'll ask for any special privilege. They're contented with the fact that their position is going to be aired in a court of claims, and they'll abide by the decision of the court. But, however, it appears to me that you have a situation up here in this division that needs attention. I don't know how you're going to approach it, but at least you have something before you here for your consideration. If this amendment is a solution to remedy that particular situation, then I think you should give it fair consideration. Again, I say I'm not asking for anything for my part of the division because I'm satisfied with what has transpired, but I'm compelled to support this amendment because I'd do that for any one of you, I don't care if you were Indian or what race you belonged to. If you were in the same situation, I'd vote for this amendment.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I can well appreciate the intense personal feeling that Colonel Marston and Mr. Peratrovich feel on this matter. But, it's a sense of duty that compels me to say that this is not the solution that Mr. Peratrovich seeks. I think it's well known to everyone here that in the United States, traditionally and particularly in our Western states, we have been plagued for years by claims -- Indian claims -- and by claims similar -- most of you have heard of them -- of the Spanish land grants, and particularly in California, Sutter's claims against the state. Here we're creating, in substance, whether you realize it or not, a completely new set of property rights. These are property rights; don't be deceived by it. It says the legislature shall provide for translating the traditional rights to the use of land. That automatically creates a property right in the constitution. What is the danger of it? The danger of it is simply this: let us assume that we acquire with statehood this great public domain that's been promised to us. Can it be disposed of? No, it cannot. Why? Because every piece of that land is subject to a property right, and that property right makes everything else subordinate. The use of the land is subject to the proof that it was one of the traditional rights of Alaskans of Indian, Aleut, or Eskimo ancestry. What is a traditional right? I must presume that it's a right that may not now be exercised, but may have been one of the rights of the Eskimos, the Aleuts, or the Indians. In substance, what you're doing, we're not only subject to the question of aboriginal rights, not only are we subject to the question of rights which existed at the time of the Treaty of Cession from Russia, but we're creating now, a completely new set of rights, indeterminate in their application, and in substance no part of the public domain would ever

be insured by a title company without the reservation, "except subject to the traditional rights of Alaskans of Indian, Aleut, or Eskimo ancestry, of the land, fishing, hunting, and trapping areas". All of those things you would get a defeasible title, and, in the event of development, it would plague the Territory for years. If the amendment is voted down, I am prepared to submit one which I feel recognizes the rights and, in substance, can preserve the things that Mr. Peratrovich wants, and with the indulgence of the Chair, I'll read it. "The legislature may provide for translating the traditional use of Alaskans of Indian, Aleut, or Eskimo ancestry, of land, fishing, hunting, and trapping areas, into property rights, or for just compensation for the impairment or extinction of such use. Nothing in this section shall be construed to be in lieu of or prejudicial to any aboriginal rights or claims otherwise provided or reserved by the Congress." In substance, we don't make them rights that subject every title in the Territory to being overthrown, and yet, we give the Territory of Alaska the right to convert them, either into homesteads or to make reasonable compensation for their loss to the Aleuts, the Indians, or the Eskimos. I cannot conscientiously, even though I am quite sympathetic, support this amendment of Mr. Marston's.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I've been through the aboriginal claims controversy when I was an attorney down in Juneau, and this amendment is couched in such broad terms as to suggest group rights and tribal rights, and it brings in the whole subject of aboriginal rights, otherwise known as aboriginal claims. Mr. Hellenthal said that he was concerned with individual rights. Colonel Marston had said that he's concerned with individual rights in small tracts, and I think something can be done along that line. I support Mr. McLaughlin's contention and the contention of those who spoke against this -- that this is not the vehicle to accomplish the purpose which Mr. Peratrovich and these others have tried to achieve. So I will vote against this amendment. I have, also, run a redraft on the subject of small tracts, which I have given to Mr. Marston as an alternative.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may ask Mr. Hellenthal a question, Miss Awes.

AWES: When you and Mr. Riley talked before, I believe both of you referred to certain language in HR 2535. I wonder if you'd read that to us?

HELLENTHAL: Yes. It's in the second section of this proposed house bill or the house bill on page 30. It says, "That said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called Natives) or is held by the United States in trust for said Natives." And then it goes on a little further about Natives, "That all such lands or other property, belonging to the United States or which may belong to said Natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereinafter prescribe, and except when held by individual Natives in fee without restrictions on alienation: Provided, that nothing..." I suppose I should read it all, but I assure you that the next proviso is merely general language that I don't think will help answer your question.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I would like to speak in favor of this amendment to insert Section 12, as such. I feel that I can't speak on it in a legal sense because of the fact that I'm not an attorney, and, therefore, do not possess the ramifications of a legal mind. However, I think that if the delegates will sincerely consider this as a moral aspect, and to let their conscience be their guide, that we do have a problem particularly in the Fourth Division, and possibly the Second Division, as to the rights of lands of the people that have lived there for generations, and have stayed in one particular valley or one particular section. I might, for example, cite the community of Minto, which is about a 100 miles from here, or about 30 miles from Nenana. There the village consists of 200 or 300 Natives. They were all born and raised in that area. One family has a particular direction that their trap line is in. They have no legal right, according to the white man's code, to having their cabins on a particular piece of ground, or they have no legal right to trap to a certain divide or to a certain river. It is solely a moral right, and they have agreed upon it among their people. One of them goes up another river, and in turn they have split up the country in their own way of providing so that there will not be an overlapping of trapping grounds. However, we have had intervention in there in the past years, of white people that wish to go in and trap; they'll go in with an airplane and set right down and violate maybe five or six of those trap lines. That's

putting the Native people completely "behind the eightball" when it comes to preserving any rights or conservation measures that they have adhered to without the consistent entanglements of the Alaska Wildlife Service. They have their own provisions for conserving the beaver dams; they take only a certain amount from each beaver dam, and then move on to another. I believe that the delegates here will be completely hiding an issue if they don't face it and vote on their own convictions as to giving the Native people, who were here long before us, at least their legal right to holding the lands that they are on.

HELLENTHAL: Mr. President, point of order.

PRESIDENT EGAN: Your point of order.

HELLENTHAL: It may not be a point of order, but this is it. I want to ask unanimous consent that this matter be deferred until after the dinner recess, so that Mr. McLaughlin, myself, Colonel Marston, and others who are interested, can sit down and calmly see if we can work out an amendment that will please everyone, and I only make that request to save the time of the Convention.

PRESIDENT EGAN: You're asking unanimous consent that action on this amendment be deferred until after the dinner recess.

HELLENTHAL: If I'm in order, I'll ask unanimous consent.

COOPER: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: I second the motion.

PRESIDENT EGAN: Do you so move, Mr. Hellenthal?

HELLENTHAL: Yes.

PRESIDENT EGAN: Mr. Hellenthal so moves, seconded by Mr. Taylor.

COOPER: Mr. President, I only object in that Mr. Hellenthal referred to a few delegates that are interested in this matter. I say we're all interested in it, and I'd like to have that clarified.

PRESIDENT EGAN: Is there objection to deferring -- then, you withdraw your objection, Mr. Cooper, now?

COOPER: Yes.

PRESIDENT EGAN: Is there objection to deferring this question until after the dinner recess? If not, it is so ordered, and the amendment will come before us at 7:00 p.m. Mr. Coghill.

COGHILL: I'd like to rise to a point of inquiry. Mr. Marston, will you call a meeting of this for the delegates that are interested in this subject, and at the time and place prescribed by you?

MARSTON: Mr. Chairman, if I may say, the meeting will be immediately after this recess starts, right in this room right here.

PRESIDENT EGAN: It would seem that the Resources Committee might wish to have this come before it in a meeting and Mr. Marston and all delegates. Mr. Smith.

SMITH: I cannot speak for the Committee, due to the fact that the question hadn't been discussed by the Committee. I had felt that the Resources Committee would hold a meeting during the recess, and this question, as well as any others, could be presented to the Committee at such time. I'm at a loss as just to what course to pursue. I do intend to announce a meeting of Resources.

PRESIDENT EGAN: Mr. Marston, it would seem, in the opinion of the Chair, that that would consolidate the meetings, and you wouldn't have one meeting going off in one direction and one in the other, and perhaps when Mr. Smith announces his committee meeting at the time of the recess, it would be understood that all delegates can come at that time, and this matter will be discussed and proposed amendments will be accepted. Mr. Barr.

BARR: Mr. President, I'd just like to make a suggestion. There are quite a few people interested in this that haven't even spoken. Myself, for one, and I know John Cross is interested in it, a lot of us who have had contact with the Natives in the Territory. And that would make a pretty big committee combining with the Resources Committee. It seems to me like this little group should surround Colonel Marston and Mr. Hellenthal first and figure out what they want, and then take it to the Committee. I think it would be done quicker that way.

PRESIDENT EGAN: It seems to me as if it isn't going to be any little group, because it looks to the Chair like every person in the room is vitally interested in this. Mr. Smith.

SMITH: Mr. President, I would just like to suggest that I don't think the interest of the Convention runs so much in the drafting of the constitution as a thorough discussion after it is

drafted. And I am in accord with the suggestion that this group draw the amendment, then present it to the Resources Committee, and then it come on the floor.

PRESIDENT EGAN: If that is your wish, Mr. Smith, then that is the way we will proceed. Are there amendments to the new Section 11 or the new Section 12? Mr. Riley.

RILEY: Mr. President, we have another committee amendment or two, but --

PRESIDENT EGAN: Are there amendments suggested for the new Section 13? Does the Chief Clerk have an amendment?

CHIEF CLERK: I think it's to Section 12, now that we've changed the numbers.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment to the new Section 12?

CHIEF CLERK: "Page 5, line 15, insert period after the word 'law', and insert the following: 'Like permits and leases may also be authorized by law'."

PRESIDENT EGAN: Mr. Riley, what is your pleasure?

RILEY: Mr. Chairman, I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment.

UNIDENTIFIED DELEGATE: I ask that the proposed amendment be reread.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment once more?

CHIEF CLERK: "Page 5, line 15, strike the semicolon and insert a period, and insert, 'Like permits and leases may also be authorized by law'." Does the rest of the sentence stay in?

RILEY: Yes, it's new matter.

CHIEF CLERK: It's not a period after law, then.

RILEY: The word "and" should be stricken in the new sentence, and there is a period after the word "law".

PRESIDENT EGAN: Also, strike the word "and" after the semicolon?

RILEY: Yes.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment. Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Mr. Taylor. There is an objection, Mr. Riley. Do you so move?

RILEY: I move its adoption.

KNIGHT: I second.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed amendment, it is seconded by Mr. Knight. Mr. Riley.

RILEY: Lest there is any confusion, the only period we will put in is after the third word on line 15. The next sentence commences with the word "like". The fourth word, "and" on that line has been stricken, or I propose it being stricken.

PRESIDENT EGAN: Will the Chief Clerk read that new sentence as it will appear?

CHIEF CLERK: "Like permits and leases may also be authorized by law for the use of geophysical, geochemical and similar methods of prospecting for all minerals.

RILEY: As has been noted, Mr. President, we're dealing with two categories -- the metallic and the nonmetallic fields. The last sentence, the one we're now considering, we've reverted back to both types, and for that reason we seem to set it apart a little further by this language -- the import is unchanged.

PRESIDENT EGAN: Is there further discussion? Mr. Taylor.

TAYLOR: Mr. President, I believe that in the preceding paragraph -- not in the section, but in the paragraph -- this says that "The legislature shall provide for the issuance, type, and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law." Now, in the following -- in this paragraph we're on now -- we've got "leases and prospecting permits giving exclusive right of exploration". You don't give a lease for the purpose of exploration, you give a lease for the purpose of production. The prospecting permit comes before. So, in the preceding paragraph you've provided for a lease for these things, for the production, and then in the next section you go and give a lease and permit for prospecting. So, I believe that the word

-- I figured out an amendment to strike the word "leases and" in that paragraph, so that it would be, "Prospecting permits giving exclusive right of exploration..." I think that should be the subject matter of that paragraph instead of leases, because that is provided for in the previous paragraph.

PRESIDENT EGAN: Wasn't the word, "prospecting" deleted?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Previously, Mr. Taylor.

TAYLOR: Out of this particular paragraph?

PRESIDENT EGAN: Yes, the paragraph that you are referring to, yes.

TAYLOR: Now then, we've got two different paragraphs that treats the leases, then; we have nothing that treats prospecting permits, if you struck "prospecting -- leasing and prospecting permits -- if you struck prospecting", so you've got leases giving exclusive right of exploration. Under the law, it's the prospecting permit that gives you the right of exploration, and it's the lease that gives you the right for production. I think that those matters should be straightened out by the Committee, and then, also, if you allow this amendment that has been offered -- it says "on like permits and leases" -- well, you've given something that is not necessary. You should have a like permit; prospecting permit should be given, not a lease, because under the federal act you can't get a lease for prospecting -- you get a permit for prospecting. They're not consistent with each other, because you've got a lease provided for before, and now, if you adopt this, you have no prospecting permit.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Taylor, is that the nature of your question? I have spoken once. Have you addressed that question to me?

TAYLOR: No. I was just arguing on it. (Laughter)

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, may I address a question to Mr. Riley.

PRESIDENT EGAN: There is no objection, Mr. Sundborg.

SUNDBORG: Mr. Riley, could you give us some light on the question which Mr. Taylor has just raised? (Laughter)

PRESIDENT EGAN: Mr. Riley.

RILEY: Well, this morning we deleted the word "prospecting" after some discussion concerning the word "exoloration". I believe it was the consensus of the group that "exploration" did include "prospecting". In any event, "prospecting" was stricken, which would leave the sentence commencing on line 10 in this form: "Leases and permits giving exclusive rights of exploration..." Now, initially, in earlier drafts the sentence read, "Prospecting permits and leases". It was brought to our attention that the current practice with respect to oil leases -- the one which is now in vogue, and apparently there is general satisfaction with it, enables the operator -- the lessee -- to start right off with the lease. The oil companies now drilling in Alaska start initially with a lease and not with a permit. And when that was called to our attention, we reversed the order of permits and leases, in order to give stress to leases, recognizing that leases were granted by the federal government to the concerns which are now up here drilling, and were granted, in the first instance, without permits. Just to repeat myself, we feel that the language proposed in the amendment before us calls attention to the fact that we propose that exclusive right of exploration for limited periods in areas shall also be possible under the relatively costly methods of prospecting touched on in the last lines -- 16 and 17; and that's the full import of our amendment. We have two categories of mineral. Those are covered in separate paragraphs on these two pages. But, here in one instance, we group them and say that all types of minerals may be subject to these exclusive rights of exploration under leases and permits, recognizing a unique situation as concerns the method of prospecting.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the amendment, signify by saying, "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Robertson.

ROBERTSON: May I ask Mr. Riley a question?

PRESIDENT EGAN: You may, Mr. Robertson.

ROBERTSON: I still don't understand why, in line 8 on this page -- in fact, beginning on line 6, "The Legislature shall provide for...coal, oil, gas...", etc.; you don't say, "and other nonmetallic metals," but, down in line 14, after reciting the same sort of minerals, you say, "nonmetallic". Why isn't nonmetallic in the first instance? Why do you have it in one instance and not in the other?

RILEY: I think you've pointed out a flaw, subject to correction by any of the Committee members; I recall in inserting "non-

metallic" in line 14, and I believe on line 8, you will find, Mr. Robertson, earlier in the section -- the first page, line 18 -- we stated "other metallic minerals". And I simply failed to pick that one up on line 8, and will submit that, too, as a Committee amendment.

PRESIDENT EGAN: You submit that now, Mr. Riley? Mr. Barr.

BARR: Mr. President, before that's submitted, I would like to know -- since the mineral rights are reserved to the state, if a man stakes out a placer mine for gold, what kind of permit is he going to have for production? Wouldn't that be a lease on gold? In that case you wouldn't want to put that amendment in there, you'd want to include all minerals.

RILEY: Well, minerals such as you speak of, which are subject to discovery and location, are covered in the first portions of Section 13, where we have endeavored to retain all of the federal nomenclature as we know it now in the federal mining law.

BARR: Then he could get a patent on his claim, then?

RILEY: He could if Congress will allow.

BARR: I see. Well, I didn't know, I thought perhaps the state would want to give him a lease in a case like that. I have no objection then.

RILEY: In effect, it would probably amount to a lease, or to a very limited patent.

PRESIDENT EGAN: Mr. Johnson, do you have a question?

JOHNSON: I have a question, if I may.

PRESIDENT EGAN: If there is no objection.

JOHNSON: Mr. Riley, this may be a foolish question, but it was asked me last night, and I didn't know, and I thought possibly someone on your Committee could tell -- the word "sodium" is used there. And the question that was asked me is whether or not sodium is a metallic substance or a nonmetallic substance. If it were metallic, then, of course, it wouldn't fit in your wording of the amendment.

RILEY: I refer you to Mr. Boswell on this, but it's in this particular grouping where it appeared in recent federal legislation.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: It's handled by the federal government, along with other minerals named there, because, I suppose, of the way it occurs. It occurs, nearly always, in the form of a mineral -- combination of sodium and something else. Sodium chloride, for instance, is common salt.

JOHNSON: Yes, I understand that, but if you insert the word "nonmetallic", wouldn't that sort of be a little contradictory to the --

ROBERTSON: I think that's one reason why "minerals" is there as it is.

PRESIDENT EGAN: Mr. Riley, are you holding up that particular amendment, then?

RILEY: It appears that we are, Mr. President, this is one that slipped past us until Mr. Johnson's reminder.

PRESIDENT EGAN: That'll be taken up in your committee meeting, then?

RILEY: Yes, the only one we have pending at the moment is that on line 15 of page 5.

PRESIDENT EGAN: That was adopted, Mr. Riley. We have no amendment before us at this moment. Are there other amendments to the new Section 12? Mr. Kilcher.

KILCHER: Before, I have an amendment, I'd like to ask a question of Mr. Riley, which might --

PRESIDENT EGAN: If there is no objection, Mr. Kilcher.

KILCHER: On line 10, page 5, you speak of the leases and permits giving the right of exploration for specific periods and areas. Could you conceive of giving permits for specific exploration? What I mean is this: these permits and leases -- would they cover a specific area and a specific time for all of the minerals, or would the party in question that is searching, either with normal or geochemical or geophysical means, would they have to state for what group or single mineral they are exploring?

RILEY: I don't believe it has been in the Committee's contemplation that they would be limited -- that the prospector or one operating under permit -- limited in time and in area would be entitled to be on the lookout for the entire range.

KILCHER: Should not, in other words, an exploration permit also be specific as to what he's looking for?

RILEY: The Committee hasn't reached that conclusion, no.

KILCHER: Well, another question. Could you foresee, if a permit were specific for a certain group for three or four of these items, would you say then, that the permit would be exclusive for this group, but that concurrently, in the same area, another outfit may be working with different technique -- maybe one outfit is working with just physical means and another geochemical means or normal prospecting methods, could it also get an exclusive permit for a different period of the time, concurrent for a specifically different group of minerals? Is that possible under this paragraph? Or is it the intent or not?

RILEY: As Mr. White pointed out earlier, in response to a question asked by Mr. Barr, the language reads: "Permits giving exclusive right of exploration"; to that extent concurrent use is qualified. But, on your specific question, I would feel that the further qualification, "as prescribed by law" would cover the matter. The Committee hadn't concerned itself with that precise point, but as I read this, the legislature would be enabled to.

KILCHER: Well, to make the question perfectly clear, could you conceive, under this paragraph, that two outfits could simultaneously work in the same area with exclusive permits, but looking for different objects?

RILEY: I could, if this language remains unchanged and the legislature, acting in reliance on this language authorized that which you propose.

KILCHER: Mr. President, I offer a very small amendment that I think would take care of the question and raise it above doubt. To insert on line 11, page 5, between the second and third word, between the words "of" and "exploration", insert the word "specific".

PRESIDENT EGAN: What is your pleasure?

KILCHER: I move that the amendment be adopted.

SUNDBORG: Mr. President, a point of order, has this amendment been cleared with the Committee?

KILCHER: This amendment, Mr. Sundborg, came to my attention right now. Is that in order, Mr. President?

SUNDBORG: It is not in order, Mr. President, unless the Committee Chairman waives the provision in our rules that it must be cleared with the Committee.

PRESIDENT EGAN: What is the feeling of the Chairman of the Committee? Should it be considered at this time?

SMITH: Apparently it is not the wish of the Committee to hold up matters to discuss this question. Therefore, the Committee waives presentation to the Committee.

BARR: Mr. President, I move for a three-minute recess, so they can get together on it.

PRESIDENT EGAN: Did you move the adoption of the amendment, is that correct?

KILCHER: Yes.

PRESIDENT EGAN: Was there a second?

KNIGHT: I'll second it.

PRESIDENT EGAN: And Mr. Knight seconded it. If there is no objection, the Convention will stand at recess for three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher.

KILCHER: I still think that the amendment has a merit and will clarify the issue. There are other amendments that are in preparation, I understand, that are going to have their own solution of the same problem. But, at least the problem is recognized as such, and I think this is a solution, together with the intent stated by Mr. Riley on the record. It would leave no doubt. As it is, I think there is quite a bit of doubt about this matter. I don't think it's clear as stated.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment. Mr. Hilscher.

HILSCHER: I rise to a point of information on this. This is Mr. Kilcher's amendment?

PRESIDENT EGAN: Yes.

HILSCHER: Mr. Kilcher, if leases and permits are given for the exclusive right of a specific exploration for a specific period and for specific areas, how are you going to safeguard against a

promotion deal being put over which might be purely and simply a "scalawag" deal? Now, what I'm thinking of is this: suppose that you gave exclusive rights for specific explorations for uranium or some other mineral or element for a large area -- say half of Kodiak Island or all of Kodiak Island. Can't you see the danger that is going to result in a bunch of sharpshooters going out to raise a large sum of money, which may or may not go into exploration? But they do have the legal right to that area for specific exploration and for a specific period of time. Aren't we leaving ourselves wide open to some of the old type of promotions which were handled here in Alaska dating back to

1898?

KILCHER: If you please, Mr. Chairman.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Hilscher, how much better a promotional deal can the same outfit have if they can go and say they have exclusive rights to look for everything, not just for uranium. I think that answer should be sufficient in that matter. The danger of abuse of exclusive right is greater when it's not specified. My insertion of the word "specific" will also affect that last sentence that has just been added by Mr. Riley's amendment, the last sentence of the paragraph, where the geophysical, geochemical, and other methods are used for all minerals -- gold, etc. If an exclusive permit to look for an allied group of minerals or nonminerals -- I mean, metallic or nonmetallic minerals -- is issued, an allied group, let's say platinum, gold, and silver, I see no reason why it shouldn't be made plain that another company or person with different methods shouldn't be allowed to look for a different group of minerals in the same area and simultaneously, the same season, same summer. I think this would make it plain. The legislature would still have a lot of discretion, they can permit an exclusive lease for five, six or ten minerals; but the company must have a rough idea what they're looking for and what they possibly are looking for, and specify the means of looking for it. They cannot go, in my opinion, they shouldn't go and say, "I'm looking for everything that's in the book and that's not in the book I possibly could find by any possible method, and I want nobody in there for the rest of the summer. That's asking too much. In the case of the geochemical method I happen to know personally that this is not a very expensive method at all. Geophysical, yes; geochemical, no. And there is no reason why an exclusive right in every respect should be given, except for purposes stated. That is what I think I can achieve by inserting the word specific.

ROBERTSON: Mr. President, it seems to me, if I understand the objective of Mr. Kilcher's motion, that the word "specific"

should modify the word "exploration" in the 12th line, instead of the 11th line. I should think that's where the "specific" should be.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by Mr. Kilcher, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying, "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to the new Section 12? Mr. Hinckel.

HINCKEL: Mr. President, I haven't an amendment, but I'd like to inquire of the Committee what their thought was in regards to this. Mr. Hilscher mentioned Kodiak Island. I had already, in conversation, mentioned to him, that wouldn't this permit, for instance, the whole of Kodiak Island being granted for the use of geophysical or geochemical prospecting for a period of time? Or, could it be the whole of the Kuskokwim or the whole Yukon valley, or how are you going to limit this area? Do you just say "and in a specific area"; that could be any area that would be bounded by a geographic description.

PRESIDENT EGAN: Would someone on the Committee care to answer that question? Mr. Boswell.

BOSWELL: As I mentioned last night in discussion, and I will repeat it, that we would expect this particular section regarding permits to be very narrowly applied; and, of course, an oil company now under the federal laws can get a 100,000 or maybe 200,000 acres under a lease for prospecting purposes. And leaving it up to the legislature to discuss, we would expect that they would not give many of these permits, that they would be for very limited times, and it is primarily for the unknown areas of Alaska. And it is similar to the crown grants that Canada uses in an effort to open up mineral lands, where they give a company or an individual who is capable of doing a job this exclusive permit until such time as they find the mineral. And then after a mineral is found in that area, it's open to all comers. They merely have a preference for the short period of the permit, and that is the purpose behind this particular paragraph.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I might add to that that there again we were up against the question of whether or not it was proper to set specific limitations in regard to leases, permits, etc., and conditions change as regards to those things, and we felt strongly, due to that fact, that the legislature should be allowed to set

the limitations in every way, so that they could meet those changing conditions. Now, we run up against this question of limitations a good many times, and we have felt that it would be a dangerous procedure to set up those limitations in the constitution, where they could only be changed by amendment to the constitution.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Don't you think that there should be something that would make the size of the areas uniform? That is, we'll not permit one company to come along and get the whole of the Kuskokwim valley, for instance, and somebody else come along that didn't have quite the political power or something that was necessary, and be limited to a very restricted area. It looks to me like there's just too much chance for finagling around, and favoritism being shown.

PRESIDENT EGAN: Mr. Riley.

RILEY: I think to a considerable extent, Mr. Hinckel, the state will fall heir to the same limitations as now imposed by the federal government under both the recent Alaska Coal Leasing Act or the current Alaska Coal Leasing Act, and the Mineral Leasing Act of 1920. The current enabling bill provides that, at the state's option the state may take over existing leases, and the terms, of course, remain unchanged. I think those existing terms will set the pattern for future legislation by the state.

PRESIDENT EGAN: Are there amendments to the new Section 12? Mr. Marston.

MARSTON: Mr. President, to get outside capital coming here we've got to be liberal. These great lands have laid here for millions of years, and nobody has done anything with it, and the time has come to open it up, to make coming here attractive you've got to give a broad piece of ground and be liberal. I know that Havenstrike started an oil well 18 years ago and Ickes (Secretary of Interior) forfeited his lease on him, he had him shut down after spending \$1,000,000, just a faraway decision. After 18 years, they finally liberalize the law and let you have enough land to warrant you to come in and spend money. I know that Phillips Petroleum spent on the first well over \$1,000,000. The geologist that lives next door to me, and he tells me that story, and it just costs money, and before they'll spend that big money, they've got to have big

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KILCHER: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: Is there anything on the floor?

PRESIDENT EGAN: There's nothing on the floor.

MARSTON: It was on the floor. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper.

COOPER: If there's nothing on the floor, may I ask a question? It's not referring to this particular article. It's referring to the amended report of the rules that this Convention accepted the other day.

PRESIDENT EGAN: Is there objection to Mr. Cooper asking a question with relation to the amended rules that we adopted the other day? If there is none, Mr. Cooper, you may ask the question.

COOPER: In the latter part of Section 1 it says, "In the second section-by-section review of the proposal, amendments may be submitted directly from the floor without previous consultation with the committee. What I wanted to ask you, are we now in the second section-by-section review, or are we in the first section-by-section review?"

PRESIDENT EGAN: We're in the first section-by-section review insofar as the amendatory process is concerned. That is the recollection of the Chair. Are there other amendments to the new Section 12? To the new Section 13? Mr. Riley.

RILEY: Mr. President, the Committee has an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed committee amendment?

CHIEF CLERK: "Line 18, page 5, after the word 'All' insert the words 'surface and subsurface'."

PRESIDENT EGAN: What is your pleasure?

RILEY: Mr. President, I move adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Riley moves adoption of the proposed Committee amendment. Is there objection? If there's no objection, the proposed amendment -- Miss Awes.

AWES: I'd just like to ask a question. I was wondering what kind of waters there are besides surface and subsurface? In other words, what's the purpose of the amendment?

PRESIDENT EGAN: Mr. Riley, could you answer the question?

RILEY: I won't undertake to answer that directly, but just today the Committee received word which prompts this proposed amendment. We had had that in an earlier draft -- surface and subsurface -- and had deleted it, thinking it to be superfluous. Today we're advised by one who had met with us over a period of time, that the reference to all surface and subsurface waters should be retained at the beginning of this section. There was such a long controversy about the right of the freehold owner of subsurface waters that this reference should be included to avoid ambiguity, even if somewhat redundant.

PRESIDENT EGAN: Is there objection to Mr. Riley's unanimous consent request that the proposed amendment be adopted? Hearing no objection, the proposed amendment is ordered adopted.

CHIEF CLERK: I have another proposed amendment here.

PRESIDENT EGAN: There's a committee amendment, Mr. Riley, that we have not considered as yet. The Chief Clerk will read it.

CHIEF CLERK: In Section 12 --

RILEY: Did we act on the period after "legislature"? Oh, I see.

CHIEF CLERK: "Page 4, line 17, strike 'now' and substitute 'thereafter'."

RILEY: Oh yes, I beg your pardon. I overlooked that. Line 17, page 4. I move for unanimous consent of adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Riley moves unanimous consent for adoption of the proposed amendment, with the word "thereafter" in the place of the word "now". Is there objection to the adoption of the proposed committee amendment? Hearing no objection, the proposed amendment is ordered adopted. Are there amendments to the new Section 13? If not, are there amendments to Section 14? Are there amendments to Section 15? To Section 16? To Section 17?

CHIEF CLERK: I have a proposed committee amendment for Section 17.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed committee amendment.

CHIEF CLERK: "Line 17, page 6, change the period to a comma, and add 'and just compensation for such taking as well as for the taking of, or damage to, inferior property rights shall be made.'"

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: Mr. President, I move its adoption.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed amendment.

ROBERTSON: May we have it read again, please.

PRESIDENT EGAN: Will the Chief Clerk please read it again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Mr. Riley so moves. Do you ask unanimous consent, Mr. Riley?

RILEY: I do, Mr. President.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment. Mr. Ralph Rivers.

R. RIVERS: I object, just for the moment, Mr. President. Would we not say "subordinate property rights" instead of "inferior"?

RILEY: Either would do, I would think. This is one proposed by a delegate and the Committee accepted it.

R. RIVERS: That could be referred to Style and Drafting. I will support that.

PRESIDENT EGAN: Is there objection to unanimous consent request for the adoption of the amendment? If there is no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 17? Section 18? Mr. Taylor.

TAYLOR: Seventeen, Mr. President. I have a question regarding that particular section. It says the person should not be divested of his right to use of waters, except for a superior beneficial or public use. I was thinking about matters which have not been brought up by the Committee, and I brought it up today: the federal law provides that all hot springs or springs with proven medicinal value are reserved to the federal government, so people can have the beneficial use of those springs -- those waters that do have a distinct medicinal value. And I thought, possibly, in 17, or in the section which is now 13, we could include some provisional clause along that line.

PRESIDENT EGAN: Do you have an amendment, Mr. Taylor?

TAYLOR: I have no amendment right now. I just brought it up, that we might prepare an amendment after the dinner recess.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I have an amendment to Section 16, if I may have the privilege of backing up a bit. The new Section 16.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment to the new Section 16.

CHIEF CLERK: "Line 13, page 6, delete the period after the word 'law' and add 'with just compensation'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I move the adoption of the amendment. I might state that I talked to Mr. Riley and a couple of others on the Committee; I don't know whether I referred it to the Committee as a whole, but I talked to members of the Committee about it.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second?

TAYLOR: Would you read it again?

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. Would the Chief Clerk please read the proposed amendment.

(The Chief Clerk read the amendment again.)

TAYLOR: I'd like to raise a point of inquiry. Do you think it would not be better if that were done only by operation of law "and with just compensation".

PRESIDENT EGAN: Mr. Ralph Rivers.

TAYLOR: Do you want a conjunction in there?

R. RIVERS: I don't care whether the "and" is in there or not. That would be for Style and Drafting. I'm not sure if "operation of law with just compensation". I think it's adequate with the "and". Mr. President and delegates, the reason I bring this up is that the very next section says "Proceedings in eminent domain may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources."

So, where they're going to take access rights-of-way in, anyway, they're going to use eminent domain, and eminent domain is always with just compensation. The section that I'm proposing to amend immediately above that, though, speaks of "No person shall be involuntarily divested of his right to use of waters, his interests in lands, or improvements affecting either, except for a superior beneficial or public use and then only by operation of law." And it's most pointed that you haven't made any reference to eminent domain. Now, Mr. Riley told me that he thought "operation of law" embodied the thought of eminent domain, and would probably be the type of proceedings used and that would carry just compensation. But, just to be sure, and for clarity's sake, I ask that, following the word "law" we say "with just compensation".

PRESIDENT EGAN: Mr. Riley.

RILEY: I was going to suggest, Mr. President, to insert "with just compensation" on line 12, after the word "only" then, "only with just compensation and by operation of law". Do you have any feeling on that, Mr. Rivers?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I have no objection. I like it. Mr. Riley, will you carry that through?

RILEY: On line 12, after the word "only", that is next to the last word in the line, insert "with just compensation and".

PRESIDENT EGAN: Well now, just a minute. We have Mr. Ralph Rivers' amendment.

RILEY: That is Mr. Ralph Rivers' amendment.

R. RIVERS: Mr. President, I ask unanimous consent to withdraw my amendment and have Mr. Riley substitute in its stead.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent for the withdrawal of his proposed original amendment. Is there objection? Hearing no objection, and Mr. Riley offers the Committee amendment.

RILEY: I ask unanimous consent.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the Committee amendment that after the word "only" on page 6, line 12, insert "with just compensation and". Is there objection to the unanimous consent request? Mr. Gray.

GRAY: I object. I don't understand it. I don't understand compensation for the right of the use of waters, of state waters. Repeat it.

RILEY: Well, assume, Mr. Gray, that you have appropriated water for a specific purpose, and thereafter, another sought to use the same waters for a use or purpose considered to be of a superior or higher public purpose; although your appropriation would be better in time, he could institute condemnation proceedings and prevail over you by virtue of his higher public purpose to be served by that water, perhaps a public or municipal water supply.

GRAY: I withdraw my objection.

PRESIDENT EGAN: Is there objection -- Mr. Robertson.

ROBERTSON: Mr. President, I'd like to have the privilege of asking the Committee, in regard to Section 15 --

PRESIDENT EGAN: Mr. Robertson, we haven't yet acted upon this particular amendment.

ROBERTSON: I beg your pardon.

PRESIDENT EGAN: Is there objection to the unanimous consent request by Mr. Riley for the adoption of the proposed amendment? Hearing none, it is ordered adopted. Mr. Robertson.

ROBERTSON: I was wondering whether or not the Committee had given any thought to providing that there be no exclusive right of hunting on a public domain. You provide for no exclusive right or special privilege of fishery, which I agree, but, it seems to me that in this country where we have so many hunters, there ought to be a prohibition against the exclusive right of hunting on public domain.

PRESIDENT EGAN: Mr. Riley.

RILEY: Has the problem arisen, Mr. Robertson?

ROBERTSON: I can see how it might with the military.

RILEY: I think the point is well taken, but the answer is that the Committee hasn't considered it.

PRESIDENT EGAN: Are there other amendments to the new Section 17 or the new Section 18? If not, then it would be advisable, probably, that we have the recess at this time. There are also many questions going to become before the Resources Committee in

relation to this other question Mr. Marston has in hand. Mr. Hellenthal.

HELLENTHAL: I should like to hand up an amendment to Section 2, line 2, page 2, which was discussed with the Committee, and which has been held until we could go through all of the sections, and to which the Committee has no disapproval.

PRESIDENT EGAN: Now, this will still be considered the first time around, is there objection to considering the proposed amendment at this time? Does the Committee have any objection to considering this before you have your recess? Hearing no objection, will the Chief Clerk please read the proposed amendment to Section 2.

CHIEF CLERK: "Line 2, page 2, delete the period, insert a comma and add the following: 'subject to the principle that certain uses of resources shall be subordinate to superior and higher beneficial public uses as determined by the Legislature.'"

PRESIDENT EGAN: What is your pleasure, Mr. Hellenthal?

HELLENTHAL: I move and ask adoption of the amendment.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent for the adoption of the amendment. Is there a second?

KNIGHT: Second.

PRESIDENT EGAN: Mr. Knight seconds the motion. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: Is this to be a new sentence, or is the period to be deleted?

HELLENTHAL: Comma following the word "people".

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Hurley.

HURLEY: I guess this is in the form of a question to Mr. Hellenthal.

PRESIDENT EGAN: If there is no objection, Mr. Hurley.

HURLEY: I notice you use the word "subject to superior and beneficial public uses". It appears to me that they're setting

up a system of beneficial private use in here. Is it the intention to limit the further setting up of priorities of beneficial uses later on?

HELLENTHAL: Frankly, I agree with you, but I took the word "public" from the commentary in Section 3, where the Committee used the words "beneficial public use". I think "beneficial use" would be preferable. Now, maybe if I give a reason for this amendment briefly; when you go over the whole article, I think an omission becomes clear. It is the clear intention of the Committee that the principle of recognizing this hierarchy of beneficial uses shall apply to all resources, every one. It applies to the replenishable resources and to the nonreplenishable resources. And that is made very, very clear. But when you check the whole article, you'll find that there's only two mentions of the principle. The first mention is made under mineral rights in Section 12; and in Section 12 you're dealing with only one type of resource; namely, mineral rights. Or rather, I stand corrected. Section 13, dealing with water rights, is the first mention of the principle, and it says there "...subject to preferences of beneficial uses, concurrent or otherwise, as prescribed by the Legislature..." Now there the principle is applied, but only to water. Then you go on to Section 16, that's the second and the last statement of the principle; and that, likewise, deals with waters alone. Now, it's clear that it was meant to apply to all resources; and Section 2 deals with all resources, so I merely feel that it's necessary, very necessary, that the principle be stated in the section which deals with all resources, and not merely confined to the sections dealing with the water resource only.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, may I ask Mr. Hellenthal whether he did or didn't take out the word "public"?

HELLENTHAL: I put it up to the Committee in the language of the amendment, and if Mr. Riley would indicate that he had no objection to the use of the word "public", I certainly would not have.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, this is not directly on the point, but we did discuss this the last thing, I believe, before coming back into session this afternoon, and the Committee had rather tentatively thought to reconsider the language -- I believe I'm right in saying this -- in Section 15, or to read it again. I shouldn't refer you to Section 15 here; I'm speaking of an earlier draft, but to read Mr. Hellenthal's proposed language against language it had earlier adopted but which does not

appear in this edition of the article, and I think perhaps it might simplify matters if we were to defer consideration of this, with Mr. Hellenthal's agreement, until this evening. Meanwhile, that would give us an opportunity to discuss it.

PRESIDENT EGAN: Would you object, Mr. Hellenthal?

HELLENTHAL: No, I'd be very happy to.

PRESIDENT EGAN: If there is no objection, we will defer action on this proposed amendment until after we have acted on Mr. Marston's proposed amendment this evening. Mr. Sundborg.

SUNDBORG: Mr. President, subject to committee and other announcements, I move and ask unanimous consent that we recess until 7:00 p.m.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the Committee on Resources will meet in the gallery at 6:15.

PRESIDENT EGAN: The Committee on Resources will meet in the gallery at 6:15. Are there other committee announcements? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet upstairs at 6:15 in the committee room.

PRESIDENT EGAN: The Committee on Style and Drafting will meet in the committee room upstairs at 6:15. Mr. Marston.

MARSTON: The committee on this amendment that is before the house, on Native properties, will meet right here.

PRESIDENT EGAN: Right now, is that right?

MARSTON: Right now.

PRESIDENT EGAN: That committee will meet immediately upon the recess. Mr. McNealy.

MCNEALY: The Committee on Ordinances, Mr. President, will meet immediately upon recess, to set the time for the meeting.

PRESIDENT EGAN: The Committee on Ordinances will also meet right here upon recess, to decide on a time and place for meeting. Mr. Rosswog.

ROSSWOG: The Committee on Local Government will meet immediately on recess, on the upper floor.

PRESIDENT EGAN: The Committee on Local Government will meet immediately upon recess, on the third floor. Are there other committee announcements? If not, the Convention stands at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us at this time the proposed Marston amendment. Mr. Marston.

MARSTON: Mr. President, I wish to withdraw the amendment I put in, and put in a new amendment. The Secretary has it on her desk.

PRESIDENT EGAN: Mr. Marston asks unanimous consent that the original amendment that he proposed this afternoon be withdrawn at this time. Is there objection? Hearing no objection, it is so ordered. Would the Chief Clerk please read the proposed amendment that is now before us.

CHIEF CLERK: "New Section 12: 'Deeds to lots and small tracts occupied or used by Indians, Aleuts or Eskimos within the State public domain may confirm title to the appropriate persons in recognition of their individual use as prior occupants under terms and conditions prescribed by law.'"

PRESIDENT EGAN: What is your pleasure, Mr. Marston?

MARSTON: I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Marston moves that the proposed amendment be adopted. Do we have a second to the motion?

McNEES: I'll second it.

PRESIDENT EGAN: Mr. McNees seconds the motion. Mr. Smith.

SMITH: Mr. President, this matter was taken up by the Committee on Resources, and the Committee decided to take no action on the proposal.

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. McLaughlin.

McLAUGHLIN: How does the amendment read? Does it say "may be given", or "may confirm"?

PRESIDENT EGAN: Will the Chief Clerk please read the amendment.

MARSTON: May that be "may be given"? I've changed it since I gave it to you and take out the written part, take out the

"confirm title". Put it back just as it was originally printed.

PRESIDENT EGAN: You want it to read "may be given"?

MARSTON: Yes.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment once more.

CHIEF CLERK: "Deeds to lots and small tracts occupied or used by Indians, Aleuts or Eskimos within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants under terms and conditions prescribed by law."

PRESIDENT EGAN: Is there discussion of the proposed amendment? If not -- Mr. Marston.

MARSTON: This is the way I presented it to you with the map. If the original amendment didn't cover that, or covered too much, this is the way I intended to put it in there. I want to take care of George Lockwood. He's asked us; he's been three years in trouble; and this takes care of him. It is not asking too much, and if this Convention, made up as it is of a lot of free thinking, free people, I believe they will do something here that no group of men have been able to do in the United States for 85 years. Individually, they've all agreed that something should be done about the George Lockwoods over the country. Collectively, they have refused to do anything. I believe that this organization, individually and collectively, will do something about George Lockwood and people like him; and that's all this amendment does is grant a little piece of land where he lives and the cabin site where he fishes, to him, according to law.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there's no further discussion Mr. Hurley.

HURLEY: Mr. President, I'm going to have to say just one word anyway. I can't see as this amendment says a thing that the article here doesn't say the same. And I think it may be discriminatory against the men that I know that have tracts of land that have occupied at a site for sometime that don't come under these classifications. I'm sorry, but I'm going to have to vote against the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, there's a vast difference between this amendment and the one previously offered. The one previously

offered mentioned rights which might have open the whole question of aboriginal rights. It also mentioned claims to trapping areas -- areas with practically no boundaries. You might give away half of the state domain if you gave those trapping areas away. And, also, it did not specify as to what lands would be given. It implied that the state would be giving lands that they did not own -- federal lands. This amendment has clarified the whole thing. It says that the land given will be a part of the state public domain. We have a right to give it. It says nothing about rights of any kind; it does not transfer any rights, just land; and it does not give away any area. It only gives away homesteads and cabin sites -- small tracts of land, in other words -- and they are given to the Native people because of their prior use and occupancy. Now, there's a good precedent for that. In this case they do not have to file with the land office and go through the regular procedure; it's very difficult for the Native people to do that; they can't read the laws and understand as we can. They don't know about our legal procedure, or a better word is "red tape", where a white man can do that. But they have even a better claim to these cabin sites than some of the white people have. We're giving them this land, but before the federal government got it, these Natives owned it. We're just giving it back to them. The precedent for this is that now, when the land office opens up a certain area to filing for homesites, if a man has had a cabin on that land, he has a prior right for filing. He has to file like other people, but he has the prior claim. Also, when a government agency, like the Interstate Commerce Commission, or, more recently, the Civil Aeronautics Bureau, takes over some industry and says who can operate and who can't. They always have a "grandfather" clause in the act which says that a man who has been operating for years automatically gets the right to continue to operate. He doesn't have to file a claim or anything of that sort. He just gets the right. Well, if these Natives have been on this land for a long time -- and some of them have been on there for hundreds of years -- they should be allowed to continue the occupancy of that land when we start dealing it out. Now, Congress evidently is very much concerned with the rights of the Natives. They have withdrawn certain lands and are holding them in trust. This amendment has nothing to do with those lands, but I am bringing this up to show you what the intention of Congress is. They're looking out for the rights of the Natives. When they look at our constitution and see that we are looking out for the rights of these Natives, too, insofar as possible, then they will believe we are politically responsible, and they'll give more earnest consideration to this constitution and to statehood than they would otherwise.

LONDBORG: Mr. President, I would just like to say a few words concerning this new amendment. I'd like to say that I do

believe that it is going to fit the request of the people. I'd like to read, just in part, a copy of a letter of January 12 of this year, by the Village Council at Unalakleet. "The Council of Unalakleet has met and discussed the possibility of staking off small acreages of approximately five acres for the private camp sites along the natural waterways in this area to be used during the hunting and fishing seasons. At the present time nearly every family in the village has an established camp site which has been established for at least a generation or two without having official title to the land. It is the feeling of the people that they would like to continue using these camp sites in the future, without having to be concerned about someone coming in and claiming their site." I think that is their concern, just the same as it would be and is your concern and mine about our own home -- where our homes are built and where we do our work and make our livelihood. As far as the constitution, this doesn't stop the legislature from doing the same thing to other people -- the white people and other races that may come into Alaska, but it's just assuring that we're going on record that we mean some business to clear up the situation that should long since have been cleared up. Now, I can see Mr. Hurley's point that it may seem discriminatory, but let's remember that the white people that are here, or at least the majority, are here voluntarily. We've come up to Alaska, we're free to go back to where we came from, etc. Some, of course, were raised here, and Alaska is their home; but we have security along that line, also. In this case, it is the white people gradually moving in upon the Natives, and it's just a matter of assuring them some type of security for the little land that they have their houses on -- that they have their business, if you want to call a fish camp a business, etc. I don't look at this as just a measure for the Native people, it's something that I believe belongs in the resource article just as much as giving a lease to miners. Let's say that's discriminatory, that's just providing something for those people who like to mine. There might be another type of a license that shall be prescribed, and that's discriminatory just for those who want to partake in that particular thing. This is an economic measure. It's to provide an economic security for the people that are pursuing that particular type of livelihood. And when that particular economic situation involves nearly all of the Natives, and probably the Natives take in 90 or 95 per cent of it, I don't think we are discriminating in putting it here in our constitution. I feel that it has a part, it's not giving all of Alaska away. If the federal government doesn't give this land to us as public domain, then the Natives aren't going to point to the state government of Alaska. They're going to have to point their finger back to the United States and keep asking them, but at least our own hands will be clear on the issue. It's just about what we'd all like to have for ourselves;

a little assurance that when we build our homes, where we establish our business, that we're going to be able to stay there as long as we want to, unless we sell or transfer or something of that kind. It's giving a little sense of security.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, are we on the second time around?

PRESIDENT EGAN: We're still on the first time around, Mr. Sundborg, for amendment purposes.

SUNDBORG: I wonder if I could have the unanimous consent to propose an amendment to the amendment?

PRESIDENT EGAN: If there's no objection.

SUNDBORG: It has not been cleared with the Committee, because I had not seen the proposed amendment. It's not a committee amendment, but our rules say that on the first time around, an amendment should be cleared with the committee.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, in order to get on with the business, the Committee would waive any presentation to the Committee.

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, you may offer your amendment to the amendment.

SUNDBORG: I offer an amendment to the amendment.

PRESIDENT EGAN: Will the Chief Clerk read the proposed amendment to the amendment.

CHIEF CLERK: "In the Marston amendment, line 1 and 2, strike the words 'Indian, Aleuts or Eskimos' and insert 'Alaskans'."

SUNDBORG: Mr. President, I move the adoption of the amendment.

HERMANN: I second it.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment to the amendment, seconded by Mrs. Hermann. Mr. Sundborg.

SUNDBORG: Mr. President, what the Marston amendment would say, if my amendment to it is adopted, is: "Deeds to lots and small tracts occupied or used by Alaskans within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants under terms and

conditions prescribed by law." I'd like to refer to the letter which Mr. George Lockwood of Unalakleet wrote to Colonel Marston. The very last paragraph of it says: "We begin to realize that we have been put aside as Natives too long. We young people would like to see our children grow up as any average American citizen and live with equal rights as white men." If we adopt the Marston amendment as it is proposed, we are setting them aside as a class forever and we are conferring upon them some property right here, or a deed, by virtue of the fact, not that they have lived upon this land or any other fact, but that they are Indians, Aleuts, and Eskimos. And I contend that that is wrong and that we should not have it in our constitution. I'm against it on the very same grounds as I would be against it if it said that tracts occupied by Seventh-Day Adventists within the state public domain, or if it said tracts occupied by Chinamen. I don't believe that's right in our constitution. We should have a constitution here which applies to all men equally, and that's why I offer my amendment to the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment as offered by Mr. Sundborg, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment to the amendment is ordered adopted. Is there other discussion relative to the proposed amendment? Mr. Victor Rivers.

V. RIVERS: I have a question of somebody that was in on part of the authorship of this. I wonder about whether the words "title may be given to" -- just what does that mean? Title may pass or be a gift, or what?

PRESIDENT EGAN: Mr. Marston.

MARSTON: It means what it says. These people own this land for a generation or more, and we white people have destroyed their title. It won't stand up in our courts; therefore, this amendment proposes to give them that ground, free of any claim, to make good the title that we destroyed for them. It means what it says, Mr. Rivers.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: This amendment was drawn by Mr. Ralph Rivers, was it not?

MARSTON: That's right.

PRESIDENT EGAN: Is there further discussion on the proposed amendment as amended? Mr. Buckalew.

BUCKALEW: In the first line, after "small tracts", I'd like to insert "and homesteads". I move its adoption.

PRESIDENT EGAN: Does the Committee waive the --

SMITH: The Committee will waive presentation.

PRESIDENT EGAN: Mr. Buckalew moves adoption of the proposed amendment. Is there a second to the motion?

KNIGHT: Second.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Buckalew.

BUCKALEW: Mr. President, I think that if we're going to start giving the lands away, we ought to be consistent about it. If a man has a claim, and has occupied a tract as large as a homestead, I think that we ought to be consistent. And if he has an interest in it, we ought to protect him, and give him a title to it if it is out of the state public domain. I see no reason to confine this section only to lots and small tracts, because you'll probably find a great class of people that have claims on homesteads, and I imagine that a homestead claim would be more beneficial to the state than a lot or a small tract, because a man could, perhaps, make a living off the homestead. I think that right ought to be protected along with the other two rights.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Through the Chair, I'd like to ask Mr. Buckalew a question.

PRESIDENT EGAN: If there's no objection, Mr. McCutcheon, you may ask the question.

McCUTCHEON: Does the term "homestead" carry with it the connotation of a specific size?

BUCKALEW: I don't think so. No.

McCUTCHEON: In other words, could it be a 1,000 acres, or 640 acres, 2,500 acres?

BUCKALEW: I don't think it could be 2,500 acres. I don't think a man could use 2,500 acres. On the other hand, it probably could be 2,500 acres.

McCUTCHEON: In the event he was raising cattle or something?

BUCKALEW: Yes, I think so.

McCUTCHEON: That could be termed as a homestead then.

BUCKALEW: It's a very broad definition. I want to get everybody included in it.

HELLENTHAL: May I ask Mr. Buckalew a question, Mr. President?

PRESIDENT EGAN: Mr. Hellenthal, you may ask your question.

HELLENTHAL: As a lawyer, can you define the word "homestead"?

BUCKALEW: As any lawyer, I could get ahold of a book that's got the definition in it. Black's Law Dictionary, or some place, but I don't have a definition right now.

HELLENTHAL: You don't know, I assume?

BUCKALEW: I don't know the legal definition. Do you know, Mr. Hellenthal?

HELLENTHAL: Yes. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I refer to Mr. Buckalew's amendment. Apparently, we have attained the point now where we've substituted, for "Indians, Aleuts or Eskimos", "Alaskans", and if we add "homesteads", I don't think we need worry any more about the public domain or the remainder of the resources article, because, frankly and coldly, by the amendment "Alaskans", it is my presumption that they want it without clouding title. It might have been the desire of the Convention to secure, in substance, the Natives of Alaska, these small tracts. By amending it to "Alaskans", and particularly by amending it to "homesteads", you've killed it. Because, in substance, what you're providing is that you merely split up the public domain, and by direct gift, pass it out to those present here at the time we obtain statehood.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I haven't spoken on the Sundborg amendment because I didn't believe that it possibly --

PRESIDENT EGAN: We have Mr. Buckalew's proposed amendment to the amendment.

KILCHER: I'll get to that.

PRESIDENT EGAN: The Convention will come to order.

KILCHER: The Buckalew amendment, Mr. President, in my opinion, has as its main purpose to show up the uselessness of the article, if we follow the road that Mr. Sundborg started, to its logical conclusion. I herewith move that we rescind the action taken a minute ago on Sundborg's amendment, and give the matter serious consideration.

UNIDENTIFIED DELEGATE: Second.

PRESIDENT EGAN: Mr. Kilcher moves that the Convention rescind the action taken in voting upon

McCUTCHEON: Point of order, Mr. President. We'll have to dispose of the matter at hand before we rescind our action on the previous matter.

PRESIDENT EGAN: Mr. McCutcheon, the Chair feels you have a point. The Chair is not quite clear whether a motion to rescind can be made at any time or not. The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon, your point of order is well taken. The motion to rescind is a main motion without any privilege, and, therefore, can be introduced only when there is nothing else before the assembly. Mr. Buckalew.

BUCKALEW: Mr. President, I would ask unanimous consent, with the consent of my second, to withdraw, my "homestead" amendment.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that his amendment be withdrawn. Is there objection? Mr. Kilcher.

KILCHER: I repeat my former motion, that we rescind action on the Sundborg amendment.

PRESIDENT EGAN: Mr. Kilcher moves that the Convention rescind its action taken on the Sundborg amendment.

EMBERG: I second.

PRESIDENT EGAN: Mr. Emberg seconded the motion.

JOHNSON: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: Isn't the main motion still before us, subject to amendment, so that the motion to rescind would still be out of order,

wouldn't it?

PRESIDENT EGAN: The main motion, as referred to by Mr. Kilcher, is the motion that we adopted in adopting Mr. Sundborg's amendment to the amendment.

JOHNSON: But, we still have before us, as I understand it, the question of adoption of the Marston amendment.

PRESIDENT EGAN: Mr. Johnson, that's another question there that's quite complicated. The Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson, your point of order was well taken. The only means by which a person could get to this particular amendment to the amendment, because of the fact that the main amendment is now pending, is by notice of reconsideration of the amendment to the amendment. But you can't reach it by a rescinding action at this time, because we do have something else before us, and that is the main proposed amendment. Mr. Kilcher.

KILCHER: Mr. President, in order to permit sufficient time to give the question due consideration, and not to lose more time on the floor, I move that we postpone this particular main question until tomorrow morning, first order of business.

PRESIDENT EGAN: Mr. Kilcher moves that we postpone this particular amendment until tomorrow morning, as the first order of business. You're not serving notice of reconsideration, are you, Mr. Kilcher?

KILCHER: Not if this motion carries.

HERMANN: A voice vote?

PRESIDENT EGAN: Yes. If there's no objection, the matter will be held over until the first order of business tomorrow morning. Mr. Hurley.

HURLEY: I'll object, I want to take care of this thing tonight and get through with it.

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Kilcher?

KILCHER: I so move.

PRESIDENT EGAN: Mr. Kilcher moves that the matter be held over until tomorrow morning. Is there a second to the motion?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The motion is open for discussion. Miss Awes.

AWES: I just wanted to ask a question. Is there anything to be accomplished by this? We're still in the same position with this amendment attached to the amendment, aren't we?

PRESIDENT EGAN: That is correct, Miss Awes. Of course, it's always possible to delete and reinstitute. Mr. Barr.

BARR: Do we have a motion before us now?

PRESIDENT EGAN: At the present time we had another proposed amendment as offered by Mr. Hellenthal before us at the time we recessed. It was to be the next order of business after we had Mr. Marston's amendment before us. Mr. Hellenthal.

HELLENTHAL: Mr. President, I ask unanimous consent to withdraw the proposed amendment that was on the desk just before the recess.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent to withdraw the proposed amendment that he had before us before we recessed. Now we have several matters from the first time around, with the Rules Committee. Mr. Barr.

BARR: I have a motion. I move --

PRESIDENT EGAN: There is a motion on the floor, Mr. Barr, to hold matter of the Marston amendment over until the first order of business tomorrow morning. Mr. McCutcheon.

MCCUTCHEON: Point of order. Mr. Barr may have a motion which would take precedence over this one.

BARR: No, I have an amendment.

PRESIDENT EGAN: What is it? To this motion, Mr. Barr?

BARR: No.

PRESIDENT EGAN: The question is, "Shall this particular amendment as offered by Mr. Marston, be held over as the first order of business tomorrow morning?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Armstrong, Awes, Emberg, H. Fischer, Kilcher, Laws, Londborg, Nolan, Nordale, Rosswog, Sweeney, Walsh.

Nays: 38 - Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Smith, Stewart, Sundborg, Taylor, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, VanderLeest, White.)

CHIEF CLERK: 12 yeas, 38 nays, and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed motion has failed of adoption. Mr. Barr.

BARR: I have an amendment. I move that, after the word "Alaskans" the following words be added: "of Indian, Aleut or Eskimo descent". I move for the adoption of the proposed amendment.

MARSTON: Second the motion.

HERMANN: Point of order. That restores it to exactly the status it was in before it was amended.

PRESIDENT EGAN: Your point of order is well taken. It would have had to have been "Alaskans". Mr. Barr.

BARR: Mr. President, was it ruled that this doesn't change the meaning at all?

PRESIDENT EGAN: That is right, Mr. Barr.

BARR: There are lots of people in Alaska that are not Natives that are of Native descent. That's added a new group of people to it. I don't think it does change the meaning, I think it does, I mean.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I concur with Mr. Barr that the amendment brings in new material.

PRESIDENT EGAN: It brings in new material, but it means exactly the same things in the opinion of the Chair. The Chair will

rule that the amendments are in order, but the particular amendment is not in order because it means the same identical meaning.

COGHILL: Mr. President, I appeal the ruling of the Chair.

PRESIDENT EGAN: The question is, "Shall the ruling of the Chair be sustained?"

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 37 - Armstrong, Awes, Boswell, Buckalew, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Wien.

Nays: 12 - Barr, Coghill, Cooper, V. Fischer, Harris, Hurley, Kilcher, Knight, Laws, Londborg, McNealy, Marston.

Absent: 5 - Collins, R. Rivers, Robertson, VanderLeest, White.

Abstaining: 1 - Mr. President.)

CHIEF CLERK: 37 yeas, 12 nays, 5 absent and 1 abstaining.

PRESIDENT EGAN: So the ruling of the Chair has been sustained. Mr. Sundborg.

SUNDBORG: Mr. President, I have been recognized as submitting an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Line 1, in the Marston amendment, before 'Alaskans' insert 'native-born'."

SUNDBORG: Mr. President, I move the adoption of the amendment.

UNIDENTIFIED DELEGATE: I second the motion.

PRESIDENT EGAN: It has been moved and seconded that the proposed amendment be adopted. Is there objection?

HERMANN: I object.

HELLENTHAL: No objection. I would just like to be heard in connection with the amendment.

PRESIDENT EGAN: It's open for discussion. Mr. Helleenthal.

HELLENTHAL: I notice that Mr. Sundborg offered this amendment, and I believe he did it in a sincere and earnest effort to preserve the principle incorporated in Colonel Marston's resolution for which we are urging adoption. I personally feel that there was nothing poor or ill-chosen in the context of this proposal in the use of the words "Indians, Aleuts, or Eskimos", and I think that, upon reflection, that it can be shown that that phrase that was used by Mr. Lockwood in his letter was intended to convey an entirely different meaning. But, assume that it did show some discrimination. I believe that the language now proposed in the light of the debates, and in the light of the intention of this body, will be clearly understood by everybody. I think that the man on the moon reading the Alaska constitution would know that we had in mind the Indians, the Aleuts, and the Eskimos", but out of deference to them, and to them only, we used the language "native-born Alaskans". Not only deference, but respect. This whole proposal is based upon respect for those people. Now, no harm can result from this use of language. It does not defeat the principle at all. Everybody in the world knows what we mean. Everybody in this room knows what we mean. I urge strongly that you pay no heed to any loose language to the effect that this destroys the meaning of the whole thing, it's worthless now, you can't do it now, forget about it. It was a nice try, but everybody'll understand now we tried, but we failed. For technical reasons --

McCUTCHEON: Point of order, Mr. President. I'd like to know the point that Mr. Helleenthal is actually making. He seems to be digressing here to a point where he's not concerned with the addition in here of "native-born". If he's endeavoring to explain "native-born" in its reference to this particular proposal here, then I'll be glad to hear him. Otherwise, I'll raise a point of order that he's not speaking on the subject.

PRESIDENT EGAN: The Chair will hold that it is up to the delegate to determine whether he's speaking to the amendment. If he's speaking to the amendment, he is in order.

HELLENTHAL: I hope that I'm speaking to this amendment. And I urge strongly that this language, which cannot be abused -- this does not open the door to any abuses -- and this will, in a respectful way, permit aid to the native-born Alaskans to our Indians, to our Aleuts, and to our Eskimos. I urge that you

pass this. Scrutinize all further amendments, see where they come from. Now, this is the language that the Congress of the United States used -- or the former language was the language that the United States Congress used in speaking of our Indians, our Aleuts, and our Eskimos. I can see nothing wrong with it, but this new language accomplishes the same purpose, the intent is clear, it will be clear to everybody.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I certainly fail to see the force of the argument that the words "native-born Alaskans" mean just one class of people. I believe, and I think I have the right to believe, that this language will refer to my daughter, who was born in Alaska, just as much as it refers to anyone else. And as long as that meaning is intended -- and could only be intended by the use of the words, then I believe that the section becomes discriminatory and has no place in our constitution. I'm opposed to the amendment to the amendment.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, it occurs to me that this might very well be class legislation. I question very much if this Convention, or the legislature, or any other lawmaking body, can discriminate between one class of citizens and another. I also have some native-born children. I think you, Mr. President, are a native-born Alaskan. Mr. Coghill is a native-born Alaskan, Mr. Doogan, and Mrs. Wien, and several others, way down yonder now. And I don't think that we have a right to say that we will do more for one group of Alaskans than we will for another, unless we have qualified it by a need, or some particular thing that sets them apart from another, and that's exactly what I am against doing. I think this is distinctly -- by inserting the words "native-born" before Alaskans -- I think Mr. Sundborg has achieved a piece of class legislation, if he gets it through. And I'm opposed to it for that reason, and that reason only.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: May we have it read as it now appears? If so, I would like to comment on it.

PRESIDENT EGAN: Will the Chief Clerk please read the new section as it would read with the proposed amendment in it. Is that right, Mr. Hilscher?

HILSCHER: Yes.

CHIEF CLERK: "Deeds to lots and small tracts occupied or used by native-born Alaskans within the state public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law."

HILSCHER: Mr. President, I will have to speak against the amendment, because we have gone far afield from what we originally intended; and if we can somehow maneuver ourselves back into a position where we can be kindly and be fair to the people whom Colonel Marston wishes to assist, then I think we will have accomplished our purpose.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I feel I'm compelled to speak against the addition of the words "native-born". I've been through the area of Alaska quite some. I, too, was born in Alaska. I've been up and down the big rivers, I've been in the hinterlands, by airplane, by dog team, by various other means; and I have come across a great many places where there are white men -- elderly white men -- sometimes married to Native women, who have cabin sites; there is considerable and substantial construction around their cabin sites. They are in a position that they can't afford to have their property surveyed because of the cost of the airplane hired to get the surveyors out there so that they can file on them in a standard ordinary fashion, that the people close to settlements can. In adding "native-born" it excludes these people who may have been on these properties for 45, maybe 50 years; and, consequently, we're setting up, as Mrs. Hermann says, a class legislation. In this particular amendment, while I oppose the whole thing in principle, including the amendment to the amendment, I still feel that if we must adopt some such thing of this nature, where we do give some prior right to people who have trap sites or fish sites, or whatever other kind of a site it may be, and have used them over the decades, and have not obtained any sort of a title to them, that they should be protected, whether they are white or Indian or Aleut or anything else. Their rights should be protected just as well as some specific class, and I think by setting this particular thing out here as "native-born" that we're actually legislating against a certain class of people.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment to the amendment will signify by saying "aye", all opposed, by saying "no". The "noes" have it and the proposed amendment to the amendment has failed of adoption. Mrs. Sweeney.

SWEENEY: May we have a one-minute recess, please?

PRESIDENT EGAN: If there's no objection, the Convention will have a one-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

KILCHER: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: This is from Mr. Kilcher. "Insert 'continuously' after 'tracts' and insert 'or their ancestors before the year 1900' after 'Alaskans'." (Laughter)

PRESIDENT EGAN: The Convention will come to order.

KILCHER: Mr. President, may I read the amendment after --

PRESIDENT EGAN: Who is the author?

CHIEF CLERK: Mr. Kilcher.

PRESIDENT EGAN: Mr. Kilcher, you may read the proposed amendment.

KILCHER: "Deeds to lots and small tracts continuously occupied for use by Alaskans or their ancestors before the year 1900 within the state public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under the terms and conditions prescribed by law." I move the adoption to this amendment to the proposed amendment.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the proposed amendment. Is there a second to the amendment?

UNIDENTIFIED DELEGATE: May we have it read again?

PRESIDENT EGAN: Would the Chief Clerk please read it as she has it on her desk.

CHIEF CLERK: "Deeds to lots and small tracts continuously occupied for use by Alaskans or their ancestors before the year 1900 within the state public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law."

PRESIDENT EGAN: Was there a second to Mr. Kilcher's motion?

BARR: I'll second it.

PRESIDENT EGAN: Mr. Barr seconds the motion. Mr. Kilcher.

KILCHER: Mr. President, I think that if we adopt this amendment, we will fulfill Colonel Marston's original intent, and we will do it in a way that is not discriminating against any class or group of people, other than setting a historic date as we have done in the bill of rights, if I'm not mistaken, by having the year 1924 mentioned in a certain relation. If this amendment should pass, all Alaskans who have used, continuously, a certain tract of land for some purpose mentioned in here, or if their ancestors have used it before the year 1900, they will be in the same class, be they Aleuts, Eskimos, Indians, of Alaskan or non-Alaskan origin; be they Russians, Swedes or other people.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, again I must rise to oppose an amendment. For this very amendment seeks to differentiate very substantially among the various Native peoples and other peoples of Alaska who live out of the periphery of civilization, you might say. Because, on the great rivers of the Yukon and the Kuskokwim, and others, the Eskimos, Indians, or Aleuts have not used fish wheel sites continuously since 1900, because the fish wheel sites are constantly being moved down and up the river. So are fish camp sites. Things that you are seeking to protect you are now dealing out by this very amendment. Consequently, I can see that the amendment is even making this particular section here even worse, by putting this continuous usage clause in it.

KILCHER: Mr. President, I concede the point, and I ask unanimous consent to withdraw the amendment.

PRESIDENT EGAN: Mr. Kilcher asks unanimous consent that the proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered. Miss Awes.

AWES: Would it be proper to make a motion to suspend the rules, so that we can consider the motion to rescind our previous action, at this time? If it's proper, I so move.

PRESIDENT EGAN: Miss Awes, the motion to suspend the rules is in order at any time. If the rules are suspended, of course, you can do most anything on a suspension of the rules that you wish to accomplish. Do you make such a motion?

AWES: I so move.

BUCKALEW: I second.

PRESIDENT EGAN: Miss Awes moves that the rules be suspended, and Mr. Buckalew seconds the motion; and that the Convention rescind its action taken in voting on the amendment to the amendment that was offered by Mr. Sundborg and carried. The Chief Clerk will call the roll. Now, this will take 37 votes, is that not true? I won't put the question until you all understand. If you vote to suspend the rules and rescind the action, then we are back where we started when Mr. Marston offered his amendment this evening, except that we did include -- was there any other amendment to that amendment adopted?

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: If you vote to suspend the rules and rescind the action, we will be back to our original starting point of this evening.

METCALF: Mr. President, you mean a "yes" vote will put us back where we started from, and a "no" vote will leave us just where we are, right?

PRESIDENT EGAN: That is correct. The question is, "Shall the rules be suspended and the action rescinded on the amendment of Mr. Sundborg which we adopted earlier this evening?"

MARSTON: Mr. President, can we talk it over?

PRESIDENT EGAN: A motion to suspend the rules is not debatable.

MARSTON: The reason I want to do it is because I think your voice vote was wrong.

PRESIDENT EGAN: It seemed to the Chair it was an overwhelming majority, but that is in the past.

McCUTCHEON: Question.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and -- "

V. RIVERS: Just, "Shall the rules be suspended now?", isn't it?

PRESIDENT EGAN: Miss Awes indicated that she wanted to rescind the action at the same time.

AWES: No, I didn't mean -- I didn't object to doing that, but I didn't mean to include that in my motion.

PRESIDENT EGAN: Of course, Mr. Victor Rivers, if you suspended the rules, it would be out of order to include the rescinding

action, inasmuch as it would take more to suspend the rules than it would to carry the rescinding action. Is there an objection to including rescinding action in this motion? A "yes" vote would bring us, then, back to the starting point. A "no" vote would keep us just where we are. Mr. Marston.

MARSTON: May we have a roll call?

PRESIDENT EGAN: This will have to be a roll call, Mr. Marston.

TAYLOR: That does require a two-thirds vote?

PRESIDENT EGAN: That's right, it will require 37 votes.

H. FISCHER: Would it require that amount of votes to rescind the action?

PRESIDENT EGAN: It would take 28 votes to rescind the action, but we could never get to that point unless we suspend the rules.

SWEENEY: Are we voting on both of them now? Two subjects -- to suspend the rules, and at the same time to rescind the action?

PRESIDENT EGAN: The reason why we should include this rescinding action at this time is that to rescind the action while this amendment is before us would also take a two-thirds majority, because it is not in line with the rules. So, it should be considered at the same time as the suspension of the rules. The question is, "Shall the rules be suspended for the purpose stated?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Armstrong, Awes, Barr, Coghill, Cooper, Cross, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Peratrovich, Rosswog, Smith, Stewart.

Nays: 24 - Boswell, Buckalew, Davis, Doogan, Gray, Hermann, Johnson, King, Laws, McCutcheon, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Absent: 5 - Collins, R. Rivers, Robertson, VanderLeest, White.)

CHIEF CLERK: 26 yeas, 24 nays and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed motion has failed adoption. Mr. Johnson.

JOHNSON: Mr. President, I apologize for attempting to vote for Mr. Hinckel. I'm sorry.

PRESIDENT EGAN: Are there other amendments? Mr. Coghill.

COGHILL: I move and ask unanimous consent for a five-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to move and ask unanimous consent that we refer to the introduction of committee proposals.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the Convention revert to the introduction of committee proposals at this time, if there is no objection.

ROSSWOG: Your Local Government Committee would like to submit Proposal No. 6/a as a substitute for its Proposal No. 6, at this time.

PRESIDENT EGAN: Will the Chief Clerk please read Committee Proposal No. 6/a for the first time?

CHIEF CLERK: "Committee Proposal No. 6/a, introduced by the Committee on Local Government, entitled 'Local Government'."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 10/a has compared the same with the original and finds it correctly engrossed. The enrolled copies are ready and will be placed on the delegates' desks in a few minutes. I move the adoption of the report and ask unanimous consent.

PRESIDENT EGAN: Mrs. Sweeney moves the adoption of the report by the Committee on Engrossment and Enrollment and asks unanimous consent. The report is referred to the Committee on Style and Drafting. Are there other committee reports or proposals?

McCUTCHEON: Question.

PRESIDENT EGAN: We have before us the amendment to Committee Proposal No. 8/a. Is there further discussion? Mr. Sundborg.

SUNDBORG: Mr. President, I'd like to speak on this. It was my amendment substituting the word "Alaskans" for "Indians, Aleuts, and Eskimos" which has been said by many here, during frequent recesses, to have killed this proposal. My thought is that it was dead before that amendment was offered. I certainly wouldn't have voted for it if it had come on the floor in the shape it was in, because I'm not going to vote for anything here that sets apart and aside a class of people on account of race. As I said, I wouldn't have been for it if it had said we give it to Presbyterians, or that we give it to Republicans. We should, in all of our constitution, and I hope that our legislature will observe the same thing throughout our history as a state -- legislate for all of the people, and legislate for them on an equal basis. Now, I contend that the amendment as it is before us is completely workable. Look what it says, and I contend that it gets at the very problem and takes care of the very people that Colonel Marston had in mind when he introduced it; and it does it without setting apart any class on account of their race. It says, "Deeds to lots and small tracts occupied or used by Alaskans within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law." Now, future legislatures can set up the procedures under which this will be done. And they can do it, I am certain, to take care of the people for whom and on whose behalf this amendment by Mr. Marston was offered. It was not with the purpose of killing the amendment that I offered my amendment to the amendment. I would have voted for it before if it had not been amended by saying "Alaskans" instead of a certain class, based upon their race. But I'm going to vote for it now, and I urge that all do so. It was in good faith that I offered my amendment, and it is in good faith now that I urge the adoption of Colonel Marston's amendment as amended.

MARSTON: Mr. President, may we have it read again?

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as it appears.

CHIEF CLERK: "Deeds to lots and small tracts occupied or used by Alaskans within the State public domain may be given to the appropriate persons in recognition of their individual use as prior occupants, under terms and conditions prescribed by law."

PRESIDENT EGAN: The question is -- Mr. Hellenenthal.

HELLENTHAL: Mr. President, I support Mr. Sundborg's remarks wholeheartedly, and urge the adoption of this amendment.

PRESIDENT EGAN: Mr. Fischer.

FISCHER: Mr. President, I'd like to ask Mr. Sundborg a question.

PRESIDENT EGAN: If there's no objection, Mr. Fischer.

FISCHER: And that is, does the last clause "under terms and conditions prescribed by law" refer to deeds, or can it also refer to occupancy and use? In other words, can the legislature prescribe the conditions of occupancy?

SUNDBORG: Of course, you realize -- and I think everyone here realizes -- I'm not an expert in this field, but as I read it, under terms and conditions prescribed by law the legislature could set up the terms of the deeds. That is, they could say how many acres might be included within them; they could set up the conditions of occupancy; for instance, it had said that the person to whom the grant is made must have, or his ancestors must have occupied the piece of ground since some date in the past. And I believe that if the legislature desired to do so -- although I would not want to have them do so -- they could say that they should be granted only to Indians, Aleuts, or Eskimos. Those would be among terms and conditions which might be prescribed by law, but they wouldn't be written into our constitution.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, may I ask Mr. Sundborg a question? When does a person become an Alaskan? Say, one year, like Mr. Marston would have, or just when does he become an Alaskan?

SUNDBORG: Well, I believe, for the purpose of construing the constitution, a person would become an Alaskan when he became, probably, a qualified elector.

METCALF: A year?

SUNDBORG: Yes.

PRESIDENT EGAN: Mr. Marston, you may have the last say, but Mr. Lee has been trying to get the floor. You have a right to close the discussion. Mr. Davis.

DAVIS: I have one or two questions I'd like to raise, Mr. President. I am disturbed by the language as it now stands. Mr. Sundborg may be right, but I'm afraid that he may not; that the legislature can prescribe something more than the conditions of giving deeds. Now, as the language now stands, we have left the thing open for giving of deeds to anybody who occupies the

property, and we haven't set forth any date before which they must have occupied the property. It seems to me that, since this is obviously, if it's anything at all, an enabling act to the legislature to do something, and we ought to put a cutoff date in there as to when that occupancy must have begun. Another thing in line 2, it says "may be given". Now, I doubt seriously that the legislature has any right to give away the public domain or any part of it. But I think what people are trying to do here is to transfer property in which somebody has a prior right. It seems to me the language could be turned around some way to provide that deeds should be given in recognition of those prior rights, rather than saying that we're giving away the property. As the thing now stands, I'm going to have to vote against it. I think that I could very well vote for it if it were changed, somewhat.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? Mr. McNees.

MCNEES: Mr. President, I'm afraid this opens up the subject to a much broader point of view than so many of us realize. Wouldn't this give a prior claim, say, to a man who for many years -- or the company who for many years has put his boat out on the banks of a river on a certain spot? Would it not also take into consideration the man and his family, perhaps, who have year after year after year gone out and pitched their tent on the bank of a river in a certain spot, irrespective as to who he was? There are so many ramifications to this in its present amended form that were not intended by the original amendment submitted by Mr. Marston, that I find myself now in a position where I cannot vote for the amendment.

PRESIDENT EGAN: Mr. Marston, if you wish to close the argument --

MARSTON: If this amendment by Mr. Sundborg will give George Lockwood relief in his piece of property that he's entitled to, I'll vote for it happily, and rather have it go this way. I was hoping this body would take the pleasure and the honor and the great privilege of making a decision in favor of those people. If it has to go through the legislature, I'll take it that way. But I wanted you to get it through here, and I'll vote for it.

BUCKALEW: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention." The Chief Clerk will call the roll. Mr. White.

WHITE: I'd like to abstain from voting, because I've been absent during discussion of the proposed amendment.

PRESIDENT EGAN: Mr. White asks to abstain from voting. Mr. White, it is the same amendment -- or it is an amendment that was offered by Mr. Marston at the time we convened this evening. Were you here before?

WHITE: Mr. President, I haven't studied the amendment.

PRESIDENT EGAN: The Chief Clerk will call the roll. Mr. White will abstain from voting.

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Barr, Coghill, Cross, Emberg, H. Fischer, Hellenthal, Hilscher, Hinckel, Kilcher, Knight, McLaughlin, McNealy, Marston, Nolan, Sundborg, Taylor.

Nays: 34 - Armstrong, Awes, Boswell, Buckalew, Cooper, Davis, Doogan, V. Fischer, Gray, Harris, Hermann, Hurley, Johnson, King, Laws, Lee, Londborg, McCutcheon, McNees, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 4 - Collins, R. Rivers, Robertson, VanderLeest.

Abstaining: 1 - White.)

LONDBORG: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Londborg changes his vote to "no".

CHIEF CLERK: 16 yeas, 34 nays, 4 absent and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it and the amendment has failed of adoption. Mr. White.

WHITE: Mr. President, may I rise to a point of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. White, you may have the floor on the question of personal privilege. (Mr. White then spoke under the personal privilege of the floor.)

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: May I speak on a point of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Armstrong, you may speak on a point of personal privilege.

(Mr. Armstrong then spoke on a point of personal privilege.)

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I would like to speak on a matter of privilege if I may.

PRESIDENT EGAN: Mrs. Hermann, you may have the floor.

(Mrs. Hermann spoke on a matter of personal privilege.)

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, may I speak on a point of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Londborg.

(Mr. Londborg then spoke on a matter of personal privilege.)

PRESIDENT EGAN: Mr. Riley, the Rules Committee had at least two sections upon which they indicated they would have amendments to offer. Is that correct, Mr. Riley?

RILEY: The Resources Committee?

PRESIDENT EGAN: The Resources Committee, yes.

RILEY: They're on the Chief Clerk's desk.

PRESIDENT EGAN: Will the Chief Clerk please read the first amendment as it would be offered by the Resources Committee.

CHIEF CLERK: "Page 1, Section 2, strike the marginal title and substitute 'General Authority'."

RILEY: I ask unanimous consent for its adoption, Mr. President.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection, it is so ordered. Will the Chief Clerk read the next amendment, please.

CHIEF CLERK: "Page 5, Section 12, Line 4, insert 'either' before 'the'."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I ask unanimous consent for the adoption of the Committee amendment.

PRESIDENT EGAN: That would be at the end of the line. Mr. Riley asks unanimous consent that the proposed amendment be adopted. Is there objection? Hearing no objection, it is so ordered. Are there other amendments from the Resources Committee?

CHIEF CLERK: "Page 5, line 14, strike 'nonmetallic'."

PRESIDENT EGAN: Mr. Riley.

RILEY: I ask unanimous consent, Mr. President, for the adoption of the amendment.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection, the proposed amendment is ordered adopted.

CHIEF CLERK: "Page 3, Section 8, line 13, strike lines 13 and 14, and insert in lieu thereof: 'selection of lands granted to the State by the United States and for the administration of the State public domain.'"

RILEY: Mr. President, I ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Would the Chief Clerk please read the amendment once more.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of the amendment? If not, the proposed amendment is ordered adopted.

CHIEF CLERK: "Page 5, Section 13, line 20, after the word 'use' insert a comma, and add 'except mineral and medicinal waters'."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I ask unanimous consent for adoption of the amendment.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Is there objection?

COOPER: I object.

PRESIDENT EGAN: Objection is heard by Mr. Cooper.

COOPER: Just for a point of clarification -- "except mineral waters" -- what is that?

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Cooper, this goes to the question raised by Mr. Taylor earlier today. He drew attention to the fact that the federal government reserves the disposition of hot springs. And some of us have talked with some of the federal land office people since that time, in an effort to arrive at language as nearly like the federal reservation as possible, and this is what we have offered.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I'll have to ask further. The term "mineral waters" -- anyone living in this area certainly is well aware of the fact that there is plenty of mineral in this water; and, therefore, there could be a question at a future date.

PRESIDENT EGAN: Mr. Riley, do you have an explanation? Do you so move, Mr. Riley, for the adoption of the amendment?

RILEY: I have, yes.

PRESIDENT EGAN: Mr. Riley moves. Is there a second to the motion?

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is open for discussion. The question is, "Shall the proposed amendment, as offered by the Committee on Resources, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments?

CHIEF CLERK: No more committee amendments.

PRESIDENT EGAN: If not, then we will start with the second time around on the amending process.

KILCHER: Mr. President.

PRESIDENT EGAN: Mr. Kilcher.

KILCHLER: Will this be the second reading?

PRESIDENT EGAN: Does the Committee desire a recess at this time, for the purpose of hearing any proposed amendments? Mr. Smith.

SMITH: I would like to ask if there are amendments to be offered?

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PRESIDENT EGAN: Are there proposed amendments?

KILCHER: I had intended to ask a question of Mr. Riley on Section 14.

PRESIDENT EGAN: There are amendments. The Chair notes that at least one party has an amendment. Are there other amendments? Mr. Smith.

SMITH: I would like to ask for a recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess, subject to the call of the Chair.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Smith.

SMITH: Mr. President, the Committee has no amendments to offer at this time.

PRESIDENT EGAN: The Committee has no amendments to offer at this time. Are there amendments to be proposed to the preamble of the proposal? Are there amendments to Section 1? Section 2? Mr. Barr.

BARR: Mr. President, I have an amendment to Section 2, page 1, lines 15 and 16. On line 15, strike the last word, "provision". On line 16 strike the words "of applicable acts of Congress, including". I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Barr moves the adoption of the amendment.

BOSWELL: Objection.

PRESIDENT EGAN: Objection is heard.

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Barr.

BARR: Mr. President, the stricken material says that we will utilize and develop our natural resources in accordance with provisions of applicable acts of Congress. Now, that means we're giving up our sovereign rights as a state. When we become a state, and thereafter, we will utilize and develop our lands according to the way Congress tells us to do it. Now, this has nothing to do with the enabling act. On the next line it says we'll do it according to the act admitting Alaska to the Union. I'll read this the way it would appear with my amendment.
"The

State of Alaska shall provide for the utilization, conservation, and development of all the natural resources belonging to the State in accordance with the Act admitting Alaska to the Union." That is still in there, but it's a known fact that once a territory becomes a state, they have full control of their lands, and can do as they see fit. I believe we've been a ward of the federal government too long to put any language like this in here.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I wouldn't argue with Mr. Barr if he were to suggest striking the other reference to an act of Congress; if, instead, he were to suggest that it read "in accordance with provisions of applicable Acts of Congress, this constitution..." etc. Certainly, once we have statehood, once we're in the sovereign capacity that Mr. Barr refers to, there will be fewer acts of Congress which are applicable up here, but there may still be some. I'm not positive, but I think there is ground to believe that our University grant may still be circumscribed by the provisions which were imposed when the 1929 act was passed. It's possible, there may be others, and that's the reason that this language was included. I should say that the Committee would not object strenuously to the deletion of the other mention of "Act of Congress".

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe that the language should be retained as it is. The reading of it says "including land and waters belonging to the State". Well, that is fine, except that in the event that the state wanted to develop some power along one of these rivers, they would have to develop it in conformity with the federal acts, the federal regulations promulgated by the Federal Water Power Commission; and any development, or any work on the stream that is a major tributary of a navigable river has to be approved by the Federal Water Power Commission. So, I think we would necessarily have to leave the wording in this place that it is in. I think there are other like circumstances, Mr. President, in which things would have to be in conformity with other federal acts.

PRESIDENT EGAN: Is there further discussion? Mr. Boswell.

BOSWELL: Mr. President, our purpose in putting this language where it was right here in front of the resources article was to call the attention to any congressman or senator that, if there was any place in this article where we have digressed from the proposed enabling act, that if they still held that same language in the future enabling acts, that we were going to abide

by them. I think they have a very important place here, and I would hate very much to see them come out.

McCUTCHEON: Question.

PRESIDENT EGAN: Is there further discussion? If not, Mr. Barr, you may close the argument.

BARR: I understand that Mr. Boswell is talking about the enabling act, and my amendment had nothing to do with that. That's still retained; and Mr. Riley said that Congress may provide certain restrictions or regulations which we would have to comply with in order to participate in some federal program. That's true, we're doing that right now; they supply matching funds. They supply matching funds for an airport program, and we have legislation that enables us to participate, and says that we will comply with their regulations. But we didn't have to do that if we didn't want to. Under this language we will always have to.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The "noes" have it and the proposed amendment has failed adoption. Are there other amendments to Section 2? Mr. Hurley.

HURLEY: Amendments have to be written, don't they?

CHIEF CLERK: No.

PRESIDENT EGAN: If it is just a brief amendment, you can see what the Committee says.

HURLEY: It's a matter of striking. I discussed this with the Committee, and they didn't agree with me. (Laughter)

SMITH: Mr. President, I couldn't hear what Mr. Hurley said.

PRESIDENT EGAN: Mr. Hurley said he had discussed this proposed amendment with the Committee, and the Committee did not agree with him. Mr. Hurley, you may read your proposed amendment.

HURLEY: On line 15, page 1, after the word "State" strike the comma, strike the balance of lines 15, 16, 17, and line 1 on page 2, through and including the comma after the word "State".

PRESIDENT EGAN: How would the section read then?

HURLEY: "The State of Alaska shall provide for the utilization, conservation and development of all of the natural resources,

including land and waters belonging to the State for the maximum benefit of its people."

PRESIDENT EGAN: What is your pleasure, Mr. Hurley?

HURLEY: I move the adoption of the amendment.

MARSTON: I second that motion.

PRESIDENT EGAN: Mr. Hurley moves that the amendment be adopted, and Mr. Marston seconds the motion.

BOSWELL: Point of order.

PRESIDENT EGAN: Your point of order.

BOSWELL: That's the same motion we just voted down, that Mr. Barr submitted.

PRESIDENT EGAN: It includes a lot more, though, Mr. Boswell. The Chair will agree that it includes that amendment, but it includes much more it would seem. Mr. Hurley.

HURLEY: Mr. President, speaking on the proposed amendment, it certainly wasn't my intent to confuse the issue by putting the same thing back again. In fact, I would have probably voted against Mr. Barr's amendment because it, in my opinion, did not go far enough. My only purpose here is that it occurs to me that any federal act, including the act admitting Alaska to the union, must necessarily be complied with by the Territory, if it's applicable, and if the state desires to make available its benefits. The wording in this constitution seems to me to be useless, because that's what we're writing the constitution for. Insofar as the laws of the state are concerned, insofar as they are within the delegation of powers in this constitution, the natural resources will be developed accordingly. I realize that there was an intent on the part of the Committee, and they told me so, to point out to any Congressman that might be reading this that they intended to abide by any rules that they might set up for admission of Alaska to the Union, but I think that situation is evident in the wording of the proposal in general, where it provides for two different types of handling the resources as expected to be proposed by the federal law. I'm sorry to take the time of the Convention because I feel that it is simply cutting down on the length of the constitution, that including certain things here might be held to limit other things and it is not necessary to include these items in order to make it effective.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I don't believe I was present, I'm not sure, when Mr. Hurley appeared before the Committee, but there was another primary consideration in the minds of the Committee in using this language, and particularly in calling attention to the enabling act, and that is that one of the most controversial features that has been before the Committee since it first met was this floating provision, this floating situation as concerned Congressional thinking finally, in the enabling act as to the reservation to the state of minerals; and this is simply to call attention, this is simply to be hedged against whichever way Congressional thinking goes. Granted, we would be obliged to follow it whichever way, whether the state was enabled to give full patent to all minerals or whether the state was obliged to retain mineral reservations, but our thinking was simply to call attention to the fact that we were covered either way. Now, because it bears slightly on the same point, I would like to correct a suggestion left by Mr. Barr a moment ago when he said that I had suggested that the federal government might provide, in the future, some program of interest to us. Quite to the contrary; I'm speaking about the past and not the future. There may be measures, there are some measures. Mr. Taylor called attention to one: the Federal Power Commission provision which we could not escape. But I do not take particular issue with striking the last portion of this as concerns the Congressional provisions. However, I think that the retention of all of it strengthens it.

PRESIDENT EGAN: Is there further discussion? Mr. Barr.

BARR: I'm going to support this amendment because without these words that are stricken by the amendment, it merely states now how the State of Alaska shall provide for the development of the resources. It makes no reference to Congress, or anything of the sort. I think it's simpler and more to the point. However, if we do say that we'll do it according to Congressional acts, we will continue any thing that Congress has put into force up to this point, such as land withdrawals, fish traps, or anything of that sort. We're still under the thumb of Congress.

PRESIDENT EGAN: Is there further discussion?

METCALF: Question.

TAYLOR: Question.

PRESIDENT EGAN: If not, the question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Barr, Hurley, Kilcher, Knight, Laws, Londborg, McNees, Marston, Nolan, Peratrovich, Sweeney, White.

Nays: 39 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Lee, McCutcheon, McLaughlin, McNealy, Metcalf, Nerland, Nordale, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, Walsh, Wien, Mr. President.

Absent: 4 - Collins, R. Rivers, Robertson, VanderLeest.)

CHIEF CLERK: 12 yeas, 39 nays and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 2? If not, are there amendments to Section 3? To Section 4? Mr. Coghill.

COGHILL: I'd like to call the attention to the Convention that I believe that the clock has stopped again. I have approximately 9:30, and with the bus coming in, what would be the pleasure of the Convention as to recess?

PRESIDENT EGAN: What is the pleasure of the Convention as to recess or adjourning?

UNIDENTIFIED DELEGATE: Another ten minutes.

PRESIDENT EGAN: Are there other amendments to Section 4? Section 5? To Section 6? Are there other amendments to Section 7? Section 8? Section 9? Section 10? Section 11? Are there amendments to Section 12? Are there amendments to Section 13? 14? 15? Are there amendments to Section 16? Section 17? Section 18? Are there any other amendments to Section -- Mr. Londborg.

LONDBORG: Mr. President, I would like to give notice of my intention to ask for reconsideration of my vote on the Marston amendment.

PRESIDENT EGAN: Mr. Londborg at this time would like to serve notice of his intention to reconsider his vote on the Marston amendment. Mr. McCutcheon.

McCUTCHEON: I direct a question to Mr. Londborg, Mr. President. Do you have any objection to voting on the matter at this time, so that we can clear this and then send it through to the committee?

LONDBORG: Mr. President and Mr. McCutcheon, my reason for using this prerogative is to give a little overnight thought on the matter.

PRESIDENT EGAN: If you wish to reconsider now, that's fine. Mr. Londborg serves notice that he will reconsider his vote on the amendment. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until 9:00 tomorrow morning.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand adjourned until 9:00 tomorrow morning. Are there committee announcements? Are there any committee announcements to be made at this time? If not, if there is no objection, unanimous consent has been asked, and the Convention stands adjourned until 9:00 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 19, 1956

FIFTY-EIGHTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us Reverend Moore of the Seventh-Day Adventist Church. Reverend Moore will give our daily invocation.

REVEREND MOORE: Our kind heavenly Father, it is a privilege this morning to be able to call upon You again and invite Thy presence here. We would ask You to be with this group as they are working toward a constitution for our great Territory. We ask Thee to guide and direct them in every step as they divide into different study groups, into committees. We ask Thee to direct them. Help them to formulate plans which will be far reaching and which will prove a blessing to each one involved. We would ask Thee to be with the rest of the great nation. Help us to ever cherish the principles of liberty by which we are now a free and mighty country. We ask in Thy Holy Name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: 2 absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. We will hold the report of the Committee to read the Journal until later in the day. Are there any communications from outside the Convention? Are there reports of standing committees? Of select committees? Are there any motions or resolutions? Is there other unfinished business? Mrs. Hermann.

HERMANN: Mr. President, as the President will remember, we had reports from the people who went out into their communities to hold hearings during the hearing recess, and at that time Mr. Nolan and Mr. Peratrovich were absent and it seemed to me we ought to bring the reports up to date by having a word from them about the progress of the hearings in their communities.

PRESIDENT EGAN: If there is no objection, Mr. Peratrovich, would you care to report on any hearings you might have held in your community?

PERATROVICH: Glad to. Mr. Chairman, I was very fortunate in a way; I held hearings in two places, in my home town of Klawock and also Craig, and I had a good response, especially in Craig

I think I put it over so well they even had a little lunch for me after the meeting which was very encouraging. The great interest was in the matter of apportionment and I explained it the way we outlined it in our Committee and also emphasized the fact it was subject to approval on the floor, and it went over so well I think one of the men at Craig asked me if I could guarantee that this program would be adopted. I told him I could almost bet on it, and I was very fortunate it went through without much change. So, that particular angle which they were very much interested in, was very well received. The same holds in Klawock; they were very much interested. In their case, the representation that was recommended at that time, which is possible now I assume, was very agreeable to them, not because they had any political ambitions, but they could grasp the idea that they would be represented in the legislature in the lower house, which they thought was a very good thing, and I touched upon all the other committee reports as the best that I could, and it was well received. They seemed to be very much enthused over what we are doing here, and I am sure that in the end they will participate in its approval, and the school principals of both Klawock and Craig are making that part of their subject of studies in both their classes. They take it up in the history classes; they are following your activities here, and I have been forwarding some of the materials that I could pick up on the promise that I would, when I was there, and the students are much interested, also, just like the children up here in your schools; so, they are following it up pretty closely, and I know that the report that I gave will perhaps encourage a good many of you because you don't very often hear from the outlying districts, and contrary to the opinion of a good many people, they are showing a great deal of interest and I was very much pleased to see the reaction, the interest that was shown. That is about all I can give.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: I held a meeting sponsored by the Chamber of Commerce on rather a short notice. It included about 14 people I think representing most of the large groups in the town. The meeting lasted about two hours and a half. There was quite a bit of discussion. The people were very, very much interested. A number of people came to me afterwards and said they were sorry they could not attend it. Some of the people talked with me afterwards and said they did not quite realize the scope of the project of drawing up a constitution. They were unanimously in favor of electing an attorney general. I did not give them any help on it, either. They did not like the idea of a 60-member legislature at this time, and they did not like the idea of a third of the governor's salary being tied into the salary of the legislature. Of course, I explained to them that many of these

things would probably be changed. I think I must have held a meeting at least once every hour all the time I was home because somebody seemed to be dropping into the store, and there were always questions that I was answering continuously. It seemed to me that, as Mr. Peratrovich said, the interest had picked up considerably, and the suggestion was made to me after this constitution is drawn that another meeting be held for me to try to explain some of the provisions in it; they thought that would probably be better than trying to digest the whole thing themselves. So I told them that if there were enough interested we would hold a meeting of that kind after we had finished, and when I got back home I would be glad to hold a meeting and explain it to the best of my ability. I would say, offhand, that the interest has picked up considerably in Wrangell.

PRESIDENT EGAN: Thank you, Mr. Nolan. We have before us this morning Committee Proposal No. 6/a, the proposal on local government. Mr. Hinckel.

HINCKEL: I have an amendment to 8/a.

PRESIDENT EGAN: You still want 8/a before us in the amendment process?

DAVIS: We have a reconsideration.

PRESIDENT EGAN: That is right. He can make that reconsideration move any time before adjournment today.

HINCKEL: Proposal No. 8/a was never turned over to the Committee. I have an amendment I would like to make.

PRESIDENT EGAN: It was not, Mr. Hinckel, because there was a move for reconsideration made, but the Chair had called for further amendments. This is a proposed amendment to the article on resources. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 12, page 5, lines 15, 16 and 17, place a period after the word 'law' and strike the balance of the section."

HINCKEL: I move the adoption of the amendment.

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. Hinckel.

HINCKEL: My reason for offering this amendment is that I approached the Committee a couple of times yesterday to try and

limit the areas that would be permitted to be leased or rather permits given for prospecting, and I did not get explanations that were satisfactory to me. I finally decided that I must be wrong and I would not offer them. But after sleeping on it, I decided in order to live with myself I would have to make at least one more attempt because I can feature Alaska being sliced up like a piece of pie and large corporations who will be given the exclusive right to prospect, and I just don't like it. The explanations offered to me was that this interpretation was supposed to be very narrow and only the companies who had the greatest integrity, or words to that effect, would be permitted to have permits. To me that makes it sound all the worse. The more I think about it -- apparently they mean that only big corporations, well-financed, etc., would be permitted to have such things. I can understand that possibly in exploring for oil or shale or some of these other things that they list, that it might be necessary to do that, and I don't want to interfere with the prospecting in the advancement of the state, but I don't want to see small people prevented from prospecting, and I cited to the Committee yesterday that over in Kodiak there has not been much prospecting for a long time. Over there right now, there is a small corporation of interested people, business people, and just individuals that reside there, that are interested in prospecting, that have formed a small corporation and are actively prospecting. If there is some interest by large companies over there, now when these large companies were able to go to the state and get a permit to prospect the entire island to the exclusion of everyone else, which would be possible under the phraseology of this section, it would just prevent anyone else from prospecting at all the way I interpret the thing. If somebody can prove I am wrong, I would like to have them explain it, but in any event, I wanted the body to understand how I interpret it, and that I object to such a thing.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I am very sympathetic to giving exploration rights for periods in certain areas in Alaska, and I am not worried about that sort of thing at all, but the way this is drawn now, I have very serious doubts if the legislature will ever implement, and I think that it will never be used, and my objections are similar to Mr. Hinckel's, but it says that exclusive right of exploration may be granted, and literally reading this thing that means an exclusive right for all mining purposes. In other words, it would include coal, oil

BOSWELL: Point of order, Mr. President. If I heard Mr. Hinckel's amendment correctly, it was not on this subject, whatsoever, that we are discussing. Could we have it read again?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment again. Mr. Hellenthal.

HELLENTHAL: I think it has a very definite bearing on Mr. Hinckel's amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 12, page 5, lines 15, 16 and 17, place a period after the word 'law' and strike the balance of the paragraph."

PRESIDENT EGAN: It refers in that, Mr. Boswell, to the exclusive right that is mentioned up above though on those like property and leases.

BOSWELL: Page 4?

CHIEF CLERK: No, page 5.

BOSWELL: Excuse me, I had the wrong page.

HELLENTHAL: My point is that these like permits are so impractical that they'll never be granted and the people who want them won't be able to get them. Now originally, I had thought there should be specific language included here that these exclusive rights would be subject to reasonable concurrent uses as to different minerals. In other words, I think it should be spelled out here that if you give an exclusive right of exploration to an oil company that the legislature may also provide for a similar exclusive right in the same area to another group, perhaps, for mineral exploration. I don't think it should all be in one hand, in the hands of one group. And then I was told that that was in there by implication. Since then I have found out it is not because we agreed yesterday in Committee that the right of concurrent use was limited to the water resource and if there is any question about it, I think that the right to concurrent uses in these areas where rights of exploration are given should be spelled out in this matter because as long as the legislature has any doubt about it, they are not going to grant any rights of exploration. They are not going to tie it up in one outfit for all purposes and that simple language included in there would make this thing workable. I am afraid it is not going to be workable.

PRESIDENT EGAN: Mr. White.

WHITE: I am not sure whether I heard Mr. Hellenthal correctly or not. If I did, I think he made a misstatement in speaking of

concurrent uses. I call your attention to new Section 9: "The legislature may provide for the leasing of any part of the public domain, or interests therein, subject to reasonable concurrent uses." The intent of the Committee was that concurrent uses applied where applicable to all resources and to all lands.

HELLENTHAL: Does it apply to permits?

WHITE: I certainly read that section as applying to permits. "Leases, and permits giving exclusive right of exploration for specific periods and areas may be authorized for exploration." There is nothing there that would prevent concurrent use of those lands where possible.

HELLENTHAL: May I direct another question to Mr. White? But you refer to Section 9. It says "...leasing of the public domain subject to reasonable concurrent uses." That is true, but here in this section regarding exclusive exploration rights, we are dealing with permits, also, and the permits don't have to be subject to reasonable concurrent uses.

WHITE: There is nothing that says that such land subject to permit shall not also be subject to concurrent uses through other permits or through leases.

PRESIDENT EGAN: Is there further discussion? Mr. Riley.

RILEY: Mr. President, I think there has been more or less a misunderstanding here between the Committee and possibly Mr. Hinckel. I, too, have given this some thought since we left here last evening, and I had thought that Mr. Hinckel's amendment might be somewhat different, although bearing on the same paragraph. Last evening he had submitted an amendment to the Committee, the submission of which I personally had encouraged and I had hoped it would come out on the floor. We discussed it under rather unfortunate circumstances late last evening in Committee, very hurriedly with the gallery jammed and not too much opportunity for undivided attention. That particular amendment would have sought to have stated or limited areas and for periods of time for which these exclusive prospecting permits or exploration permits might have been issued. It did not come out on the floor. I think it would still be appropriate. His amendment this morning would seem to me to go much farther but not to get right to the problem of limitation, and I, personally, not speaking for the Committee, but for myself, still think that consideration might properly be given to the thought which his amendment of last evening embraced in the nature of a limitation to be directed by the legislature as to both time and area. We have felt that while the matter is not covered in the constitution that the existing pattern of federal limitations would be

inherited by the state, just by provisions of the enabling act whereby the state would take over existing leases. That might not be sufficient for the state's purposes or might not be sufficient to satisfy Mr. Hinckel's thinking in proposing such an amendment, should he do so. The only objection I had to his amendment as it came in was that it would have tied, as I recall, the state to the existing federal pattern, or I may be mistaken on that, it would have tied the state to the federal pattern, whatever it might be, without certainty on our part, and I thought to correct that, if we could place any reliance on the legislature to keep abreast of the times by giving them that directive, it might cure the situation.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would be willing to read the proposal I made last night for the information of the body.

PRESIDENT EGAN: Mr. Hinckel, would you desire a recess at this time for a few minutes?

HINCKEL: I don't think so. I talked to the Committee and I didn't get to first base.

SMITH: I was going to suggest we have a five-minute recess to discuss this and I will so move and ask unanimous consent.

PRESIDENT EGAN: Mr. Smith asks unanimous consent for a five-minute recess. Mr. Barr.

BARR: I just want to say there are quite a few of us here concerned about the same thing and we would like to have this written so it is spelled out that there is no exclusive right on prospecting.

PRESIDENT EGAN: If there is no objection, then the Convention will stand at recess for the purpose of allowing the Committee and interested persons to be heard.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the Chief Clerk may proceed with communications we have before us at this time. You may read that communication.

(The Chief Clerk read a communication from the Arctic Circle Chamber of Commerce, Kotzebue, protesting certain provisions in the legislative article.)

PRESIDENT EGAN: The communication will be filed. If any delegate wishes to see the communication, he may. We have a few

other communications, Mr. Hinckel, then we will proceed with your proposed amendment.

CHIEF CLERK: Four telegrams from Anchorage, recommending the adoption of the Alaska Sportsmen Council provision in the constitution. They are signed by Ed M. Howell, Alaska Sportsmen's Council and Alton B. Cross, Alaska Range Association.

PRESIDENT EGAN: The communications will be filed. Mr. Hinckel.

HINCKEL: I wish to ask consent to withdraw my amendment with the understanding that the Committee has amendments that they wish to offer which will accomplish the result.

PRESIDENT EGAN: Mr. Hinckel asks unanimous consent that his proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered. Mr. Smith.

SMITH: Mr. President, the Committee has two amendments to offer and Mr. Riley, I believe, will offer the amendments.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I will ask the indulgence of the body to give these orally if I may, they are both brief. New Section 9, page 3, line 16, after the third word "of" add the words "and the issuance of exploration permits to".

STEWART: I think that word should be "on", Mr. Riley.

RILEY: "On" would be acceptable.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment using the word "on".

CHIEF CLERK: You mean strike the "of" and insert "on"?

RILEY: No, this is following "of".

CHIEF CLERK: Following "of" insert "and the issuance of exploration permits on".

PRESIDENT EGAN: Mr. Riley.

RILEY: That should be read in conjunction with the next so I will make it one amendment. The second is on page 5, line 11, after the word "areas" insert a comma and add "subject to reasonable concurrent exploration as to different classes of minerals,". I ask unanimous consent, Mr. President, that the Committee amendment be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Now on page 5, would the Chief Clerk read that sentence, down through the proposed new matter if it were adopted.

CHIEF CLERK: "Leases and prospecting permits giving exclusive right of exploration for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals,".

PRESIDENT EGAN: Mr. Riley asks unanimous consent that these amendments be adopted. Is there objection? Hearing no objection, it is so ordered. The Chair notes in the gallery a large number of school students and their teachers and we are very happy to have you with us this morning and hope you enjoy the proceedings of the Convention. Are there other amendments to Committee Proposal No. 8/a? If there are no further amendments we will proceed with the second reading of Committee Proposal No. 6/a. Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to have about a one-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read Committee Proposal No. 6/a for the second time.

(The Chief Clerk read Committee Proposal No. 6/a in its entirety.)

PRESIDENT EGAN: Does the Chairman of the Local Government Committee desire a recess at this time for the purpose of allowing delegates to submit amendments or suggestions as is suggested in the rules? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I think the Committee would rather that we give an explanation of the article first and then ask for a recess for any amendments that might be proposed to the article.

PRESIDENT EGAN: Mr. Rosswog, do you desire to begin the explanatory process at this time?

ROSSWOG: Yes, I would, Mr. Chairman. I think before we go into a discussion of the proposal section by section, I would like to give the delegates here some of the thinking and the consideration that the Committee has given to this matter. In

our proposal we have tried to keep it as simple as possible. In the local government setup, we often consider it is quite complex, but by setting up just the two classifications which would have authority and taxing power we have tried to keep it fairly simple. Other divisions of local government would have to fit into these two categories. We did believe that the problem in the older states has been where many different government divisions are set up, it has finally come to the point where it is almost impossible to understand them. In fact, the people in these states often know much more about their state government than they do about their local government. The Committee, being from all over Alaska, knowing its problems in the thinly populated areas and in the smaller cities and also in the larger cities, we tried to fit this proposal to each section, and I can say that right from the start the Committee has been in general agreement on this article. We have our members like Mr. Cross and Mr. Londborg from the very thinly populated and scattered sections; Mr. Lee and myself from the smaller towns; Mr. Doogan from one of the larger towns; and Mr. Rivers and Mr. Fischer from one of our larger cities. But we still agreed in general principle on this article. In considering what we would need, we thought of some of the nations of Europe where their local government is divided into many little districts. In those countries they seem to fit together and work, but we have quite a different problem here where our population is so scattered. The South American countries had somewhat the same setup as in our proposal but the people are not used to governing themselves on the local level. We felt that our people were able to govern themselves locally and that we should give them as much self-government as possible. We have tried to tie these two local government sections together because we found like in sections of Western Canada where they have set up a rural community and an urban community, separately, much of the section remains unorganized. In British Columbia, where it is set up in that manner, about 99 per cent of the area and 25 per cent of the population resides in unorganized areas, so we thought in our proposal we should tie both the cities and the boroughs together. We have a great opportunity here, and we can take advantage of the lessons that have been learned in the states, we believe, where they have gone through the process of building up a great many local authorities and now they are to the point where they are trying to combine them again. Going into the article, then, I would say that considering Section 1 we have tried to state our purpose in local government. We believe that we should just draw the outline of this local government structure; we should leave a great deal of it and will need a great deal of help from the state in setting up the exact boundaries and the exact laws and the rules under which they shall operate. The establishing of the two categories of local

government as boroughs and cities we felt that that would keep it simplified as much as possible. The powers of boroughs shall be provided by law, and we felt that in order to have good local government in Alaska, the whole state should be divided -- we would not want to have loose sections here and there, and that in setting up this program the boundaries should be laid out. The powers of the boroughs would have to be left to establishment by the legislature to a great extent. We do think that the governing body of the borough should be outlined, and after establishing our boroughs or what the general plan should be, the areas or other government powers, such as service areas and other services that can be supplied, how they should be established under the borough program. In service areas we think that every section of service could be worked into this plan. Of course, we have school districts and power districts and other authorities, and they should be under the control of the assembly. In Section 7 we allow for the boroughs remaining unorganized until they are able to take on their local government functions. The cities will, of course, remain as much as they are today or with possibly slight changes. Section 9 allows for charters and how they shall be set up and also allows, in Sections 10 and 11, for home rule powers. This does not necessarily mean that they should all be under home rule but that the legislature can set up, of course, optional charters, and they will be subject to law. The boundaries, we think, are quite an important question and should be under some agency which can establish them along the proper lines. They should not be left to the local community; they should be established by a higher authority. We feel, in Section 13, we should be allowed intergovernmental relations. There will have to be times that powers can be transferred back and forth from the boroughs to the cities and also between the local government units. In Section 14, because this plan is left broad and flexible, there will have to be quite a bit of state help in planning and advice that will be necessary. Section 15 merely provides that the special services and areas that are now set up shall be integrated into this system. In all, we have tried, again I say, to keep the proposal simple, to keep it flexible, and to have it fit to all of the Territory.

PRESIDENT EGAN: Thank you, Mr. Rosswog. Do other members of your Committee wish to comment at this time or are you open for questions? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, following up the remarks of our Chairman on this matter, I wanted to outline a few of the things that have been of particular interest to this Committee in arriving at conclusions in regard to local government at the borough and the city level. The problem has been, of course, to try and prepare the way for our future State of Alaska and its local government units to avoid a great many of the problems that have arisen

throughout the states. We all realize that in speaking of the intermediate areas of government in the states, the cities and the counties, that most or many of them were established a hundred years or more ago, a few of them less. However, the requirements of government, especially the intermediate government of counties, has changed a great deal in that time. In the older state arrangements we find that the counties are a potpourri of boards and commissions with overlapping functions and powers and duties. We find that they are not, rather that the counties as such, were established as more or less an agency of the state in administrative matters. We find that they are not governed by a policy-making body which can itself determine the policies under which they grow and proceed and become effective. As a result, I am going to quote a few words from a book entitled The American County Patchwork of Boards. This book is by Edward W. Weidner, who was a consultant with the National Municipal League and is now a professor of political science at one of our large universities. Our policy in arriving at the form of local government was to try and bridge that gap of 100 years or more in allowing our people to provide a form of intermediate local government at what we call the borough level so they can function effectively and efficiently as a government agency. I think it follows out essentially the pattern we have established in this Convention of allowing, from the legislative and the strong executive on down, a considerable flexibility but also an establishment of substantial authority within the hands of the people to decide and determine their own future. Our policy in this Committee, and it has been practically uniform since our early studies, has been that we would try and institute, or allow to be instituted, under this constitution an intermediate form of government by which the people could largely exercise a broad degree of power, except those especially reserved to the state. The old approach to county government was that they existed and had their authorities only in those specifically delegated to them and specifically spelled out to them by the legislature or by the constitution. The other approach which has been adopted and which has operated in a few states, approximately seven as I recall, particularly in Texas, has been called the Texas Plan, and there, under that plan, they allocate such powers to the intermediate tier of government and the cities as are not specifically reserved or eventually withdrawn by the state itself. They have a broad exercise of local authority much as our cities have today. That has been the matter of the choice -- whether we wanted to follow the old pattern in which the constitution and the legislature would delegate certain specific powers to the intermediate form of government, which often is called the county and which we have designated as the borough, or whether we would follow the plan of reserving powers to the state and letting

the local government exercise broad general authority within the limits of those reservations. That is, as I see it the foundation of the plan of government for local government which we are presenting to you here now. So along that line, I just wanted to quote to you a few items from this particular book which is particularly appropriate for consideration at this moment. In the paragraph which I am going to read, it is under the heading "Old Confusion in a New Day": "Although county governing bodies are acquiring more and more functions of a policy-determining nature, they are still organized primarily as administrative and judicial instrumentalities of the states. This fact has important implications for the future of local government. Unless counties can organize properly to carry out modern local government functions, they are likely to find their duties gradually transferred to ad hoc or state agencies." It goes on to state in this article and quotes many excellent references, a number of which I have read, that the policy-making and determining power of intermediate stage of government and at the city level is an essential, not only to their performing the duties required within the local government structure, but also to their very existence. And then it tries to summarize and show a variety of the various powers and boards and commissions that have been allowed to be established under many of the state constitutions. It says it is difficult to designate a group of functions as those characteristically belonging to county governing bodies because of the many variations from state to state and county to county. It goes on further to say that in many ways the tendencies of the states have been similar, they have been patterned one after the other. It shows the lack of authority and control directly within any body in the county. It shows the various boards and commissions set up by the legislature to perform some one special function such as health, education, sanitation, roads, and they all overlap in their jurisdiction. There is no central policy-making body, they all have one function to perform, and as a result we have a multiplicity of confusion piled upon confusion. I will quote again: "Likewise, a county governing body frequently does not have control over policies affecting the county which are made at their own local level. Special boards and commissions and separately elected officers are frequently outside of the range of its effective control. The process of separation is made complete in many cases by the creation of independent units of government to perform special functions in the county. A county governing body with the large powers of home rule and of supervision over all county activities is difficult to find." Our approach to this problem has to be to try and establish at the intermediate tier of government a body which has broad general policy-making powers derived from the state, certain of which were reserved to the state but not to hamstringing them... with this multiplicity of boards, special commissions, special

function groups, over which the group as a whole, or the governing body of that area as a whole, has no control. I am emphasizing this again because I am trying to point out the general basis of the thinking which went into this program which we are presenting today. Quoting again, "The best practice in cities has resulted from the council-manager plan under which council members do not administer the program. They formulate, but hire expert management for the task. Council members are responsible chiefly for over-all policy. In marked contrast members of county governing bodies usually exercise nominal control over a few matters of policy and some control over a variety of administrative detail but little effective control over either. A third of the county governing bodies in the United States have members who are accountable not only as county administrative and legislative officers but also as judicial and township, town, or city officers. There you have the overlapping of functions between the city and the intermediate tier of government level, and it has been done largely because it was the only way in which they could effectively handle and carry out the duties and the job which they had to do for the people whom they were employed by." I wanted to point out that while I have referred here to a Texas Plan, it does not mean it is limited to the State of Texas; it happens in some of their amendments the State of Texas chose to delegate to their intermediate tier of government those powers which were not those specifically enumerated but those powers which were not specifically withdrawn or reserved or withheld to the state, and it has proven to be an effective form of government at the intermediate tier level. Now, we have throughout the states a series of programs in which many cities have outgrown their boundaries, they have lapped over into their surrounding areas, we find a great deal of suburban development because of the increase in good quality highways, an increase of automobiles, and easy transportation to and from their businesses and their work, so we find a considerable number of counties throughout the states trying to consolidate the functions of the surrounding rural areas and the cities which occupy them. I don't believe there is any of us in this room that think that any one city or any one area exists by itself, independent and complete and sufficient unto itself, and all of us know that we live and must work with and do our business with our neighbors not only in the town but also in the surrounding area. We all know that the wealth and the prosperity of practically all of our cities in concentrated population groups springs from their association, their business, and their holdings with the surrounding areas which bring business to them and which in turn derive benefits and do business with them and from them. It cannot be held, I don't think soundly, that any one area stands by itself alone and for itself. We must give consideration to the interests of both groups and their interrelated interests, one with the other, and in this arrival at the plan

we present to you here, it has been with the intent in mind that that would be one of our underlying purposes, that in allowing this form of government to be established locally rather than allowing a series of conflicts and confusion and unhappiness to exist which took great difficulty and struggle to unravel, we would allow it in such a way that we would base our plan of thinking upon cooperation of those elements, and in such cooperation that rather than spending time, money, and energy in conflict, they could spend the same time, money, and energy in cooperative growth and progress. I feel I speak for all the Committee when I say that has been our underlying purpose and we present to you here today the efforts of our most sincere thinking in regard to that approach. I don't want to take any more time. I have tried to give you some of the broad general attitudes which we have adopted. We have gone into great detail in this study. We have had consultants who have consisted of Dr. Bartley, Dr. Cooper, Dr. Ostrom, Mr. Bebout, and Dr. Kimbrough Owen. We have studied the best references in our legislative reference, our work presented to us by the Public Administration Service. We have gone into many, many volumes and handbooks in regard to the difficulties and problems of local government, and I feel the Committee has prepared itself well to present this plan to you and to help you resolve your thinking on the matters which it contains.

PRESIDENT EGAN: Are there other committee statements? Mr. Fischer.

V. FISCHER: Mr. President, I would just like to very briefly point out the importance of establishing a good system of local government to the future success of our state. I think that fact can best be borne out by a few quotations from a report to the President and Congress by the Commission on Intergovernmental Relations. This commission was established in 1953 by law of Congress. It consisted of a number of senators and representatives and governors of various states and heads of federal executive departments. The Commission concerned itself with the need for strengthening of state government and a decentralization of federal power. In this study they found that local government is an important factor in this process and I would like to briefly quote a few paragraphs. In discussing the strengthening of local government, the Committee says, "The objective of decentralization cannot be obtained by a readjustment of national-state relations alone. It will be fully achieved only when carried through to the lowest levels of government where every citizen has the opportunity to participate actively and directly. The strengthening of local government requires the activities that can be handled by these units be allocated to them together with the financial resources necessary for their support." Then the report goes on and draws a picture of the tremendous number

of overlapping tax jurisdictions and separate local entities we now have in the state and goes on to say, "More or less hidden in this picture is a paradox that consistently plagues the state and bars any easy solution of the problem of achieving the decentralization of government -- too many local governments and not enough local government." That is one of the points that we have tried to meet here, not to establish too many local governments but those that would be established would be effective to carry out not only the local but also state functions as may be necessary. The report then goes on to say as follows: "The states have the constitutional responsibility for the future development of local government. This responsibility has two important aspects. One is to create local units of government that are efficient units for providing governmental services. The second is to maintain a system of local government that achieves the traditional American goal of extensive citizen participation in the affairs of government. The states must be alert to the reality that modern technology continually creates new techniques that give rise to new demands for public services and new methods for rendering them as well as new channels and patterns of communication in common action among citizens. These in turn alter the optimum size and shape of local units. Although the effects of these factors are not necessarily the same, they all point to the need for a bolder use by the states of their powers over the incorporation, annexation, elimination, and consolidation of units in order to promote both efficiency in citizen participation in local affairs." Now the article as proposed by your Committee on Local Government attempts to provide the kind of flexibility that is pointed to in this particular section as being necessary to meet the needs of a growing technology. In Alaska it is particularly important that we provide a local government system that will have the maximum amount of flexibility with the maximum amount of home rule, and at the same time with the maximum amount of state interest and participation in local affairs.

PRESIDENT EGAN: Mr. Barr.

BARR: I move that we recess until 10:52.

PRESIDENT EGAN: Mr. Barr moves that the Convention stand at recess. Mr. Rosswog.

ROSSWOG: The Local Government will meet in the gallery.

PRESIDENT EGAN: The Local Government Committee will meet in the gallery immediately upon the recess. Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet around Mrs. Hermann here on the floor.

PRESIDENT EGAN: The Committee on Style and Drafting will meet on the floor at Mrs. Hermann's desk.

BARR: That clock seems to be wrong. I have 10:40. I move that we recess until 11:00.

PRESIDENT EGAN: Before we put the motion, Mr. Rosswog, do you anticipate that it might be better that we have a longer recess at this time? There might be many of the delegates --

TAYLOR: I was going to suggest that in view of the fact the Committee is meeting it might be better to enlarge the recess until 11:00 or later.

PRESIDENT EGAN: If there is no objection, Mr. Barr, we will say that we will recess until 11:00.

BARR: Will we be able to ask questions after the recess?

PRESIDENT EGAN: That is correct, but it is if the delegates might have questions, they might be cleared up during recess. Mr. Rivers.

V. RIVERS: Before we go into a detailed amending session, I for one hope we can have a good broad general floor discussion after we reconvene.

ROSSWOG: Just a short recess now would be satisfactory.

ARMSTRONG: Could we find out if the young people are going to stay here until noontime. This is a half-hour here that they will probably wonder what they can be doing.

PRESIDENT EGAN: What is the situation in the gallery. Are they planning to be here all morning?

SECRETARY: They will be here all morning.

PRESIDENT EGAN: That being the case, the Convention will stand at recess until 10:55.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do any of the delegates have questions to ask of the committee members? Mr. Barr.

BARR: Mr. President, I have two questions I would like to ask from any member. I don't particularly like the word "borough"; I don't like the sound of it, and I think it's confusing to

some people; as a matter of fact, if they don't know how to spell it, they might confuse it with another kind of burro, which is a donkey. I have nothing against donkeys, I think it is a great American symbol myself, but I do believe in standardization and simplicity. I would like to ask what other words were considered as names for this local government and why could we not use the word "county" but still have our own form of county government?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Barr, this term and the name came under considerable discussion in the Committee. We did not come out with any name that we were completely satisfied with. We did think that "borough" was possibly the best we could come up with at this time, probably because of the definition which is a town or place organized for local government purposes. It did not hold it to any particular size. We had considered "county" and felt that the feeling against the general definition of "county" was bad, that most people did not like it. We did consider a lot of names and I would be glad to have them read here and the delegates could hear the different names that had been suggested.

HERMANN: Mr. President, they are all listed in the commentary, I don't think it is necessary to repeat them here.

ROSSWOG: I don't believe they were all put into the commentary.

BARR: I don't believe it is necessary to read all of them, but I would like to know which ones you seriously considered.

ROSSWOG: Well, we did go through these names and as we felt that they could not be used we cut them out until we had gotten down to possibly, if I can pick them out here, the last we considered were "county", "township", "rural municipality", "division", "district", and a few other names of that type. We thought that most of them had definite meaning in Alaska or a good many of them were used in other places in Alaska and would be confusing there. We finally settled down to "county" or "borough", and we decided upon the name of "borough".

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I address a question to the Chairman of the Committee?

PRESIDENT EGAN: If there is no objection. Mr. Johnson.

JOHNSON: Mr. Rosswog, what has happened to the independent school district in this proposal?

ROSSWOG: Well, I believe it was the feeling of the Committee that the school districts should work into the borough government, that they should have their own possible governing body but it would be under the over-all supervision of the assembly.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Chairman, I have several questions I would like to direct to the Chairman. In Section 2, "All local government powers shall be vested in boroughs and cities." In other words, in answering your question to Mr. Johnson that a school district would be a subdivision of a borough, an independent school district, is that the purpose, Mr. Rosswog?

ROSSWOG: Well, it was felt that the assembly could delegate powers to other boards, but as far as the actual governing --

COGHILL: The borough may?

ROSSWOG: Yes, but it would reserve, of course, your taxing power or over-all supervision.

COGHILL: In other words, the borough could not delegate a taxing power to a specific independent school district. Supposing your area is quite large and in one area you have an independent school district?

ROSSWOG: We do have a provision in Section 6 where the assembly may authorize the levying of such taxes, charges, or assessments within a service area as may be necessary to finance the activities.

COGHILL: That, Mr. Rosswog, was my next question, or a question I have is on that service area, but in other words, in your Section 2 that you say that boroughs and cities are the only ones that will be delegated the taxing powers, that is from the state level to that local government level, and the coordination between school districts and your executive branch of your state government would be and work through the borough assembly?

ROSSWOG: Yes.

COGHILL: And the borough assembly could promulgate rules and regulations not inconsistent with the state rules to take care of the local government school districts?

ROSSWOG: I think that is correct.

COGHILL: Further on in Section 3, I would like to ask you, Mr. Rosswog, on line 6 of page 2, "Each borough shall embrace, to the

maximum extent possible, an area and population with common interests." My question here is directed to you to find out what the Committee's thinking was as to boundary areas of local government. Could you give us any light on that as to the extent? I know that you have delegated the powers to a commission, but you have said that each borough shall embrace the maximum extent possible. I am thinking now of an area that has maybe five or six economic factors in it -- would they come under one borough?

ROSSWOG: We had thought that the boundaries should be flexible, of course, and should be set up so that we would not want too small a unit, because that is a problem that has been one of the great problems in the states, the very small units, and they get beyond, or they must be combined or extended.

COGHILL: For instance, would Fort Yukon, Big Delta, Nenana, Fairbanks be in one borough?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, it would not seem to me that that would be a feasible arrangement. The matter of size is one that changes with time, and the trend in the states is as the population increases is to give larger areas and consolidate counties into larger groups. They had a great deal of trouble in the old days because they could not travel so very far and they tried to tie a county down to the size you could drive a horse to the boundary and back in one day. That concept has fallen by the board. The idea of how large these would be would have to be determined by the state advisory group in local government working with the people to decide as to what extent their boundaries should cover. That doesn't mean one type of economy; most any area will have a composite type of economy. You have a common interest in certain types of economic activities, and insofar as possible, it would be the determination to try to make an entity or an area that had common interests but would not be so big as to be unwieldy but would not be so small as to be too expensive. It is a matter of the exercise of judgment which has been left to the local level with the advice and assistance of the state department in connection with local government.

COGHILL: Mr. Rivers, I realize it is being left to a power, but I was trying to get the Committee's thinking as to how big they would be. Would they be about the same size as our election districts as set up by the apportionment board, or smaller?

V. RIVERS: I did some research on size and counties, Mr. Coghill, and the Texas Charter set up that the counties should be 900 square miles. Now, there are other areas that run up as high as

2,500 square miles, and that is in the nature of a large county, although in some counties they run as high as 4,000 square miles, but that is in isolated instances; but around the neighborhood of anywhere from 1,000 to 2,500 square miles seems to be about the average of the larger size counties.

COGHILL: That answers my question on that. On Section 6, Mr. Rosswog, on Section 6, you say "Service areas to provide special services within portions of an organized borough may be established..." That would be your independent and incorporated school district? Also your health areas, public utility districts -- is that the purpose of that?

ROSSWOG: It could be.

COGHILL: But the assembly has the full power to abolish a school district without the consent of the people that it is governing?

ROSSWOG: No, not necessarily as we have it set up. It would be according to law.

COGHILL: Subject to the provisions of law. I am trying to get the intent of the Committee so I can read between the lines on some of these things here.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: If I may say something on that, the Committee spent a lot of time in trying to point down specifically how school districts would fit into this plan. Now at this time we have generally two types of districts: one is within the limits of an incorporated city, and the other type that is used in a number of places is the independent school district which covers a city and the surrounding area. Now, what we have tried to do was to leave the way open to independent school districts under the borough assembly. But at the same time, we could also visualize that in different areas you might want to constitute a whole borough a school district for the purpose of providing some form of self-determination to the people in the whole borough in the field of education, rather than have the educational system, as it is done in most places in Alaska now, directed straight from the state department of education to a specific school. In other words, get some decentralization at least on the policy level.

COGHILL: That was the thought I was following under this local plan, but the one curve that kind of threw me was the fact that the borough assembly could abolish or alter that plan, and it is provided by law, but the law still provides, according to the

constitutional provision, that the borough assembly can do it.

V. FISCHER: The borough assembly could reconstitute an independent school district unless the legislature set up a prohibition against it, number one. Secondly, the legislature can very well, and they probably would, continue to have certain standards for school districts and the borough could not violate such standards if they are established by the legislature.

COGHILL: May I ask you one more question? Would an elected member of an independent or incorporated school district or city school district within the borough have any representation on the borough assembly along with the representatives of the city council?

V. FISCHER: We discussed that matter, also, at length. The problem that came up in that connection was that here we have a general local government and if a specific service like education is to be represented, then health should be represented, if we have a health service area; if we have a fire protection district they should be represented; and what we wanted to avoid in this was the specific seating of people with just one interest on the borough assembly. We prefer to keep this a general governing body so that everybody was interested in the general welfare of the whole borough. In connection with that, there would be no prohibition against the election of say a member of the school board to the borough assembly.

V. RIVERS: I would like to point out a little further on that, that at the present time the school districts and school boards do derive a lot of power from the legislature, they also, they derive a great deal of their revenue for operating expenses. They could under this plan still derive all the refunds under the tobacco tax to their school district. As these boroughs grow and go along there will be a gradual readjustment, but no upset or major change in the present plan until they incorporate and organize as a borough at which time there might be a gradual adjustment of the boundaries. The taxing power exercised by the school districts today is mainly limited to a taxing power for the development of the physical plant and for capital investments, as you all know. The main operating expense of a school district comes from and would continue to come from the state level as would the refunds of all the taxes. There is no design here to upset the school boards, their authority or their receiving of grants of power or money or anything else from the state level. It might eventually lead to a slight adjustment of their boundaries which would be the main change that might result from the establishment of a borough, but I imagine that in establishing it the local body would very well take cognizance of the existing boundaries of the school

district and would probably try to embrace somewhat near the same area or include that area plus some more into a borough. This is not going to be an overnight transition. This might be a matter of five, ten, twelve, fifteen years before this adjustment is made, and I hope I am answering some of your questions in regard to our thinking in visualizing the place of the school board and the school district in the borough and in this type of government.

COGHILL: I think you are, Mr. Rivers, and may I further the

conversation by asking you if we have an incorporated school district -- it has fiscal autonomy in that area to which it is incorporated because there is no city council there. Why should they be deprived a seat on the borough assembly when you have over here an incorporated town and they are serving a purpose where the school district is serving a purpose? Why should they not have an equal seat?

V. RIVERS: Mr. President, the idea was that the general powers of government would lie with the general elected representatives of the people. Now as Mr. Fischer has pointed out, the special functions in regard to the use by one group for one special purpose such as health, education or anything else, the power to take the board and take its powers away, the powers of the boards would probably continue except for the taxing power being centralized in the one taxing agency which would then have its own appraising, its own assessing group, its own condemnations. The citizen would not be subjected to two or three different taxing agencies. As to the distribution of the income among the various functions in that borough, it would have to be worked out between the different groups that are participating and have needs, in relation to their needs and in relation to the over-all amount of tax which has been levied.

COGHILL: I see the point you are driving at, Mr. Rivers, but the point that I was trying to arrive at was the fact that we have two independent units within a borough, two independent units, both operating a function of basic government; the city is operating a basic function of government and so is this incorporated school district. And I have not yet got clarified in my mind the reason why an independent unit out here, operating and performing a basic function of government, shouldn't have equal right on the assembly of the borough assembly.

V. RIVERS: In the first place your local government has a multiplicity of functions to serve all the needs of all the people, both at the borough and the city level. The school district has one function, but I want to point out that the legislature or the charter of this home rule group could well

provide if they so desire, that a member of a board or boards could be elected to both offices or could be assigned from that one school board or one health board to a seat on this assembly. We do not preclude that here. We do not say they cannot be elected to that board or that they shall not be seated concurrently; if the people in that area so desire it could well be done under this provision.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to add something to that answer in connection with part of your question -- why the city representatives are to sit on the assembly. Our whole concept has been based, not upon a separation of the two basic units of government, the borough and the city, but as close an integration of functions between the two as is possible. It was felt, for instance, that we should not, definitely not follow the pattern that you find in most stateside counties where you have the exactly same functions being carried out separately at these two levels of government with their own hierarchy of officialdom and separate capital investment. It was our thought that wherever functions overlap that they should be integrated, and from that standpoint it was the Committee's feeling that if we can get the coordination between the city council and the borough assembly we would be able to achieve the maximum amount of cooperation because then each would best know what the other had to offer, they would realize what the problems of the other were, and you would force them, almost, into the cooperation that we hope to achieve in our local government.

COGHILL: Mr. Fischer, wouldn't this do the same thing? Let's take a hypothetical case and set up a borough. In one corner there is an incorporated town; in the other corner there will be an incorporated school district. The reason why those people have incorporated into a school district is because of the fact that they haven't got the taxing power to provide for a corporation. For other reasons they might think that their basic governmental functions at the present time would be to provide adequate schooling for their children; therefore, they have set themselves up as a taxing unit; they have elected their board members; they are running the complete business of that district as a school unit for one purpose -- for providing the most essential, that they think in their minds at the time, the most essential form of government is to provide their children with an adequate education. In the incorporated town they have more people, they have more industries, they have their own school district within their boundaries. The thing I am getting at is that in Section 5 you say that city council members will be on the board and additional members shall be elected by voters living outside the city. That does not give these people sitting

over here the assurance that the money they are paying, the tax dollar they are paying to the borough government, is going to carry out the intent of their forming this district because they will not be fiscally independent. The only fiscal independent governmental structure you have now --

HELLENTHAL: Mr. President, I feel constrained to object to this process as I feel it is not true questioning. Many of the facts stated by Mr. Coghill in his questions I would like to take issue with, but I can't because these are supposed to be questions, not issues.

PRESIDENT EGAN: We will come to that in the amendatory stage, Mr. Coghill. You will have ample opportunity to argue the question on any proposed amendment.

COGHILL: I was only trying to clarify the point. Only one other question and then I'll sit down. Mr. Rosswog, (if I may, Mr. President) Section 13: "Any city may, subject to such limitations as established by law or charter, transfer to the borough in which it is located any of its functions or powers and may similarly revoke the transfer of any such functions or powers." In other words, the city is actually a subordinate to the borough; the borough is the main part of government?

ROSSWOG: Well, in some ways, if the city should transfer functions, the borough assembly would be over those.

COGHILL: The city is not on an equal plane with a borough. The borough assembly is the governing unit of the whole area including the incorporated cities?

ROSSWOG: Those services that are within the city have been turned over to the borough, but not the over-all supervision of the city.

COGHILL: Their taxing unit is the only thing that would be different?

ROSSWOG: Yes, they can set up their tax rate for the services inside the city. The city can and also the borough can for what they need outside or for combined services.

COGHILL: Thank you.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I would like to ask a question, please. On page 5, in Section 14, in line 21, the term is used "charter drafting agencies". I don't find any place in the article on what a

"charter drafting agency" is or if it is, I have overlooked it. I would like to know what is meant by the term "charter drafting agency".

PRESIDENT EGAN: Can the Committee answer that question? Mr. Fischer.

V. FISCHER: Mr. President, the intent of the Committee, as was pointed out previously, was to grant as much home rule as possible to boroughs and cities. The way that one of these units exercises home rule is through a process of adopting a home rule charter where they are authorized. Such a charter is generally drawn up by a charter commission, usually elected by the people, just like the Constitutional Convention here is drafting a charter for the State of Alaska. It is not the city council that drafts a charter for the city, just as it is not the legislature, and so that the charter drafting agencies referred to here would be this type of special charter commissions that will be preparing the home rule charter for either a borough or a city.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I wonder if I might direct a question to Mr. Rivers as he knows the area I am going to talk about.

PRESIDENT EGAN: Mr. Davis, you may.

DAVIS: Mr. Rivers, I realize that under the article as it is written that the boundaries of boroughs are going to be set by a board established by the legislature. But I would like to pursue a little bit further the question that Mr. Coghill had asked about what the Committee's thinking is concerning areas that might properly fit into a borough, and since I am familiar with it and so are you with our own area, I thought I might ask somewhat of the thinking of the Committee in an area such as that. Would your idea of a borough for the Anchorage area comprise, say the area from Portage to the Knik Bridge or something like that including the greater Anchorage area and possibly Chugiak, or would it include the Anchorage area plus the Matanuska Valley, or would it be, say the Seward area and Anchorage and the Matanuska Valley all together? What is your thinking about the size of an area like that?

V. RIVERS: Mr. Davis says I am familiar with that area. We discussed various areas through the Territory; in our thinking, of course, we must allow for the changes that occur due to the changes required by time and the area which you first described would probably, from Portage to Knik Bridge, would embrace an area of probably 500 square miles or 400 square miles, and would

be about what I would visualize as the initial borough, but I can readily see as 50 years pass by, where, under the consolidation plan some of them might consolidate and bring in the further area you mentioned. The first step would probably be not of a nature so large as to be too unwieldy. The next step, as transportation, communications, and roads develop, might well result in having it twice as large by a consolidation of one or more of these borough areas and their boundaries. Does that answer your question?

DAVIS: Partially. I was just leading up to other questions as you might have guessed. The area that I first described for the information of the other people here, contains now one city, one suburban area surrounding the city, one school district, and another school area which has a Territorial school. Also --

HELLENTHAL: You mean independent?

DAVIS: Yes, one independent school and one school that is run by the Territory. I am talking about Chugiak now. If we had an area such as that, it is all fairly well integrated outside of the fact we do presently have two different school administrations in the area, but if that area were to be expanded and I realize there is plenty of room here for changing boundaries, consolidating as the need may require, but if we took the second area I mentioned, then we would have the area I first mentioned, plus a second major town, a village, and another school district, independent school district now existing, and another school area run by the Territory. I don't believe Wasilla is presently an independent district. I am just wondering how in the world all these things are going to fit in. I am leading up to the fact, particularly on the question of schools; and I suppose I am more interested in that than some others because I have been working with the problem for some time. I don't see any reason at all why schools should not be able to fit into the borough setup as you have mentioned. But I am wondering as to whether it will be workable to have all the taxing authority in the over-all agency. Now, I am afraid I am getting down to making an argument but I think I must do it to get my point across. In the Anchorage area we have had some difficulty, friendly difficulties it is true, but some difficulties about finance, by reason of the fact that the school district and the city were competing for the same taxpayer's dollar actually and some of us have been a little bit worried about the fact that whatever the school district set for its budget was subject to final check by the city whose interests were quite different actually. They saw one side of the picture and we saw another. It appears to me under the proposition that you have now that you have not remedied that situation but in fact have compounded it and have put all the power in the over-all agency which is

concerned in this and this, and the school is only one small part of it. That may be desirable but I would like the thinking of the Committee on that and with particular reference to one question. I will agree in a minute that it is foolish to have separate assessing tax agencies but I wonder why the Committee says that all the taxing power, and by this I mean levying power, should be in the one agency. I am wondering if it could not be worked out just as satisfactorily without upsetting your plan if school districts or cities, if there is more than one city or village in the area, why they could not each levy the amount of taxes they needed within their own area, within these service areas you call them, instead of leaving it up to the entire borough to say, "Mr. School District, you have got to get along with so much money." I know that has worked satisfactorily in the state where I grew up. We had the county which is not a good word here, but we had the county which actually assessed and collected all the taxes but each of the local units within that area levied their own taxes.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I am very interested in Mr. Davis's exposition. I have lived in the Anchorage area and I am familiar with all these facts; everyone else is familiar with their own area where similar problems exist, but I think his argument should be confined to the time set for arguing. I love to listen, don't misunderstand me, I think it's brilliant, but it is out of place at this time.

DAVIS: Mr. President, I don't love to listen to myself but I want the facts and I don't know how else to get them. I'll sit down, thank you.

PRESIDENT EGAN: Mr. Davis, you may ask any questions you wish. The delegates may, if it is the wish of the Committee to hear the explanations at this time from the delegates, the Chair will take that under consideration.

V. FISCHER: Mr. President, Mr. Davis did raise a number of questions in his presentation, some of which I would like to answer if I can remember them all. The point that was brought out about the city has actual fiscal control over the school district; that is quite correct and that is why the Committee has based its plan upon putting the school district under the borough assembly because we realize that the city within an independent school district has other interests, education being separate from the municipal functions. When you come to the borough though, the borough is interested in education. It will be one of the basic functions which it will be responsible for. It may be through school boards; it may be through

other means. It is just like health; it will be responsible for health, and we realize the special needs of education, and at the same time we feel that education when it comes to the tax dollar, must compete with all the other necessary services that are required by the people of any area. It was felt that the borough assembly would best be able to say that so much, on the basis of presentation, say by these districts or boards, that so much can be afforded out of this tax dollar for education, so much for health, so much for police enforcement, etc. So that is the only way you can get a proper allocation fund. Secondly, I would like to point out, as was pointed out previously, the authority does exist to, I will just quote directly, on top of page 3, "The assembly may authorize the levying of such taxes, charges or assessments within a service area as may be necessary to finance the activities." In other words, one could well visualize that the assembly would say that here we have these separate school districts, say there is more than one within a specific borough. They can say, "Go ahead and tax up to ten mills; we feel that is a proper allocation; anything above that you have to justify." I mean, that is just one way that we could visualize that this could be done, but the Committee did not feel that an independent tax levying authority should be directly granted to school districts because then you leave the way open to granting the same thing to health districts. They have been working for that; we have a health district already established within the Territory now. Legislation has been prepared during recent years to establish fiscal independent welfare districts. Once you get started on that, each separate function could well justify an independent tax levying authority and then you are right back to the type of government that we are trying to avoid in Alaska, the overlapping of independent taxing jurisdictions.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, I rise to a point here and I want to say that I, as a member of the Committee and most of us, have desired to use the word "participate" in the tax dollar rather than "compete"; there are so many dollars that must perform so many services and I thought, I don't remember whether Mr. Fischer was present at that discussion; but we decided the word "participate" was much more descriptive.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I ask Mr. Fischer a question please. Mr. Fischer, did the Committee consider the fact that so far as independent school districts are concerned, as they are now set up, they are independent corporations organized and existing under the law of the Territory; as such they are legal entities and maintain such

legal entities under and by virtue of the laws as they now exist. Is it contemplated that these corporations will be destroyed or done away with or no longer exist by virtue of this proposal?

V. FISCHER: Mr. Johnson, it was not the intention of the Committee to do away with any existing school districts just by the enactment of this article. The intent was to leave them within a new framework of government. The way they are constituted now they are under the fiscal jurisdiction of municipalities. What we visualize is putting them under the general fiscal jurisdiction of the larger entity which includes all of the people within the particular school district. At the same time I definitely want to point out, and I am sure you will agree that none of us would want to say that just because we are a school district today we would want to preserve it in the same form for a hundred years. We can visualize, and I am sure you could, the expansion of existing school districts, the reconstitution, but we all know that the legislature does have the authority to create and abolish school districts just as they can create and abolish cities.

JOHNSON: I seem to misunderstand the situation slightly because Section 15 of your article, to me at least, indicates that if this article is adopted and this section is adopted, that when the borough is organized, it integrates every special district that then exists within the boundary limits of the borough.

V. FISCHER: That is right.

JOHNSON: Then I seem to be confused by your statement that you have no intention of disturbing school districts but by the same token you are integrating them into the borough. At least that is my understanding.

V. FISCHER: If I may answer that, the intent here is not to destroy the school district but fit the school district into the over-all government that we will be creating, and "integration" is the word that we used here because it would most directly express the intent that the school district becomes part of the over-all functions of the borough.

PRESIDENT EGAN: The Convention will be at ease a moment while the stenotypist changes her paper. The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: I just want to elaborate briefly on the last answer, and that was that the explanation lies in the first sentence of Section 15, "The legislature shall provide for the integration ..." There under that clause the legislature could and would take care of any means of integration in such a way there would

not be a disruption of the program of both this form of local government and the school district's activities.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I will try and enlarge on this business of school districts quite a little since I was one of the members that was quite concerned with this and brought it in. In sitting as a member of the city council I found that the council has a certain amount of money to provide all of the functions within the city that is necessary, schools being one of them. When the cities had the chore of providing for schools entirely for themselves, the schools, of course, were a major problem. On the incorporation of a school district, the school functions were then, in a sense, taken away from the city and handed to the school district with the provision that the city council of a city within a school district could more or less sit on the budget of a school board. This, of course, created quite a little problem and, as Mr. Davis pointed out, some friendly discussion, but sometimes it was not so friendly. The school board would come with their budget that would say that they needed \$300,000; the city in their budget could possibly only provide \$200,000; between those two differences something had to be worked out so that it was satisfactory for everybody, and sometimes it wasn't friendly, and so since that time the school districts have tried in the legislature to get fiscal autonomy so that the council couldn't sit on their budget. The thing that is wrong with that fiscal autonomy is that were they allowed to set their own millage rate, collect their own tax dollar, etc., if they were not careful they could break any municipality within a school district. We put this section in here because, at the moment, some of the people represented here as delegates are quite concerned with schools. Unfortunately, there are many of the other functions that are provided in the cities, would be provided in the borough and provided in the state, that are not represented here quite so strongly. The thing that was tried to be pointed out in this article is that the borough assembly would receive a budget from the school district, would receive a budget for information purposes from a city. In the case of schools they would compare the two, they would try to work it out between them so that everybody would be happy because the borough, in a sense, then has to provide the same, or some of the same services in the over-all borough as the city has to provide within the city. Consequently, with the assembly having more than the one function of having schools, having many other functions and so many tax dollars, then would be able to distribute the funds as equitably as possible. It has been my experience, and I think the experience of a good many others, that sometimes these boards or commissions that have to do with one function get a little over-zealous in some of the things

that they are trying to do, and it is for that reason, to make close cooperation between education, health, city, any other service that you want to provide, that we have tried to set up this plan. Now, in answer to Mr. Johnson's question about the integration of these districts, it is true that they are incorporated and that they are in a sense a little autonomous, but if the assembly of the borough, in integrating the school district with the borough, accepted the liabilities that the school district has, then it would be a very easy problem to integrate the school district with the borough I think.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I might mention right here that I don't think we should lose sight of the fact that the legislature would have the authority to state what types of school districts we should have but it is the tax levying authority which the borough would have, the over-all supervision.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, a little more on the same vein, under Section 6 it is possible for the assembly to delegate, temporarily possibly, taxing powers to other jurisdictions or service functions, is it not? So that it is conceivable that if the people feel, as Mr. Coghill does, that education is a basic form of government, which I don't agree with, but if they do and that something close to present incorporated school district setup is best, and school districts should be fiscally autonomous, it is conceivable that people within the borough could run for the assembly on such a ticket and, if elected, could then delegate that authority to the school district and approximate as closely as they could the present setup within restrictions supplied by the legislature.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I believe it could conceivably happen that way.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Rosswog, if this article were adopted tomorrow and placed in effect in Anchorage tomorrow, the borough would then take the city council's place in approving or disapproving the school budget within the independent school district, would it not?

ROSSWOG: Yes, it would under the independent school district.

HELLENTHAL: The tax collecting and perhaps the assessing would be transferred to one central agency, namely the borough, would it not?

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ROSSWOG: Possibly, yes, it would.

V. RIVERS: Yes, it would.

HELLENTHAL: The school boards would continue just the way they are today?

ROSSWOG: Yes, they would.

HELLENTHAL: There might possibly be a boundary change in the independent school district, but only possibly?

ROSSWOG: Possibly, or when it was decided upon.

HELLENTHAL: Now on the incorporated school districts, would there be any change at all if my premise were adopted and this article were placed in effect tomorrow?

ROSSWOG: No, I don't believe there would be.

HELLENTHAL: How many incorporated school districts remain in Alaska?

V. RIVERS: Nine, Mr. Hellenthal.

HELLENTHAL: Incorporated, not independent. I think there is just one in Nenana, isn't there?

COGHILL: We are a city school district.

R. RIVERS: Would Mr. Hellenthal yield for a moment to have me ask you to explain the difference between an independent school district and an incorporated school district? Would you just briefly state the difference between the independent school district and the incorporated school district.

HELLENTHAL: Frankly, I know about the independent school district and I am a little rusty on incorporated, but I know you know the answer on that.

R. RIVERS: Mr. President, I think there is about one incorporated school district in Alaska. The independent school districts are composed of the cities and adjacent areas; and under an act of legislature the cities and the adjacent areas after a referendum within the district can get together for school purposes. A rural area which is in an unincorporated section of the country, such as Palmer used to be before it become incorporated, could form an incorporated school district, which is for school purposes only with tax levying power, without being merged with a city. It is simply an incorporated school district. There is about one of those.

HELLENTHAL: One more question only. If the legislature desires to continue the present plan of city-school district agreement on the budget which, under the assumption, would be city-borough agreement on the budget, they could continue that or they could discontinue it and set up fiscal autonomy if they saw fit, could they not, if this article were adopted tomorrow? Let me put it again. If this article were adopted tomorrow, the legislature, if it saw fit, could make the school districts fiscally autonomous as Ed Davis and Coghill suggested, could they not?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I think the legislature could establish it so the borough could grant the fiscal independence, if we are all agreed upon the definition of the words "fiscal autonomy" or "fiscal independence". I think it is a power that could be granted under our section.

HELLENTHAL: I define "fiscal autonomy" as the power to collect and levy your own taxes and fix your own budget without the concurrence of anyone on a local level.

V. RIVERS: I think they could grant that power to the borough which would then in turn have to grant it to the school authorities.

HELLENTHAL: That's my question. Are you sure it would have to come from the borough to the school people if this plan were adopted tomorrow? Is it not still in the legislature to make that change?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Any right that the legislature of the state reserves to itself, of course, the borough couldn't have.

HELLENTHAL: Doesn't the state reserve that right under the constitution and under this article, if this article were adopted?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, subject to any announcements, I am going to move for a recess. That clock is a little slow, by the way.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet at 12:40 o'clock in the ping pong area.

PRESIDENT EGAN: The Committee on Style and Drafting will meet at 12:40. Are there other committee announcements? Mr. Rosswog.

ROSSWOG: Local Government will meet then at 1:00 o'clock in the rear of the gallery.

PRESIDENT EGAN: Are there other committee announcements? If not --

BARR: I move then that we recess until 1:30.

PRESIDENT EGAN: Mr. Barr moves that the Convention recess until 1:30 and asks unanimous consent. Is there objection? Hearing no objection it is so ordered and the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may proceed with reading of communications.

(The Chief Clerk read the following communications: a letter from the Stikine Sportsmen's Association of Wrangel signed by Maurice S. Buness, Secretary-Treasurer, stating their recommendations concerning commercial fisheries and wildlife in the constitution; a communication from Harry S. Truman wishing success to the delegates in framing a constitution; a letter from the Nenana Hi-Lites, Nenana Public School paper, signed by Judith Leise, Secretary; Gloria Fredericks, Editor-in-Chief; and William C. Williams, Production Editor, expressing their gratitude for being permitted to attend the Convention and also requesting a thumbnail biography of each delegate for their special constitutional edition to be published February 22nd; an invitation from the Business and Professional Women of Fairbanks to attend the March of Dimes Benefit Ball to be held at the Elks Club on January 28, 1956.)

PRESIDENT EGAN: The communication from Nenana will be referred to the Committee on Administration, and the President will see that a letter is written to the Nenana school group. The communications will be filed. Are there other communications to come before the Convention? We have before us Committee Proposal No. 6/a. Mr. Doogan.

DOOGAN: May we revert to the reading of the journal?

PRESIDENT EGAN: If there is no objection we will revert to the reading of the journal at this time. Mr. Doogan.

DOOGAN: Journal of the 51st Convention day, Thursday, January 12, page 2, paragraph 7, insert "R" after Mr." Page 9, first sentence, after "Mr. Knight", change the word "objected" to "seconded." With those two corrections I ask unanimous consent that the journal be approved as corrected for the 51st Convention day, and I believe Mr. Knight has a journal to report on, also.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the journal of the 51st Convention day as reported back to you by the special Committee to read the journal be adopted. Is there objection? Hearing no objection it is so ordered. Mr. Knight, do you have a report?

KNIGHT: Mr. President, the journal for the 52nd day, Friday, January 13, has been reviewed and I do not find any corrections, and I would at this time ask unanimous consent.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the journal of the 52nd day be approved. Is there objection? Hearing no objection it is so ordered. Is there any other business to come before the Convention before we proceed with Committee Proposal No. 6/a? If not, we now have before us Committee Proposal No. 6/a in the questions and answer stage. Does any delegate desire to ask a question at this time? Are there questions to be directed towards the Committee? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask Mr. Fischer about the matter of there being more than one city within a borough. I take it from the general language that the council of each city would be either part of the borough assembly or be represented on the borough assembly.

V. FISCHER: That is what we have in mind. One example where you might have two cities within one borough would be Juneau-Douglas. I might say we had a specific communication from Douglas asking that provision be made so that in any such form of government they be given representation.

R. RIVERS: Then I want to ask with regard to the number of city council members and the representation from outside the city. At the hearing in Fairbanks one of the people who appeared spoke more or less from the standpoint of the REA and said they did not want the city to preponderate on the assembly because the city is usually in the utility business and might kind of reach out and take advantage of the rural utility service such as is rendered by the REA. What is your thinking on that?

V. FISCHER: Our thinking all the way through has been in terms of not giving anybody control of the borough. The city representation and the representation from outside of the cities on the borough assembly would be according to whatever standards are prescribed by law. It is our thinking that generally a system of apportionment would probably be set up by the legislature under which both population and area would be taken into consideration. Insofar as utilities are concerned, we have discussed that. We have heard from a number of REA cooperatives, and I think it is the unanimous opinion of the Committee that those matters can only adequately be dealt with by a state utilities control agency.

R. RIVERS: You think the state would very shortly come up with a utilities control agency, do you not?

V. FISCHER: I think we have a proposal to that effect.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, on page 2, Section 3, I would like to ask the Committee, on line 4, if the words "to the maximum extent possible" could be construed to mean the largest possible area?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I think that is the intent. It was pointed out here that these boroughs would embrace the economic and other factors as much as would be compatible with the borough, and it was the intent of the Committee that these boroughs would be as large as could possibly be made and embrace all of these things.

WHITE: Is it the thinking of the Committee that the largest possible area, combining area and population, with common interest, would be the most desirable type of borough?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Could I answer on that? I think that was the idea or the thinking of the Committee that they would have to be fairly large but the wording here would mean that we should take into consideration the area and population and common interest to the maximum extent possible because you could not say definitely that you were taking it all in, but as much as you possibly could.

WHITE: Section 4, Mr. President, could you construe the words "shall be conferred by law" on line 15 to mean that the legislature "must" confer all powers and functions appropriate to

local government?

V. FISCHER: If I may answer that, I think the way that should be interpreted is that they derive their powers through law.

WHITE: I wonder if the words don't have a double meaning here.

V. FISCHER: I don't see how it could because I don't think you could force the legislature in any case to confer specific powers.

WHITE: One more question, if I may. I see the wording as to city council members has been changed from the original draft to make it clear now that not all city council members would be on the assembly. The "persons" and "members" being in the plural, I suppose that means two or more council members?

ROSSWOG: That is the feeling, I believe, of the Committee that it would not mean all of the city council members but the representation from the city would be from the city council, depending upon the composition of the assembly, would be prescribed, and they would, whatever they were entitled to, would come from the city council.

WHITE: I wanted to pursue that particular point a little bit and get the Committee's idea as to why people within a city who are not council members should not be eligible to serve on the assembly of the borough.

ROSSWOG: We felt that in order to get integration between your city and your borough, why it would be necessary to have members from the city that were authorized to represent the city. If we set them up as separate members you would have two boards and possibly the conflict between them.

WHITE: Elsewhere it is provided, I don't know the section offhand, but the composition of the assembly shall be provided by law, and that presumably would state how many council members should be on the assembly. In the light of that I wonder why it would not be advisable, also, to at least make it permissible for voters or individuals living within the city limits who do not serve on the council at least to be eligible to run for the assembly.

V. FISCHER: Still in answer to your first part of the question, and I will let the second question go to somebody else, the feeling was that one system that may well be established for the representation of the city on the borough would be if a city, say, were allocated two seats on an assembly, that two terms, when they expire, or two councilmen would go on the

assembly and when they ran for election the people would know that those were the two that would also serve on the assembly. Of course, again we are not prescribing it that way. There may be reasons why it should be another way. I think Mr. Rosswog answered the other part in saying that the feeling of the Committee definitely was that the maximum amount of cooperation between the two will be achieved by the city representatives being also members of the council.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, if I may carry this just a little further, I still don't understand why, when you can provide for a city-borough coordination and cooperation through allowing city council members to sit on the assembly, and with the additional factor that those members will be limited, why you should preclude any possibility of members from the public at large within the city limits sitting on the borough assembly. There may be qualified people who don't want to take the time to serve on both bodies. I don't see --

ROSSWOG: Mr. Chairman, I believe that in the combinations that have worked out successfully it has been, or there are members of this city council or governing body that also sit on the other, such as county boards, etc. We could set them up separately but we feel you would not have the cooperation between the two that you could have under this plan.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I might just add a word in answer to that. I think that there you find, what we might say, the secret of success we hope to obtain, is in that very fact that only the city council members are eligible for seats on the assembly. If you have it otherwise then you will have a similar situation as we have in many of the city-county relationships where you might have an entirely different group on the county board as are on the various city councils and naturally they will be bringing in different interests and probably working at odds with one another; and, having only the city council members eligible when this assembly meets, you can be reasonably sure that the city interests are going to be upheld; and, also, when the city meets there is reason to believe that the assembly interests will be upheld because you have the certain ones that are serving on both the assembly and on the city council. I know that bears some discussion, but I think if we would attempt to do otherwise it would bring in this possible disharmony as far as the local government plan.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. Rosswog, that means then that the city representation is limited to members of the council? There would be no possibility of, say, two council members and a member at large representing the city on the assembly. Is that what you mean?

ROSSWOG: That is the proposal.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, going back to Section 4, the matter has been mentioned many times about the possible thinking as to the size of the boroughs. I took occasion to check back into the criteria which would be used for the establishment of election districts. I find that except for two different words they are the same as the criteria that you use for the establishment of boroughs: population, geographic features, and the election districts say integrated socio-economic areas, and you say economy and common interests which I think means the same thing. Consequently, I might be led to the conclusion that your thinking could well be carried out by making election districts and boroughs contiguous or congruous, the same area, is that true?

ROSSWOG: It was thought this should be left very flexible. Of course, you would not say they should be the same as election districts because of rather unwieldiness for governing. It would more possibly, and should, take more study of whether the size should bear on whether your governing body would be able to supervise an area of that size.

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Hurley, I think we are unanimous in the opinion that many of these boroughs will be substantially the same as election districts but that is just the idea that we had in mind. Some of them won't be feasible, but in our thinking I consider that form of boroughs we felt they would be much the same as an election district.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Did any of you think that they might ever be greater than the election districts in size?

LEE: If that question is directed to me, we did not give it any consideration because actually we have not made any statement about the size. But in our thinking we didn't consider that thought, but it is certainly very possible.

HELLENTHAL: In other words, that the boundaries of the election districts could possibly be maximums governing the size of the boroughs?

LEE: It is possible. It is up to the legislature to decide.

HELLENTHAL: Would it be desirable to make them minimums?

LEE: That would take away the flexible portion which we wish to keep here.

HELLENTHAL: I gather then you would not desire to make them minimums but probably would have little objection to making them maximum.

LEE: I can't speak for the Committee. I would have no objection, personally.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I would like to ask Mr. Rosswog a question. I think it's along the same lines. I notice, Mr. Rosswog, in your first article on local government you said there would be three types of boroughs like you have here, and in that you defined that the "first shall", and the "second-class may" and you left out the third. Is it the Committee's intention that the first-class borough may or shall, will be the ones that are fiscally capable of taking care of their local government problems, and the other classes are ones that are unable to? Is that the reason why you placed the three classes in here?

ROSSWOG: That was our first thinking that they would be established somewhat along those lines, but we felt we could not set up exactly the class until it had been gone further into because three might not be a magic number or there might be some other classes.

COGHILL: But that was your intention?

ROSSWOG: Somewhat along that line, yes.

PRESIDENT EGAN: Are there other questions to be asked of the committee? Mr. Poulsen.

POULSEN: May I ask the Committee a question?

PRESIDENT EGAN: You may, Mr. Poulsen.

POULSEN: It is in regard to simple sales tax, probably Victor Fischer and Victor Rivers are more familiar with what I am trying to drive at. In the last several years we have been trying to put in a sales tax around the Anchorage area and the reason that I believe it has been voted down is that the school district is outside of the city which would have to have part of their

money; for instance, you had two per cent inside of city limits, you could not have more than one per cent outside of the city limits. That was the reason it was voted down. Now, with this new system here coming in, would it be a standard of taxation so far as sales tax is concerned? Two per cent, for example, would go to the boroughs and outside of the city and two per cent so there is no discriminating against the people living inside of the city may go outside the city where there is smaller sales tax?

ROSSWOG: I could answer for the Committee, I believe, on that --

POULSEN: You are setting up three classes of boroughs and this borough you -- (Balance of question inaudible)

ROSSWOG: I believe a tax like that is set up by the legislature and they would put their rules on it. This would not make any difference whatever rules they decided on. That could be accepted by the district.

PRESIDENT EGAN: Are there other questions? Mr. Smith.

SMITH: Mr. President, are we on Section 5? Is it permissible to ask questions on Section 5 at this time?

PRESIDENT EGAN: You may, Mr. Smith, if you wish.

SMITH: To any member of the Committee -- the words, "The composition of the assembly shall be prescribed by law..." has me just a little bit puzzled. I know that the Committee has discussed this and I would like to know their thinking. I will ask first, was it the intention of the Committee that the legislature should prescribe the numbers of the assembly?

ROSSWOG: I did not get that question.

SMITH: The question was in using the word "composition" on line 17 of Section 5, where you say "The composition of the assembly shall be prescribed by law." Was it your intent that the legislature would prescribe the numbers of the assembly either from the city or the borough or from both?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Yes. I believe that was the idea that it should be left open because you may want different numbers or different representation on it which could be set up by the legislature or by the charter.

SMITH: Well, where you say "shall be prescribed by law", as I see it, that would have to be by general law applying to all

cities, and it leaves a question in my mind as to whether it would be able to set up the numbers or the composition of the assembly by general law.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I think our aim here is to try to make it flexible so that each situation can be met over the entire state. You will find in some of the state constitutions that they say there shall be so many county supervisors and, of course, then they are elected from certain areas and they redivide the county proportionately every so many years, so they have approximately the same number of people or area to represent, but I believe that Alaska is going to be such that there will be a varied number as far as the proportion between the city and the rest of the borough, and I believe that our aim here is to give it the flexibility, leave it up to the legislature. If they would say that there shall be nine on the assembly and they shall be divided according to area and population within each borough, then it will be up to the advisory board or whoever sets up the particular borough to say how many shall be from various cities and how many from the borough at large. And it will vary with each borough depending upon what per cent of the population comes from the city and what per cent comes from the rest of the borough.

SMITH: Can't you foresee difficulties here due to the fact that you will have large populations in some areas, maybe two or three cities, and in other areas you may have a very small population, and to set up by general law the numbers to be included in the assembly it would just appear to me it would not fit the over-all situation.

LONDBORG: Just one word on that. It would be an even greater injustice then for us to attempt to set it up here in the constitution, not knowing what the individual situation may call for. Leaving it up to the legislature they may prescribe that it shall be different in the different areas. They have the possibility of making it very flexible as far as that is concerned.

SMITH: My thought ran the other way, Mr. Londborg, to possibly leaving it up to the borough.

PRESIDENT EGAN: Mr. McLaughlin, did you have an answer?

McLAUGHLIN: I was interested to ask the Committee, and I think it probable would answer Mr. Smith's question, under Section 4 they refer to the powers and functions appropriate to the local government requirements of each class of borough "shall be con-

ferred by law," and they refer to classes of boroughs. Isn't it a fact the Committee planned to follow what I believe, for instance, is prevalent in the State of New York -- the legislature would establish various classes of borough charters or boroughs which could be established then to suit the conditions and needs of large or smaller communities?

V. RIVERS: That is correct. Under the city plan of government in the Territory today there are different manners by which they can establish by law. I don't believe there are any charter cities in the Territory today. They could provide two or three optional forms of government by law or they could provide for a charter form which would then give the authority into the hands of the people of the borough to adopt their own charter and that I believe to be the intent of this section.

PRESIDENT EGAN: Are there other questions? Mr. Metcalf.

METCALF: I would like to ask a question. I have a general idea but when it gets down to paying the taxes, I am a little dense. I wonder if Mr. Rivers maybe could help me. Just assume, for a hypothetical case, that the district of the entire Kenai Peninsula were made into a borough and I mention that, Mr. Rivers, because you are familiar with it, just as I am. Supposing, according to that system, there would be two councilmen from the city of Seward that would sit on the assembly, or more than one?

V. RIVERS: Well, I would assume, I would say it like this. I don't believe that this word "persons" implies that there shall be more than one. I think it could be any number but it would probably be proportioned upon the amount of the size of the borough there. You might have as many as two or three. You might have nine members in the assembly from the city of Seward; there might be two; Kenai might have one, Homer one, the balance from the sections of the assembly. When we talk about the Kenai Peninsula, I might say for the benefit of the members present, it is an area of about 9,000 square miles, about 3,000 square miles of which is mountainous and the rest of which is arable and very much usable land. I just try to put that across for the picture.

METCALF: How would, say the school in the village of Kenai, who would pay the taxes or how would that be maintained? How would that work?

V. RIVERS: Well, the city of Kenai is unincorporated. They now receive all of their school monies and all of their operating expense for schools from the government from the Territorial level. I don't know what percentage in an organized borough the legislature would desire to refund to the borough, but I can

assume that if and when they are ready to organize into a borough they would have sufficient ways and means to come in under and be able to adopt the borough system of government based upon what the legislature had, by that time, established as the amounts they would give from the state level.

METCALF: Do you think the state would refund some to the borough assembly as they do in the cities now?

V. RIVERS: They do now, and outside the cities they carry 100 per cent of the cost of both operations and physical plant, so I am assuming that if the borough decided they were able to assume part of their burden, the legislature would have set up some precedents for the similar situations over the whole Territory by the time they organize.

METCALF: Then the schools in Kenai, they could either incorporate as a school district or be operated by the superintendent of schools for the borough?

V. RIVERS: Well, that gets down into detail that would have to be worked out. Now, I assume the borough being the over-all governing body would make provision for that type of school operation and government within their area. It would have to be done.

METCALF: Then, everyone in the borough, in the Kenai borough, would pay personal taxes and real property taxes?

V. RIVERS: I don't know how much they would pay. I don't know whether or not the borough would levy a tax. I assume it might, but that would be up to the borough assembly and their representatives as to whether or not they desired to accept that form of government.

METCALF: How about fish traps and things sticking out into Cook Inlet? Would they be taxable or not?

V. RIVERS: It would probably be taxable based upon what we understand to be value. We would have, as I understand it, the way you appraise the value of anything on that kind is based upon the replacement value depreciated plus the land value, plus the earning power of an element. Now it is entirely possible that if you have an asset that is that type of an asset that if the borough desired to set up a taxation program on real property that would also be taxed. It is my conception that it would be.

METCALF: That helps a little, I think.

PRESIDENT EGAN: Are there other questions to be asked of the Committee? Does anyone have a question with relation to Committee Proposal No. 6/a? Is it the desire of the Committee Chairman, if there are no questions at this time, that a recess be declared in order that delegates who might have possible amendments can submit them?

ROSSWOG: I think this might be a good time. I think as far as the last question asked of Mr. Rivers, we should keep in mind, though, that these detailed questions on taxes we also should consider that we are, as we progress and grow, we are going to have some type of rural government and whether we want it on a planned type or whether we shall just let it grow up as it comes along, we will have the same thing, but it might be quite a mess.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Is the entire article open for questioning or are we going through it in order?

PRESIDENT EGAN: We have been in this article just taking general questions.

BOSWELL: I wanted to refer to Section 12 and the local boundary commission. I wondered if that would be a statewide commission or would it be a commission within the borough?

ROSSWOG: That would be a statewide commission, necessarily, because if it were just on a local level then each one would be trying to get their part they wanted and not the others. It would have to be on a statewide level.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, if I may, I would like to ask one more question of the Committee for clarification, possibly to the Convention; it might clear up a couple of points that I was stressing this morning. Is it the intent of the Committee to set up a framework structure, leaving the working part of it to the legislature; that the legislature may prescribe school districts, health districts within that being brought about under the control of the borough?

ROSSWOG: Well, it was felt that it should be left flexible. Of course, we have the outline; the exact details would have to be drawn up by law.

COGHILL: Mr. Chairman, what I was trying to bring out was that in formulating this proposal, you have in your Committee probably

gone through all of this over and over again, and I believe that it is a fairly good article, except that it is just the understanding part of it, and what I am trying to bring out is, like on the school districts, the function of the school districts, the functioning of the health districts or of a statewide road program going through a borough, where the borough has to contribute to it, that are you planning to leave all of that entirely up to the legislature -- not to the borough assembly -- to the legislature?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, our purpose is simply to set up a framework here. The state would of necessity reserve to itself certain functions. Any functions that are not reserved to the state can be assumed by the borough, and even further on down, any functions that are not reserved by the borough can be taken by the cities. The state would of necessity provide certain basic functions. For instance, you take a health district; if in a borough there was nothing in the way of a health district setup, and the state wanted to provide over-all health services throughout the state, the state would do it. However, if in an organized borough there was a health district set up and we will say, for the purposes of clarification, that it was over the whole borough, the state then could very easily delegate whatever it wanted to do to the borough to work in conjunction with the health district already in operation.

COGHILL: Carrying that a little bit further, Mr. Doogan, then, in other words, the borough would have the power under the article to establish a borough department of health, or a borough department of education and be able to prescribe a particular division to head that in their borough?

DOOGAN: That would be true, but there is one thing you want to remember: that it is not necessarily the assembly that is going to do this. Any of these functions they want them to perform would necessarily be by referendum from the people within the borough.

COGHILL: They have the power to do it?

DOOGAN: That is right.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Do I understand correctly that there will be different classes of boroughs and that there could be a borough which would be comprised of an unincorporated area, and in that unincorporated area the state would of necessity have to set up certain functions

and operating procedures, but if we have, on the other hand, an incorporated borough or a borough operating under charter, then the people would then assume their home rule, more or less, and set up their own procedures for handling their own affairs. There would be two different ways of doing things, the unincorporated area and the area that is incorporated under charter?

ROSSWOG: I think that is correct because of the divergence of different sections of the Territory, why, there would have to be several classes.

LONDBORG: I would like to elaborate just a bit on that because I have been naturally concerned about the functions out in what might be unorganized boroughs. I can't quite feature yet some of the areas out in our part of Alaska being organized, at least for some time. They are not ready for it as yet, but if you notice in Section 7, "The Legislature shall provide for the performance of necessary functions in unorganized boroughs." We hope to be included in the various functions that are necessary, such as education, policing, health, and many other functions; and inasmuch as they will be, perhaps, unorganized as they are now, the legislature shall provide, so that it will be a state function very much the same as it is a Territorial function right now, but this is a directive to the legislature allowing for a maximum of local participation and responsibility, shall we say, that is possible in each borough. Now, that is something that I think is very necessary; you can keep the borough from taking part at all to the extent where they, you might say, fall asleep and the time may come when they are ready and they will not have exercised any responsibility and not care to, and I think if the state, through their legislature, will make it possible for them to participate, share responsibility as much as possible, they are going to strive toward organization. By local participation I mean some method whereby the local villages or other areas may cooperate with the state police on a policing system. Perhaps, the state patrolman or the state police can have his men out in these areas elected by the various village councils to work with him, give them certain powers. The state may create an interest in operating their own schools by allowing for school boards to share responsibility of the schools, something that they are not allowed to do now. They have it handed down in a package deal now; that is, as far as the unorganized borough. The state will have to perform it because they will not be organized and able to do it but trying to create responsibility, like getting a child to walk and getting them interested in getting on their own feet. Then on the other extreme will be the first-class city or borough that can apply for the home rule charter. In between we read that the legislature can give a certain amount of home rule, probably set up in a package deal that will be more or less general over the state, that will allow for some participation in home rule in

proportion to how they can share in the expenses of it. I thought I would mention that insofar as our interests in what may have to be unorganized areas for some time to come. We did think of leaving parts of the Territory outside of boroughs and just having boroughs where they could be organized, but we felt that would be a mistake because something may happen in a borough that is unorganized that would cause that borough to come into prominence, let's say overnight so to speak, and having the boundaries set up and some local participation they would be much more able and ready to organize and share their full responsibilities.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I had been interested in this particular section, Mr. Londborg, and happy to have the clarification you provided. But I am still somewhat fascinated by the words "shall provide necessary functions." Now, I assume that when different classifications of boroughs are set up that it will be up to the people themselves as to what kind of borough they wish to be. For instance, if the classification should be first, second, and unorganized, or something of that nature, I assume that the people themselves can choose what kind of borough they want to be. With that background who is to decide what are necessary functions? Haven't we here inducement to an area to remain an unorganized borough and to get the state to provide all the necessary functions?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will try to answer that. We thought that at the state level it would be the policy as it has been in the past to offer certain inducements to them to organize. Now, at the present time in incorporated cities there are certain refunds of taxes in the nature of license taxes, liquor taxes, and other taxes that are a percentage, at least, of which reverts back to the organized area. In the extent that the benefits that the legislature sets up will offset the added cost to the people, and the extent of their desire for home rule will govern how far they go in organizing these boroughs, but it was our thought there would be enough inducement for them to organize and exercise home rule so that as time went on they would gradually all become incorporated boroughs. That would take a great deal of time in looking at our map. The thought was that inducements to organize would be offered on the basis of the granting of home rule powers plus certain other inducements that would make it advantageous to them to be boroughs, as we now have that same program of inducement to organize communities.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: If I may add a little word to that, Mr. White, and the rest of the delegates, at present the cities that want to incorporate have to assume a certain percentage of their school taxes, and it isn't that they are not willing to do it, but they may find by refunds, etc., they are not able to, so therefore, you have no inducement to incorporate, and the very thing that you mention, they remain unincorporated for that very reason. We felt that it could be handled possibly different ways, but I will mention two: one is to have some state agency that would survey the whole thing and say now is the time you have to incorporate; there is no way you can get out of it; you have to organize. I believe the method that Mr. Rivers brought out would be the more desirable, by having skilled men that would study this matter and set it up so that it would come in the form of an inducement so that they can see that they are going to benefit, definitely benefit by organizing, by getting into the picture of local government. If we do it the other way and force it upon the people, I think you are going to have it taken with resentment and probably a lack of good local government. Now, as far as wanting home rule, I think you will find that that is a common interest. I think people, most citizens, most cities, villages, be they ever so small, really want home rule. They like to feel they are governing themselves, and by making it possible to share responsibility, to share in the work of the local government, even though they be not organized, and then as they see the financial picture where they will be able to do it, I think they will take the step. You may have a further question on that.

WHITE: No, I think I shouldn't take up more time. My question was whether including this line, if necessary could it be defined by the legislature or if necessary have some absolute definition used in this context.

PRESIDENT EGAN: Mr. Cross.

CROSS: Mr. President, I might refer to the functions that are now being performed in, we will say, in the unorganized districts. They would be police functions, some of the relief or public welfare functions, a certain amount of education; I might say that those functions considered necessary would not be desirable if there is any other way of getting at it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Does somebody else want to pursue this unorganized territory any further? If they do, I will yield.

LONDBORG: I would, Mr. President, just like to add another minute to this discussion. This thought of having the legislature

set up for local participation, I think is going to pay off for the state and also make it possible that the particular boroughs will organize sooner, get into more participation. Let's just take the police setup as we have it now, the terrific cost of going out and meting out justice in the various outlying areas. If there would be some way, even now, for more local participation, some way that a local community could actually take their people into hand and mete out certain justice as they might see fit; it may save hundreds and thousands of dollars of the taxpayers' money just to save the expense of the marshal traveling around, but as it is now, the city cannot incorporate due to the other burdens thrust on them and, therefore, they can't get the policing power that is given to a city, second class. These are some of the things we are trying to set up in making it possible and also directives to the legislature to accomplish that very thing.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to pursue a left-handed mention that Mr. Doogan made about relative priority of functions. Is it the intent of this article that the functions of government shall be first at the state level, those that the state does not take over would then be available to the borough, and those that the borough does not take over would be then available to the city, and those the city does not take over would then be available to the service areas, or is there a definite line of authority there?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I will try and answer that. If you look at this borough, the idea of it is that it is an unorganized borough, that it is a little state within a state, it might help to clear up some of this. As we know, the state is going to provide that certain basic functions throughout the state are going to be required. When you get into the organized borough you are going to have certain basic requirements for the whole borough required there. The city, in effect, in some sense is actually a combination of service areas within a borough. The borough, of necessity, in an organized borough to provide for its operation would probably have a certain basic tax to provide schools; if necessary, over the whole borough or portion thereof for health district, but when you get into high centers of population, you, of necessity, have many more services required by those people than you do in the lesser settled areas. That would be my thought on this.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I don't think that quite answers the question. I don't believe that we have a definite line of authority coming down. It is more the idea that your cities and your borough and your service areas should take on what they can handle and not be definitely loaded down with services. Was that your idea that it should come right down from the state level within each succeeding order?

HURLEY: What I am trying to find out is just where the city fits in this picture. Does the city decide what services it is going to render within the city regardless of what the borough has decided to render?

ROSSWOG: Certainly.

HURLEY: The borough, then, has nothing to say about the services that the city offers its own residents within its boundaries. Is that true?

ROSSWOG: Yes, the city should remain as much the same as today, or practically the same unless there are some gradual changes in the future. They can delegate powers back and forth but the borough would not tell the city that they had to supply certain services or couldn't supply certain services. That is why the two are set up as having the authority.

HURLEY: In essence, then, you have two local government units?

ROSSWOG: Yes, that is right.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to add a little bit more to that. You might have noticed that in the original draft of our proposal as submitted before the recess we tried to delineate the authority of the city and the borough. After working it over again we ran into some trouble. Here is what we tried to do originally: that the city has control over its internal affairs; that the borough has control over borough-wide affairs, everything including the whole borough, including the city, as well as jurisdiction over problems concerning the city and surrounding areas. Well, we ran into the same question that has plagued the courts for many, many years by trying to interpret constitutions in what are matters of internal concern to a city. It can be worded in various ways, but there is always a question over exactly what is meant. We realize that it is difficult to draw a line of demarcation and that has been one of the reasons why we feel it is so important that we provide for coordination of the two on the level of the governing body.

We, in drafting up this proposal, considered very seriously what the function of cities would be within the borough. We made up a list of questions, and possible alternatives even at one point, including among them the abolition of existing cities and reconstituting them as urban service areas under the borough. However, it was the opinion of the Committee that while that had very definite advantages of completely unified government, that it was too drastic a step to take at one point and to abolish those units altogether. In view of the large investment that they have set out, and in view of the experience of government over the more than 50 years that cities have been in existence in Alaska, since they were the first form of government that we had in Alaska before we even became organized as a Territory; at the same time we visualize the possibility that as the borough becomes a more definite unit of government over the years, which we hope it will, the scope better defined, that all the functions that can best be carried out on the unified basis be transferred over to the borough. There are functions now that are performed by certain cities, like health for instance, which could probably be much better carried on on the larger basis. We have left the way open to a flexibility of functions; we have not tried to say, "Here is the limitation upon one, and here is where the authority of the other one starts." The legislature has the authority to prescribe this boundary where it deems desirable.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Section 13 provides for compacts, as it were, between boroughs and cities as they gain experience, does it not?

V. FISCHER: Yes, it does.

HELLENTHAL: And the legislature could require, if they saw fit, in certain fields joint action, could it not?

V. FISCHER: Yes, the legislature could require, and I might point out that even a city that adopts a home rule charter could be told by the legislature that you shall not perform the following function that is hereby declared to be a borough function.

PRESIDENT EGAN: Are there other questions with relation to the proposal? Mr. Smith.

SMITH: Mr. President, it just occurred to me, in light of the last statement by Mr. Fischer, the legislature could only tell the borough a certain thing if it told all boroughs the same thing, is that not true? They could not point to any particular borough --

V. FISCHER: That is true, within a certain class of borough.

PRESIDENT EGAN: Does any other delegate have a question? Mr. Victor Rivers.

V. RIVERS: It seems to me it would not be amiss to run down just a little bit the background of the city as we find it today. We are all familiar with it and living with it, but briefly I think it might help to clarify the picture if, I for one, from my limited knowledge just touch briefly on what has taken place through the centuries. We go back to the early formation of cities in their beginnings and we find the city grouping together, mutually as a group generally for defense and we find that fringe areas in which they had their farms, and rural areas seeking defense in the compact group or area that was able to defend. We find the Grecian nation as a nation mainly governed by cities. We find them excelling in many things within those cities, such as in sports and arts. Later on we find the Roman Empire, an empire of city-states. The city was the first element of local government other than the tribal government; and we find the Roman Empire with its great legions building an empire over the entire world. We see that empire fail over a period of some 600 years by reason of the fact that they were unable to integrate the area between the city government, which had worked quite successfully, and their empire-building government. They were not able to visualize an intermediate tier of government with the proper authority, so for the reason of their senatorial system and the method by which they governed for their Empire down through the intermediate tiers to the city, I think it is considered the basic reason why the Roman Empire as an empire failed. Then we go up through the feudal system where each king or knight or baron had his own area, generally grouped around a city with a rural area. We grew up through that period to where we had kingdoms and they were fairly strong, and we learned the methods of empire government, generally on a fairly small scale; but, then we transfer that picture to the United States, and we, as a nation, have succeeded largely upon the basis of the fact that we were able to recognize not only the national need at the national level but an intermediate tier of government called "states". We have always had the cities, and from the time of the city-state-national government that we formed we have had a great problem in the intermediate tier of government between cities and the state level. I think you will all agree that the state-national level through all these changing years has worked satisfactorily. Now we have outgrown, apparently, the period of which the city can solve the problems of the local area by itself. In the years of more rapidly increasing government we have a vacuum between the city level and the state level. We have tried in many ways to fill it with different forms of delegations of state

powers and functions to counties, and similar things called parishes and boroughs, etc., which have been generally based upon a delegation of powers from the state to that area, specific powers. Now we find areas ourselves throughout the United States in chaos with that intermediate tier of government, and it lies with us here to be able to visualize a large enough picture and sufficiently visualize the needs of that intermediate tier of government to come up with a broad general framework that will help to solve it. We do not have here now established that intermediate tier as the states have in such a manner that it cannot be developed healthily. They have to not only undo what has been done through a number of years, but they have to reconstitute it in such a way that it will be workable. As our communications and transportation have increased in speed, and space and time have been narrowed down, the needs of this intermediate tier, if they are going to function properly, become more and more apparent. So, with this idea in mind, and with this approach, we in the Committee have thought, and I say we have thought -- we can't answer all the detailed questions -- those things will be worked out as each borough forms and as each borough goes through its experiences, as the membership of their governing bodies face and meet problems they will be worked out. It is my thought, and I think I speak for all of the Committee, we have considered every contingency we can imagine in detail, and have then tried to apply a general over-all framework, and in our problem here of being able to keep up with detailed answers to hypothetical questions, it is something that can only be proven in time and in the experiences of men in the solutions they arrive at. So, I give you this little explanation just as a layer of background by which you can judge what the problem is. We are now dealing with the problem of delegation back down from the empire level, which is the national level which has gone down to the state and then to the city. We are now dealing with that intermediate tier of government between the state and the city, and our visualization has been strong powers of local government at that level. We have the national administration with its presiding officer, the President and the administrative body and its departments. We have the state on the same pattern, the presiding officer, the legislative body and the departments. We have at this present time the city in the same manner with its mayor, council, and administrative departments. In between that tier we have provided for an area of government along a similar pattern, the presiding officer and assembly and the various departments to administer those problems. In a broad general framework here I think we have set up a pattern and it is not based entirely on what we think, but on what we have tried to derive from the experience of others. I think we have set up a pattern here that can be a model and framework for good

government throughout the United States in helping solve some of our problems. I hope this helps you straighten out the thinking in connection with what the problem has been -- it is a mighty big one.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to add just a word or two that has come to mind now concerning the relationship of the city to the borough. I think it is entirely feasible to think of a borough where maybe five members from the city council would join two from the rest of the borough, making an assembly of seven. Such a situation would be in a relatively small borough where the city is probably taking over the larger portion of the area of that borough, or nearly so. However, I think if this board that shall have the authority to reorganize, consolidate, dissolve, or merge, if they use their wisdom they will see to it that a borough that has a large city in it will perhaps not be so large but what the city will really have interests out to the edge of the borough. I think you will find that true in many cases in the states where some cities have grown to where they take over nearly the whole county, and I would like to point out here that if that would be the case in our situation, where a city would grow to where its boundary would be the same as the borough boundary, it would be a matter very simple to either disorganize the city or the borough so you would come under one government instead of having the situation that you would have in some cities in the states where they have grown to take over the whole county. And right within the city you have a building called the city hall, you have a building along side, or they may share the same building, called the county government, city police, county police, all performing and competing as far as the same functions are concerned. We have provided here that that can be taken care of to eliminate such duplication of unnecessary activities. I think a lot of it is going to depend upon the ones who shall be given the task of setting up the original boundaries and also taking recommendations for future boundaries, so that only people with common interests, common economy, transportation problems, etc., shall be encompassed in a borough and the borough may, of necessity, be quite large and it may also, of necessity, be quite small.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. Londborg a question? Mr. Londborg, you could also visualize a situation in a large borough where the population outside the city might exceed that within the city, could you not?

LONDBORG: Definitely so, depending on who would set up the boundary and where.

R. RIVERS: I just wanted to bring out the balance and the emphasis. You can visualize a situation where there might be as many assemblymen from outside the city as inside?

LONDBORG: That is correct.

R. RIVERS: In other words, those things will all be adjusted under some proportion with area representation?

LONDBORG: That is the desire as far as we have set it up.

PRESIDENT EGAN: Are there questions to be asked of the Committee? Does any delegate have a question to ask at this time? Mr. Hurley.

HURLEY: Mr. President, I would move that we recess until 3:30 for the purpose of conferring with the Local Government Committee.

PRESIDENT EGAN: Would that be satisfactory with the Chairman and the Committee? Mr. Rosswog.

ROSSWOG: Yes, Mr. President.

SUNDBORG: Mr. President, Style and Drafting will meet in the ping pong room.

PRESIDENT EGAN: The Convention will come to order. Are there other announcements to be made before we have this recess? The Chair would like to have each delegate understand now that the Committee on Local Government is going to meet, and they will be available to answer any questions relative to any amendments you might have to offer. You may submit your amendments to them at that time. Mr. Johnson.

JOHNSON: Point of inquiry. Is this rule, or what I have heard announced as a rule, which presupposes the idea that we have to submit an amendment to the Committee and have them cleared with the Committee before they be presented on the floor. Was that actually adopted as a rule or simply a suggestion?

PRESIDENT EGAN: Mr. Johnson, it was adopted as a rule one evening when we considered some of the proposed rules as submitted by the Rules Committee which were not adopted, but that is one that was adopted. However, as you noted last evening, the Committee Chairman seemed to be quite lenient in accepting proposals but it seemed that it does expedite the procedure. Mr. Ralph Rivers.

R. RIVERS: Mr. President, as a member of the Rules Committee, I would like to explain that clearing with the committee does not mean you have to obtain the approval of the committee. You simply present it and discuss it with them. If they like it and choose to make a committee amendment out of it -- so much the better. If they turn you down, you have at least presented it, so you may bring it on the floor yourself.

JOHNSON: That is a different interpretation than the word "clearing" with the Committee.

PRESIDENT EGAN: Mr. Johnson, it does not mean you cannot present your amendment later. Mr. McNealy.

McNEALY: I would like to have a short meeting of the Ordinance Committee and any members here -- it will be short so it won't interfere with Local Government, but the members here who are particularly interested in the fish trap matter, we would like to have you say a word or two to us.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment Committee has a problem. We still have Committee Proposal No. 14 in the Committee and we have been holding it up for the description by metes and bounds, or whatever you call it, on the districts.

PRESIDENT EGAN: Mr. Hellenthal, can you answer that?

HELLENTHAL: Yes, I conferred this morning with the people in the Mining Department with regard to a preparation of a schedule and they have gotten a little too ambitious. They were trying to make each district stand on its own feet, and as a result they were quite long in the schedule. So, they are revising the schedule so it will be complete in itself and each district will be described but it will refer from one to another for brevity's sake. They tell me it should be ready today or tomorrow.

SWEENEY: Would it be all right to hold back the report until that is received?

PRESIDENT EGAN: Yes, the Chair feels that the report may be held until that is received. If there is nothing else to come before the Convention, unanimous consent is asked that the Convention stand at recess until 3:30. Hearing no objection, it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 1 of Committee Proposal No. 6/a? The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "By the Local Government Committee and Delegate Hellenthal: Section 1, page 1, line 7, after 'tax-levying' add 'jurisdictions and otherwise minimize the number of'."

PRESIDENT EGAN: What is your pleasure, Mr. Rosswog?

ROSSWOG: This amendment has been approved by the Committee, and I would like to ask unanimous consent that this wording be adopted.

PRESIDENT EGAN: Mr. Rosswog asks unanimous consent that the proposed committee amendment be adopted. Is there objection? Will the Chief Clerk please read the proposed committee amendment once more.

(The Chief Clerk read the amendment again.)

PRESIDENT EGAN: Is there objection to the adoption of this proposed amendment?

UNIDENTIFIED DELEGATE: Please read the sentence as it would read.

PRESIDENT EGAN: Will the Chief Clerk read the sentence with this proposed amendment included.

CHIEF CLERK: "...and to provide a framework which will accommodate future development and prevent the duplication and overlapping of independent tax-levying jurisdictions and otherwise minimize the number of local government units."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, that might be all right with Style and Drafting to improve it, except I think the word "otherwise" doesn't fit in with the framework of the sentence.

ROSSWOG: I believe it was meant simply to clarify, and it would be satisfactory with the Committee, I'm sure, for Style and Drafting --

R. RIVERS: Could we say "minimize" without the word "otherwise" in there? Because we've already spoken. Mr. President, in that sentence we've spoken of providing a framework, preventing duplication, and overlapping of independent tax-levying jurisdictions, and -- but then, I'll leave it to Style and Drafting.

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PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I address a question to the Committee?

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: Aren't the city and the borough, of necessity, going to be overlapping tax jurisdictions?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, I think we have made provision for that by stating that they each shall have the powers.

WHITE: They each have powers to tax, and they're overlapping units of government, so therefore, aren't they overlapping tax jurisdictions?

ROSSWOG: No, they're not.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, that is the reason for that -- having the same men serve on both the city council and on the other -- is to take care of the fact that they do each have their own taxing power. And, you would, in that way, be able to have something to pull over. But you're doing away with all the other special service districts, each one coming into their own and overlapping.

PRESIDENT EGAN: Is there objection at this time to the unanimous consent request for the adoption of the committee amendment? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 1? If not, are there proposed amendments for Section 2? Mr. Hilscher.

HILSCHER: Mr. President --

PRESIDENT EGAN: There's a committee amendment, Mr. Hilscher. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "On page 1, line 13, strike the word 'only'. On line 14, insert the word 'only' after 'cities'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I move and ask unanimous consent that this change be made.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the proposed committee amendment be adopted. Is there objection? Mr. Rosswog.

ROSSWOG: The way it originally read it may have meant taxing powers only, and the intended meaning was taxing powers to organized boroughs and cities only.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Coghill.

COGHILL: May I ask a question of the Chairman on that?

PRESIDENT EGAN: You may ask a question.

COGHILL: Does that preclude any organized district within an unorganized borough of taxing through the legislature?

ROSSWOG: No, it would not.

PRESIDENT EGAN: Is there objection to the request for the adoption of the proposed amendment? If there is no objection, the amendment is ordered adopted. Are there other amendments to Section 2? Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 2, line 12, change 'boroughs' to 'province', and this change will be made throughout the article."

HELLENTHAL: Point of information, Mr. President. There are several amendments along this line on the desk. Some wish to change the name to "counties", some to "province", and other variations. I suggest, for the purposes of uniformity, of expeditiousness, so that we can get to the meat of the thing and then take the embellishments later, that we pass all matters relating to name until we're all through with the article, and then take it up then. And, Mr. President, I move and ask unanimous consent that any amendments dealing with changing the name from "borough", or retaining it, or to any other name, be held up until after we have finished amending the sections of the article.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Unanimous consent has been asked and it has been moved and seconded that we hold the matter of names until after we have adopted all other amendments. Is there any objection? Hearing no objection then, it is so ordered and the amendment will be held until that time. Mr. Marston.

MARSTON: It will be too late. It will be cold at that time.

PRESIDENT EGAN: Are there other amendments to Section 2? If not, are there amendments to be offered to Section 3? Mr. Ralph Rivers.

R. RIVERS: I would like to ask a question of the Chairman of the Committee.

PRESIDENT EGAN: If there is no objection, Mr. Ralph Rivers.

R. RIVERS: I'm wondering about the establishing of these boroughs according to such standards as the legislature may prescribe. I should think it would be according to such "patterns" or other words other than "standards". So I'd like to have that held over for a little further thought on that one point.

PRESIDENT EGAN: Are there amendments to be proposed for Section 3? If not, are there amendments for Section 4? If there are no amendments to Section 4, are there amendments to Section 5? Mr. Rosswog.

ROSSWOG: Mr. Chairman, at our meeting today we were not able to go over the amendments to Section 5. We have a little change in wording, and it's being studied, and at our next recess we will take them up. I would like to ask, and ask unanimous consent that Section 5 be held up, and we go on to other sections.

PRESIDENT EGAN: Mr. Rosswog asks unanimous consent that Section 5 be held over until after the next recess. Are there amendments to Section 6?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The Chief Clerk may read the proposed committee amendment.

CHIEF CLERK: "Committee amendment to Section 6. Page 3, line 1, after the word 'law' insert 'or charter'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, this is a committee amendment, and has been approved by the Committee. I would like to move and ask unanimous consent that this change be made. This is simply to make the provisions by law or charter.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent for the adoption of the proposed committee amendment. Mr. Johnson.

JOHNSON: Mr. President, may I ask a question relative to this amendment?

PRESIDENT EGAN: You may, Mr. Johnson.

JOHNSON: Mr. Rosswog, is it actually necessary to include the words "or charter"? Certainly the charter would come from the law, or be created a creature of the law. So it would be included in the word "law" I should think.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Johnson, I do not feel that it is exactly necessary, but it was felt it might clarify it a little more there.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment? If not, the amendment is ordered adopted. Are there other amendments to Section 6? Are there amendments for Section 7? Are there amendments for Section 8? Are there amendments for Section 9? Mr. Robertson.

ROBERTSON: May I ask the Chairman a question about Section 8?

PRESIDENT EGAN: You may ask a question, Mr. Robertson.

ROBERTSON: Mr. Rosswog, wouldn't "provisions" be a better word than "standards" in line 16?

ROSSWOG: What was the word, please, Mr. Robertson?

PRESIDENT EGAN: Wouldn't "provisions" be better than "standards" on line 16, page 3?

ROSSWOG: Well, I don't think it would make too much difference in that, Mr. Robertson, and we would be willing to leave it to Style and Drafting, if they wish to change it.

HELLENTHAL: Did Mr. Robertson ask unanimous consent?

ROBERTSON: No, I just asked a question.

PRESIDENT EGAN: Are there amendments to be proposed for Section 9? Mr. Coghill.

COGHILL: Mr. President, one subject that I overlooked. May I ask Mr. Rosswog a question?

PRESIDENT EGAN: If there's no objection, Mr. Coghill.

COGHILL: Mr. Rosswog, in Section 9, why are the cities of first class pointed out in charters in amending and adopting home rule with priority over cities of the second class? Why can't cities of the second class have the same prerogative?

ROSSWOG: I would like to refer you to Mr. Fischer.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: On this matter the Committee originally just had "cities". The feeling was that our classification laws probably need a substantial amount of overhauling. Since we have some cities of the first class that have a population of something like 55 people -- some even less than 40 people -- it was felt that home rule power should not be automatically granted to all cities; that the legislature should be able to prescribe the standards by which a city may elevate itself, or may be elevated into class 1 status. Now, the same thing was true for the boroughs of the first class. We didn't want to give a blanket home rule provision in there, but to leave some discretion and flexibility on this particular subject. And we don't necessarily mean that only cities of the first class existing now can adopt home rule charters. And, as you also will note, in the following section, the legislature may extend home rule to other classes of boroughs and cities.

COGHILL: Well, my question was, is that cities of the first class now, on Territorial status, or when you revise your code?

FISCHER: Of now, unless the legislature revises, and we have in mind that there probably should be some revision.

PRESIDENT EGAN: Are there amendments to Section 10? To Section 11? Are there amendments to be proposed for Section 12?

CHIEF CLERK: I have a committee amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed committee amendment.

CHIEF CLERK: "Page 4, line 22, after the word 'proposed' insert 'local government'."

ROSSWOG: Mr. Chairman, this is also a committee proposal, and has the agreement of the Committee. I would move and ask unanimous consent that these words be inserted.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed insertion.

(The Chief Clerk read the proposed insertion again.)

PRESIDENT EGAN: Unanimous consent is asked that the proposed committee amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other amendments for Section 12? Mr. Robertson.

ROBERTSON: May I ask a question?

PRESIDENT EGAN: You may ask your question.

ROBERTSON: Is this local boundary commission supposed to come within the executive department of the government, or is it a separate commission?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, we felt that it could be a separate commission, but it would be under the executive department.

PRESIDENT EGAN: Are there amendments for Section 12? Mr. Hellenthal.

HELLENTHAL: I reserve the right to discuss with the Committee an amendment that would place this under the executive department.

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal.

ROSSWOG: Yes, the Committee would be glad to discuss that with you.

PRESIDENT EGAN: Are there amendments for Section 13?

CHIEF CLERK: I have a committee amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed committee amendment.

CHIEF CLERK: This is also Local Government Committee and Mr. Hurley. "Page 5, line 11, strike the words 'for a' and substitute 'comma including'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, this change has the approval of the Committee, and I would like to move and ask unanimous consent that it be adopted. The wording before held it to "a cooperative and joint administration", and there is a possibility there would be other types of cooperation that should be included, so "included" would change it to all of them.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Kilcher.

KILCHER: Mr. President, may I ask a question?

PRESIDENT EGAN: If there is no objection, you may ask a question.

KILCHER: Mr. Rosswog, in Section 12, I see a commission is established by the legislature as the case is now, and it will act on its own motion or own petition. Could you conceive that a petition -- it would most likely come from some citizens from a borough? Don't you think that possibly the decision of the board should be brought to a referendum in that district instead of local self-government?

ROSSWOG: Mr. Kilcher, we have left that open if they should require a referendum. We felt that they should be able to petition, or the commission could start its own study on a change, but it was left open as to how they should require a referendum.

PRESIDENT EGAN: Are there other amendments to Section 12? Mr. Hinckel.

HINCKEL: May I ask a question?

PRESIDENT EGAN: If there is no objection, you may.

HINCKEL: I thought I understood this Section 13, but after changing this word in line 11 -- I'm not sure just what they mean by the word "cooperative".

PRESIDENT EGAN: Will someone on the Committee answer that question, what is meant by "cooperative" in Section 13. Mr. Fischer.

V. FISCHER: Mr. President, in rereading the language I see there is a redundancy there. I might mention that it has been thought of by the Committee that since a similar inter-governmental cooperation provision is contained in the executive article, as we had in second reading, that probably the two would be combined. I realize there is some question about the wording there, but again we thought we'd just leave it over. The intent, generally, is clear to leave the way open for agreements of various types.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Meaning cooperation between various government agencies or other local government groups? You expressed the intent, that's what I want to know.

V. FISCHER: Yes, the intent is to provide for cooperation.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I ask a question with reference to Section 13?

PRESIDENT EGAN: You may, Mr. Johnson.

JOHNSON: The last sentence says: "That subject to such limitations as may be established by law or charter, the cities may transfer to the borough in which it is located any of its functions or powers." Now in this I would like to ask the Chairman what sort of functions or powers did the Committee have in mind in that respect?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, we felt there should be a transfer of powers between the city and the borough; and also a return of those powers. There are services of different kinds that might be worked together, and that the way should be open for that.

PRESIDENT EGAN: Does that answer your question, Mr. Johnson?

JOHNSON: Well, I still don't understand just exactly what they had in mind. Do you mean police power, or health measures, or such things as the fire department, or --

V. FISCHER: Yes. Our thought was to leave the way open, for instance, to the transfer of health functions, sanitation inspection, transfer of the fire department to a consolidated fire department covering your whole large urban, and possibly, rural area; possibly road maintenance, both within and outside the city, could be put on a single level. Those are the types of services that we had in mind.

JOHNSON: Well, for instance, using Fairbanks as an example. We have a large urban area that is not at present, or at least, certainly not included within the services of Fairbanks City Fire Department. Would it be possible, under this, or is it your intent, under this, to extend the services of the Fairbanks Fire Department beyond the city limits, and to include all of the urban areas?

V. FISCHER: Our intent was that the way be left open, using your example, to establish a, say fire protection district covering the whole greater Fairbanks area; and that the city could transfer, on one basis or another, its fire fighting equipment to the district; and then the people of the whole

district would then pay a fee for the fire protection service.

JOHNSON: How would this fee be handled? On taxation basis, or so much per call, or what?

V. FISCHER: That would be completely left open -- up to whatever organization was felt most desirable. It could be through a direct tax levy, through an assessment, through charge per call, or something.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, Mr. Fischer, this has to do with agreements between local governments. This means that the terms would depend upon what the city agreed to and what the surrounding area agreed to.

V. FISCHER: Yes, sir. This does not provide for compulsory --

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Fischer, doesn't this phrase in Section 13 pretty well answer a lot of the questions regarding large school districts that would have a city within it? This would take care of that proposition, would it not?

V. FISCHER: Yes.

PRESIDENT EGAN: Are there amendments for Section 13? For Section 14? Mr. Hellenthal.

HELLENTHAL: I move that in line 18 the word "shall" be changed to "may".

PRESIDENT EGAN: Mr. Hellenthal moves that the word "shall" on line 18 in Section 14, be changed to "may".

McLAUGHLIN: Point of order.

PRESIDENT EGAN: Your point of order, Mr. McLaughlin.

McLAUGHLIN: Has the Committee been consulted on this matter?

HELLENTHAL: That should be a point of information, I would think, rather than a point of order -- because he doesn't know the answer. (Laughter)

PRESIDENT EGAN: A point of information, Mr. McLaughlin. Mr. Rosswog.

ROSSWOG: The Committee was consulted on that, and we wish to stay with the wording in our proposal.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I don't know whether that was seconded or not.

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Hellenthal moves, and Mr. Knight seconds the motion.

HELLENTHAL: I hate to be "the skunk at the lawn party", but, as a matter of principle, I feel that, unless a grave, grave need exists, that no agencies, departments, commissions, or otherwise, should be set up in the constitution. Consistency dictates this. I listened avidly and with great interest to the arguments in the presentation of the executive article, and I was completely won over by those arguments. And the logic that compelled me to vote in upholding that committee proposal compels me to make this amendment. I don't like to. Now, I'm sure that the legislature, in its wisdom, will provide for this agency, and I see nothing wrong with it. I think it's very desirable. But, the word "shall" I think is poor constitutional language, and inconsistent with the policies that we have agreed upon heretofore in this constitution. Now, you say, "Well, there are some boards that are created, and are made mandatory." That is true. The board of apportionment must be a mandatory constitutional board; the board for fixing boundaries, that was set up in this article in Section 12, I think should be a constitutional agency of the executive department, just like this Section 14 board would be; but unless there is some very, very compelling reason given for including such an agency as proposed in Section 14 in the constitution, I think we're violating the principles and policies we've already adopted here.

PRESIDENT EGAN: Is there further discussion? Mr. Rosswog.

ROSSWOG: Mr. Chairman, I do not wish to argue with Mr. Hellenthal, but I'd like to give just a little of the Committee's thinking on this; which was that we are leaving the provisions of this article quite flexible, and there will have to be quite a lot of work done on it. We would like to see, particularly, that there should be some department in the executive branch that would take care of local government matters, in advice, and help in setting them up, etc.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, it occurs to me that with some 13 references to what the law or the legislature is going to do in this article, that the first state legislature, upon reading it, will hasten to provide an agency to take care of the problem. So, I don't think it makes much difference whether it says "shall" or "may".

PRESIDENT EGAN: Mr. Gray.

GRAY: As I read Section 14, "Provision shall be made by law for an agency in the executive branch..." Could they not assign the secretary of state as the agency? Does it have to be a separate agency. They could assign it to the secretary of state, and if the amount of work demanded sufficient time and material, they could set up a subagency, or even a section of the secretary of state for that. It's immaterial to me. I think the word "shall" is perfectly all right.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by Mr. Hellenthal, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The "noes have it and the proposed amendment has failed of adoption. The Chair would like to state at this time that there will be pictures of the Juneau fire on TV at 7:00 p.m.

UNIDENTIFIED DELEGATE: What channel?

PRESIDENT EGAN: Channel 2, as the chair understands it. Are there amendments to Section 14? Mr. Robertson.

ROBERTSON: Mr. President, I have a question. In view of my question this morning about what the charter drafting agencies meant, and your answer, does the Committee have any objection to inserting the word "their" before the word "charter"? To insert the word "their" in line 21, before the word "charter"? Do you have any objection to doing that?

PRESIDENT EGAN: Do you ask for the adoption of that amendment, Mr. Robertson?

ROBERTSON: What I wanted to find out -- I ask unanimous consent to do that.

R. RIVERS: I object, until I hear more of it.

PRESIDENT EGAN: Mr. Robertson asks unanimous consent for the adoption of the amendment. Objection is heard. Do you so move, Mr. Robertson?

ROBERTSON: I so move.

PRESIDENT EGAN: Mr. Robertson so moves.

HELLENTHAL: I'll second it.

PRESIDENT EGAN: Mr. Helleenthal seconds the motion. The motion is open for discussion. Mr. Ralph Rivers.

R. RIVERS: I did it only because I wanted to hear the explanation.

PRESIDENT EGAN: Mr. Rosswog, you care to --

ROSSWOG: No, I just wanted to say, at the moment I did not see any objection, but --

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Line 21, before the word "charter" -- I asked Mr. Rosswog this morning what the term "charter drafting agencies" meant, and as I understood his answer, he said it referred to the charter drafting agencies of the local government. So I think we ought to add "their" in there, so it could be distinguished from something else.

R. RIVERS: I understood that the charter drafting service would probably come from the state, and that the local governments that are stepping up the ladder to complete the local -- or you'd call it home rule -- would be getting their charter drafting assistance from a state agency that assists local governments in solving their problems. And, it could very well be this agency, or subdivision of this agency, which assists the local governments. Now, I only wanted to be clear. I'd like to hear from Mr. Fischer on whether these charter drafting deals are within the local government, or whether that assistance is going to be obtained from the state, before I know how to vote on your amendment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to state that it was the intent of the Committee that these charter drafting agencies be within the local government units; and, therefore, "their" expresses fully the Committee's intent.

R. RIVERS: I withdraw my objection.

PRESIDENT EGAN: Mr. Ralph Rivers withdraws his objection. Mr. Robertson.

ROBERTSON: I renew my motion for unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Is there objection? If there's no objection, the proposed amendment is ordered adopted. Are there other amendments? Mr. Riley.

RILEY: Mr. Gray's suggestion that an agency need not necessarily be created to accomplish the purpose of Section 14, which suggestion I believe the Committee agreed, would suggest to me that the words "which shall" on line 20 might better be changed to "to". "To render assistance", and perhaps "to collect and publish information". Is there any objection to inclusion of that? Strike "which shall" on line 20, substitute the word "to"; and to precede the "collect" on line 22 with the word "to". If not, I'll ask unanimous consent that those changes be made.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the amendment. Does the Chief Clerk have that? Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Line 20, delete 'which shall', and insert the word 'to'; and on line 22, insert the word 'to' before 'collect'."

PRESIDENT EGAN: That is correct. Are there any questions relative to this? Is there objection to the unanimous consent request? Hearing no objection, the amendment is ordered adopted. Are there other amendments to Section 14? If not, are there amendments to Section 15? If there are no amendments to Section 15 -- Mr. Hurley.

HURLEY: Mr. President, at this time I would like to ask a question. May I do so?

PRESIDENT EGAN: If there is no objection.

HURLEY: One of general intent. Is my idea correct that no organized borough will become effectuated without the voice of the people within the area?

PRESIDENT EGAN: Would you care to comment on that, Mr. Fischer?

V. FISCHER: The answer, I think, would be "no". The borough, as visualized here, is even more than just a unit of local government. It is also a unit for carrying out what otherwise are carried out as state functions; and when a certain area reaches a position where it can support certain services and act in its own behalf, it should take on the burden of its own

government. As was explained earlier today, we don't actually visualize that the state will force boroughs to organize, since we feel that they should be set up on such a basis that there will be enough inducement for each one to organize. However, just as you have in school districts, the legislature has granted power to, I think, the board of education to incorporate school districts when they reach a certain minimum population so that they would assume their own load.

PRESIDENT EGAN: Does that answer your question, Mr. Hurley.

HURLEY: Yes.

PRESIDENT EGAN: Are there other questions at this time, or are there other amendments to Section 15? Mr. Hinckel.

HINCKEL: I'd like to ask a question, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Hinckel.

HINCKEL: In line with Mr. Hurley's question, I am again now confused, because I thought that I understood, but now I'm afraid that I do not, after Mr. Fischer's answer. If he had said that the answer was that the people would have the right to decide, why then I would have felt that I knew what was going on. My interpretation was that, up until such time as the borough adopted a charter, that they would operate under rules that would be set up by the legislature, and at the time that they decided to organize, why they would then adopt a charter, and that the people would, at that time, accept the charter by some sort of a referendum or something like that. Am I completely confused now, or --

V. FISCHER: No. I might not have made my answer completely clear. The legislature would have the authority to establish an organized borough. When it comes to adopting a charter, that is something that is up to the people. A borough does not have to adopt a home rule charter.

HINCKEL: Up until the time they do, though, they will operate under some sort of regulations that are set up by the state?

V. FISCHER: Under the general law of the state.

HINCKEL: But you would call that an organized borough?

V. FISCHER: Yes, and I might say that the legislature may very well see fit to provide that before a borough could be organized, that the people do approve it by referendum. The question

I was answering was whether we were definitely setting it up on a voluntary basis. But we're not. We're leaving it to the legislature whether a referendum will or will not be required.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I yield to Mr. Johnson.

JOHNSON: I just wanted to follow that out a little bit, and ask Mr. Fischer why it was that the referendum idea was used only in the charter portion of the act -- the proposed charter and borough?

V. FISCHER: Well, as I tried to explain, there is some question as to whether or not the state would want to force the organization of a borough. There are reasons that the state may have for organizing a borough. However, when it comes to adoption of a charter, the people, in other words, set up their own form of local government at that time. I mean, they prescribe the rules, etc. That is something that is not of direct state concern, whereas, the organization of the borough, in the first place, would be, and so that is left up completely to the people, by referendum.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this was on a point of clarification. Mr. Fischer said that until a charter was granted, that they would operate under the laws or regulations promulgated by the legislature. That was the general intent, I believe, and I'd like to ask you, Mr. Fischer, if the legislature may not deal with an organized borough, and delegate taxing powers, and other powers, to an organized borough or city which has not applied for a charter?

V. FISCHER: Yes. Certainly.

R. RIVERS: Well, that's the point I wanted to make clear.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: If someone else wants to speak, I've talked too much.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I'd like to ask a question. Did I understand Mr. Fischer, that the proposition of whether an area should organize itself into a borough is put before the people. Is that right? Or whether they vote "yes" or "no"?

V. FISCHER: It may or may not be, as the legislature sees fit.

METCALF: In case it should be -- legislature should see fit to let it out on referendum basis, I wonder if they would know how many representatives the rural areas will have on the assembly, and how many representatives the cities will have on the assembly?

V. FISCHER: Well, I'm sure that the organization of boroughs would be prescribed by general law before they start organizing the boroughs. They would have to have the system prescribed previously, so the people would know what the borough would be.

METCALF: Well, I'm wondering, again, supposing a borough should get into a tight fix, or should buy something it wouldn't like? Is there a way to appeal to get out of the fix?

V. FISCHER: That again is left up to the legislature.

PRESIDENT EGAN: Mr. Kilcher has been attempting to get the floor. Mr. Kilcher.

KILCHER: Mr. Fischer, if I may ask you a question, this charter which the people of an unorganized borough may ask to have applied to them, will they set up the charter themselves, with due assistance, legal or common assistance?

V. FISCHER: Yes.

KILCHER: Are there any standards set for that charter? Could you envisage these charters to change greatly from borough to borough, and yet be acceptable to the legislature?

V. FISCHER: The home rule charter could be quite different from borough to borough. I think that, for instance, the form of their administration may differ. Some may want a borough manager -- like a city manager form of government. Others may want to have the equivalent of a mayor as the chief executive. So, there could be various differences.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Fischer, when I think of local self-government, I do not think of it mainly in terms of the executive, I think of it largely in terms of legislative and policing powers, too. In other words, two local self-governments. Now, do you assume that the state executive government and the legislature will be willing or reluctant to delegate their powers to boroughs, or do the boroughs have certain demands that they can make?

Constitutional demands? I would like to see something in the constitution that they may ask -- not be given. In other words, the Section 15 creates in my mind, and some others, that this borough -- this unorganized borough is also a well-domesticated borough. You said a while ago that you should be willing to take the burden. I begin to see now why the word "borough" may be a very good one. Now, you talked about inducements a while ago, inducements dangled in front of the borough. I'm not worried about what inducements -- how I might be induced of doing a thing. I would like to know what rights the borough might have.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I can see why you're putting your question in the way you do, since you're a coauthor of an amendment to change the name of this unit; but to answer your question, no right that the people within the borough would have would be beyond the reach of the legislature by general law. The legislature could deny the exercise of any right just as they can deny today within cities or any place else. However, unless the legislature denies a specific right, it will belong to the people within the borough.

KILCHER: Could you admit us more self-government, not in the administrative sense, but in terms of participation, in form of referendum, etc? To give you an example, Mr. Fischer, I'm living in a PUD, and dissatisfaction has been generally expressed with the Territorial PUD Act in my area; and some of the people down there, during the Christmas recess, had voiced the fear that the borough may be some sort of a super PUD with ramifications, more or less, but inasmuch as they are dissatisfied with the lack of provision in the PUD, there is referendum. The PUD is run, as you say, on a manager basis, on the board basis where the people have very little to do during the year -- practically nothing to say, except to choose their management.

V. FISCHER: May I answer your question?

KILCHER: Yes.

V. FISCHER: That is where the adoption of a charter comes in. The people of the borough will have the say in whether they will require a referendum for this and that, or whether a referendum will not be required. When they adopt a charter, they will get together, just as we're doing here, and write the constitution or charter for that borough. And they can put in referendum or they can leave them out. They can provide for initiative, recall, anything they want.

KILCHER: Thank you.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Fischer, a little while back, you said there might be very good reasons why the state would want a borough to organize. Could you give us some of the reasons?

V. FISCHER: The general function of conducting elections, for example, is a state function. Where local governments are organized, the local government units carry out that function. Recording is generally considered a state function, supervised by the state. Where local governments are organized, they generally carry on recording functions. Otherwise, the state has to carry on those functions.

PRESIDENT EGAN: If there's no objection, the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer.

V. FISCHER: It was just pointed out to me that I apparently made an error in the statement I made before, and that was in saying that the board of education can force school districts to incorporate. They don't, apparently, force them. They just go to a school district when it reaches a certain size -- or they have authority to go to them and say, "We will withdraw high school services from your area unless you form a district." And that is pretty much the way the state can operate if it wants to establish these boroughs.

McNEES: Mr. President, Mr. Fischer's answer to Mr. Kilcher's question, the original question, raised a question in my mind. Will the unorganized borough have a charter?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: No.

McNEES: All right. Thank you.

PRESIDENT EGAN: Are there other questions? Mr. Emberg. EMBERG: I'd like to ask a question of the Committee in reference to Section 7.

PRESIDENT EGAN: Section 7? Mr. Emberg, you may ask your question.

EMBERG: I haven't any quarrel with the intent of this provision, I understand it fairly well, but I wonder if the language, particularly in reference to the use of the word "maximum", will accomplish what the Committee has in mind? If the legislature provides for the performance of the necessary functions in

unorganized boroughs and the rest of that would be interpreted to mean that they would set a maximum for the local participation in, for instance, the police force, the maximum participation would still have to be 99 per cent. I mean, the flexibility, I don't think, is provided by the language.

PRESIDENT EGAN: Could the Committee answer that question? Mr. Londborg.

LONDBORG: Mr. President, I had a suggestion that might clear it up. Now, I hadn't had a chance to talk to the Committee about it. We may want to do that at a recess, but the thought was that the maximum of local participation responsibility possible in each borough. And it might be well to even put that in. That is the intent. Would that help at all, Mr. Emberg?

EMBERG: Well, it would clear up my objection. I was just wondering what interpretation the legislature will put upon that directive to set the maximum.

LONDBORG: I have been thinking about that myself, and we'll give that consideration when we have a chance for a recess.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. Londborg, was it the intention that the legislature would set a maximum, or wasn't it simply the intent of the Committee that in providing for these functions that the legislature would try to provide for the greatest possible measure of local participation?

LONDBORG: I believe your latter is the correct intent of the Committee, that not to set a maximum, but to allow for all that they are able to assume.

PRESIDENT EGAN: Are there any other questions to be asked of the Committee at this time? If not, Mr. Rosswog, what is your desire with relation to a recess?

ROSSWOG: Mr. Chairman, I would like to ask for a 15-minute recess.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Your Committee on Administration would like to meet at that time for a short meeting with the President of the Convention attending upstairs in the committee room.

PRESIDENT EGAN: The Committee on Administration will meet immediately upon recess. Mr. Riley.

RILEY: The Rules Committee will meet immediately upon recess in the ping pong room.

PRESIDENT EGAN: The Rules Committee will meet immediately upon recess in the ping pong room. Are there other committee announcements? The Committee on Local Government will be meeting to hear any of the delegates at the rear of the gallery immediately upon recess. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, I move that the Convention stand adjourned until 9:00 o'clock tomorrow morning, and I ask unanimous consent.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: May I just make a statement? I won't object.

COGHILL: With standing committee announcements.

ROSSWOG: The Committee on Local Government is having the Section 5 mimeographed, so I think it would be a good idea for us to recess and come back tomorrow morning. Everyone will be rested and it will give everyone a chance to think this over.

PRESIDENT EGAN: Are there committee announcements pending the motion to adjourn? Mr. Riley.

RILEY: I have a very brief committee report on rules, which, if adopted now, might speed the operation in the morning. The Rules Committee, considering this matter of pending amendments as to the redesignation of "borough", submits this temporary proposed rule: "Before any amendment as to the name of the local government unit designated as 'borough' in Committee Proposal No. 6/a shall be in order, all names which are to be considered will be submitted to the Chief Clerk and read, that the proponent of each name be allowed not more than three minutes to speak in favor of his suggestion, that the Local Government Committee be given five minutes to defend use of the term 'borough', that the roll of delegates be called with each member to answer with his choice of all the names proposed including 'borough', that successive run-off roll calls be taken, dropping one name each time, until the Convention's first choice is determined." We submit that, Mr. President, in line with our experience on 20, 21, 19, etc., and I ask unanimous consent for its adoption.

PRESIDENT EGAN: You have heard the unanimous consent request by Mr. Riley. Does that mean, Mr. Riley, that any delegate can speak for not more than three minutes? On each word, if he so chooses?

RILEY: Any advocate of a particular name may do so.

PRESIDENT EGAN: How about the other delegates?

RILEY: That wasn't covered.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, you don't mean by that that after one name is dropped, they can start all over again and speak three minutes on another name of their choosing?

RILEY: One time around.

PRESIDENT EGAN: You've heard the unanimous consent request of the Chairman of the Rules Committee. Is there objection? Mr. Kilcher.

KILCHER: One question, Mr. President. Mr. Riley, what about the coauthors? Can they speak their three minutes? (Laughter)

PRESIDENT EGAN: The Convention will come to order.

RILEY: I personally would concede it. The Committee didn't consider it.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Does this mean that we can start voting on 21 and then go down? (Laughter)

PRESIDENT EGAN: The Convention will come to order. Is there objection to Mr. Riley's unanimous consent request? Hearing no objection, the proposed rule is ordered adopted. Are there committee announcements to be made at this time? Mr. Sundborg.

SUNDBORG: Mr. President, I'd like to report that the Style and Drafting Committee will have all of its subcommittees working this evening during the time that the Convention is not in session here on the floor; and those subcommittee meetings will be held in Fairbanks at various places. Since they are meeting in small groups, I don't think it's necessary to announce where, since it wouldn't be practical to have spectators anyway.

PRESIDENT EGAN: Are there other committee announcements? Mr. Rosswog.

ROSSWOG: Mr. Chairman, the Local Government Committee will meet on arrival here in the morning, and be at the gallery.

PRESIDENT EGAN: Local Government will meet upon arrival here in the morning in the gallery. Are there other announcements? The Chair wishes everyone well this evening. If there is nothing else to come before the Convention, unanimous consent is asked that the Convention stand adjourned until 9:00 a.m. tomorrow. The Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

January 20, 1956

FIFTY-NINTH DAY

PRESIDENT EGAN: The Convention will come to order. We are happy to have Reverend John Stokes of the University Community Presbyterian Church with us this morning. Reverend Stokes will give our daily invocation.

REVEREND STOKES: Let us all pray. Almighty God, we are grateful unto You for this new day and the opportunities which You give us to fulfill the task to which we have been called. Give these delegates hope, wisdom, faith, and love, that the document they produce may give equality to all men, freedom and responsibility in the law of the new state and under Thy grace. In the name of Jesus Christ our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Six absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: If there is no objection, could we hold the report until later in the day?

PRESIDENT EGAN: If there is no objection the report will be held in abeyance until later in the day. Are there any petitions, memorials or communications from outside of the Convention? Are there reports of standing committees? Reports of select committees? Are there any motions or resolutions? If not, is there any unfinished business to come before the Convention at this time? Mr. Davis.

DAVIS: Mr. Chairman, I would like to report, or introduce a committee proposal, if they have been distributed, on Style and Drafting for further consideration by the Convention.

PRESIDENT EGAN: If there is no objection we will revert to the introduction of committee reports, that is the Style and Drafting Committee's report on Committee Proposal No. 15.

MCLAUGHLIN: No. This is Committee Proposal No. 15 by Style and Drafting concerning miscellaneous articles.

PRESIDENT EGAN: Would the Chief Clerk read Committee Proposal No. 15 for the first time.

CHIEF CLERK: "Committee Proposal No. 15. GENERAL AND MISCELLANEOUS PROVISIONS." I think we probably ought to read the report.

PRESIDENT EGAN: Do you want to read the letter?

CHIEF CLERK: "Your Committee on Style and Drafting submits herewith a proposal for consideration by the Convention. The proposal covers the subjects which the committee chairmen asked this Committee to consider. It would be appropriate for the Convention to consider this proposal in conjunction with Committee Proposal No. 12 on 'General and Miscellaneous Provisions'."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. We have before us Committee Proposal No. 6/a, in the amendment stage. Do we have any committee amendments before us as this time, proposed committee amendments? Mr. Rosswog.

ROSSWOG: Mr. Chairman, we passed by Section 5 in going through this the first time, and at this time we have an amendment to Section 5 that we would like to propose.

PRESIDENT EGAN: Do you move the adoption of the proposed committee amendment, Mr. Rosswog?

ROSSWOG: Yes, I will. I think it should be read first.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Strike Section 5 and substitute the following: 'Section 5. The governing body of the organized borough shall be the assembly. The composition of the assembly shall be established in accordance with law or charter provided that each city of the first class and each city of any other class designated by law shall be represented by one or more persons who shall be members of the city council and that the additional members of the assembly shall be elected from and by the qualified voters living outside such cities.'"

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to move and ask unanimous consent that this change be made.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the proposed committee amendment be adopted. Is there objection? Mr. Hurley.

HURLEY: I object temporarily.

PRESIDENT EGAN: Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The subject is open for discussion. Is there discussion on the proposed committee amendment? Mr. Hurley.

HURLEY: Mr. President, this amendment just came before me some 30 seconds ago. I have been concerned with this particular section as I think a great many other people have. I think the amendment offers a very substantial improvement over the original as far as indicating a composition of the borough assembly. The thought has occurred to me, and I have expressed it to other people, that it might be desirable in setting up these local governments, or establishing for the people in an area, in establishing their local government, to provide for some other method of electing their representatives based upon the particular problems in the area involved. As I say, it is very difficult for me to argue this thing very sensibly because of the short time in which I have had to look this thing over. I have prepared an amended article myself, and the more I look the two over they say practically the same thing. Now, may I ask a question, if this amendment now is adopted, does it then preclude any amendments to Section 5, or the second time around do we have a chance to amend this Section 5?

PRESIDENT EGAN: That is correct. It could be amended again.

HURLEY: I withdraw my objection then.

PRESIDENT EGAN: Is there objection to the adoption of the proposed committee amendment? Mr. McLaughlin.

MCLAUGHLIN: May I inquire of the Chairman of the Committee when they say "qualified voters living outside such cities", does he intend that living outside would be the rough equivalent of residency?

ROSSWOG: Yes. That would be the intention, that it would be the residents outside of the cities that would be able to represent their representatives on the assembly.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I would like to ask the Committee a question. Is it possible under Section 5 that the city council complete would also be complete in the assembly? Is it quite possible?

V. FISCHER: I think that would be possible only if the borough was the same size as the city, or if the legislature provided that the people outside of the city shall have no representation.

GRAY: It could be so?

V. FISCHER: I could not imagine it happening.

GRAY: I could imagine where you have, we'll say, 95 or 99 per cent of your people within the city limits and with a large land area, unpopulated land area around the city -- you know, a very, very small fringe. In a case like that would you conceive that the city council would also be the borough assembly, identical?

V. FISCHER: I guess in a case like that it would have to be, if there is such a situation where no one lived outside of the limits of the city.

DAVIS: Mr. President, may I ask a question?

PRESIDENT EGAN: You may ask your question, Mr. Davis.

DAVIS: I am wondering why the Committee put the word "from" in the next to the last line. The reason for the question is that it appears to me that while it might be proper that the folks outside the city have the vote that they might very well want to elect somebody on the assembly who actually lived in the city.

LONDBORG: That was just the intent of the Committee, to preclude that possibility, because the representative of the people outside of the city should be one of their own and also elected by the residents of the city. There was quite a bit of discussion on that yesterday and objections were raised to the original writing. In other words, it would say that the qualified voters outside the city might vote on this for those in the city and this was to draw the dividing line so that they would have their own representatives elected from, among, and by the qualified voters living outside such cities.

PRESIDENT EGAN: Are there other questions? Mr. Johnson.

JOHNSON: Mr. President, would it be possible to set up the election machinery on such a basis that the borough would elect, instead of throughout the borough as a whole, would elect from districts in the borough? Is that what you have in mind?

V. FISCHER: That was our general intent, that those elected outside of the city would probably be apportioned according to some method of districting, especially if you have a lot of individual communities out in the outlying areas.

HELLENTHAL: Question.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor

of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other committee amendments to be proposed? Mr. Rosswog.

ROSSWOG: There are two other committee amendments.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed committee amendments.

CHIEF CLERK: "Section 7, page 3, line 13, change 'a maximum' to read 'the greatest possible measure'.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would move and ask unanimous consent that this amendment be made. The reason is to explain the meaning of the word "maximum" or to make it clear.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Is there objection? Hearing no objection it is so ordered and the amendment has been adopted. Are there other committee amendments?

CHIEF CLERK: Yes. Section 8.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 3, line 16, change the word 'standards' to the word 'provisions'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: This is also a committee amendment and I would propose and ask unanimous consent that it be adopted.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that this proposed amendment be adopted. Is there objection? Hearing no objection the amendment is ordered adopted. Are there other amendments?

CHIEF CLERK: No more committee amendments here.

PRESIDENT EGAN: If not, then we will proceed with the second time around on amendments to Committee Proposal No. 6/a.

ROSSWOG: Mr. Chairman, I wonder if we may have a two-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the Convention will revert to reading of communications at this time.

(The Chief Clerk read telegrams from Vernon Haik, President, Isaak Walton League of America, Anchorage; Luther Dillon, Anchorage; Tom Moore, President, Alaska Guides Association, Anchorage; A. W. Boddy, President, Alaska Sportsmen Council; and Wm. L. Paul, Grand Master, Alaska Native Brotherhood, asking the Convention to reconsider the action taken on the resources article in not providing for separate commission plan for management of wildlife and commercial fisheries.)

CHIEF CLERK: Telegram from Delegate E. L. Bartlett:

"William A. Egan, President

Constitutional Convention

College, Alaska

Following message from me is based upon many and repeated requests I make public my position regarding Tennessee Plan and I transmit it to you because it is my understanding Constitution Convention is giving consideration to Plan:

"Many times during the last several months I have been asked to give an opinion as to whether Alaska should adopt the so-called Tennessee Plan in an effort to promote the cause of statehood.

"My reluctance to state that opinion until this time has been based upon a number of reasons. Chiefly, perhaps, I desired to make at least a preliminary estimate of statehood attitude in the Second Session of the 84th Congress in conjunction with the President's 1956 State of the Union message.

"Further, I wanted additional time to make a reasonable evaluation of the Tennessee Plan's chances of success in the mid-20th century, remembering that many, many years have gone by since it was last used. Whether or not it can be translated to these times with equal effectiveness is, of course, that which only the future will definitely disclose.

"A more positive statement can be made as to the probabilities of attaining statehood now by the traditional approaches. Those prospects are bleak. No hopeful sign has presented itself from any source since this session of Congress began earlier in the month and he would be an optimist indeed who would predict favorable action soon.

"So the cause of statehood is not advancing now. Indeed, there are those who suggest that interest is tending to decrease rather than increase and that unless a stimulating factor is added Alaskans may have to wait long before coming into the day when statehood is attained.

"The Tennessee Plan could provide that stimulating factor; its impact could jar the nation and the Congress from lethargy. The election and sending to Washington of two United States senators and a representative in the house might provide the fulcrum needed to jar statehood from dead center, or to use another metaphor, might be the instrument to remove the key log creating the jam.

"After talking with many members of Congress, after making a very careful analysis of the situation in general, I am convinced that if Alaska were to adopt the Tennessee Plan practically all statehood supporters in Washington would welcome this active demonstration of Alaska's determination to win a rightful place in the union of states; and whatever resentment at this bold, but certainly not unique, approach which might be felt, or expressed, would be far more than outweighed by the benefits.

"In summation, I am bound in candor to state that without the Tennessee Plan a combination of circumstances, not at this time to be readily foreseen, will be needed to bring statehood soon.

"If the Tennessee Plan is adopted it might well shorten the long road to statehood. I can see distinct possibility of gain; I see only remote possibilities of loss.

"The Tennessee Plan has elements of the daring and the imaginative attractive to the people of a frontier land as has been made apparent to me by the many expressions of support from Alaskans for the proposal.

"It is my understanding that the Tennessee Plan is before the Constitutional Convention now in session at the University of Alaska. If adopted there, it will be presented to Alaska voters for final determination in April. As one who through the years has had an abiding conviction that statehood more than any other one thing is essential for Alaska for its own sake and for the sake of the nation, I am bound to support any just and reasonable and American way to hasten statehood's coming. The Tennessee Plan is such a way.

"With the above statement of my own position, I desire to add that if the Constitutional Convention and the voters in April decide to try the Tennessee Plan, it will have my continuing support."

Signed/ E. L. Bartlett

(Applause)

SUNDBORG: Mr. President, I move and ask unanimous consent that the communication from Delegate Bartlett be spread upon our journal.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the communication be spread upon the journal. Is there objection? Hearing no objection it is so ordered. The communication will be referred to the Committee on Ordinances. Are there other communications?

CHIEF CLERK: I have none.

PRESIDENT EGAN: If not, we will proceed with the second reading of Committee Proposal No. 6/a, Section 1. Are there amendments to Section 1? Mr. Hellenthal.

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called "Dillon's Rule", or something like that, that a statement to this effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Is there not other language, clear language, in your article which upsets the normal rule applicable to municipalities, that they are creatures of delegated power and which clearly and unambiguously changes the traditional rule? Is there not?

V. FISCHER: I don't think I could give an unequivocal "yes" or "no" on that. I think there are provisions in here, that if strictly interpreted, not only strictly but restrictively interpreted, could defeat the purposes.

HELLENTHAL: Is that not true of any other article of the constitution?

V. FISCHER: Yes, except that this rule has generally been applied, I think exclusively, to powers of local government units.

HELLENTHAL: In your opinion does it not weaken the balance of the constitution to make this provision with regard to this article only?

V. FISCHER: That I could not say. I am sure that the Committee would not object to having this provision pulled out of this particular article and made generally applicable to the constitution, provided that the article itself was not weakened by it.

HELLENTHAL: Now I refer to Section 11. Doesn't Section 11 clearly reverse this rule that you refer to as Dillon's Rule?

V. FISCHER: That would apply to home rule cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home rule authority by the legislature and it may not want to adopt a home rule charter.

HELLENTHAL: Thank you. In accord with Mr. Fischer's suggestion then I move that this sentence of Section 1 be transferred for consideration in connection with, I think it is Proposal 12 that was read for the first time this morning, or 14.

CHIEF CLERK: Fifteen.

HELLENTHAL: And considered with the miscellaneous provisions. I ask unanimous consent.

METCALF: I object.

PRESIDENT EGAN: Objection is heard. Do you so move?

HELLENTHAL: I so move.

PRESIDENT EGAN: Mr. Hellenenthal so moves. Is there a second to the motion?

H. FISCHER: I second it.

PRESIDENT EGAN: Mrs. Fischer seconded the motion. Now, the motion was, Mr. Hellenenthal, that the sentence --

HELLENTHAL: That the last sentence of Section 1 be transferred.

PRESIDENT EGAN: Is there discussion? Mr. Hurley.

HURLEY: Mr. President, I certainly don't qualify as a constitutional lawyer, but it occurs to me that there may be a difference between the various proposals that we come out with here. I have in mind particularly the proposal on resources in which I recall a statement which I recognize was after it was somewhat amended, that it was the intent of the Committee that this particular section be narrowly construed. I don't know how many other sections of this constitution are going to have the same idea behind it. I certainly would have no objection to the inclusion of this particular sentence as a miscellaneous

provision if all of the committees were satisfied that this particular statement should apply to their proposals, but I simply raise the possibility that that might not be true. I think it very definitely is true in this matter of local government because they have been extremely vague, pardon the expression, as to how these things are going to be carried out; and I think it is essential that the legislature and the courts that may be confronted with the problem do construe it liberally so as to effectuate a good strong home rule local type of local government. So I am not sure in my own mind, if the matter comes to a vote now I probably would vote against it on the grounds that it should be given consideration as it applies to each article rather than at this time be placed in the miscellaneous section.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I made this motion because I think we are weakening our entire constitution by including this provision in this article, without giving careful and long thought to the entire constitution. Now, if this Committee, and when we focus our minds on the one problem and the whole constitution, if we decide that this should remain in this article it can be put back, and that is the way it should be considered. This should be considered in the light of the entire constitution. Now, I say it weakens the constitution. If we leave this this way, it means that we may have intended that the remaining portions of the constitution be strictly construed but that this one be liberally construed. Frankly, as a lawyer, and I am speaking of a highly complicated and technical legal point here, as a lawyer I don't think this is necessary in this article. This article, as Mr. Rosswog said in his opening remarks, is simple, flexible, and it fits the Territory. It is a framework -- this is a beautiful article because it is a framework -- you can drive trucks in and out of this framework but it is a framework in the true constitutional sense. All right, if it is a framework, there is no question of construction. Now, if this were legislation, then the sentence might belong in the article because the problem is one of legislation. You either construe legislation strictly or liberally. These words apply to legislation, they do not apply to framework language. They are not necessary; they are going to weaken the rest of our constitution. That is my main point. Now, frankly, when the question comes of whether such a rule should be included as to the whole constitution, I certainly have some definite opinions on that, but at this same time, this does not belong here.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I don't feel I would be ready to vote to move it to the general provision article because, as Mr. Hurley said, we would have to consider how it would affect each

and every proposal that has been submitted and passed through on the floor thus far. I mentioned yesterday that this particular proposal on local government is almost equal to a separate constitution for local government units throughout the state. In that way I think you can see that the local government proposal is unique in that sense. The other articles are statewide in concern. For instance, the executive, the legislative, judicial, etc. -- this one is the article that is going to set aside certain areas in their various patterns of local government. You might say it is the same as writing little constitutions for each one instead of giving them complete independence as little unions within the state; we are setting up the pattern of local government throughout the state, and I think that with that in mind you can see that there could be an exception to this particular proposal having a clause in there such as this and that this interpretation be for this proposal and not necessarily affect the rest of the constitution or the rest of the proposals.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am inclined to agree with the Committee. I think that if this type of clause is left in the constitution at all, it might better be left with reference to a specific article rather than as a general provision applying to the whole constitution because this matter of construing delegated powers was settled many, many years ago by Chief Justice Marshall of the United States Supreme Court in a case that is now famous, to all law school students anyway, known as *McCulloch v. Maryland*, in which the court at that time said that any delegation of power must be construed in the manner most beneficial to the people and that principle, so far as I know, has never been changed, and that line of reasoning has been followed ever since. So any inclusion of a clause of this kind, to me at least, is not necessary and if we are going to leave it anywhere, I think it is better to leave it where it is rather than putting it in the general provisions.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I go along with Mr. Johnson's statement that the courts have already established the basis for construction of constitutional matter; and I go along with Mr. Hellenthal when I say that this is a declaration of purpose and to have a liberal or strict interpretation of a declaration of purpose is absolutely out of place. I wouldn't want it in the entire constitution because that would throw the complete approach and all the established law with regard to interpreting constitutions. It will do less harm here than it would in a general clause pertaining to the entire constitution. But it shouldn't even be here.

PRESIDENT EGAN: Miss Awes.

AWES: I frankly would not know how to vote on this motion. Mr. Hellenthal moved that this be transferred to the general section, so that if we vote either "yes" or "no" we are voting on whether it belongs here or someplace else. I agree with Mr. Rivers that it doesn't belong in the constitution at all, and I think Mr. Hellenthal's whole argument went to that, that it doesn't belong in the constitution and I wonder if he would agree to amend his motion to have it stricken rather than to have it moved.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I certainly would because I feel it does not belong in the constitution at all. Maybe I was trying to be too tactful or something, but frankly it doesn't belong there, and I will so amend my motion.

PRESIDENT EGAN: Is there objection to Mr. Hellenthal's request? Is that what you are asking, Mr. Hellenthal?

HELLENTHAL: Yes, my motion be to delete the sentence; "deleted" is a much more tactful word.

PRESIDENT EGAN: The motion is then that the last sentence in Section 1 be deleted from the section. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: Actually it is a new amendment.

NORDALE: Does that mean it is to be stricken forever from the whole constitution? Is that the whole idea now?

HELLENTHAL: I wouldn't think so. If good reasons existed for it being in the miscellaneous provisions it could certainly be inserted there by amendment when we consider the miscellaneous provisions.

NORDALE: But could now never come back to this article?

HELLENTHAL: It could if the miscellaneous provisions read that all provisions of this constitution shall be construed as worded except the article on local government; then Style and Drafting could put it right back here.

PRESIDENT EGAN: Mr. Hellenthal, did you ask for unanimous consent to withdraw your original amendment?

HELLENTHAL: I do.

PRESIDENT EGAN: Unanimous consent is asked that the original amendment be withdrawn.

HELLENTHAL: I move that the last sentence of Section 1 of

Committee Proposal 6/a be deleted.

AWES: I second the motion.

PRESIDENT EGAN: Miss Awes seconds the motion. Mr. Taylor.

TAYLOR: Mr. President, I believe that that sentence should not be in the constitution. The Committee has brought forth an article which I think is very plain and concise and would not be difficult of construction either by the legislature or by the courts. And the reason that this would be dangerous is the fact that if it is left in here and there were 60 persons in the legislature of the state, you would have 60 opinions as to what would be liberal construction if there was a law drawn to implement this particular article. That statement is so broad that I don't believe that an agreement could be reached as to what was a liberal construction. Now, in the case of McCulloch v. Maryland, the courts have set -- that was a long time ago -- what their duties were in regard to the constitutional provision or a law enacted by any legislature or by Congress, that in the construction of that law why the reasonable evidence should always be as to what is the greatest beneficial effect. Now, regardless of whether that is written in here, it still is the law. That law of McCulloch v. Maryland has never been abandoned by the courts and if it ever becomes necessary for construction of any act that is apt to be passed by the legislature regarding this particular article, they would use that construction which is obligatory upon the courts as it is the law of the land and established by a precedence of the Supreme Court of the United States. As I say, the difficulty of saying what is a liberal construction would be a nullity, I think. Leaving it in there is practically a nullity. If you are going to construe one article of the constitution liberally, you have got to construe them all liberally and I don't believe they should be construed liberally, I think they should be construed strictly according to the wishes of this constitution, this Constitutional Convention.

PRESIDENT EGAN: The question is, and the Chair would like to ask at this time that all delegates express themselves when voice votes are called for. Mr. Rosswog.

ROSSWOG: Mr. Chairman, before we take a vote on this, I think I should say that the feeling of the Committee was that this particular article should be given a liberal construction. Of course, I don't know the legal aspects of it altogether, but we did feel that a lot of work would have to be done to implement this section and that we did not want it too strictly applied exactly, the words that we are using.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?"

ROSSWOG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Awes, Barr, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Knight, McNealy, Marston, Nerland, Poulsen, Riley, R. Rivers, Stewart, Sundborg, Taylor, VanderLeest, Wien, Mr. President.

Nays: 26 - Armstrong, Boswell, Collins, Cooper, V. Fischer, Harris, Hurley, Johnson, Kilcher, King, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nolan, Nordale, Peratrovich, Reader, V. Rivers, Rosswog, Smith, Sweeney, Walsh.

Absent: 4 - Buckalew, Coghill, Robertson, White.)

CHIEF CLERK: 25 yeas, 26, nays and 4 absent.

PRESIDENT EGAN: The "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to be proposed for Section 1? If not, are there amendments for Section 2? Mr. Johnson.

JOHNSON: Mr. President, I have an amendment.

PRESIDENT EGAN: Mr. Johnson, you may submit your amendment.

CHIEF CLERK: "Section 2, page 1, line 12, after the word 'in' add words 'school districts, ' ; and line 14, after the word 'organized' add the words 'school districts, '."

PRESIDENT EGAN: What is your pleasure, Mr. Johnson?

JOHNSON: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the proposed amendment. Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The motion is open for discussion. Mr. Johnson.

JOHNSON: Mr. President, I suppose that this may be in the nature of a little waste of time but I feel very strongly on this matter of school districts. I have been connected with the Fairbanks school district ever since it was organized.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: It seems to me we adopted a rule yesterday that we were going to establish a definite method on voting for the names of these units of local government and that all motions leading to a change in name were to be considered under that rule.

PRESIDENT EGAN: This isn't for the name, Mrs. Hermann. Is that correct, Mr. Johnson? This just applies to school districts, it isn't the name of the --

JOHNSON: I didn't offer the amendment as a change in name, it was offered as an addition.

HERMANN: Added to the other?

JOHNSON: Yes.

HERMANN: Excuse me.

JOHNSON: As I say, I have always felt very keenly about this school district business; we have had the experience in Fairbanks of having had the confidence of the people; the school boards have always operated to the best interest of the people. I am not on the board, so I can say this without impunity. And the system that has been developed under our present law --

EMBERG: Point of order. I would like to ask a question of the mover of the motion.

PRESIDENT EGAN: This is on a point of order?

EMBERG: Yes. You mean that all local government powers should be vested in school boards?

JOHNSON: No.

EMBERG: Wouldn't your language lead to that?

JOHNSON: No more so than all local government power should be vested, as the article now provides, in boroughs and cities. I simply want to add to that the words "school district" so that under the provision of the amendment it would permit school districts to operate on a fiscal and independent basis. As I say, the purpose for it is that we have been operating on that basis for a long time. The school system in Alaska is strong and probably as good as you would find anywhere and it is developed because of its independent setup. The only matter now which prevents complete fiscal independence of school districts is the fact that under the present laws school boards must submit their budgets to the city council for approval. That is in the independent school district, but I believe that if we

are going to delegate taxing power and local government powers to boroughs and cities, then we ought to, in addition, provide that if the legislature saw fit they could also delegate local taxing power to school districts and keep them intact and operating as an independent unit and that is the purpose of the amendment.

KILCHER: Mr. President, may the Chief Clerk please read the amendment again?

PRESIDENT EGAN: The Chief Clerk will please read the amendment once more.

CHIEF CLERK: "Section 2, page 1, line 12, after the word 'in' add the words 'school districts, '; line 14, after the word 'organized' add the words 'school districts,'."

KILCHER: May I ask a question of Mr. Johnson.

PRESIDENT EGAN: Mr. Kilcher, you may ask your question.

KILCHER: I think in your last statement you just said that you would like to see the local government powers of taxation be also vested in school districts. Now, if that is the case, you should amend your motion to insert the word "only" on line 14 because only in the second sentence is taxation explicitly mentioned.

JOHNSON: I don't quite understand your question, Mr. Kilcher, but I simply intended to add to boroughs and cities the organized school districts as they now exist.

KILCHER: What I am driving at, Mr. Johnson, is the section has two sentences. In one sentence it is a question of all government powers, and in Section 2 it is only a question of taxation. Now, would you want to apply the school district to both sections, as your amendment says?

JOHNSON: That was my intention, yes.

KILCHER: In other words, powers beyond taxation should also be vested in the school districts?

JOHNSON: Well, those powers that now are generally vested in school districts by law, such as operation and maintenance of the school system. That was the purpose of putting it in the first part of the section.

PRESIDENT EGAN: The question is -- Mr. Taylor.

TAYLOR: I would like to amend Mr. Johnson's motion, if I may.

PRESIDENT EGAN: You have an amendment to submit, Mr. Taylor?

The Chief Clerk may please read the proposed amendment to the amendment as offered by Mr. Taylor.

CHIEF CLERK: "Line 12, page 1, Section 2, after 'boroughs' add "public utility districts, public improvement districts, health districts'."

TAYLOR: I move the adoption of the amendment to the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment to the amendment. Is there a second to the motion?

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion.

JOHNSON: Point of order. Is that an amendment to the amendment or is that additional language which doesn't have anything to do with the amendment? Actually, it looks to me like it is a separate amendment.

PRESIDENT EGAN: The original amendment was an addition and this would be further addition to the original amendment. Mr. Londborg.

LONDBORG: Point of order. I believe if the amendment would carry through then the amendment of Mr. Johnson's would be divisible, into separate questions again.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a couple of minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Taylor, the Chair will hold that the proposed amendment to the amendment is not germane to the amendment as before us. The amendment to the amendment would be in order at a later time but at the present time it is not germane to the proposed amendment. Is there further discussion on the proposed amendment? Mr. Taylor.

TAYLOR: Mr. President, I would like to oppose that amendment. If that amendment passed I would necessarily have to vote against the inclusion of this article in the constitution. I think the purpose of this article is to simplify our governmental procedure and also to prevent an overlapping of government functions. Now, we have two governmental functions set up here, the cities and the boroughs. I think that is plenty. They can provide for everything including the schools. So now, if the camel gets his head in the tent by adopting this amendment as proposed by Mr. Johnson, he probably will be all in the tent, bringing with him the amendments that establish public utility districts, health districts, public improvement districts, and

we will be right back to our old method of numerous taxing bodies which we want to get away from. Now, with the borough and the city I don't believe that there is any reason at all but what the taxing purposes for schools can be set up something along the same lines as it is now. I don't feel that we are gaining what we expect to gain if we allow such amendments to go through. I know Mr. Johnson is very sympathetic towards the school district -- he has been an attorney for the school district for many years and he possibly feels that that method as has been pursued, is the best, but I believe that the purpose of this article being drawn as it is is to prevent the imposing of one taxing district on the other, so I am going to oppose the amendment.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I am going to speak on this now and then forever hold my peace. I was right in the middle of an impassioned argument yesterday on this thing when I was shut off, but for what it may be worth, I want to say that I think that we will regret the day, so far as our schools are concerned, if we do not give the schools some sort of taxing power, independent of the other agencies that are working on the other phases of government. I have been close to this problem I will admit it, and that is probably why I feel so strongly on it, but I have seen so many times where needed things that the city wants, needed things compete with needed things that the school district wants, and it is just a matter of emphasis, so far as I am concerned; if it comes down to a point of educating our children as against having more paved streets, I am going to take the schools. Now maybe it won't come to that point, but if it does that is my idea, and it seems to me that we could accomplish exactly what this Committee wants to accomplish by giving the school district independent taxing power. Of course, they would have to do as they do in the states, something about putting a limit on the tax because school districts could run wild the same as anything else, but I can't see any reason at all why the school districts should not have a power to tax within certain limits just as it thinks it needs. Certainly it is not up to a borough or a city or any other organization to say, "Mr. School, you only need so many teachers", and that is just exactly what has happened in our area, in the best of faith I know. But somebody said we need paved streets and admittedly we did need them, but they thought we needed them more than we needed more teachers or more than we needed more schools. It has been mentioned in the Committee here that we are setting up a referee between the city and the school districts by having the borough pass on it. To me that is not so. The borough actually is just a bigger city. It has all the functions that the city has plus some others. Now, in this article as written. we are giving the city specific taxing power which to me seems to absolutely defeat, or could absolutely defeat what the Committee says they want. They want only one taxing district yet we are going to let the city tax, but under

the article as written we are not going to let the school districts tax. I think it is wrong.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I hardly can compete with some of the previous speakers probably in putting over my point, but I served with the school district; I have served on the city council; I have been mayor of a city, and I am against turning the taxation over to a school district, direct. I think that for a school district to do anything other than to make up their budget and submit it to the city or the borough, the same as any other department would submit a budget, it will throw the economy of the city and borough completely out of tune. I think it would be a very, very bad thing. I don't know just exactly what kind of trouble the school districts in Anchorage had. I didn't follow it too closely, but I know that we had a little difficulty over on the Island but we resolved it without too much trouble and we have gotten along very well, and I think it can be done without destroying -- I think you will destroy the cities by permitting this to happen. Taxation can get completely out of hand. I oppose it very strongly. I know I haven't expressed myself as I would like to but I can't ask that you give this too much consideration. It is a very, very important thing, and it would be very bad for the cities and very bad for the boroughs or whatever we decide to call them, and it would be bad for Alaska.

PRESIDENT EGAN: Mrs. Hermann, had you been attempting to get the floor?

HERMANN: No.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Bearing on this particular subject, a conversation I had last year with an editor of a paper in the State of Washington, a city of about 15,000, he informed me that they had 11 taxing jurisdictions in the particular area in which he lived and if I remember some of them, they were welfare, hospitals, sanitary, harbor, and even a trunk sewer system, and he said that was the one thing that was causing them the greatest worry of all and that was the spread of the taxing power. I am against it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I have spoken on this same subject a number of times, and I am going to repeat some of the things here that I have said before but I don't think all of you have heard them, because it was not in this body. It has been in bodies of the Territorial legislature, since 1941 when this problem

first showed up. The question here, I think, is a basic one of government, and the taxing powers, and the question is whether or not you shall delegate taxing powers to bodies of certain special purposes for one special purpose. Now, you could very well have taxing powers in special districts or school districts, health districts, welfare districts, public works districts, sanitary districts, and every other kind of district, and as Mr. Hilscher just said, that does happen and has happened in many of the state subdivisions of government. Now, the intent of course, and the thought of the Committee was there would be no limit upon the ability, upon the type and class of schools and their ability to perform their functions, but the requirement here would be that they would have to correlate their activities with all the other activities of government, through some central body, which they now do, as you know, through the city council. The idea of this fiscal autonomy and fiscal independence has been before our legislature since, as I say, since as I recall it in 1941, and the complete separation of the school budget from all other functions of government has never been recognized nor allowed by that body within the limits of their authority. Now, we have had this suggestion in many agencies, and I don't say only the school districts. Many agencies of government like to have a little sphere of government set up for themselves in which they start at the top of their governing body, have their administrative groups, have their taxing power, their collections, and their dispensing of budget, entirely separate government for some one department or function of government within the other structure of government for one purpose only and considering only the one use. Now, that is the problem we face, it is not to say that we don't want better schools or more money for them, it is that their functions be interrelated and co-related with the other functions of government so there can be a fair participation in the tax dollar and in the school income. In the United States they have what they call the American Assembly, it was set up under the President a few years ago, and they gather the great scientists there for discussions on some one subject every year, and I have a paper here which was put out by the Eighth American Assembly and in touching on this point I want to read to you their quotation. It says in part, and I am not going to read it all -- I have asked that the mimeograph section mimeograph this entire article and place it on the desk of each delegate, as it has a lot of very valuable information in addition to what I'm going to read you. "To endorse autonomy for agencies as a general principle would be to deny that state," they are talking about the state here, "that state activities have interrelations and that they need coordination in the general public interest." I repeat that: "To give this autonomous power to special agencies would be to deny that there is an interrelationship and co-relationship between the various functions of government and that must necessarily include schools." Now, I know that we have in this body men who have sat on city councils, been mayors, sat on school boards and been

board presidents, board attorneys, we have a broad cross section here, and I know their interests are conditioned largely by their activities and their environment. I know they are entirely sincere but I am trying to separate just the idea of schools and trying to hold to the principles as to whether the principle of the disbursing and the approvals of budgets shall lie in the body of one general governing body of government or whether you shall have an autonomy without any correlation between the other activities of government -- whether you shall have an autonomy in just one function and one activity of government. I think that that covers what I have to say except that on the broad principle, I think you can have better government at less expense by correlating the taxing activities and channeling them through one body with one set of appraisers, one set of collectors, one set of condemners and tax sale experts, and having that money go into one fund for distribution by a general body elected by all of the people no matter what level of government we operate at. In the national administration the budget goes to Congress; they are the representatives of the people, they approve it. In our state legislature, as we have it set up -- and I know that schools do not and have not suffered -- the same situation takes place. The budget goes to the legislature and they approve, and very liberally approve, funds for all the needs of our schools, and the same situation has existed in regard to the school districts operating under the approval power of the city councils. I know we have not gained all the steps we want to gain all at one time, but I know that our policy has been good; our schools have been healthy, they have progressed; and I see that we are not in this instance deciding upon whether we have good schools or not; I know we are going to have good schools. The question is just how will the money set up be budgeted and approved for schools in relation to all of the other costs of government, so I for one feel that we must maintain within the general governing body the power to approve budgets and that is what we do here.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask Mr. Davis a question?

PRESIDENT EGAN: You may, Mrs. Nordale.

NORDALE: Mr. Davis, could you explain to me how the consolidated school districts operate out in the states in their relationship with the county and city governments.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I can only speak for one state, only the state where I grew up. In that state the county assessed all taxes, and incidentally I want it understood I am not suggesting, as Mr. Rivers mentioned, that we have more than one assessing agency, I think that is silly. One assessing agency, one collecting agency

is all I have in mind. But in the state where I grew up, the county assessed the taxes; the county collected the taxes. The various governmental units in the county, each one told the county board how much taxes they needed. They set the mill rate for their own tax. When the tax mill comes out it has on it so much for this agency, so much for that agency, so much for the other agency, but it is all one tax bill, and so help me I can't see that is bad. It is true there are lots of agencies but each one is assessing only for its own particular need, which is exactly what this Committee is talking about when they are talking about service areas. I would like to see the school budget, the school tax, kept separate and apart from the taxes for other needs. That is what I am trying to say.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would like to ask Mr. Davis a question through the Chair. Under those circumstances, assuming we have, as Mr. Hilscher has reported, in one county in Washington, 11 various taxing agencies, what agency equalizes the taxes? Assume that your school district wants eight mills, and the public improvement district needs nine mills and the sewer district needs 14 mills and somebody else needs two mills, is there a limitation on the tax that can be applied, and if so who equalizes when these various authorities that require the money get to jockeying one against the other for their participation in the total tax dollar? How does that balance out?

PRESIDENT EGAN: Mr. Davis.

DAVIS: I will try to answer this. In the first place, they don't compete for the total tax dollar. The total tax dollar is the sum of what all the various agencies ask. Who equalizes it? In the state where I grew up the board of county commissioners; in this case no doubt the borough assembly. As to whether they can be limited, in Idaho they were limited by law. A school could not assess or could not levy more than a certain mill rate without a special vote of the people. In special cases, with special vote they could levy still more.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I would like to say a few words on this, feeling that each one is entitled to express his opinion. I have gone along with the Committee in their general thinking of trying to get rid of this overlapping of taxes and has been mentioned, 10, 12, 15 different agencies, each with a blank check to write all they wish to write on it. This is one place I personally would make an exception. When we talked about it in the Committee, there didn't seem to be any other ones who felt the same as I did, so I did not express myself too much

there. However, I did say that I would not put in a minority report on this. Now, I think that it all boils down to just how much we are willing to take a stand on any particular issue. We hear about the fact that there is going to be 10, 12, 14, 20, 30, 50 different taxing districts all the way from street cleaning up to the school districts and health districts and everything else. I think it depends on where we want to place the emphasis here. If we want to use the expression, "Let in the head of the camel and the whole camel will crawl in", that depends on whether we want to make it positive that only the head gets in, if you want to call it that. We hear a lot about the fact that a school district is going to break the municipality. I think it is the people that are voting on that; they are the ones that are going to pay the bill, and if they want to break themselves, they are going to break themselves, that is all. If we have a dollar to spend it is foolish to say we are going to buy something for one dollar and fifty cents. It all depends on what the people want. I think the greatest danger on something like this is to put the schools under the absolute control. Now it isn't just taxing powers as it got written in the last day, it was all powers shall go only to municipalities, such as boroughs and cities. That means the running. Of course, they can delegate the power by setting up a school board if they wish, but I can visualize the schools coming under a very strict political control, and I have seen that very thing out our way with the Alaska Native Service and the political control of the schools. They have the final say-so; they practically come to the point where they dictate as far as voting and things of that kind. That is one thing that I would like to see is the schools be absolutely free of any party politics and things of that kind. I think we are running into a danger when we subject our children and grandchildren and future generations to coming under political controlled school districts. I know if we allow this amendment to go through then the pressure, as we have seen from the telegrams, will be to set up game commissions, to be to set up health districts, and all of that, but it all boils down to how much we are willing to take a stand and say schools are different from these other things, and I believe they are different. These other special districts are special; they are for a certain area. Schools are universal; schools are a state institution and they belong in the state as such. Education is general, and as far as the strength of the school district, I think that they should have the control to say and do as they please, not just tax and get their dollars but to have the complete control and I have seen them operate out in the states; in my home state they operated very much the same way as Mr. Davis mentioned. There was a general assessment and if the people out in one corner of the county or borough, if we would call it that, decide they want a little better school district, hire better teachers, raising their pay and being able to get better teachers that way, that was their business. They knew how much it was going to cost them in taxes for their farms

and other things, and they raised their levy and they built better school houses and they hired better teachers and I think you will find that states like that have probably some of your best standards as far as schools are concerned. I think it is a lot like banking. We have a fear of two people working for the same dollar. Maybe it is like the joint checking account between a man and wife. In one sense they are one and they can trust each other. Well, this is going to be the same people to a great extent, and yet there is a freedom. The school district doesn't have to come to the borough or the city council like a wife begging if she can't have a dollar now to buy something, but have a little freedom to go and buy and spend as she sees fit. I think that this should be given due consideration. I hate like everything to make a break from the general policy in the Committee, knowing that it leaves the gap open for other districts, and yet I can't help but feel that we too can take a stand and say that schools are schools and that these other things are minor in importance. The game commission doesn't feel that theirs is minor, but I still think that the education of children is more important than looking after the game around the country.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I move for a 20-minute recess.

PRESIDENT EGAN: Mr. Cooper moves that the Convention stand at recess for 20 minutes.

UNIDENTIFIED DELEGATE: I object.

LONDBORG: I second it.

PRESIDENT EGAN: It has been moved and seconded. The question is --

ROSSWOG: May I announce a meeting of the Local Government Committee in the gallery for any questions.

PRESIDENT EGAN: Local Government will meet in the gallery where any questions may be asked. Are there other committee announcements? If not, the Convention will stand at recess until 10:55.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the amendment as offered by Mr. Johnson. Is there further discussion? Mr. Smith.

SMITH: Mr. President, I would like to ask a question of the Committee if I may.

PRESIDENT EGAN: You may, Mr. Smith.

SMITH: In the opinion of the Committee, is there anything in Section 2 which would prohibit the borough or the city from delegating to school districts taxing power?

PRESIDENT EGAN: Mr. Fischer, would you care to answer that question?

V. FISCHER: No, because Section 2 specifically grants the assembly the authority to authorize the levying of taxes within the service area and the school district would be considered a service area under this concept.

SMITH: That answers my question. I wanted to get that clear in the record.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I would like to ask a question if I may. Your interpretation of Section 2, also, that the borough in an organized borough would probably be the one and only taxing authority? That is, they would handle all of the taxes, and only in unorganized boroughs would the state tax? Would that be the way to expect the thing would work out?

V. FISCHER: Yes. We would assume a consolidation there.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I dislike very much ever having to take the other side of a question than that taken by Ed Davis. I have the deepest respect for his judgment. I know he is absolutely sincere in everything he does and says, but as he said he has been very close to this problem, and I suggest that he has been so close to it that he may see the trees rather than the forest. I think that if we leave the article as it is that the ideas of the people who are interested particularly in schools, and I have a great deal of sympathy with them because I do feel that schools are important and will always be expressed in the government of the borough or in the government of the city by people such as Mr. Davis, Mr. Johnson, Mr. Coghill, Mr. Dafoe and others who have spoken with us or communicated with us on this subject. When I heard Mr. Londborg speaking of what he considered abuses in the way that the Alaska Native Service schools seem to operate independently and without consultation with the public -- I thought he was making an argument against the point of view which he was expressing which seemed to be that he felt that the schools should be thus independent. I think the abuses which he is speaking of, if they are abuses, are brought about particularly and specifically by the fact that the Alaska Native Service schools are completely removed from the control of the people of Alaska, and that if we adopt Mr. Johnson's amendment we would tend to be making the school districts within our cities and boroughs within the State of

Alaska, at least in a sense, independent of the people of Alaska as they consider the other responsibilities and functions of government. So I hope that the amendment will be defeated.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may we have a roll call, please.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" Would the Chief Clerk please call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 9 - Cooper, Davis, Johnson, Londborg, Laws, Nerland, Nolan, Peratrovich, Walsh.

Nays: 43 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Wien, Mr. President.

Absent: 3 - Coghill, Robertson, White.)

CHIEF CLERK: 9 yeas, 43 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 2? Mr. Rosswog.

ROSSWOG: At this time I would like to ask unanimous consent that we return to Section 1. The Committee has an amendment.

PRESIDENT EGAN: If there is no objection, we will return to Section 1. The Committee has a proposed amendment. Mr. Taylor.

TAYLOR: Prior to doing that, in view of the sentiment expressed by the body, I would like unanimous consent to withdraw my amendment.

PRESIDENT EGAN: It has not been really before us, Mr. Taylor. The Chief Clerk may read the proposed committee amendment to Section 1.

CHIEF CLERK: "Section 1, page 1, lines 8 and 9, strike 'provisions of this article' and substitute 'powers of local governments'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would like to move and ask unanimous consent that this substitution be made, that this committee amendment be approved.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the committee amendment be adopted. Would the Chief Clerk please read the proposed amendment.

(The Chief Clerk read the proposed amendment again.)

ROSSWOG: Could we have the whole sentence read.

CHIEF CLERK: "A liberal construction shall be given to the powers of local governments in order that these purposes be achieved."

V. RIVERS: I understood that the word "liberal" was to be stricken and a "broad general interpretation" was to be inserted on this as we talked over, and I believe it was the suggestion of the original mover to strike this motion and those words would cover it. I don't know where we get this particular thing because I for one on the Committee have not yet seen it.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a couple of minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Rosswog.

ROSSWOG: Mr. Chairman and delegates, I would like to ask the indulgence of the Convention for a moment on personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Rosswog.

(Mr. Rosswog spoke on a matter of personal privilege at this time.)

PRESIDENT EGAN: You ask unanimous consent to withdraw your original request?

ROSSWOG: I would ask unanimous consent to withdraw our original amendment and propose a new one.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 1, line 8, strike the remainder of the sentence after word 'the' and substitute 'powers of local governments'."

ROSSWOG: Mr. Chairman and delegates, I might explain that this was our intention to have a liberal construction on the powers of local government. As it was written it would have covered the whole article, and we believe this explains the wording and the intention of the Committee.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the committee amendment. Is there objection? Hearing no objection the amendment is ordered adopted. Are there other amendments to Section 1 or 2? Mr. Taylor.

TAYLOR: May I ask the Chairman of the Committee a question please?

PRESIDENT EGAN: Mr. Taylor, you may ask a question.

TAYLOR: It is to the placing of this amendment which was just adopted, or offered. Would it not be better to strike that last sentence in paragraph 1 and apply that to Section 2? Because that section only deals with the powers being vested in boroughs and cities; and I think there is where the question is, as to the liberal construction of those powers.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, actually this sentence applies to more than just Section 2 and possibly in the revision of this article, Style and Drafting in the rewriting, they may see fit to place this sentence as a separate section which might be the more proper way altogether.

TAYLOR: I think, Mr. Fischer, if you will read that particular section, it only applies to local government being vested in the boroughs and in the cities, that the construction that you want placed upon those powers should be in that particular section.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: It would be equally appropriate to put it in Section 11.

PRESIDENT EGAN: Are there amendments to be proposed to these sections? Mr. McNeese, were you attempting to get the floor?

MCNEESE: Are they still going to delay the consideration of the word "borough" or other names?

PRESIDENT EGAN: That is to be delayed until we have a second go-around on amendments. Are there proposed amendments to Section 3?

R. RIVERS: Point of information. Is this the second round?

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PRESIDENT EGAN: This is the second amendment round. Are there amendments to Section 3? Mr. Taylor.

TAYLOR: I had an amendment there to Section 2 awhile ago, but I will ask unanimous consent to withdraw it.

PRESIDENT EGAN: To Section 3, are there amendments? To Section 4? Mrs. Nordale.

NORDALE: Mr. President, I think this was brought up yesterday, but I have sort of forgotten what was said. It is just a question. On line 4, page 2 of Section 3, there was some discussion of the wording, "Each borough shall embrace to the maximum extent possible an area and population with common interests." Does that mean to the greatest degree it shall be a group of people with common interests? Nothing to do with the area -- I mean the square mile?

V. FISHER: What it means is that wherever possible, "Each borough shall embrace an area and population with common interests."

NORDALE: Yes. Then "the maximum extent possible" refers to the common interests, not to the area, the size?

V. FISCHER: No, that is right.

PRESIDENT EGAN: Are there amendments to Section 3? Are there amendments to Section 4? Mr. Laws.

LAWS: Mr. President, should that not be a period there after "law" on the last line, 15?

PRESIDENT EGAN: You ask unanimous consent that the comma be changed to a period?

LAWS: Yes.

PRESIDENT EGAN: Hearing no objection it is so ordered. Are there amendments to Section 5?

TAYLOR: I have an amendment, Mr. President.

CHIEF CLERK: This is an amendment to the amended Section 5. "Line 7 strike the words 'from and'."

PRESIDENT EGAN: In line 7 of the new Section 5 that was adopted this morning.

UNIDENTIFIED DELEGATE: Would you read that again, please?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, there is still some question in the Committee minds as to the final resolution of the intent of this section. We would like to ask that it be submitted to the Committee for further discussion before this is adopted. There are two or three other delegates that have a few questions. Would you object to that request?

TAYLOR: I have no objection to holding it to later, but I do want to bring it up because I think this amendment is very important.

V. RIVERS: I ask unanimous consent that we withhold the consideration of this until we have had a chance to discuss it in Committee further, and with Mr. Taylor.

PRESIDENT EGAN: If there is no objection the matter will be held until the Committee has had a chance to discuss it with the delegates. Are there amendments to Section 6? Mr. Hurley.

HURLEY: Mr. President, I have an amendment to Section 6.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 6, page 3, line 9, delete the comma, insert a period and strike the balance of the section."

PRESIDENT EGAN: What is your pleasure, Mr. Hurley?

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the amendment. Is there a second to the motion?

MCNEALY: I will second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. Mr. Hurley.

HURLEY: Mr. President, I realize that this section is, to a large extent, of a recommending nature rather than a directive nature, but yet I feel it could be construed as a directive, and a limitation on the functions of the borough assembly. I also recognize that we have a problem presently in the Territory in the matter of making it desirable for cities to incorporate and to take in suburban areas into their incorporated area, but I think what seems to be a relatively unimportant amendment goes to the basis of this whole concept that is being brought forward here on the matter of local government. The very fact that we previously had an amendment concerning the

school districts indicates to me that the question is one of deciding where the relative powers of this borough are going to be. I think the whole article is fairly inconsistent in its acceptance of cities themselves. In other words, they have agreed that it is undesirable to have school districts separately organized; it is undesirable to have public utilities separately organized as taxing units; it is undesirable to have various other districts; yet they say it is desirable to have cities. They go further and provide in this section that in the event an area needs a particular public service that it shall not have it if it can meet the qualifications of incorporating as a city. I think it tends to destroy the desirable, in my mind, function of the borough to govern the area in the most desirable manner. I think it sets up a stumbling block. Now I can recognize that those people that have had problems of city incorporation are going to be very suspicious of this amendment, but I submit by leaving these words in we are, in effect, putting a stumbling block in front of the effective operation of our borough government. I also submit that there is nothing in my mind that a service area within the borough cannot do that a city can do, so, in fact in my mind a city is no more than an organized service area, and I think if we make it possible to, over the years, lose our old-fashioned concept of the city, we will eventually be better off. Now, the adoption of this small amendment is not going to accomplish all that, but in my opinion it is going to remove a possible stumbling block to more efficient administration of borough affairs and I hope that you will see fit to adopt the amendment.

PRESIDENT EGAN: Is there further discussion of the proposed amendment?
Mr. McNealy.

MCNEALY: Mr. President, I had the same amendment written out, and being a little slow, I appreciated the fact that Mr. Hurley has submitted this amendment, and I feel obliged to speak on this particular subject, taking it in conjunction with Section 1 of the article to which this particular section refers to. Now, contrary to statements that have been made on the floor about all of the elected representatives to the legislature being from within the city of Fairbanks, I reside outside of the city of Fairbanks and I also, I believe, on two occasions, however, voted in the area in which I live to become annexed to the city, and in both cases it was voted down, so when I speak I don't speak from a personal standpoint, but my thought in regard to this is I have seen this happen before. Bills have been offered in the legislature in an attempt to force annexation. There has been a continuous movement in the Territory over the years. I remember years ago being on the school board down at Seldovia and we were told if we did not incorporate the town they were going to take the high school away. Incidentally, we incorporated the town and in that instance it did not do any harm, according to the latest reports that I have. I see in this, written in here, a way of at least a backdoor

attempt of forcing cities, small areas, to either incorporate or forcing areas to become annexed to the city, because under the borough system of government here, the county system or what you will, we state in the first paragraph that the liberal construction shall be given to the power of local government; and reading that in conjunction with this particular section here, it is going to give the assembly, certainly, the right to construe this paragraph here that they have, say that an area outside the city, for example, if it is necessary to have the health district to protect not only the health outside the city but inside the city, and they want to reach out and encompass this area outside the city and they can use that as a whip to hold over the people in this outlying area, and say if you don't become annexed and come into part of the city the assembly is not going to give you this service here. You may be paying taxes out here but you are not going to get anything because this is a simple way to do it and bring you within the city. Or they can go to a small community, say within 10 miles of the city, if that is within this prescribed area, and the assembly can say we are giving you nothing out here because the better way for you to be is to set up a small corporation out here. I think we all know a lot of these small incorporations don't work out because there isn't the money there for the taxation in that particular area to support a small town. I feel on this. I could talk on it possibly for an hour. I remember speaking on it in the legislature. I am not going to take up the time. I am glad Mr. Hurley advanced this here because of the fact that we should consider that the areas outside the city should not be controlled and dominated by a larger group of people within the city. I believe the American way of life gives us the right to incorporate if we want to; to become annexed to a city if we want to; or if we don't want to, to maintain the status quo where the only ones that are actually affected by it to a great extent are those outside the city itself.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I have experience along that same line that has just been presented here, and the area where I live we tried twice to get into the city and some people opposed it and we did not get in and now there is a group that have felt they have been forced, coerced by the bigger body and they have backed up on it. You can't coerce people or groups to come in. It is wrong to try to hold it over the outlying districts, a threat, because they will not come in by a threat. When it is advantageous to come in they will come in, and if this is a threat over them, I'm going to be for the amendment.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I might speak for the Committee on this section; it is just as the Committee feels, and they may

vote as they choose. Our main intention was to try not to have a lot of separate little districts set up, you know, handling only one problem and try to combine them.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, on this section, the thinking of the Committee, as I interpret it, was that you will notice in this section there is no limitation on taxes in the amounts of assessed evaluation or the amounts of rates, and we had visualized a situation where a city had grown up with certain services, where there was a fringe area that needed certain services, but not all of the services, so the fringe area could annex the city on a differential taxation basis for such services it may desire, such as a fire protection for one. It was also visualized that out in an area where a service area had enough functions, where it stood by itself, where it got big enough to incorporate as a city under this section, it could then do so. There was no intent or thought in the Committee's mind that there was any possibility of putting pressure on to get them to do certain things. The thought was it would still be their own choice and selection as to whether or not they would be better served by entering a fringe area as a suburban area with the differential of taxation, or the choice of remaining as a part of the unorganized borough and furnishing those services for themselves. It seems to me that the section does no harm; it seems to me that it has considerable value there and is not intended to coerce, as the word has been used, anybody into joining something they don't want to join or receiving services that the majority of the people do not desire to receive.

PRESIDENT EGAN: Is there further discussion? Mr. Kilcher.

KILCHER: Mr. President, I would like to ask a question of Mr. Rivers, if I may. Has the Committee arrived at a compromise in this article in recognizing the city as a special unit with special rights, or has the Committee possibly considered that there should be no definite line between city and borough?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I can say for the Committee this isn't a compromise, it was figured that it was simply a little direction to the assembly.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: It seems to me, Mr. President, that historic outline Mr. Rivers gave us yesterday about cities in general was partly to the point and then again it wasn't. The city of old, as I know, has often been only a limited rallying point for defensive purposes, where the citizens flowed forth and back to the

surrounding countryside. The name "city" itself means tribal dwelling. That is the name of the city. It means that a tribal dwelling, that the tribe once in awhile met in a defensible place, and it is only later that the city legally became a distinct unit, and whenever that happens, hand in hand with this development, went the subjugation, often the exploitation, and the bossing of the surrounding countryside when surrounding countryside became dependent upon the city, economically as well as politically, rather more so politically. I just wondered if we could not give consideration to the idea that Mr. Hurley opened up that the city may not be considered anything more than a point of density in a borough and that there should be no parallel police power, for instance, within a city and without it, that there should be possibly no differentiation at all between the city and the whole borough. When I first heard about this concept weeks ago and the discussions with people during the holidays, we understood what the radically new idea would be that there exists practically no difference between city and borough, except a lessening of density to which the outlying areas of the borough, and I wonder if this idea could have been spelled out better or whether it might have been desirable or whether the Committee considered it undesirable to follow this idea. I am for the amendment, of course, but I don't think it solves the problem.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I think practically everybody who has spoken has been in favor of the amendment but in their statements I don't believe they have taken full cognizance of the contents of the paragraph which they seek to change. Now, I can visualize what a service area may be and possibly could be, as Mr. Rivers says, for fire protection; it might be an area that was not near a city but could be near another service area that was already established, and then this particular area would then attempt to incorporate themselves or organize themselves into a service area. We should not lose sight of the fact, also, that this area is represented, or the people in this proposed area are represented in the assembly. They have the representative there, so when this matter is brought up to the assembly they have the right to protest, or to propose that they be organized as a service area for a particular purpose such as to require equipment, or it might be for some sewer lines, or for some better roads, or for any one of the numerous improvement districts that can be organized under our present law. Now, when this matter is brought up to the assembly it may be that members from outside of the city would realize the problems that this particular area was facing so then under the wording of the present article in there, there are four things that they could do. They could allow this area, if it was not near another service area that they could be served from, or if it was not near a city where by annexation they could secure the same service from the city, or they could then

be required, if the assembly saw fit to, to affiliate with an adjacent service district, receive the services that they want to do for themselves, or they could incorporate as a city if they had sufficient population, or they could be annexed to a city. Now there is no forced annexation in this matter as I can see it, so there is a wide choice. They can be either a service district or those functions can be performed by an already existing service area. They can incorporate as a city or they can be annexed to a city. It is up to the body in which they are represented. It is the American way of doing things that that body decides, that it be for the best interests of this area. The body can decide that it would be possibly to the financial betterment of the people in that area if they did incorporate another service district or if they incorporated as a city. So, I think it should be left in here so that that body, the assembly, could meet and consider all factors and recommend as to whether they could organize as a service district or whether they could secure the same service from an adjacent service district or whether they could incorporate as a city or whether they could be annexed to a city that is already incorporated. It is a wide latitude that they are given and I think that in an assembly in which they are represented and are a part of that body, I think they would receive proper consideration. I think the amendment should be defeated.

PRESIDENT EGAN: Mr. Hurley, do you desire to close? Is there anyone else who wishes to be heard? If not, Mr. Hurley.

HURLEY: This will be very short, Mr. President. I simply urge that we look at this amendment with the new concept of our borough assembly and I submit that, in my own thinking at any rate, that the adoption of this amendment would not preclude the borough council from doing that which Mr. Taylor says they might want to do. I think it does not do that, it simply improves the situation in my mind.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Davis.

DAVIS: Mr. President, might I ask a question?

PRESIDENT EGAN: You may ask a question, Mr. Davis.

DAVIS: I would like to refer back to line 24 on page 2. The words I am wondering about are "portions of" in the middle of that line. We have talked about schools and I don't have schools on the brain; it is just an illustration this time. We have talked about schools being a service area. It seems to me that it might be that we would wish to have a school district cover

the entire borough. We might not, but it seems to me if we struck those words "portions of" that you would have the same thing and still allow, if it was wise, still allow a service area that would cover the entire borough. I wonder what the Committee might think about that.

HELLENTHAL: Mr. President, I rise to a point of order. Why doesn't this amendment and similar amendments that arise quickly be referred to the Committee when they meet in connection with Section 5, as they have announced?

COOPER: Point of order. Mr. President, this was not offered by an amendment. It was a question that was asked by the delegate to the Committee.

PRESIDENT EGAN: It was a question of the delegate to the Committee. Mr. Rosswog, would you care to answer the question?

ROSSWOG: I believe it was our intention that service districts could be set up in either portions or covering the whole borough. Now, as I see it, it would not make any difference whether the words were stricken. It would still leave the same intent. It could be set up over portions or over the whole area.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I also agree with Mr. Davis. He has a good point, but possibly the best way, so as not to create the question as to whether portions of boroughs would have service areas, would it not be better after the word "within" to insert "the whole or"?

DAVIS: That would be all right.

PRESIDENT EGAN: The Chair wonders, Mr. Davis, inasmuch as the Committee is going to review Section 5 at a recess if that matter might be taken up at that time? Would that be satisfactory?

DAVIS: That is all right with me.

PRESIDENT EGAN: Or is it the wish of the Convention that an amendment be offered at this time? Mr. Fischer.

V. FISCHER: On behalf of the Committee, I will offer the following amendment: On page 2, line 24, Section 6, after "within" insert the words "the whole or". I ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent for the adoption of the amendment. Would the Chief Clerk read the amendment once more.

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HINCKEL: I object.

PRESIDENT EGAN: Objection is heard to the unanimous consent request. Do you so move, Mr. Fischer?

V. FISCHER: I so move.

PRESIDENT EGAN: Mr. Fischer so moves. Is there a second?

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Victor Rivers seconds the motion. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 6, page 2, line 24, after the word 'within' insert the words 'the whole or'."

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I object for reasons of information. My idea of a service area was something that would permit a differential in taxation between one portion of a city or a borough and another. Am I wrong?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think in our presentation yesterday we did point out that in some cases the whole borough might be constituted as a service area. For example, in an outlying district somewhere, in an outlying borough that is generally sparsely populated, the whole borough may be constituted as a school district, or as a health district, and this actually is only to clarify committee intent. This is not to force that but to authorize the creation of the service area in the whole borough.

HINCKEL: What would the object be? I still can't see it. If the school district covers the entire area, then where would the difference come? If it covers the whole borough then the whole borough as a borough would have the same rate of taxation to support the school district, would they not?

V. FISCHER: Yes, that is correct.

HINCKEL: Then why would you make it a service area? It would just be the general taxation of the borough would it not?

V. FISCHER: Your point is correct from that standpoint. However, it was the intent of the Committee that when you establish

a service area you could say, establish a separate school board, for instance, to supervise the school functions. I don't think it is too material, one way or the other. This is just for clarification actually.

HINCKEL: I still don't see it and I think I am right, but I will withdraw my objection.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am going along with Mr. Hinckel. I think this is anything but a clarification of the entire approach to this subject. This talks about organized boroughs. If they weren't rendering some services they would not be organized in the first place. Now, how a service district in an organized borough can fit into this picture along the lines of creating a school board with jurisdiction over the whole borough which already has an organization is more than I can see. The whole thought of service districts is that there be something less than the complete service rendered in different zones, and I think that it would be perfectly all right, as Mr. Davis first suggested, to say "special services within organized boroughs may be established".

MCCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Is Mr. Rivers offering an amendment?

PRESIDENT EGAN: No, but we have an amendment before us, Mr. McCutcheon.

MCCUTCHEON: Whose amendment, Mr. President?

PRESIDENT EGAN: It is the amendment offered by Mr. Fischer and seconded by Mr. Victor Rivers. Mr. Hellenthal.

HELLENTHAL: Mr. President, I have a point of order. Our rules provide that amendments at this stage of the enactment of an article are to be considered by the committee, and that implies that others interested can be there. This is a committee amendment, and I think the committee should deliberate and listen to it and listen to others concerned and not take the time of the whole body here while they go through their labors.

PRESIDENT EGAN: Mr. Hellenthal, the rule says that the committee may waive that right of hearing.

HELLENTHAL: Point of order. I don't think that one man on the committee can stand up and say: "Unless I hear somebody object this is the committee amendment." They have to meet and discuss it. That can be abused terribly.

PRESIDENT EGAN: Mr. Hellenthal, the Chair will still hold that it is up to the committee. If the committee chairman gets up and makes a statement saying that he would rather have it come before the committee at a recess, it would comply with the rule and he would have that right, but that hasn't been done. Mr. Rivers.

R. RIVERS: I would like to straighten Mr. Hellenthal on the rule. The first section by section round must be cleared with the committee.

MCCUTCHEON: Mr. President, point of order.

R. RIVERS: I have the floor on a point of order.

MCCUTCHEON: I believe it is the Chair's prerogative to direct --

PRESIDENT EGAN: If you asked for the floor at this time on a point of order, the Chair did not understand that. Mr. Ralph Rivers, then you have the floor on a point of order with relation to the rule then until you have stated your --

R. RIVERS: Which says that on the first reading for amending purposes, section by section, each person with an amendment to propose must consult with the committee, but on the second round they may be offered without such consultation with the committee. I just want Mr. Hellenthal to get straightened out on the rule. This thing is in order as I see it. I am speaking to the amendment. I am speaking on the intent involved. Mr. Davis started this thing going; Mr. Fischer wanted to change it, so he changed it. I said Mr. Davis's proposal seems to fit into the general intent and purpose and that is that naturally service areas may be established within an organized borough. Well, "within" doesn't mean the whole borough necessarily or part of the borough, but when you start pinpointing or flagging the proposition that a service area may be set up within a whole borough, you are talking about organized boroughs and naturally they are service districts or they wouldn't be boroughs. Mr. Rosswog.

ROSSWOG: I think it is approaching 12:00 o'clock and I move now that we recess until 1:30.

PRESIDENT EGAN: Mr. Rosswog moves that the Convention stand at recess until 1:30 p.m. Are there committee announcements? Mrs. Sweeney.

SWEENEY: The members of the Administrative Committee will remember that they have a luncheon meeting right at 12:00 and I would like to also announce that Engrossment and Enrollment will meet at 1:00.

PRESIDENT EGAN: The Administrative Committee will meet at

luncheon at 12:00, and Engrossment and Enrollment will meet at 1:00. Mr. McNealy.

MCNEALY: Upon recess the meeting of the Ordinance Committee.

PRESIDENT EGAN: The Ordinance Committee will meet upon recess. Are there other committee announcements? Mr. Riley.

RILEY: Rules immediately upon recess, very briefly in the gallery.

PRESIDENT EGAN: Are there other committee announcements? Mr. Rosswog.

ROSSWOG: Local Government Committee will meet at 12:45.

PRESIDENT EGAN: Local Government Committee will meet at 12:45. If there is no objection the Convention will stand at recess until 1:30.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, may we revert to committee reports?

PRESIDENT EGAN: We will revert to committee reports at this time? Mr. Riley.

RILEY: A report of the Rules Committee, two proposed additions have been circulated. I believe there is a copy on the Clerk's desk.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as suggested by the Rules Committee.

CHIEF CLERK: "Rule 16c. Insert after second sentence: 'Proposals containing more than one article or which in the Committee's judgment contain subject matter properly divided into more than one article, shall, by the committee, be separated into appropriate articles and may be reported back to the Convention article by article.'

Rule 44. 8a. The reading of a proposal incident to Style and Drafting's report, if said report be accepted by the Convention, shall be deemed to be the proposal's third reading before the Convention, whereupon the proposal shall be before the Convention for final passage."

RILEY: I ask unanimous consent, and might add these are both proposals that have originated in Style and Drafting as a means of expediting work in the closing weeks.

PRESIDENT EGAN: Mr. Riley asks unanimous consent. The Chair would like to state before we put the question with respect to Rule 44, 8a, that the rules were not exactly clear as to what would happen, whether we would have to read the proposal for the third time in its entirety twice or not, and this would just clarify the fact that we will read the proposal in its entirety when it comes to us from the Style and Drafting Committee, and then in third reading we will read it by title only, and it will then be open for debate. Mr. Hellenthal.

HELLENTHAL: Mr. President, I am not quite clear on the import of the proposed Rule 44, 8a. If Style and Drafting makes a change which might be considered to be a change in substance rather than in form, will it require a two-thirds vote?

PRESIDENT EGAN: It will under the existing rules, Mr. Hellenthal, require a two-thirds vote, that is correct.

HELLENTHAL: In other words, then it will take a two-thirds vote to upset any decision reached in Style and Drafting?

PRESIDENT EGAN: The Chair was speaking of an amendment to the proposal at that time. We can accept or reject the whole report by a majority of vote.

HELLENTHAL: Any portion of it?

PRESIDENT EGAN: Whether we can do it under the rules as to any portion of the report, perhaps Mr. Riley can --

RILEY: As long as Style and Drafting follows the suggestion set forth in Rule 16c of dividing its proposals into the appropriate articles, action in accepting a given report would be had on the entire article, and for purposes of third reading an article should be read in its entirety if it is to be deemed third reading purposes of going on final passage, but if a Style and Drafting Committee report is objectionable to the membership, if they feel there has been substantive change, they simply won't accept the report, they will refer it back to them.

HELLENTHAL: Why can't you object to one phrase, one word, or one section, if you deem that a departure has been made from the jurisdiction of the Committee?

RILEY: That is what I would expect to happen.

HELLENTHAL: Is it possible for that to happen under this proposed change?

RILEY: It is possible to object to anything, as I see it, if I understand your question.

HELLENTHAL: Is it possible to do that within the rule?

PRESIDENT EGAN: To make a proposed change, Mr. Hellenthal, under our existing rules -- do you so move the adoption of this report?

RILEY: I have, yes.

PRESIDENT EGAN: Is there a second?

DAVIS: I second the motion.

PRESIDENT EGAN: Mr. Davis seconds the motion. The understanding of the Chair is that under the existing rules as they are right now and will be, even if this new rule is adopted, that when we read the Style and Drafting Committee's report in its entirety, you could offer amendments at that time, but it would take a specific amendment at that time which would take a two-thirds vote, Mr. Hellenthal. It would take a majority vote to reject the whole report.

HELLENTHAL: Mr. President, that was certainly not my understanding of the prerogatives of Style and Drafting.

PRESIDENT EGAN: Mr. Davis.

DAVIS: The only purpose of the proposed rule here is this: Under the rules, the third reading must be a full reading. Now Style and Drafting figured that it would be better for everybody concerned, more understandable for everybody concerned, at the time they brought in their report to have a full reading at that time, so if there were any changes people could catch them at that time. Then, assuming that the report is adopted, there wouldn't be much point in a full reading again in third reading, so we wanted that reading at that time to be considered as a third reading if the report was adopted. That was what we had in mind.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, may I ask Mr. Davis a question?

PRESIDENT EGAN: You may, Mr. Hellenthal.

HELLENTHAL: Then, Mr. Davis, say, to make a specific illustration, say the requirement that residence be actual and bona fide is omitted in the Style and Drafting revision of the suffrage requirements. Could someone make an amendment that it be included and that the original language in general be used, and would it take but a majority vote for that to pass?

DAVIS: I don't believe I can answer your question. Certainly you could refuse to accept the report on that ground that Style and Drafting had not done its job. They left out something or

changed something of substance -- what vote it would take I cannot answer.

PRESIDENT EGAN: Mr. Hellenthal, the Chair can answer that, that under the existing rules and this argument came up in the beginning of the session, also, under existing rules if you wish to offer any type of amendment now when the Style and Drafting Committee brings in their report, it will take a two-thirds vote. It will take a majority vote to reject the whole report.

HELLENTHAL: Mr. President, I want to be heard on that subject.

I participated in the original debate, and, frankly, my understanding was different. When a Style and Drafting Committee was picked from among our members in the same manner as any other committee it was not my intention and I don't think it was the intention of anybody here to confer upon that small group the right to make a change of substance in an article and to require a two-thirds vote in order to upset that change, and I think Mr. Sundborg has the same feeling and he is nodding his head in agreement with me.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think maybe I can throw some light on the topic, which Mr. Hellenthal brings up here, which I don't think is exactly on what is proposed here in Rule 44. Yours was a little different kind of a question, but he asked could we adopt a report here by a majority vote if it made substantive changes. Our rules say that the Style and Drafting Committee has no authority to make any change in substance. If Mr. Hellenthal, or any member, when a report from Style and Drafting comes back on the floor, thinks that we have made a change in substance, that member has a point of order against our report and he should put the point of order to the President, that our report in such and such a particular is out of order because it has made a substantive change. If the President should rule that that is correct we would have to take the report back or else we would have to get a two-thirds vote of the body for the adoption of the part of the report which had been ruled to be a change in substance.

HELLENTHAL: Say the President, whom I have great respect for but is fallible like the rest of us, say he made an error in ruling on a point of order, would it take a two-thirds majority to overrule his decision?

PRESIDENT EGAN: No, it takes a majority vote, Mr. Hellenthal.

HELLENTHAL: I think we've made this clear then.

PRESIDENT EGAN: The Chair feels that it is very fine that

this question has come up right now before we have started this discussion and the Chair also feels, Mr. Riley, if you are in agreement, that it would be well to have a recess of five or ten minutes at this time and have the Rules Committee and the delegates, any delegate who is interested, come before the Rules Committee, and we will attempt to spell that out in the rules so that there is no doubt in the minds of any delegate. Mr. Riley.

RILEY: Mr. President, if I may first, it might provide further clarification while we are all here. The process goes even further, as I understand it, than outlined by Mr. Sundborg. If for example, Mr. Hellenthal, you object to a phrase or a word in the belief it is a substantive change, you need only muster a majority to reject the report and there is no place for it to go but to Style and Drafting who has been made aware of your objection and its nature. Then later, if because of defect, an oversight, or something that occurred to no one, you wished to amend it specifically, that and that only is where your two-thirds comes in.

PRESIDENT EGAN: Mrs. Hermann has been attempting to get the floor.

HERMANN: Mr. President, I think I can settle Mr. Hellenthal's worries by referring you to Section 8 of Rule 44, not Section 8a. But it says, "Action on report of Committee on Style and Drafting and action on amendments as to phraseology only."

PRESIDENT EGAN: As the Chair recalls, all the discussion that took place earlier in the session, the Rules Committee definitely stated that any amendment that would be offered at the time the Style and Drafting Committee brought back their report would have to be made by a two-thirds vote.

HERMANN: That is amendments as to substance, Mr. President.

PRESIDENT EGAN: Yes. Mr. McNees.

MCNEES: May I suggest that the report from Style and Drafting be referred back to the floor by way of the committee. That might save a lot of time before it's over with, too.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: By way of what committee?

MCNEES: The committee for the original article.

SUNDBORG: Mr. President, in every event, as I have said here on the floor previously, Style and Drafting has cleared with a representative nominated by a substantive committee before it has brought its article back on the floor. We don't feel that

we should refer them back through those committees. In fact, our rules do not provide for that. This is a report of the Style and Drafting Committee, and it has to be our report and be acted upon by the Convention, and not by the substantive committee, because many amendments have been made here on the floor, and we know the proposal is no longer the chattel of the substantive committee. They may have been changed in many ways, and they have been in almost every case, and I believe it is up to the Convention to accept or reject the report of the Style and Drafting Committee and not up to the committee which may have drawn the bones of the article in the first place. It has been threshed out here on the Convention floor.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Point of information here. Isn't this proposed report 8a trying to combine 8 and 9; 9 mentions specifically third reading and it says here in 8a that this "shall be deemed to be the proposal's third reading..." So we would have to have an amendment to No. 9, I believe, on that.

PRESIDENT EGAN: Mr. Riley.

RILEY: This is to merge two readings in one, to save the time of the third reading, as you would recall it, which is provided for in 9.

PRESIDENT EGAN: The Chair still feels that it might be well to have a Rules Committee meeting at this time and each delegate who has any questions, and including the President, attend that meeting and we will come up with a real understanding of what we are going to do. If there is no objection the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, I ask unanimous consent on the part of the Committee to withdraw the proposed Rule 44-8a.

PRESIDENT EGAN: Is there objection to the unanimous consent request of the Chairman of the Rules Committee? Hearing no objection the proposed Rule 44-8a is ordered withdrawn. Mr. Riley.

RILEY: My earlier motion for adoption now extends only to Rule 16c.

PRESIDENT EGAN: Unanimous consent is asked that the new proposed Rule 16c be adopted by the Convention. Is there objection? Hearing no objection the proposed rule change is ordered adopted. Mr. Riley, did you have anything else?

RILEY: In the way of explanation if it is necessary, Mr. President, it was simply felt that rather than chance need to review this procedure, to explain it perhaps several times a week, the consensus was that we will go ahead and read measures in their entirety when Style and Drafting makes its report as well as in a formal third reading.

PRESIDENT EGAN: Are there any communications at this time? If not, we have before us Committee Proposal No. 6/a. There was an amendment. Mr. Fischer.

V. FISCHER: I would like to ask unanimous consent to withdraw the last amendment.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent to withdraw the proposed amendment that was offered by him before the noon recess. Is there objection? Hearing no objection the proposed amendment is ordered withdrawn. Are there other amendments to Sections 3 or 4? Mr. Rosswog?

ROSSWOG: I believe there is a committee amendment on the Chief Clerk's desk.

PRESIDENT EGAN: For Section 6?

CHIEF CLERK: We are on 3 and 4. Section 6 is where we left off.

PRESIDENT EGAN: If there are amendments to Section 6 would the Chief Clerk please read the proposed committee amendment.

CHIEF CLERK: "Page 2, line 24, Section 6, strike 'portions of'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: This is a committee proposal and I would move and ask unanimous consent that this amendment be adopted.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent that the proposed committee amendment be adopted. Would the Chief Clerk please read the amendment once more.

CHIEF CLERK: "Line 24, page 2, strike the words 'portions of'."

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Section 6? To Section 7? Mr. Ralph Rivers.

R. RIVERS: I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 7, page 3, line 12, strike the words 'necessary functions' and substitute the words 'services it deems necessary or advisable'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I ask unanimous consent for the adoption. I might say the Committee has concurred with me on that.

PRESIDENT EGAN: Mr. Ralph Rivers moves and asks unanimous consent for the adoption of the proposed amendment. Mr. Gray.

GRAY: I would object for a matter of information. What difference does it make, Mr. Rivers.

R. RIVERS: The point was made yesterday that where it says, "the legislature shall provide for the performance of necessary functions," and somebody said, "Who decides what is necessary?" and the Committee said it would take it under advisement. I pursued the point a little bit and drafted this language, "for the performance of services it deems necessary or advisable". In the first place, it specifies that the legislature is the one who shall use its discretion; it clears up that point and also improves the context a little.

GRAY: I withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Cooper.

COOPER: I had a question to ask. Earlier in the day, on line 13 --

R. RIVERS: Let's have a ruling on this other one first.

PRESIDENT EGAN: You are referring to this amendment?

COOPER: Yes, sir, and this has a bearing on it. Line 13, it was "the greatest possible measure"? Was that the amendment? (Answer not audible.)

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Hurley.

HURLEY: Mr. President, I would like to have the section read as it will read now.

PRESIDENT EGAN: Would the Chief Clerk please read the section as it would appear if Mr. Rivers' amendment was adopted.

CHIEF CLERK: "Section 7. The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs allowing for the greatest possible measure

of local participation and responsibility."

PRESIDENT EGAN: Is there objection to the proposed unanimous consent request?

COOPER: I have to object.

PRESIDENT EGAN: Do you so move, Mr. Rivers?

R. RIVERS: I so move.

PRESIDENT EGAN: Mr. Ralph Rivers so moves for the adoption

WHITE: I second the motion.

PRESIDENT EGAN: Seconded by Mr. White that the proposed amendment be adopted. Mr. Cooper.

COOPER: Mr. President, I have to apologize for not being here yesterday when this was very likely discussed. However, the way I see it it says "shall provide for the performances of the services" -- is that the intention?

R. RIVERS: Speaking of unorganized areas where they don't have any self-functioning. Here the state would perform those services that the legislature deems necessary or advisable until such time as the area does get organized.

PRESIDENT EGAN: Is there further discussion? Mr. Coghill.

COGHILL: I would like to ask Mr. Rivers a question if I may.

PRESIDENT EGAN: If there is no objection, Mr. Coghill.

COGHILL: Isn't there quite a difference between the words "services" and "functions"? Wouldn't the functions of an unorganized borough be completely different than the services that the legislature would provide for it? Wouldn't the unorganized borough have a definite function?

R. RIVERS: The unorganized borough does not function period. All the functioning is at the state level or through state operations and, therefore, it is only certain social services that the state performs in the unorganized areas. So I think that the word "services" is better than "functions", but I don't mind leaving in the words "functions as it deems necessary or advisable", but I mean it is more realistic that certain state services that are performed in an unorganized unfunctioning area.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will

signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 7? If not, are there amendments to Section 8? To Section 9? Mr. Coghill.

COGHILL: I have considered placing an amendment on the classes of cities. With the privilege of the Chair I would like to ask a question of the Committee.

PRESIDENT EGAN: If there is no objection, Mr. Coghill, you may ask your question.

COGHILL: We went over this to some length yesterday and still, after thinking about it quite a bit, I still can't see where the city of the first class should be discriminated against the city of the second class. I wonder if I could get an explanation from the Committee as to why they have left out the city of the second class.

PRESIDENT EGAN: Could the Committee or any member of the Committee answer that question? Mr. Doogan.

DOOGAN: I will try and answer it. In any borough, organized borough, you would have, almost of necessity, a city of the first class, a fairly substantial city, whereas when you get into classes of cities that are second and third-class cities they are incorporated, it is true, but sometimes have very small population, and their representation on the assembly would be out of proportion to, if you are using population as a figure, would be out of proportion to the people that they represent.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I don't want to try and argue, but I am trying to get it clear, not to the point of the outlying areas. Now, you take a city of the second class which will have a population of 500, and you might have 3,000 or 4,000 in the outlying areas immediately surrounding this small service community that might be out there, and I think that in the constitution, leaving it just to the city of the first class, that it might tend to discriminate against that particular incorporated unit to the point that they couldn't grow or become elevated to the first class.

PRESIDENT EGAN: Mr. Coghill, perhaps Mr. Lee has the answer to your question. Mr. Lee.

LEE: Well, we figured this would be the most advanced type of city. We haven't put anything down here as to the second class, third class, fourth class or fiftieth class of cities which possibly the legislature might set up. So we have in a later section that the legislature may extend home rule to other

classes of boroughs and cities; it is left to the legislature, not to the constitution. I don't know if that answers your question, but that is the way I look at it.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, if I may answer, along with Mr. Lee, I believe it states here that a home rule charter, and a home rule charter is where they have their own commission set up their own charter, but it wouldn't necessarily mean that the other cities couldn't have charters, there might be charters supplied under general law that they could accept.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, my purpose in asking the question is that I know that the legislature can provide for other cities but why then adopt a procedure for the first-class city?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: At the present time we all agree that the municipal code needs amending but at the present time a city of the first class can be organized by 250 people or over; a city of the second class by 40 people or more; and a city of the third class by five people or more. If they would amend the code in such a way that the city of the second and third class will come up to a reasonable population quota, then under this they could adopt their own charter if the legislature so provides.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: The purpose in asking this question is not only the clarification of the first-class city but also to the point where that cities of the second class or third class might be well discriminated upon in their place in the borough assembly where they would be the principal community within that borough. You have protected for the first-class city but not for the other classes of cities on the borough organization, and I believe that it should be left just cities, not cities of the first class, and then leaving the legislative procedure still in there, they could still provide for the charter part.

DOOGAN: The answer to that is that there probably would not be known as what is known as a first-class borough unless it definitely had a first-class city as some substance of it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, if I may contribute. Cities will act either under grants of power without home rule charters, or they will act under home rule charters. But that will have nothing to do with the representation on the borough assembly;

whether it has got a home rule charter or not doesn't affect its share of representation.

PRESIDENT EGAN: Are there amendments for Section 9?

COOPER: I have an amendment I would like to present orally to Section 9.

PRESIDENT EGAN: If there is no objection, you may read the amendment.

COOPER: The sentence in Section 9, beginning on page 4, line 2, beginning with the word "in" and through the word "charter" on line 7, strike that sentence.

PRESIDENT EGAN: Mr. Cooper, do you so move?

COOPER: I move the adoption of that.

PRESIDENT EGAN: Mr. Cooper moves that the sentence beginning with the word "in" on line 2 and ending with the word "charter" on line 7 of Section 9, page 4, be deleted from the section. Is there a second?

TAYLOR: I'll second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion. Is there discussion? Mr. Cooper.

COOPER: Mr. President, my amendment would provide for the legislation or the law to accomplish by a uniform procedure the various preparations, approvals, or rejections that are set forth in that sentence. This sentence merely treats the subject in the event there is no such legislation. By striking this sentence it would automatically be mandatory upon the legislature to set a uniform procedure to provide for the accomplishment as set out in the sentence, and it would be uniform throughout the first-class cities, second-class, and on through any class city or borough.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to explain why this particular sentence is here and why it is needed. The Constitutional Convention in Pennsylvania before the turn of the century adopted an amendment to the constitution authorizing home rule to cities. At that time they outlined what powers home rule cities would have at great length and did everything except provide the method of the adoption of a charter. That was left to the legislature. I think it was only about three or four years ago, if it has been done as yet, that Pennsylvania, that the legislature ever got around to authorizing, to providing a means of adopting a home rule charter. In other words, the

authority was there but it couldn't be exercised. You will find that as you study provisions for home rule in the various constitutions that, I think in all but two cases, a self-executing clause like this is provided. The preferable case is, of course, that the legislature do it. This is an escape clause in case the legislature does not act. If you will look in the model state constitution, if you look in other constitutions, they go into this matter at great length. They would have more than a page, maybe two pages, covering the procedure. The Committee felt that one sentence was worth putting in, to make sure that these boroughs and cities that have the qualifications that are deemed necessary to be a class one city or borough would also have the authority to adopt a home rule charter. If the legislature acts there is nothing to prevent the people then from following the process set up by the legislature. It is only an escape clause which is necessary and has proven necessary through experience in a number of states.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, may I ask Mr. Fischer a question?

PRESIDENT EGAN: If there is no objection.

COOPER: In lieu of the power of the initiative and referendum, how long do you believe the people of Alaska would allow the legislature to go without acting on a question such as this?

V. FISCHER: That is impossible to answer, of course, but we feel that this sentence is necessary and is justified here.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, the Cooper amendment is actually the heart of the question to which I was speaking on, and it seems to me that the Local Government Committee in their home rule have done a very good job as far as the cities of the first class are concerned, and they have provided that they can set up their charter without any legislation, go right down the line and adopt it, but when it comes to we people that live in the small communities, they come down in the next section and say the legislature "may" extend home rule to other classes of boroughs and cities, but they don't say they "shall". They have given the cities of the first class the prerogative to have home rule charter; they have set them up in the constitution to provide for the home rule charter without the legislature acting, but to the people that are in the smaller communities they have given nothing, and they haven't even provided that we will have home rule. They have said that the legislature "may" provide home rule, and with the cities of the first class they have set them up in the constitution to do it. I think the amendment is fine.

V. RIVERS: Point of order. I don't think the argument is germane to the question.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I direct a question to Mr. Fischer or some member of the Committee?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: I may have overlooked it but you use the phrase "borough of the first class and city of the first class", and I don't find any definition of what you mean by borough of the first class or city of the first class. Is that in the article or have I just overlooked it?

V. FISCHER: That is not in the article. The article gives the legislature authority to classify, and the assumption is that there will be first-class boroughs as well as first-class cities.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I wish to close. In striking this sentence the legislature would then prescribe what would be a first-, second-, third-, or fourth-class city and also the procedure of the preparation, approval, or rejection of any charters in any type of class cities, and I think the uniform procedure should be established so that there will never be any discrimination in the home rule.

PRESIDENT EGAN: The Chair would like to suggest again if there is a roll call vote that all delegates participate with their view one way or the other.

COGHILL: Roll call.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Cooper be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Armstrong, Coghill, Collins, Cooper, H. Fischer, Hurley, King, Laws, Peratrovich, R. Rivers, Stewart, Taylor.

Nays: 39 - Awes, Barr, Boswell, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, Kilcher, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Robertson,

Rosswog, Smith, Sundborg, Sweeney, VanderLeest, Walsh,
White, Wien, Mr. President.

Absent: 4 - Buckalew, Hilscher, Knight, McNealy.)

CHIEF CLERK: 12 yeas, 39 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of passage. The Chair made an error in speaking of, in asking the delegates to make their wishes known when he referred to roll call. He meant when a voice vote is being called for. Are there other amendments to Section 9? Mr. Kilcher.

KILCHER: Yes, I have a small amendment if I may offer it. On line 24, page 3, that "first class" be stricken and "any organized" be put ahead of the word "borough" so that it may read "the qualified voters of any organized borough".

PRESIDENT EGAN: The word "organized"?

KILCHER: The word "organized" be put ahead of the word "borough" and "of the first class" be stricken, page 3, line 24.

PRESIDENT EGAN: You move the adoption of the proposed amendment, Mr. Kilcher?

KILCHER: Yes.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the proposed amendment. Is there a second?

CHIEF CLERK: I don't understand that.

KILCHER: Strike the words "of the first class" on line 24.

PRESIDENT EGAN: Strike the words "of the first class" on line 24.

CHIEF CLERK: Then it reads "the qualified voters of any borough organized."

KILCHER: And insert the word "organized" in front of the word "borough".

PRESIDENT EGAN: Is there a second to the motion?

HINCKEL: I second the motion.

PRESIDENT EGAN: Mr. Hinckel seconds the motion. Mr. Kilcher.

KILCHER: Mr. President, I think when reading over the original

Article 6 and comparing it with 6/a, that there must have slipped in some small inconsistencies of which I think this is one. As Mr. Fischer said awhile ago, there is an assumption there might be boroughs of the first class, etc., but that assumption, I think, derives from Article 6 which is now abandoned, and there is no other mention in the article of first-class boroughs ahead of this section, but there is mention of organized and unorganized boroughs, so I think to be consistent with the article so far, we should speak here of the "organized borough" on the one hand and of "city of the first class" on the other.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, I would like to ask the Committee if you put "organized borough" in line 24, how would a borough become organized in the first place? Doesn't that take a charter to form an organized borough? Section 9, the charter is to organize a borough, isn't that the purpose of it?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: That would be one way or they might adopt two or three options set up by general law. They could be organized either under general law or by charter.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, could I ask somebody on the Committee what the Committee thinks of Mr. Kilcher's proposed amendment?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I think I can speak for the Committee that we feel that organizing by a home rule charter should be for the highest advanced in each case, and you may set it up by law, a charter established by law, which would not be to the advantage of maybe your lower classifications. If you should force them to go into a home rule charter in order to organize, it might be that you are discriminating against them rather than helping them along.

PRESIDENT EGAN: Is there further discussion? Mr. Londborg.

LONDBORG: In trying to read in this amendment here, I don't suppose, as far as I am personally concerned, that it would hurt the purpose of the whole article; on the next page it says "in the manner provided by law" and they can provide for it then. I can see one point there that was brought up by Mr. Coghill awhile ago. If they are going to classify this on account of population, you may have 50,000 people that are just as capable of home rule as a city of 100,000, but just because they don't have the population wouldn't get to have a home rule

charter, or it might be 5,000. I can see a discrimination there when we don't know what the legislature is going to set up for standards of the first class.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I might go a step further on that in explaining the reasons for using "first class" after borough. When boroughs will first be established it will be a new form of government to Alaska. It was, in part, the Committee's thinking that when they are first established there may be no first-class boroughs until, say for a few years, until they have organized to the point where they have assumed basic functions and you may put it in terms of learning how to operate as a government. Then the legislature may provide for a reclassification or there may be an automatic reclassification into first-class boroughs and then they would be able to adopt home rule charters rather than automatically opening the way up to the adoption of home rule charters before the people of a particular borough know exactly what the form of government is that is being imposed upon them.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I am still a little confused on this. Mr. Rosswog in answering a question a minute ago, if I understood you correctly, you said that the Committee did not want to force a borough to adopt a charter in order to become organized. It doesn't seem to me that this amendment does that. It merely says that an organized borough may adopt a charter, but the borough could become organized without adopting a charter even should this amendment carry. Isn't that correct?

ROSSWOG: Yes, except that it states here that they may adopt a home rule charter which is set up by their own commission.

WHITE: I meant to say home rule charter -- so if the Committee opposes this amendment we must assume that the Committee doesn't feel that a borough of less than the first class should, in any event, be able to adopt a home rule charter?

ROSSWOG: Yes, unless the legislature should provide as in the next section.

WHITE: I see. But it does seem to me that this particular amendment is getting at what Mr. Cooper had in mind with his amendment earlier.

KILCHER: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor

KILCHER: Roll call, Mr. President.

PRESIDENT EGAN: The Chief Clerk will call the roll.

RILEY: Mr. President, I missed the debate and wish to announce I am abstaining from voting.

PRESIDENT EGAN: The Chief Clerk will call the roll on the amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Coghill, Cooper, H. Fischer, Hurley, Kilcher, Londborg, Marston, Peratrovich, Smith, Stewart, Taylor, White.

Nays: 37 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, King, Laws, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Absent: 5 - Buckalew, Hilscher, Knight, McNealy, VanderLeest.

Abstaining: 1 - Riley.)

CHIEF CLERK: 12 yeas, 37 nays, 5 absent and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Robertson.

ROBERTSON: Mr. President, may I address a question to the Committee?

PRESIDENT EGAN: If there is no objection.

ROBERTSON: In line 3, on page 4, in the sentence that was the subject of Mr. Cooper's amendment, I would like to ask, do the words "of the first class" -- are they intended to modify "borough" as well as "city"?

V. FISCHER: Yes.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, pursuing the same thought that Mr. Robertson had, I find on page 2, the first paragraph, that the "legislature shall classify boroughs and provide the methods by which they are organized, incorporated, etc." I can't find anything in here which says the legislature shall classify

cities; it may be here but I can't find it.

V. FISCHER: The Section 8, page 3, lines 21 and 22.

R. RIVERS: Oh yes, "or classified". Thank you.

PRESIDENT EGAN: Are there other amendments to Section 9? Mr. Hinckel.

HINCKEL: I would like to ask a question of the Committee. It is not quite clear in my mind yet as to why it is necessary to say in Section 9, line 24, "borough of the first class". Would it not be possible just to say that qualified voters of any borough or of any city of the first class may adopt, etc. Is it absolutely necessary that you qualify it?

PRESIDENT EGAN: Mr. Fischer, could you answer that question?

V. FISCHER: Yes, it is quite necessary because the purpose of a system of classification to start with is to separate communities or areas of varying sizes and economic means according to their ability to support government. The legislature and the constitutions generally, then, confer powers upon such units of government according to the class into which they fall rather than devolving the same powers upon all the various classes; just as we now have three classes of cities in Alaska, each with a different scope of power and authority.

HINCKEL: May I ask another question, please?

PRESIDENT EGAN: Yes.

HINCKEL: If the borough or community felt that they were capable of self-government and wished to adopt a charter, shouldn't they be permitted to go through the form at least requesting that their charter be approved? It might not be that the legislature would get around to classifying them in this group of first-class communities which would permit them to do this, and I feel that unless you can show me otherwise that it might be very possible, as time went on, that the legislature might be a little lax and the community might advance to the point that they were willing and ready to assume these obligations before somebody got around to saying that they were classified.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, there is no motion before the floor. We are hearing an argument on a point that has been discussed at least four different times during the past two days. There has been no attempt apparently to take any amendment before the Committee on this matter. I think we are going too far, and if we are not violating our express rule, we are certainly violating the tenor of the rule.

PRESIDENT EGAN: The Chair felt Mr. Hinckel was going to ask a question on that matter.

HINCKEL: I am not quite as smart as Mr. Hellenthal is, and I was asking a question, and it just did not soak in, possibly as fast as it did in his mind. It is not clear in my mind yet, and I am still asking the question of the Committee, and I would like an answer.

V. FISCHER: The Committee had in mind all the way through that local governments are not to be divorced from the state, that the state will exercise a certain amount of interest as well as control over the affairs of local governments. That was one of the underlying reasons that a provision has been included for an agency within the executive which can help and keep track of these matters. Now, when it comes to a community that reaches a level where home rule can be exercised as it grows, the general method of classifying communities, be they just small areas or large, is that certain standards are set up, population possibly, assessment, area inclusion, and then as a city reaches a larger population class, it can automatically go from one class to the other so that there would be no dampening effect upon the community's powers even if it grew.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I address a question to Mr. Fischer?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: In Section 3, Mr. Fischer, which provides for the classification of boroughs among other things, your direction to the legislature seems to be mandatory since you say "The legislature shall classify boroughs." Now in Section 8, which you cited a moment ago with respect to classifying cities, I notice you used the word "may" which indicates a permissive regulation. Was there any reason for differentiating between them?

V. FISCHER: No, there was no intentional differentiation between the two. Insofar as classification is concerned, we want to be sure that boroughs are classified. Cities are classified already.

PRESIDENT EGAN: Mr. White.

WHITE: I am still not satisfied on this either.

PRESIDENT EGAN: Is there an amendment to be offered?

WHITE: No, I want to ask a question, Mr. President, of the Committee.

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: It appears to me that what is bothering people here is the fact that there may be boroughs of less than the first class which may desire or may be entitled to some measure of home rule, but apparently under this section they can't get it. Now, the provision is made for classifying boroughs as cities and if I understood you correctly, Mr. Fischer, you just mentioned population, assessment, and areas as some of the matters that might be taken into consideration. However, these are all quantitative factors so that it appears that a borough will have to grow in population, or grow in total assessed valuation, or grow in area before it is able to rise from one class to the next. Now, in listening to the discussion, it appears to me what is bothering people is that there may be boroughs of a lower quantitative standing in these matters which is, although small, still well able to assume some measure of home rule. Now, did the Committee ever take into consideration the fact that home rule might be extended to individual boroughs within a class without extending it to the whole class?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: No, we have not and in Section 10, we do, however, provide that the legislature may extend home rule to other classes of boroughs and cities but not by special legislation.

PRESIDENT EGAN: Are there amendments to Section 9 or 10? Mr. Kilcher.

KILCHER: If I may ask a question which will kill the necessity of making an amendment, Mr. Fischer, who sets up the class standards for cities and boroughs? The legislature?

V. FISCHER: Yes, the legislature.

KILCHER: Then, Mr. President, I have an amendment. Section 9, page 3, strike on line 24 "of the first class", and on line 25, also, "of the first class", so that it will read: "the qualified voters of any borough or city may adopt".

PRESIDENT EGAN: What was the previous amendment on that?

CHIEF CLERK: It was to strike "of the first class" on line 24 and insert "organized" before "borough".

PRESIDENT EGAN: Mr. Kilcher, what is your pleasure regarding this?

KILCHER: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the amendment. Is there a second?

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion. Mr. Kilcher.

KILCHER: Mr. President, since the legislature has yet to set up the classes for cities as well as boroughs, and since the legislature, as it says on page 4, line 1, will provide by law, the legislature or initiative will set up the home rule charter provisions; since we have no classes the legislature has to establish them, why not let the legislature set up the whole system. Let the legislature decide what the first-, second-, or third-class city or borough consists of, what specifications it has to meet and then in what case they should get home rule charter or not. This article is the framework. It establishes principal rules that the borough should be a combination of city and borough. The city, it says is a part of the borough, which is a very good idea; it also gives in Section 1, the general principles by which a borough should be established, and the rest I think should purely be left up to the legislature.

PRESIDENT EGAN: Is there further discussion?

MCCUTCHEON: Question.

PRESIDENT EGAN: If not, the question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Coghill.

COGHILL: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 10, page 4, line 13, change 'may' to 'shall'.

COGHILL: Mr. President, I move for the adoption of this amendment.

PRESIDENT EGAN: Mr. Coghill moves the adoption of the proposed amendment.

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. Coghill.

COGHILL: Mr. President, I know that this is hopping from Section 9 to Section 10. However, it is providing that the legislature "shall" extend home rule to other classes of boroughs

and cities. If the borough is entitled to home rule, they will be organized; if a city is entitled to home rule it will be organized, and I believe that this will assure the small communities of some sort of a home rule charter. It can be limited, that the legislature will do the extending; they will make the provisions, and I believe that this here will solve the problems that we of the small communities are concerned with here in the Convention.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to speak on this. I think there should be discretion left to the legislature, that it should have some control over our local government. I don't think that the delegates realize that possibly under home rule chartering a lot of local government is given to the community or the city or the borough, and they could set up as many officers as they wanted to under their charter and there should be some supervision so that they would not go overboard. I think myself that the word "may" gives the right that the legislature can decide if they are ready for it, but there should be some supervision over them.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Coghill be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "yes", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Coghill, Collins, Cooper, H. Fischer, Harris, Hurley, Johnson, Laws, Peratrovich, Reader, Taylor, White.

Nays: 35 - Armstrong, Awes, Boswell, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Kilcher, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Walsh, Wien, Mr. President.

Absent: 8 - Barr, Buckalew, Hilscher, Knight, Londborg, McNealy, Sundborg, VanderLeest.)

CHIEF CLERK: 12 yeas, 35 nays, and 8 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments for Sections 9 or 10? If not, are there amendments for Section 11? For Section 12?

CHIEF CLERK: I have a committee amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed committee amendment.

CHIEF CLERK: "Section 12, page 4, line 20, after the word 'commission' insert the words 'in the executive branch'."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I would like to move and ask unanimous consent that this amendment be adopted.

PRESIDENT EGAN: Mr. Rosswog moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection? The Chief Clerk will read the proposed amendment once again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Is there objection to the proposed amendment?

KILCHER: Objection.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion. The motion is open for discussion. Mr. Kilcher.

KILCHER: I would like to have the Committee explain its change in its stand.

PRESIDENT EGAN: Mr. Rosswog, would you care to explain?

ROSSWOG: I think it was in the discussion yesterday, Mr. Chairman, and it was felt that by asking for a boundary commission which we thought was very necessary in establishing your local government boundaries that it should be under some branch of the government and it should necessarily be under the executive branch.

PRESIDENT EGAN: Is there still objection?

KILCHER: No.

TAYLOR: May I ask a question? Mr. Rosswog, is that local boundaries commission, is that a commission organized in each borough?

ROSSWOG: No.

TAYLOR: A state commission?

ROSSWOG: It would be statewide because you could not leave it just to the local unit to set up its own boundaries. There should be some supervision or someone setting them up.

TAYLOR: Then one other question, in line 22, the article says, "The commission may consider any proposed boundary." That would necessarily imply that that is a proposed borough boundary, is that right?

ROSSWOG: There is an amendment in local government.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to ask the Committee a question. Does this commission in the executive branch that they have pointed out now, was there consideration given to the fact that that could be an additional duty of the apportionment board?

ROSSWOG: Yes.

COOPER: And that is what you have in mind?

ROSSWOG: Yes, we have in mind that it could be combined with some other --

COOPER: Yes. Then, would the words, "The legislature shall establish" -- would that have anything to do with it because the apportionment board now would be established by the governor?

ROSSWOG: My belief is that they could designate the same board if they wished or one might be appointed by the governor.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask a question of Mr. Rosswog.

PRESIDENT EGAN: If there is no objection, you may ask your question.

R. RIVERS: The way this would read that "The legislature shall establish a local boundary commission in the executive branch and regulate its activities." It sounds as though the commission is going to regulate the activities of the executive branch. What you should say is, "The legislature shall establish within the executive branch a local boundary commission." So, I would ask you if there is any objection to changing your language over to the front of line 20 instead of where it is now and saying "within the executive branch".

HELLENTHAL: What is wrong with having the executive control the

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executive?

COOPER: May we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will have a one-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper.

COOPER: Mr. President, I would like to ask for the floor on a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Cooper, you may have the floor on a point of personal privilege.

(Mr. Cooper spoke on a matter of personal privilege.)

PRESIDENT EGAN: Are there amendments for Section 9 or 10? Sections 11 or 12? Do you have an amendment for Section 12?

CHIEF CLERK: It has not been acted on yet.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I think I can safely say that the question brought up by Mr. Rivers can be handled by Style and Drafting.

R. RIVERS: I so consent.

PRESIDENT EGAN: Mr. White.

WHITE: I want to ask a question of the Committee. In answer to a previous question, I believe you stated that the Committee took into account that this could become a part of the apportionment board set up in another article. I was wondering if the use of the word "commission" here would preclude that. In the apportionment article it says, "There shall be a nonpartisan board of reapportionment."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I believe that it would not stop them from being the same commission, but I did not think at this time that we should tie them up together, forcing them to be the same board. It should be left to a decision at the time because this local boundary question will be a very controversial question and will need a lot of study to set it up, and even with these words they could be grouped together if it was found necessary.

WHITE: Mr. President, in the resources article we had quite a discussion on the difference between a commission and other types of regulatory boards, and it occurred to me that using the word "commission" here means something entirely different than using the word "board". I didn't mean to suggest that they be forced to be one and the same.

PRESIDENT EGAN: Is there further discussion on the proposed amendment?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 4, lines 20 and 21, Section 12, insert the words 'in the executive branch' after the word 'commission'."

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. The Convention will come to order. Mr. White.

WHITE: Mr. President, I haven't had time to write this out but I have an amendment to Section 12, line 20, after the word "commission" insert "or board".

HELLENTHAL: Do you ask unanimous consent?

WHITE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Line 20, page 4, after the word 'commission' insert the words 'or board'."

PRESIDENT EGAN: Is there objection? Mr. Nerland.

NERLAND: Mr. White, would you also include that same wording on line 21?

WHITE: Yes, I certainly would.

PRESIDENT EGAN: If there is no objection that will become a part of the amendment. Is there objection to the unanimous consent request for the adoption of the proposed amendment?

TAYLOR: I object.

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PRESIDENT EGAN: Objection is heard. Do you so move.

WHITE: I so move.

PRESIDENT EGAN: Mr. White so moves

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. The motion is open for discussion. Mr. Coghill.

COGHILL: Mr. Chairman, I believe the motion should also be extended to the word "commission" on the following page, page 5, line 3.

PRESIDENT EGAN: Is that acceptable to the maker of the proposed amendment?

WHITE: It is acceptable.

PRESIDENT EGAN: Is there objection? Hearing none that will become a part of the proposed amendment. Mr. Kilcher.

KILCHER: May I ask a question? Would you think a commission or board could also be called an agency?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I think the word "agency" would cover all types of boards, commissions, boroughs and other things.

KILCHER: I would like to ask Mr. White, in that case, if you might not substitute both for "commission" and board [the word] "agency", because in Section 14 we have also provision for an agency in the executive, which may well end by being the same agency.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, in answer to your question, this is as far as I intended to go, Mr. Kilcher, merely because the Committee said that they took into consideration that this organization might be combined with the apportionment board, and the word used in the apportionment article is "board".

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as it is before us at the present time.

CHIEF CLERK: "Section 12, page 4, lines 20 and 21, page 5, line 3, insert the words 'or board' after the word 'commission'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All

those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hinckel.

HINCKEL: May I ask another question?

PRESIDENT EGAN: You may ask your question if there is no objection, Mr. Hinckel.

HINCKEL: Did I overlook a discussion on how this legislature was going to regulate this executive branch board or has that been answered?

PRESIDENT EGAN: Could the Committee answer that question?

HINCKEL: I thought there were two separate branches.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: The way it reads the legislature would establish it; it would be contained within the executive; and the legislature would regulate it; but the intent was, and I speak for the whole board, the intent was that the legislature would establish such a board or commission by law and it would function and lie within the executive department to more or less direct and regulate its activities. That was the intent. I can see here, as I saw it before you mentioned it, the dual possible interpretation, and I hope that this will be noted for the benefit of Style and Drafting Committee.

PRESIDENT EGAN: Are there other amendments to Section 12.

HURLEY: I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment by Mr. Hurley.

CHIEF CLERK: "Section 12, line 25, page 4, strike the words 'at the end of' and line 1, page 5, strike 'the session unless disapproved,' and insert therefor the words 'when approved'."

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed amendment. Is there a second to the motion?

RILEY: I second the motion.

PRESIDENT EGAN: Mr. Riley seconds the motion. Is there discussion of the proposed amendment? Mr. Hurley.

HURLEY: Mr. President, I detect a sleepy feeling on some of the parts of the delegates on this matter, but I think this is

a crucial one and one of which I recognize there are good arguments on both sides, but I feel that I should bring the amendment before the group to determine what the feeling of the group is. There is a very distinct difference between the wording as it was before and the wording as it is now. At least, I intend that there be a distinct difference. The wording as it was before was a self-executing proposition where the board made a recommendation and if the legislature didn't by resolution accept it, it became law. Now, I am reactionary enough, I guess, to think that is kind of a bad thing. I can recognize also that the matter of swapping around local government boundaries is a tough proposition and one that is hard to get through if it is going to affect somebody's constituents. Still, at the same time, it occurs to me that the initiative should come from the legislature in passing the law, and that I am very much afraid that we will have a rule by a boundary commission rather than by the legislature where silence means acquiescence, and it occurs to me that it would be much better that if the boundary commission were also charged with the duty of explaining their project to the legislators and getting their support in putting it into effect, by passing the bill of their own initiative through the channels of the Congress.

PRESIDENT EGAN: Is there further discussion? Mr. Doogan.

DOOGAN: I am going to take exception to Mr. Hurley's remarks. The reason that it was put in like this was that many times between local government areas they will, by agreement, make boundary changes. These changes, as it is written of necessity, must have the approval of the commission and then again must be presented to the legislature. In all cases, any changes that are made must be submitted to the legislature but in the press of business in the legislature sometimes they may not get around to consider such little things as a minor boundary change, and it isn't the intent of this ordinance that any of these minor boundary changes take up much time of the legislature. Anything that becomes a major change is, of necessity, going to take up plenty of time.

PRESIDENT EGAN: Mr. Gray.

GRAY: I wish to speak against the amendment. This is going to kind of hurt a lot of local home rule because you find that people with their own problems are not interested in your particular problem. The adjustment of a boundary may be very important to a little place like Livengood, but it would be lost in the midst of the great affairs of appropriations, and I can see very well where this little boundary adjustment will go from session to session and not because it would be approved, but because they won't have the time to make it approved. Now, if one of these adjustments are wrong, then it will be disapproved, but I would guarantee, I won't live that long, but I will guarantee that 99 per cent of these little boundary adjustments will be O.K.'d just because they are not disapproved.

Otherwise, they will be held up. I really think that this amendment will do more harm than it will do good.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: It seems like you are taking the negative approach to an enactment of legislation. In this way you are approving or passing something without any action at all by the body that should act on it. That is the legislature. I, for one, am in favor of the amendment because I have not yet, in the number of times I have been in the legislature seen that you can enact legislation by inaction, and I think Mr. Hurley's amendment is all right. I didn't get it all, but I think it should be amended to read that any such change shall not become effective unless approved by a resolution concurred in by a majority of all the residents. Mr. Gray says he would guarantee that no minor boundary changes would ever be taken up by the legislature. If they are so minor that the legislature wouldn't even consider a resolution that might be introduced by some member of the legislature from the locality or from the borough, or from the election district in which it is located, it certainly must be a minor matter if they don't want to force it, and all it would need would be a report from the boundary commission. So, I don't think his argument is sound, I don't believe we should enact legislation by inaction, by not doing something; I think we should take the affirmative action.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe we did exactly the same thing and provided the same method of adoption of what amounts to law in the case of the judiciary article where we said that the supreme court may draw up all the rules of procedure, etc., and unless rejected by the legislature they shall become the law, and we did the same thing as I recall in the executive article where we said that the governor may regroup the agencies and assign them any way he wants to and unless rejected by the legislature that has the force of law. There isn't anything novel to this, and I believe it is all right the way it came out of the Committee.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to point out to Mr. Sundborg that in the case of the executive and the judiciary, it's a matter of general readjustments. This is a matter of specific legislation. Quite a difference. In other words, I think this is the next best thing to the referendum of the people. They have at least a voice in it through representatives. It is a special case and not a general adjustment to come under the major departments so I think there is a difference there, and I am in favor of the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Armstrong, Boswell, Coghill, H. Fischer, Hermann, Hurley, Johnson, Kilcher, Laws, Londborg, Nolan, Peratrovich, Reader, Riley, Taylor, Walsh, Mr. President.

Nays: 32 - Awes, Collins, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hinckel, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, White, Wien.

Absent: 6 - Barr, Buckalew, Hilscher, Knight, McNealy, VanderLeest.)

LONDBORG: Mr. President, may I change my vote to "yes"?

PRESIDENT EGAN: Mr. Londborg changes his vote to "yes".

CHIEF CLERK: 17 yeas, 32 nays and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Gray.

GRAY: I move we recess until 3:50.

PRESIDENT EGAN: Before we put the motion, the Chair would like to announce a luncheon meeting of all committee chairmen tomorrow afternoon at 12:30 in the luncheon room upstairs. Mr. Coghill.

COGHILL: If we may revert to committee announcements, that the Committee on Administration will have a dinner meeting this evening in the dining hall upstairs.

PRESIDENT EGAN: The Committee on Administration will have a dinner meeting this evening. If there is no objection the Convention will stand at recess until 3:55.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 12 or 13? Is there a proposed amendment for Section 10?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment for Section 10.

CHIEF CLERK: "Page 4, line 14. Strike the words, 'classes of'."

WHITE: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. White moves the adoption of the amendment.

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Is it your amendment, Mr. White?

WHITE: Yes.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, it seems to me that this amendment might solve a lot of the problems that have arisen here and then shown in other amendments that have been offered. In starting their presentation the Committee on Local Government pointed out that we have here a golden opportunity to set up a brand new system of local government that we have never had before. It put forth as one of its cornerstones the extension of as much local government as possible to all people throughout the future State of Alaska, which certainly is an admirable aim. Now, it appears to me that the questions that have arisen here have come about because when you classify boroughs, or cities, you almost have to classify them according to quantitative standards -- standards of population, standards of total assessed valuation, standards of area, or other quantitative standards. With that as background it may well be that we will have a city or a borough of small population that cannot rise from one class to the next, but may well have a well-integrated and healthy economy and may be well entitled to some measure of home rule. So, if this amendment is adopted, Section 10 would read: "The legislature may extend home rule to other boroughs and cities," which would mean that a deserving borough or a city, let's say, within the second class, would at least be eligible for some measure of home rule should its economy and population -- type of population and type of economy -- warrant it. I think there can be no objection to this provision, at least there is none that I can see, where the legislature retains the power of decision, the basic power of decision. Now, it might be said that this would be in the nature of local or special legislation. I would call your attention to Section 18 of the legislative article which says: "The legislature shall pass no local or special act in any case where a general act can be made applicable and whether a general act can be made applicable shall be

a matter for judicial determination." It seems to me that here is a pure case where special legislation might well be appropriate. In any event the court could pass on whether it would be appropriate or not. This would merely leave the way open to the extension of home rule to a borough or a city of less than the first class, should such extension be proper and appropriate. Now, most of us live in larger cities, but I hope that this, leaving the door open for the smaller cities will receive serious consideration.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I had hoped that I for one of the Committee, wouldn't have the need to speak on the matter of the word "classes". This motion is to strike the word "classes". Now, early in the history of the Territory the legislature selected and adopted the idea of using cities of different classes -- one, two, and three. I think they did wisely because in the states you have had this problem where in individual states they have adopted the titles of cities, towns, and villages, and at one time a city or a community would incorporate as a village and it might grow up bigger than the town next door to it and still be a village; or the town may adopt the terminology of town and grow bigger than the city next to it, or in one state you had cities of one classification and villages of another. We have tried to keep within the bounds and the limits of the idea of a classification of one group rather than the terminology of many groups; that is the reason why we have tried to stress the idea that the classification system of boroughs and cities would continue. Now, I cannot agree with Mr. White that we will have this problem of not being able to visualize in the boroughs because of the size of the population, the difference in what classification they should be entitled to. I can visualize rather a small area of a borough that is rather heavily populated and potentially wealthy being a borough of the first class, as well as I could also visualize a borough, we will say, out in a rural area that has quite a substantial population, rather scattered, with a large area, still being a borough of the first class. I wanted to amplify just a bit further the thinking as I visualize it on boroughs. We have a country that is potentially wealthy in raw material and I can readily see that if some of these materials are brought into production in the form of coal, gas, and oil, other minerals, radioactive metals, those things; that, as those are separated from the state patrimony that they will leave a certain residual royalty or severance tax as you may wish, to call, which will go into the state treasury, will probably some portion of it, revert to the area from which it came. I can visualize very wealthy semirural types of boroughs here, but I don't see why the legislature in its wisdom in all probability would set up limitations on classes, such that boroughs that were potentially wealthy and fully entitled to home rule could not get it; so I oppose this amendment. I want

to say further that the concept of home rule as we mention it here is not the idea of a borough incorporated in the first class under general law or a city under the same means, it is the idea of the borough sitting down, or the city sitting down, and drawing its own constitution which they call a charter as we visualize it here, and as we are sitting here in this Constitutional Convention. I agree with the secretary of this Committee, Victor Fischer, that in order to achieve that purpose of best adopting a charter they should have some background of experience in operating the form of government they are going to adopt, and know what is best to write into their charter; so it will give them the best opportunity to get the best for their purposes with the least amount of later amendments. I favor holding the word "classes" as we have adopted it.

PRESIDENT EGAN: Mr. White.

WHITE: I'd like to close just briefly, Mr. President. There is no intent here through this amendment to eliminate the idea of establishing classes for boroughs or cities. The only intent here is to make it possible to extend home rule should the legislature or appropriate boards see fit -- to a borough or a city in the class less than the first class should that borough or city have an economy that would entitle it to it. It's merely to allow an exception to the rigidity of the class system here where home rule is under consideration. Now, it may well be that we could have a borough or a city, small in population, that because of the standards of classification that have been set up cannot rise from the second -- let us say to the first class, but it might have a very well-integrated and healthy economy. It may well have a long background of experience but it will not be able under this section, unless amended, it would not be able to have home rule because it couldn't rise to the first class on account of population or other factors.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 10, 11, 12, or 13? Are there amendments to Section 14? Mr. Hurley.

HURLEY: Mr. President, I would like to ask a question. What happened to line 18, provisions "shall" or provisions "may"?

UNIDENTIFIED DELEGATE: "Shall".

HURLEY: Provisions "may", is that the way it should read?

CHIEF CLERK: No, "shall".

PRESIDENT EGAN: Are there amendments to Section 14?

TAYLOR: Mr. President?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I'd like to propose a question to the Chairman of the Committee if I may?

PRESIDENT EGAN: You may, Mr. Taylor, if there is no objection.

TAYLOR: Mr. Rosswog, here recently we had a setting up of a board or a commission first, and then you broadened it to a board, and I see now it has provisions made for an agency. Now, is this the same agency, board, or commission that you were talking about before?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, if I may answer Mr. Taylor. We felt that it was not necessarily the same agency, that this agency was to assist and help the local government units, and could possibly be in some other department of the executive branch, but would be a continuing agency where the boundary commission or board would possibly be set up and work just at certain times; that they have two separate functions, and they could be possibly combined but not necessarily.

TAYLOR: Well, wouldn't it be all right then if we amended this by having an agency, board, or commission so that they could all be used -- the same one, the same board could be used?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I don't know whether I speak for the entire Committee, but I think I do. We went over this quite thoroughly and I think, and most of the Committee thinks, that the success of this plan of local government lies largely in its being coordinated with the balance of the state government, and as you will notice the powers of this board are to render assistance and advice; to collect and publish information relating to local government on a statewide basis; review the activities of local government, and perform such other duties as may be prescribed by law. We have not in our constitution a set tax limitation upon the bonded or indebtedness of the entire state, nor in our local government have we said to any local government, "You may bond yourself only to 10 per cent of your assessed evaluation." But, in the proper approach to it there must be some coordination between state and local government, and in order to properly represent the state in the matter of local government affairs it is proven to be a fact in the states and in other countries that some sort of a rural and urban administrator who would sit and advise with them as to what their debt burden and obligations should be, based upon their total assets or resources. Things of that nature were of vital

importance in a government of this kind where we do not establish these debt ceilings and that is one of the functions along with the organizing and establishing of the governments -- the local governments -- and the changing of classifications and other things which they would be advised by this agency. I hope that I have answered, in part, your question.

PRESIDENT EGAN: Are you offering an amendment?

TAYLOR: No, I'm not offering an amendment.

PRESIDENT EGAN: Are there amendments to Section 14? Mr. Coghill.

COGHILL: I'd like to ask the Committee a question.

PRESIDENT EGAN: If there is no objection.

COGHILL: Is it the intent of the Committee, Mr. Rosswog, that this provision, Section 14, will set up more or less of a clearing house in the executive department for the League of Alaskan Cities, or such things as that?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, I'm sure that that wasn't the intention of the Committee. It would be an agency that would be of assistance and as we now have laws of the Territory concerning cities, why they would probably suggest it and direct it.

COGHILL: As I read it then, if I may, Mr. President?

PRESIDENT EGAN: You may read it.

COGHILL: As I read it then the assistance and advice to local governments and their charter drafting agencies, that local governments could mean any type of or any particular section of their government?

ROSSWOG: Well, it could be your cities, your boroughs, or even your service districts.

COGHILL: Would it then be the same thing as our Legislative Council, in lots of respects as far as agencies? I'm trying to clarify the point, Mr. Rosswog, as to just the intent of the Committee as to the function of this government agency. Will they be available to the health, welfare, education, municipal leagues of a borough, or a city?

ROSSWOG: Well, it would depend upon the law of what their duties would be. We could not say now that they should advise every district or every section of the local government. I believe you have a Department of Health, a Department of

Education, and those things set up and they certainly would not be stepping in on that.

COGHILL: You think then it's legislative material?

ROSSWOG: Not necessarily legislative material. It would be more in directing and helping the local governments like the cities and boroughs, such as in drafting charters, that is not an easy job to take on, and they would have to help out in that and possibly in many other ways in directing your local governments.

PRESIDENT EGAN: Are there amendments to Section 14? If not, are there amendments to Section 15? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question which I think needs to be asked here for the purpose of clearing our record. It was mentioned when we were discussing Section 12, that there was a possibility that the same commission or board could establish local boundaries as would serve as a board of apportionment, and I would like to ask the question, since this says that the legislature "shall" establish a local boundary commission and since my recollection of the apportionment article was that the board of apportionment should be appointed by the governor with no hand in its creation, appointment, or confirmation by the legislature; whether there is any possibility that the legislature could get its hands on the apportionment board by trying to combine the activities of the two boards. I direct that question either to the Chairman of the Committee on Local Government or to the Chairman of the Committee on Apportionment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I think there is a very great possibility of it in the composition of the board as set up.

SUNDBORG: Mr. Hellenthal, wasn't it clear in the language of our apportionment article that the board of apportionment would be appointed by the governor and that there was no manner, at least in the wording of that article, by which the legislature could touch it in any way?

HELLENTHAL: That is correct.

SUNDBORG: Now, you fear that through something we may have written in here, in the local government article, that we may be opening the way for the legislature to get hold of the apportionment board?

HELLENTHAL: It is possible if the two boards were combined; although not probable, I say a possibility of it. You catch me by surprise. I haven't thought of this question as you see it.

SUNDBORG: We certainly don't want the legislature to be saying how the state should be apportioned for purposes of electing legislators, do we?

HELLENTHAL: Frankly, I think that there is a chance -- say that the legislature determined and passed a law to the effect that the boundary board would be combined with the apportionment board, it might very well be that the apportionment board could go to court and resist that attempt because it seems to be the clear intent of the apportionment article that they be left alone, but I don't think that is a very desirable situation to create.

SUNDBORG: If the legislature should do such a thing as you suggest, and say that the boundary board should be combined with the apportionment board, wouldn't there still be a constitutional provision in the apportionment article which says that the members of that board have to be appointed by the governor?

HELLENTHAL: That is correct.

SUNDBORG: And that there is no provision anywhere for the members of that board to be confirmed by the legislature or controlled by the legislature in any manner?

HELLENTHAL: That was studiously avoided by the delegates.

SUNDBORG: Thank you.

PRESIDENT EGAN: Are there other amendments or discussion, for the record, relative to the intent? Mr. Taylor.

TAYLOR: Mr. President, I have an amendment to Section 5, I believe, on that -- it's the amended section.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 5, as amended, line 7, strike the words 'from and'."

PRESIDENT EGAN: What is your pleasure, Mr. Taylor?

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the proposed amendment.

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion. Is there a discussion? Mr. Taylor.

TAYLOR: The reason for that amendment, Mr. President, is the fact that all persons living in a borough should have a right to run for the assembly -- the borough assembly -- irrespective of the fact that some of the assembly members will be members only by virtue of the fact that they are councilmen of the city or of cities in that borough. So, it is a discrimination, I think, against the residents of the borough, of any resident of the borough from being a candidate for the assembly. Another reason is that it may be that the people in an area outside of the city may prefer some person or persons not living in that particular area, or not living outside of the city or cities of the borough, to represent them in the assembly. For that reason I believe that the citizens -- any citizen -- except members of the council, should be allowed to run for the assembly and that the people residing outside of the city should be allowed the right to choose who they want to represent them in the assembly. Mr. Hellenthal.

HELLENTHAL: Mr. President, may I ask a question of Mr. Rosswog?

PRESIDENT EGAN: You may ask a question, Mr. Hellenthal.

HELLENTHAL: Mr. Rosswog, I understand that this amendment has the support of the Committee?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Well, excuse me, Mr. Hellenthal, but could I have this amendment read again? I didn't have a copy at the time.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Line 7, Section 5, is amended, strike the words 'from and'."

TAYLOR: Read it as it would be then.

CHIEF CLERK: "The composition of the assembly shall be established in accordance with law or charter, provided that each city of the first class and each city of any other class designated by law shall be represented by one or more persons who shall be members of its city council and that the additional members of the assembly shall be elected by the qualified voters living outside such cities."

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, this amendment was discussed with the Committee and we decided that the members should vote as they saw fit because the suggestion was made that possibly the members outside of the city would want to elect someone inside

as long as only the qualified electors outside were voting on the man, and we left it open to each member.

PRESIDENT EGAN: The question is -- Mr. Hurley?

HURLEY: Mr. President, this is, in my opinion, a last blow to rural residents. Now, I recognize that it wasn't introduced for that purpose, in fact the way I read it -- the way it is now -- if we should strike from there, it looks to me like only the people, the qualified voters outside of the city are going to elect the people from inside the city. I don't think that is what they intend, but that is what it seems to my way of thinking, but aside from that the statement has been made that, and as far as I can see the whole basis for this amendment is that there might be some person or resident inside of the city whom the people outside of the city want to vote for for the borough assembly. Well, I think that probably can be true. It can also be said the same thing of our election districts under our apportionment schedule. I might have somebody over in Valdez I'd like to vote for too, but I can't do it, I've got an election district there. What I'm trying to do is to guarantee that a candidate will be put up for that assembly from outside of the incorporated city. Now, I think we can find satisfactory candidates outside of the city to put up for this borough assembly. Now, I also recognize that the people inside of the city should have a right to elect people to this borough council, but bear at it from a different angle. You folks worry about the city, I've got to worry about the people outside of the city, and if this amendment is adopted, in my opinion, it puts a very difficult situation in front of those people. Now, it is true, and I'll admit that, if we have a benevolent legislature that is interested in these problems, as I am sure they will be, they can provide that candidates can file from any place they want to -- outside or inside -- if this amendment is adopted. But, it is also true that if we have made an exception here in the case of cities where we say they are guaranteed one, I think we should do the same thing outside, and say that you folks outside are guaranteed one, too. Now, I think this amendment should be defeated, I don't think it is going to help anything except a possible situation where all the people outside don't have anybody to run for that assembly that they want to vote for so they want to go inside the city and take a resident there and say, "You are our boy, we'll elect you to this council." But, I think they will find them outside, and I think it ought to stay just the way it is.

PRESIDENT EGAN: Mr. Davis.

DAVIS: This amendment, to me, Mr. President, points up one of the defects in this thing. We are going to have a borough, but the members on that borough are going to be representing interests and not the borough. We are going to have people there that are there for the specific purpose of representing the city.

We are going to have other people that are there for the specific purpose of representing the people outside of the city. Besides that we are going -- unless this amendment is adopted -- we are going to make it still worse by saying that only people from outside of the city can run for representation outside of the city -- no matter what the voters outside might want. Now, it seems to me that there certainly shouldn't be any harm in letting the people who are going to vote outside of the city pick whoever they may want, whether he lives in the city or lives out.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I brought up the opposite of that. If a man moves outside of the city -- across the boundary line -- he might still have his business in the city, he might still be interested in the city, but I am informed that the law states that he can't be a member of the city council because he doesn't live in the city. He might be just as interested in the city as anyone else. Well, I feel the same way. I think that if it is good to make a law that way then it is good to say in an election that Juneau can't elect someone from Anchorage to be a senator for them or something of that nature, we ought to provide for a little security for the outside of the city area, as far as our borough is concerned and if the day comes when there isn't anybody that will represent the assembly, there isn't anybody to run, then they'd better leave it in an unorganized state, but if they are ready to be part of an organized borough they are certainly entitled to representation. If we adopt this amendment then you can see maybe seven out of the borough assembly will be from the city as probably council members, as they are in Baton Rouge, and then if the other two are also people from within the city you have a one-sided affair entirely. This is to insure some representation by the people and for the people outside of the incorporated cities and the boroughs.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I ask somebody on the Committee a question? We went to a great deal of trouble, Mr. Hellenthal's committee, to establish a method of apportioning representation. Can't that be -- that's on a Territorial level -- can't that be done at local government level so that everybody has a fair share according to numbers?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, we suppose and hope that the legislature in setting up the general laws will do that and further than that, in setting up the home rule charters where such are set up, that that will be taken care of also.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I'd like to speak against the amendment. I might answer Mr. Metcalf's question by saying that setting up a system of apportionment doesn't enter into this question at all. As the section now stands it's a residence clause for candidates within these service areas, outside the city. If you live in service area number 1 -- I mean if the people are going to elect a representative on the assembly from service area number 1 they have got to elect someone who resides in their service area; likewise, with service area number 2 and service area number 2. If you delete the words "from and," as Mr. Taylor suggests, then the people that are in service district number 2 could decide that they want to elect a high-powered lawyer in the city, or something like that. They don't lose any part of their representation; they simply have the privilege of reaching out and electing somebody outside the city, or I should say outside the service area from which they are to elect a representative. Well, our whole structure of government is based on the fact that the candidate must reside in the area or the election district which he is going to represent. It runs all the way from the senate districts through our representative districts through our city setups; and, I think you should have someone living in a service area represent that area and carry out and be consistent all the way through.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, for once I'll have to agree with the Committee on Local Government on the proposed amendment. I believe that speaking against amendment to the amendment that "from and" will preserve the right of representation of the people living outside the cities. The question was brought forward here several days ago: how large were these boroughs going to be? Well, nobody knows. We might have five or six villages surrounded maybe by 60 to 100 miles from a large city; this will allow those people in those villages to muster their votes and get representation to the borough assembly. I think it should stay as it's written.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, shall the -- Mr. Taylor?

TAYLOR: Mr. President, I'd like to close, I believe I have the right to do so.

PRESIDENT EGAN: If no one else wishes to discuss this, you may close.

TAYLOR: Well, I was trying to do the same thing that Mr. Hurley claims that he is trying to do. I'm an out-of-towner and I think that over the quite a few years that I have lived in the

vicinity of Fairbanks, I don't think there is anybody that has brawled and feuded with the city government as much as I have, and I'll mostly likely keep it up as long as I'm here. I live out of the city -- that's one reason I'm proposing this amendment. Now, another thing that this article as it is drawn -- now, I'll give you an example -- say just taking Fairbanks for example, we have a population of approximately 25,000 or 30,000 people; well around, in and around Fairbanks, we maybe have a population of 10,000. Those people in Fairbanks, the 25,000 or 30,000 in Fairbanks have no vote for members of the assembly, they are deprived of their vote, because somebody picks a man or two off of the city council.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I'll call for a point of order on that.

PRESIDENT EGAN: Your point of order, Mr. Hurley?

HURLEY: I think Mr. Taylor is not speaking to his amendment because his amendment will not accomplish a vote for people in the city for the borough assembly.

TAYLOR: That's just what I was setting up. The people inside the city don't have the vote. They are being deprived of a vote. What I'm trying to do is to let the people outside of the city, if they are a considerable distance away from the city and the headquarters of the borough, that if they want to elect somebody from some other place, regardless whether it is inside of the city, that they should have the right to vote for it if they believe that this person would represent them well in the assembly.

LONDBORG: Roll call.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 8 - Davis, Hellenthal, Hermann, Marston, Nerland, Riley, V. Rivers, Taylor.

Nays: 39 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nordale, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 8 - Buckalew, Hilscher, King, Knight McNealy, Nolan, Peratrovich, VanderLeest.)

CHIEF CLERK: 8 yeas, 39 nays and 8 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed to pass. Mr. Cooper.

COOPER: Mr. President, may I ask the Committee a question?

PRESIDENT EGAN: If there is no objection, Mr. Cooper.

COOPER: In the new Section 5, where it says, "the members of the city council and that additional members of the assembly," was consideration given to "an equal number of members of the assembly shall be elected without the city"?

PRESIDENT EGAN: Mr. Lee.

LEE: Mr. Cooper, we have written this article about 50 times so far and we have thought of trying to set up some basis of apportionment and we decided that with the many different situations that are going to be in each borough that the only thing we could do is to have apportionment set in some other manner than through the constitution but we thought of many different possibilities.

COOPER: May I direct this question to the Committee?

PRESIDENT EGAN: If there is no objection.

COOPER: Then there is a possibility that the city council or the city represented on this assembly can possibly be in the majority or a possibility of the outer borough can be in the majority?

LEE: That is correct.

COOPER: And that is to the thinking of the Committee, that it was best?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I'd like to clarify that a little. It was not the thinking of the Committee that it was best. It was the thought of the Committee that there should be representatives from all factions of society in the areas of this group and that they would have balanced representation. That, under the apportionment plan, which they might adopt, that at least one member of the city council under this would sit on that assembly, but it is also thought that in considering their plan of apportionment they will try to do as we have done here guaranteeing equal and proportionate representation; and, as our thinking goes we did

not try to spell it into this constitution. It is my opinion, at least, that at least seven members would compose this borough assembly as a minimum; and that it might possibly run to nine, or it might possibly run to more depending upon the size and the composition of the borough in relation to its different interests. I do not see how, under this, there could be disproportionate representation unless the people themselves so elect to have it.

PRESIDENT EGAN: Are there other amendments for Committee Proposal No. 6/a? We have held in abeyance the name question. Mr. Ralph Rivers.

R. RIVERS: Mr. President, perhaps we could have a recess before we get through with the name routine, and I would like to speak to the Committee once more about Section 15.

PRESIDENT EGAN: If no objection the Convention will be at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal No. 9, has compared it with the original, finding it correctly engrossed and the first enrolled copies will be placed on the delegates' desks in short order. I move the acceptance of the report.

PRESIDENT EGAN: Mrs. Sweeney moves the acceptance of -- asks unanimous consent for the adoption of the report of the Committee on Engrossment and Enrollment, Committee Proposal No. 9. Is there objection? Hearing no objection it is so ordered. Committee Proposal No. 9 is referred to the Committee on Style and Drafting. Mr. Sundborg.

SUNDBORG: Mr. President, under this heading your Committee on Style and Drafting presents a report which is on the Clerk's desk and asks that it be read now.

PRESIDENT EGAN: Will the Chief Clerk please read the report of the Committee on Style and Drafting.

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the article on the judiciary for consideration by the Convention."

PRESIDENT EGAN: The article will be assigned to the Rules Committee for assignment to the calendar. Are there other reports to come before the Convention at this time?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, with Mr. Cross's consent I'd ask for the report of the Committee on Resolutions and Recommendations be read. It's never been, has it?

CHIEF CLERK: That's already been read and referred to the Rules Committee.

PRESIDENT EGAN: That has been covered, Mr. Robertson. Is there a report at this time from the special Committee to read the journal? Mr. White, do you have a report from the special Committee to read the journal? Is the Committee on Local Government still busy? If not, the Convention has been called to order. Mr. Hurley.

HURLEY: Are we on the order of business now, Mr. President?

PRESIDENT EGAN: We are, Mr. Hurley.

HURLEY: The proposal before us on local government?

PRESIDENT EGAN: We have before us the Committee Proposal No. 6/a. The Chair recalls that the question relative to that, was held in abeyance relative to the suggestion of names, but we are in the amendment process, Mr. Hurley.

HURLEY: Mr. President, I move that the Convention's action on line 14, page 4, Section 10, respecting the striking of the words "other classes" be rescinded.

PRESIDENT EGAN: That was on a motion made by Mr. White, was it not?

HURLEY: Yes.

PRESIDENT EGAN: Mr. Hurley has moved that the Convention rescind the action taken in voting down the proposed amendment that had been made by Mr. White with relation to striking the words "other classes". Is that correct?

CHIEF CLERK: No.

HURLEY: "Classes of".

PRESIDENT EGAN: "Classes of". In order to rescind our action it will take 28 votes. Is there a second to Mr. Hurley's motion?

TAYLOR: I'll second it.

PRESIDENT EGAN: Mr. Taylor seconds the rescinding motion. Mr. White.

WHITE: Mr. President, is this a debatable motion?

PRESIDENT EGAN: Yes, it is a debatable motion. Mr. White.

WHITE: Mr. President, I won't take part of the Convention's time to discuss this motion. I did bring it before the Committee briefly. I don't think they had time to reach a decision, so I presume it would be unfair to call on the Chairman for an expression of opinion. I do think I would be fair in stating that at least some members of the Committee are in favor of the adoption of this motion to rescind. I spoke to one of the consultants that has been with the Committee and I believe he is in favor of such a motion.

PRESIDENT EGAN: The question is, "Shall the Convention rescind the action taken when it voted down the motion that had been made; the proposed amendment that had been made by Mr. White?" Mr. Gray.

GRAY: If it is a roll call I wish to abstain because I wasn't present during the discussion of the question.

PRESIDENT EGAN: Mr. White, if you'd care to --

WHITE: I request a roll call vote.

PRESIDENT EGAN: There will have to be a roll call vote. Mr. Doogan.

DOOGAN: I would like to make a statement against this. I say that this section doesn't preclude any other class of city other than first class from getting home rule. I maintain that the legislature by general law can set up standard specifications so that when any village reaches a certain point that they can call themselves a second-class city, third-class city, or whatever they choose, and they are such that when they reach the point of meeting the specifications set out by the legislature, or set out by law, they can also attain home rule. The reason I oppose the amendment is that by leaving the word "classes" in there, when the legislature makes law or a borough of a certain class, or a city of a certain class they mean all boroughs or all cities. By taking the word "classes" out, it would leave the way open for special legislation for a certain city or a certain borough. We know that, for instance, in Pennsylvania there is one city of the first class, which is Philadelphia; there is one city of the second class, which is Pittsburgh. When the state legislature chooses to do something for one or the other, they say this law applies to all cities of the first class or all cities of the second class, and that I am opposed to.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment that we are about to attempt to rescind our action on.

CHIEF CLERK: "Section 10, page 4, line 14: strike the words 'classes of'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I rise to support Barrie White's motion -- or I should say this matter of reconsideration -- rescinding the action previously taken. If we read that -- if it says that the borough -- "the legislature may extend home rule to other boroughs and cities," that leaves it open for the legislature to deal either through general legislation or through a specific grant to a particular town. There is no particular objection to special legislation in cases of this kind, and that's why our legislative act says that there shall be no special legislation when it can be controlled by general legislation, but when a particular setup doesn't afford coverage by general legislation, it can be done by special legislation. Well, I can see a little community with a qualitative value, such as Barrie was trying to point out, that might be in line to be given home rule. Well, the trouble is if you start classifying and you draw up suitable classifications, then you have to start changing those classifications because the pressure is on to give home rule to "Podunk", so they have to change the whole classification to include "Podunk", and in doing so they probably include some others that are not ready yet. This gives more flexibility to the legislature. The legislature may restrict itself to general legislation or it may give home rule to a particular locality that might need it without changing its classification system, so there is some merit in Mr. White's thoughts.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: Mr. President, the Committee is on its own on this and I would just like to say that I'm going to vote in favor of the rescinding action, taking out the words "classes of", would still permit the legislature to act by classes; however, if an exceptional case comes up, as Mr. Rivers points out, the legislature could then act.

PRESIDENT EGAN: The question is -- Mr. Sundborg.

SUNDBORG: May I address a question to Mr. Ralph Rivers?

PRESIDENT EGAN: If there is no objection.

SUNDBORG: Mr. Rivers, wouldn't our provision in the article on the legislature requiring legislation -- general legislation, wherever that can be used, still prevail even in the case of the extending of home rule to boroughs and cities?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I say, yes, that is true. It may be construed, however, that to grant home rule to a particular locality cannot be handled by general legislation because it wouldn't be appropriate to set it up for all the reasons that I previously stated, but, that in the legislative article does govern.

PRESIDENT EGAN: The question is, "Shall the Convention rescind its action with relation to the proposed amendment that had been offered by Mr. White?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Armstrong, Barr, Boswell, Coghill, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hermann, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nordale, Reader, Riley, R. Rivers, Smith, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 13 - Awes, Collins, Cross, Doogan, Hellenthal, Knight, McCutcheon, Marston, Nerland, Poulsen, V. Rivers, Robertson, Rosswog.

Absent: 7 - Buckalew, Hilscher, King, Nolan, Peratrovich, Stewart, VanderLeest.

Abstaining: 1 - Gray.)

GRAY: Mr. Chairman, I would like to vote "yes".

PRESIDENT EGAN: Mr. Gray wishes to vote "yes".

CHIEF CLERK: 35 yeas, 13 nays and 7 absent.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would raise a point of order merely to clarify it in future times and that is if a member gives notice of abstaining from voting because he has not been here can he, before the vote is announced, include his vote?

PRESIDENT EGAN: Mr. McCutcheon, your point of order is well taken. If before the roll call is announced -- before the Chair announces the result -- the Chair will instruct the Secretary to scratch the name of Mr. Gray on this vote.

CHIEF CLERK: 34 ayes, 13 nays, 7 absent and 1 abstaining, is that it?

KILCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: Don't those abstaining have to give notice before the roll call is started?

PRESIDENT EGAN: It was given before the roll call was started. The Chair forgot that Mr. Gray had asked for roll call and was thinking that he was changing from one vote to the other. That was before roll call.

GRAY: If it would help any I would withdraw.

PRESIDENT EGAN: The "ayes" have it and the proposed -- the rescinding action has carried. We now have the proposed amendment by Mr. White before us. Mr. White.

WHITE: I request a roll call.

PRESIDENT EGAN: Is there a discussion? If not the question is -- Mr. Gray.

GRAY: This is the vote that I wish to abstain on.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 33 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nordale, Riley, R. Rivers, Smith, Sundborg, Taylor, Walsh, White, Wien.

Nays: 14 - Awes, Cross, Doogan, Knight, McCutcheon, Marston, Nerland, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Sweeney, Mr. President.

Absent: 7 - Buckalew, Hilscher, King, Nolan, Peratrovich, Stewart, VanderLeest.

Abstaining: 1 - Gray.)

CHIEF CLERK: 33 yeas, 14 nays, 7 absent, and 1 abstaining.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 6/a? Mr. Ralph Rivers. Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 15, page 6, line 2, after the word "integration" insert the following, ',consistent with the provisions of this article,','."

R. RIVERS: I move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second to the motion?

DOOGAN: I second it.

PRESIDENT EGAN: Mr. Doogan seconded the motion. Mr. Ralph Rivers.

RIVERS: Mr. President, the language in Section 15 seemed to me a little bit vague. It is actually talking about existing incorporated districts like school districts and public utility districts, which exist at the present time and which will be in existence during the transition period before the boroughs are organized, and then when a particular area is organized, these existing districts are to be integrated, which means brought together according to various interpretations of the word "integration". Well, rather than let the courts look up the definition of "integration" and take all the various shades of meaning, it's better to clear this up by saying that that integration shall be consistent with the purposes, I mean the provisions of this article, so I do this after consulting with the Committee and after the persons interested agreed that this was an acceptable amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" Mr. Barr.

BARR: Mr. President, I oppose a lot of unnecessary words being put into the constitution. It may not be clear to some people but it's clear to me and I'm sure it will be clear to others.

PRESIDENT EGAN: Mr. Barr, the stenotypist could not hear what you said. Could you say that again, Mr. Barr.

BARR: That's what he is. I thought he was taking oxygen.

PRESIDENT EGAN: The Convention will come to order. Mr. Barr.

BARR: It gets pretty thick around here sometimes. I said that this is an example of a lot of unnecessary words being put into the constitution. It's perfectly clear to me without those words and I don't think they are a bit necessary.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask Mr. Rivers a question?

PRESIDENT EGAN: You may ask a question, Mrs. Nordale.

NORDALE: Would it be constitutional for the legislature to provide anything inconsistent with the provisions of this article?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Well, when it says, "they shall provide for the integration of," that's kind of a blanket business. There are complications unless you clarify this and the consultant and the Committee members agreed with me that there was a point there, so I think probably we could rewrite the whole section, but this was the simplest way at getting at the point.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hinckel, Hurley, Kilcher, Londborg, Metcalf, Nerland, Nordale, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Taylor, Walsh, White, Wien.

Nays: 24 - Awes, Barr, Boswell, Coghill, Collins, Davis, Gray, Hermann, Hilscher, Johnson, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Poulsen, Reader, Riley, Robertson, Sweeney, Mr. President.

Absent: 6 - Buckalew, King, Nolan, Peratrovich, Stewart, VanderLeest.)

CHIEF CLERK: 25 yeas, 24 nays and 6 absent.

PRESIDENT EGAN: And so the "ayes" have it, and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 6/a? Mrs. Sweeney?

SWEENEY: Mr. President, I'm not sure just how correct that time is, we've got all kinds of different times here. I'm wondering whether it might not be a good idea when we adjourn tonight to adjourn until 9:00 o'clock tomorrow morning. We've had quite a high degree of absentees this afternoon, and I believe that the delegates having worked these weeks each night, except for last night, I think they have come to a place where they might be a little bit rum-dum and it might be good for us to have another night off and put in a full day tomorrow. I honestly believe that it would do some good, so I would like to

move at this time, subject of course, to any committee announcements, or other announcements, that we adjourn until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Mrs. Sweeney, are you requesting that we do that now, or should we consider this question of names first -- the amendment that we have held back?

SWEENEY: We won't be able to adjourn until probably tomorrow morning if we start considering them now.

PRESIDENT EGAN: The only thing the Chair thought would be that we would be here another 30 minutes anyway. The Chair would also like to ask about the lunchroom upstairs, have they been notified that we are not going to eat here tonight, Mr. Coghill?

COGHILL: They haven't. I told them we would meet every night unless otherwise notified. However, there are not too many eating here in the evening.

SWEENEY: Mr. President?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Perhaps we can go on with the names and work on until maybe 6:00 or 6:15 and take the 7:00 o'clock bus in, but I hope the delegates seriously consider adjourning until tomorrow morning.

PRESIDENT EGAN: Are you asking unanimous consent at this time, Mrs. Sweeney?

SWEENEY: Yes.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard.

SWEENEY: I so move.

PRESIDENT EGAN: Mrs. Sweeney so moves. Is there a second?

UNIDENTIFIED DELEGATE: Moves what?

PRESIDENT EGAN: That we adjourn until 900 a.m. tomorrow.

SWEENEY: When we adjourn tonight.

PRESIDENT EGAN: The Chair understood that you meant that we adjourn right now.

SWEENEY: No, I meant that since we are expected to eat upstairs probably it might be better to just keep going now.

PRESIDENT EGAN: Mrs. Sweeney moves that when the Convention adjourns tonight that it adjourns until 9:00 a.m. tomorrow. All those in favor of that motion will signify by -- Mr. McCutcheon.

MCCUTCHEON: Point of order, Mr. President. Adjourn until 9:00 o'clock in the morning when we adjourn in the evening?

PRESIDENT EGAN: That is right.

MCCUTCHEON: What is the issue then?

PRESIDENT EGAN: Well, Mrs. Sweeney meant that we would not have the night session but would adjourn until 9:00 a.m. in the morning, without having a night session.

SWEENEY: Mr. President, Mr. Coghill seems to think that we do not have to eat upstairs so if that is the case I renew my original motion that we adjourn now until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Mrs. Sweeney moves that the Convention stand adjourned until 9:00 a.m. tomorrow. Is there a second to the motion.

KNIGHT: Second.

PRESIDENT EGAN: Seconded by Mr. Knight. The question is, "Shall the Convention stand adjourned until 9:00 a.m. tomorrow?" All those in favor of adjourning until 9:00 a.m. tomorrow will signify by saying "aye", all those opposed by saying "no". The "noes" have it and the Convention is still in session. We have before us Committee Proposal No. 6/a. Are there amendments to Committee Proposal No. 6/a?

CHIEF CLERK: Well, it is my understanding that these are to be read all at once, are we on that yet -- the names?

PRESIDENT EGAN: Well, who said we would read them all at once?

CHIEF CLERK: Isn't that the ruling?

PRESIDENT EGAN: Was it the rule that we read all these names at once?

UNIDENTIFIED DELEGATE: Yes.

PRESIDENT EGAN: The Chief Clerk will read all the names.

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SUNDBORG: If we are going to go on to that order of business now, I believe it is in order to call for the submission of all names that will be considered -- I'm not sure they are all in.

PRESIDENT EGAN: Does everyone who had wished to submit a name have that name on the Chief Clerk's desk at this time? Mr. Johnson?

JOHNSON: Mr. President, I move that we stand at recess until 7:00 o'clock this evening.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand at recess until 7:00 o'clock this evening.

HERMANN: I second the motion.

PRESIDENT EGAN: Seconded by Mrs. Hermann. The question is, "Shall the Convention stand at recess until 7:00 p.m.?" All those in favor of standing at recess until 7:00 p.m. will signify by saying "aye", all those opposed by saying "no". The "noes" have it then. The Convention is in session. Are there other names to be presented to the Chief Clerk? Mrs. Sweeney.

SWEENEY: Mr. President, I was going to ask one question. I believe you have amendments on the Secretary's desk and the sponsors aren't here, what are you going to do about those?

PRESIDENT EGAN: If the sponsors --

CHIEF CLERK: They are here.

SWEENEY: They are here?

CHIEF CLERK: They are here.

PRESIDENT EGAN: We can't hold up the business of the Convention because -- the Chief Clerk may read -- if the members are not here to support their names, someone else might do it. The Chief Clerk will read the proposed names that are available.

CHIEF CLERK: Mr. McNealy proposes changing the word "borough" to "county" throughout the proposal. Mr. Kilcher, change "borough" to "canton". Mr. Hilscher, Mr. Marston, Mr. McNees propose changing "borough" to "province". Mr. Boswell proposes to change the word "borough" to "division", to be prefixed by principal city or geographic feature of the area included. Mr. Hellenthal proposes to change the word "borough" to "canton". Mr. Laws proposes to change the word to "county". Mr. Barr proposes to change the word to "county".

PRESIDENT EGAN: Is that all of the names?

CHIEF CLERK: That's all.

PRESIDENT EGAN: Mr. Hellenthal..

HELLENTHAL: Mr. President, I favor calling the unit of local government the "canton". The canton is the name of the local government units in Switzerland and it has a definite accepted terminology. It is the unit of local government that has been in existence there for centuries. The word is a foreign word, in a sense, although it has crept into the English language but is no more foreign than the word "senator", which is Latin; and the word "democracy", which comes from the Greek; nor the word "republic" which comes from the Latin; in fact most of the words that we use in connection with local government are from foreign sources. Now, I think that this word is particularly desirable to Alaska. "Province" implies large land masses, it has a Canadian familiarity and hence I do not think that it quite fits the bill. "Borough" for reasons that seem to be quite apparent, is rather inappropriate, probably because of the puns that it lends itself to. "County" has a significance that I think we should avoid because this creature that we have erected here is not a county -- definitely not a county, and I see no reason why we should call it that, and counties have grown in wide disrepute. Now, the Swiss canton is generally regarded as the cradle of freedom, of liberty, and of democracy. When we think of democracy we think of the ideal democracy, or the Swiss democracy, and with the use of this word we would gather the connotations that go with it. The connotation of freedom, democracy, and liberty; and those are things that should not be overlooked in our country. Now, I think that the word would lend itself -- have the canton of Cordova, the canton of Kodiak, the canton of Anchorage, the canton of Seward, etc. I think it would meet with popular favor. Then there is another point that should not be overlooked and that is that Swiss geography is that of mountainous terrain, valleys, and great mountains, and our country is much like Switzerland in its geography and I think that, although advertising should not be the sole consideration, it is a very important consideration.

PRESIDENT EGAN: Mr. Hellenthal, your three minutes are up.

HELLENTHAL: And, for that reason, and of course, other reasons, I believe this name should be adopted.

MCCUTCHEON: Point of order.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

DOOGAN: Point of information. Is the name "borough" automatically included in that list?

PRESIDENT EGAN: The Chair would feel so since it is in the article. Mr. Poulsen.

POULSEN: Mr. President, may I ask the word "district" be added to the list.

PRESIDENT EGAN: Mr. Poulsen adds the word "district" to the list. Is there further discussion? How did the Rules Committee say we were to proceed on this?

BOSWELL: Mr. President.

PRESIDENT EGAN: Just one three-minute talk on each name, is that right? Mr. Boswell.

BOSWELL: I have proposed the term "division". Here are some definitions of the term "division". One: "Anything partitioned off or separated". Two: "A sharing or apportioning." Three: "A separation into groups for voting." Four: "Anything that divides." Five: "Partition." Six: "Boundary." Seven: "Department." Eight: "Compartment." Nine: "Section." Ten: "Segment." Now, at the time the Committee considered the name for this local government they did not have the term "division" available to them because we had our four judicial divisions. We have now changed that by naming these four judicial divisions into the various Southeastern and Southcentral, Central, and Northwestern Alaska; so this term is now available and is not used anywhere else in our constitution. The term "division" is familiar to Alaskans in its defining a definite area for specific purposes, which is a sort of term we are seeking for local government. If we turn down the committee proposal for "borough" I fear that we will come back to the term "county", which I think would be unfortunate as the term "county" does not fit into the new concept of local government we now have. If we prefix the divisions with principal city or geographical features of the area it will help to locate the area in anyone's mind that knows his Alaskan geography. I believe it will sound appropriate to speak of the Anchorage division, the Denali division, the Juneau division, or the Homer division. I have read this term into the committee article and it reads well. I'll read Section 2: "All local government powers shall be vested in divisions and cities. The state may delegate taxing powers to organized divisions and cities. Section 3. "Divisions shall be established according to such standards..." etc. It sounds appropriate to speak of division assembly, or division court or division police. I ask you to give this term "division" serious consideration. I think it is appropriate, dignified, and Alaskan.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I'd like to ask him a question, but does that take up my time if I ask Mr. Boswell a question?

PRESIDENT EGAN: Yes.

HILSCHER: I won't ask the question.

PRESIDENT EGAN: Does anyone else wish to speak at this time on

their particular name proposal? Mr. McNealy.

MCNEALY: Mr. Chairman, well, I suppose I'm a little oldfashioned and conservative but I am going to have to speak for the word "county". It's a good old American name and isn't adopted from any peculiar situation. It has only one connotation and that is county as it is known in law. It is easy to be understood by the court and the fact that this article here of local government certainly sets up, it wouldn't make any difference what it might be called, it still has the same form of government. I think that removes any connotation as to county government. Like a great many of you I have lived in the states and there is, I think, in counting up there are probably more counties that work successfully than those that don't. I grant there are difficulties in matters in Chicago and Los Angeles Counties -- Cook County in Chicago, and those where there has been a good deal of difficulty, but the county form works, has worked, and is still working very well in the areas, especially in the less populated portions of the state. I am not going to belabor the point, but I think that we should put something in our constitution, be a little conservative. I don't care, particularly, for the adopting from other countries which to me -- "boroughs", "cantons", and "provinces" -- apply to countries other than our own, and in the matter of the "division" I fear that it brings us back in line with our old judicial divisions again, and the courts might hold that that connotation attaches there.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I'm going to speak for the committee choice of the name "borough". You have all heard the definition of the name "borough" stated here on the floor. It means an area of local government, it also applies to city government, it came to us originally from England. It has a much less unfavorable connotation both from the point of view of its origin and also from the point of view of its practice and use in the United States. I read from a small booklet here published by the National Municipal League, an article entitled The Chaotic County. "The county was inherited from England where it was originally a convenient geographical area for administering the king's business, such as the collection of taxes and the administration of justice. The first county officer was an agent of the king known as the sheriff. King Richard I, who ruled from 1189 to 1199, had some doubts about the integrity of these sheriffs so he appointed coroners to keep an eye on the sheriff." It goes on to say that many of these sheriffs left the counties, but there you have the pattern upon which the county government has been formed. It has been formed on the old concept -- the British concept of a few appointed officers in that county, and they have been named in our constitutions in the American counties to follow that pattern of the sheriff, the coroner, and the others. Now, we have broken away

from that in our concept and we have a broader sense and a broader concept of boroughs. I can visualize the boroughs named, not after the cities they embody perhaps, but such as the Chugach borough in the Anchorage area; the Kenai borough; the Gastineau borough; and similar applications of a broad and geographical nature to cover the area they include. Therefore, I endorse and support the name of "borough" as we have adopted it in the Committee.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I'm going along with Mr. Rivers.

PRESIDENT EGAN: Mr. Taylor, now before we discuss this, the rule that we adopted yesterday said that the Local Government Committee can be given five minutes to defend the use of the term "borough". Now that was the rule that we adopted with relation to the word "borough", so if Mr. Victor Rivers used up two minutes there are three minutes left, if the other members of the Committee desire to utilize that time in the defense of the word "borough", according to the rule that we adopted yesterday.

TAYLOR: I'll take about a minute.

PRESIDENT EGAN: Mr. Taylor, unless the Committee designates you as one of their group to defend it -- Mr. Rosswog.

ROSSWOG: We would like to use up the other three minutes, but possibly later.

PRESIDENT EGAN: The Committee would?

ROSSWOG: The Committee would, yes.

PRESIDENT EGAN: Mr. Taylor, with relation to the word "borough" the rule left that up to the Committee to defend its choice for five minutes. They have three minutes left.

TAYLOR: They defended the name "borough".

PRESIDENT EGAN: Well, Mr. Taylor, that wasn't in conformance with the rule that we had adopted.

ROSSWOG: If Mr. Taylor would like to speak on the word "borough" we would like to allot him one minute of our time.

PRESIDENT EGAN: Mr. Taylor, you may have the one minute, then.

TAYLOR: Well, I was just going to say that I believe as Mr. Rivers does that the designation of "county", it brings to mind mismanagement, political mismanagement. "Canton" brings to my mind the tinkling cymbals or the Chinese dancing girl, the

pagodas, and chop suey, and the fact that the name was so popular that the Chinese adopted it and named one of their cities the name of Canton.

PRESIDENT EGAN: That is the one minute. Now, the Committee has two minutes left on "borough". The Convention will come to order. Does anyone else wish to speak on his choice or who submitted a name?

POULSEN: Mr. President, I would. At our Anchorage hearing over Christmas, the word "borough" was discussed quite a bit and it seems like the majority didn't like that word or that name. Now, in regards to the word "canton" I think it is too foreign sounding. In regards to Mr. Boswell's "division", he pretty much outlined the way, and that word sounded pretty good to me. If that were not adopted I would like to see the word "district" -- Anchorage district, Spenard district, or whatever area they're in. It would be much easier sounding to everybody. I would either support "district" or "division".

PRESIDENT EGAN: Is there a defense of any other name that has been submitted by the person who submitted it? Mr. Marston, was your name submitted by you and Mr. Hilscher?

MARSTON: Yes.

PRESIDENT EGAN: Then you may have a minute and a half apiece.

HILSCHER: He may have it all.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I would like to see the word "province". Now, they have said it is too large, but I would like to come from the Northwest province, District One, Two, Three, or Four. I'd feel much better than saying I came from Borough, One, Two, Three, or Four. If I said I came from Northwest Province, District One, Two, Three, or Four, or Central province -- and I like that. If I can't get following for that I'd like to go for "canton" or, if I can't get that I'm going to go for Boswell. I hope that we don't have a decision on this until after dinner. I move that we do not vote on this until after dinner.

PRESIDENT EGAN: Mr. Marston moves that --

SWEENEY: Point of order. We are arguing on the names now. We are not in a position to move.

MARSTON: Well, when we are through arguing I want you to not vote.

PRESIDENT EGAN: Is there discussion of the other names? Mr. Doogan.

DOOGAN: Mr. President, the only other name that is left is "borough". The pronunciation is "borough", not "burro" despite the pictures that have been drawn. We picked the name "borough" because we arrived at a place in our thinking and working on local government that we had to pick a name and in so doing we tried to pick a name without any connotation, without any undesirable elements about it, so that we could continue our thinking in a clear manner all the way through this article. We presented the name "borough" to this body so that we could give them a clear picture of what we were trying to do in local government without their thinking being clouded by any names with undesirable connotations on them. We have got to go further than this, we have got to carry this article on to the people, clear and uninhibited without any undesirable connotations on it. That's the reason that I hope we keep the name "borough" not "burro".

PRESIDENT EGAN: The Committee has about 40 seconds left. Is there anyone else who wishes to speak on the name that they have submitted?

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I was also a proponent of the word "province". How much time do I have left?

PRESIDENT EGAN: Well, you have about a minute and a half, Mr. McNees.

MCNEES: The word "province" comes down to us from early Roman history, and it means a country or region, more or less remote from the city for administration purposes, but surrounding that city; an administrative district or division of a country; an important administrative unit of a country or any territory or area that is for the time being administered by any local government; a region of country, a tract, or a division. In Roman history it had a range of power rather than the connotation of a subjugated district. It also means a department of knowledge or activity; a portion of a country, especially one remote from or outside of the capital or largest city; any division of less rank than a region. Inasmuch as we have determined four major geographic regions or areas for our Territory I do feel that it might be important to consider the name "province" for the administrative areas of the local level.

PRESIDENT EGAN: Is there further discussion? Mr. Barr.

BARR: Mr. President, is there any time left for the good old American word "county".

PRESIDENT EGAN: How much time?

CHIEF CLERK: McNealy spoke on "county". He didn't speak three minutes.

PRESIDENT EGAN: The Chair feels that there is about a minute and a half left on "county".

BARR: I will only use one minute. The chief thing here against "county" is the form of government or the way the government has been conducted in some counties. We are a new state and I believe that we should use a word that is recognized all over the United States, and understood by all of the American people, and use our own form of government and show to the people down south what a good county government is. I don't favor the word "borough", it is long and cumbersome. We aren't familiar with it, and I wouldn't want anybody to think I was a rabbit because I came from a "burrow". "Division" is a good word and so is "district". "Division" is my second choice, but I think that county is better understood by the American people and I favor the word "county". Let us show them how to run a county.

PRESIDENT EGAN: It seems that all the time has been used up. Mr. Rosswog.

ROSSWOG: Mr. Chairman, I believe we have 40 seconds left for the Committee.

PRESIDENT EGAN: That's about right. Mr. Rosswog.

ROSSWOG: On this 40 seconds I would like to say that I don't think the name "borough" has such an awful sound. We have names in Alaska, such as if we had the borough of Tolovana, the borough of Chandalar, the borough of Denali, borough of Kantishna, borough of Katmai, borough of Iliamna, that does not sound too bad to me.

KILCHER: Mr. President, point of information.

PRESIDENT EGAN: Mr. Kilcher, your point of information.

KILCHER: How was the actual voting going to take place?

PRESIDENT EGAN: The Chief Clerk will call the roll and each delegate will answer when his name is called using the word for the name of the unit of government of his choice, and we will go until there is a majority of the delegates that are present for one word.

KILCHER: Another question. There were two sponsors, separate sponsors, on "canton" and they had three minutes among themselves?

PRESIDENT EGAN: That's right. It says here, Mr. Kilcher, that the way the Chair interpreted it: "That the proponents of each name be allowed not more than three minutes to speak in favor of the suggestion."

KILCHER: Then I misunderstood. I was under the impression that if there were coauthors that they were each given three minutes. I understood that.

PRESIDENT EGAN: The Chair recalls that you asked that question, and it was not answered at that time, but in reading this today, which is what they read from yesterday it says that --

KILCHER: All right.

BARR: Mr. President?

PRESIDENT EGAN: Mr. Barr.

BARR: I wasn't here when this method of voting was decided on. You say that voting will continue until there is a majority?

PRESIDENT EGAN: If we don't get a majority on the first one, Mr. Barr, we will drop the one that has the lowest number of votes.

BARR: I was going to propose that we take a second vote on the two highest. I do have a second choice.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "What name will we have for our unit of government within the state?" The Chief Clerk will call the roll and each delegate will answer with his choice after his name has been called.

(The Chief Clerk called the first roll.)

CHIEF CLERK: Borough - 21; Canton - 7; County - 16; Province - 1; Division - 3; District - 2; and 5 absent.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I'd like to change my vote from "canton" to "borough".

MARSTON: Mr. President, I'd like to change my vote from "canton" to "borough".

PRESIDENT EGAN: It is too late now. No, you can as the Chair has not announced the vote.

METCALF: I'll ride with "borough".

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I'll change to "borough".

PRESIDENT EGAN: Mr. Hilscher changes to "borough".

AWES: I'll change mine to "borough".

PRESIDENT EGAN: Miss Awes changes to "borough".

LONDBORG: I'll change to "county".

PRESIDENT EGAN: Mr. Londborg changes his to "county".

HINCKEL: I'll change from "canton" to "borough".

PRESIDENT EGAN: Mr. Hinckel changes to "borough".

BUCKALEW: I change from "canton" to "province".

PRESIDENT EGAN: The Convention will come to order. Mr. Robertson.

ROBERTSON: I'll change from "division" to "borough".

HURLEY: Wouldn't it be possible to get unanimous consent for "borough" and get this thing over with?

PRESIDENT EGAN: No, not at this time. Not until the Chair announces what the vote is, Mr. Hurley.

CHIEF CLERK: Borough - 26; County - 17; Province - 2; Canton - 1; Division - 3; District - 1.

PRESIDENT EGAN: How many were present and voting altogether?

DOOGAN: Fifty present.

PRESIDENT EGAN: If that is true and if there were 50 votes -- Mrs. Sweeney?

SWEENEY: Mr. President, I wonder if it wouldn't be easier for Katherine if those who changed to "borough" would stand so that she --

CHIEF CLERK: I think I have got it. Those who changed are: Awes changed to "borough"; Buckalew changed to "province"; Hellenthal to "borough"; Marston to "borough"; Metcalf to "borough"; Hilscher to "borough"; Londborg to "county"; Hinckel to "borough"; Robertson to "borough"; 27 votes for "borough" and "county" has 16.

Borough: 27 - Armstrong, Awes, Cross, Doogan, Emberg,

V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Lee, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nordale, V. Rivers, Robertson, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Mr. President.

County: 16 - Barr, Coghill, Collins, Cooper, Davis, H. Fischer, Gray, Harris, Johnson, Knight, Laws, Londborg, McNealy, Reader, Smith, Wien.

Canton: 1 - Kilcher.

District: 2 - Poulsen, Riley.

Division: 2 - Boswell, R. Rivers.

Province: 2 - Buckalew, McNees.

Absent: 5 - King, Nolan, Peratrovich, Stewart, VanderLeest.)

PRESIDENT EGAN: And by your vote you have, by majority vote, adopted the word "borough" as the unit of government within the state. Mr. McNees.

MCNEES: Mr. President, would it be in order to make it a unanimous vote?

PRESIDENT EGAN: Mr. McNees moves that the Convention cast a unanimous vote for the word "borough". Is there objection?

BUCKALEW: Objection.

BARR: I object.

PRESIDENT EGAN: Objection is heard. There is no motion. Are there other amendments to Committee Proposal No. 6/a? Mrs. Hermann.

HERMANN: I move that the Convention recess until 7:30.

PRESIDENT EGAN: Mrs. Hermann moves that the Convention stand at recess until 7:30 p.m. Is there objection? Is there a second to the motion?

MCCUTCEHON: I second the motion.

PRESIDENT EGAN: Before we put that question up are there committee announcements? The question is, "Shall the Convention --

COGHILL: It is 6:00 o'clock now, I don't know whether we will have time to have our committee meeting at this hour. There will be a supper meeting of the Administration Committee.

MCCUTCHEON: Mr. President, before you cast a vote will you announce the disposition of this article, please?

PRESIDENT EGAN: The article is referred to the Committee on Engrossment and Enrollment. The question is, "Shall the Convention stand at recess until 7:30 p.m.?" All those in favor of standing at recess until 7:30 p.m. will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 36 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hermann, Hilscher, Hurley, Johnson, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Smith, Sundborg, Taylor, Walsh, Wien, Mr. President.

Nays: 13 - Coghill, Collins, Cross, H. Fischer, Harris, Hinckel, Kilcher, Knight, McNealy, Reader, Rosswog, Sweeney, White.

Absent: 6 - Hellenthal, King, Nolan, Peratrovich, Stewart, VanderLeest.)

CHIEF CLERK: 36 yeas, 13 nays and 6 absent.

PRESIDENT EGAN: The "ayes" have it and so the Convention will stand at recess until 7:30 p.m.

RECESS

SECOND VICE PRESIDENT: The Convention will come to order and may the record show that the Second Vice President is presiding because the President and the First Vice President are absent this evening because of compelling reasons. We have before us on the calendar, which is available, Committee Proposal No. 11. It is in second reading. The Chief Clerk will proceed with the second reading.

(The Chief Clerk read Committee Proposal No. 11 for the second time.)

SECOND VICE PRESIDENT: Are there any amendments to be offered? to this proposal? Mr. Smith.

SMITH: Mr. President, I believe that it has been the practice to have the chairman of the committee explain the proposal and I wonder if it would be possible to follow that procedure?

SECOND VICE PRESIDENT: I am entirely agreeable. I overlooked it. Mr. Victor Rivers.

V. RIVERS: Well, as Chairman of the Executive Committee I will give you my comments upon this particular item. It is the first election and can take place any time, provided, of course, that the terms for which the elected are elected begin, or rather end, upon the first Monday in December of the next even year following a presidential election. It was decided in the Committee on the Executive in the matter of when the governor should hold his term of office in relation to that of the Presidency, that, it would be better to take a year in which it was not a presidential year for the reason that you would have more attention and more interest given to the state affairs, and they might not be influenced or distorted or attention taken away from them by the broader national picture. So, you have before you the proposal which covers an election at any time in the interim of a four-year period, but must end on the even-year period when there is no presidential election. We think that outside of setting up the machinery of the actual election, it covers all the constitution needs to say about the election of the first governor and secretary of state.

SECOND VICE PRESIDENT: Are there any questions? Are there any amendments to be offered? Mr. Boswell? Mr. Victor Rivers.

V. RIVERS: I'd just like to make one further comment, and that was, in the article which I have placed on your desks this morning, this matter is dwelt on, or dealt with, very briefly and it says, this is the article from the National Municipal Review, you have a copy of it mimeographed on your desks. In connection with the off-year election of governors it states: "Yet another step is needed, state elections should be disentangled from national elections. Important issues of state government are too frequently obscured by the drama of the national contest. The American Assembly recommends that state elections be held in nonpresidential years." We had adopted that policy in Committee prior to this information, or this comment being available to us, but I present it to you as the thinking of the Eighth American Assembly, which is a top body in the various fields in which they are commenting each year, and this particular Eighth Assembly was commenting on the political science aspects of the American scheme and form of government.

SECOND VICE PRESIDENT: Mr. Boswell.

BOSWELL: I will ask unanimous consent for the adoption of this article.

SECOND VICE PRESIDENT: The Chair considers that that is not a necessary motion, inasmuch as it goes on its regular course without the motion, if unamended. I would like to declare a

one-minute recess to consult with the Rules Committee.

RECESS

SECOND VICE PRESIDENT: The Convention is back in order. If there are no amendments the Chair will refer this proposal to the Committee on Engrossment and Enrollment. It is so ordered. We have before us Committee Proposal No. 12 offered by the Executive Committee.

CHIEF CLERK: This has already been read the second time.

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: As you will all note this is a group of miscellaneous provisions and I'll try to discuss them briefly one by one. Excuse me, that's not been read.

CHIEF CLERK: Yes, it has been read.

SECOND VICE PRESIDENT: You may proceed with your comments. It has been read, unless it is the pleasure of the delegates to refresh their memory, should we read them again? Perhaps that would be a good idea. If there is no objection we will read it again before we start the comments.

(The Chief Clerk then read Committee Proposal No. 12.)

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: Mr. President, as Chairman of the Committee I will try to give a brief description of each article. Section 1 provides that the legislature shall set up and provide for a system of employment on the merit principle of state employees. The question was brought up the other day as to how wide the term "employment" went in regard to appointive officials and elective officials. They are officers of the state and it was generally held by our consultants that the term "employment" covered up to what the necessary level of executives that the legislature desired to set, that we did not have to qualify "employment" to specifically exclude elective officials, appointive department heads, or executive officers of boards or commissions, so I state that for the record and for the information of all the delegates. In Section 2 we have employees' retirement systems and they will be inviolate in their contractual relationship with this clause in the constitution. There was fear expressed, by one group in particular, that some of the established employees' retirement funds might at some time or another, under the legislative powers, be terminated; and under this clause they could not terminate the contractual obligations under those retirement plans to which people have paid into for many years, and which could be repealed by the legislature if they were so minded. While we assured the individuals that we

could foresee no such circumstance, they felt, and the Committee, after the discussion, felt, that such a clause would be desirable, so it is presented for your consideration. Section 3 is the standard clause which states that no person who does not agree with our ideals and our institutions, and our form of government shall attempt to overthrow the government by violence or support any organization or association which advocates such overthrow. Now, while it is easy to say those things, it is very hard to determine, as you all know, by actual practice what would be considered either subversive or treason, so the clause, however, is the one that is mandatory and required in the constitution. The other one has to do with the oath which follows along with Section 3, which states the oath which they shall take before becoming employees or public officers. Now, a question has been asked as to what we mean by public officers, whether we mean all employees of the state and its subdivisions, and I believe that the legally trained people in the Convention should state as to whether or not they feel the term "public officers" covered the required number or scope or whether it is too broad. In Section 5, we come to a section which was discussed at some length in one of the other sections or other articles of the constitution, but which we transferred to this miscellaneous set of articles, and it has to do with the state's relations -- its political subdivisions, cooperating with the United States national government and with other states and their political subdivisions in matters of mutual concern and common interest and to the extent consistent with the laws and Constitution of the United States with foreign nations. The reason for this is that it sets up specifically here that the legislative bodies may appropriate sums for this purpose. There have been some decisions in the states in which it has been held that the legislatures could not appropriate for state functions which went outside of the state, and because of that narrow interpretation of the legislative power in the matter of other intergovernmental relations, and it was decided that this clause should be included in the constitution. In the last line it says, "The governor shall act as the agent of the state involving all intergovernmental relations." I've stated before, but I will restate that, in that matter when we become a state, the governor will have to receive, for the state of Alaska, vast amounts of equipment, road building equipment, fisheries equipment, and other things, which the organizations charged with the custody of that equipment will have to have some way to receive it and there has been a question raised on this as to whether or not the governor could delegate this authority to some properly authorized representative to sign and act for him in that matter as an agent of the people. That clause should be given some consideration. I think that covers it.

CHIEF CLERK: There is a new section about the University, which I should read.

SECOND VICE PRESIDENT: We will proceed with the reading of this additional section.

(The Chief Clerk then read Section 6.)

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: Mr. President, you have heard the reading of this article and it was considered important that in the constitution there be included an article of this type. It gives the University, as a corporate body, the authority to receive and hold property which will be granted to them under the enabling act. It also gives them the authority for administering and disposing of that according to law. It sets up the board of regents and the governing body of the University, and I think the main point this article has is that constitutionally the University of Alaska shall be the only state university in Alaska. Now, the effect of that statement is to point out to you that even though the University of Alaska should establish eventually a number of diverse branches they would all be under the one head of the University of Alaska. We have situations that occur in the states, such as in the State of Washington, you have the University of Washington on the West coast and Washington State University in the Eastern part of the state. They are operated separately and compete in the legislature and other places for funds. Now, in the situation in California where you have a unified university setup, the University of California and they have the University of California as the main branch and the University of Southern California in the southern part and the University of California at Los Angeles in the southern part -- all of which are operated under the same and the one head, under similar policy, and one group of appropriations. So, the extent of this article to be considered is that it unifies the university system in the state. I believe that covers the subject.

HILSCHER: Mr. President, may I ask if this particular section has been reviewed by Dr. Patty of the University?

V. RIVERS: I personally have not seen Dr. Patty, but I'd like to ask Delegate Boswell.

BOSWELL: Dr. Patty has reviewed this and has had it reviewed by other members of the faculty and they believe it covers everything that is necessary so far as they are concerned.

SECOND VICE PRESIDENT: Miss Awes.

AWES: Could we either get that mimeographed or have it read slowly enough so that we can copy it?

CHIEF CLERK: It was distributed three days ago.

AWES: I don't have it. Are there any copies left?

SECOND VICE PRESIDENT: Mr. Harris.

HARRIS: Mr. President, I think that this is the first time that this amendment has been before us and I would ask unanimous consent that it would be considered a part of the proposed miscellaneous articles.

SECOND VICE PRESIDENT: Is there any objection?

MCCUTCHEON: I didn't hear what he said.

SECOND VICE PRESIDENT: The request is that this section pertaining to the University be considered as part of the miscellaneous appropriations. It has already been given the -- or, you want it to be given the section number of 6?

HARRIS: Yes.

SECOND VICE PRESIDENT: That it be given the section number of 6 in miscellaneous provisions. Are there any objections? Section 6 of Proposal No. 12. Are there any objections to having this action on this request?

V. RIVERS: For the record, Mr. President, I will ask unanimous consent that this amendment, Section 6 of Proposal No. 12 be included and incorporated in Proposal No. 12, as Section 6 thereof.

SECOND VICE PRESIDENT: Is there any objection? If not it is so ordered. Now, we should have about a two-minute recess so we can all find copies.

RECESS

SECOND VICE PRESIDENT: The Convention will come to order. Mr. Coghill.

COGHILL: Is the article open now for questioning to the Committee?

SECOND VICE PRESIDENT: That is correct.

COGHILL: Does the Chair wish to take it by section, or could I ask a question of the Committee Chairman on Section 5?

SECOND VICE PRESIDENT: I think we should pursue the procedure of taking it up section by section. I'll ask if there are any questions to Section 1? Mr. Johnson.

JOHNSON: Mr. Rivers, is there any reason why the provision in Section 1, the first line, where it says "shall", is there any

reason why that could not be made permissive instead of mandatory?

V. RIVERS: I'll refer that question to Delegate Nordale to answer that. We discussed it at some length.

SECOND VICE PRESIDENT: Mrs. Nordale.

NORDALE: Mr. President, I'm not sure I recall all the discussion, however, there have been a good many attempts to get a merit system or some kind of civil service system established for Territorial employees, but each time that the legislature has met there actually hasn't been time to make a very thorough study of it. I think the general feeling among most people connected with the Territorial government is that there should be something established in the way of a civil service system, so I think that the reason that we put the "shall" in was to allay some of the fears that have been expressed when the Territory moved into statehood, all of the employees might lose their jobs, or be subjected to political influence, the good old spoils system, and that type of thing.

JOHNSON: Do you know of any real reason why the matter could not be made permissive, so far as the legislature is concerned? In other words, we leave most things to the legislature.

NORDALE: No, from my personal standpoint, I think "may" would do equally as well, but I think our thinking was that we didn't want to frighten all the Territorial employees to death, so we put "shall" in there.

SECOND VICE PRESIDENT: Are there any other questions to Section 1? Section 2? Are there questions to Section 3 or 4? Mr. White.

WHITE: Mr. President, I had a question on Section 3. Is there any danger that in qualifying "employment" under Section 1, you will also have to similarly qualify "employment" under Section 3. In other words, if you limit the meaning of the word "employment" to certain persons under Section 1, could you then have the word "employment" apply to all persons under Section 3? Do you follow what I am getting at?

V. RIVERS: Yes, you have a good point. There is different scope of meaning of the two words "employment".

SECOND VICE PRESIDENT: Mrs. Nordale.

NORDALE: Mr. President, may I just inject a word? You will notice that Section 3 applies to any "public office or employment", whereas the first section is just "employees".

SECOND VICE PRESIDENT: Are there any other questions of Section 3, which we have backed up to? Mr. Victor Rivers.

V. RIVERS: There was one question brought up, I believe it was brought up by Delegate Johnson. The question was whether the oath should read: "I will support and defend the Constitution of the United States," or the "Constitution and laws of the United States." Was that yours, Maurice?

JOHNSON: Yes, I had asked that question.

SECOND VICE PRESIDENT: That might be brought up. I think it was answered at that time, and that can be brought up under amendments if desired. Does anyone else have a question to Section 4? We now come to Section 5. Mr. Coghill.

COGHILL: Mr. President, in Section 5 where we have "intergovernmental relations", what I was concerned about was the matter of a borough assembly, or a city government making a contractual arrangement with the federal government. Is that permissible under this section?

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: Yes, it is considered and intended that it should be permissible and that the areas and local governments such as the borough and the city, through their proper officers could participate in different federal programs, such as federal grants-in-aid, and federal assistance programs of various types. This subject might properly bear a little discussion. We think in the Committee that it covers that type of cooperation.

SECOND VICE PRESIDENT: Mr. Coghill.

COGHILL: The purpose of asking the question, then the boroughs under their charter or the cities home rule under their charters would have to adhere to a state law regarding the minimum and the maximum standards of bonded indebtedness and such stuff as that?

V. RIVERS: Mr. Coghill. I'm happy to say, in this particular constitution so far, we have not set any maximums on bonded indebtedness, and the intent was that the situation in each city or each borough would be studied as to their ability to assume certain debt burdens in relation with cooperation with the federal government, not exceed that ability. Now, I might point out also that, in these relationships with the national government, the national government itself would also make and ascertain the feasibility and economic feasibility of the communities supporting the burden that they desire to assume.

SECOND VICE PRESIDENT: Are there any other questions? I now come to Section 6, which is about the University, are there any questions? Miss Awes.

AWES: I was about to ask a question on Section 5.

SECOND VICE PRESIDENT: Miss Awes is recognized on Section 5.

AWES: I was wondering, "The State and its political subdivisions may cooperate... to the extent consistent with the laws of the United States, with foreign nations." I don't have the United States Constitution here, but I thought that the federal government had the exclusive right to cooperate with foreign nations. Just what did you have in mind there?

V. RIVERS: Delegate Awes, I'm trying to recall just what took place in connection with the committee amendment. We had one here the other day and were discussing it at the time this article came up and I do not believe it was submitted.

SECOND VICE PRESIDENT: Delegate Harris, do you wish the floor?

HARRIS: I might clear up a point here. In a committee meeting the other day the Committee met and agreed to delete the words "with foreign nations". It should have been pointed out.

SECOND VICE PRESIDENT: That will come up in due course.

HARRIS: It was all of line 12, up to and including "foreign nations" in line 13.

SECOND VICE PRESIDENT: Let us specify that when we get to the amending process. Any other questions on Section 5? Mrs. Hermann.

HERMANN: I'd like to know if the Committee has a special preference, for some reason, for that statement about the "respective legislative bodies may appropriate". Is there some particular reason for expressing it that way?

V. RIVERS: Mrs. Hermann, at times the legislative body of your city or your borough may desire to authorize certain funds for expense in getting cooperation with the national administration on some grant-in-aid project and they are specifically allowed to so do under this terminology, or these terms, "respective legislative bodies".

HERMANN: Then your're not limited then to the legislature, but to the legislative body of boroughs?

V. RIVERS: Yes, that's correct.

SECOND VICE PRESIDENT: Does Delegate Hermann have in mind the expression "governing bodies" or some other?

HERMANN: No, I thought they meant the legislature and I wondered why they didn't say so.

SECOND VICE PRESIDENT: Style and Drafting will take note of that

problem. Are there any other questions on this Section 5? If not, we will proceed to Section 6. Mr. White.

WHITE: Mr. President, may I ask a question of Mr. Rivers?

SECOND VICE PRESIDENT: You may.

WHITE: Mr. Rivers, in Section 6, the sentence beginning on line 6 says: "... and shall have title to all the real and personal property, now or hereafter set aside for ... which shall be held in public trust". Now, I wonder if the Committee considered the occasion that might arise when an individual would want to leave some money to the University to be spent, let's say, immediately for some capital improvement, but that his money might be in the form of securities and if he is forced to sell the securities and give the money to the University he has to pay a capital gains tax on those securities, whereas if he gives the securities directly to the University and let them sell them they are not taxable.

V. RIVERS: Following your thinking, Delegate White, it would appear to me very desirable that we consider inserting in there something in regard to just such benefits that may come to the Territory in some form that covers real and personal property, and "personal property" might cover that, but the words "shall be held in trust" may have to be enlarged upon a bit here as we go through the amending process. I'm going to give it some more thought and, if necessary, I speak for the Executive Committee when I say we would be glad to meet on this particular point with anybody that has questions.

SECOND VICE PRESIDENT: Are there any other questions on Section 6? If not we will start the section by section consideration for amendatory purposes. Is there any amendment to be offered to Section 1? Mr. Johnson.

JOHNSON: Mr. President, isn't the procedure provided for by our rules, doesn't it require now that a recess be taken and amendments submitted to the committee?

SECOND VICE PRESIDENT: That would be the procedure unless it is the desire of the delegates to waive. If there is no expression in regard to waiving that recess, we will -- Mr. Kilcher.

KILCHER: Mr. President. I ask for unanimous consent that we waive this ruling.

V. RIVERS: Speaking for the Committee we have no objection.

SECOND VICE PRESIDENT: Is there any objection to waiving the recess and going on with the section by section reading and the amendatory process? Mr. Johnson.

JOHNSON: Yes, I object. I have a matter or two that I would like to discuss with the Committee.

SECOND VICE PRESIDENT: Would you indicate about how long a recess you would like?

JOHNSON: I have no idea, a few minutes.

SECOND VICE PRESIDENT: All right, let us recess then for 10 minutes if there is no objection.

RECESS

SECOND VICE PRESIDENT: The Convention will come to order. We have before us the amendatory period as to Committee Proposal No. 12. Are there any amendments to Section 1? Mr. Victor Rivers.

V. RIVERS: Mr. President, we have one amendment to Section 1, and the Secretary is now bringing it to give to the Chief Clerk.

CHIEF CLERK: "Section 1, line 1, delete the word 'shall' and insert the word 'may'."

SECOND VICE PRESIDENT: What is your pleasure?

V. RIVERS: Mr. President, I move unanimous consent for adoption of the change as recommended by the Committee on this amendment.

SECOND VICE PRESIDENT: Mr. Boswell.

BOSWELL: Mr. President, I'll object for clarification.

KNIGHT: I'll second it.

SECOND VICE PRESIDENT: Seconded by Mr. Knight. Mr. Victor Rivers.

V. RIVERS: Mr. President, the intent of the section was that the legislature would provide a merit-principle system. Now, it has a merit in allowing it to stay in there with the word "may", it has a merit of appearing as a directive to the legislature from this Constitutional Convention. The use of the word "shall" there originally instituted making it mandatory, some felt would possibly impose an undue burden on the legislature early in their statehood activities. There was another statement made in the Committee that there had been some opposition to a merit system by various department heads who preferred to have the freedom of pirating the various employees from the different departments at will. I'm going to ask Delegate Johnson to mention his comments on this, also.

SECOND VICE PRESIDENT: Mr. Johnson.

JOHNSON: Mr. President, it occurred to me that this problem of setting up a merit system in Alaska has been with us for a great many years and the legislature so far has never been able to come up with a sound solution that would pass, and it is, I think, an extremely difficult thing to work out on a short-notice basis. I think that if the legislature were, or if it were suggested to the legislature to, set up as soon as they can a workable civil service system, then they might take steps toward creating a legislative council or some other method to go into all of the ramifications concerning it and then over a period of time, after studies had been made and so on, they might successfully design a system that will be workable and usable. If you put in the word "shall" it seems to me that then they are confronted with the necessity of doing it right now and not getting a good system. To me they are going to do it anyway. I don't think the section actually needs to be in the constitution, because I believe that is one of the things that the legislature can do and will do as soon as possible, but if we do want to make some mention of it I don't think it ought to be mandatory.

SECOND VICE PRESIDENT: Is there any other debate? Mr. Smith.

SMITH: Mr. President, I feel that it should be mandatory. I don't think anyone would insist that the legislature hurry its work, if it were possible to take the time to set up a good principle, and I have in mind, the fact that it is difficult, might indicate that the legislature might keep putting it off just as they have in the past. I also recall that the people of California finally had to provide a civil service system through the initiative due to the fact that their legislature kept putting it off. Therefore, I think that the word "shall" should be left in as it is.

SECOND VICE PRESIDENT: Mr. Nolan.

NOLAN: Mr. President, the Legislative Council is making a study now with the intentions of having a bill introduced at the next session.

SECOND VICE PRESIDENT: That is correct, and it may or may not pass. The study would be helpful in any event. Mr. Taylor.

TAYLOR: Mr. President, we do have a modified system of the merit system in effect at the present time. All those Territorial agencies who handle government funds like ESC and the Health and Welfare Department with federal matching funds, they must have a merit system; so there are a lot of employees, Territorial employees, that come under the system now. I think possibly it could be enlarged to take care of the balance of them.

SECOND VICE PRESIDENT: Mr. Metcalf.

METCALF: Mr. President, just one little thought. I personally prefer the word "may". I visualize possibly, if it is left mandatory, that after Alaska becomes a state, possibly some discharged employee might bring suit against the State of Alaska in violation of its constitutional right.

SECOND VICE PRESIDENT: Is there any other debate? Mr. Gray.

GRAY: Mr. President, I have one question. Does that mean all the persons employed, even if employed for one day, is there any limitation on that? Is it broad enough to differentiate between temporary employees and permanent employees?

SECOND VICE PRESIDENT: The Convention will be at recess for a few moments.

RECESS

SECOND VICE PRESIDENT: The Convention will come to order. We are off the stenotype performance but we are on the tape. Mr. Johnson.

JOHNSON: Mr. President, I move, inasmuch as our stenotypist seems to be ill, I move that we stand adjourned until 9:00 o'clock tomorrow morning.

GRAY: Point of order. I wonder if I could have an answer to the question I just put?

SECOND VICE PRESIDENT: I will have to rule on the point of order. I presume a motion to adjourn is always in order and would overrule the point of order. Mr. Johnson, there has been no second, so you may yield. Mr. Rivers.

V. RIVERS: I will ask Mrs. Nordale to answer the question for the purposes of the record.

NORDALE: First, I would like to say that with reference to the merit system that Mr. Taylor referred to, there is no law on the books of the Territory that takes care of that. That is a requirement of federal law and applies only to certain agencies. As far as the working of a civil service system, there are always exempted positions such as part-time employment and various types of employment that usually, I imagine, are always exempted; and it does not ordinarily apply to elected or appointed officials and there is a certain group at the top level of government that are completely exempt from the operation of a civil service system. Many others are classified, and there are the other exemptions at the lower level.

SECOND VICE PRESIDENT: Mr. Harris.

HARRIS: Mr. President, I think the question that Delegate Gray was asking was, would we have to classify all the employees. The first sentence says "the legislature may" so it would be up to them to set it up.

SECOND VICE PRESIDENT: Mr. Cooper.

COOPER: Mr. President, may I have the floor on a point of personal privilege?

SECOND VICE PRESIDENT: Is there any objection? If not, you may have the floor, Mr. Cooper.

(Mr. Cooper then spoke on a point of personal privilege.)

SECOND VICE PRESIDENT: I will have the Administration Committee give an estimate on how much transportation there is. Mr. Coghill.

COGHILL: Thank you, Mr. President. Well, there are eight hands up, so that is eight cars. We could group the people together and what we haven't got for cars, we could probably get a couple cabs out here and it would only cost \$3. We could get six people into a cab.

SECOND VICE PRESIDENT: Mr. Cooper.

COOPER: Mr. President, I move that we adjourn until 9:00 o'clock tomorrow morning.

COGHILL: I'll second the motion.

SECOND VICE PRESIDENT: Are you ready for the question? All in favor say "aye"; opposed, same sign. The "ayes" have it and the Convention is adjourned.

ALASKA CONSTITUTIONAL CONVENTION

January 21, 1956

SIXTIETH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Captain Hill of the Salvation Army. Captain Hill will give our daily invocation.

CAPTAIN HILL: Our Heavenly Father, we come to Thee at this time, first with gratitude for Thy many blessings to us, and O Lord Thou hast given us so many things for which to be grateful. We do want to express gratitude at this time. We also Lord, want to pray on behalf of those who gather here to frame a constitution for this Territory of Alaska. We ask that Thou wilt grant them wisdom. We do rely upon Thee at this time to give us guidance and direction as we prepare for the future of this great country. Have Thy way in all things that are said and done. In Thy name bring honor and glory to this group here. In Jesus' name we pray. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

V. RIVERS: Mr. President, Mr. Hellenthal will probably be out a little later.

SWEENEY: Mr. Coghill and Mr. Fischer are detained in town on business of the Administration Committee and will be a little late.

KNIGHT: Mr. VanderLeest is ill today.

WHITE: Mr. Riley is here.

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. White.

WHITE: Mr. President, reporting on the journal for the 53rd Convention day: Page 3, paragraph 2, insert a comma after "Burnette"; page 3, paragraph 5, insert quotation marks after "election" on line 6; page 7, paragraph 4, on third line insert "On line 17" before "delete". With those corrections, Mr. President, we ask unanimous consent for the approval of the journal.

PRESIDENT EGAN: Unanimous consent is asked for the approval of the journal as corrected by the special Committee to read the

journal of the 53rd day. Is there objection to the unanimous consent request? If not, the journal of the 53rd day is ordered approved with the corrections as noted by the special Committee to read the journal. Mr. White.

WHITE: Mr. President, reporting on the journal for the 55th Convention day: Page 1, third paragraph from the bottom, insert "Section 15" before the paragraph starting "The Attorney General"; page 5, fourth paragraph, insert "be included" after "Mr. Riley" on line 9; page 8, first paragraph after recess, insert quotation marks after "state" on line 6; page 12, first paragraph, insert "s" after "subdivision" on line 3. Mr. President, with those corrections we move and ask unanimous consent for the approval of the journal for the 55th Convention day.

PRESIDENT EGAN: Unanimous consent is asked for the approval of the journal for the 55th Convention day with the proposed corrections as noted. Is there objection? Hearing no objection it is so ordered and the journal is ordered approved. Mr. Hurley.

HURLEY: Mr. President, I would like to inquire as to the source of this anonymous article we have on our desk this morning, "Juneau as the State Capital".

PRESIDENT EGAN: Mr. Gray.

GRAY: If Mr. Hurley had not arisen so fast he would not have had to ask the question. I was just going to make an announcement that I have distributed a pamphlet here, "Juneau as the State Capital". It is self-explanatory. I think everyone will have a truer understanding of the situation of what a capital is and what it means to Juneau if this is read. If the situation comes up, it will behoove everybody to read this little pamphlet.

V. RIVERS: I would like to ask a question. I would like to know whose thinking it represents, the Committee or an individual or what?

GRAY: I first started out informally as being a member from an independent community, not related to Juneau, namely Douglas. I just wanted to help distribute this, but this pamphlet was prepared by the Juneau Chamber of Commerce.

HURLEY: I would like to ask the policy of the Convention in distributing material such as this.

PRESIDENT EGAN: The policy, Mr. Hurley, it seems to be that it is just the policy of the delegates to distribute it. Mr. Hurley.

HURLEY: My inquiry then, is it proper for any delegate to distribute anything that they think would be of value or interest to the Convention, on the desks?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the Chair will refer the question asked by Mr. Hurley to the Chairman of the Rules Committee who can make a report on the matter at a later time.

RILEY: Mr. President, let it be noted, I am also not from Juneau. No prejudice.

PRESIDENT EGAN: Mr. Gray.

GRAY: For the record, Mr. Chairman, I wish to say this did not come out of the boiler room. This came at no cost to the Convention.

PRESIDENT EGAN: Are there communications or petitions from outside the Convention? If not, are there reports of standing committees? Of select committees? Are there any motions or resolutions? Is there any unfinished business to come before the Convention at this time? If not, we are on the amendment to Committee Proposal No. 12. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: It has been moved and seconded, "Section 1, line 1, delete the word 'shall' and insert the word 'may'."

JOHNSON: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

RILEY: Might it be stated again?

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 1, line 1, delete the word 'shall' and insert the word 'may'."

PRESIDENT EGAN: The question is, "Shall the amendment be adopted?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Boswell, Coghill, Cooper, Davis, H. Fischer, Gray, Harris, Hinckel, Johnson, King, Laws, Londborg, McCutcheon, Metcalf, Nordale, Peratrovich, Poulsen, R. Rivers, V. Rivers, Robertson, Sweeney, Walsh, White, Mr. President.

Nays: 22 - Awes, Barr, Collins, Cross, Emberg, V. Fischer, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, McLaughlin, McNees, Marston, Nerland, Nolan, Riley, Smith, Stewart, Sundborg, Wien.

Absent: 8 - Buckalew, Doogan, Hellenthal, McNealy Reader, Rosswog, Taylor, VanderLeest.)

COLLINS: I wish to change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. Collins changes his vote from "yes" to "no".

CHIEF CLERK: 25 yeas, 22 nays and 8 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 12?

CHIEF CLERK: "Section 3, line 14, delete the words 'or employment' and insert 'of trust or profit under this Constitution.'"

V. RIVERS: That is a committee amendment and I believe self-explanatory, and I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the proposed amendment. Mr. McCutcheon.

MCCUTCHEON: Before you put the question, I would like to ascertain whether or not the militia or any of the armed services of the state would take this particular oath or would they take a different type of an oath, because in some other article in our constitution it states that our militia or the armed services of the state does not constitute an office of profit. If that were the case this wouldn't be applicable or binding.

V. RIVERS: This says "of trust or profit". The other covers profit only as applies to the militia and the national guard, and this is the identical wording with the exception of the last few words of the enabling act. The last few words had to be changed because there was some extraneous matter in regard to the State of Alaska. We referred merely to this constitution instead, but the rest of the wording is that of the

enabling act and is one of the requirements. I think as Delegate McCutcheon has asked, any employment of trust or profit under the state.

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption of the amendment? If not, the proposed amendment is ordered adopted. The Chief Clerk will please read the other committee amendment.

CHIEF CLERK: "Section 5, line 11, insert a period after the word 'interest', delete the remainder of the sentence."

PRESIDENT EGAN: Insert a period after the word "interest" in line 11.

V. RIVERS: I will move and ask unanimous consent for the adoption of that amendment.

PRESIDENT EGAN: Mr. Rivers moves and asks unanimous consent for the adoption of the proposed committee amendment. Mr. Robertson.

ROBERTSON: Would you repeat it again?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment again.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Is there objection to the unanimous consent request?

KILCHER: I object.

PRESIDENT EGAN: Objection is heard.

V. RIVERS: I so move.

JOHNSON: I will second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, as you will note there we are striking the words "and to the extent that is consistent with the laws and the constitution of the United States, with foreign nations." Now, we believe that with this stricken we will still have the same amount of authority in the hands of the government and also believe that it may be waving a red flag at some of the Congressmen who are going to approve this constitution and who will have considerable to do with whether or not we become a state. We feel that we would like to, at times, have direct relations, perhaps, with Canada in the sense that if we were invaded and wanted to have refuge for our people,

doubtless our governor would immediately take action and negotiate with some of the provincial governors so our people could go through Canada or even be given refuge there. Such a thing might occur, but we believe that in view of the fact that the power will still remain in the chief executive for such doings, there was no intention of the Committee to abrogate the national treaty-making power when we put it in. We believe it will be done better and with less disturbance if we leave it out, so we recommend striking it.

PRESIDENT EGAN: Mr. McNees.

MCNEES: May I ask a question. You brought up an emergency factor here where such cooperation with Canada might take place, but have you given consideration to the fact that if this hydroelectric project goes in along the Yukon River there might be a peacetime negotiation there and would this possibly prohibit that?

V. RIVERS: No, we don't foresee that this would prohibit any intergovernmental relations allowed under the constitution and laws of the United States.

KILCHER: I withdraw my objection.

PRESIDENT EGAN: Mr. Kilcher withdraws his objection. Is there any further objection to the unanimous consent request? Hearing none, the amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: Before we proceed further, Mr. President, to Section 6, I would like to ask the question of some of the legal minded individuals here in regard to the last sentence in Section 5. It says, "In all intergovernmental relations involving the state, the Governor shall act as the agent of the state. We have in our general constitutional provisions that we are considering some clause by which we allow the governor to delegate certain of those powers.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I will take a try at it and see how far I get with my colleagues of the bar. The chief executive can and has implied authority to carry out all proper functions through the assistance of subordinates and aides.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 6, line 5, delete the remainder of line after the comma up to and including" the word 'purposes' on line 6." So the sentence would read shall have title to all the real and personal property now or hereafter set aside for or conveyed to it, to be administered and disposed of according

to law."

PRESIDENT EGAN: Is that a committee amendment, Mr. Rivers?

V. RIVERS: That is also a committee amendment and I move and ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the proposed committee amendment. Is there objection? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to be offered? Mr. Hurley.

HURLEY: Mr. President, may I indulge the Convention by asking a question of the Committee on this particular point?

PRESIDENT EGAN: If there is no objection.

HURLEY: Beginning on line 7, "There shall be a board of regents of the University of Alaska, the members of which shall be nominated and appointed by the Governor," etc. Would that sentence then restrict the governor from being a member of the board of regents?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We think it would. This is the method at the present time at which members of the Board of Regents are appointed, and I feel that it would restrict the governor from being a member of the board, morally if for no other reason.

HURLEY: I simply mention the matter because of my knowledge that four of the most famous state universities do have the governor as a member of the board of regents.

PRESIDENT EGAN: Are there proposed amendments to Committee Proposal No. 12?

CHIEF CLERK: I have one on the desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: By Chief Laws, "Section 3, line 11, strike the comma."

PRESIDENT EGAN: You ask unanimous consent, Mr. Laws, for the adoption of the amendment?

LAWS: I do.

PRESIDENT EGAN: Is there objection? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 12? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to propose that on the first page of this we put in a title in capitals, "General and Miscellaneous Provisions," just ahead of line 1, and that would make this uniform with other articles and proposals we have had. I ask unanimous consent.

PRESIDENT EGAN: Would the Chief Clerk read the proposed amendment?

CHIEF CLERK: "Insert the title 'General and Miscellaneous Provisions' in capitals before line 1."

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of this proposed amendment? Hearing no objection the amendment is ordered adopted. Mr. McLaughlin.

MCLAUGHLIN: I move and ask unanimous consent that Section 1 of the proposal be stricken.

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent that Section 1 of the proposal be stricken.

NORDALE: I object.

PRESIDENT EGAN: Objection is heard.

MCLAUGHLIN: I so move.

EMBERG: I second the motion.

PRESIDENT EGAN: Mr. Emberg seconds the motion. The motion is open for discussion. Mr. McLaughlin.

MCLAUGHLIN: I voted against changing "shall" to "may", but as long as it is "may" now we are merely directing the legislature to do something it has the authority to do anyway, and it is merely a pious and, in a sense, an insulting expression in the constitution about the merit system, and under those circumstances I believe it should be stricken.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McLaughlin be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 20 - Awes, Barr, Emberg, V. Fischer, Hilscher, Hinckel, Hurley, Kilcher, Lee, Londborg, McCutcheon, McLaughlin, McNeas, Marston, Nolan, Peratrovich, Poulsen, Stewart, Wien, Mr. President.

Nays: 27 - Armstrong, Boswell, Coghill, Collins, Cooper, Cross, Davis, H. Fischer, Gray, Harris, Hermann, Johnson, King, Knight, Laws, Metcalf, Nerland, Nordale, Riley, R. Rivers, V. Rivers, Robertson, Smith, Sundborg, Sweeney, Walsh, White.

Absent: 8 - Buckalew, Doogan, Hellenthal, McNealy, Reader, Rosswog, Taylor, VanderLeest.)

MCNEES: Mr. President, I change my vote to "yes", please.

PRESIDENT EGAN: Mr. McNees changes his vote to "yes".

CHIEF CLERK: 20 yeas, 27 nays and 8 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I would like at this time to give notice that I intend to move at some future time to rescind our action taken on the committee amendment which changed "shall" to "may" in line 1 of Section 1.

PRESIDENT EGAN: Mr. Sundborg serves notice --

SUNDBORG: While I am on my feet I also would like to give notice that I intend to move that we rescind our action taken on Committee Proposal 8/a in striking Section 5. That was the one dealing with the commission or commissions for the regulation of administration of fisheries and wild life.

PRESIDENT EGAN: You are going to move to rescind at some future time?

SUNDBORG: Yes, at some future time.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Point of order. I would like to ask for a ruling at what point we can -- rescinding is more or less terminated. Is it after it leaves second reading? Where does the amending process stop?

PRESIDENT EGAN: So far as the rescinding is concerned, Mr. Victor Rivers, on a motion to rescind, the Chair does not believe that the time comes when the body could not rescind an action, but the Chair would like to state that with relation to the article, Article 8/a, which is the article on resources, that it has never been officially sent to the Committee on Engrossment and Enrollment for the reason that the Committee members had some discussions that they were pursuing among themselves in research, so that the article that Mr. Sundborg

is referring to is actually still before us, the article on resources. Mr. McCutcheon.

MCCUTCHEON: As a matter of fact, Mr. President, it appears to me that the giving of notice will freeze whatever article is before us in its position and it cannot advance to any different status than it is on the day that the notice was given, so that when we make an indefinite statement, such as "at some future period", the matter is frozen in its current allocation to committee or whatever position it is in. It cannot advance. Nothing else can be done to it until that reconsideration is handled.

PRESIDENT EGAN: Mr. McCutcheon, in the mind of the Chair, a rescinding action would not necessarily hold. It would be up to the individual to move. It is not the same motion as a motion to reconsider. Now whether the previous notice on a motion to rescind would freeze a proposal in that position after the day is over, the Chair is not quite clear on that. The Chair does not feel that it would.

MCCUTCHEON: Mr. President, my contention is this: that Mr. Sundborg seeks to give notice so that even in the third reading, before final consideration, that a bare majority could make a change in the document, and that is not the intention of the rules, I am sure. It would appear to me that any of us here could give blanket notice that we are going to move to rescind so it would require only a bare majority to make the change we endeavor to make, and that is an unfair imposition on the balance of our group here, especially in view of our short time left.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I am sure that wasn't the intention of the rules, and I don't think it could be done under our rules that way and that certainly was not my intention. My intention in giving notice on these matters was to comply with a requirement in Robert's which is our rule on this matter, that a motion to rescind requires only a majority vote if notice is given. If notice is not given it requires either a majority of the members to which the body is entitled or two-thirds of those voting, and my purpose in giving the notice is to bring this up just as soon as we have most of the members present. I noticed on roll call today there were numerous members absent. Just as soon as we do have close to the full membership here, I will bring the motions up.

PRESIDENT EGAN: Mr. Barr.

BARR: I must be confused. I notice we have some rules saying that notice to reconsider or a notice to rescind must be made within one hour after the vote taken.

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PRESIDENT EGAN: Does it say "rescind"?

BARR: Yes it does.

RILEY: Mr. President, the rule was not adopted.

PRESIDENT EGAN: That was one of the rules that was not adopted, Mr. Barr.

JOHNSON: Point of information. The rule which was stated by Mr. Sundborg regarding the notice of a motion to rescind -- does not Robert's Rules of Order also provide that a notice to rescind in order to obviate the necessity of more than a majority vote, doesn't the notice have to be given on the same day that the action was taken?

PRESIDENT EGAN: It does not say that so far as the Chair recollects, Mr. Johnson, with regard to the motion to rescind. If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Committee Proposal No. 12? If not, the proposal is referred to the Committee on Engrossment and Enrollment. Mr. Robertson.

ROBERTSON: Mr. President, what was the ruling of the Chair on the point of order?

PRESIDENT EGAN: What was the point of order, Mr. Johnson?

JOHNSON: I did not make a point of order.

PRESIDENT EGAN: A rescinding action cannot hold anything beyond tomorrow, that is certain in the rules. Mr. Sundborg, could, if he so desired, later in the day bring the matter up and it would take a majority vote. Mr. Sundborg.

SUNDBORG: Mr. President, by tomorrow, you mean the next day on which we have a session? In case we do not meet tomorrow it would be in order Monday?

PRESIDENT EGAN: It would be, Mr. Sundborg, the next meeting. We have before us Committee Proposal No. 15. The Chief Clerk may read Committee Proposal No. 15 for the second time.

(The Chief Clerk read Committee Proposal No. 15 in its entirety.)

PRESIDENT EGAN: Does the Committee have a statement to make with relation to this proposal? Mr. Sundborg.

SUNDBORG: Mr. President, as stated in the covering letter, these are all matters which were assigned to the Style and Drafting Committee by the committee chairmen; we have consulted a number of other constitutions and we have consulted technical advisers here, and we propose this language. I think each of the sections speaks for itself. We don't consider any of them terribly important, but this is material which is included in most constitutions among the miscellaneous provisions. I think that it could be contended that without, for instance, Section 2, that the constitution would be so construed anyway, but we feel it would be better to have it in the constitution so there would be no doubt about it.

PRESIDENT EGAN: Are there amendments? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to move and ask unanimous consent that the sections in this proposal be added as sections of Committee Proposal No. 12, general and miscellaneous provisions, and that the section number instead of being 1, 2, 3 and 4, as they are in Committee Proposal No. 15, be renumbered 7, 8, 9 and 10.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that Committee Proposal No. 15 become a part of Committee Proposal No. 12 and that the sections become Sections 7, 8, 9 and 10. Is there objection? Hearing no objection it is so ordered. Mr. Riley.

RILEY: Mr. President, I ask unanimous consent that Committee Proposal No. 15 be referred direct to Style and Drafting for which the rules will have to be suspended and that Committee Proposal No. 11, last evening which was referred to Engrossment also without any amendment or change, be referred direct to Style and Drafting under suspension of the rules. It would be re-referred in that case.

V. RIVERS: Point of information. This ties 15 into part of 12.

PRESIDENT EGAN: That is correct, and 12 has already been referred, Mr. Riley, to Engrossment and Enrollment.

RILEY: My comment will then be only on 11 so as to save floor time on reporting out.

PRESIDENT EGAN: Committee Proposal No. 12 is now in the Engrossment and Enrollment Committee unless by unanimous consent, Mr. Riley, you would make your request. Are you talking about No. 11 now?

RILEY: Yes, it would simply go to Style and Drafting -- it was not amended in any respect.

PRESIDENT EGAN: Is there any objection to referring Committee Proposal No. 11 directly to Style and Drafting? Hearing no objection it is so ordered. Now as to your request with relation to Committee Proposal No. 15 --

RILEY: I understand.

PRESIDENT EGAN: You understand now? Committee Proposal No. 15 has been adopted as a part of Committee Proposal No. 12 and is also referred to the Committee on Engrossment and Enrollment to make that addition. Mr. Sundborg.

SUNDBORG: Might I inquire whether there are other committees that will be bringing in miscellaneous provisions? If so, I think it would be wise to hold this proposal before the Convention and to add the others to it so that when we have an enrolled copy we will have all the provisions in it and it won't be coming out in short takes. Now there may be no other miscellaneous provisions contemplated.

PRESIDENT EGAN: Mr. Smith.

SMITH: Referring back to the second requirement of the enabling act, which refers to the disclaimer of right and title to lands and property belonging to the United States and held in trust for Indians and Aleuts, etc., I remember that that section was referred to the Committee on Ordinances and Transitional Measures, and there is a question in my mind as to whether or not that might not also be included in the article containing the miscellaneous provisions. I realize now that it probably would have been better to have let that provision go through in the legislative article and then leave it to Style and Drafting to place it where it belongs, but since that question is still open, I wonder if it might not be better to leave the article on miscellaneous provisions open until that matter is disposed of.

PRESIDENT EGAN: If there is no objection, it will be so ordered and the Committee on Engrossment and Enrollment will then not report the article back to the body until we are certain that all the miscellaneous provisions have been considered on the floor. Now, it would seem that we have before us only, or we could possibly have before us the Style and Drafting's report on the Committee of the Judiciary. Is there objection to proceeding with the article on judiciary at this time? It has been in the possession of the delegates for better than 24 hours, is that right, Miss Awes?

AWES: I just have a question. We have a report on our desks of the Committee on Resolutions and Recommendations suggesting that we adopt a resolution. I was wondering when we took those things up.

PRESIDENT EGAN: Is there objection to proceeding with this report of the Committee on Resolutions? Mr. Riley, as Chairman of the Rules Committee, do you have anything to say?

RILEY: I discussed the matter with the author yesterday and also the secretariat. I know of no reason for not taking it up now. There had been some feeling expressed that it be later on the calendar, but I think in view of the fact the calendar is relatively open, we might just as well consider it now.

PRESIDENT EGAN: If there is no objection then, we will proceed with the report of the Committee on Resolutions and Recommendations, in second reading at this time. Would the Chief Clerk please read the report. Mr. Marston?

MARSTON: Mr. President, Dr. Sady suggested that that be held for some time at a later date. He felt it would be more important. I would like to call on the suggestion of Dr. Sady and ask unanimous consent that we wait until he clears it.

PRESIDENT EGAN: If there is no objection the report will be held in abeyance until a later time. Mr. Barr.

BARR: I mean, what does Dr. Sady have to do with it? Point of information. Why does Dr. Sady want it held?

MARSTON: It was my idea -- I wrote it up and took it to him, and he put the expert's touch to it and suggested that at a later date it might be more important coming at the end of this Convention than right now. I was hoping to go out before Christmas, but now that time has passed I am following Sady's suggestion and that is all.

BARR: I see it needs a little amending.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to rise on a point of information, while the subject of a resolution came up. I have been wondering for some time now exactly what the purpose of the Convention resolution is, what the procedures on it would be, what scope they would follow, what effect they would have. In the same question as to ordinances, we have had a number of ordinances suggested in the past; people have talked about various ordinances. What effect does an ordinance have upon this state and what effect does it have upon the legislature? If this question is in order now.

PRESIDENT EGAN: If there is no objection, Mr. Riley, would you care to answer the questions?

RILEY: Mr. President, I think it would be more appropriate, if I may, for a member of the Committee on Ordinances reply in that respect. As to resolutions we have had two types, those that

simply affect our organization and procedure here, statements of policy, and others that have been introduced which are more the nature of a memorial to some other agencies, as I would expect this of Mr. Marston's to be.

PRESIDENT EGAN: The Chair notes that the Chairman of the Ordinance Committee is not present this morning.

CHIEF CLERK: He is upstairs.

HURLEY: Mr. President, the question is a loaded one in that there is considerable difference of legal interpretation of the word "ordinance". However, I might say this that it is fairly uniformly held that an ordinance is a transitional measure or having the force of law during the period when the constitution takes effect and is carried into being. There is a period there, as we all realize, that adjustments must be made; and the ordinances are presumably the part of the document that the Convention has decided are necessary in order to effectuate that transition with as little difficulty as possible. The word "schedule", or the title "schedule" and the title "ordinance" and the title "transitional provisions" have been held in at least three cases which I am familiar with, to be synonymous in their effect, not in their context, so that I think in my opinion and the opinion of the Committee the term "ordinance" is a generic term applied to one of the items in a schedule or a group of transitional provisions. That is, of course, a different legal meaning than the term "ordinance" in itself, which we know as a law rather than a transitional provision. Now, I may have confused the issue more than cleared it, but maybe I could answer a question correctly.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: If I may follow up slightly, does each and every ordinance adopted by this Convention have to be ratified individually by the voters?

HURLEY: That probably goes to a matter of opinion, but it is the opinion of the Committee that the answer is "no", that all of the ordinances may be approved at the same time the constitution is approved. Now I might say in that connection there has been more than one method used that in some cases the constitution itself has been ratified with the feeling on the part of the court that the ordinances themselves were necessary provisions to put the constitution into effect, and it did not require the separate or even the conjunctive approval of the voters. In other cases, the constitution and the ordinances and transitional provisions have been submitted to the voters for their approval at referendum. It is our intention, if I am not getting ahead of my story a little bit of what the Ordinance Committee intends to do shall I go into that?

PRESIDENT EGAN: If there is no objection, Mr. Hurley.

HURLEY: To provide that both methods, that the constitution and the ordinances will be approved by a referendum of the voters and besides that, that one or two, I think at the present time we will recommend that two ordinances be separately approved at referendum, so I think the answer to the question is that it is a matter of choice of the Convention as to whether or not they desire to have separate approval on the particular ordinances or whether they desire to have, as has been expressed, a package deal, but I do think this, that the Committee is very desirous that the referendum be applied to the constitution and those ordinances which do not particularly take a separate way.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I address a question to Mr. Hurley?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg.

SUNDBORG: Mr. Hurley, can any ordinance take effect before Congress passes an act admitting Alaska as a state of the union?

HURLEY: You have got into a proposition in which both Mr. Buckalew and Mr. McNealy have put in a great bit of study. Generally speaking, I might answer the question as "no", but I have to make a reservation in that courts have also held that where the matter is submitted to referendum that you have a situation of vox populi, that the people in voting on that referendum have expressed their approval of it, and since we recognize that the government arises from the people, courts have held that if that ordinance is approved by a majority of the voters that it does then have the effect of law, even in the interim period. Now that, I might say, is not a uniform opinion but it is a possibility.

SUNDBORG: Mr. Hurley, I asked this with special reference to the proposal that we adopted, the so-called Tennessee Plan, and I am wondering whether we can carry that into effect, if we have any authority to carry it into effect without action by the Congress admitting Alaska as a state.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I might say that when this matter is presented to the floor, which it will be in an ordinance from the Ordinance Committee, that a much fuller explanation of those ramifications will be made at that time. I hesitate in the absence of my two brethren here to go into it too deeply because they are presently making a further study of the matter and will be prepared at that time to give a complete explanation.

PRESIDENT EGAN: Before we proceed with Committee Proposal No. 2, as it has been reported back from the Committee on Style and Drafting, the Chair would like to ask the Sergeant at Arms to ask any delegates in the building to be present during this reading of the proposal. If there are any delegates upstairs, please suggest that they come down. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I would request a ten-minute recess prior to the reading of that so I can consult with the Judiciary Committee.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for ten minutes.

MCLAUGHLIN: The Judiciary Committee will meet in the rear.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Sergeant at Arms will see if there are any delegates upstairs. The Convention will be at ease. The Convention will come to order. The Chief Clerk will read the report of the Committee on Style and Drafting on the judiciary article in its entirety at this time.

(The Clerk read the report at this time by Style and Drafting on Committee Proposal No. 2.)

MCCUTCHEON: Mr. President, there is only one question that arises in my mind; in Sections 1, 2, --

DAVIS: Just hold it, I will take care of that in my explanation.

PRESIDENT EGAN: Mr. Riley, with relation to the rules, did you have a statement to make at this time?

RILEY: Mr. Chairman, if I follow the question, are you perhaps speaking of this brochure?

PRESIDENT EGAN: No, the Chair understood from Mr. Davis that you had a statement to make. If you do not, Mr. Davis, do you have a statement to make with relation to the article? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to suggest that Mr. Davis, who was the chairman of the subcommittee of Style and Drafting that did most of the detailed work on this article, give a brief explanation of just what was done and why it was done.

PRESIDENT EGAN: Mr. Davis, would you give that explanation at this time?

DAVIS: Mr. President, in a general way, since this is the first matter to come back from Style and Drafting, I think I might make some statements to tell how Style and Drafting has been

operating. In the first place, we divide ourselves into subcommittees of three to consider various articles which had been given to us. That was for two reasons: first, a nine-man committee is unwieldy to work on something of this kind; second, we had a good many articles that were dumped into our laps at the same time, and so we felt that the subcommittee method worked best. The subcommittee as such worked on this particular section. The matter was then taken up with the Judiciary Committee which originally brought in the proposal. After checking with that Committee the matter was checked with the consultants we have here; Mr. Bebout we have particularly for the purpose of telling us whether we have left out anything that we should have put in, or whether we have put in anything we should have left out, and Dr. [J. Kimbrough] Owen on the matter of general style and language. Following that then, the entire Committee sat down with Dr. Owen and went over the article section by section and some changes were made that way. After that was done the matter was again taken up with the Judiciary Committee. That is the way this thing worked. Now yesterday it appeared that there seemed to be considerable fear expressed on the floor here that Style and Drafting was rewriting these articles in such a way as to change the intent of the body in adopting the article in the first place. I want to state on behalf of Style and Drafting that that is not our intent unless we tell you so. There are some places where we feel it is necessary to make certain changes that might be substantive to fit in with other articles. When that happens we will tell you so, and so far as this article is concerned, we have checked and double checked it and have checked it with the Committee and we believe that we have retained all of the substantive matters in the original article and we do not believe we have made any additions of substance. Now, any person, of course, or any committee is fallible, and we may be very well shown to be wrong. So for that reason we want each member of the Convention to carefully go over this and if they feel any change of substance has been made or anything added that should not have been added, we want to be told, but we want you to go at it with understanding that to the best of the ability of the rule of the Style and Drafting Committee the matter has come out with the same intent that it went into our hands, and any changes that have been made are certainly inadvertent on our part if any such occurred.

V. RIVERS: Point of information. May we have the names of the three on the subcommittee who worked on this?

DAVIS: Yes. Mr. Hurley, Mr. Fischer and myself, on this particular article. As I said, the entire Committee went over the article as well.

MCLAUGHLIN: Point of information. Did any member of the Judiciary Committee work on the subcommittee, and is it the policy of the Style and Drafting Committee to permit any member of any committee who produced a bill to work on the bill in subcommittee?

DAVIS: No member of the Judiciary Committee worked on the subcommittee, and Mr. McLaughlin made it clear at the time we started consideration of this article that he wanted no part of styling this particular article so that it could not be said that the substantive committee was handling this matter. Is that clear? At the outset the subcommittee here took this judiciary article to pieces and put it back together in several respects. For that reason you cannot take this article and read it against the enrolled copy without reading both of them completely because a hurried reading of the Style and Drafting copy would indicate that some portions have been left out, where in fact, that is not the case. As a quick resume on that, if you were to read this article in a hurry, you would see right away that the enrolled copy said that the judicial council should consist of six members, where the Style and Drafting Committee says the judicial council shall consist of seven members. Now, the reason for that is that a reading of the article will show, the enrolled copy will show they actually intended seven members all the time but they were worried about how they were going to get the supreme court justice on that committee when in fact he had not been appointed at the beginning. We have taken care of that by a separate section at the end, Section 18, which we have separated out of the body of the judicial article and which we intend to have go into a transitional ordinance. We believe that since the staggered terms of judicial council will only happen once, I mean the setup of it will only happen once, after you once get the council appointed, the terms will be staggered and thereafter the problem does not arise, so we believed it was not either necessary or desirable to keep the language about staggered terms in the body of the constitution, and for that reason we have made a separate section which we intend to lift out of the body of the judicial article and put it in a transitional measure. The same thing is true in a different manner as to the question that a service in the armed forces is not an office of profit. You will remember that that appears in one position in the present judicial article. Now, it has already come out on the floor in at least one other article and probably will come in others, and we figured that that matter could best be handled by a general provision in the constitution that service in the armed forces is not an office of profit as provided in the constitution, and for that reason once again we lifted that language out of the particular section and set it up in a separate section at the end of the judicial article. I think that is Section 17, as I remember it, with the intention that that section will be taken out of the judicial article and fitted into the proper place in the entire constitution. Now, to get to Steve's problem here. He has got his whole copy marked up on the side -- "initiative, initiative" -- and he started to ask a question, and that is a good question. As quick as we started working on this article, we found that we had used interchangeably, the terms "by the legislature" or "by law". You will remember at the time the judicial article was considered by the Convention we had not yet considered the initi-

ative, and I am satisfied in my own mind, and I think that the Judiciary Committee agrees with me on this point, that at the time the article was before the Convention that we meant exactly the same when we said "by law" or "by the legislature". After we adopted, at least tentatively, an initiative article of course it was obvious that the terms "by the legislature" and "by law" are no longer synonymous. They might mean two different things because the initiative initiates laws. For that reason in order to try to keep the thinking of the Convention in our first draft of this matter we kept the terms all the way through just as they were in their enrolled copies. Wherever it said "by the legislature" we left it that way; wherever it said "by law" we left them that way. Then, in order to try to resolve the problem -- I should back up just a minute -- there is considerable feeling by some people, and I might say that I am one of them, that the setting up and the jurisdiction of the courts is something that should properly be handled by the legislature and not left to the initiative and for that reason in an attempt to find out where we were going on this thing, we held a combined meeting of some members from Style and Drafting, some from the Judiciary Committee, and some from the Initiative Committee, to find out how it was best to handle this problem, and the result of that meeting was that most members, I think we had only one dissent, but most members felt in that bunch that the courts should be something that should be handled by the legislature and not by the initiative, but it was not unanimous, and we do not know how the body as a whole feels, but as a result of that meeting we agreed that probably the best way to handle this thing would be to change the judicial article to provide "by law" in each case, and then to request the body to make a further exception in the initiative article when it came before the body to exempt the jurisdiction in the make-up of the courts from the initiative article. With that in mind then we did in our next and final draft change all of these provisions to read "by law" wherever it had said "by law" or "by the legislature". We changed them except in two instances here where it is obvious we couldn't have meant anything but the legislature. One of those instances is where the legislature by a vote of two houses, of each house, must approve any change of the rules. The other was in connection with the confirmation of members of the judicial council; once again it was so written we couldn't have meant anything but "the legislature" so with that in mind we went through the article and changed everywhere it said "by the legislature" or "by law". With those two exceptions we changed it to read "by law". That, then, was the purpose for my question at the time we started the resources article. I asked as to whether, when you say "legislature" do you mean "legislature" or do you mean "by law", and the answer by the Committee was that when we say "legislature" we mean legislature, not initiative. It occurs to me and to some of the others that have been working on this, that if each article that comes in is going to have things that they feel should be limited to action by the legislature, that then we are going to make the

initiative article as long as a sled track and completely unworkable if we say, "The initiative shall apply except, except, except, except", and so we have thought it would be best if the Convention wishes to limit some of these things to action by the legislature, to adopt a general miscellaneous provision to the effect that when the article says "legislature it means just that, and when it says "by law", it will mean action by either the legislature or by the initiative. If we adopt that approach, then the article which we have prepared here is wrong to that extent if the body decides that they want the courts to be set up by the legislature and not by the legislature and the initiative. Now that is something we will have to decide here, but I think, Steve, that answers what you were asking. I think that I have pretty well covered the matter here. I do have between my draft of the enrolled copy and my copy, my original copy of Style and Drafting, I believe with a little work I can tell anybody where a particular article came from or where a particular article went in the final draft. Now I don't have it in too good shape, but I think I can find it. One thing further I wish to state, that the article has been checked by a member from the Judiciary Committee, and by the Judiciary Committee as a whole, and I believe that they have no exceptions or objections to it except in the question of whether the courts are going to be set by the initiative or not, and that point is before the body.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Point of information, Mr. President. Mr. Davis said the rule-making power or the changes in rules must be approved by a two-thirds vote of the legislature. I do not read it that way. Did you so state just a moment ago?

DAVIS: I think I did, Mr. Rivers, but what I meant was -- I wasn't, of course, talking about that particular section except as an illustration. The section itself will control, and what it says is that it will stand unless disapproved.

V. RIVERS: I still don't read it that way.

DAVIS: All right, I will read it then.

V. RIVERS: I was just checking the enrolled copy to see. Mr. President, I merely wanted the record straight. It does not say "shall be approved by a two-thirds vote of the legislature", it says that "it may be changed by a two-thirds vote of the legislature". That is an entirely different action.

DAVIS: I heard, although I did not attempt to read that particular section, Mr. Rivers, I was only using it as a matter of illustration.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: To confirm what Mr. Davis has said, we had a representative of the Judiciary Committee present and I believe it is the unanimous agreement of the Committee that there have been no substantive changes made by Style and Drafting, unless those substantive changes on the matter of "provided by law" or "provided by the legislature", which in substance will be left to the body except upon motion of amendment by Mr. Robertson.

PRESIDENT EGAN: Are there questions with relation to Section 1? Mr. Robertson.

ROBERTSON: Amendments are not up now, are they?

PRESIDENT EGAN: We are in the process of accepting or rejecting the report of the Style and Drafting Committee.

ROBERTSON: Mr. President, I would like to ask Mr. McLaughlin, the Chairman of the Judiciary Branch Committee, if it is not true that the Judiciary Branch Committee when submitting this proposal did not intend in Section 1 that where the words "by law" are used, it means "by the legislature"?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: You place me in an awkward position, Mr. Robertson, because frankly I don't know what we intended. We hadn't discussed the initiative and I cannot speak for the Committee, but we did use in many instances "legislature" interchangeably with "law", although that might not be the viewpoint of many members of the Committee.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, point of inquiry. Must we not settle, first of all, before we can proceed upon the suggestion of the Committee on Style and Drafting as outlined by Mr. Davis, because Mr. Davis said that should that suggestion be accepted, then in some instances here the report of the Committee on Style and Drafting as to this particular article must be changed?

PRESIDENT EGAN: Is it the wish of the body that at this time that a motion be made on that subject from the floor and we discuss it and settle it before we go section by section? Mr. Kilcher.

KILCHER: Mr. President, since the thought of the initiative was not clear when this article was first adopted in second reading, I think that each section should be viewed in the light of the initiative. I don't think it would be wise to either reject or adopt a motion that includes or excludes initiative for the whole article. There may well be instances where matters should be left to the legislature and there may be a few instances where the initiative might get due consideration.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I wanted to rectify a statement to the embarrassment of Mr. Robertson. I did not mean it that way, but when he says "Did the Committee intend it to be the 'legislature'", I would say by elimination "yes"; where we said "by law" we thought in terms of the legislature because of the fact we were not even thinking of the initiative, and "by law" we did in fact treat it in terms of the legislature.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, I served on both committees, both the Initiative and Judiciary, and it was my own personal thought that we said or used the phrase "by law" we meant the legislature and not the initiative or the referendum.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: In order to have something before us, I move that in Section 1 wherever the words "by law" are used that they be changed to read "by the legislature", and I move that the rule be suspended.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson moves that the rules be suspended and that the words "by law" wherever they appear, be changed to read "by the legislature" in each case where those words appear in Section 1. Mr. Robertson.

ROBERTSON: I would suggest that if Mr. Johnson is agreeable that that also apply to Section 2, Section 3, Section 4, Section 9, Section 11, and Section 13.

JOHNSON: I certainly have no objection. However, in light of Mr. Kilcher's observation I thought that in order to expedite it, it might be better to proceed section by section. However, I am perfectly willing to include the other sections because they certainly apply.

PRESIDENT EGAN: Is it your wish that the other sections be included?

JOHNSON: It is.

PRESIDENT EGAN: Then the motion will include the words wherever they appear in the proposal.

ROBERTSON: No, only in those particular sections I mentioned.

V. RIVERS: I will ask Mr. Robertson if he included Section 11 there?

ROBERTSON: Yes, I mentioned Section 11 and Section 13.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I would like to ask the proposer of the motion a question now in order to get the thinking; if we vote on the question I want to know what we have done. Mr. Johnson, by proposing this motion is it your intention that if the motion passes, that by using the word "legislature" that we have meant that we have limited the operation to the legislature and the initiative does not apply in those instances? Is that your intention?

JOHNSON: That is my intention.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Mr. President, I fail to see any great threat anywhere throughout this article, and I read it carefully last night; I spent a little better than two hours on it last night comparing it with the enrolled copy. I fail to see any threat whatsoever to the judiciary article by leaving the words "by law" remain in the article where they are found. The basis of constitutional law is that certain rights are reserved, certain reservations are made within the constitution and all other laws are left up to the legislature and to the people. Inasmuch as this body has gone on record as favoring the initiative, I do not feel that we should relegate it to a position of second-or third-or fourth-class nature in the formation of the statutory laws of our new proposed state. I have heard many discussions, informal on this subject this morning, and I think that we are probably being faced by some bugaboos that actually are not there. I am a firm believer that the initiative is something that belongs in our constitution just as much as I feel that the legislature belongs in our constitution. I don't feel that we can separate them and say that one law is going to have greater value or greater realm of power than a law stemming from some other source. I would heartily oppose any effort here to say, carte blanche, without serious discussion and study on the part of every delegate in this room that we can go through and say Section 1, 2, 3, and with the exception of Section 11, we are going to change the words "by law" to read the "legislature". I don't feel that that would be the will of this group; I certainly do not feel it would be the will of the people who elected us here. I think we must give much more consideration to it than that.

PRESIDENT EGAN: The Chair would like to state that ordinarily the motion to suspend the rules is not debatable, but inasmuch as within that motion to suspend the rules the proposed amendment was included, that it is permissible to discuss the question before us. Mr. Collins.

COLLINS: As Chairman of the Committee on the Initiative, Referendum and Recall, I would like to ask Mr. Davis if this move would not take the power of the initiative out. The initiative is a law itself. Of course, we have provided in the initiative for Section 3, "The legislature shall prescribe the procedure to be followed, the exercise of the power and initiative and referendum except as herein provided." I am just wondering if it would not take the power of the initiative away. Our Committee would firmly stand by the initiative. Mr. Taylor is not here, he is Vice Chairman of this Committee. I am sorry he is not here, but before a move is made I would like to have the opinion of the Committee, my Committee on the Initiative and Referendum. I think it is very vital at this point. If they endeavor to take away the power of the initiative I oppose it, and I want the backing of the Committee.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Collins, in my opinion to answer your question, in my opinion, if we adopt the motion which has been proposed we have taken away the power of the initiative as to the subjects covered in these particular articles.

COLLINS: Can you make that exception?

DAVIS: I don't see why not. I intended, if this carries, I intended certainly to provide somewhere in here a miscellaneous article in the constitution to the effect that when we have used the words "the legislature" as distinguished from "by law", that action then was limited to the legislature in those particular places. To further go ahead with what you mentioned, you will remember that we held a committee meeting which included members from your Committee. I don't remember whether you were there or not, but Mr. Taylor was there.

COLLINS: I was there.

DAVIS: At that time it was proposed, I think without dissent so far as that committee of committees was concerned, that we would offer an amendment to the initiative article to specifically eliminate, to specifically exclude the setup and jurisdiction of the courts from the initiative article. That is what we had agreed to do at that time, but this other thing has come up since. That is why we have the problem now, that apparently other committees are talking the same position and if they do we will have more exceptions in the initiative than we have initiative. That is the point I was trying to get at awhile ago. Now it is purely a matter of policy here as to whether the body itself wants to exempt the jurisdiction and the make-up of the courts from the initiative. So far as I, as an individual am concerned, I do favor that, but that is something that the body itself has got to decide; neither Style and Drafting nor either of the substantive committees can decide

that point.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, to carry this forward to what seems to me to be a logical conclusion, I wonder if the makers of the motion would be willing to hold it in abeyance until we decide the more basic question as outlined by Mr. Davis. It seems to me we have to decide that basic method of procedure before we know what we are going to do when we change or don't change the words in this article, "as prescribed by law". It wouldn't affect your motion, Mr. Johnson, but don't you think it might be better to settle the basic procedure first?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I assume what Mr. White has in mind is perhaps a division on the question and we vote --

WHITE: I have in mind, Mr. Johnson, if you would agree to hold it in abeyance and move in line with the later suggestion of the Committee on Style and Drafting that a miscellaneous provision be adopted by the Convention as outlined by Mr. Davis.

JOHNSON: I beg your pardon, I have no objection to that.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears to me that this is the basic question right now. The proposal that Mr. Johnson has offered is the basic question. It does not only apply to this particular article but it can apply and may apply to all other articles and we are now at this time arguing a differentiation between "by law" and "by legislature", so it seems to me that the point could be argued very clearly at this time.

WHITE: That is correct, but Style and Drafting has changed this article in some respects to read "as prescribed by law". In doing so they intended that at first that under the initiative an exception be made for the judiciary.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Point of order, Mr. President, I think that is a misstatement of fact. The Style and Drafting Committee, in my opinion, has no right to recommend a change in the substance of the whole constitution. I recognize that Mr. Davis, in presenting this thing, did the best he could and probably did it right, but the fact of the matter is that any decision that was made was a decision that was improper in itself, and it was simply, our job is to point this problem up and not to recommend a solution to the thing.

WHITE: Mr. President, in answer to Mr. McCutcheon, I maintain that settling the basic method of procedure at this time would not affect Mr. Johnson's motion or any discussion of it that may ensue. The only thing it would do is clarify what our procedure is going to be in each case. If Mr. Johnson agrees to hold his motion in abeyance as he had agreed, then I am prepared to make a motion.

PRESIDENT EGAN: Has Mr. Johnson agreed then that his motion will be held in abeyance and will not be before us at this time? Do you ask unanimous consent that it be held in abeyance?

JOHNSON: I do.

PRESIDENT EGAN: Is there objection to that request? Hearing no objection then, the motion as has been made by Mr. Johnson will be held in abeyance until a later time. Mr. White still has the floor if he has a motion.

WHITE: Mr. President, I move that it be the policy of the Convention to adopt a miscellaneous provision which shall say that when the constitution says "the legislature" it means the legislature only and that when it says "by law" it means by the state or by the legislature. I so move.

PRESIDENT EGAN: Is there a second?

MCNEES: I second the motion.

PRESIDENT EGAN: Mr. McNees seconds the motion.

MARSTON: Is it open for discussion?

PRESIDENT EGAN: The motion is open for discussion. Mr. Marston.

MARSTON: May I ask a question of Mr. Davis? What position has Style and Drafting taken on the initiative where it says "by law or "by legislature", have they also done the same thing on the initiative powers going into the legislature?

DAVIS: Mr. Marston, Mr. Hurley had the right idea awhile ago when he said that Style and Drafting cannot decide that. I do not agree with Mr. Hurley when he said we shouldn't propose a solution if we had one because I think somebody has got to do it, but at the minute in working on the initiative article this point doesn't come up. Had this matter been limited to the judicial and had the body wanted to limit action on the judiciary to the legislature we could have then proposed an amendment to the initiative article which would have taken care of that, but so far as I see, the action taken now won't have any effect at all on the initiative article as such. It will, certainly if adopted, take certain things away from the initiating power that might be given unless the motion were adopted.

Have I answered your question?

MARSTON: I understood, I have heard that where we say "by law" in the initiative, you say "by legislature". If that is the case, why then we have no initiative.

DAVIS: Style and Drafting up to the present time has not completed its work on the initiative at all. I don't think that point has even arisen in connection with that article. The only one we have completed and the only one we have dealt with on this question is the one before us now, the judiciary.

MARSTON: The decision to make this "by legislature" or "by law" in the judiciary, would that affect the position of the initiative when it comes up to do the same thing?

DAVIS: No. The fact of the matter is, if we can be sure where the Convention wants to go here, then we will know what to do when some of these other articles come up. That is the reason for bringing it up at this time.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I feel that as Chairman of the Style and Drafting Committee I should point out that it is not the recommendation of the Style and Drafting Committee that there be a miscellaneous article such as Mr. White has proposed here. We have discussed it in our Committee, but I am sure we have taken no action to recommend that as a committee action to the Convention. Is that correct, Mr. Davis?

DAVIS: That is absolutely correct.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I feel that the issue with Mr. White's motion is clear cut. The question is simply whether or not we want to leave it to the recommendation of each committee to decide whether or not the items within the proposal shall be or shall not be subject to the initiative. If they feel they shall not be subject to the initiative all they will have to do then is to put the word "legislature" in there and it will take care of it.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Point of inquiry of Mr. White. Is his motion broad enough? That is, he distinguishes between two classes. He says where they said "legislature" and where they say "law", "legislature" means that you are immune from the initiative and "by law" means that the provisions are subject to the initiative, but unfortunately most committees have used it so indiscriminately that they provide in the same sentence the expression

"legislature" and "law". I will read from page 5, line 6, of the resources article that we have just approved. It says "The legislature shall provide for the issuance, type and terms of leases, etc., as may be prescribed by law," so that the legislature provides for the issuance under that theory and yet by the initiative they can change the number and type of minerals that are subject to it, so I think perhaps, maybe if Mr. White asks for a five-minute recess maybe something can be worked out, something generally.

PRESIDENT EGAN: The Chair would like to state too, Mr. White, if your motion is, in effect, a suspension of the rules and would take a two-thirds vote because we do not have the subject of miscellaneous provisions before us at this time, if the motion were to be voted upon at this time it would take a two-thirds vote unless such a motion were made at such a time when miscellaneous provisions were before us in their regular order.

WHITE: Mr. President, I would then withdraw my motion and ask unanimous consent that the rules be suspended so that we can consider this matter at this time.

PRESIDENT EGAN: Mr. White asks unanimous consent to withdraw his motion previously made. Is there objection?

MCNEES: I will withdraw my second.

PRESIDENT EGAN: Now Mr. White moves that the rules be suspended so that we can consider the question of miscellaneous provisions.

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Point of information. If Mr. White's motion to suspend the rules should carry, would that suspension of the rules include the motion that I had previously presented?

PRESIDENT EGAN: No, it would not, Mr. Johnson. It would include no other motion except the delegates know that then Mr. White could offer the motion that he previously made and it could be carried then by a majority vote. The question is, "Shall the rules be suspended so that Mr. White may make a motion to include in the miscellaneous provisions an extra provision in the miscellaneous provisions?"

WHITE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked. Is there objection for the suspension of the rules? If not, the rules are suspended and Mr. White, you may make your motion at this time.

WHITE: Mr. President, I now ask for a five-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Sergeant at Arms will please locate the absent delegates. The Convention will be at ease.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, a point of information. In our rules, is there a call of the Convention?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The only mention is that the Convention may provide for a call of the members, and we have not done so.

COGHILL: The reason why I mentioned this is that those discussions we had on those last articles that as we get them prepared to submit them into the constitution, I believe that all the delegates should be present while that is going on, and if we have a call of the Convention, supposing we have a member of our group that is out of town or something, what would be the procedure on that? Would everything stop?

PRESIDENT EGAN: Of course, Mr. Coghill, usually in other assemblies, that is handled just on the basis of judgment, that the person or the assembly will waive if there is some real reason that a person is absent, such as, if he were called away because of illness or something like that, either by unanimous consent or suspension of the rules --

SUNDBORG: Mr. President, if the matter is likely to come up, I suggest that the Rules Committee might be asked to draft a rule on call of the house. If somebody tries here within the next day or two, or week or two, which is all we have left, a call of the house, we really do not have any provisions covering it; and Robert's does not have a specific provision. It just says that "Bodies may adopt procedures such as the following..." and gives suggested ones for call of the house and there are several alternatives in there.

PRESIDENT EGAN: The Convention is at ease right now, we are waiting for the absent delegates. The President will call the Convention to order.

COLLINS: I move and ask unanimous consent that we recess until 1:30.

PRESIDENT EGAN: Mr. Collins moves and asks unanimous consent that the Convention stand at recess until 1:30. Are there

committee announcements?

COLLINS: And that contact be made with all the absentees.

PRESIDENT EGAN: That all the absent members be contacted in that time. Mr. Coghill.

COGHILL: Mr. President, not an objection but a committee announcement. The Committee on Administration will not have a luncheon meeting but we will meet immediately upon recess in the large committee room upstairs.

PRESIDENT EGAN: The Committee on Administration will meet immediately upon recess in the large committee room upstairs. Mr. Sundborg.

SUNDBORG: Do I remember that you announced a meeting of the committee chairmen for this noon?

PRESIDENT EGAN: That is correct, Mr. Sundborg. There will be a luncheon meeting of the committee chairmen at 12:30 in the luncheon room. Mr. Davis.

DAVIS: I wish to object to the unanimous consent. I see no reason why we should not go ahead.

PRESIDENT EGAN: Objection is heard to Mr. Collins' unanimous consent request.

COLLINS: I so move.

MCNEES: I second the motion.

PRESIDENT EGAN: It has been moved and seconded by Mr. McNees that the Convention stand at recess until 1:30 p.m. The question is, "Shall the Convention stand at recess until 1:30 p.m.?" All those in favor will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 24 - Awes, Barr, Coghill, Collins, Cross, Doogan, Emberg, H. Fischer, Harris, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McNees, Marston, Poulsen, V. Rivers, Robertson, Smith, Stewart, Sweeney.

Nays: 21 - Boswell, Cooper, Davis, V. Fischer, Gray, Hermann, Hinckel, Hurley, McCutcheon, McLaughlin, Metcalf, Nerland, Nolan, Nordale, Peratrovich, R. Rivers, Sundborg, Walsh, White, Wien, Mr. President.

Absent: 10 - Armstrong, Buckalew, Hellenthal, Hilscher, McNealy, Reader, Riley, Rosswog, Taylor, VanderLeest.)

CHIEF CLERK: 24 yeas, 21 nays and 10 absent.

PRESIDENT EGAN: So the "yeas" have it and the Convention will stand at recess until 1:30 p.m. Mr. McNees.

MCNEES: May I suggest that the Sergeant at Arms be instructed to contact the absent members during the luncheon hour and give us a report on our reconvening at 1:30.

PRESIDENT EGAN: Mr. McNees requests that the Sergeant at Arms be instructed to contact the absent members during the luncheon hour and give the Convention a report during recess. Mr. Sundborg.

SUNDBORG: Mr. President, Style and Drafting will meet immediately at the rear of the gallery.

PRESIDENT EGAN: The Convention is at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may proceed with the reading of communications. The Convention will come to order.

(The Chief Clerk read a telegram from Cyrus E. Peck, Grand Secretary, Alaska Native Brotherhood, Juneau, urging that the action taken by the Convention which voted down the amendment regarding native lands in Committee Proposal No. 8/a be sustained.)

The Chief Clerk read a telegram from Arthur Skinner, Juneau, urging the Convention to reconsider its action on Section 5 of Committee Proposal No. 8/a, pertaining to fish and wildlife.)

PRESIDENT EGAN: Are there other communications? Mr. Victor Rivers.

V. RIVERS: May I ask who is Arthur Skinner?

SUNDBORG: Mr. President, he owns a sporting goods store in Juneau and is very active in the Territorial Sportsmen, which is the local sporting fraternity there.

PRESIDENT EGAN: Mr. Robertson?

ROBERTSON: Did he say what politicians wanted to grind their axes?

NERLAND: Was that addressed to an individual or to the Convention?

PRESIDENT EGAN: It was addressed to the President of the Convention. Mr. Smith.

SMITH: Mr. President, I would like to have the privilege of the floor for just a very short time.

PRESIDENT EGAN: If there is no objection, Mr. Smith, you are granted the privilege of the floor.

(Mr. Smith spoke under a question of personal privilege.)

PRESIDENT EGAN: We have before us the proposed amendment as offered by Mr. White. Mr. McNealy.

MCNEALY: Mr. President, I am sorry I did not speak before. I wonder if I can ask unanimous consent for the introduction of Committee Proposal No. 16 at this time.

PRESIDENT EGAN: If there is no objection we will revert to the order of business of introduction of proposals at this time. Mr. McNealy asks unanimous consent for the introduction of Committee Proposal No. 16 at this time. Would you tell us what the proposal relates to?

MCNEALY: The disclaimer as to Native lands which was taken from the legislative article almost intact, and there is a consent to the enabling act and possibly this body has passed upon the committee proposal in regard to the University and if so that could be struck out of this one.

PRESIDENT EGAN: You mean, Mr. McNealy, that this particular proposal had been before us and then referred from the floor to your Committee?

MCNEALY: Yes.

PRESIDENT EGAN: Is there objection to the introduction of Committee Proposal No. 16 at this time? Hearing no objection, the Clerk may read the Committee Proposal No. 16 at this time for the first time.

CHIEF CLERK: "Committee Proposal No. 16, introduced by the Committee on Ordinances and Transitional Measures, 'GENERAL AND MISCELLANEOUS PROVISIONS'."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mr. White.

WHITE: Mr. President, I renew my motion made before the luncheon recess and withdrawn.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed motion offered by Mr. White.

CHIEF CLERK: You withdrew a motion.

WHIIE: I know. Now I offer it again.

PRESIDENT EGAN: Had you actually offered the motion at that time or had we just voted on the suspension of the rules?

CHIEF CLERK: No.

PRESIDENT EGAN: You may offer the motion. The Chief Clerk will read the proposed motion.

CHIEF CLERK: "That it be the policy of the Convention to adopt a miscellaneous provision which shall say 'when the constitution says "The legislature" it means the legislature only, and that when it says "by law" it means by initiative or by the legislature.'"

WHITE: Mr. President, I move the adoption of the motion.

PRESIDENT EGAN: Mr. White moves the adoption of the motion. Is there a second?

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Buckalew seconds the motion. Mr. White.

WHITE: Mr. President, this is one of these dilemmas we get into that is very difficult of solution. I proposed the amendment to provide a policy under which we can work that I feel we could all understand and we can proceed from there knowing what we are doing each time we come to one of these matters in each of the articles. I would suggest that a vote "yes" on the motion should mean that the Convention is in favor of differentiating between a case where it wishes a matter to be in the hands of the legislature only or whether it wishes it to be subject to the initiative. A vote "no" should mean that the Convention wishes to have every such item subject to the initiative. If this motion is voted down it is my understanding that somebody else will propose a like motion that will say a miscellaneous provision should be adopted stating that the words "by law" or "by the legislature" could be used interchangeably throughout the constitution.

V. RIVERS: Will you have the Chief Clerk read the motion again? I want the exact wording of that.

PRESIDENT EGAN: Would the Chief Clerk please read the motion again.

CHIEF CLERK: "That it be the policy of the Convention to adopt a miscellaneous provision which shall say that 'when the constitution says "the legislature" it means the legislature only and that when it says "by law" it means by initiative or by the legislature.'"

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we have reached a very fundamental question, and we are going to be making a very fundamental decision. If we distinguish between the meaning of the words "by law" or "by the legislature" we are raising a substantive question in every case where those words appear. I have talked to various committee people and most of them say that they did not have the distinction clearly in mind when they drafted their proposals. They used them more or less interchangeably without stopping to think of the distinctions. If we are going to raise a substantive question on the meaning of those words, then we get into the problem of whether all these articles should go back to their standing committees for decision on that fundamental substantive question which is involved or else we will just keep them on the floor here and we will fight it out every time one of those terms arises as to what we mean by it. Of course, only the body can make the final decision. As far as the Judiciary is concerned, the members of that Committee were thinking only of the legislature. Ours was among the first out and we didn't stop to think about the distinction. We used the words interchangeably. However, the Judiciary is pretty well constructed right in the constitution. The initiative power does not extend to changing the constitution. We have our courts with the main jurisdiction defined and the judicial council and everything we have written in here; the initiative could not touch it. However, we have said "by law" with regard to about seven points, as Mr. Robertson pointed out this morning. One is that inferior courts could be established by law, and the salaries of justices and judges could be changed by law, and the number of justices of the supreme court may be increased, but only upon request of the supreme court, so that would not apply. And then additional qualifications are prescribed by law for judges. I am perfectly secure as far as the judiciary article is concerned. I don't think the public is going to concern itself by initiative, whether it is going to change the salary of judges or create an inferior court. We have the broad question before us and that is what I am speaking to. The Judiciary raised this because we think those are not proper subjects for the initiative. Neither are they subjects that the public is going to be interested in from the standpoint of the initiative, and I feel if we go through with the distinction that Mr. Barrie White would establish here -- I really fully approve of having him raise the point at this time -- I feel that every proposal that comes before us from now on in third reading is before us on a substantive question as to what we mean by those particular terms and I doubt that the remaining

14 days is long enough for us to fight that battle out every time we come across those terms. So, in the interest of the entire Constitutional Convention, I am willing to let the Judiciary take a chance. I am not speaking for any of my colleagues on the Committee. I am willing to let Judiciary take a chance, and I am willing to say that let the initiative apply wherever it would ordinarily apply without making that distinction, because if we start giving an initiative which we have done, and then say, "except this, except this", and take every proposal and treat that as a matter of substance, for the rest of this Convention during the third reading, I am afraid we are just about wrecking the operation, so if the Convention votes this down, Mr. Barrie White's amendment, I am going to propose one to the effect that those words may be used interchangeably wherever applicable insofar as the initiative is concerned. If we take that decision now we can go ahead and wind up this Convention. Otherwise, I don't see where we are coming out.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I agree entirely with Mr. Rivers that we will be spending the rest of our days worrying as to what exactly the meaning of each of those words is. It seems to me that in the passing of the proposed article on direct legislation, we made a decision in this particular matter; we said as follows: "The initiative and referendum may not be used as a means of earmarking revenues for making or defeating of appropriations of public funds or for local or special legislation." We specifically exempted those. I don't think it is right for us as an afterthought to start going through the whole constitution and add additional items that are not subject to the initiative. I personally am not a believer in the initiative; however, if you have it, let's be honest about it; let's be above board about it. If you believe that certain items should be exempted let's put them into Section 5 of Article 3 and specifically exempt them from the initiative instead of going through each article, section by section, and by hidden meanings prevent the people from exercising the initiative.

PRESIDENT EGAN: Miss Awes.

AWES: I agree with Mr. Fischer that we adopted the initiative with certain exceptions which appear in that article. The proposal that is before us now was decided before we adopted the initiative, so I think the problem is with it, and it seems to me that Style and Drafting acted very properly when they used a consistent term "by the law", the one they chose, and I think in this case we should decide the matter as a substantive matter. The other proposals where we are concerned with it, I think all came up after the initiative was adopted, and therefore, I think the Style and Drafting should continue to use the term "by law" and I think then it would be understood that the

initiative did apply to it. If there is some case where it is felt that the initiative should not apply, as in this proposal, then I think we have a duty to consider it. Otherwise, it seems to me we should just assume it because we all knew the initiative had been adopted and we presented our proposals. For that reason I approve of the idea of Barrie White's motion. I think that the constitution "by law" should mean that we can adopt it either by the legislature or by referendum; and I also agree that "by the legislature" means by the legislature only. However, I disagree when Mr. White says if we vote no on his proposal that we vote against that meaning of the terms because I agree with his idea, and I agree that is what the terms should mean in the constitution, but I think it's obvious, and I don't think we need a section in the constitution that says so.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I was going to add my voice to that of Mr. Fischer and Mr. Rivers. Yesterday, when I asked a question relative to the possibility of these various articles coming back from Style and Drafting to the still standing substantive committees, I had that very idea in mind. Mr. George Sundborg very improperly, I thought, answered my question rather than allowing it to come from the Chair or the floor in general. I went to the Rules Committee later in the afternoon, but due to the lack of time did not get a chance to be heard. I feel that this question before us now is one of substantive matter. I do feel that the floor has definitely gone on record in favor of the initiative, and we have hamstrung the initiative far enough in the article itself, so I do not feel now that time will permit our going ahead and treating each article as we come to it. Therefore, I do feel we have to resolve this question now, and in a sense I do not feel that Mr. Barrie White's present motion is the proper answer to it; but I do think we are going to have to keep this constantly in mind as we face the various articles as they come up, and I think that properly that could best be handled by referring these articles back to the substantive committees prior to presentation to the floor.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I believe we had an agreement here that one member should be appointed from each committee to work with Style and Drafting to help prevent any material change being made in the article. Now, if that is done, that member could inform Style and Drafting as to whether or not the committee meant "legislature" or both the initiative and the legislature. If he is not quite sure about it he could check with the rest of the members of the committee to tell him, and then when that proposal is reported out on the floor by Style and Drafting we would know that it would agree with the committee report and it would not delay these proceedings another two weeks or more.

I don't see any possibility of that except perhaps with this one we have before us. Now, in deciding whether or not we should change this one so that we have the initiative on everything in the judiciary article, there are two things we must consider here. One of them, is it right, is it morally right to make exceptions to the initiative after we have adopted it; and the other thing is, is it desirable and necessary? Now, as far as the right or wrong of it is concerned, we must remember this: The initiative is only one part of this constitution. The judiciary article is another part. When a law is passed or enacted by the legislature consisting of several sections, one section is usually interpreted in connection with and working in conjunction with all the other sections of the law. That is the way I look at the initiative. The initiative is operating under the constitution, not under the initiative alone, but under the constitution, and there are other sections to the constitution. If it is desirable and necessary to have a few exceptions to the initiative, that the reason for it is just as strong as the reason for the initiative. Now, I can't see where there would be many exceptions. On finance and taxation I believe the people should have a say about everything connected with it; on the report of the executive branch, setting up the framework of our state government, I can't think of anything that should be kept from the people -- they should be able to change a form of government if they want; in the judiciary there might be two or three things that would not be quite proper to have the people use the initiative on, because I can't see where they should be able to abolish a court or to change the boundaries of a judicial district. They are amply protected by the recall in case there is some judge that is not performing properly and they think he should be dispossessed, they can recall him; that seems to be enough.

of order. I think Mr. Barr is arguing the proposition of pro or con of the initiative. I don't think that is the subject material that is before us.

PRESIDENT EGAN: Mr. Barr seems to be arguing on the proposed motion of Mr. White's.

BARR: If this amendment would carry, it would make quite a difference on the way in which the thing works, whether it would encompass everything or only a part. I believe that we should have the two terms distinguished one from the other and that when we refer to the "legislature" we should mean laws by the legislature only, and when we say "initiative" mean initiative, and when we say "by law" we mean one or both, and there are few cases where I believe it is more proper that we say "by the legislature", but I will say that 98 per cent of the time the initiative would apply.

PRESIDENT EGAN: Mr. Riley.

RILEY: Pursuing Mr. Fischer's position on the initiative and the several references to its adoption, I think it should be noted that the initiative has not been adopted and that the whole problem will vanish if appropriate action is taken when it is in third reading and on final passage.

PRESIDENT EGAN: Is there further discussion? Mr. Marston.

MARSTON: Mr. President, I think the Judiciary who brought this up are split 50-50, if I have been advised rightly, on bringing this issue up. I observe the two men who started this were opposed to the initiative and referendum on the floor, and I am still believing that you can trust the people and you seem to be again afraid of the people. I think it is the checks and the balances and the people have a right to set up the legislature, to have a check and balance on them, and if we continue this line of chain action you will destroy the initiative and referendum, if that is what this body wants to do I am for this body. I saw artful maneuvering the other night, the will of the people thwarted, and I don't like to have an issue destroyed indirectly. If we are going to destroy this referendum let's come out in the open and vote against it. I think this is a chain reaction that would destroy the effect of the initiative and referendum and we would just be kidding the people if we continue this course. Where the initiative and referendum says "legislature" it means legislature; where the initiative and referendum bill says "law" it means law, and I would like to fight it on those grounds on my own position. I am for the initiative and referendum, and we are on a nice way of destroying it by artful maneuvering.

PRESIDENT EGAN: The Chair would like to state again for all of the delegates, all of us, it is not becoming in the opinion of the Chair to refer to any other delegates or actions of other delegates in a derogatory manner or impugn in any manner the reasons for actions of any other delegates on this floor. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, could the Chief Clerk read Mr. White's resolution, or motion, very slowly so we could copy it so there would be no misunderstanding?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed motion.

CHIEF CLERK: "That it be the policy of the Convention to adopt a miscellaneous provision which shall say that 'when the constitution says "the legislature" it means the legislature only, and that when it says "by law" it means by initiative or by the legislature.'"

PRESIDENT EGAN: Mr. Cross.

CROSS: Mr. President, when we were writing this constitution and these articles we made no distinction between "legislature" and the "law". I am opposed to going ahead and making that distinction now. I can foresee hours and hours of debate on that. Let's get back to the question and vote this down.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I won't feel badly at all if this motion is voted down. I merely proposed it as a means of clearing the air and establishing basic policy. Whether or not we agree with Miss Awes that we do or do not need such a provision, I think if you want to exempt a number of things from the initiative we do need such a provision, because there seems to be some doubt among the delegates as to what we have meant in the past when we say "by the legislature" or "by law", and I propose it only as a means of clearing the air.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I was delayed in arriving here and I would like to be allowed not to vote on this subject because I have not heard all the debate. I ask to abstain.

PRESIDENT EGAN: You ask to abstain? The question is, "Shall the proposed motion as offered by Mr. White be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Barr, Buckalew, Coghill, Collins, Cooper, Davis, Johnson, Kilcher, Laws, McCutcheon, McNealy, Nerland, Nolan, Peratrovich, Poulsen, Reader, Robertson, Taylor.

Nays: 34 - Armstrong, Awes, Boswell, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nordale, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 2 - Hellenthal, VanderLeest.

Abstaining: 1 - Rosswog.)

PRESIDENT EGAN: The Convention will come to order. The Chief

Clerk is tallying the ballot.

CHIEF CLERK: 18 yeas, 34 nays, 2 absent, and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it and the proposed motion has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I ask on a point of information. The rules were suspended so we could vote on Mr. Barrie White's motion which was to help us arrive at a policy in regard to the use of the terms we were discussing. I have a motion to submit. Does it take, on the same subject but approaching it from the other end, that is to the effect that the words may be used interchangeably wherever applicable as far as the initiative and referendum is concerned. Does that take another suspension of the rules?

PRESIDENT EGAN: Mr. Ralph Rivers, if there would be no objection to your so making a motion and having it carried as a majority vote, it would be all right. Mr. McCutcheon.

MCCUTCHEON: Point of order. Didn't this last vote make it perfectly clear how it is to apply? They are actually interchangeable, and I think that is what Mr. White predicated his motion on, was to make it perfectly clear.

PRESIDENT EGAN: Mr. McCutcheon, your point of order to that point would be well taken, but Mr. Ralph Rivers has raised the question, as the Chair understood his statement, that without some statement such as he proposes, it might not be clearly understood in the constitution. Is that not right? Mr. Johnson.

JOHNSON: Point of order. This morning when I had a motion before the Convention it was laid aside pending action on Mr. White's motion. Now, do I not have the right to renew that motion before anyone else does?

PRESIDENT EGAN: Mr. Johnson, you certainly do, and the Chair forgot.

R. RIVERS: I rise to a point of order, too. The Chair announced when he made his decision that Mr. Johnson's motion was suspended to be acted upon later, he did not say immediately after Mr. White's motion, and once more we are on the immediate question, and I think Mr. Johnson's deferral, I should think, would go until we have arrived at a result.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers, it would take a suspension of the rules at this time, even if there were no other motion.

R. RIVERS: In that case I will not offer my motion or ask to suspend rules and will yield to Mr. Johnson.

PRESIDENT EGAN: The Chief Clerk may read the proposed motion as offered by Mr. Johnson.

CHIEF CLERK: "That in Section 1, Section 4, Section 9, Section 11 and Section 13, wherever the words 'by law' are used they be changed to read 'by the legislature'."

JOHNSON: I believe Section 2 was included.

CHIEF CLERK: Yes, Section 2. Sections 1, 2, 3, 4, 9, 11 and 13.

PRESIDENT EGAN: That motion included the suspending of the rules and that this amendment be adopted. Mr. White.

WHITE: May I ask Mr. Johnson a question? Mr. Johnson, what does this mean?

JOHNSON: Well, if the motion carries, it would mean that so far as the judiciary article is concerned, it would be subject to change only by action of the legislature.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and the proposed amendment of Mr. Johnson be adopted?" The Chief Clerk will call the roll.

MCNEES: I don't feel the members of the floor have had a chance to peruse these articles as outlined here in 15 or 20 seconds.

PRESIDENT EGAN: Mr. McNees, there had been considerable debate before, no one arose. You may be heard, we have not started the roll call.

MCNEES: I just did not feel we could skip over and say that this wide variety of all articles could be all-inclusive in a vote at this moment.

PRESIDENT EGAN: The Chair recalls that you were heard on this this morning. Mr. Coghill.

COGHILL: Point of order. We are just voting now on the suspension of the rules. We are not voting on the main question.

PRESIDENT EGAN: No, Mr. Johnson included this morning in the suspension of the rules his amendment.

COGHILL: His amendment is also a part?

PRESIDENT EGAN: It is part of the question before us. Mr. Doogan.

DOOGAN: If I understand this motion correctly, every place it says "law" in here it means "the legislature", is that right? Is it "by law" or "law"?

ROBERTSON: Just in those particular sections that are included in the motion 1, 2, 3, 4, 9, 11, 13.

DOOGAN: Is it "by law" or wherever it says "law" that you want to change it?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "In Sections 1, 2, 3, 4, 9, 11 and 13, wherever the words 'by law' are used they be changed to read 'by the legislature' and move that the rules be suspended."

PRESIDENT EGAN: This is the same motion that was debated at some length this morning. Perhaps that is the misunderstanding that some of the delegates thought it was a new proposed amendment. Mr. Sundborg.

SUNDBORG: Mr. President, my study of the draft convinces me that these are the only sections in the judiciary article where the term "by law" is used, so it would be throughout this article, in every reference, it would be "by the legislature", if this motion carries.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: While I support Mr. Johnson's motion, I contend that Section 11 and Section 13 need not be changed because they are predicated upon a monetary situation, and according to the initiative as it is written at this time they cannot initiate in a monetary fashion, or on monetary subjects.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: It excludes initiating appropriations but it does not exclude legislation which would spend money.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I do not profess to be a parliamentarian, and I would like to raise the question of having a dual motion such as this to suspend the rules and to approve an amendment. I would like to know --

PRESIDENT EGAN: Mr. Coghill, if Mr. Johnson moved to suspend the rules, 37 votes then would put the question back to where he could then make his proposed amendment and have it carried by a majority vote, but the motion as made by Mr. Johnson was all-inclusive that the amendment be acted upon at that time. Of course, in all fairness, the Chair would state to Mr. Johnson often times you can get a suspension of the rules, whereas if the question is included in that suspension of the rules you might not get the suspension; it is up to you to decide, the Chair would feel, whether or not he wishes to include that.

JOHNSON: In view of the statement of the Chair I have proposed a division of the question and would request that the matter be submitted on the suspension of the rules first.

PRESIDENT EGAN: If there is no objection the question would be then on the suspension of the rules first. The question would be, "Shall the rules be suspended in order that Mr. Johnson may offer his proposed amendment?" Mr. Sundborg.

SUNDBORG: Mr. President, did you rule on Mr. Johnson's request that the question be divided? He requested it I realize, but did you say --

PRESIDENT EGAN: There was no objection. Mr. McCutcheon.

MCCUTCHEON: Point of order. Again, it is my contention on the point that there is no suspension of the rules required on this matter because it is a change in terminology and not necessarily in substance.

PRESIDENT EGAN: Mr. McCutcheon, the Chair would feel that it changes the substance definitely for the reason that if Mr. Johnson's amendment he proposes to offer, if the suspension carries, if his amendment carries, it will limit it to being an act of the legislature rather than a possible act also of the initiative and referendum, so it would be a change in substance. That would be the ruling of the Chair. The question is "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 33 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Gray, Harris, Hermann, Johnson, King, Laws, McCutcheon, McLaughlin, McNealy, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, Robertson, Rosswog, Sweeney, Taylor, Walsh, Wien, Mr. President.

Nays: 20 - Coghill, Collins, Emberg, H. Fischer, V. Fischer, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, Londborg, McNeese, Marston, Peratrovich, V. Rivers, Smith, Stewart, Sundborg, White.

Absent: 2 - Hellenthal, VanderLeest.)

CHIEF CLERK: 33 yeas, 20 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Are there other questions with relation to Section 1? Mr. Johnson.

JOHNSON: Mr. President, I ask unanimous consent to withdraw my motion, that is the remainder of the motion.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the motion be withdrawn. It actually should not have been before us. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I will try it again. I asked for unanimous consent to the suspension of the rules so that I may introduce a motion.

PRESIDENT EGAN: The Convention will come to order.

MCCUTCHEON: Point of information. I would like to hear the matter of the motion before I rule on that, or whether I would object.

PRESIDENT EGAN: Mr. McLaughlin, would you inform the body.

MCLAUGHLIN: It is my intent, if the rules are suspended, to introduce the following motion to be adopted by the Convention or rejected by the Convention: "That it is the intent of the Convention that all provisions of the constitution which include the words 'by the legislature' or 'the legislature', unless clearly inapplicable or unless specifically excluded from the initiative and referendum by the article on the initiative and referendum, shall be subject to the initiative and referendum."

HERMANN: I think the motion ought to be submitted to Style and Drafting. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin asks unanimous consent for the suspension of the rules in order that he may introduce such a motion. Is there objection?

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard. Did you so move, Mr.

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McLaughlin?

MCLAUGHLIN: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien.

Nays: 6 - Buckalew, Coghill, Marston, Peratrovich, Poulsen, Mr. President.

Absent: 2 - Hellenthal, VanderLeest.)

CHIEF CLERK: 47 yeas, 6 nays and 2 absent.

PRESIDENT EGAN: The "yeas" have it and the rules have been suspended. Mr. McLaughlin.

MCLAUGHLIN: Do I now move, Mr. Chairman?

PRESIDENT EGAN: Would you submit it to the Chief Clerk please.

TAYLOR: May we have five minutes to look that over, please?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read the proposed amendment as offered by Mr. McLaughlin.

CHIEF CLERK: "That it is the intent of the Convention that all provisions of the constitution which include the words 'by the legislature' or 'the legislature', unless clearly inapplicable or unless specifically excluded from the initiative and referendum by the article on the initiative and referendum, shall be subject to the initiative and referendum."

PRESIDENT EGAN: Mr. Cooper.

COOPER: Point of order. The other day a rule was adopted in addition to the other rules that we had which said that any amendment that was long would have to be mimeographed and I would like to ask to have this mimeographed.

MCLAUGHLIN: Mr. Chairman, may I point out this is not an amendment to anything. It is merely a statement of intent.

PRESIDENT EGAN: Do you still raise your point of order?

COOPER: No, I will withdraw it.

HARRIS: Mr. President, I would like to ask Mr. McLaughlin a question if I may.

PRESIDENT EGAN: You may, Mr. Harris, if there is no objection.

HARRIS: Mr. McLaughlin, if the words "by law" are stated I guess that would also apply to the initiative and referendum as well as the legislature?

MCLAUGHLIN: Yes, that is clearly the understanding of this body at the moment that "by the law" makes it subject to the initiative and referendum, if I may speak on this, Mr. Chairman.

PRESIDENT EGAN: You may speak on this, Mr. McLaughlin, but did you so move?

MCLAUGHLIN: I so move.

BARR: I second it.

PRESIDENT EGAN: Mr. McLaughlin moves, seconded by Mr. Barr.

MCLAUGHLIN: Regrettably this is wordy, but the wordiness is necessary so that we cover in most of the problems that confront Style and Drafting. All we are asking is that the Convention notes immediately that where we use in any article, have used in any article the expression "by the legislature" or we have used in any article the proposal, the words "the legislature", unless those things obviously are inapplicable they are subject to the initiative and the referendum unless they are otherwise specifically excluded from the article on the initiative and referendum. What do I mean by that? I mean by that this: where we say "the legislature shall provide", automatically on the adoption of this constitution, Style and Drafting can say, we can substitute the words "by law". It means that where we say "further provision shall be made by the legislature", Style and Drafting upon adoption of this can say they mean "according to law", or "by law" because we automatically have then confirmed, in a sense, the article on the initiative and

referendum and said unless you are specifically -- you have been specifically exempted by the article on the initiative and referendum, this section of the constitution where the expression "the legislature" is used is subject to the article on the initiative and referendum and it means "by the law". You have a "yes" or a "no". We don't intend to insert anything in here in the constitution. It is a statement of intent, but it means that now and hereafter Style and Drafting has a clear directive from the Convention. What do I mean here by "unless clearly inapplicable"? I will give you the best example; it has been used before. Certainly we wouldn't intend, where you read in the article on the judiciary that the supreme court may adopt rules which may be, in substance, disapproved by two-thirds of each house of the legislature, because it was obviously meant from that context that that couldn't be subject to the initiative, and so we are clearly indicating here that where we use the expression "by the legislature" or the expression "the legislature" we mean completely, thoroughly and wholeheartedly know that it is subject not only to the initiative but to the referendum, and where it is clearly inapplicable, even 55 idiots would agree that it was inapplicable. That is not a reflection upon the body, Mr. Chairman, if it is, it is upon myself alone. Thank you. (Laughter)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I am afraid I haven't anything witty to say.

PRESIDENT EGAN: Mr. Johnson has the floor.

JOHNSON: I would like to point out that while normally I am in agreement with our distinguished Judiciary Chairman, I am afraid here that his motion isn't going to help us a great deal because it certainly does not resolve the problem we are faced with in this judiciary article, and I don't know how to solve that; I tried by a motion but that failed, rather the suspension of the rules failed, and as I said before, I don't see how the adoption of Mr. McLaughlin's motion is going to help us in solving the problem that still, I believe, exists in the judiciary article. The McLaughlin motion may help the Style and Drafting Committee in the future -- I don't know about that -- but certainly so far as the judiciary article is concerned, I don't think that it has resolved the question.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to support the motion. If it is adopted it will facilitate the work of Style and Drafting, immeasurably. Beyond that I say there is a solution for Mr. Johnson, and the solution is, if he doesn't want the judiciary article to be subject to action by the initiative or referendum, the way to state that and state it unmistakably is to write it in as one of the restrictions on the use of the

initiative in the initiative article, and if the body wants to do that, that is the place to put it. I am sure, and I think every man and woman here will agree with me, that as we considered these matters on the floor we did not stop to think each time that the use of the term "by the legislature" or "by law" was used whether we were distinguishing between whether a thing would be subject to the initiative or not. We did use those terms interchangeably. I know they were used interchangeably in my own thinking at least as we looked at the proposals before us. There is one other alternative still before us, and that is when we get around to it we may not even adopt the article on the initiative and referendum. I myself am in favor of it; I think it ought to be in the constitution, but to let Style and Drafting get on with its work it would help greatly in that work if we adopt Mr. McLaughlin's motion.

PRESIDENT EGAN: Mr. White.

WHITE: This is a logical sequence and only logical sequence to voting down the motion that I made previously.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, may I ask a question of Mr. McLaughlin?

PRESIDENT EGAN: You may.

COGHILL: On your proposed amendment, let's just take for an example in your local government article on boroughs would the legislature that provides for the performance of services to unorganized boroughs, would that be "the law shall provide"?

MCLAUGHLIN: That would be "it shall be provided by law".

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask a question of Mr. McLaughlin? It wasn't your intent to preclude the Committee on Style and Drafting to occasionally use "by the legislature" just for variety, was it?

MCLAUGHLIN: It was not, but if intelligence conflicts with variety I would say that variety would have to go by the board. Mr. Chairman, I might answer one of the objections that came from Mr. Johnson. If Mr. Johnson, after the adoption of this, wants to raise the question immediately as to whether or not the judiciary article is subject to the referendum, he need merely move to strike all the expressions "be established by law" and substitute the word therein "legislature".

PRESIDENT EGAN: The question is, "Shall the proposed motion as offered by Mr. McLaughlin be adopted by the Convention?" All those in favor of the adoption of the proposed motion will signify by saying "aye", all opposed by saying "no". The

"ayes" have it and the proposed motion is ordered adopted. Are there questions with relation to Section 1? Mr. McCutcheon.

MCCUTCHEON: Mr. President, in view of the action that has just been taken by the body, I will move that the judiciary article be sent back to Style and Drafting for further consideration in drafting.

TAYLOR: I second the motion and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the judiciary article be sent back to Style and Drafting for further consideration in drafting.

SUNDBORG: Is this debatable?

PRESIDENT EGAN: Recommit, is that your motion, Mr. McCutcheon?

MCCUTCHEON: Yes, that is what it amounts to.

PRESIDENT EGAN: Recommit is debatable, yes, it is, Mr. Sundborg.

SUNDBORG: We don't want it back. We have already labored over this for more than two weeks. We have inserted in here "by law". If we get it back that is all we could do, as I can see it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, it just seems to me that this should be recommitted to Judiciary Committee because they know what they mean in each case, and then it should come out on the floor for adoption. They could consult with Style and Drafting, perhaps.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: When the initiative and referendum article finally comes before us, Mr. Barr, I am quite sure our Committee is going to move an exclusion of the formation and jurisdiction of the courts in the judiciary article, but I think we ought to go ahead and clear this and get it into third reading and take the other up in due course.

PRESIDENT EGAN: The question is, "Shall the report of the Committee on Style and Drafting on Committee Proposal No. 2 be recommitted back to the Style and Drafting Committee for further consideration?" All those in favor of recommitting the proposal to the Style and Drafting Committee for further consideration will "signify by saying aye", all opposed by saying "no". The "noes" have it and the proposal is before us. Mr. Robertson.

ROBERTSON: I move that it be recommitted to Judiciary Branch

Committee.

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: Mr. Robertson moves that Committee Proposal No. 2, seconded by Mr. McCutcheon that the proposal be recommitted to the Judiciary Committee. Mr. Fischer.

V. FISCHER: Point of information. I would like to ask Mr. Robertson why.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, in answer to Mr. Fischer's question, I submitted the first proposal on a judiciary formation, formation of a judiciary and in it I used the words "by the legislature" and "by law" interchangeably, meaning all the time "by the legislature". The Committee adopted the proposal after we had Mr. Davis and Mr. Taylor, and some others made suggestions, and the Committee here today has assured you that it all meant "by the legislature", not "by the law" and in writing in some places we used "by law" instead of "by the legislature". If it is referred back to the Judiciary Committee I am quite confident that in at least 10 instances, as embodied in Mr. Johnson's motion, we will write in the words "by the legislature". That is why I ask for it.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I submit that under the rule just adopted a minute ago, Mr. McLaughlin's motion, that no matter whether the Judiciary Committee did write "by the legislature" in there it would have absolutely no effect on the thing because the body has now adopted a rule that when we say "by the legislature" or when we say "by law" we mean exactly the same thing, so it would be absolutely worthless to commit it back with that in mind. Let's get the show on the road and get this article passed.

PRESIDENT EGAN: Miss Awes.

AWES: I think another reason why it should not be sent back is this proposal came out of Committee and it was adopted by the body. Well, it wasn't adopted by the body, but the body passed on all these sections and evidently approved of them, they quit amending anyway; and I think it has lost its identity with the Committee, and I don't think it should be sent back to them.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: You would have to have a motion to suspend the rules to return it to the Judiciary Committee because it is no longer in second reading so far as the Judiciary Committee is concerned.

It is as far as Style and Drafting is concerned.

PRESIDENT EGAN: Mrs. Hermann, you have a point there. The motion to recommit ordinarily takes a majority vote. However, in all good reason that would mean to recommit to its proper committee. Now if the original motion was to recommit it to the Committee on Style and Drafting which would be proper, and it would only take a majority vote. When the floor received the proposal originally and acted upon it in second reading it took its regular course to the Style and Drafting Committee; that motion would have taken a majority vote. The motion that has now been made to return it to another committee would take a suspension of the rules, and the Chair would rule that your point is well taken. Mr. Taylor.

TAYLOR: I would like to say that Mr. Robertson --

PRESIDENT EGAN: A suspension of the rules, Mr. Taylor, a motion that entails a suspension of the rules is not debatable. We have to vote, and in voting on this motion it would take a two-thirds majority vote to send it back. In order to carry this motion it is, in effect, a suspension of the rules. Mr. Coghill.

COGHILL: Mr. Chairman, I rise to a point of inquiry. I understand that the purpose for recommitting is to change the "law" to "legislature". Was that referred? Well, we have already acted upon that in our assembly here and voted that down.

PRESIDENT EGAN: That is all the more reason, Mr. Coghill, why it would take a suspension of the rules to recommit, but the motion to recommit is in order, but it takes a suspension of the rules.

ROBERTSON: Mr. Chairman, I appeal the decision of the Chair.

PRESIDENT EGAN: Mr. Robertson appeals to the ruling of the Chair. The question is, "Shall the ruling of the Chair be sustained?" The Chief Clerk will call the roll.

BARR: Point of information. Which ruling of the Chair -- that it takes a suspension of the rules?

PRESIDENT EGAN: That is correct, Mr. Barr. The Chief Clerk will call the roll. The question is, "Shall the ruling of the Chair be sustained?"

(The Chief Clerk called the roll with the following result:

Yeas: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson,

Kilcher, King, Knight, Laws, Lee, Londborg,
 McCutcheon, McLaughlin, McNealy, McNees, Marston,
 Metcalf, Nerland, Nolan, Nordale, Peratrovich,
 Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog,
 Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien.

Nays: 3 - Hinckel, Robertson, Taylor.

Absent: 2 - Hellenthal and VanderLeest.

Abstaining: 1 - Mr. President.)

CHIEF CLERK: 49 yeas, 3 nays, 2 absent and 1 abstaining.

PRESIDENT EGAN: So the ruling of the Chair has been sustained and the question is, "Shall Committee Proposal No. 2 as reported out to the floor by the Committee on Style and Drafting be returned to the Committee on the Judiciary?" The question on the sustaining was whether it takes a two-thirds majority vote to send it back, in effect. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 13 - Barr, Collins, Johnson, Laws, McCutcheon, McNealy,
 Marston, Nolan, Poulsen, Reader, Robertson, Taylor,
 White.

Nays: 40 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper,
 Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer,
 Gray, Harris, Hermann, Hilscher, Hinckel, Hurley,
 Kilcher, King, Knight, Lee, Londborg, McLaughlin,
 McNees, Metcalf, Nerland, Nordale, Peratrovich, Riley,
 R. Rivers, V. Rivers, Rosswog, Smith, Stewart,
 Sundborg, Sweeney, Walsh, Wien, Mr. President.

Absent: 2 - Hellenthal, VanderLeest.)

CHIEF CLERK: 13 yeas, 40 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposal is still before us. Mr. Sundborg.

SUNDBORG: Mr. President, I move that the rules be suspended and that the Committee on Style and Drafting be instructed to write in as one of the restrictions in the initiative article the matter of establishment and operation of the courts.

ROBERTSON: I second the motion.

PRESIDENT EGAN: The Chief Clerk will please read the proposed motion. Mr. Victor Rivers.

V. RIVERS: Question. Mr. President, is not the motion just a suspension of the rules at the moment?

PRESIDENT EGAN: Of course, if Mr. Sundborg moved that this motion be adopted it would take two-thirds or he could move to suspend the rules. Is there objection to the suspension of the rules?

V. RIVERS: I object.

PRESIDENT EGAN: Do you so move, Mr. Sundborg, that the rules be suspended?

SUNDBORG: I did move. This is the whole motion, do I understand it?

PRESIDENT EGAN: No, just the motion to suspend the rules. Mr. Londborg.

LONDBORG: Mr. President, now could we know for sure why we are suspending the rules? What is the purpose?

PRESIDENT EGAN: Mr. Sundborg, would you state your purpose for suspension?

SUNDBORG: My purpose is to have the body instruct the Style and Drafting Committee to write a substantive change into the article on the initiative and referendum; that change to be that the manner of establishment and operation of the courts become one of the restrictions to which the initiative and referendum may not apply.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I would like to have about a two-minute recess.

PRESIDENT EGAN: If there is no objection the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to ask unanimous consent to withdraw my motion.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that his motion for the suspension of the rules be withdrawn. Is there objection? Hearing no objection it is so ordered. Mr. Victor

Rivers.

V. RIVERS: Mr. President, I will ask unanimous consent that the article we are considering now proceed through the regular channel of business and be referred to the Rules Committee for assignment on the calendar in third reading.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, Style and Drafting has two or possibly three specific amendments that we wish, and there may be other specific amendments, we haven't gotten to that point yet. No one has offered any. We have a couple of amendments of changing a word here and there ourselves.

V. RIVERS: I withdraw my motion.

PRESIDENT EGAN: Are there questions relating to Section 1, relating to the substance of Section 1? Mr. Davis.

DAVIS: Does the body desire me to tell where these sections came from or is everybody thoroughly familiar with them?

PRESIDENT EGAN: What is the desire of the Committee? If there are questions on any of these sections you may direct your questions to Mr. Davis, and he will attempt to answer them. Mr. Ralph Rivers.

R. RIVERS: Point of information. Are we going to question him now purely on the form and the style and drafting involved?

PRESIDENT EGAN: In each section, if you have any question relating to substance or phraseology.

R. RIVERS: I don't think that we are questioning about the substance of these things. I think we are asking him about phraseology unless we wish to challenge them.

PRESIDENT EGAN: Right. Mr. Davis, it seems to be the wish of most of the members that as we go through these sections, if they have questions they will ask you. You did very well in the presentation of the whole article this morning. Mr. Johnson.

JOHNSON: Mr. President, it occurs to me that as a member of Style and Drafting, having attended a meeting that we had during the recess, that it might be well for Mr. Davis, on behalf of the Style and Drafting Committee, to present the two or three minor amendments that the Committee felt should be included and get those out of the way. It ought to expedite things.

PRESIDENT EGAN: Would that be your feeling, Mr. Davis?

DAVIS: I intend to do that except I was going to wait for the particular section, Mr. President.

PRESIDENT EGAN: We have before us at the present time Section 1. Are there any other questions relating to Section 1? Are there questions relating to Section 2? Section 3? To Section 4? To Section 5? Section 6? Does any delegate have a question relating to Section 6, or Section 7? To Section 8? Are there questions or objections to Section 9? To Section 10? Section 11? Mr. Coghill.

COGHILL: Mr. President, there is one question that arose in our hearing on the now Section 10. They wanted to know what the term "incapacitated" might cover. That would cover a multitude of sins, and I would like to ask the Chairman of the Judiciary Committee if he would give a brief explanation of it.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Coghill, in the course of your inquiry you have already described what "incapacitated" covers. It is a multitude of sins and it was deliberately devised that way because of the fact that in most states you discovered that nobody likes to take a removal proceedings on specific grounds where there is a taint of incompetency, or criminality attached to it, so we used the broad general expression, "incapacitated", to take care of all the ills and evils to which judges, like other mortals, are subject. It is a gracious way out of it.

COGHILL: In other words, by this phrase "so incapacitated" he could be incapacitated for being a Republican judge under a Democratic administration.

MCLAUGHLIN: That would not be incapacitated. It might be as someone suggested, bad judgment. (Laughter)

PRESIDENT EGAN: Are there objections or questions relating to Section 11? Section 12? To Section 13? Mr. Hinckel.

HINCKEL: Mr. President, it occurs to me that Sections 13 and 14 are inconsistent. Section 13 says the justices will be paid and 14 says they cannot be paid. Line 16 says that they shall not hold any office of profit.

PRESIDENT EGAN: Mr. Davis.

DAVIS: We have got that taken care of, Mr. President. Are we on Section 14 now?

PRESIDENT EGAN: We might consider them both together inasmuch as Mr. Hinckel raised the question.

DAVIS: Section 14, the Committee proposes adding the word

"other" in line 16 after the word "any" and I ask unanimous consent for the insertion of that word.

PRESIDENT EGAN: Is there objection to the unanimous consent request?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Davis?

DAVIS: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds the motion. The motion is open for discussion. Mr. Taylor.

TAYLOR: Mr. President, my objection is that I don't think there should be any ambiguity in this whatsoever. It says that they cannot hold an office in the political party, or hold any office or position of profit under the United States -- being a state judge is not holding an office under the --

DAVIS: The difficulty is the next word -- the "State".

TAYLOR: It says "while holding office".

DAVIS: Mr. President, I might say that was why it was left out at first. We figured that if a man was holding office obviously he was holding office and we did not need the word "other". But on going over it again since there was a possible ambiguity we thought the "other" ought to be put back in.

TAYLOR: I will withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Davis? If there is no objection, the proposed amendment is ordered adopted. Mr. Davis.

DAVIS: Mr. President, in the same section, in line 19, the Committee proposes to add the word "another" at the end of the line so it would read, "Any Supreme Court justice or Superior Court judge filing for another elective public office..." Now the reason for leaving it out in the first place was that we felt that, strictly speaking, these offices were not elective positions. It is true we held elections to determine whether they were retained or not, but they were appointments in the first place, so we felt there was no ambiguity, but after discussing it with some of the other committee members again, we felt that to make assurance absolutely sure here that the word "another" should be inserted, and on behalf of the Committee I ask for unanimous consent to place the word

"another" at the end of line 19.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection?

R. RIVERS: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Davis?

DAVIS: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Johnson seconds the motion. Mr. Ralph Rivers.

R. RIVERS: I would like to state the grounds of my objection. We based this on the Missouri Plan which is the nonpartisan appointment of judges. Since they are appointed in the first place through a screening process, through the judicial council, an appointment by the governor, with the confirmation by the senate; they go to the people for either rejection or approval for another term, but I don't think we can refer to them as elective positions. They are not in partisan elections. I think it makes the ambiguity worse if we stick the word "other" in at that point.

CHIEF CLERK: The word is "another".

R. RIVERS: I just don't think the judges are in another elective position or in any kind of elective position at all. They are under the nonpartisan appointment of judges. The Missouri Plan runs through here, and we actually had the title "nonpartisan appointment of judges", and Style and Drafting knocked it out because they thought it was so self-explanatory in the article they did not want to take up a line for that kind of a heading, so I object. I think we just don't want to throw the implication in here that they are elective offices.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Would the word "any" satisfy your objection, Mr. Rivers?

R. RIVERS: I think so. Wait until I think -- where are we here? "For any elective position" would certainly make it all right.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I am opposed to Mr. Davis's suggested amendment because I think it gives the implication or the courts to construe

occasion where it might consider the supreme court justices and the superior court judges elective positions, and I don't think we should put in the word "another" there.

R. RIVERS: Mr. Robertson, would it be all right if we said "any elected"?

ROBERTSON: Yes. I would agree to "any".

R. RIVERS: Would that be all right with Style and Drafting?

NORDALE: What are you going to do when he files his declaration of candidacy for judge?

R. RIVERS: That is approval or rejection; that does not make it an elective office.

DAVIS: There is nothing in the section that says he cannot file for another partisan election. Now I agree with what both

Mr. Rivers and Mr. Robertson said, this is not an elective office. However, since there seems to be a possibility of ambiguity, certainly it must be because the Committee was unanimous in saying the word ought to be there. For that reason I move its adoption. Along that line, if I understood Mr. Rivers correctly, I thought he said that judges were approved by the legislature. Now if I misunderstood him, I shouldn't raise it. If I did not misunderstand him, that is not the way things work here.

R. RIVERS: I may be mistaken about that. It is just the screening and appointment by judicial council and the appointment, is it not? I am sorry I was in error on that statement.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there any other questions or suggestions for Section 13 or 14? Is there objection to not having had a roll call on these particular amendments? Prior to this time there had been no objection, but it should be by roll call to show a two-thirds majority, but if there is no objection for the adoption of any amendment at this time --

DAVIS: These are amendments for style only Mr. President. I doubt that they require only a two-thirds vote.

PRESIDENT EGAN: You consider them for style only?

DAVIS: Yes. A matter of phrasing only.

PRESIDENT EGAN: Are there questions or suggestions for Section 15? For Section 16? For Section 17? Mr. Davis.

DAVIS: Mr. President, Section 17, as I pointed out this morning, is put in at the end of this article so it can be considered elsewhere, and on behalf of the Committee on Style and Drafting, at this time I would request that Section 17 be referred to the miscellaneous articles and taken from the judicial section.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that Section 17 be taken from this proposal and placed in the miscellaneous provisions. Is there objection? Hearing no objection it is so ordered and the Section 17 will be included in the miscellaneous provisions that are now in Engrossment and Enrollment; is that what you would desire, Mr. Davis?

DAVIS: I think we preferred that the matter come back to Style and Drafting again because this is going to keep coming up in connection with other proposals, and we want to get the language the same in all of them.

PRESIDENT EGAN: Then, if that is your desire, your unanimous consent request would include that the section be sent back to the Style and Drafting Committee.

DAVIS: Apparently I was in error. The Secretary and Chairman both tell me we intended this to go to Engrossment.

PRESIDENT EGAN: Is there objection to sending it to Engrossment? Mr. Victor Rivers.

V. RIVERS: I was just going to ask a point of information, and that was on Article 12 which we acted on last night, which was a miscellaneous provision. I wonder if in referring that to Engrossment and Enrollment we might not have held it open for such miscellaneous provisions. Did we do that?

PRESIDENT EGAN: Mr. Rivers, as the Chair remembers our action this morning, the Engrossment and Enrollment Committee was instructed by the body to hold that in their possession until all these provisions would be in their hands so they could include it in their final report from Engrossment and Enrollment.

V. RIVERS: That answers my question, and I understand there will be three or four perhaps, of just such items.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent that the number of Section 17 be changed by the Enrollment and Engrossment Committee to an appropriate number in order in that miscellaneous provision article. I might say, too, that all of these will come back to Style and Drafting because after that article is out of Engrossment and Enrollment it comes to us next.

PRESIDENT EGAN: It will take its regular course to Style and Drafting. Are there other questions with relation to Section 18? Mr. Davis.

DAVIS: Mr. President, so far as Section 18 is concerned, we intended that as a transitory provision. We intended, also, to lift that from the judicial section and, am I correct, we want this to come back to Style and Drafting? I would move then at this time that Section 18 as written be taken from the judicial article and be transferred to the committee concerning or considering transitional measures.

PRESIDENT EGAN: Unanimous consent is asked that Section 18 be taken from this article and referred to the committee that is handling the transitional measures. Is there any objection? Mr. Victor Rivers.

V. RIVERS: Point of information. Mr. President, where an article is so transferred, the substance has been passed and approved, and I understand that it then does not come up for reconsideration by the body. Do they do any changing in ordinance and transitory provisions?

PRESIDENT EGAN: Well, now the question there would be when it is sent, as Mr. Rivers raises the question, it is referred to the committee handling transitional measures, and it will come back to us among the proposals that they will present for our consideration here, but can they change this? We are sending the proposal to that committee for its consideration. Mr. Victor Rivers has raised a question. We have already acted on this in second reading. Mr. Victor Fischer.

V. FISCHER: Could I make a suggestion? Possibly this could be referred to Engrossment and Enrollment to hold until the remaining transitory provisions reach that Committee.

V. RIVERS: I can see a question in connection with the limiting or not being able to change it somewhat in transitory provisions because they might want to consolidate two or more slightly different points. I will withdraw my request for information.

PRESIDENT EGAN: All right, Mr. Rivers, then if there is no objection the section is ordered referred to the committee considering transitional measures. Mr. McNealy.

MCNEALY: Point of personal privilege for just about 15 seconds.

PRESIDENT EGAN: If there is no objection, Mr. McNealy.

(Mr. McNealy spoke on personal privilege at this time.)

PRESIDENT EGAN: The Convention will come to order. What is the

pleasure of the body as regards Committee Proposal No. 2? Mr. Davis.

DAVIS: Mr. Chairman, unless there are some objections I would move that the report of Style and Drafting on the Judiciary Proposal No. 2 be approved.

PRESIDENT EGAN: Mr. Davis moves for the approval of the report of the Committee on Style and Drafting. Is there objection? Mr. Ralph Rivers.

R. RIVERS: Just momentarily, the rules say after a proposal is "accepted" instead of "approved".

PRESIDENT EGAN: The Chair has been looking for the rules. He does not have the proper wording there if it is "accept".

DAVIS: I will change it to "accept".

PRESIDENT EGAN: Mr. Davis asks unanimous consent that the Convention accept the report of the Committee of Style and Drafting. Mr. Robertson.

ROBERTSON: Point of information. Does that prevent the amendment of these words "by law" to "by the legislature" either directly or by implication through another provision such as Mr. Sundborg a few minutes ago suggested?

DAVIS: Mr. President, as I understand it now, the next step is third reading where that provision can be made.

PRESIDENT EGAN: That is correct. When we get into third reading, Mr. Robertson, the proposal will be open for direct debate on any portion of it by any delegate and a motion for specific amendment could be made in third reading for sending it back to second reading for specific amendment. If any delegate wished to do so, it would take a two-thirds majority vote at that time of course, to return it to second reading for specific amendment. Mr. Victor Rivers.

V. RIVERS: Mr. President, I will now move and ask unanimous consent that we adjourn until 9:00 o'clock Monday morning subject to committee announcements.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that the Convention adjourn until 9:00 o'clock Monday morning subject to committee announcements.

COGHILL: I object.

V. RIVERS: I so move.

JOHNSON: I second the motion.

COGHILL: Mr. President, if I might have the floor on personal privilege for a moment, for a couple of minutes.

PRESIDENT EGAN: If there is no objection, Mr. Coghill.

JOHNSON: Point of order. There is a motion before the house.

PRESIDENT EGAN: You are correct, Mr. Johnson. Committee announcements are all that the Chair can allow you.

COGHILL: Under committee announcements your Committee on Administration is coming out with a proposal in regard to the closing ceremonies of the Convention, and we had intended to bring this before the body after our coffee break this afternoon, and that is the objection for the adjournment at this time. It is being prepared.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: In the event the motion carries, the Committee on Ordinances will meet immediately upon adjournment.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: In the event the motion carries, the Committee on Ordinances will meet immediately upon adjournment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet immediately upon adjournment, if we adjourn.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Are we to understand that we are through with Committee Proposal No. 2 and that it has been referred to third reading?

PRESIDENT EGAN: It will automatically move into third reading if we adjourn, Mr. Doogan; it is the understanding of the Chair. Mr. Davis made a motion to accept the report of the Committee on Style and Drafting; it was never voted on. He asked unanimous consent and Mr. Robertson objected, then Mr. Victor Rivers asked a question; and then a motion was made for adjournment. We have the motion for adjournment before us. Mr. Kilcher.

KILCHER: If this motion should fail, is there any work before us available for the rest of the day?

PRESIDENT EGAN: We have the report from the Committee on Administration or further action on this report, but because of the fact that Mr. Davis's motion would still be pending and we have not accepted the report of the Committee on Style and

Drafting, Committee Proposal No. 2, we would still be in this same position when we would convene on Monday morning if the adjournment carries. The question is, "Shall the Convention stand adjourned until 9:00 a.m. on Monday?" All those in favor of the adjournment motion will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention is still in session. We have before us the motion by Mr. Davis to accept --

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Sundborg seconds the motion. The question is, "Shall the report of the Committee on Style and Drafting with reference to Committee Proposal No. 2 be accepted by the Convention?" All those in favor -- Mr. Robertson.

ROBERTSON: Mr. President, much as I respect Mr. Davis's good judgment, I hope that the delegates will turn this down. I think this is a very important matter to get straightened out before we get into third reading as to whether or not this court system is going to be nonpartisan, nonpolitical, and I can't believe but what we are injecting the initiative and referendum into it, that we convert away from being an independent, nonpolitical judiciary. I hope they turn it down for that reason so we can think it over until Monday morning.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I think Mr. Robertson's concern is in regard to a substantive change, and as far as the Committee on Style and Drafting is concerned, it has no authority. It will still be in the position of being subject to change by the whole body on a substantive matter and will have to be returned to second reading to do it.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I might be inclined to agree with Mr. Robertson but it seems to me that regardless of whether we say "by law" or "the legislature" through this article, as matters stand now, it makes no difference whatsoever. The place to correct it is in the article on the initiative and referendum.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, in supporting Mr. Davis's motion, I want to point out, too, that I expect to support a motion to exclude the creation and the operation of courts from the initiative and referendum when that measure comes before us, Mr. Robertson.

PRESIDENT EGAN: Did we not vote on Mr. White's motion that would

accomplish that? We voted it down.

R. RIVERS: I know, but we took Mr. McLaughlin's expression of intent and saying that if we do decide to exclude anything from the initiative and referendum we will so state in the article on the initiative and referendum.

PRESIDENT EGAN: The question is, "Shall the proposal of Style and Drafting Committee with relation to Committee Proposal No. 2 be accepted by the Convention?"

POULSEN: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the question.

(The Chief Clerk called the roll with the following result:

Yeas: 48 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 5 - Kilcher, McCutcheon, Nolan, Poulsen, Robertson.

Absent: 2 - Hellenthal, VanderLeest.)

KILCHER: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Kilcher changes his vote to "no".

CHIEF CLERK: 48 yeas, 5 nays, and 2 absent.

PRESIDENT EGAN: So the report of the Committee on Style and Drafting with relation to Committee Proposal No. 2 has been accepted by the Convention. Mr. Victor Fischer.

V. FISCHER: Mr. President, before we have any more motions for adjournment or recess, I would like to address a question to the Chairman of the Rules Committee, if I may.

PRESIDENT EGAN: If there is no objection.

V. FISCHER: I wonder what is next on the calendar before us, aside from the report of the Administration Committee?

PRESIDENT EGAN: Mr. Riley.

RILEY: This afternoon we have only Ordinance 16 which was referred to Rules a few minutes ago and Style and Drafting Committee Proposal No. 2 is now in third reading.

PRESIDENT EGAN: Do we wish to proceed with the report of the Administration Committee at this time? Mr. Coghill.

COGHILL: Mr. President, it would be better I think if we had a coffee break recess, because I don't think the boiler room is done with our report, the mimeographing of it yet.

PRESIDENT EGAN: Should we continue with this proposal in third reading also? What is the pleasure of the body? If there is no objection the Convention will stand at recess until 3:45.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Hermann.

HERMANN: Mr. President, we have with us today Mr. H. G. Pope, who is Executive Director of the Public Administration Service which produced our constitutional studies, and Mr. Pope is here at the invitation of the Alaska Statehood Committee to confer with them at their meeting tomorrow, the Executive Board meeting, in regard to studies and with regard to transitional government and I would like to have Mr. Pope come forward and meet the group and have a few words to say to us.

PRESIDENT EGAN: Mr. Pope, would you come forward, please? (Applause)

POPE: It is, of course, a great pleasure to be in Alaska, and it is, of course, a particular privilege to observe a constitutional convention, a first constitutional convention, the kind of meetings that happen rather infrequently nowadays. It occurs to me that you might be interested in a couple of the staff members who were here before and from whom I have very specific instructions, and that apparently all of you ladies and gentlemen that were very kind to them when they were here. You may remember that we suffered a couple of casualties in connection with our service here. Both John Corcoran and Joe Molkup returned to the office for work this week after their long disabilities and both asked very specifically to be remembered to you in terms of their deep appreciation for the wonderful experience they had for you and their great respect for the work that the Convention was doing and their very best wishes in connection with this. Now if you will allow me, I will go back and observe how this works.

PRESIDENT EGAN: Thank you, Mr. Pope. (Applause) Mr. Coghill.

COGHILL: Mr. President, at this time, I would like to ask that

we revert to the report of committees.

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business of reports of committees. Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration, for the past two or three days, has been considering the program for the signing of the document and for the closing ceremony. We have arrived at two or three of the basic things that we will have to consider and at this time I would like to report to the Convention on them and for their consideration. First of all, the Committee on Administration took up the proposition of what time we should have the ceremonies and it was tentatively arrived at that we should set 2:00 p.m., Sunday, February 5, as the time for the ceremony to take place. We are recommending to the Convention that the place be the University gymnasium. We believe for the reasons that the gymnasium is larger than our Convention hall here; that we opened the Convention at the University gym; it is on the campus; we do not believe that we should leave the University campus for the signing ceremony; and we thought that the balcony would afford a better view for television cameras, radio, and press coverage. The Committee on Administration has recommended that a letter be sent to each of the 50 governors, the 48 states, Hawaii and Puerto Rico, inviting them to attend our ceremonies. We recommend that a formal invitation be printed in the number of 3,000, that this invitation be sent to all Territorial and Federal department heads and public officials and that they be distributed individually among the delegates to the extent of 10 to

25. Now we have many reasons for these three items being pressing; one being that time is of essence as we only have two weeks left; the other is that there is program planning; planning in the University faculty to provide for the gymnasium, and the Fairbanks daily paper is contemplating a full edition to the Constitutional Convention at that time. These things, I feel should be settled today so that we can start the program working over the weekend. So with the pleasure of the President, we would like to submit first, the time of the ceremonies and get the approval of the Convention as to 2:00 p.m., Sunday, February 5.

PRESIDENT EGAN: What is the pleasure of the Convention with relation to the time as recommended by the Committee on Administration? Is there discussion of the proposed time? Mr. Fischer.

V. FISCHER: What exactly will we be signing? (Laughter)

PRESIDENT EGAN: The Convention will come to order.

V. FISCHER: Will the whole document be finished by that time? Is that guaranteed?

COGHILL: Mr. President, your Committee on Administration has absolutely no control over that. We are taking the interpretations of the law that provides that one original and four more originals be signed by this Convention. We hope to have six documents signed, five of them will be in type and one will be in scroll on parchment. We felt that these three essential programs would be set up now and by Tuesday or Wednesday of next week, we should be able to line up the whole program.

PRESIDENT EGAN: Before we proceed, would the Sergeant at Arms find out if there are any other delegates in the building. Mr. Coghill, you may proceed.

COGHILL: That is all, if that answers the question.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I move that we accept the recommendation of the Administration Committee as to the time and that the ceremony for signing the document be held on Sunday, February 5, at 2:00 p.m.

HERMANN: I'll second that.

PRESIDENT EGAN: It has been moved by Mr. Sundborg, seconded by Mrs. Hermann, that the time for signing the document be set for 2:00 p.m. on Sunday, February 5. Is there discussion of the proposed motion?

R. RIVERS: I'll ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that that be adopted as the time that the Convention will meet for signing the final document. Is there objection? Hearing no objection, it is so ordered. Mr. Coghill.

COGHILL: Mr. President, to expedite the program, I will move and ask unanimous consent that the University gymnasium be the place of the program.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the University gymnasium be the place where the ceremony will be held. Mr. Sundborg.

SUNDBORG: I will object, temporarily. I would like to ask Mr. Coghill whether further consideration of this was had by his Committee following this afternoon's meeting of the committee chairmen where an alternate proposal was discussed.

COGHILL: No, it was not. We had talked about the gymnasium in town, we had talked about the gymnasium out here at the University, and we had talked about our Convention room here in the plenary session hall. However, we felt that this room

was too small to get adequate coverage, not only by the public but by the press, television cameras, and radio.

SUNDBORG: I do object then. I feel it should be held here.

PRESIDENT EGAN: Do you so move, Mr. Coghill?

COGHILL: I so move.

PRESIDENT EGAN: Mr. Coghill so moves. Is there a second to the motion?

KILCHER: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Kilcher that the ceremony be held in the University gym. Is there further discussion of the subject? Mr. Sundborg.

SUNDBORG: Mr. President, I feel that the place to hold this ceremony is in this building, preferably in this chamber and if not here, in one of the rooms upstairs. One reason that I feel that this is the appropriate place is that this is the familiar surrounding in which we have worked and drafted this constitution and it seems only appropriate that we have it here. Further than that, there is a movement on foot to name this building Constitution Hall and I believe that we should sign the constitution in this hall. I also think that if we held the ceremony right here we could accommodate several hundred people in the ping pong room, and some hundreds in the gallery here, perhaps others in the rear of the room. We don't have to have the tables; definitely, we won't have them if we meet in the gym and if we moved them upstairs and move the delegates forward a little bit, I think we could possibly get several hundred right in the confines of this room. In addition to that, this room was all wired for sound it would be possible to take care of probably several thousands in the room upstairs who could hear if they could not see the ceremonies, in case there should be that many on hand. I really think it is a more appropriate place than the gymnasium.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I am just a bit worried about Mr. Sundborg's estimates of hundreds in here and hundreds in there and thousands up there. Are you referring to the little people?

PRESIDENT EGAN: The Convention will come to order. Is there further discussion of the subject? Mr. Doogan.

DOOGAN: I am in a way leaning like Mr. Sundborg does and probably the proper place to sign this document is here but I got to thinking about it and I believe that the larger space on the campus should be utilized and I think that probably the

gymnasium should be the place and this is the reason: we have been sent here by the Territory of Alaska and when we get through I think that as far as the people of Alaska are concerned, this is going to be quite a momentous occasion for them and I feel that many of them would at least like to be in on the signing of it, at least the witnessing of it, anyhow, and there is not going to be too many of them that are going to be able to get in here to watch it and to many people it is going to mean quite a little and though I feel that we have done all our work here and that this will possibly be named Constitutional Hall, I think that we should give some consideration to the public on the day that the document is signed.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, maybe it would satisfy Mr. Sundborg if we came over here and signed at least one copy in this building. Had anyone thought of that?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, it seems to me that this hall can still be called Constitution Hall by the fact that we have worked here, regardless of whether we signed the constitution here, but I believe as Mr. Doogan does, and of course as the Committee felt, that we should have the place that could hold the most people.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Could I ask Mr. Coghill if he conferred with the President of the University about whether he had any suggestions that he might make?

COGHILL: The President of the University has extended his desire to the Convention that any of the services that the faculty can render or provide for the closing ceremonies are at our command which has been throughout the Convention, as such. Does that answer your question?

WALSH: Yes, thank you.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, it was suggested at the chairmen's meeting this noon that there might be an engineer or somebody connected with the University that could give us a reasonably close estimate as to how many people we could seat in this area if there was some rearrangement. Has anything been done about that?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Not yet, no.

AWES: I think if we had some idea of how many we could get in here before we vote on this --

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I can get those figures. If I may, the Committee on Administration was not sold on the idea of not having it here but the reason why we suggested the University gymnasium: it would still be on the campus; we felt that we had our opening ceremonies there; we could accomodate more people over there; with the visitors that are coming to Fairbanks to see this historical occasion could witness it and there would be plenty of room over there for accomodations, where here they would be crowded and a lot of them wouldn't be able to be an eyewitness of it.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Should the plans of the Administration Committee be approved and an important outside speaker come from the states for this particular occasion this would hardly be a large enough room. That was not definitely discussed today but should that occur I know that there are going to be hundreds of people from town that will want to come out, not only for the signing ceremony but to hear that speaker. We have a responsibility to the people that sent us here and there are going to be a lot of people who will want to see this thing and I don't believe that even crowding people into these facilities will help the situation, much less to handle radio, television and the press.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, might I inquire who the outside speaker will be, or who they have contacted?

PRESIDENT EGAN: Could you answer that, Mr. Hilscher? Mr. Doogan.

DOOGAN: Before he answers that, I would like to make a statement that I don't care who the outside speaker is. This is not an occasion for an outside speaker. If we are going to have a speaker, it should be somebody from Alaska.

COGHILL: Mr. President, there has been no definite program set up as to outside speakers and the Committee on Administration has not decided one way or the other about having a speaker. The program has been mulled around in the Committee but we have not definitely settled on anything like that yet, so I don't think that has any bearing on the fact of the place.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I will withdraw my objection to the place as suggested by the Committee.

PRESIDENT EGAN: Is there further discussion? The question is, "Shall the University gymnasium be the place where the Convention will hold its closing ceremony?" All those in favor of the University gym as the place for the closing ceremony will signify by saying "aye", all opposed by saying "no". The "ayes" seem to have it. Mr. Coghill.

COGHILL: Mr. President, the third thing that the Committee on Administration would like to have aired, and approved or disapproved if it is the will of the Convention, is the fact of the printing of formal invitations; and the Committee has tentatively agreed that there should be 3,000 of these invitation cards printed and we suggest to the Convention that they be sent to all Territorial and Federal department heads in Alaska and to the states and all public officials and for the use of delegates for sending to their constituents in their areas and, also, to each congressman and to each senator. Now, that would take about 3,000 printed invitations and we would like to get the views of the delegates on that matter.

PRESIDENT EGAN: What is the pleasure of the delegates as to that suggestion? Mrs. Hermann.

HERMANN: I move that we accept the report of the Committee in that respect.

PRESIDENT EGAN: Mrs. Hermann moves that the report of the Committee be accepted in that respect. Is there discussion? Mr. Doogan.

DOOGAN: Before we vote on this I would like to hear a little more discussion on it.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. McNees, I'll yield to you.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I was just going to make a referral of cost on the invitations, the printing cost. The cost of the invitations to us would be less than \$150.

PRESIDENT EGAN: Is there further discussion? Mr. White.

WHITE: I can't think of any better way to spend \$150.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I might add that we have gone to the Commercial Printing Company down at the News Miner and they will print 1,000 of these cards and they are very nice print and they will look very nice -- for \$60 per 1,000. That is for 1,000 but I imagine that they will decrease by getting 3,000 and this will allow each delegate to have from 10 to 25 for their own personal use to send to friends and neighbors.

PRESIDENT EGAN: Is there further discussion? Mr. Doogan.

DOOGAN: I don't object to the 3,000 invitations or the cost, but there is one thing that comes in here and maybe I'm sticking my neck out. I can see inviting the governor and his assistant but as to sending out a formal invitation to all Territorial officials to be here, it would appear to me that that is setting them apart from the general public and is not quite the right thing to do; and it seems to me they would be included other than the governor and his secretary, would be included in the general provision for the public to be here. After all, they are the servants of the people, such as we happen to be at the moment, and I don't believe they should be set apart any more than the general public is. One other question, though I have no objection to the invitations being printed by the Commercial Printing Company, I just want to ask the Committee, was the other firm considered so that we will get no repercussion on that?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: We have not contacted any company as to ordering them yet. We just had to have some sort of price. We went to them because the other company had printed the stationery and we thought that would be a good division point. I might also mention that a public invitation will be in the paper for the public to attend. It is not going to be just exclusively to the people that receive the invitations. It will be a blanket invitation and will be placed in the newspapers.

PRESIDENT EGAN: Is there objection to the acceptance of that part of the Committee report that deals with the invitations being sent out? Hearing no objection that portion of the report is ordered adopted. Mr. Coghill.

COGHILL: One more phase and then we are through. The Committee on Administration thought that it would be nice to send each of the governors of the 48 states and the two territories a letter, not an invitation, just a plain formal invitation, but a letter inviting them to attend our closing ceremonies or our signing of the document. We have that form letter now placed on the Secretary's desk and if this is approved, those letters will go out Monday morning.

PRESIDENT EGAN: Is there discussion of that part of the

committee report? Is there discussion? Mr. Boswell.

BOSWELL: Could we have the letter read?

EGAN: Is the letter available at this time? Will the Sergeant at Arms get the letter? Mr. Johnson.

JOHNSON: Is there any expense involved in this matter?

COGHILL: There would be about 50 air mail stamps, 50 pieces of stationery, 50 envelopes, and possibly two or three hours time of one of the typists.

PRESIDENT EGAN: Is there objection to that part of the committee report? Mr. Doogan.

DOOGAN: I guess I'm really getting into this. It appears to me that invitations to all of the senators, all of the governors, though it is quite proper, if something were to happen and all of them were to show up here, we would probably have to take this ceremony to Eielson Field in order to include everybody. I am just wondering how far you are going to go with this. Though I can appreciate the impact in inviting the governors and the senators, let's not forget that this ceremony is for Alaska and the people that sent us here. Let's be sure that we give them proper consideration before we expand this thing to the magnitude that we can't handle it.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I might assure Mr. Doogan his fears are not alone -- I had the same -- but after talking it over with the Committee and with Tom Stewart, the Secretary, with the time so short, why I don't imagine we will have too many of the Congressmen or the Senators showing up and it is a matter of spreading good will from Alaska throughout the states, people that we are going to have to look to to admitting us to the Union.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I would like to take this occasion to speak on the question before us but in a little broader terms. The reason for holding a constitutional convention is to prepare the way for statehood. The correlation of that is to hasten the day when we will obtain statehood. It has concerned me very much since the opening day of this Convention that we have possibly been overlooking a golden opportunity for promoting the cause of statehood because of the occasion of this Convention. And it appears to me that anything the Administration Committee or anyone else can come up with in this connection that will impress upon the people of the United States our desire for statehood, make them aware of what we are doing, is all to the good, and I hope that they will take this merely

as a starting point and go on from there. Should all the 48 governors see fit to show up, all the United States Senators and the Congressmen, up to and including the President, I think it would be the best thing that could happen.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, could I inquire if the President of the United States has been included in that? I haven't heard him mentioned this afternoon.

COGHILL: Yes, he would be included, not in the letter, but just in the printed invitations.

LONDBORG: I see. I was wondering if it wouldn't be fitting to send him a letter, also. Sort of follow up that telegram that was sent awhile ago.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, may I direct a question through the Chair to Mr. Coghill?

PRESIDENT EGAN: You may, Mr. McNealy.

MCNEALY: In light of Mr. Doogan's objection, would the Committee consider sending these out by regular mail, three-cent stamps and they will receive -- (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Do I have to answer that?

PRESIDENT EGAN: What is the pleasure of the Convention as regards to these letters?

COGHILL: I have the letter, Mr. President.

PRESIDENT EGAN: Would you please read the letter, Mr. Coghill.

(Mr. Coghill read the sample letter that was to be directed to the governors of the 48 states and two territories.)

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: This is a small matter but I am slightly puzzled by that "humility mixed with pride". I wonder if --

PRESIDENT EGAN: Mr. Kilcher, the Chair would like to say that he didn't write the letter. (Laughter) Mr. Doogan.

DOOGAN: Mr. President, I didn't raise an objection to anything

that the Administration Committee has done. The one thing that I am concerned with is that this thing doesn't get to the point where we can't handle it. I have been mixed up in a few clambakes myself, and I have seen them get to the point where they have reached the exclusion of the people that are most concerned with it, and that is what bothers me; and if you fix this ceremony up so that you exclude the general public of Alaska, not by not inviting them, but by having so many other people here that they can't get in and see what is going on, you are going to cause a great deal of resentment. I have seen it happen before; I would hate to see it happen here because we need all of the support we can get from the people of Alaska to make our position strong before the Congress of the United States.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, may I say that we still have several copies to sign and we can go through in shifts if we get that many people. I think it would be wonderful.

HURLEY: Question.

PRESIDENT EGAN: The question is, "Shall the Convention adopt that part of the committee report that seeks to send a letter to the 50 governors in the United States and its territories?" Mr. Kilcher.

KILCHER: Mr. President, it comes to my attention that since Congress is in session these days, I wonder whether it might not be shooting too high or bordering to the ridiculous, almost, to send these invitations?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: All those in favor of adopting that part of the committee report signify by saying "aye", all opposed by saying "no". The "ayes" have it and that part of the committee report is adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to suggest that on the end of the letter that the President will send, that he request that these governors, if they intend to come or are going to come, to notify us so that we can be prepared and will know how many are coming and can make some publicity use of the fact that "Governor so-and-so" will be here. My own belief is that we will have very few, if any, governors and we will certainly have no Congressmen here, but I believe it is a good public relations effort which you have outlined.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I suggest that before the President

signs the letter that he submit it to Style and Drafting and strike "humility".

PRESIDENT EGAN: If there is no objection it will be referred to Style and Drafting. (Laughter) The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, that is the extent of our committee report at the present for the closing ceremony. We will have the remainder, possibly by Wednesday of this coming week.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, subject to committee announcements, I move that we adjourn until 9:00 o'clock Monday morning.

PRESIDENT EGAN: Mr. Boswell moves that the Convention stand adjourned until 9:00 a.m. on Monday. Are there committee announcements? Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting will meet immediately upon adjournment at the rear of the gallery.

PRESIDENT EGAN: The Committee on Style and Drafting will meet immediately upon adjournment in the gallery. Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances will meet immediately upon adjournment, just long enough to set a time for a meeting tonight and tomorrow afternoon, and I want all the members of the Committee.

PRESIDENT EGAN: Ordinances immediately upon adjournment. Are there other committee announcements, if we adjourn? The question is, "Shall the Convention stand adjourned until 9:00 a.m. on Monday?" All those in favor of adjournment will signify by saying "aye", all opposed by saying no. The "ayes" have it and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

January 23, 1956

SIXTY-SECOND DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Major Robert A. Wood of the Air Force at Ladd Field. Major Wood is a member of the Presidency of the Fairbanks branch of the Church of Jesus Christ of Latter-day Saints. Major Wood will give our daily invocation.

MAJOR WOOD: Our kind and gracious Heavenly Father, we come before Thee at the beginning of another week full of opportunity for the delegates at this Constitutional Convention, and we pray, Father, that Thy guiding Spirit will be with them, that the spirit of friendship which prevails here this morning will prevail throughout the remaining days of the Convention. It is likely, Father, that in the course of conducting the important business before this Convention there have been words said which have cut into the hearts of some of those present. We ask, Father, that those who have been hurt be struck with the true spirit of forgiveness and that they be moved to dig a grave deep in the depths of their soul, a spot where they can bury these hurts never to become forward again. We pray, Father, that we have Thy blessing on this meeting, and we do it in the name of Thy Son Jesus Christ. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

PRESIDENT EGAN: Mr. Buckalew is here; Mr. Kilcher is here; Mr. McLaughlin is here; Mr. Emberg is here.

CHIEF CLERK: Four absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Mr. Fischer is here. A pen has been found in the faculty lounge upstairs. If it belongs to any delegate they may come up and get it. Are there any communications, petitions or memorials from outside the Convention?

(The Chief Clerk read a telegram from Mr. William L. Paul, Grand President of the Alaska Native Brotherhood, opposing deletion of Section 5 from the resources article.)

PRESIDENT EGAN: The communication will be filed.

(The Chief Clerk read a letter from the Tanana Valley Sportsmen's Association, Fairbanks, expressing objection to and recommending corrective action in the case of certain constitutional matters. The Chief Clerk also read a letter from the University of Alaska Wildlife Club, recommending the inclusion of provision for wildlife administration in the constitution.)

PRESIDENT EGAN: The communications will be filed. Are there other communications? Are there reports of standing committees? Mr. Sundborg.

SUNDBORG: Mr. President, your Style and Drafting Committee would like to report to you that it needs more time in which to work on the many proposals which are now in that Committee. We worked throughout the weekend and we are about ready to report two or three more proposals to the floor, but we will need possibly five or six hours today, probably, in order to do that, and I was wondering if we could establish a schedule for the Convention for the plenary session that would let us have that time in which to proceed because, as I see our calendar, until the Style and Drafting Committee can get some more proposals out on the floor, there won't be too much for the Convention as a whole to do.

PRESIDENT EGAN: Mr. Sundborg, if the Chair may, are there one or two proposals in the boiler room at the present time?

SUNDBORG: There is one in the boiler room which should be out before noon.

PRESIDENT EGAN: The Chair was wondering if it might be -- we have in third reading Committee Proposal No. 2. If we could proceed with Committee Proposal No. 2 in third reading, then if it would be your wish to recess, say, until 1:30, and the other proposal would then be ready for our consideration in third reading. Would that help?

SUNDBORG: It would. It has been the policy of the Rules Committee that after a proposal is reported by the Style and Drafting Committee that there be an overnight period for consideration of it by the delegates before it is actually taken up on the floor, so we had in mind that if we could have, say, six hours today we could have possibly three others besides the one which will be ready at noon, and they could all be reported to you today and that would clear them all for consideration in the plenary session tomorrow.

PRESIDENT EGAN: We have a meeting scheduled for tonight, also, Mr. Sundborg. The Chairman of the Rules Committee is not here at this time.

SUNDOBRG: I haven't looked at the calendar. I don't know just what is on it.

PRESIDENT EGAN: It shows Committee Proposal No. 2 and Committee Proposal No. 16. Mrs. Hermann.

HERMANN: Mr. President, I am the Vice Chairman of the Rules Committee.

PRESIDENT EGAN: The Vice Chairman is present then. Mr. Smith.

SMITH: Mr. Riley was ill yesterday and probably was not able to make it this morning. He had rather a severe cold.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, what is wrong with recessing now until 7:00 o'clock? That will give the Committee all day.

PRESIDENT EGAN: If there is anything else that can be accomplished by the delegates, the Chair certainly doesn't feel that, unless it is absolutely necessary, to recess all day, why if there is anything else we might consider

BUCKALEW: Well, Mr. President, from what Mr. Sundborg says if we don't recess today and give them time to get these proposals in order, we are not accomplishing anything.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any resolutions to come before us at this time? If not, we have Committee Proposal No. 2 as reported to the Convention by the Committee on Style and Drafting before us in third reading. The Chief Clerk will read the proposal.

(The Chief Clerk read the entire proposal at this time.)

PRESIDENT EGAN: Committee Proposal No. 2, the judiciary article, is now before us in third reading and open for debate prior to the vote that will be taken on its final passage to become a part of the constitution. Mr. Robertson.

ROBERTSON: I am going to vote "yes" for the adoption of the Committee Proposal No. 2. Personally, I fear very much its rejection by the people and also by Congress due to the failure of the Convention to change the words by law" to "by the

legislature" in accordance with Mr. Johnson's motion of last Saturday.

PRESIDENT EGAN: Is there further debate? Mr. Cooper.

COOPER: Mr. President, this isn't debate. I merely want to ask if in Section 4 licensed to practice law" means the same as "admitted to the bar"?

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: That was a change made in Style and Drafting. It was generally agreed that it meant the same thing.

PRESIDENT EGAN: Does any other delegate desire to be heard on this proposal? Mr. Smith.

SMITH: Mr. President, I would like to ask Mr. Robertson a question.

PRESIDENT EGAN: You may, if there is no objection.

SMITH: I would like to know on what you base your fears. Has any such action been taken in the past?

ROBERTSON: Well, I answer that question, Mr. President, by stating that is my personal thought on the matter, but I can't believe that Congress is going to agree to a proposal that submits to a mass vote the question of jurisdiction of the courts. That is a matter of scientific investigation and you can't campaign on that kind of an issue before the people. That is something that a small group of people, of men and women like the legislature, should give very careful thought and consideration to and decide entirely on a nonpolitical basis.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am going to certainly vote for this. I think this article is a very fine coverage of the judiciary and represents the best in thinking and experience. Along these thoughts expressed by Mr. Robertson, I propose to advocate something under initiative and referendum whereby the jurisdiction of the courts shall not come under the initiative or referendum.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, I could probably talk for two or three hours and there is ample material to talk against this bill for two or three hours or two or three days. I am going to be brief

and I hope that the proponents of the bill will find a way in their speaking so that they can be as brief as I intend to be. In fact, I could sum up all I have to say in two words, "no good". I do want to just hit a few of the high spots in this matter, though. It has been amusing to me to hear delegate after delegate come on the floor and talk about the rights of the people. They want to give the people this right; they want to give them the initiative and referendum; when it suits the purpose of the delegate speaking, then he is interested in the rights of the people. When it doesn't suit his purpose, then he doesn't believe the people should have the right. I think that is a foregone conclusion that in the Convention here, which has served its purpose not only in this, but in other matters that have been before the body. Now, if we are going to give the people any rights, we have gone along under this appointive judge system as far as Alaska is concerned since the beginning of the Territory; we want to give the people some rights; then give them the right to elect these judges because after all these judges are the people who are going to judge the people. This way the people, in no way you read it, or no matter how you state it, this article does not give the people any rights in regard to appointing these judges. The most ridiculous thing would be statements of the proponents of this bill that while these judges have to run against their records and the people have something to say. Well, it is an old maxim among lawyers that judges never die and seldom retire, and so you are not going to get rid of them that way, and when they run against themselves the greatest way to get them elected would be a little bit of opposition by a group. Supposing the bar association, the attorneys, knew that a judge was bad and wanted to get rid of him. If I were a judge, just before I was ready to run for re-election or to run against myself I would get the bar association good and burned up at me and ask them to come out in the papers against me and then the general public would vote me back in by probably the biggest vote that was ever cast in that particular type of election. We get into a matter that they say is nonpolitical. It is nonsense to say it is nonpolitical. It is the most political situation and fraught with all sorts of elements which make for politics here. You start out with three laymen appointed by the governor. Now, regardless of the governor, what party politics he has, he is going to certainly name the three laymen that are friendly to him, and in addition they are obligated to the governor for his appointment or for their appointment. Then when it comes to nominating the various judges, don't think the governor is not going to have something to say with these three laymen. Then we get down to the four lawyers, etc. Now these four

lawyers are going to make it a nonpolitical situation -- maybe that is the idea -- three lawyers chosen by the bar association. I am a member of the Alaska Bar Association; I should say that all are hearts and flowers in the Bar Association; no politics are going to be involved there. I hesitate in belonging to this closed corporation of union of attorneys, I don't want to comment too much on the politics that does and can go on within that body. But if you think that politics isn't going to be played with the Bar Association -- I grant the fact that the Bar Association is not going to stand for picking out some ignorant and inexperienced attorney and putting him up as one of the representatives. They are going to undoubtedly pick out good men, men with knowledge of law, but lawyers have politics, too, you know. They are Democrats and Republicans, and while the law is a jealous mistress, politics is also a jealous mistress, and any attorney who is a Republican and there is a Republican that he can see is going to be nominated and put in as a judge, he is certainly going to work toward that end. We get into the situation where you are going to have four lawyers including the chief justice controlling this judicial council, and I say this to you laymen in all fairness, that in my opinion four lawyers should be able to control this judicial council; but let's remember the chief justice is going to owe his appointment to the governor. He is going to owe obligations to the governor. All the governor is going to have to do, if he can control the chief justice and the three laymen, he makes all the appointments; if the bar association can control the chief justice and the three lawyers on this judicial council, they are going to make all the appointments. I sincerely hope that this judicial plan, as we have here, is considered seriously. The elective plan of judges has worked successfully in the states, all reports not to the contrary. We have had an offer here of something new, something different from the Committee, and, I am sorry to say, the lawyers have been carried away with the plan. My main purpose in speaking against it now is not because I believe that anything that I say is going to influence one single vote upon this floor, but I do want the members of this Convention, when you see politics in future years to come, if this constitution goes into effect, I want it remembered at least that I made the statement here when you see politics mixed up in your judges and the possibility of a Pendergast machine being set up here in the Territory, this Missouri Plan we have certainly makes it very possible, and at that time I will want to always remember, and thank the delegates for this, that they made it possible to amend this constitution fairly easy, at least within ten years after it is adopted, we will have a chance to amend this Missouri Plan out from the body of an otherwise good constitution. I would hope against hope that this judicial article would be forced to crawl back into the burrow from whence it came.

PRESIDENT EGAN: Is there further debate? Does any other delegate wish to be heard on this subject of Committee Proposal No. 2?

McCUTCHEON: Question.

PRESIDENT EGAN: If not, the question is, "Shall Committee Proposal No. 2, the article on the judiciary, be adopted as part of the Alaska state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes. Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 6 - Coghill, Knight, Laws, Londborg, McNealy, Poulsen.

Absent: 2 - Buckalew, Riley.)

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I change my vote from "no" to "yes", please.

PRESIDENT EGAN: Mr. McCutcheon changes his vote from "no" to "yes".

CHIEF CLERK: 47 yeas, 6 nays and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the article on the judiciary has become a part of Alaska's state constitution. Mr. Sundborg.

SUNDBORG: Mr. President, I am wondering, in accordance with our rules is that now referred back to Style and Drafting for placement in the final constitution?

PRESIDENT EGAN: That is correct, Mr. Sundborg. Mr. Sundborg, did you wish the floor at this time?

SUNDBORG: Mr. President, I desire to bring up now and move that we rescind our action with respect to Section 1 of Committee Proposal No. 12. I gave notice on Saturday that I would make this motion, and the specific action which I moved that we rescind was that in which we changed the word "shall" to the word "may" in Section 1 which refers to the establishment of a merit system for state employees. I now move we rescind the action taken when we adopted that amendment.

PRESIDENT EGAN: Mr. Sundborg moves that the Convention rescind the action taken when it considered the amendment changing the word "shall" to "may" on the first line of Section 1 of Committee Proposal No. 12. Is there a second to the motion?

METCALF: I second the motion.

PRESIDENT EGAN: Mr. Metcalf seconds the motion. The question is, "Shall the Convention rescind its action taken in adopting the amendment referred to?" The Chief Clerk will call the roll. Mr. Londborg.

LONDBORG: Mr. President, is the article debatable?

PRESIDENT EGAN: A motion to rescind is debatable, yes, Mr. Londborg.

LONDBORG: It seems to me that if we change that to "shall" we are actually writing in here legislation, very definitely so. I think one of our purposes, and I think the mover of this rescinding action has reminded us of many a time, that we are to have this constitution as simple as possible and leave legislation out. Now the other day we failed to pass an amendment to the resources article to legislate in favor of a certain group of people known as the Natives of Alaska, because it would sort of protect a certain few people. We wanted to keep from showing partiality. I don't know what this does to put this mandatory in the constitution but legislate for a certain few people. They are employees, the same as probably the majority of the people here at this Convention. We go out and work on a job; we work at the pleasure of the one that hires us. If they don't want our services any more they can fire us. It is up to us to produce. Here we intend to legislate the writing in our constitution that the legislature must set up something. I think the legislature will take care of this anyway, but to write it in here that they must do it is setting up a sort of protective wall around a certain group of people that happen to be working for the state government. It is called a merit system, but very often it doesn't work that way. A man gets into office and he can have a whole staff under him that aren't even sympathetic with his ways and views. They know the ropes,

the ins and the outs, and they can work often very contrary to his wishes, make things pretty hard for him. He can't fire them, he can't replace them; he is stuck with them. But here in our constitution now if we rescind our action we are putting a protective wall around a certain group of people. We didn't do it the other day, I don't see why we should do it today.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, if I remember correctly, the other day we had a vote on deleting this section altogether from the proposal. That amendment was defeated and the section was left in. It seems to me that if we have something like this in the constitution, if we use these three lines we should keep the word "shall"; otherwise, we are just wasting three lines in the constitution altogether. The word "may" doesn't mean anything. The legislature has the power anyway. As long as we have in there that makes it completely senseless. If we believe in the merit principle we should put in "shall". Otherwise, this has no meaning.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I would just like to say that I think there is no intent to favor any small group of people. To me it is merely a matter of stating that we do not believe in a spoils system for our Territorial employees. And I think we would be very wise to rescind our action.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I don't think anybody is, in principle, opposed to the merit system. The merit system is incorporated into the federal scheme of things through the civil service. It is a system by which persons who are to be employed by the state are employed on the basis of their ability rather than who they might know or what pull they might have or how they voted in a recent election. I have had some personal experience with the merit principle as it is made to apply to three agencies in our Territorial government which it must do in accordance with federal law for such agencies as participate in federal funds. I was for a year and a half the supervisor of the Alaska Merit System, and I know that it can work and it does work. Persons who desire employment are treated alike. They are given written and oral examinations to determine whether they are qualified for the positions to which they aspire. There is a regular integrated program of salaries as between various positions so that not the legislature, not the head of an agency, can say that this person shall get so many dollars per year and that one so many, without any reference to what the person is doing

or what he is producing. The converse of the merit principle is the spoils system, and anyone who doesn't want to have a merit principle incorporated in our state government system must, I think, be in favor of a spoils system. I agree with Mr. Fischer that if we are going to say "may" we might as well drop that section entirely from the constitution because it is meaningless if the legislature already has the power to provide if it desires to do so. I would hope that instead of that we will direct through the constitution that the legislature "shall" provide such a system so that the state government in Alaska will be one in which all of the people who are working are people with ability and people who are entitled to hold the positions they have on the basis of their merits rather than on the basis of their politics.

PRESIDENT EGAN: Mr. Stewart?

STEWART: Mr. President, is this broad enough so that it includes not only commissioned officials in the Territory, or does it include laborers or anyone who works for the state in any capacity?

PRESIDENT EGAN: Mr. Sundborg, could you answer that question?

SUNDBORG: Every merit system, including the United States Civil Service, is set up so as to have certain exceptions from it. For instance, there is an exception usually for the top man, that is the head of each department. The governor, in the case of that man, can say who it is he wants because that is a man who is making policy and his policy should conform to that of the chief executive. There are usually also exceptions for those who work by the day, for those who have only temporary employment, and sometimes for the secretary or chief assistant of the head of the agency. The answer to Mr. Stewart's question is that in any such system there are exceptions, but the exceptions are governed by a system. That is, it isn't up to the agency head himself to say "I want this one governed by the merit system and this one not. It is set up so it is the same for every agency of the government, and I know it is workable; I know that it does not saddle any agency with people who are not able to perform their duties. On the contrary, it insures that those who are employed will be qualified to do the work for which they are being paid.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I disagree with the answer that Mr. Sundborg just gave. I think that if you change the word to "shall" it becomes mandatory then for the legislature to provide a merit , principle system under which we have the employment of persons by the state. Now

that means everybody employed. There is no differentiation between one class of employees or the other. It covers person employed by the state. I think we ought to vote "no" on this rescind motion.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Just to bring this question to a decision, I will move to amend it by saying employment other than temporary".

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, in writing the article on the executive branch the Committee always used the word "employees" meaning those employed under the department heads, and whenever they meant an appointed department head they said "public officer or "officeholder", and this merit principle is supposed to apply to the employees, meaning to permanent employees. I agree entirely with what Mr. Fischer said as to the necessity of this article. The Committee originally said the legislature "shall" provide for a merit system because they thought it was to the best interests of the public and to the employees. Mr. Londborg says that we are legislating for a select few. Well, I would like to point out this is an executive article and it deals with a select few. It is setting up a framework of government for the state and it is dealing with the employees and the officers of the state only; and it was felt that it would be better to have a merit system to keep the employees out of politics. It was recognized, of course, that the governor should have his appointees serve as department heads, so he could work with his own team.

McCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon, your point of order.

McCUTCHEON: How does Mr. Barr substantiate his assertion that this is keeping employees out of politics? I don't see anything in here that prevents employees from getting into politics clear up to his neck.

BARR: It keeps his position out of politics --

McCUTCHEON: You are not inferring that this is a small Hatch Act?

BARR: No, no, no. I meant that the security of his position is kept out of politics. He couldn't be fired for political reasons. It won't keep him personally out of politics. In fact, it is impossible to keep anybody out of politics that want to get in it, but his position is secure. The legislature

can provide for any kind of merit system; it depends on how they write it. I do not defend the type of merit system where an employee cannot be fired if he is inefficient, or if it takes a year to hold hearings in order to discharge him. That is not the proper kind of a merit system but we don't have to have that kind. We do want a merit system whereby a man's position is secure if he is efficient and does his work, and that will provide the state with experienced employees. It isn't a complete change of employees every time new governor gets in. I believe that we should use the word "shall"; it is to the benefit of the public and the benefit of the employees.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: There is no question in my mind that if the word "shall" is not included in it you might just as well throw it out. It is useless. I was largely responsible a number of years ago for the introduction of a merit system bill in the house. It passed the house and went to the senate and was amended there to appropriate \$2,000 or \$2,500 to make a study. The study came back in which, as I recall, it was said there was a good reason to have a merit system in the Territory. At present the three largest departments we have in the Territory are under the merit system. It does work a certain hardship on those people due to the fact that other departments can pay higher salaries. Now, the Legislative Council, at the present time under instructions from the last legislature, is making a very thorough study of the merit system with the idea of introducing a bill at the next session of the legislature to take care of that, and therefore, if the word "shall" is deleted and the word "may" put in you might just as well throw it out, because you are just taking up space in the constitution.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to speak on the point of law: would this necessarily cover temporary employees. Mr. Stewart is quite concerned about this and would it cover all employees? This language speaks only of the establishment of employment by a merit principle. Now, I regard that as a general directive to establish a merit system, but all the details would be spelled out by the legislature, and I want the record to show that if I vote for the word "shall" it is not on the theory that every temporary employee is going to be under the merit system. It is going to be on the theory that the legislature has the power to spell out the details.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I would like to speak in favor of retaining the word "may" because regardless of how we speak in the

record here, I read this section as saying that the employment of persons, all persons by the state shall be governed by the merit principle. I don't think that means a system that will allow large and varied exemptions. I think that was pointed out in debate the other day, and I think that is one reason why we voted to insert the word "may". I think the other reason we voted to insert the word "may" is that it was pointed out that passage of such a system has proven difficult and lengthy in the past and may well prove difficult and lengthy in the future and that in the meantime employees of the state could come back to this section and say, "Look here, I am supposed to be employed under the merit principle, and I am not so employed." I think, contrary to some of the debate here, that if the word "shall" is inserted, then we should vote to strike the section. I think, although the section is powerless with the word "may" in it, it serves a useful purpose in indicating to the future legislatures what the feelings of this body were as regards to the merit principle. It shows that we recognize the difficulty in dealing with it in the constitution. For that reason, and that reason alone, I feel that it serves a useful purpose as it stands with the word "may".

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a couple of minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the motion to rescind our action on the amendment to Section 1. Is there further discussion? Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I would concur in the statement made by Mr. Sundborg as to the merit principle. If we substitute here the word "shall" all we are doing, in substance, is providing that we won't be under a spoils system. I think, perhaps, there is a misapprehension in the Convention as to what the merit principle consists of. The merit principle, in substance, merely determines that political considerations will not be the determinant for the selection, and all we are doing is repudiating the idea of the spoils system. From somewhat limited knowledge, I know in most states of the Union, not only do they have, if they so desire, if you adopt this can you have a large exempt class, but you can have many varieties of what they call classifications and not necessarily even that. But you can have classifications classifying all applicants for service into various categories, some of them not requiring examinations, some possibly limited, but you can adopt the merit principle without examination, and it is certainly not my intent when I vote for "shall" to blanket in any large group of individuals permanently into the civil service. Another problem that has

arisen is the question many people complain about embedding public employees into their jobs. You have poor civil service systems and you have good ones. That is something that should be left entirely to the legislature. When you vote for "shall" you merely vote for the principle that you are opposed to the spoils system, and if you are in favor of some method of selection whereby you won't have on your payrolls people whose only obligation to government is to vote for those in power on election day. They shall be secure in their jobs, and not subject to political dismissal.

PRESIDENT EGAN: Mr. White, you've had the floor once, is that correct?

WHITE: I want to ask a question of Mr. McLaughlin.

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: Mr. McLaughlin, if we reinsert "shall" here and it takes, now let's say for the sake of argument, two sessions of the first state legislature to pass such a system, will any employees of the state who may have been discharged prior to the passage of such a system have any complaint against the state under this section?

McLAUGHLIN: I would normally say "no"; that they would not have as long as it was not by political consideration. I think that we have committed ourselves far more by having adopted Section 2 than we would ever commit ourselves by adopting Section 1. We have bound ourselves now by contract to these retirement funds under Section 2. We bind ourselves to very little under Section 1.

WHITE: Mr. President, the retirement system is something that now exists, is it not?

McLAUGHLIN: Yes, but the retirement system as it now exists can be repudiated, but we, by adopting this, as soon as it goes into effect, have, in substance, made it a contract which the state cannot break and cannot impair and, hence, we are stuck with it forever because we have made it a contractual relationship which the state cannot change. So, actually, we have gone for more, without the "may" in Section 2, and I agree with the action of the Convention, than we ever would by changing "may" to "shall" in Section 1. In fact, the other day I voted to have Section 1 stricken as it read because I frankly believe that it is just excess verbiage in the constitution, and I still believe that if you don't adopt "shall" the whole thing should be stricken as a mere pious exclamation meaning nothing.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, may I ask Mr. Nolan a question?

PRESIDENT EGAN: You may ask your question.

LONDBORG: You mentioned a little while ago that they have at least a partial merit system and that the Legislative Council is working on a merit system now. Is that correct?

NOLAN: That is correct.

LONDBORG: Does it seem that within the next year, or two or three years, that there will be a merit system in the Territory?

NOLAN: As far as I can judge the sentiment in the legislature seems to be going that way, stronger all the time.

LONDBORG: In other words, whether this was in or not, you feel that with the growing sentiment that we will have a merit system?

NOLAN: Eventually I think we will by action of the legislature, but whether it will be at this session or the next one it is hard to tell.

LONDBORG: I think that is fine and that further substantiates the fact that I think this is legislative material here then.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: May I ask the Chairman of the Judiciary Committee, Mr. McLaughlin, a question?

PRESIDENT EGAN: If there is no objection, Mr. Coghill.

COGHILL: Under this Section 1, where we insert the word "may" for "shall", would that then bind the article that we have just passed on the judiciary on the incapacitation of the judges to the point of the merit system?

McLAUGHLIN: Definitely no. Definitely no, no more than it binds the government to provide a pension for the governor of the Territory, particularly after he is impeached. The merit principle does not necessarily mean retirement. It is merely the nature of your employment, how you secure it and how you hold it, and it is a repudiation of the Jacksonian theory that "To the victor belongs the spoils." And when you say "shall" you repudiate the theory that the spoils belong to the victor in terms of jobs in the government.

COGHILL: In other words, you feel then that in order to protect the future employees of the state we should have "shall" in there?

McLAUGHLIN: In order to protect the state itself we should have "shall" in there.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I close, briefly? Mr. President, I think practically everything that can be said about this has been said. I can say definitely that it is in language which I think is identical with this or at least is very similar to that of the three agencies which now operate on the merit principle in our Territory which were ordered to do so by the federal government, and that system, the Alaska Merit System does provide exemptions of all temporary employees, all part-time employees and the heads of agencies. I want to say that to my knowledge there has been discussion in the Alaska legislature, at least since the 1941 session, which is now 15 years ago, of shouldn't we have a merit system, and most of the members seem to think we should, but they never get around to doing it. They have not got around to doing it yet, even though they are making a study of it, and it's well advanced. I would like to see us direct that the legislature "shall" establish such a system so there will be no doubt about it. On this matter of perpetuating in their jobs, people who will not be sympathetic or will not be able to do the work as the heads of the agencies desire, any employee under a merit system can be discharged for cause. A man isn't frozen into his job permanently just because he is hired under a merit system. If he isn't working in the way that the head of the agency and the merit agency of the state requires, according to job specifications, he can be relieved of his responsibilities in very short order, and that is as it should be. I will move, unless we do change "may" to "shall", I will move to rescind our action on having this in the constitution at all, because it is absolutely meaningless as it stands. If we put "shall" back in, it is meaningful, and I think, speaks for the best aspirations and best standards for a good state government which we hope we are going to have in the future.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Could I ask Mr. Sundborg a question?

PRESIDENT EGAN: If there is no objection.

COGHILL: Mr. Sundborg, the merit principle, is there a legal definition for it like you take in our apportionment plan we

have a legal definition for the plan that we prescribe. Is there a legal definition or a given definition through government circles on the merit principle, or is it something that the legislature will devise themselves?

SUNDBORG: I believe there is a well-recognized meaning for this term "merit principle". I am not able to say what it is here in just so many words, but it is the principle of people being employed according to their merits, and the legislature would have wide discretion, I would say, in exactly what it shall include in the way of provisions in the system, but it would have to set up a system which would be governed by the merit principle.

PRESIDENT EGAN: If you vote "yes" on this motion to rescind you will return to Section 1, line 1, the word "shall" to that section; if you vote "no" you will retain the word "may". The question is, "Shall the Convention rescind its action taken in changing the word "shall" to "may" in line 1 of Section 1?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 40 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, King, Knight. Lee, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, Wien, Mr. President.

Nays: 13 - Coghill, Cooper, Hinckel, Johnson, Laws, Londborg, McCutcheon, Marston, Peratrovich, Poulsen, Reader, Robertson, White.

Absent: 2 - Buckalew, McNealy)

CHIEF CLERK: 40 yeas, 13 nays and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the Convention has rescinded the action on the amendment. Mr. Sundborg.

SUNDBORG: Mr. President, under notice which I gave Saturday, I would now like to move that the Convention rescind the action taken in striking Section 5 from Committee Proposal No. 8/a which is the article on resources.

PRESIDENT EGAN: Mr. Sundborg moves that the Convention rescind the action taken in deleting Section 5 from Committee Proposal

No. 8/a. Is there a second to the motion?

BOSWELL: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Boswell. Mr. Sundborg.

SUNDBORG: Mr. President, I want to say and announce now that if we rescind the action, I will move to amend the section to strike the words "and administration" from line 10. As the section read before we struck it entirely from the article, it said: "Regulation and administration of the commercial fisheries and of the wildlife, including game fish shall be delegated to a commission or to separate commissions under such terms as the legislature shall prescribe." I will move to strike "and administration" so that we would say: "Regulation of commercial fisheries and of the wildlife...shall be delegated to a commission or commissions." I mention this because I think there are many here, perhaps a majority, who feel that in accordance with the provisions of our article on the executive that the administration of any agency should be integrated into the whole state picture and should not be allowed to run on its own; whereas, I think there is no one here who would contend that the regulation of such things as the fisheries and the wildlife should be done by a single individual or by an agency which would not have a commission.

KILCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: What is the debate now? Are we discussing the motion to rescind or are we discussing an amendment?

PRESIDENT EGAN: Mr. Kilcher, Mr. Sundborg was explaining that if the motion carries what he will do.

KILCHER: I think he is out of order.

PRESIDENT EGAN: You might have a point there.

SUNDBORG: I will drop that line of argument then and simply say that I do feel strongly, as I said the other day, that a section such as Section 5 belongs in our constitution. We do have wonderful fisheries and wildlife resources. They are not matched by any other area in North America. I believe they are in jeopardy unless we have a section such as this included in our constitution. We have been asked by representatives of thousands of the citizens of the Territory to include something of this nature. I might say I don't care one bit what the

Alaska Native Brotherhood, or the Alaskan Sportsmen's Association, Mr. William L. Paul or Mr. Boddy or anybody else who has communicated with us wants us to do, except insofar as I feel that the thing they ask us to do is right. I do feel that in this case the thing they are asking for is right and that this has a place in our constitution and that we are probably letting our sons and grandsons down if we do not include something which will insure that the wildlife heritage of Alaska will be perpetuated under the state government. It has happened in state after state after state. They have seen their wildlife and their fisheries exploited and decimated to where there was little left and then they have written something like this into their constitutions. In the case of Missouri they called a Constitutional Revision Convention just for the purpose of writing something like this in. We have the unique opportunity here of having it in from the beginning and seeing that we do not place these wonderful resources, one of the things that makes Alaska unique, in position where they might be destroyed. Now, I can't think of any other way that you could regulate such resources except by a commission or board. I can't foresee that we would ever want to place it in the hands of one man the right to say that the season on grouse shall be "such and such" and king salmon may be fished for in "such and such" inlet between these certain dates. I think you need a commission in order to administer wildlife of that kind, and I think it is being done everywhere, where it is being done successfully, by a commission. Why not write it right into the constitution since I think it is what we are going to have anyway, and see that we are protecting this invaluable resource.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, it was my thought that we had made certain amendments or adopted certain committee amendments to that Section 5 which Mr. Sundborg didn't read. I wonder if the Clerk would read us the section as it was before we struck it.

PRESIDENT EGAN: Would the Chief Clerk please read the section exactly as it was at the time the move was made to strike the section from the proposal.

CHIEF CLERK: I don't have it.

PRESIDENT EGAN: Had there been any amendments? There were many amendments offered but had there been any of those amendments adopted, Mr. Davis?

CHIEF CLERK: No.

DAVIS: I am sorry. I thought they had.

PRESIDENT EGAN: The Convention will come to order. Mr. Londborg.

LONDBORG: Mr. President, I would like to rise on a point of order and find out when a motion to rescind is out of order on a particular proposal. It seems that this one should have passed from second reading about two or three days before notice of intention to rescind came up.

PRESIDENT EGAN: Mr. Londborg, a motion to rescind can be made after the time for a motion to reconsider has gone by. A motion to rescind can be made at any time that something has not been done that cannot be undone, and it would seem to the Chair that there are very few things that the Convention can do that could not be undone. Those things might arise but the motion to rescind would be in order prior to the time that a proposal had actually been adopted into the constitution.

LONDBORG: Is there anything we can do that we can't undo?

PRESIDENT EGAN: In this Convention, just offhand. the Chair cannot think of anything that we could do that we couldn't undo, no. If it would be the desire of the body, unless we had taken some action, ordered the Sergeant at Arms to go down and bring a delegate to the Convention from town, we could not undo that action if we brought the delegate here.

LONDBORG: I was just wondering, because if that is the case, it is clear that we can move to rescind anything all the way up, including and through third reading, because there is nothing actually that is being done that we can't undo. Is that right?

PRESIDENT EGAN: That would be the feeling of the Chair. If it is the wish of the body to rescind an action that is possible to rescind, why, it could be done at any time.

LONDBORG: I just wanted to have it clear because I know some of us were going on the assumption that when it passed from second reading officially on into Style and Drafting or Engrossment and Enrollment, that your moves for reconsideration and rescinding were passed then.

PRESIDENT EGAN: Reconsideration after the time it passed, but there is nothing in our rules that says -- Robert's Rules doesn't apply to the rescinding motion.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I don't always agree with Delegate Sundborg, but today I am in complete agreement because I believe

that we have made a very serious mistake, and I think it is indicated pretty clearly by the fact that we have had a great many communications to that effect. While it may be true that these communications might be considered in a sense pressure, I still believe that they represent a great many people who one day will vote either for or against the ratification of this constitution when it goes before the people, and certainly if we could remove their objection now, which they have indicated very clearly by these communications, I think that we have taken a very great step forward in insuring the ultimate ratification of the constitution once it is submitted to the people. I am going to offer an amendment, if we rescind our action. I am going to offer a similar amendment that I did the other day which at that time I withdrew, but I certainly feel that this is a serious mistake and if we don't rescind our action the consequences might be considerable.

V. RIVERS: If we rescind on this action, is the matter then open for amending?

PRESIDENT EGAN: It is. It would be. Mr. Kilcher.

KILCHER: Point of information, Mr. President. Is Proposal 8/a in second reading now?

PRESIDENT EGAN: If the Convention votes to rescind the action, then it would be back in the amendment stage in the opinion of the Chair.

R. RIVERS: Point of order. I don't think that this article has been sent to Engrossment yet. I think it is still before us.

LONDBORG: Point of order, Mr. President.

PRESIDENT EGAN: This particular article, the Chair, unless it was directed on Saturday, the Chair had not directed that it be referred to the Committee on Engrossment and Enrollment, Mr. Kilcher, but if the motion to rescind carries, it then brings that legislation, or that proposal, back before us in the position that it was at that time.

KILCHER: If it has never been declared out of second reading, the whole proposal is in second reading yet in that case right? And amendable as such?

PRESIDENT EGAN: That is right, Mr. Kilcher. The Convention will be at recess for two minutes. If there is no objection the Convention will be at recess until 10:50.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the communications that have been received.

(The Chief Clerk read the following communications: a telegram from Senator Marcus Jensen urging reconsideration of the action striking Section 5 from the resources article; a telegram from Reuel M. Fleming, Secretary of the Juneau Vessel Owners, expressing their view that there should be inserted in the constitution an article setting up a commission for fisheries; a telegram from Louise Juhnke, Secretary of the Anchorage Chapter of the Izaak Walton League of America, asking for the inclusion of submitted fish and game management proposals in the constitution; a telegram from Albert S. Davis, President, ANB Camp No. 1, Sitka, recommending a commission to govern fish and another to govern game be inserted in the constitution; a memorandum from the Director of the Alaska Department of Fisheries on behalf of the Alaska Fisheries Board, submitting the Board's recommendations regarding fish and fisheries provisions in the constitution; a memorandum from the Director of the Alaska Department of Fisheries on behalf of the Alaska Fisheries Board, submitting the Board's recommendations regarding fish and fisheries provisions in the constitution.)

HELLENTHAL: Mr. President, these letters to my recollection have been read before.

PRESIDENT EGAN: This letter, the Chairman of the Resources Committee has requested that it be read.

HELLENTHAL: I wondered, but now the wires, are they current?

PRESIDENT EGAN: The wires are all wires that have been received this morning, Mr. Hellenthal.

HELLENTHAL: Except for this letter?

PRESIDENT EGAN: Yes. The communications will be filed. At this time the Chair will refer Committee Proposal No. 12 to the Engrossment and Enrollment Committee. That is the proposal that the first rescinding action was taken upon this morning. Mr. Coghill.

COGHILL: Mr. President, speaking on the Section 5, I voted the other day to delete it and I felt at the time that no reference to any board or commission should be in the constitution, as we have not provided for a health board or a health commission or an educational board or an educational commission; we have left it up in the executive article to a given pattern. However, I feel that in the regulation of our resources that

these people that are members of gun clubs, of conservation groups, and dedicated to the preservation of the wildlife in the Territory, that has become a great concern to them. I know that we in Nenana have a rod and gun club that we call the Moose-Goosers, and we practice conservation within our area and we are very proud of the fact that when we have a problem that the board lends a sympathetic ear. I don't make it a habit to change my vote very often on a particular issue, but I hope that the people of the Convention will reconsider this and do as I do -- vote for it. I think that by having this board for regulatory purposes would not particularly infringe upon the administrative part that would in turn hurt the strong executive.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Some weeks ago we had Mr. Gabrielson here who spoke to us at length about the problem of wildlife management. If you will think back to that time you will remember that he discussed the establishment of commissions for the purpose of managing the wildlife of the state. During his formal presentation, as well as during the questioning period afterwards, he brought out a number of points in regards to the commission. One of the points that struck me more than anything else, in view of all the pressure that was even then being brought to include a provision in the constitution to establish separate commissions, was his statement to the effect that in states where constitutional provision is made for management, they have good administration and in other states where no constitutional provisions are contained they also have good administration. In fact, he brought out, if I remember correctly, that some of the best states in this field are those that do not have any provision in the constitution. It seems to me that this issue has been thoroughly distorted. The charge is continuously being brought that if we provide for a commission in the constitution it will be nonpolitical, if a commission is set up by the legislature it will be political. I see no protection in Section 5 that will prevent this commission or commissions that would be set up from being completely politically dominated, being political footballs and being completely ineffective. The only way to make this matter subject to good management and regulation is to have the legislature behind it, to make sure that good laws are enacted. I don't think that Section 5 does that in any way. I think that the sportsmen of the Territory, certainly those in Anchorage, have not given this any thought. When we were home during recess I spent some time with the president of the Sportsmen's Association. He never even broached the subject; it didn't seem to concern him. Certainly, individually, if they have been given the impression that if the commission is not provided for in the constitution, it certainly

seems to me that they have been given the wrong impression if they have been made to believe that our wildlife will be mismanaged under the state. I don't think that has anything to do with it. I think that there is no need to provide for it and I think we will probably have better administration of management under the state if we leave it to the legislature. Another point I would like to bring out is that we have had a lot of concern on the subject of fisheries. Where has been the greatest amount of abuse of natural resources in the history of the state? It has not been in the field of wildlife; it has not been in the field of fisheries; it has been in land management and forest management. If we want to be sincere about it, and if we believe that commissions are the solution, that is where we should provide for commissions, because anyone who reads the history of the states can look at the tremendous land steals that were perpetrated, the tremendous desecration of the forests, that is where the real mismanagement occurred. I think if we are to be consistent the whole matter of resources must be treated as one broad over-all subject and as such be left to the legislature.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I cannot agree with Mr. Fischer. As Dr. Gabrielson also pointed out the necessity in the states for a commission, and under this we merely set up this or something similar -- if Section 5 is reinstated -- we merely set up a directive to the legislature to act on it, and I certainly feel that the sportsmen and commercial fishermen in the Territory are entitled to that. It was brought out on the floor before, early in the session, that when the Federal Constitution was drawn it was drawn in secret session to prevent anyone from presenting their views or from any of the news of it leaking out; but we have adopted, and even under the bill enabling this Convention to be held, provided for public hearings. Now, if on the one hand we provide for public hearings; and incidentally in the public hearing, at least in Fairbanks, the organized sportsmen requested an even stronger section in the constitution than this Section 5, but if we provide for public hearings and want an expression of the public, then we certainly shouldn't object when the public expresses their opinion and supports something of this kind in the constitution. To me it isn't any matter of pressure or anything of the kind, it is simply an expression of a large body of people as to their desires, and I, for one, feel that it is up to me to vote now to rescind our action.

PRESIDENT EGAN: Mr. Marston.

MARSTON: After the war, back in 1946, I made many pictures of the Arctic Alaska game. I showed them to the National Geographic Society, 3,400 people, and I found the whole 165 million

people out there much interested in the game of Alaska. They're not coming, only a few are coming, but they want a dream of a land where there are moose, caribou, sheep, ducks, and geese and bear, and it would be a sad world if we didn't have it. I understand Sweden has only seven moose left. I think it is a sad story; and these 165 million people want a dream of this land where there are populated forests, and I hope they always have the dream, and if by putting this in the constitution they can keep that dream alive, I am for it. I also found those same people, and I want to tell the mover of this motion, Mr. Sundborg, they were also interested in the Native people and their lands and the ground they had. I am for this move that Mr. Sundborg makes.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I would also like to support the people, and I am always interested to hear their views on any subject; I don't feel that we have been subject to undue pressures here, but I would remind the delegates that if you have listened carefully to all the communications that have been read to us, a lot of them are contradictory. Also a lot of them, most of them, go way beyond Section 5 as it was originally in the resources article, and I submit to you that Section 5 does not solve the problem so far as the Alaska Sportsmen's Council or any other organizations are concerned. As it came out, it merely stated there would be a commission or commissions without the rest of the plan that these groups are supporting, and that, as such, I do not think it necessarily represents their current opinion. When you strip their plan of everything except the mention of the word "commission", I don't think that you can say that Section 5 represents what the Sportsmen's Council or any other group wants to see in the constitution. Now, Mr. Sundborg mentioned the revision of the Constitution of the State of Missouri. You will all recall before we came here we had addressed to us a letter enclosing those sections of the Constitution of the State of Missouri, and if you want to go all the way toward supporting the views of these groups you should insert all these sections in our constitution because it is a complete plan of which the commission idea is only a small part. And I think if we are to consider their views fully, I think I will read these sections of the Constitution of the State of Missouri. Section 40 says: "The control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including hatcheries, sanctuaries, refuges, reservations and all other property owned, acquired or used for such purposes and the acquisition and establishment thereof, and the administration or all laws pertaining thereto, shall be vested in a conservation commission consisting of four members appointed by the governor

not more than two of whom shall be of the same political party. The members shall have knowledge of and interest in wildlife conservation. The members shall hold office for terms of six years beginning on the first day of July of consecutive odd years. Two of the terms shall be concurrent, one shall begin two years before and one two years after the concurrent terms. If the governor fails to fill a vacancy within thirty days, the remaining members shall fill the vacancy for the unexpired term. The members shall receive no salary or other compensation for their services as members, but shall receive their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties." Section 41. Commission may acquire by purchase, gift, eminent domain, or otherwise, all property necessary, useful or convenient for its purposes, and shall exercise the right of eminent domain as provided by law for the highway commission." Section 42. "The commission shall appoint a director of conservation who, with its approval, shall appoint the assistants and other employees deemed necessary by the commission. The commission shall fix the qualifications and salaries of the director and all appointees and employees, and none of its members shall be an appointee or employee." Section 43. "The fees, moneys, or funds arising from the operation and transactions of the commission and from the application and the administration of the laws and regulations pertaining to the bird, fish, game, forestry and wildlife resources of the state and from the sale of property used for said purposes, shall be expended and used by the commission for the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and wildlife resources of the state, including the purchase or other acquisition of property for said purposes, and for the administration of the laws pertaining thereto, and for no other purpose." Section 44. "Section 40-43, inclusive, of this article shall be self-enforcing, and laws not inconsistent therewith may be enacted in aid thereof. All existing laws inconsistent with this article shall no longer remain in force or effect." Section 45. "The rules and regulations of the commission not relating to its organization and internal management shall become effective not less than ten days after being filed with the secretary of state as provided in Section 16 of this article, and such final rules and regulations affecting private rights as are judicial or quasi-judicial in nature shall be subject to the judicial review provided in Section 22 of Article V." Section 46. "The commission shall supply to all persons on request, printed copies of its rules and regulations not relating to organization or internal management." Now you see how far we are removed from that plan and that plan is what they want, and moreover it has been indicated here that if we reinstate Section 5 we are going to get further removed from what they want and remove the words "and administration" from the article. I think that we

have taken the proper action, that the state is going to need a department of natural resources, that all natural resources should come under that department, and that if in the study and review of the entire subject, a commission for the purpose of regulations is found to be necessary under that department it will be established. And I think that if the sportsmen, with all the support they obviously have, including my own, are as strong as they have indicated, that there will be no abuse of the management of the fish and wildlife in Alaska. But I do not think we are helping them any by reinserting Section 5 and that we may be unnecessarily restricting the study and the properly setting up of the whole subject of resources under the future state.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, most of what I had intended to say has been said. I can agree with Mr. Sundborg that both game fish, wildlife and commercial fisheries lend themselves to the commission type of regulation. The only question is, in my mind, is it necessary that those commissions be established in the constitution? I would like to point out that we have, under our Territorial government at the present time, an Alaska Fisheries Board and an Alaska Game Commission. Under the transitory provisions those commissions will be carried forward into the new state government. It would take action by the legislature to set up any other type of regulation. I am convinced, in my own mind, that whether we take this action in putting these provisions in the constitution or whether we do not, we are going to have both our commercial fisheries and our game fish and wildlife regulated by commissions. Now, I stretched my conscience just as far as I could in not dissenting in the committee report which provided for the establishment of a commission or commissions in the constitution, for I could foresee that if this provision were retained, when I go home and talk to the people, especially those dedicated to the cause of education, labor, health, and other things, the first question they were going to ask is, "Why did you refuse to establish in the constitution those various departments and then put in a provision in the constitution providing for commissions for game fish and fisheries?" The only honest answer that I could make would be: "We submitted to the pressures brought by a special interest group," and to have been compelled to make such an answer I am sure would have taken something from the pride and the satisfaction which I have had in the work of the Convention to date. Now, I think probably, being as so much has been said on this subject, that it might be well to go a little further. I think again that the appropriate answer to the criticisms aimed at the delegates and at the Convention would be to say, "Forgive them for they know not what they do." The demands of

this group have been founded largely on the theory that constitutional establishment of a game commission would remove that commission from the reach of political pressure groups. Nothing could be further from the truth, as has been clearly demonstrated in the State of Florida. Florida had a situation somewhat similar to that which exists in Alaska. They attempted, by constitutional action, to set up a commission which they thought would be free from politics. They went much further than the sportsmen in Alaska have asked. The rulings of this commission were beyond the reach of the legislature and they really thought they had set up a commission which was beyond the reach of political pressures. After a few years, according to Professor Ernest Bartley of the University of Florida, this commission has become one of the greatest political footballs in the history of the state. Actually, in my opinion, what the leaders of the sportsmen group want is not complete freedom from political pressures, what they want is freedom from political pressures other than their own. From my observation of this Convention I would rate it as completely free and an independent body insofar as political pressures are concerned. Yet the leaders of the sportsmen's group are very unhappy that this body is independent. Now, would it not follow that if by some magic method they could establish a game commission free from all political pressures, they could find themselves in a very similar position in connection with the very amendment they had created. Apparently the sportsmen's leaders have based their arguments for the establishment of separate commissions by constitutional provisions on the fact that such a provision appears in the Constitution of the State of Missouri and that this commission, as so provided, has done a good job. They apparently have ignored the all-important fact that conditions in Missouri do not bear the slightest resemblance to those in Alaska. Missouri has no appreciable commercial fishery, and apparently insofar as I have been able to determine, and this is only from a superficial examination, they have not had the conflicts of interests between the game and the game fish advocates and the representatives of other resources such as oil, timber, water, etc. Now, those things have occurred in other states. Louisiana, just very recently, in fact, is embroiled at the present time in conflict between the game people and the oil interests. Arizona has had problems in connection with its water resources and game resources, and the point that I would make here is that the very thing which most of us favor, the establishment of an over-all resources commission and conservation commission, wherein there can be full and complete coordination and cooperation between all of the administrators of the resources, is the desirable end. Game commissions, like all other commissions, are made up of people; and people, however they may be selected, are susceptible to political pressure. The delegates have shown time and time again that their one concern is to protect the interests

of all the people. They have resisted, time after time, pressures brought by what could only be termed special interest groups, and I should say here in using the term "special interest groups" I refer to those groups who have concentrated all of their thoughts in connection with the constitution on one interest. Here we have had to look at all of the interests as a whole, not as any single entity. I think I have pointed out the main things which have been in my mind. I have regretted the fact that the various statements made have created what could be a very serious breach between the commercial fishermen and the sports and wildlife advocates. I hope that we can all look at this thing from our individual standpoints, both as our conscience dictates, and I hope that everyone will, after the vote is taken, accept it in good grace as the majority thinking of the group, and I can assure you that that is exactly how I look at it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I also feel constrained to speak on this subject. I was in the legislature when we established the existing department of fisheries and we established it as a department. It seems to me we have a parallel situation here, very close to that of the department of education and other departments, and we provided in the executive article for multiheaded departments. Now, I have heard a number of discussions here in connection with the problem of conservation and of fish and wildlife in the various states. It seems to me that they hold small parallel to the situation in Alaska. I have heard the situation of Missouri compared with Alaska. There they have a state with an area of approximately 100,000 miles, most generally, characteristically a prairie state; they have no shore line; they are in the agricultural and agrarian economy, which takes and uses a lot of land. Their problem of getting proper conservation of game by getting an amendment into their constitution was probably because the problem of conservation of fish and wildlife and game was not of great enough importance to the general public. But here we have a situation with 28,000 miles of shore line, 586,000 miles of area where I cannot help but see that we have a problem that is greater than any probable five or six states combined. It is an asset and a resource that I consider to be one of the most, if not the most, important resource that all the people in Alaska will have in Alaska for all time. And it is my desire to see that resource administered to the benefit and to the best interests of all the people so that it will grow and expand and be a source of economic wealth, prosperity, and happiness to all the people. Now, I feel that here we have heard a great many interesting arguments and discussions and debate that represent the honest opinions of each individual speaking, but I for one, and I am a sportsman, and have been a member of two sporting associations,

and have hunted in Alaska and fished in Alaska as a sportsman since I was a boy, feel that we would be doing a grave injustice to all the people if we set up a commission which would be dissevered from all of the other resources of the State of Alaska in the handling of this one resource. The argument that a commission is the ideal form of government for this resource might apply in the states. It might also apply in Alaska. We have provided for multiheaded boards to head departments and I believe that this department should be nothing less than a full department of government and not a commission of the third grade hanging off on the fringe. I believe that this department should have a voice in the policy-making and in the budget-making problems of the new state, and if the resource, as we now have it, is as valuable as it is now and gets more valuable, that is more and more reason why all of the people will have a firm interest in seeing that it is administered to the best interests of all the people by representatives of all the people. So, I come then to this matter of similar problems that have arisen in this Constitutional Convention. We had a considerable discussion, and I personally discussed this matter as a Chairman of the Executive with the Commissioner of Education, and he wanted to know for sure that the constitution would provide for a department of which could be headed by a multiheaded group or a board which would have overlapping terms for members and which would insure continuity of policy and which would insure the least possible intervention by any one political group, and in that section on multiheaded departments we provide for just that. So, as we look at this picture we have here one of the prime, or the prime resource, one of the most important parts of the state patrimony now to be administered by a commission if we put this matter into the constitution. I for one want to see it in a most important place as a full department, and if this rescission motion carries, I am going to fight hard to get into that word "commission", [the words] "multiheaded department of government", because I don't think it should be anything less. Now, we have heard the voice of a small group of people interested, and wholly interested and sincerely interested, in a resource. But that does not mean that their interest is the over-all picture: as Delegate White read to you, the so-called Missouri Plan includes a whole department of conservation, and I do not see how, under a commission regulating sport and game fishing and commercial fishing, they could have the proper coordination with the agencies such as the forestry group, and the fire prevention group, and other groups, in order to properly insure the protection of the game and wildlife unless they were a full department. I for one feel that we have made the provision in the constitution and the people of Alaska will desire and the representatives of the legislature will carry out a program which will make this department of our fish and wildlife and conservation probably

the most important and probably the largest and most powerful commission on that same subject of all the states, or of any five states combined. I want the delegates to note that in the Enabling Act, HR 2535, that half of the proceeds from the Pribilof seal fisheries will come to the new state. It is inevitable, I believe, that amount is now approximately \$1 million in slightly over a year, it is inevitable in my opinion that that money will be diverted and handled in the manner of preservation and development of our fish, game, wildlife, and our fur. It seems to me that as the situation improves out there that that money itself will increase. They will soon begin to take sea otter and half of that money will come into this department on conservation. I believe it will be not only one of the most important departments of government, but I believe it will also be one of the best financed, with the licenses that could be earmarked under the present setup into this department; with the appropriations of the legislature; with the vast interest in both the commercial, the fish and wildlife interests; and with the other related interests such as the tourist trade, the outside hunter and fishermen groups that come in, the protection of the forests, the protection of the forests by fire protection. It seems to me that we must not lose sight of the fact that this is one part of a great big picture that means a great deal to all of the people of Alaska, and I am perfectly glad and will be happy to meet with any sportsmen's group and express my views and state the reason why I oppose freezing into this constitution a commission. I have looked up the interpretation of commissions. An interpretation of a commission is something that generally operates something. A board is generally something that regulates something, but a department of government has the full power to do all of those things and also to approach the governor and his cabinet, to be a part of that cabinet, to approach the board of the budget, to approach the legislature as a full department of government, and I think we would sell the people of Alaska terribly short if we don't allow this conservation department to be a full department of government, and I can readily foresee it will doubtless be a multiheaded department.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to ask Mr. Victor Rivers a question.

PRESIDENT EGAN: If there is no objection.

R. RIVERS: I have been thinking that if this went through, the commission -- it is still in the hands of the legislature to decide what kind of commission it would be, or commissions it would be. Would this language, as it is, prevent the legislature making the commission a multiheaded

group, or a multiheaded department is what I mean, and would you object to this if we did substitute the words "multiheaded department" instead of the word "commission"?

V. RIVERS: I would still object, Mr. President, to freezing it into the constitution but I think it would be much preferable. If we say "commission" we doubtless mean "commission"; if we say "department of government", we doubtless mean that. I would think it would be much more acceptable as a multiheaded department, but to my way of thinking that should be a matter of legislative and executive prerogative so they could adjust and change as the condition and need arose. Does that answer your question?

R. RIVERS: Yes, thank you.

PRESIDENT EGAN: Mr. King.

KING: Mr. Chairman, the eloquence here of the greatest orators in the Territory of Alaska has impressed me very much; also the fact that the political winds have been blowing. I want to say here that I am not running for anything, the political winds haven't affected me any. In this department business, talking about departments in the Missouri Plan, now Section 5 to me, the one we are trying to rescind or the deletion of it, I don't see anything about the Missouri Plan in that. The Missouri Plan was read in great detail; it doesn't say anything about the Missouri Plan at all. Now the exceptions taken here -- of course I will have to take exceptions to what Mr. Fischer said because I don't believe Mr. Gabrielson talked in those terms -- the exceptions here, nobody seems to believe in the Hoover Commission which was 12 members, the federal government, nonpartisan, who definitely stated that they wanted a division of commercial and sport fishing interests. The Pacific Fisheries Conference which is represented on the Pacific Coast, including Alaska, also went on record for a division of commercial fisheries and game and wildlife. The reasons for that, of course, are many. Commercial fishing is purely commercial; that pertains to the sea; that is the sea. Land mass pertains to wildlife and sport fish; that is completely separated. One is social; has aesthetic features, has economic features; the other one is purely economical. Now as you know, Mr. President, the last tax returns in 1955 show fisheries, the sport stamp tax alone brought into the Territorial treasury \$65,000; \$65,000 against \$45,000 from the mining industry. Commercial fisheries at its lowest ebb last year brought in \$2,300,000 worth of tax money. Now we are talking about a resource that is valuable to the people of Alaska. These people of our tundra, one of our delegates talked so much about his 30,000 people -- that is not only aesthetic to them -- that is social.

They use that meat in the Arctic to eat; they use that ivory to carve; that is their livelihood. Now, we are not talking about light things here, Mr. President, we are talking about something very important. It was important enough to the Pacific Fisheries Commission to ask that a separate assistant secretary of the Department of Commerce be appointed to take care of fisheries alone. That is how important it was. I am not a very good orator, Mr. President, but my timidity here has been overcome by my conscience. I feel very deeply about this. I am not talking only about the sporting association either; I am talking about a background of five years on fish traps, owning my own seine boat, gill netting, and I am at present a registered guide. I am not talking out of mere technical aspects, I am talking from experience and I believe the proper place to put the regulation of these departments, to make it successful, is right into the constitution. That is the will -- now we have been talking about pressure here all the time. Pressure from what? Pressure to me is a man going and sticking a gun in my back and saying, "King, you had better vote this way." Or the storekeeper says, "King, if you don't vote this way, I'm going to stop your credit." That's pressure to me. What I am seeing in telegrams is the wishes and will of the people. If that is pressure, I certainly don't understand pressure, and that has been explained to me in great detail by the great orators of this Convention. I just want to say further that the Missouri Plan as we talked about here, has nothing to do with Section 5, it doesn't say anything about it. It still leaves the power with the legislature. There is no quarrel with the governor appointing this commission or these commissions. There is no quarrel with that. They are also going to be approved by the legislature. The members of the commission are going to be approved by the legislature of our new state and they will provide the rules to work under in that commission. I don't think I have to say anything further on this. The arguments against it, Mr. President, have been very inconsistent all the way through and certainly a lot of them are not statements of fact.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I rise to make my usual speech in favor of the legislature, which I have made many times before on the floor of this Convention. I am not opposed to one commission or two commissions or three commissions or even five commissions or a hydra-headed board for the administration of our fish and wildlife. I am opposed to putting it in the constitution of the new State of Alaska. I think the power resides in the legislature, and I am going to say again what I have said many many times before on the floor of this Convention: we who are writing the Constitution of Alaska must have some faith and trust

in the future legislatures of Alaska for we are not going to be able to ride herd on them from the vantage point of this Convention hall any time at all. Now, I was among all of the rest of you who heard Dr. Gabrielson speak and who greatly enjoyed hearing him speak, and one sentence that Dr. Gabrielson said has stayed in my memory ahead of everything else that he said, and that was, "This is undoubtedly legislation but you are probably justified in putting it in the constitution." Now, if it is legislation, if it is statutory law that we are expected to set up here, it does not belong in the constitution. I am unable to understand this fear of the legislature that is constantly voiced in this assembly. Nineteen members of this group have been members of former legislatures and every one of them should feel a deep resentment at that expression of distrust. There are doubtless 19 other people or more, who are planning to be members of a legislature in the future, and rightly so, and I hope that they too feel that feeling of resentment at the distrust that is here being manifested in the legislature. I have never been a member of the legislature but I know pressure when I see it. I have observed enough sessions of the legislature to be fully conversant with that topic and I have never seen a better organized system of pressure than has been applied to this Convention to get what the Sportsmen Association wants, or thinks it wants, or thinks it wants, into this constitution. When you get telegram after telegram and letter after letter saying: "We endorse the program that the Alaska Sportsmen's Association proposes; we endorse the plan that has been adopted and promulgated by the Alaska Sportsmen's Association; we have 20,000 members," or 10,000 members; or whatever number it is, "We control so many votes and you are in danger of not being ratified if you don't give us what we want." I don't believe that the Alaska Sportsmen's Association is going out and vote against ratification because they may lose one little point that they are especially interested in. That is neither the part of good sportsmanship or good citizenship and I hope that they will vote for candidates for office and vote for ratification on the basis of the merit of the candidates and the merit of the constitution and not on personal grudges. I do not believe further, and I may say it with all due respect, that William L. Paul can control 2,000 votes in the Alaska Native Brotherhood, and I am telling that here and I am sure Mr. Peratrovich who has himself been a grand president of the Alaska Native Brotherhood knows that the Alaska Native Brotherhood does not control votes as has been indicated. And if they do, what does it matter? At a recess here a few moments ago we had active lobbying on the floor of this house, this Convention hall, this side of the gallery by members of the Sportsmen's Association. I could point them out to you and I can tell you who they talked to, and I know what they said because I was near enough to hear some of it. That is what we have to guard against. Whenever, in the balmy days of the legislature, have

I seen a more flagrant piece of lobbying on the salmon industry than we saw here this morning on this floor. I don't say they control the votes; I don't say they influenced any member on here, but I do say that the attempt was being made, and that is something that I resent. My resentment to the legislature, when I have criticized it in the past, has been because it was amenable to these pressure groups. My resentment at the lobbying that has been done here, both by telegram and letter and by personal solicitation, goes to the same point. We have had several people here say very eloquently today that they did not feel that they were able to put everything in the constitution that the department of education wanted, that other departments of government wanted, and naturally we cannot, but I want it clearly shown here that my objection to the inclusion of this section in the constitution which has been proposed by the Resources Committee is due to the fact that I think it belongs in the legislature, the power to determine those things belong in the legislature, and we can do no greater disservice to this country than to abridge and curtail and disparage the rights of the legislature to make the laws for the State of Alaska, and I shall be opposed to it not only because it belongs in the legislature, but because such a tremendous effort has been made, and as I said before, blatantly made to take it out of the hands of the legislature, and as Mr. McCutcheon said the other day, "enshrine it in the constitution". I shall vote "no" to rescission; I shall vote "no" to any effort at this time or any other time to include in the constitution of the State of Alaska material that is properly legislative functions.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I find that I am in this particular position, much like the attorneys. We have some 14 attorneys here and we find them lined up in a multitude of fashions from time to time. Their thought is split -- they interpret in this fashion and another fashion. I am not sure how many registered guides there are in this room, but I am one, and have been for several years, and I find perhaps myself in opposition to this matter to Mr. King over here whom I admire a great deal. Mr. King has observed that the licenses that came from the fishing stamps and amounting to some \$65,000 had been put in the Territorial treasury. What he failed to state was that that \$65,000 worth of money, as I remember, unless the law has been changed, was particularly earmarked for the propagation, generation, stream clearance of sports fish. There is no question in my mind that when our new state government is set up with the type of department that we visualize at this time for natural resources and other particular arms of the government, that ample and adequate administration will be provided by a governor who will be sensitive to the wants of the sporting

groups. He will also be sensitive to the wants of the fishing groups who earn their livelihood in that fashion. There is one thing that rather impresses me in this matter and it is a fact that we have in our public school, 21,940 little natural resources, the men and women of our future State of Alaska; and we have dealt with them in this fashion under our Health, Education and Welfare Committee Proposal No. 7, "The state shall establish and maintain by general law a system of public schools which shall be open to all children of the State and may provide for other public educational institutions." If we can influence the destiny of our future citizens in such a fashion, with one broad sentence, left and place the responsibility upon the legislature to create an entire educational system which may be different than the one we have, which may as some have said, be subject to political pressures, then certainly I don't see why the game animals and the game fishes or the commercial fishes of this great new state are in any different position than our future citizens. I think that our legislature will provide amply, not only for the game but for our future citizens, and consequently I am opposed to rescission.

PRESIDENT EGAN: The Convention will be at ease for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Taylor.

TAYLOR: Mr. President, I thought the other day when we were arguing this matter that I had said all I could say on it, and I was very glad to see that this article or this section of an article was chopped out, not because I do not believe in game conservation, for I do, but I did not believe and I do not now believe that this Convention should set up in the constitution a particular section establishing a commission for the conservation and the regulation of fish and game. Now, I think Mrs. Hermann has very aptly expressed her sentiments on this, perhaps more articulate than I can, but I will say that my sentiments are the same as hers. Mr. McCutcheon has given you a very good example or illustration of how we treated perhaps the greatest problem confronting us of the future of our children, through the Health, Welfare and Education. We do not set up any commission for those children. Now, throughout the years we have had a number of boards and commissions in the Territory. We have had the Board of Education; we have had the Board of Health; and the Board of Welfare. Well, I have not heard anybody who has talked and wanted this particular section in the constitution say that those boards were inefficient, that they were not conscientious, because it would be an untruth if they did say so. Those boards have been very conscientious;

they have done a good job; and they were boards that were set up by the legislature and the personnel of those boards were appointed by the governor. Now, also, I believe that practically every one of the speakers has referred to the unique position of game in Alaska. I think we have the greatest fishing and hunting potentials of any state in the United States, or perhaps many of them put together. We have a great variety of game; it is a resource of incalculable value. We want to preserve it, but I don't want to preserve it by putting into the constitution that we must establish a commission or two commissions or three commissions. I think, as Mr. Rivers believes, Victor Rivers, that this should be a department of resources, and they will have control of all the resources, such forest lands as we get, such game and the fisheries, and the clam beds, and every other thing which is going to affect the economic value of Alaska and to the recreation of the people through fishing and hunting. Now, I might say that being in agreement with Mrs. Hermann in her statement that this is a pressure group, ostensibly our sportsmen are supposed to be sportsmen. Well, now are these sportsmen who are pressuring us, are they potential members of this board that is going to be set up? Do they want to be the board? Do they want to control the fisheries? Do they want to say that certain licenses and taxes are going to be put under their control? They know that if this commission is not established by the constitution it will be established by the legislature, so what have they to fear? Perhaps the same persons, if we could look into the future, who will possibly be on a game fish or game commission, game fish commission, would be the same persons who will be appointed by the governor as they would be appointed under this commission basis. Now, I can say that from several of the speakers who have talked here, and maybe they have been subjected to pressure, and now I might say in substantiating the statements of Mrs. Hermann, that the day following our action upon Section 5, I was approached by one of the leaders of the pressure group, and he was in a very irate manner, and he berated me for my stand on this question and also upon my vote on this question. Also, he threatened me that if I run for the legislature I would not receive one vote from the sportsmen. Those are sportsmen? Because a person conscientiously worked for something they are going to take it out on him by not voting for him. I told the man it was one of my principles; I was not in favor of boards unless they were necessary. I didn't want a board set up blindly by the constitution. I felt a board similar to the Alaska Game Commission board would be a necessity, and if I went to the legislature, I would work for such a board, a good efficient board, manned by men who know the game and fish problem. It may be that I, possibly, if I run for the legislature, I maybe will lose by the fact that these people in the game commission, or the game associations, are going to vote against me. Well, that is well and good. If I do not go down there I am just not

going, and it doesn't make a bit of difference to me one way or another, but it will be because I have taken a stand antagonistic to the game bodies for a matter of procedure, not for a matter of substance, because I believe in the conservation of the game. I have been here 47 years, and I have always felt we must conserve our game and fish. I think my reputation in the legislature will indicate that. Now, from some of the remarks by other members of the body and possibly those same threats have been made to them because it appears to me that they have hit for the hurricane cellar, going to change their vote upon this matter. I don't know whether they are going to run for the legislature or not. It appears that possibly they are. I feel that we should hold up and maintain our previous stand on this question.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Mr. President, I notice the noon recess is approaching, so I will be brief. I am a commercial fisherman by trade and I didn't come here to lobby for the commercial fisherman, but I tell you, fellow delegates, I believe if we yield to this lobby, if we bring this matter back on the floor where it will be open to further amendment by a lobby group, then I am going to have to submit two amendments to take care of the commercial interests of the fishermen in Alaska as I see it. I believe, as Delegate Hermann has said before, that we can trust the legislature. I am willing to go along on that basis, but I am willing to fight, too, if it is necessary.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Sundborg, would you care to take the Chair for a moment before you close?

(Mr. Sundborg took the Chair.)

CHAIRMAN SUNDBORG: Mr. Egan.

EGAN: Mr. President, I would like to say that I voted to delete Section 5 from this proposal. I would also like to say that I don't believe that there is anyone else in the Territory who could be more interested in the conservation of the commercial fisheries or the game fish and wildlife of the Territory than I am, or as are all the members of this Constitutional Convention. But it is my sincere feeling that those people who have caused this great deluge of telegrams, letters, and pressure, if you may, upon this Convention, to come upon us, have not properly digested what is contained in Proposal No. 8/a with the deletion of Section 5. It appears to me that Section 5 is only a repetition of the basic principles that are laid out in

other sections of Committee Proposal No. 8/a. I just have the feeling that many of these people have not even properly perused Committee Proposal No. 8/a. In Section 3, as it remains in the proposal, it says, "Forests, fish, wildlife, grasslands and other replenishable resources belonging to the State shall be administered, utilized and maintained on the sustained yield principle." And I ask you, Mr. President, how that could be done if the people of the Territory, the Sportsmen's Association, the commercial fisheries organizations through their legislature, Mr. President, how that could be done unless through their legislature, the establishment of a particular procedure with relation to departments or commissions would cause the sustained yield principle with relation to these natural resources, be they game fish, or game wildlife, or commercial fisheries, how that could be done without the establishment of the proper agencies? Also, in the new Section 5, originally it was Section 6, it says, "Facilities, improvements and services may be provided to assure greater utilization, development, reclamation and settlement of lands, and fuller utilization and development of the fisheries, wildlife, and waters." To me that is adequate provision, and it will also give the groups who are vitally interested, the sportsmen's group, the commercial fisheries groups, the right, and over a sufficient period of time, to come up with a proper and fine method of administering these important resources of our great state-to-be. I think that this whole question has been nothing more than poor judgment on the part of some in causing the question to become one of such great proportions, and I hope that we properly look at this proposal in its proper perspective and vote the motion to rescind our action down.

STEWART: Mr. President.

CHAIRMAN SUNDBORG: Mr. Stewart.

STEWART: In connection with this subject in which I was deeply concerned, I wired Delegate Bartlett after adjournment the other day and asked him his position on the matter. I got a telephone message back in which he expressed thorough disapproval of putting into the constitution this clause which we are now discussing, and he authorized me to quote him to that effect. He had written a letter on the subject which I think is now in the hands of Mr. Smith and which he authorized me to have read before the Convention in this connection, and he authorized me over the phone to quote him as being thoroughly opposed to putting this provision into the constitution under the circumstances that it should be left as a part of our legislative process, and he authorized me to quote him to that extent.

CHAIRMAN SUNDBORG: Mr. McNees.

McNEES: Mr. President, I too was one of the 34 who joined here on the floor the other day to vote for the striking of Section 5. In the days that have passed since that time I have had many approach me, laymen as well as organized members of our resources division in the Territory at the present time. The principal reason that I had for striking Section 5 in my own thinking was the fact that it was legislative law. I made many pledges during the summer and fall months, both to organized groups as well as to individuals, that within my power I would do everything I could to keep legislative law out of the constitution. I well recognize the fine line that can be drawn between legislative and constitutional law. Many times it appears quite broad. I think most of us in our thinking are just as sincere in feeling that we are trying to write an ample and adequate constitution for the new State of Alaska, whether we voted with the 34 to strike No. 5 or whether we voted with the 21 to retain it. I think it is quite indicative of the feeling of this group, judging from the fact that the entire body was present at that particular vote, I think they are all present here this morning. In order to be true to the convictions that I came to the Convention with, knowing full well that the many friends I have in the audience this morning, as well as the many friends on the floor, certainly could not appreciate my sincerity or my stand if I were to take a reversal upon the position that I held the other day. Therefore, I urge that we vote down any rescission of Section 5, the matter under discussion this morning.

CHAIRMAN SUNDBORG: Mr. Doogan.

DOOGAN: I move that we stand at recess.

UNIDENTIFIED DELEGATE: No.

CHAIRMAN SUNDBORG: Mr. President, would you resume the Chair?

(The President took the Chair.)

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, if no one else desires to speak, I would like to close and I will do so briefly. I think that we have heard here in the last hour some of the finest debate we have ever had in the session of the Alaska Constitutional Convention. I listened with particular attention to the eloquent pleas of Mr. Smith. I think his speech was a great speech, and I know it was given with complete conviction. I listened with

equal attention to the fine remarks of Mrs. Hermann who does not speak often here but who, when she does, has something to say and says it well, and she said it well on this occasion and I think she expressed, perhaps, perfectly the point of view of those who are against the recision of our action taken in striking Section 5. Of course, I listened with great attention to the remarks of our President, who I think on only two other occasions in the entire Convention has felt called upon to relinquish the Chair in order to have his opinions heard in a matter before the Convention; and I was reminded as I listened to him that probably we have been deprived of a great deal of expression of wisdom by the fact that he has occupied the Chair rather than be free on the floor to let us have the benefit of that wisdom. Although, of course I think I speak the words, the feeling of everyone here when I say we are fortunate indeed to have had him presiding over the Constitutional Convention. Now, it has been said we could leave this matter to the legislature and we could. Mrs. Hermann has said that she has time and again urged that we leave matters to the legislature. I think she has done that except perhaps in the case of a library board when she was urging that we should write into the constitution a provision that a board of that kind would be desirable. I submit, of course, I don't think I even have to submit, that a board to regulate the fisheries and game of Alaska would be somewhat more important and somewhat more deserving of a place in our constitution than a library board.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: I did not advocate a library board, I advocated a Territorial library service. Nothing was said about a board.

SUNDBORG: I stand corrected, Mrs. Hermann. I'm sorry if I misquoted you, but at least you did want to write into the constitution something about a matter which I think many of us felt was rather frivolous. I think none of us feel that this matter of the regulation of the fish and game of Alaska is frivolous. We differ on the means by which we should get to the desirable end of seeing that those resources are perpetuated. If we leave it to the legislature it is altogether likely that the legislature would set up a commission or commissions which is altogether likely again would meet with the desires of the sportsmen and of the commercial fishermen, but what a legislature can do at one session, the legislature at the very next session can undo, and we have seen that time and again through our Territorial history. Unless we have some

clear lines drawn in the constitution which tells the legislature what kind of a system we want set up for the regulation of our fish and game, we are just throwing it out blindly, trusting to the future when we know not what that future may be. Now, the Missouri constitutional provision about fish and game was read to us here and it was a very long one. I might mention to you that the Missouri Constitution is a long constitution, and the fact that we do not propose putting in the Alaska constitution quite as much as they have about fish and game is only consistent with our desire that we don't have as much about anything in our constitution as they do. I believe it runs about ten times as long as the Alaska constitution will run, and I could mention to you that we have done a little computing in Style and Drafting and it appears that our constitution will be one of the shortest of any state. It will be shorter than Hawaii by a little bit, shorter than New Jersey by a little bit, but still I feel it will be the finest constitution, whether or not we have Section 5 in the resources article, that has ever been drawn by any state. Mr. Fischer mentioned that at the hearings held in Anchorage there was no desire expressed to have a provision of this kind written into the constitution. I wasn't at the Anchorage hearings, but I was at the Juneau hearings and everyone who participated in those hearings from this Convention I think will bear me out when I say that fully one-half of the statements which were made at that hearing were on this very matter, and the exact language which was incorporated in the report of the Resources Committee as Section 5 was proposed by the sportsmen themselves. This is what they want; they have said it again and again; they are saying it in telegrams to us; they are not saying they want a whole article in as the Missouri Constitution would have it; this is what they want. Now, it would not be unique for us to provide, at this point in the constitution, that a commission or commissions should be set up for this very desirable purpose. We have written into the constitution already in three or four other places, to my knowledge, provisions that there shall be commissions and boards of one kind or another. None of them I think were quite as important in what they would do as the commission that would regulate the fish and the wildlife. Education has been mentioned as another subject where we did not provide for a commission or board in spite of the fact that some of the members were urging that we do so. I think education is an entirely different kind of problem from fish and game regulations. There is no regulation required at all in education, and I might say also that we have a background in Alaska of a board of education. We have no such background, we have no precedent in the field of fish and game management. The Alaska Game Commission which has been mentioned here time and again, is not a Territorial body, it is a federal body. It will not be continued

under our state system. The problem will be up to us entirely then. We will then have the entire management and regulation of the fish and the game which we have never had and the Alaska Fisheries Board, the Alaska Department of Fisheries which we have now, has not one iota of authority to regulate the fisheries as I think most of you know. We are striking out into a new field here and as we strike I think that we should see we are setting up a proper type of government in which to regulate this very important field of resources. Now, I want to say that I have not been in contact with those sports people. I have not tried to stimulate any barrage of wires. Following the meeting of last week when we struck Section 5, I wrote a circumstantial account of exactly what happened, what Section 5 provided, and what the vote on it was, and I sent that to one individual who had written to me about it. I think I should say, too, in fairness to our President, and perhaps in fairness to myself, that the resources proposal was not held in second reading in order to accommodate me, or anyone else, on a motion to rescind our action with respect to fish and game commissions. It was held up, as I understand it, on the request of the Committee which has some amendments of its own which they desire still to propose for incorporation in that proposal. I am not ashamed to bow to pressure when it is pressure from the people. I am proud to bow to such pressure. This is not a blatant attempt or a selfish attempt or an underhanded or a shady attempt to do something which is wrong. These people in my judgment are only asking for something which is right, they want good government. This is a wise provision and we should consider it in that light rather than in whether we have been asked by this or that many to be for or against this thing, but I would point out that until it was mentioned here a few moments ago that Delegate Bartlett had urged that we do not include something such as Section 5, I think we had not had a single communication, I think not a single member of the Convention had been approached by any individual asking us to leave out Section 5 as a provision. All of the wires and all of the desires --

SMITH: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Smith.

SMITH: My point of order is that there have been quite a number of wires opposing the inclusion of Section 5, and I think if Mr. Sundborg will refer to the record he will find that that is correct.

SUNDBORG: I stand corrected if that is so, but at least the great preponderance of them have been in the other direction; and we have had wires from both commercial fishermen and from

fish and wildlife and sports people asking us to include Section 5 which takes care of both sets of interests. Now, I know that from the standpoint of pure theory it isn't good to have something like Section 5 in our constitution. The people who sit in an ivory tower and look at our constitution will say, "It would have been better if you had left this out, boys." But we are not drawing a constitution in an ivory tower, we are writing a constitution which will deal with realities on the Alaska scene. I submit there is no better way of dealing with this particular reality, that of fish and wildlife management and regulation, than by putting back into the resources article the provision incorporated in Section 5, and so I hope that I will have a number of delegates go along with me who will vote "yes" to rescind our action taken last week in this matter.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Now, on this motion that will now be placed before the Convention if you vote "yes" you vote to restore Section 5 to Committee Proposal No. 8/a. If you vote "no" the section will remain deleted from the proposal. The question is, "Shall the Convention rescind its action taken when Section 5 was deleted from the proposal?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 20 - Boswell, Coghill, Cooper, H. Fischer, Gray, Johnson, King, Knight, Laws, Lee, McNealy, Marston, Nolan, Peratrovich, Riley, Sundborg, Sweeney, VanderLeest, Walsh, Wien.

Nays: 35 - Armstrong, Awes, Barr, Buckalew, Collins, Cross, Davis, Doogan, Emberg, V. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, White, Mr. President.)

PRESIDENT EGAN: The Convention will come to order while the Chief Clerk tallies the ballot.

CHIEF CLERK: 20 yeas, 35 nays.

PRESIDENT EGAN: So the "nays" have it and the proposed motion has failed of adoption. Mr. Sundborg.

SUNDBORG: Subject to committee and other announcements, Mr. President, I would like to move and ask unanimous consent that we recess until 1:45 p.m.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: For a point of information, first, will the Committee on Ordinances and Transitional Measures meet before the action on their report? And secondly, is this five-minute rule on talking in effect at the present time?

PRESIDENT EGAN: No, it is not.

HELLENTHAL: When is it supposed to go into effect?

PRESIDENT EGAN: There is nothing before the Convention on a five-minute rule. Mr. McNealy, do you have a Committee announcement?

McNEALY: A meeting of the Ordinance Committee; I believe we will hold it in the gallery here at 1:00 o'clock.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The committee on Style and Drafting will meet at 1:00 o'clock in the ping pong room.

PRESIDENT EGAN: Committee on Style and Drafting in the ping pong room. Mrs. Sweeney.

SWEENEY: Mr. President, I spoke to you earlier this morning concerning bringing out the engrossed copy of Committee Proposal No. 14. I believe that you are in favor of having it brought out.

PRESIDENT EGAN: Is that the proposal on apportionment?

SWEENEY: Yes, sir. The metes and bounds description is going to take a little while, and I just don't like to have it kept in the Committee and you did not seem to have objection to it, so I would like your permission to bring it out at this time.

PRESIDENT EGAN: The Engrossment and Enrollment Committee want to release that portion of their report, they have completed their work. Do you have objection, Mr. Hellenthal?

HELLENTHAL: We have no objection. The other portion will be ready this afternoon.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I would like to bring it out and then I'll bring that out when we have a chance. So, Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 14 have compared same with the original and find it correctly engrossed and that portion of it which is ready has been mimeographed and the first enrolled copies will be placed on the delegates' desks immediately, and the balance will be brought out as soon as it is through the Committee, and I ask unanimous consent that the report be adopted.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the report of the Committee on Engrossment and Enrollment be adopted. Is there objection? Hearing no objection, it is so ordered. Are there other committee announcements to be made at this time? Miss Awes.

AWES: Mr. President, is there a meeting of the committee chairmen this noon?

PRESIDENT EGAN: There is a meeting scheduled at 12:30, Miss Awes, of the committee chairmen. Are there other committee reports? The Chair would like to state before putting the question for recess that the Ordinance Committee has scheduled having Mr. George Lehleitner at the Convention this evening at 7:00 p.m., in order that all delegates would hear Mr. Lehleitner. Mr. Coghill.

COGHILL: I rise to a point of information. It seems that at the outset of our plenary session this morning the Chairman of the Style and Drafting Committee had made a request for about six hours of time. I thought maybe that we might be able to use this afternoon instead of in plenary session, I know the Apportionment Committee has work to do, and I am quite sure all other committees would be busy.

PRESIDENT EGAN: We have Committee Proposal No. 16, a proposal on ordinance and transitional measures, that is before us, is it not, in second reading at this time? There is another proposal from that Committee, Committee Proposal No. 17 that is not yet before us. Is that right, Mr. McNealy?

MCNEALY: That is right, Mr. President.

PRESIDENT EGAN: Is it the wish of the body to come back after recess and continue with Committee Proposal No. 16 or would you desire a longer recess? What is the feeling of the delegates? Mr. McNealy.

MCNEALY: As to Committee Proposal No. 16, I believe that should be passed, maybe in five minutes time. I think the only one we

are concerned with here is the disclaimer of public lands, which is a necessary part of the constitution, and I believe the other two -- one clause there is probably not necessary, and I believe the other regarding the University has already been passed on so it shouldn't take over five minutes of the Convention time.

SUNDBORG: In view of that, Mr. President, I would like to withdraw my unanimous consent request made earlier and to request that we recess now until 7:00 o'clock this evening.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: The Apportionment Committee will take about five minutes, so I don't want to leave the impression here that the Apportionment Committee wants to stand in the way of continuing progress. It will take five minutes during a recess for us to do what we want to do.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the Convention stand at recess until 7:00 p.m. Mr. Sundborg, if the Chair may, what is going to be the situation tomorrow? Are we going to be able to have several proposals before us from the Style and Drafting Committee, in order to utilize our full day of time?

SUNDBORG: Dependent upon the speed with which the boiler room can produce mimeographed copies of what we will be feeding to them, I would say that it is certain that we can have at least three proposals mimeographed and back on the desks of the delegates by this evening's session, which would let us handle that many of them tomorrow.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, I am sorry I should have mentioned this before. If there would be a possibility of adjourning for the benefit of the Rules Committee, I would like, if I am not out of order, I would like the possibility of getting in order to introduce Committee Proposal 17 and if that can be assigned under the calendar I assure the Convention that it will take up some time because it covers the state capital, Delegate Buckalew's fish trap proposal, and at least those two items are involved in this.

PRESIDENT EGAN: Mr. McNealy, if there is no objection, are you offering Committee Proposal No. 17 to be read for the first time now? Is there objection to receiving Committee Proposal No. 17? If not, the Clerk will read Committee Proposal No. 17 for the first time.

CHIEF CLERK: "Committee Proposal No. 17, introduced by the Committee on Ordinances and Transitional Measures, SCHEDULE."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. If we do recess until 7:00 p.m. it probably will not be necessary to have the committee chairmen's meeting this afternoon. We could schedule that meeting for tomorrow afternoon at 12:30 p.m. Mr. Ralph Rivers.

R. RIVERS: If we adjourn to 7:00 o'clock tonight, would this Ordinance Committee have its 1:00 o'clock meeting, because I want to meet with it again?

McNEALY: The Ordinance Committee will meet all afternoon in fact.

PRESIDENT EGAN: The Ordinance Committee will begin its meeting at 1:00 p.m. Unanimous consent is asked that the Convention stand at recess until 7:00 p.m. Is there objection?

UNIDENTIFIED DELEGATE: Object.

PRESIDENT EGAN: Objection is heard. Do you so move?

SUNDBORG: I so move.

PRESIDENT EGAN: Mr. Sundborg so moves.

COGHILL: I second the motion.

PRESIDENT EGAN: Mr. Coghill seconds the motion. The question is. "Shall the Convention stand at recess until 7:00 p.m.? All those in favor of standing at recess until 7:00 p.m. will signify by saying "aye", all opposed by saying "no". The "ayes" seem to have it and the Convention stands at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. It is not often we Alaskans have an opportunity to extend our gratitude to one who has so unselfishly dedicated a considerable portion of his life's endeavors towards fulfillment of a principle and purpose solely for us. Such, however, is our good fortune this evening for with us on this rostrum is a young man who over the past few years has expended a considerable part of his time and personal fortune in an unyielding determination to secure a rightful place in the brotherhood of states for Alaska and Hawaii. This man is recognized as one of the most successful and outstanding personalities of the business field in the entire South. Because of his

devoted interest to our statehood cause, one of the committees of our Convention and your President extended to him an invitation to appear before us. Traveling at his own expense he arrived in Fairbanks three days ago. We are fortunate indeed to have him with us. I deem it a great honor as an Alaskan and as a delegate to this Constitutional Convention to present to you George H. Lehleitner of New Orleans, Louisiana.

(Standing ovation)

(Mr. Lehleitner then delivered his prepared address, a copy of which may be found in the Appendix.)

PRESIDENT EGAN: Thank you, Mr. Lehleitner. We really enjoyed and appreciated your presentation. The Convention will be at recess for ten minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Committee Proposal No. 16 in second reading. The Chief Clerk will please read Committee Proposal No. 16 for the second time.

(The Chief Clerk read Proposal No. 16 for the second time.)

PRESIDENT EGAN: Does the Chairman of the Ordinance Committee have an explanation or any remarks to make at this time regarding this proposal? Mr. McNealy.

McNEALY: Mr. President, the Committee has a committee amendment to offer to this, and if the Committee amendment is adopted it will then leave simply the language that is contained in the enabling act of Congress, and this section, incidentally, was transferred to the Committee on Ordinances from the Committee on the Legislative, and it was lifted out in its entirety also from that section. It is one of the requirements of Congress that it is necessary that this be in. I do wish to speak -- Mr. Hellenthal presented the Committee with a very shortened version of this which the Committee took no action upon and thought if Mr. Hellenthal so desired, he could present it to the Convention. Mr. President, might I offer at this time a proposed amendment?

PRESIDENT EGAN: You are offering an amendment that you wish to become a part of Committee Proposal No. 16?

McNEALY: Yes, sir.

PRESIDENT EGAN: You may present the proposed amendment, Mr. McNealy.

McNEALY: I see that we made an error in writing out the amendment. I could give it orally on page 2, line 11.

PRESIDENT EGAN: Page 2, line 11.

McNEALY: "After the word 'alienation' delete the semicolon, insert a period and strike the balance of the section."

PRESIDENT EGAN: Do you so move the adoption?

McNEALY: I so move, Mr. President.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the proposed amendment.

R. RIVERS: I ask unanimous consent.

McCUTCHEON: I object.

PRESIDENT EGAN: Is there a second to the motion?

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Buckalew seconds the motion. The motion is open for discussion. Is there discussion on the proposed amendment? Mr. McNealy.

McNEALY: Mr. President, with this deletion the language then contains the same language as in House Bill 2535 and no other language. It is merely the required language that Congress required us to set out in the constitution. As to the items stricken, possibly Mr. McCutcheon or someone from the Legislative Committee could explain why they were there. The explanations were given to the Committee this afternoon. We propose under this amendment to only retain the language required under the enabling act.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. McCutcheon.

McCUTCHEON: Mr. President, insofar as from line 16 on. "The foregoing ordinances," etc., "shall be irrevocable." I don't recognize that type of terminology in the legislative act. I do, however, recognize the terminology that "Nothing in this section shall prevent this state from accepting any payments in lieu of taxes, and I don't see why it would be necessary to strike even that particular section of this particular section here, for the reason that it may be that in some date in the future, taxes, or payments in lieu of taxes, will be provided by

the United States for these certain lands, and we wish it to be specific that the Territory or the new State of Alaska, rather, is not in any way proscribed from accepting such payments in lieu of taxes, and I feel it might be prejudicial to the new state to strike this particular sentence. Insofar as the sentence that begins on line 16, page 2, of Section 1, I am not concerned necessarily with that particular sentence, but I do feel that it might be essential that we retain the previous sentence to that for the benefit of the new state.

PRESIDENT EGAN: Is there further discussion? Mr. Hellenenthal.

HELLENTHAL: Yes. Mr. President, the insistence upon the language that would authorize payments in lieu of taxes is based, in my opinion, upon a misconception of the reasons for the language in the Act of Congress or rather in the bill pending before Congress. The reason why Congress requires that the new state does not interfere with the lands or other property including fishing rights, title to which is held by Indians, Eskimos, or Aleuts; that is the first category, or the second category which is land held by the United States in trust for the Natives. The reason why Congress in this bill requires that no disposition be made of those lands is simply because Congress wants to give those lands to the people for whom they have held them all these many years. Congress has no intention of keeping those lands in a tax-exempt status or in holding the title forevermore. The bill merely enunciates the old principle that Congress desires to take care of the Indians and Aleuts and Eskimos itself. That is the reason for the language. So this language about accepting payments in lieu of taxes is out of place in this section, completely out of place. It isn't necessary anyway in the constitution, but its use, coupled with the bill and the language of the bill, shows clearly that we have misconstrued and have not read the Act of Congress and do not understand its intention. Therefore, I think the Committee acted very wisely, very wisely in deleting the last seven lines of Section 1.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: All the things that Mr. Hellenenthal said may be true, but if he or someone else can show me that it is not necessary for that language to be in there, or that it is in the wrong place, that is quite all right. I am not able to say whether it is in the right place or not, but I do know that this particular section says that "No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives," etc., and I do know that in Kodiak we have Indian reservations all through the town, so to speak, right downtown on the main street, business property, etc., which is

exempt from tax, and I was the one that asked that this be put in -- this section when the article on legislation was being drafted, and upon advice of consultants who were with us at that time, we put it in, and the language was theirs and not mine. I only want to be assured that if the time comes that the United States decides that they should compensate small communities in Alaska in some way for the taxes that they are not permitting them to collect right downtown, in the business sections of the town in particular, I would like to be able to have the various communities accept it and not just because we have made a disclaimer be unable to take advantage of any advantage that is offered us, so if somebody can show me where that is taken care of someplace else, then I withdraw my objection to it in this particular place.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Hinckel, I don't know whether I can explain it to you or not, but the reason that language is unnecessary in my opinion is in line 8, speaking of Congress, it says "...except to such extent as the Congress has prescribed or may hereafter prescribe." If Congress changed the law and provided that they would make refund payments, there is the language that will do it, and there is no necessity for language in here which looks like the state is going to accept the money, because if Congress so passed an act and said that they could give the money to the city of Kodiak, I am sure that the city of Kodiak would accept it, and the language in my opinion is unnecessary.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I find myself at difference with Mr. Hellenthal and Mr. Buckalew on particularly this two and one-half lines to be found here in lines 13, 14, 15 of Section 1 on page 2. I feel definitely that this should be included as part of the constitution. I join with Mr. Hinckel in his observation that if you can show us where it is adequately covered otherwise in the article on ordinance and transitional measures, or otherwise in the constitution itself, I too would withdraw my objection, but I do feel it is a very important part of the present measure. I will address that to you, Mr. Hellenthal, as a question.

PRESIDENT EGAN: Do you care to answer that, Mr. Hellenthal?

HELLENTHAL: Yes, Mr. President. Now, we are dealing now with the requirement in the enabling bill that reads as follows: "No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States," that is the first class of property; then the second, "...or which as hereinabove set forth, may belong to the said Natives,"

-- two classes of property. Now, as to the first, it does not take any language whatsoever in the constitution to authorize the new state to accept the payment in lieu of taxes; no language is necessary at all to accomplish that purpose: if Congress decides to make us a payment in lieu of taxes, which the 48 states have been trying to get Congress to do for the last 25 years in connection with federally owned properties within the states, and which Congress for 25 years has refused to let get out of committee. So that isn't much of a problem. Now, as to the second class which are the Native lands, and the Native fishing rights and the Native properties; in Mr. Hinckel's case those Native claims are protected by a treaty. It is because of the treaty with Russia that the city of Kodiak cannot tax the Native lands in Kodiak, and that was the subject of a recent decision in the Third Judicial Division, and this language in here, permitting the state to accept a payment in lieu of taxes, certainly wouldn't give Kodiak any consolation, and it is unnecessary anyway, because if Congress decides to give it to Kodiak or to the new state in lieu of taxes, we can always accept it and we don't need anything in the constitution to permit it.

PRESIDENT EGAN: Is there further discussion? Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask a question of Mr. Hellenenthal. We have various parcels of land around throughout the Territory in which there are reservations and these reservations have been set up for the Native peoples and they have accepted title to them and they are tax-exempt, but I know of some cases in which they would like to participate in municipal activities. Now, in the fact that they live on and reside on tax-exempt lands, they cannot be taxed. Could they accept or pay, if they expressed a desire voluntarily in lieu of taxes, the payments that would be proportionate we'll say to the taxes in that area, and then participate in the government as full citizens? The problem arises there that they do not want to be discriminated against, and I was thinking that the line and the words "here exempt" or the words "that may be authorized by Congress" might well be stricken because that might limit the payment in lieu of taxes to action taken by Congress where there might be a desire on the part of the people themselves to make payments in lieu of taxes so they can participate in their local government.

HELLENTHAL: What property situations do you have in mind, Mr. Rivers?

V. RIVERS: I have a number of small reservation areas up around in the Second Division, up near Unalakleet is one and farther

on over to the Westward in the Northcentral part of Alaska, there are some in that area.

HELLENTHAL: Mr. President, may I address a question to Mr. Rivers?

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal.

HELLENTHAL: Do you know of any situation where there is a Native reservation in Alaska within the confines of a taxing authority, a property-taxing authority?

V. RIVERS: Not at the moment, but our thought is that there will be, and they do not want to be excluded by such language we might adopt here.

HELLENTHAL: Another question. Who is going to create them?

V. RIVERS: Doubtless the State of Alaska. We have provided for it in our local government.

HELLENTHAL: For the creation of Indian reservations?

V. RIVERS: No, for the creation of local government units within which will lie Indian reservations that want to participate in the local government.

HELLENTHAL: Well, if that is a form of a question, I think it is highly improbable and I don't think it presents any problem at all. If someone wants to make a payment in lieu of taxes they can always do it, and it does not require any constitutional language to accept it.

V. RIVERS: Of course we have constitutional language here that says "may be authorized by Congress." They might have to take an act of Congress under this wording before they could do so.

HELLENTHAL: That is why it should all be stricken.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, another point here is that this says "The state may accept such payments in lieu of taxes as Congress may authorize." This says nothing about the political subdivisions of the state, and it says nothing about individual Natives paying something in lieu of taxes for fire protection or other services that the individual Native might want. I think that any sovereign state has the authority to accept money which is granted to it by Congress in lieu of taxes, so I support the Committee's amendment, and this is not necessary.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I feel I speak at least for the majority of the Committee. It says in the first three lines of this article, "The State of Alaska and its people do agree that they forever disclaim all right and title to any lands or other property. etc." We felt that in the face of that absolute disclaimer, because there were two different categories of property set up in this particular section, that it would be necessary for us to make some sort of provision whereby the state could accept, in the event that Congress saw fit to make such payments to the state, because otherwise we had agreed to forever disclaim any right or title, any right as far as our Committee felt might be some sort of a payment in lieu of taxes. Now, in face of the argument, I, as the Chairman of the Committee, am still not convinced that this committee amendment should carry. It may be that they are in all justice, correct, but I feel constrained to vote against it because as far as I am concerned, we must make some sort of provision to abrogate this disclaimer in the event that the agency of the government may feel that because of certain circumstances and because of the ownership of the government in certain state lands, or otherwise, that they may wish to make a certain type of a payment in lieu of taxes, that we must have some sort of a situation here which will permit the state to accept it in the face of this absolute disclaimer.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: I consider this a closing speech --

PRESIDENT EGAN: Is there any other delegate who wishes to be heard?

McNEALY: I would like to waive the right, if any other delegate after I speak wishes to speak, this will be my closing speech. Mr. McCutcheon, it was not the desire of our Committee to substantially alter your committee proposal, and I am only going to read this in line with what Mr. Buckalew stated, and if you and if the Convention feel that the Ordinance Committee interpretation of this is wrong, then we certainly would have no objections to this particular sentence, "in lieu of taxes", remaining in the article. As to this particular proposal, starting at the semicolon on line 4, page 2, and just reading the highlights here, "...and that no taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe," and the thought of the Committee there simply, in offering this amendment, was that Congress could prescribe payment, or taxes, hereafter if they so desired.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by the Committee on Ordinances be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 30 - Awes, Boswell, Buckalew, Collins, Cross, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, King, Knight, Laws, McLaughlin, McNealy, Marston, Nerland, Nordale, R. Rivers, Rosswog, Smith, Stewart, Sundborg, White, Wien, Mr. President.

Nays: 22 - Armstrong, Barr, Coghill, Cooper, Davis, Doogan, H. Fischer, Hinckel, Johnson, Lee, Londborg, McCutcheon, McNees, Metcalf, Nolan, Peratrovich, Poulsen, Reader, V. Rivers, Sweeney, Taylor, Walsh.

Absent: 3 - Riley, Robertson, VanderLeest.)

PRESIDENT EGAN: The Convention will come to order.

CHIEF CLERK: 30 yeas, 22 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it, and the proposed amendment is ordered adopted. Are there other committee amendments to be proposed for Committee Proposal No. 16? Mr. McNealy.

McNEALY: Mr. President, we have a committee proposed amendment to Section 2.

PRESIDENT EGAN: The Chief Clerk may read the proposed committee amendment.

CHIEF CLERK: "Page 2, strike Section 2."

PRESIDENT EGAN: What is your pleasure, Mr. McNealy?

McNEALY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the proposed amendment. Is there a second?

BARR: I second the motion.

PRESIDENT EGAN: Mr. Barr seconds the motion. The motion is open for discussion. Mr. Smith.

SMITH: I would like to ask a question of the Chairman of the Committee if I may.

PRESIDENT EGAN: If there is no objection, Mr. Smith.

SMITH: Mr. McNealy, did the Committee propose to substitute a new Section 2 after the deletion of the present Section 2?

McNEALY: There was no proposal as such by the Committee. Our thought -- we couldn't arrive definitely at a decision in the Committee, and in this matter I want to bring the matter out on the floor for discussion.

SMITH: Mr. President, I would like to ask a question if I might. After this section is deleted, it would be possible to introduce an amendment for a new Section 2, would it?

PRESIDENT EGAN: That is correct, Mr. Smith. Mr. McNealy.

McNEALY: Mr. President, in the Committee and with the consultants today -- however, I believe they came in after the Committee had fairly well decided whether it was advisable for us or not to attempt to approve something that wasn't in existence, and the purpose of the Committee preparing this in the first place comes from House Bill 2535, and it is one of the required provisions that Congress called for in this enabling act under Section 5 which reads as follows: "That all the provisions of this Act reserving rights or powers to the United States, as well as those prescribing the terms or conditions of grants of lands or other property made to the state are consented to fully by said state and its people." Now, Mr. President, your Committee realizes that if we were drawing this constitution under the enabling act then we would have no problem, we simply would write in the provision out of the enabling act. But in the section we have adopted we have given a carte blanche approval here -- if this section is not deleted we would be giving carte blanche approval to any enabling act that Congress might write -- and they could very well, say, write up a bill there, partitioning Alaska and putting the Second and Fourth Divisions in the military reserve and granting statehood to the rest, and then at least we up here would be opposed to statehood under those terms. That may be a little farfetched, but there may be other matters which Congress could write in which we would not want to approve in advance. The Committee felt under the language here that if we wrote this in we would be buying a "pig in a poke" possibly.

PRESIDENT EGAN: Is there further discussion? Mr. Smith.

SMIHT: Perhaps I should wait until this proposed amendment is acted on. I had intended to ask 8 question, but it would not be pertinent.

PRESIDENT EGAN: Is there further discussion of the proposed amendment?
Mr. Barr.

BARR: Mr. President, I agree with everything that Mr. McNealy says. This section right here is a blank check for all future enabling acts. Now, we can't say we will obtain statehood this year or next, and this says that we agree to accept all conditions imposed upon us by any enabling act written within the next 50 or 100 years in case we don't have statehood by that time. It is not necessary in this constitution because, as you know, every committee in writing up their proposals, their committee reports, have continually looked at the present enabling act and have written up these different articles and different sections to agree with that enabling act, so we have conformed to all the conditions imposed on us by the present enabling act. We have done that in the constitution, so this is merely restating the same thing, but it is holding us to the same conditions on all future enabling acts, and I don't propose to write any blank checks like that.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes have it and the proposed amendment is ordered adopted. Mr. Smith.

SMITH: Mr. President, I have an amendment to offer as a new Section 2 to Committee Proposal No. 16.

PRESIDENT EGAN: Mr. Smith, the Chair would first like to inquire of the Chairman of the Committee whether the Committee has any other proposed amendments to the proposal before we accept amendments from the floor. Mr. McNealy?

MCNEALY: Mr. President, we do have to the committee proposal if the Chair would care to pass on to Section 3.

PRESIDENT EGAN: Yes, on Section 3, Mr. McNealy.

MCNEALY: I would like to make it orally; it is very brief. "Strike Section 3."

PRESIDENT EGAN: Mr. McNealy moves that Section 3 be deleted from the proposal. Is that a committee amendment, Mr. McNealy?

MCNEALY: That is a committee amendment.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Buckalew seconds the motion. Mr. McNealy.

McNEALY: Mr. President, this was drawn prior to the time the proposal was on the floor with regard to the University of Alaska, and since the other proposal has already been passed by this body, why we should ask unanimous consent.

PRESIDENT EGAN: Is there objection to the unanimous consent request that the amendment be adopted? Hearing no objection the proposed amendment is ordered adopted. Mr. McNealy, would you wish a recess at this time or are you willing to accept the other proposed amendments now to the proposal?

McNEALY: If we could, Mr. President, have just a one minute recess, so I could talk to Mr. Smith.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will read the proposed amendment as offered by Mr. Smith.

CHIEF CLERK: "Section 2. All provisions of the Act admitting Alaska to the Union which reserves rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska, are consented to fully by the State of Alaska and its people."

SMITH: Mr. President, I move the adoption of the proposed amendment.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Smith moves the adoption of the proposed amendment, seconded by Mr. Johnson. Mr. Smith.

SMITH: Mr. President, this amendment contains the exact wording of the latest enabling bills. The omission of this provision in the Hawaiian Constitution has resulted in the fact that the people of Hawaii are going to have to amend their constitution before it will be acceptable to Congress. Now, this has been referred to as merely an enabling bill and it has been intimated that this wording may be changed. However, this exact wording has been carried forward in every enabling bill presented to Congress since 1950, and I feel that if we are going to meet the requirements of the enabling acts that this provision must go into our constitution.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, unfortunate as it may appear, I am inclined to disagree with Mr. Smith. I don't believe that Alaskans should accept statehood under any circumstances. There are some conditions under which I don't believe we should bow down or stoop so low as to accept statehood. Statehood isn't the only thing in this world. We have survived some 70 or 80 years as a territory. Unless we can have some respectable type of offer from Congress we shouldn't just bow our heads and say, "O.K., we will take statehood under any circumstances." Consequently, I am opposed to this type of thing. It is possible there can be some kind of terminology worked out whereby Alaska is willing to concede that we are asking for statehood and that we shall accept it, but to say that under any circumstances, after we have adopted this constitution, we will accept whatever Congress gives us, I don't think is a fair offer to our own people, and consequently, predicated on those arguments, I am inclined to oppose this particular section as it is stated.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I am wondering if there is not a way out where we could eventually adopt this section but not grant a blank check to Congress. If you consider the time schedule for statehood, the constitution will be ratified, we may elect two senators and a representative. The next step is up to Congress; Congress passes an enabling bill. Under that bill before we actually become a state we will have to elect a governor and the members of our legislature, and their election will have to be certified to the President of the United States, and then he issues the proclamation under which we actually become a state. Would it not be possible to leave this provision out of our constitution, out of the schedule of ordinances, and provide that an ordinance of this type be submitted to the voters of Alaska after Congress passes the enabling bill, and be up for ratification at the same time that we vote on the governor and the members of the legislature, which will be our final action prior to becoming a state?

PRESIDENT EGAN: Does anyone know the answer to that question? Mr. White.

WHITE: Mr. President, I would like to rise in support of the same vein of thought that Mr. Fischer was developing here. I think we not only have to strike Section 2 such as we have done, which in effect was signing a blank check, but it appears to me that we have got to reserve some way of passing on an enabling act that might be passed in the future and that the method Mr. Fischer suggests might be one way of doing it. In the case of Hawaii, Hawaii left out a couple of things that Congress thought ought to be in there and Congress merely provided that at the time of

going through their voting procedure they would vote on two items that Congress felt should be in the constitution, and should those items be passed the constitution would be deemed amended and everything would be O.K., and it says, "In the event the foregoing propositions are not adopted at said election by a majority of the legal votes cast on said submission the provisions of this Act shall thereupon cease to be effective." It appears to me we might be well advised to retain some way of voting directly on whether we like the enabling act that might be presented to us sometime in the future or not. There is one other objection I have to the inclusion of Mr. Smith's proposed amendment, and that is throughout the Territory of Alaska today many people object strenuously to the provisions in the current enabling act requiring the state to retain titles to all the minerals, and the only answer we have been able to make is, "It is in the enabling act; there is nothing we can do about it." But I feel by including the language of Section 5 of HR 2535 here, we are going a little further than we ought to indicating to the Congress that we like that provision.

PRESIDENT EGAN: Mr. White, are you suggesting, perhaps, we defer action on this question that Mr. Smith now has before us until a later time in which, perhaps, all the interested delegates could confer with consultants or others who might have an answer to this problem? Is that your suggestion?

WHITE: In my opinion, Mr. President, that would be the best method of procedure.

PRESIDENT EGAN: And would you have objection, Mr. Smith?

SMITH: I would have no objection, Mr. President. This matter was discussed rather thoroughly by the Committee and some of the consultants, and I merely put this amendment before the group to bring out the very discussion which is taking place. The wording if this provision is not radical, it is not new; it has appeared in several state constitutions, but I don't know of any other states who have drawn constitutions and ratified constitutions before the passage of their enabling acts. I have not the history of any states that might have followed that procedure, but if Congress followed the same procedure in the case of Alaska as they have followed in the case of Hawaii, then I would favor leaving this section or some requirement out of the constitution for the very reason that Mr. White has pointed out. So, it is a matter that this group will have to decide, and I will say again that my reason for presenting this amendment was to bring out the very discussion which has taken place, and I have no objection to further discussion with the Committee or on the floor.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Here is my thinking on this, Mr. President. Congress could make us take statehood whether we wanted it or not because we don't have control over our destinies at all. If Congress wanted to divide it up into six states and so did, I guess we would be divided into six states. The only thing we could do is holler about it, maybe refuse to go ahead and function as a state, but we would be six states if Congress so directed. And I wondered if we could pass a resolution, and in the resolution memorialize Congress, and direct our Senators and Delegates that we won't accept statehood on any terms unless they are substantially the same as in this house bill and then we could instruct our Senators to tell the Congressmen if they give us less than this last house bill, we won't take it. I think that would probably cure the problem and it wouldn't be a blank check because the Senators would say. "We won't accept it." Now, we wouldn't have the authority to do it but it would certainly show Congress and our elected representatives under what terms we would take statehood, and it would probably save us the trouble of going back to the people. I don't think that Congress is going to pass any enabling bill that is less generous than the one they have had on the books. The tendency is to give us more as we go along. I don't think we have any real danger and if we passed a resolution I think our elected representatives could protect us enough. They could certainly tell Congress that the people in Alaska are not going to take it. Of course, it wouldn't mean anything because we would have to take it if they gave it to us. As a matter of fact, I don't think that language is operative anyway, because I believe Congress could shove anything down our throats they want. They might give us an elective governor bill and never give us statehood. If that is what they decide to do, I guess we'll have to take it; and we have decided that we are not going to secede, or anything like that, or issue butternutgray uniforms, so I think we are sort of stuck.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President. I suspect that we are, perhaps, exhibiting not humility but \$300,000 worth of gall when we suggest that we are not going to consent to the Act of Congress admitting us, and that it will only be on our own terms. The whole debate here during the past three months has been how to get in rather than how to stay out. We have obligingly, under one of the current enabling acts, we have obligingly conformed because the said Convention has provided, first, that no law shall be enacted respecting establishment of religion; second, that we have a disclaimer in there to the properties of the United States, we have abided by that; and we have said the state will assume the debts and liabilities of the Territory. We have made provision

for an establishment and maintenance of a system of public schools, and we have assured them that the lands and other property belonging to the citizens of the United States residing without the State will never be taxed at a higher rate than lands or other property belonging to the residents thereof, and then on the most vital condition and requirement in this act we blithely say, "Well, no, we have to see what they are offering us." Frankly, Hawaii made the mistake and it will probably cost them \$300,000. And what the answer is, possibly Mr. White's solution is an excellent one. I would recommend, under the circumstances, rather than possibly fall into a \$300,000 boner, that we put the matter over and discuss it further.

PRESIDENT EGAN: If there is no objection this proposed amendment will be held in abeyance until a later time and perhaps after adequate discussion -- Mr. Hellenthal.

HELLENTHAL: I have one question I would like to ask Mr. Smith.

LEE: May I have the floor.

PRESIDENT EGAN: Mr. Lee.

LEE: I don't have very much to say. I concur with Mr. McLaughlin. I would like to quote a classic statement made by an eminent advocate of statehood some years ago. He said, "We will cut the pattern to fit the cloth," and he also said. "If we can't eat steak we will eat beans." Is that correct? (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher.

KILCHER: Mr. President, I suggest we have a two-minute recess at this time.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for two or three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Smith's proposed amendment. The Chief Clerk will please read the proposed amendment. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I ask unanimous consent that the consideration of this motion be put over for at least 24 hours.

PRESIDENT EGAN: Is there objection to the unanimous consent request made by Mr. McLaughlin? Miss Awes.

AWES: I don't want to object, but would it be in order for me to make a comment?

PRESIDENT EGAN: If there is no objection, Miss Awes, you might make a comment.

AWES: I was just thinking that it seems to me that certain other states must have met this same problem. I should think that all of those who have gone in under the Tennessee Plan that we heard tonight must have gone in before an enabling act was passed, and I should think that before we decide what to do, that somebody ought to look into the matter of how it was handled by the other states.

PRESIDENT EGAN: Well, then is there objection to the unanimous consent request to hold this over until tomorrow evening?

HERMANN: May we have it read again?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 2. All provisions of the Act admitting Alaska to the Union which reserves rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska, are consented to fully by the State of Alaska and its people."

PRESIDENT EGAN: Is there objection to Mr. McLaughlin's unanimous consent request? If there is no objection, the proposed amendment will be held over until tomorrow evening. Mr. Taylor.

TAYLOR: Mr. President, to put that off for 24 hours will be 9:18 o'clock tomorrow night.

PRESIDENT EGAN: Will you remember that, Mr. Taylor, please. The Convention will come to order. (Laughter)

EMBERG: May I request we be furnished mimeographed copies of that?

PRESIDENT EGAN: If there is no objection, the Chief Clerk will furnish all delegates with mimeographed copies of the proposed amendment. Mr. Sundborg.

SUNDBORG: May I have permission to make a comment on this same matter?

PRESIDENT EGAN: If there is no objection. Mr. Sundborg.

SUNDBORG: I believe we should perhaps give a little attention to something that Mr. Buckalew said a moment ago and review it because I am sure it was not correct, and that was that Congress, whether we wanted to be a state or not, could force statehood upon us. I know that in the history of the United States, statehood was never forced upon any territory. A state can only be formed by the people of that state. All Congress can do is pass what is called an enabling act. The enabling act is an act which permits the people, if they desire to do so, to become a state. Congress could not force statehood upon us on their own terms. We would have to consent to those terms. We, the people of Alaska, would have to form the state. It could not be formed for us by anyone else.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I would like to make a brief comment, too. I would like to point out that we have already departed from the Act of Congress that I hold in my hands, in connection with the provisions of Mr. Smith's Committee with respect to mineral lands. Nowhere in the natural resources article that we adopted did we follow the language of the house bill as contained on page 39 where it is required that, "...all grants of mineral lands be made upon the express condition that all sales, grants, deeds, or patents shall be subject to and contain a reservation to the state of all of the minerals in the lands so sold, granted, deeded, or patented." If we are going to get consistent we should then change the natural resources article, and it is for that reason that I think this unanimous consent request was very wise.

PRESIDENT EGAN: Mr. McNealy, do you or your Committee have other amendments to offer to this proposal?

McNEALY: No further amendments.

PRESIDENT EGAN: Do you have objection to other amendments being offered from the floor, if there are any, at this time?

McNEALY: No objections.

PRESIDENT EGAN: Are there other amendments to Section 1? Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until tomorrow morning at 9:00 o'clock.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand adjourned until tomorrow morning at 9:00 o'clock. Mr. Sundborg.

SUNDBORG: I wonder if Mr. Johnson would consent to withhold his motion so that we might revert to the topic of committee reports, briefly?

JOHNSON: I will be glad to, Mr. President.

PRESIDENT EGAN: If there is no objection the Convention will revert to the order of business of introduction of committee reports at this time. Mr. Sundborg.

SUNDBORG: Mr. President, your Committee on Style and Drafting reports back to the Convention two articles which were referred to us. One is the article embraced in Committee Proposal No. 3 having to do with the initiative, referendum and recall. The other is the article embraced in Committee Proposal No. 1 on the subject of suffrage and elections. We would suggest, Mr. President, that our report, which has been placed on the desk of each delegate, be referred to the Rules Committee for a place on the calendar.

PRESIDENT EGAN: The reports of the Committee on Style and Drafting are referred to the Rules Committee for assignment to the calendar. Are there committee announcements or other reports of committees to be made at this time? Mr. Hellenthal.

HELLENTHAL: Mr. President, I should like that the description of election districts consisting of nine pages, numbered 2 to 9, inclusive, be considered in first reading.

PRESIDENT EGAN: The Chief Clerk will read Committee Proposal No. 14 for the first time.

CHIEF CLERK: It is just the description part. The proposal is just the description of election districts.

PRESIDENT EGAN: The proposal itself was read for the first time?

CHIEF CLERK: It is in Engrossment and Enrollment.

PRESIDENT EGAN: The description of the election districts, could you read those titles for the first time? Mr. Sundborg.

SUNDBORG: Mr. President, if I may, I believe the proposal itself was read for the first time and referred, the whole proposal has been read for the second time with the exception of this schedule, and I believe that what is in order now is the reading of this in second reading.

PRESIDENT EGAN: Have these titles been read previously?

CHIEF CLERK: This part has, you see. It is just the description that hasn't been read.

PRESIDENT EGAN: Then the description of election districts is referred to the Rules Committee for assignment to the calendar. Mr. Rosswog.

ROSSWOG: Is this section in first reading now or must it go on to second reading?

PRESIDENT EGAN: It will be in second reading when the Rules Committee assigns it to the calendar, yes, Mr. Rosswog. Are there other committee announcements to be made at this time?

McCUTCHEON: Question.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Well, I guess I can't tell because I don't know when we will recess, so I can't make my announcement.

PRESIDENT EGAN: Mrs. Sweeney, it appears that the maker of the motion to adjourn is about ready to renew his request. Mrs. Sweeney.

SWEENEY: I will adjourn if that is what you want, but I was going to make a committee announcement. Mr. President, I move and ask unanimous consent that we recess until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the Convention stand adjourned until 9:00 a.m. tomorrow morning. Are there committee announcements to be made prior to that time that the question is put? If not, the question is, "Shall the Convention stand adjourned until 9:00 a.m. tomorrow?" All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

January 24, 1956

SIXTY-THIRD DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Reverend Gurr of the Pentecostal Church of God. Reverend Gurr will give our daily invocation.

REVEREND GURR: Gracious Heavenly Father, we come unto Thee this morning, thanking Thee for Thy goodness and Thy mercy to all mankind, praying unto Thee, O God, as Solomon prayed of old, that, mighty God, this morning Thou would grant unto this body of people, God, wisdom and understanding, God. God, be with them, Lord God, in each one of their meditations and decisions. Help them, O God, in each one of their decisions. Lead them, mighty God, that they might be able, God, to do something, Lord, that will edify Thee and to edify all mankind. God, we pray that Thou will guide them, Lord, in every act that they do. Be with them, Lord God, throughout this Convention. Help each one, O God, to be a brother to his neighbor. In Jesus' name we ask it. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Four absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: Reporting for the journal's 56th day and not finding any errors or omissions, I ask unanimous consent that the reading be dispensed with and the journal be approved.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the journal of the 56th day be approved as read by the special Committee to read the journal. Is there objection? Hearing no objection, it is so ordered. Are there any communications or petitions from outside the Convention? Are there reports of standing committees? Select committees? Are there any motions or resolutions? If not we will proceed with our calendar. Mr. Riley?

RILEY: Mr. President, I might call attention to two matters on the calendar which the members might note. The calendar was in the boiler room last evening before Committee Proposal No. 14 had been ordered to the calendar -- that is the election district descriptions -- which might be entered now under second reading for consideration today. Also, Committee Proposal

No. 16, after this calendar was published, was put over for 24 hours, last evening, so it may be out of order as it appears here.

PRESIDENT EGAN: We have Committee Proposal No. 17 before us then at this time. Is that right? Initiative and referendum? Mr. Sundborg?

SUNDBORG: In order that we can get Committee Proposal No. 14 all together again so that it can be considered in its entirety in the Style and Drafting Committee, I would like to move and ask unanimous consent that we now consider in second reading the portion of Committee Proposal No. 14 that was reported to the Convention yesterday by the Committee on Apportionment; that is, the descriptions of election districts.

PRESIDENT EGAN: You have heard Mr. Sundborg's unanimous consent request; is there objection? Mr. Nolan?

NOLAN: There is one item in here that I would like to check on the map first, unless it comes back up again for second reading for change later on?

PRESIDENT EGAN: Would you care to hold that over?

SUNDBORG: I'll withdraw my request, Mr. President.

PRESIDENT EGAN: If not, then we will have the proposal relating to initiative, referendum, and recall at this time. Mr. Johnson?

JOHNSON: A point of inquiry. Did I understand you to say we were to begin on the initiative and referendum?

PRESIDENT EGAN: That is what the calendar shows, Mr. Johnson, at the top of the page. The Chair did not note that originally. What number is that on the enrolled copy?

CHIEF CLERK: It is headed "Style and Drafting Report".

PRESIDENT EGAN: The Chief Clerk may read the proposal. Mr. Sundborg.

SUNDBORG: I wonder if we may have our report read since it relates directly to the proposal.

(The Chief Clerk began to read the report.)

PRESIDENT EGAN: Do you wish to read the whole report?

CHIEF CLERK: Oh. Initiative and referendum, I'm sorry.

(The Chief Clerk then read the report of the Committee on

Style and Drafting concerning Committee Proposal No. 3, initiative, referendum and recall, in its entirety.)

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe the covering letter points out most of the changes which have been made since this article left the floor. I wonder if we may take it up section by section?

PRESIDENT EGAN: Yes, Mr. Sundborg.

SUNDBORG: And I would be willing to answer questions.

PRESIDENT EGAN: Section 1, are there questions relative to Section 1? Does any delegate have a question in relation to Section 1?

SUNDBORG: I might mention, Mr. President, that from the enrolled copy we have combined Sections 1 and 2 therein, into Section 1 of the Style and Drafting report.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Shall we put it this way? Is the referendum limited to only the acts of the legislature?

SUNDBORG: That is my understanding, Mr. McNees.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I just wonder if it was necessary to combine those two. The language that was used by the Committee and approved on the floor here is the same language that is used in practically every constitution that uses the initiative and referendum. It is practically a standard definition and reads well and sounded good to practically everybody. The new language as used by the Committee on Style and Drafting, personally, doesn't appeal to me anywhere near as much. I just wonder if Style and Drafting isn't, for the sake of brevity, condensing our constitution to the point where it doesn't sound or look good.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Our thought on that and our decision was based on the fact that in the enrolled copy, Sections 1 and 2 both were concerned with a reservation of power by the people, or to the people, and we were able to reserve that power, covering both of these situations in a section which is shorter than even the referendum section alone as it appeared in the enrolled copy, and one of our desires throughout has been not to condense, necessarily but to express the ideas of the constitution succinctly and without unnecessary words in order that it won't

repeat itself and go on at great length. We have no strong feelings in this matter but this thing that we have done, combining Sections 1 and 2 of the enrolled copy into a single section here, which we think is clear and we couldn't possibly misconstrue it, is just typical of the sort of thing that Style and Drafting has been doing throughout the proposals which it has been working on.

PRESIDENT EGAN: Are there other questions?

SUNDBORG: There is no substantive change that has been made and we do feel that Section 1 in our redraft does read well.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, there is a substantive question here that is not a change by Style and Drafting that I think, specifically, Mr. McNees's previous question brings it into my mind, that we might have overlooked something. In the first place, namely, that the referendum can reject acts of the legislature only. How about rejecting a law that has been initiated two or three years before? Is it our intention that such a law shall not be subject to change by referendum at a later date?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. Kilcher, I believe it was the intention of the Convention, if we will look at what is Section 5 in our draft and what in the enrolled copy was line 14 on page 2; I will read from the enrolled copy. It says, "Referendum petitions shall be filed within 90 days after adjournment of the legislative session at which the measure was passed." Now, I think that ties us down definitely to make the referendum apply only to acts passed by the Legislature, and it also said in Section 2 of the original enrolled copy that, "The people reserve the power to require, by petition, that laws enacted by the Legislature be submitted to the voters for approval or rejection.

KILCHER: I realize that, Mr. Sundborg. I said that a substantive question that does not arise from your Committee's changes, but that generally, I think, whether it has been given enough thought in the first place. I would like to maybe ask the committee chairman of the substantive committee if that idea has been given sufficient thought. I, for one, do not know how technically a law enacted by initiative could be changed and by whom. By the legislature? If not -- if somebody has the answer I would be pleased to hear it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Although the question wasn't addressed to me, Mr. Collins, may I attempt to answer that?

COLLINS: You may, Mr. Sundborg.

SUNDBORG: I believe the remedy there, Mr. Kilcher, would be for a new initiative to be introduced. That is, something which has been put on the books by initiative could be repealed or changed in any respect by another initiative, which would simply change its language or saying that, "Section so-and-so of the laws are hereby repealed." That would go through the initiative process and be accepted and adopted by the people; that law would then go off the books.

KILCHER: In other words, you think it might be possible by another initiative to strike, delete, or amend any law?

SUNDBORG: I am certain of that Mr. Kilcher.

KILCHER: Thank you.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I think Section 6 answers Mr. Kilcher's question on line 19. Beginning on line 19, "An initiated law is effective 90 days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date." And following is the part which I feel answers the question, "It may be amended at any time."

PRESIDENT EGAN: Mr. Johnson? Mr. Barr?

BARR: In Section No. 1, on the second line it says, "... and approve or reject acts of the legislature." Now, of course, that word "acts" means two things. It means an action or it may mean a law enacted that is called an act afterwards. Now I took this to mean a law "may approve or reject laws passed by the legislature". Was that the intention of the Committee? Suppose they did not pass a law? In other words, they took action against a bill, then could that be referred or initiative taken on it? It seems to me "action" would be better, which would include both passage or defeat of a bill.

SUNDBORG: I think it is probably clear from Section 5, where the detailed procedure is discussed, that it could apply only to laws. It says there, "Referendum petitions may be filed only within 90 days after adjournment of the legislative session at which the act was passed."

BARR: Now that is what concerns me, because if the legislature fails to pass a law that the people think is necessary, then they should have the power to initiate that law. That is not an act that is passed, that is an act that failed. It isn't an act; it is a bill that failed.

SUNDBORG: Mr. Barr, they do have the power to initiate such a law under the initiative. There is nothing that says they can't.

BARR: How about on the referendum? The legislature wouldn't, if it failed, naturally they wouldn't refer it to the people.

SUNDBORG: That is right. Then it would have to be initiated.

BARR: It would have to be initiated.

SUNDBORG: There was, as I remember it, a proposal, I think it was in the proposal on the legislative, where there was a provision for acts which had not been passed, or something of the kind, to be referred. Is that correct?

PRESIDENT EGAN: Mr. McNees?

MCNEES: I have that here, Mr. Sundborg. It is something I have been checking on. Section 21 in the original legislative article.

BARR: Well, that answers the question pretty well.

SUNDBORG: And it was deleted, was it not, by the Convention?

MCNEES: Not to my knowledge. That was the reason I was raising the question.

SUNDBORG: How does it read, Mr. McNees?

MCNEES: Section 21, "Any bill failing of passage by the legislature may be submitted to referendum by order of the governor either in its original form or with such amendments which were considered by the legislature, as he may designate. Any bill which, having passed the legislature, is returned thereto by the governor with objections and, upon reconsideration, is not approved by the majority as required by this constitution, may be submitted to referendum by a majority of all the members sitting as one body." Of course, that would lead to legislative action.

SUNDBORG: I believe that the whole thing was deleted by action of the Convention because it does not appear in the enrolled copy of the act on the legislature, Mr. McNees.

MCNEES: I know it does not appear in the enrolled copy.

PRESIDENT EGAN: Mrs. Sweeney, do you recall?

SWEENEY: I was just looking for it. I don't recall right offhand.

SUNDBORG: I know we have been working in our Committee on the proposal on the legislature and it does not contain it in the enrolled copy.

PRESIDENT EGAN: Mr. McCutcheon, do you know or do you recall what happened?

MCCUTCHEON: Yes, Mr. President. That particular section of our article was deleted by amendment on the floor.

BARR: The entire section?

MCCUTCHEON: The whole thing was struck.

PRESIDENT EGAN: Are there other questions with relation to Section 1? Are there questions on Section 2? Mr. Robertson?

ROBERTSON: In line 10, Style and Drafting has said, "Denial of certification is subject to judicial review." The enrolled copy in Section 4, line 16, it says that "certification shall be reviewable by the courts". Now it seems to me a "denial of certification" is different than "certification", and if it is, at least there ought to be an allowance or denial that certification is reviewable by the courts.

SUNDBORG: Mr. President, I wonder if Mr. Robertson is looking at the enrolled copy or is he looking at the report of the Committee before it was amended on the floor? My enrolled copy says on line 15, page 1, "Denial of certification shall be reviewable by the courts."

ROBERTSON: I beg your pardon -- I was looking at it.

SUNDBORG: I think we have preserved that same idea exactly in our draft.

PRESIDENT EGAN: Are there questions to Section 2? Mr. Gray?

GRAY: If I may refer back to Section 1 in that "reject act", is there any reason why you did not use the same words and say "reject laws"? You say the people "may propose and enact laws" and in the other "approve or reject laws". Is there any difference between "laws" and "acts"?

SUNDBORG: When Mr. Barr raised that question I did feel and I do now feel that there may be a difference. It might be better to say "and approve or reject laws enacted by the legislature by the referendum". Of course, a law is not enacted by the legislature; it is enacted by the legislature with the approval of the governor, and it can be vetoed by the governor. If the Convention feels it would clarify anything I am sure our Committee would not object to putting in "reject laws enacted by the legislature".

R. RIVERS: Mr. President, I have been through that mill. Bills or proposals in the legislature are called bills. After the legislature passes them they are called acts, and any of

the special actions are covered by resolutions or memorials or house joint resolutions or concurrent resolutions. This can only refer to a law. As Mr. Sundborg said, acts are also subject to approval of the governor; so to say "acts enacted by the legislature" then you should also stick in "and approved". I think this is perfectly good the way it is.

TAYLOR: Mr. President, "acts" is much broader than "laws". If you enact a law it is an affirmative act; it is an affirmative thing done by the legislature, but an act might be an action of the legislature which repealed some former law. That is still an act. There is a difference between a law and an act. It could be a repeal or putting a new law on the books, but if a law was the only thing that goes on the book, when you repeal something you haven't passed a law. You have passed a repeal. "Act" is much the better term.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I am sure the word "acts" meets Mr. Gray's objections but I wonder if thought was to the congressional method which was to capitalize the "A"?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I can answer that directly by saying that thought was given to capitalization, and the decision of our Committee, subject to review here, is that we will capitalize nothing in this constitution except "United States", "State" when used as a noun, and proper names. We are not going to capitalize "governor", "legislature", "senate", "house of representatives", and that is in line with the modern trend in constitution writing as well as elsewhere.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: You know the distinction we make to overcome Mr. Gray's objection; the Congress of the United States always, when referring to an act of Congress, capitalizes the "A".

SUNDBORG: If the Convention wants to do that in this case, I think our Committee wouldn't object. What is the thought here? That the word "acts" might be confused with "actions"?

PRESIDENT EGAN: Mr. Barr.

BARR: I don't believe the lawyers here confuse it but I believe that the layman might when he reads this constitution. There are a lot of people that don't even know that a bill that is passed is called an "act", and when they read this, they think that you are talking about an "action" of the legislature.

SUNDBORG: Relying on what Mr. Rivers and Mr. Taylor said, I

would feel that it was our intention here to make not only the actions of the legislature, the acts which had put new law on the books but also such actions as the legislature might take, say, repealing a law, subject to the referendum. For instance, the next legislature might go to work and repeal the entire law having to do with employment security. Well, if the people didn't like that and wanted to take that up as a referendum, I believe they should have the right to do so, even though what the legislature did might have been expressed in just half a dozen words, that "Chapter so-and-so of Session Laws such-and-such is hereby repealed."

PRESIDENT EGAN: Are there other questions in relation to Sections 1 or 2? If not, are there questions with relation to Section 3? The Convention will come to order. Mr. McCutcheon.

MCCUTCHEON: It would appear to me that there is some validity to this discussion. As far as an act of the legislature is concerned, an act of the legislature could be a concurrent resolution, a joint memorial, a memorial by either house, or some other type of act, which would not have the force or effect of law necessarily, and which would not be subject to either the governor's approval, or initiative by the people; and yet it appears to me that in this particular instance either they should go beyond the word "acts" because an act cannot become a law without either the overriding by a substantial majority in the houses or else the approval of the governor. At least that is the way it appears to me. So, it would appear from that argument that the word "acts" is not necessarily applicable in this instance, primarily because there are a number of actions which can be taken by the legislature which would not be subject to initiative, or referendum, as a matter of fact, because they may only apply to the legislature itself or be of a transitory nature which would not have the effect of law.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President and Mr. McCutcheon, those resolutions and memorials are labeled resolutions and memorials, and every bill is entitled "a bill" or "an act". So, I believe that the titles that are hooked on would answer Mr. McCutcheon. Those are actions to be sure, but they are not acts.

PRESIDENT EGAN: Are there questions with relation to the first three sections? If not, are there questions on Section 4? Mr. Sundborg.

SUNDBORG: Mr. President, there is a change which we have made in Section 4 which may be substantive. I will read the language first from the enrolled copy. It says, on lines 9 to 13: "The petition may be filed with the attorney general, who shall prepare a ballot title or proposition, designating and summarizing

the substance of the proposed law which proposition shall go upon the ballot as hereinafter provided. You note that the "attorney general" which we have changed to "secretary of state", he has the duty of preparing the ballot title, designating and summarizing the substance of the proposed law, but he does not have the duty under that language to put it upon the ballot and neither does anyone else. It simply says that it "shall go upon the ballot", and we have changed ours to fix that responsibility for seeing that the measure gets on the ballot on the secretary of state. We have said, "The secretary of state shall prepare a title and summary of the proposed law and shall place them on the ballot..." which we felt tightened it up and made him subject to mandamus if he failed or refused to do what we believe was the intention of the article as it passed the floor.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Sundborg, who prepared the proposition?

SUNDBORG: The original bill?

HELLENTHAL: The proposition that you vote on.

SUNDBORG: The secretary of state, that is, the proposition, Mr. Hellenthal.

HELLENTHAL: Where does it say that?

SUNDBORG: Well, what you vote on is what is on the ballot. It says, "The secretary of state shall prepare a title and summary of the proposed law and shall place them on the ballot." Now, that "proposed law", is that what you are asking about?

HELLENTHAL: Would you think that "title" or a "summary" is identical with "the proposition"?

SUNDBORG: That is just "a title and summary of the proposition". The proposition itself is handled here in Section 2 where it says, "The application must contain the bill to be initiated." It might be a bill or an act, Mr. Hellenthal, which might be pages and pages long such as the banking act which has been considered at several sessions of the legislature and has never made it though. Now, some group of bankers might wish to get that enacted by the initiative, and it runs to something like 200 pages. You couldn't possibly put that on the ballot, but it should be contained, word for word, of what the law would be in the initial application and then it would be the duty of the secretary of state to summarize that and give it a title and have on the ballot enough description of it so the people would know what they were voting on.

HELLENTHAL: Well who prepares the proposition?

SUNDBORG: The sponsors.

HELLENTHAL: I don't think it's clear there at all. I think the original language was far better.

SUNDBORG: Well, let's compare the two. The original language says --

HELLENTHAL: "... who shall prepare the ballot title or proposition." Now, frankly, I don't think that the two names are synonymous at all, but this language makes them, at least in light of the constitution, but I think the proposition should be referred to, and I think it should be clearly referred to in Section 4, or rather 5.

SUNDBORG: You are speaking of the new Section 5?

HELLENTHAL: Yes. The reason I say that is that the lawyers here that have worked on municipal bond issues know how difficult it is to prepare a workable proposition, and that is one of the greatest arts of the legal profession, and a lot of lawyers fall on their face in that connection, and I think this proposition should be clearly distinguished from the ballot title or from the summary. They are just different things, that is all.

SUNDBORG: As you used the word "proposition" is that the language that goes on the ballot?

HELLENTHAL: Yes. Proposition 1, proposition 2, proposition 3. They are usually questions, "Shall a law be passed authorizing the voters to bond for capital improvements necessary to construct a dock?" That is a proposition, and it is quite an art.

SUNDBORG: That is the same thought that we have here. Now if you will look at the enrolled copy it says, "The attorney general shall prepare a ballot title or proposition ..." which would seem to indicate that they are synonymous.

HELLENTHAL: They are not synonymous, though.

SUNDBORG: I mean he could put, under this language, either one, on the ballot.

HELLENTHAL: But in your new Section 5 you don't even use that language.

SUNDBORG: No, but don't you think we cover it when we say first, referring to Section 2, that "The application must contain the bill to be initiated or the act to be referred." That would have to be complete. Then in Section 3 we say that, "The secretary of state" -- wait a minute.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for two or three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the communications that are before the Convention.

(The Chief Clerk read the following communications: a telegram addressed to President Egan from Mirth B. Sarvela, Northern Fishing Vessel Owners' Association of Sitka, requesting fisheries management policy be set forth in the resources article of the constitution; a telegram addressed to Delegate Awes from Jean A. Blanchard of Anchorage, urging provisions be made in the constitution for fish and wildlife; a telegram addressed to Delegate White from Jess Morrison of Anchorage, criticizing the omission of the provisions for fish and game in the constitution; a telegram addressed to Delegate White from A. W. Lond, Secretary, Anchorage Sportsmen's Association, stating that only by incorporating the Alaska Sportsmen's Council recommendation into the constitution will the fish and wildlife be safe from mishandling; a telegram addressed to Delegate McCutcheon from Howard Houtz, Anchorage, criticizing the omission of provisions for the fish and wildlife in the constitution; a telegram addressed to President Egan from the members of the Anchorage Sportsmen's Association, criticizing the delegates for not specifically providing for the fish and wildlife in Alaska, in the constitution.)

PRESIDENT EGAN: The Convention will come to order. Are there other communications? If not we will proceed with the proposal on initiative, referendum and recall. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to offer a committee amendment. "Section 4, page 2, line 2, at the end of the line change the word 'title' to 'proposition'."

PRESIDENT EGAN: Is there objection to the introduction of this amendment at this time?

SUNDBORG: It would then say "The secretary of state shall prepare a proposition and summary of the proposed law and shall place them on the ballot ..." etc.

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard. Mr. Taylor.

TAYLOR: Just for the purpose of clarification I think that that should read "a ballot title". "A ballot title and proposition" should go in there because the ballot has a title, and the proposition which the people are voting on. It's a

combination of the ballot title and proposition.

PRESIDENT EGAN: Is it "ballot title, and proposition," is that the way you would say it? Or "ballot, title, and proposition"?

TAYLOR: No. "Ballot title". "Ballot" is the descriptive word of "title"; "ballot title and proposition of the proposed law". "The summary of the proposition" is what it, should be.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I wonder if I could --

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a couple of minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to ask unanimous consent to withdraw the amendment which I proposed a few minutes ago on behalf of the Committee.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent to withdraw the amendment he proposed a few moments ago. Is there objection? If there is no objection it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, I would now like to propose a committee amendment. "On page 2, lines 2 and 3, strike 'title and summary of' and insert in lieu thereof 'ballot title and proposition summarizing'." May I correct what is to be deleted? It should say "title and summary of". No. Excuse me. It was right the first time, so that it would read "The secretary of state shall prepare a ballot title and proposition summarizing the proposed law and shall place them ..." etc. I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent for the adoption of the proposed committee amendment. Is there objection? If there is no objection the amendment is ordered adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to move that the same change be made on line 12, so that it will read "The secretary of state shall prepare a ballot title and proposition summarizing the act..." etc. I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for adoption of the amendment. Is there objection? Hearing no objection the amendment is ordered adopted. Mr. Robertson.

ROBERTSON: Mr. President, how will line 12 read where the word "act" is used whereas in line three the word "law" is used?

SUNDBORG: Mr. Robertson, that is intentional. Section 4 deals with the initiative, and it is a proposed law.

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Section 5 deals with the referendum and it refers to the act of the legislature which is being referred.

PRESIDENT EGAN: Are there other questions? Mr. Metcalf?

METCALF: May I ask Mr. Sundborg a question?

PRESIDENT EGAN: You may ask the question, Mr. Metcalf.

METCALF: On the first page, line 16, you use the phrase "general election" and then on line 4, second page, you use the phrase "first statewide election". You meant "general election", either "primary" or "general", did you not, sir?

SUNDBORG: No, Mr. Metcalf. Those both come directly from the language of the enrolled copy; and in the first case we are talking about a required number of people who may sign the petitions. It was the intention of the Convention to refer that, to relate that, to the number who signed, or rather, who voted in the preceding general election. Now, that is a different matter entirely from what we have here in Sections 4 and 5, which is that, after all the requirements have been made and the petition has been filed, it is placed on the ballot at the first statewide election, whether it is a primary election, a general election, or a special election. That was an amendment made on the floor, and it was explained at that time that the desire was to get it on the first statewide election of whatever character.

METCALF: Then to save money we wouldn't have to call a special election every time some group of people decided to have an initiative? Was that the intention?

SUNDBORG: That was the intent, yes.

PRESIDENT EGAN: Are there other questions with relation to Sections 4 or 5? If not, are there questions relating to Section 6? Mr. White.

WHITE: Mr. President, I note what appears to be an inconsistency here.

PRESIDENT EGAN: The Convention will come to order. Mr. White.

WHITE: It is not any doing of Style and Drafting but I would like to direct a question to the Chairman of Style and Drafting to find out if they discussed it. In Section 6, Mr. Sundborg, "A majority of the votes cast on the proposition is necessary for the enactment of an initiated law or for the defeat of an act referred." I refer to the words "defeat of an act referred". Now going back to Section 1 we say "approve or reject acts of the legislature by the referendum". Now if I understand referendum correctly it would say something like, "Shall such-and-such an act of the legislature be approved by the voters, yes or no?" So that it appears to me that perhaps a substantive change is necessary here in third reading. Did that come up in Style and Drafting?

SUNDBORG: I don't think that the particular question has been raised, Mr. White. Of course, the original says just what we say now in our draft. In Section 6, we say "A majority of the votes cast on the proposition is necessary for the enactment of an initiated law or for the defeat of an act referred." The second case there covers a law which is already on the books and in effect, and the only change that could be worked by the voters would be to defeat it. If they approve it, nothing happens, really. They are confirming what the legislature did.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, the referendum [two words not audible] on an existing law, it carries the burden of rejection. The burden isn't the burden of rejection; it takes a majority to reject. Now they could use the word "rejection" here instead of "defeat" if that would help any but I think it is perfectly clear the way it is. That all fits in with the idea of a possible veto by the people.

PRESIDENT EGAN: Mr. White.

WHITE: If no change in substance is necessary here, then I would merely suggest that it be merely a matter for Style and Drafting because the two sections do not read the same, Section 1 and Section 6.

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: I believe that if we drop the words "approve or" from line 2 of page 1, we wouldn't really be dropping anything because if the people reserve the right to reject acts of the legislature, it is really the right which they wish to reserve; they don't necessarily want to reserve the right to approve them because they are in effect and will remain in effect whether they take them to the referendum or whether they do that and approve them. There is no difference. We could make it read, "The people may propose and enact laws by initiative" -- wait, no -- "The people may propose and enact laws by the initiative and

reject acts of the legislature by the referendum."

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I think though that that word "approve" should be left in there because sometimes we will have an act of the legislature that has been submitted and in it is that the thing be referred to the people for approval or rejection. Now, we have had in our legislature in Alaska here, we have referred acts, or propositions, to the people. We had one on the fish traps, we had one on the blanket primaries, and it was approved. Those things were approved and so we felt that that should be in there because many times in the states the legislators will pass the buck to the voters. It might be unpopular in certain quarters so the legislator says "Well, we will refer this to the people for approval or rejection," so I think the word "approval" has to be in there.

SUNDBORG: Mr. President, in view of that, and if the Convention agrees, I think on page 2, line 18, after the word "the", which is the fourth word on the line, that we insert "approval or" so that the sentence would read: "A majority of the votes cast on the proposition is necessary for the enactment of an initiated law or for the approval or defeat of an act referred."

PRESIDENT EGAN: Do you ask unanimous consent, Mr. Sundborg?

SUNDBORG: Yes. I ask unanimous consent.

TAYLOR: I would like to ask a question. Do you not believe it would be better if it be before the "rejection or approval of the act referred"? Rejection, it says it can be rejected.

SUNDBORG: "Rejection" is all right but I believe the order ought to be "approved or rejected" as it is in Section 1, or else the order ought to be reversed in both cases.

TAYLOR: Yes, that is so, but so they would be consistent.

SUNDBORG: You would prefer, Mr. Taylor, "approval or rejection"?

TAYLOR: Yes, I believe that would be --

SUNDBORG: I have no objection to that, and I will include that in my request for unanimous consent, that we strike on line 18 the word "defeat" and insert in lieu thereof "approval or rejection".

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Taylor.

TAYLOR: I would like to refer back to Section 5. Was it not the intent of the Committee to change "120" days which comes in line 14; to change that to "180" days?

SUNDBORG: That is correct. But our Committee did not offer that as a committee amendment, but we suggested it as something which was sensible and I believe the reason is set forth in our covering letter. What this says is that, "A referendum petition must be filed within 90 days after adjournment of the legislature..." And it has to go on the ballot of the first statewide election held more than 120 days after adjournment. Well, there is a difference of only 30 days between the time when the thing has to be filed and the time it may have to go on the ballot, which time, 30 days is not at all adequate for preparing the ballots and distributing them around the state, and having them ready for the election. Our suggestion was that the "120" on line 14 be changed to "180".

TAYLOR: Our original draft -- our original proposal as submitted by the body was "180" days. We had that up in the Committee and felt it was a difference of opinion as to the time. Some of us felt it should be "180", and I think it came out as "180" as I see it in the original draft here.

PRESIDENT EGAN: Do you ask unanimous consent for that?

TAYLOR: Yes, unanimous consent that that be substituted for "120".

PRESIDENT EGAN: Is there objection?

R. RIVERS: I object solely for the purpose of furthering the discussion a little bit.

PRESIDENT EGAN: Do you so move, Mr. Taylor? TAYLOR: Yes.

PRESIDENT EGAN: Mr. Taylor so moves. Is there a second to the motion?

KNIGHT: I second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mrs. Hermann.

HERMANN: A point of order.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: This is an amendment as to substance and the motion should be to suspend the rules.

PRESIDENT EGAN: That is right if there is objection to the

unanimous consent request.

R. RIVERS: May I have the privilege of commenting?

PRESIDENT EGAN: If there is no objection, Mr. Ralph Rivers, you may have the privilege.

R. RIVERS: And then perhaps I'll withdraw my objection. The Committee's covering letter indicates that legislatures have ended their labors some time in the latter part of March. The year around legislature we are talking about is not necessarily going to do that. It may run on until around the first of May and then you wouldn't have 180 days left over until the next general election. Our communications are speeding up all the time, the printing and distribution of the ballots doesn't take as much time as they used to in the dogteam days; and if you are going to have a legislature that runs quite a while and you put in 180 days you are going to miss the next general election. Now I like 120, and I think our facilities are such that they could get on the ball and get out those ballots in 120 days. Now that is the only reason I am objecting.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I know it is physically impossible, no matter how much we speed up the printing, etc., from the time a petition is filed with the secretary of state, to have the proposition on the ballot at an election only 30 days afterwards, which is what this provides. It says they have to be filed within 90 days after adjournment, but they may have to come up at an election only 120 days after adjournment. Now, I don't care when the legislature adjourns. I believe that there should be a longer length of time than 30 days for the secretary of state to check these petitions and see whether the people who sign them are qualified voters, to call for bids on the ballot, to summarize the proposition, etc., to get them printed, which is a big job here because we have the requirement that the names have to be rotated on the ballot and it is a very slow process in any printing shop and can't be done entirely by machinery. It entails a lot of hand work; and then to distribute them throughout the state and get them into these polling places just can't be done in 30 days.

R. RIVERS: I withdraw my objection.

PRESIDENT EGAN: Mr. Ralph Rivers withdraws his objection. Mr. Hellenthal?

HELLENTHAL: Did you give a thought to changing the "90" to "60" on line 10?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have a proposed amendment before us at this time? Mr. Sundborg.

SUNDBORG: Mr. President, I believe it has been proposed that in line 14, page 2, the word "20" be changed to "80", and as I recall it, Mr. Hellenenthal had objected to Mr. Taylor's unanimous consent request for adoption of that amendment.

PRESIDENT EGAN: It has been moved and seconded.

HELLENTHAL: I had not objected, I was just inquiring.

PRESIDENT EGAN: If there is no objection there would be no need to suspend the rules because that would amount to the same thing. If there is objection it would be necessary to suspend the rules in order to attempt to adopt this amendment. Is there objection to the unanimous consent request? Will the Secretary please read the proposed amendment.

CHIEF CLERK: "Line 14, page 2, change '20' to '80'."

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request for the adoption of the amendment? Hearing no objection the proposed amendment is ordered adopted. Are there other proposed amendments or questions with relation to Sections 4, 5, or 6? Mr. Sundborg.

SUNDBORG: I think I should explain that in Section 6 a number of changes have been made, or they are proposed by the Committee. The first one occurs in line 16 where we say "a majority of the votes cast on the proposition". The enrolled copy said only "a majority of the votes cast is necessary" and it might have been misinterpreted as being "a majority of all the votes cast in the election" whether on this matter or not. I believe it was the intent of the Convention that it should be "a majority of the votes cast" on the particular thing under consideration. Then we have added here what was not in the enrolled copy at all and there appears on lines 18 and 19 the sentence, "The secretary of state shall certify the election returns." There was no reference to that in the enrolled copy but we thought it was a desirable amendment. Then we have provided, starting on line 19, for the effective dates, "An initiated law is effective 90 days after certification," and then we have kept in what was in the enrolled copy, "... is not subject to veto and may not be repealed by the legislature within two years," and we have added: "of the effective date". The enrolled copy said that it could not be repealed within two years but it left it very much up in the air when you start counting the two years. Does it count from the time the original petition is filed, from the time the legislature is held, or the time the law goes into effect? We suggest the

period of 90 days in the case of the initiative because that is the same length of time it requires an act of the legislature to take effect after adjournment. In the case of the referendum, it was our feeling that if some law has been found not desirable by the public they should not have to live under it for a whole 90 days after they have rejected it but that 30 days would be enough. We felt that time should be provided after certification because it might be that it would be a very close election and it would be decided by only a very few votes. The people of the state would not know right up to the very moment the secretary of state certified, whether the matter had been approved or rejected and we felt that some time should be allowed so that all citizens of the state would have some warning of a law that was then on the books becoming void. I think nothing else has been changed in this section.

PRESIDENT EGAN: Is there further discussion with regard to Sections 4, 5, or 6? Mr. Taylor.

TAYLOR: I would like to ask Mr. Sundborg one question. I don't have the enrolled copy before me but on the last line of page 2 you shortened it up quite a bit. It says "Additional procedures for the initiative and referendum may be prescribed by law." Now did the Committee on Style and Drafting have in mind that the procedures of initiative and referendum could be further changed by the initiative or referendum or should they be changed by the legislature? I know we had that before us in the Committee and we felt that that should be by the legislature; that further procedures for initiating a proposition or a referendum should be prescribed by the legislature in addition to what is prescribed here by the constitution.

SUNDBORG: I am sure our Committee would have no objection to saying instead of "may be prescribed by law" to saying "may be prescribed by the legislature", but I feel that under the action taken here several days ago where we agreed that whether it says "by law" or "by the legislature" it could be done by the initiative as well as by the legislature. It doesn't make any practical difference.

TAYLOR: I know it was the intent of the Committee when we referred that out to the Convention that the legislature could prescribe further, that is, to implement the act they could prescribe further procedures.

SUNDBORG: Well, I would say under the action we have taken it doesn't make any difference and if the Convention wanted to prevent the procedures on initiative and referendum from being set up further by the initiative, they should write that in as one of the restrictions on the initiative in Section 7. I don't see that it makes any great difference. I can't think that there would be very many initiative propositions that would seek to change initiative procedure although there conceivably

could be, and I don't know that it would be bad if the people wanted to change the method of doing this since they have reserved the power to do it, and what they have proposed to be consistent with the constitution, I think they should have that right but that is certainly a substantive matter which is not up to our Committee.

METCALF: May I ask Mr. Sundborg a question?

PRESIDENT EGAN: If there is no objection you may ask, Mr. Metcalf.

METCALF: You did not include Section 3 from our enrolled copy did you? It says, "The legislature shall prescribe the procedures ..."

SUNDBORG: In our thinking, Mr. Metcalf, the exact thought is covered at the end of Section 6. Now as it appeared in the enrolled copy it said, "The legislature shall prescribe the procedures to be followed in the exercise of the powers of initiative and referendum except as herein provided." And then, in effect, we spell out what the procedures will be anyway. Now what we have said after telling what the procedures are, we said, "Additional procedures for the initiative and referendum may be prescribed by law."

METCALF: You changed the word "shall" to "may"?

SUNDBORG: Well, since it is additional and it is questionable whether any additional ones are required, we thought that "may" covered the situation better than "shall". Now, if we said additional procedures "shall" be prescribed by law the legislature would have to rack its brains and try to think of something else and we don't think anything else is necessary.

METCALF: Well I think something else is, in connection with my experience with some of the petitions for liquor licenses. Oftentimes misunderstandings and arguments have developed about whether signers have been bona fide residents in a community, and I can see that is one thing I think the legislature should prescribe, a little law of procedures on. In fact, in my original draft of a proposed initiative and referendum I had provided for that. I would prefer the word "shall" just exactly as the Committee and as the enrolled copy shows.

SUNDBORG: I think we can get to that but as far as the matter of the voters is concerned we say that it has to be signed by "qualified voters" and elsewhere in the constitution we define "qualified voters", so I don't think it is necessary to write in any further restrictions here or to require the legislature to do so. It is already defined in the constitution. Now, if we accepted your suggestion I take it we would say on the bottom two lines of page 2, "Additional procedures for the initiative

and referendum shall be prescribed by law." I would think that would have to carry "if necessary" or something of that kind because I don't know why --

PRESIDENT EGAN: Mr. Gray.

GRAY: May I have Mr. Metcalf's idea? The intent as I received it is that the authorization is for the legislature to create additional procedures but "shall" is a mandate. Now it may not be a necessity. The intent of the whole thing is authorization and the "may" seems to me to give the legislature the authorization. I think you gain nothing by the word "shall".

METCALF: That is only in the enrolled copy and it was the Committee's thinking on the matter that it should be "shall". There is no doubt there would have to be some little law passed governing and regulating the use of initiative and referendum procedures and there has been lots said about those two little words of "shall" and "may" and personally I still prefer "shall".

PRESIDENT EGAN: If there is no objection the Convention will be at recess for two or three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other questions with relation to Section 6? If not, are there questions relating to Section 7? Mr. Sundborg.

SUNDBORG: Mr. President, I should explain here what we have done in Section 7. Let me read first what the enrolled copy said. It said, "The initiative and referendum may not be used as a means of earmarking revenues, for making or repealing appropriations of public funds, or for local or special legislation." That applied to both. Then it went on to say, referendum shall not be applicable to such laws as are necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the State government, and for maintenance of public institutions." What we did, we tried to take apart from that section what it was that the Convention intended that the initiative should not apply to and set that up in one set of restrictions, and then in a separate set of restrictions say what the referendum may not apply to, and we have developed the language which appears in our Section 7. It says, "The initiative may not be used to dedicate revenues, make or repeal appropriations, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health or safety." Now, analyzing again from the enrolled copy, the first thing it said was as a means of earmarking revenues". Well, obviously, I think, the referendum could not be used as a means of earmarking

revenues because the referendum can only approve or reject laws which have been passed by the legislature. Now, we have used instead of "earmarking" the term "dedicate revenues" because I believe after a study was made of this, that the dedication of revenues is really what was meant instead of the earmarking thereof and our advisers were unanimous on that, and if anyone would like a little further discussion of that subject, Mr. Hurley, who is a member of our Committee, is able to give it -- the difference between "earmarking" and "dedication" -- and I am sure that it was "dedication" that was intended as a restriction here. "Earmarking", in addition, is sort of a slang phrase and I don't believe it occurs in very many constitutions. If there is any doubt on that I would like to have Mr. Hurley explain it.

PRESIDENT EGAN: Would the delegates care to have Mr. Hurley explain it? Mr. Hurley, would you care to explain the difference between "dedicating" and earmarking"?

HURLEY: Mr. President, I was kind of dealt a low blow because I didn't know that I was the one who had to defend this. I might say to start with it did create some problem because the Finance Committee also refers, in their enrolled copy, to the matter of "earmarking" revenues. I don't think it is an extremely serious problem; one as serious as the Chairman may have indicated, but in pursuing the other constitutions and the definitions of "earmarking" as revealed in various dictionaries and other word descriptions, it appeared that the term "earmarking" might also be applied to the allocation of revenues appropriated by the legislature to a given department; appropriated, for example, \$500,000 to the Fish and Game Commission and earmarking within that a \$100,000 for the propagation of salmon, whereas the term "dedicating" appeared to be starting from the beginning of the process, that they were prohibited from the start; and it was suggested that situations did arise and that perhaps the word "dedicating" would better express what we had in mind that these funds were not within the realm of the legislature to appropriate out of the general fund. Now I might say that the word is not sacred and if someone has a better idea I am sure we will be glad to listen to it.

PRESIDENT EGAN: Mr. Gray.

GRAY: I would like to ask Mr. Hurley if he found the words "dedicated funds" in any other legal documents or constitutions.

HURLEY: Yes, we did. And I might carry it one step further and that we did also find the term "earmarking" used in other connections other than "dedicated funds" so it was just a balance.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I am sure that the Finance Committee has no objection to that definition but it seems to me that dedication could be interpreted in the same way. One point I do wish to make here, though, is that I hope when Style and Drafting comes to the finance article they will retain the idea of dedicating of taxes. It may or may not be important here but there is a difference between earmarking or dedicating taxes and the earmarking or dedicating of revenues. I just bring it up here for the consideration of the delegates. In my own mind I don't think the distinction is important in this particular instance but it is later on in the finance article.

PRESIDENT EGAN: Are there other questions? Mr. Sundborg.

SUNDBORG: Mr. President and Mr. White, I take it you mean "revenues" could include taxes but it might also include other things; for instance, licenses, fines, etc., might be included in the term "revenues" whereas taxes would be only taxes.

WHITE: The reason that we made the distinction, Mr. President, is because all proceeds coming to the state are revenues really, and you have to dedicate or allocate revenues to special purposes, whereas what we are trying to get at is the allocation or dedication or earmarking of the proceeds of a particular tax to a particular purpose. That is the distinction we made. I just bring it up for consideration here. As I say, in my own mind I don't think that distinction is too important in this particular case. Somebody else might disagree with me.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I just have a word. I think that the word "earmarking" can be used as we use the term "line appropriations" in our own parlance in our own legislature, but a revenue is dedicated from the time it is collected. That is what this meant.

PRESIDENT EGAN: Are there questions with relation to Section 8? Mr. Sundborg.

SUNDBORG: The next item in the enrolled copy was "making or defeating appropriations of public funds". We felt "of public funds" was not necessary because the only appropriations with which the state could deal are public funds anyway; and then we said, "or enact local or special legislation" which is the same as it was in the enrolled copy. Now it went on to say over again we thought in some cases that the referendum "shall not be applied to laws making appropriations for the current expenses of the State government and for the maintenance of public institutions". We have already said in the first sentence that, "The initiative and referendum may not be used as a means of earmaking revenues, for making or defeating appropriations of public funds" and we believe those

appropriations would have to be included --

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

SWEENEY: The enrolled copy is in error in that last portion of that sentence, the material after "health and safety", beginning with the word "and" to the word "institution" should not have been on the enrolled copy. Through the mechanics of engrossing and enrolling in the early stages this was an error that we did not pick up. I have just checked the enrolled copy and also the journal and for those who wish to check they will find that on December 17 all the words after "safety" were stricken and they should not have been shown on the enrolled copy. So it is probably not in order even to discuss that motion, Mr. Sundborg.

SUNDBORG: Mr. President, we proceeded in our Committee without knowing that. After analyzing it, those words were redundant and unnecessary, and they are not included in our draft because we figured they are covered fully by the word "appropriations" on line 2 of the page 3.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: A point of information through the Chair as to the question by Mr. Sundborg. Mr. Sundborg, on that "local or special legislation", would that refer that the legislature could not refer to the people any legislation under the referendum, on say, a bonding issue, a Territorial or statewide bonding issue for a specific purpose, or referring to them a road project as to taking part in, perhaps, a national road program that would revert to the state.

SUNDBORG: Mr. President and Mr. Coghill, I believe that the restriction here is upon the referendum; the referendum as defined in this article which requires the filing of an application, the preparation of a petition, and the obtaining of a lot of signatures to get a proposition on the ballot. Now, I think there is nothing in this, and nothing elsewhere, that would prevent the legislature from simply saying in the law that, "This law shall become effective after it has been approved at the general election of such-and-such a date." That is not really the referendum as it is described in this article which is one on direct legislation initiated by the people. I am sure the legislature has that power without any reference to what is in this article.

PRESIDENT EGAN: Are there other questions with relation to Section 7? Mr. Poulsen.

POULSEN: Mr. President, may I ask Mr. Sundborg a question?

PRESIDENT EGAN: You may ask your question, Mr. Poulsen.

POULSEN: Would you have much objection, Mr. Sundborg, to inserting the word "earmarking" as it was in the old copy before? That is a word that pretty nearly everybody understands and knows what it is all about. This other one I am doubtful about.

SUNDBORG: You mean in place of "dedicating"?

POULSEN: Yes.

SUNDBORG: Well, I feel we would object because it has a different meaning. Now "earmarking" means any time you say that an appropriation or any other thing shall be for a specific purpose. The example that was used by Mr. Hurley would be that it would be earmarking part of the appropriation to the Fish and Game Commission, to say that a \$100,000 of it should be used for the propagation of salmon, and we think that was not what we intended as a restriction on the initiative here. I think that what was intended was that we should not interfere with what is a "dedicated" revenue. A "dedicated" revenue, for instance, is the idea that tobacco taxes are used for school construction or maintenance. That is a "dedicated" revenue right from the time it is collected. It can't be used for anything else. Now it was our belief that that is what the Convention had in mind when they wanted to remove a certain class of legislation from being touched by the initiative.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: I don't believe that is the case here. We have a certain amount to be earmarked that cannot be touched but this is set up so there can be no more earmarking of any kind.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. Poulsen, did you understand though, that "earmarking" had more than one meaning. When the legislature appropriates a \$100,000 for a particular purpose that is "earmarking" and we don't want to prohibit the legislature from appropriating.

POULSEN: Well, I call that appropriating.

R. RIVERS: With two meanings to the word "earmarking", "dedicating" talks about the origin of the money and it can't be earmarked, you might say from the beginning, when at the time it is collected, so I think we must say "dedicating".

PRESIDENT EGAN: Are there other questions? Mr. Cooper.

COOPER: Where will the additional exceptions to the initiative and referendum be placed? In this article 7 under restrictions, or is there going to be a section at the end of the constitution?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I don't know what Mr. Cooper means by the additional exceptions. There aren't any, to our knowledge, that are before us at this time. Now some might be proposed.

COOPER: That is just exactly what I mean. If we adopt this now, there are other exceptions that are certainly going to have to come from this floor that the initiative and referendum will not have any effect on, and will they be placed in Section 7 with restriction or will there be a special article of just exceptions?

SUNDBORG: My belief is, Mr. President, that they would be inserted in Section 7 of this article as additional restrictions of subjects which would not be subject to the initiative and referendum, and any such additions as are made, of course, would take a two-thirds vote anyway, if it is something that has not yet been considered by the Convention in second reading, and I believe everything now has been except a few ordinances, etc. So, the procedure in case anyone should wish to remove some class of legislation from the action of the initiative and referendum would be to propose an amendment to Section 7, writing in that class or subject as an additional restriction.

COOPER: Do I understand then, Mr. President, that any exception now, inasmuch as this rule of Mr. McLaughlin's was amended -- the motion was adopted last Saturday, then it would take a two-thirds vote to get an exception put in Section 7 now with the restrictions?

PRESIDENT EGAN: It would Mr. Cooper; yes, if it was something that had not been considered up to this time.

COOPER: I had in mind, in the legislative article it said, "The legislators or elected officials shall receive a salary and compensation as prescribed by law." Now, under the terms of this adoption of the motion last Saturday, I can right well see where a public would get very mad at their legislators, and immediately circulate a petition in which their pay would be \$1 a year and the expenses would be half of that.

PRESIDENT EGAN: The Convention will come to order.

COOPER: It very possibly could be done and I think that the salaries of the elected officials of the state, that the public or the initiative and referendum should have no right in

adjusting or cutting out such salaries.

SMITH: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Smith.

SMITH: I believe we have before us the report of the Committee on Style and Drafting and the question is whether or not we accept this report, subject to whatever changes the body might make. Any amendments would necessarily come up when this approved report comes before us for third reading.

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: Amendments can be made now, Mr. Smith.

SMITH: Amendments can be made now?

PRESIDENT EGAN: Yes. A new amendment would take a two-thirds vote. Mr. Sundborg.

SUNDBORG: Mr. President, before we open this up to additional amendments, aside from those made by the Committee, I wonder if we could ask that the committee report be adopted. I mean, I would ask you to have that order of business before we open it up to general amendments. It could still be amended by a two-thirds vote but I would like to have our report, which would embody the changes we have made, adopted by the Convention before we try to work in any additional amendments.

PRESIDENT EGAN: Is that the proper procedure? We only adopt or reject your report, Mr. Sundborg, along the lines that we have been proceeding, that if you have made some substantive amendment and the delegates felt that it was a substantive change and desired not to accept that, they have been discussing those changes. It isn't necessary, we don't move to adopt your report.

SUNDBORG: Mr. President, I believe our rules set forth, as one of the steps in the workings of this Convention, that there shall be a report from the Committee on Style and Drafting and then the next order is the acceptance, or consideration of the report of Style and Drafting and, it says, "action on amendments which are changes in phraseology only."

PRESIDENT EGAN: The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, if there is no further discussion, I move that the Convention accept the report of the Committee on Style and Drafting as it has been amended on the floor this morning.

PRESIDENT EGAN: Mr. Sundborg moves the acceptance of the report of the Committee on Style and Drafting. Mrs. Hermann.

HERMANN: A point of inquiry. Have we had questions on the last section? I don't remember hearing that come before us.

PRESIDENT EGAN: The Chair called for questions but no questions were asked as yet. Before this motion is put, if anyone has a question -- Mr. Metcalf.

METCALF: There was some question raised when we discussed the judiciary proposal as to whether any exceptions to the jurisdiction and formation of the courts would be made in the initiative and referendum. I wonder if that was still intended?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe that would still be in order after the Convention accepts the report of the Committee on Style and Drafting.

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon seconds the motion. That is right, Mr. Nolan, it would take a two-thirds vote though to put such an amendment in. Mr. Robertson did you have something?

ROBERTSON: No.

PRESIDENT EGAN: The question is, "Shall the Convention accept the report of the Style and Drafting Committee? It relates to Article XI, the article on initiative, referendum and recall." Mr. Marston.

MARSTON: As a member of this Committee I want to compliment the Committee on Style and Drafting for the work they have done. I think they have improved and clarified it and I am very happy with it. I see no reason why we shouldn't accept this report at this time and I so move.

PRESIDENT EGAN: It has been moved and seconded that the report be accepted. The question is, "Shall the report be accepted by the Convention?" All those in favor -- Mr. Hellenthal?

HELLENTHAL: Since, by the admissions of the Committee itself, substantive changes are required here, I think as a matter of good policy we should take a roll call on this, because, in effect, we are suspending the rules, because they say they have

made changes of substance which, of course, we all approve but let's get the record right.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the Convention accept the report by the Committee on Style and Drafting. Is there objection?

POULSEN: I object.

PRESIDENT EGAN: Objection is heard. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 5 - Hinckel, Laws, McCutcheon, Poulsen, Reader,

Absent: 3 - Davis, Hilscher, McLaughlin.)

MCNEES: I ask that my vote be changed to "yes".

PRESIDENT EGAN: Mr. McNees changes his vote to "yes". The Convention will come to order.

CHIEF CLERK: 47 yeas, 5 nays, and 3 absent.

PRESIDENT EGAN: So the report has been accepted. Mr. McCutcheon.

MCCUTCHEON: Mr. President, I ask that the rules be suspended and, that Article XI be returned to second reading for specific amendment.

PRESIDENT EGAN: Mr. McCutcheon moves that the rules be suspended and that Article XI be returned to second reading for specific amendment. Mr. Fischer.

V. FISCHER: A point of information. Will this be for one specific amendment and are we to know before we vote what the specific amendment is?

PRESIDENT EGAN: Mr. McCutcheon, will you state the purpose for the request to return it to second reading? Mr. Robertson?

ROBERTSON: Mr. President, I desire to offer an amendment to Section 7, line 2, to insert the words following "appropriation," to insert the words "to create courts, define the jurisdiction or prescribe the rules thereof," in line with our discussion here Saturday on the judiciary article.

PRESIDENT EGAN: The question is -- unanimous consent is asked that the rules be suspended for that purpose. Is there objection?

KILCHER: I object.

PRESIDENT EGAN: Objection is heard.

MCCUTCHEON: I so move.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon moves, Mr. Taylor seconded the motion. The question is, "Shall the rules be suspended?"

R. RIVERS: Is this debatable?

PRESIDENT EGAN: It is not debatable, the motion to suspend the rules, Mr. Rivers. Mr. Hurley?

HURLEY: Point of information.

PRESIDENT EGAN: Your point of information?

HURLEY: Is this just to suspend the rules for that one particular thing?

PRESIDENT EGAN: That is correct, Mr. Hurley, under the motion that the rules be --

MARSTON: May I ask a question Mr. President? My vote on this will be determined on how many more are going to come in here. If I could find that out, I would like to know some way. Is that a fair question?

PRESIDENT EGAN: At this time -- Mr. McCutcheon.

MCCUTCHEON: My point of order is that I have asked for the suspension on a specific amendment. I didn't say for "amendments", I said "a specific amendment". Mr. Robertson, it is for one specific amendment.

PRESIDENT EGAN: That is right. It is for that one amendment at this time. Mr. Sundborg.

SUNDBORG: If we suspend the rules, the specific amendment would still be subject to a vote of the body, is that correct?

PRESIDENT EGAN: That is correct, Mr. Sundborg.

SUNDBORG: So, all we are voting on is, shall we suspend the rules.

PRESIDENT EGAN: A suspension of the rules. The question is, "Shall the rules be suspended in order that the proposal may be sent back to second reading for specific amendment?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Doogan, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 5 - Coghill, Emberg, Kilcher, Londborg, Peratrovich.

Absent: 3 - Davis, Hilscher, McLaughlin.)

CHIEF CLERK: 47 yeas, 5 nays, 3 absent.

PRESIDENT EGAN: So the "yeas" have it, the rules have been suspended and Article No. XI is now before us in second reading for specific amendment. The Chief Clerk may please read the proposed amendment. The Sergeant at Arms will place the amendment on the Chief Clerk's desk.

CHIEF CLERK: "Section 7, page 3, line 2, after the comma following the word 'appropriations' insert 'create courts, define the jurisdiction or prescribe the rules thereof,'."

PRESIDENT EGAN: Mr. Robertson, what is your pleasure?

ROBERTSON: I ask unanimous consent for the adoption of such amendment.

PRESIDENT EGAN: Mr. Robertson asks unanimous consent for the adoption of the proposed amendment. Is there objection? Mr. Buckalew?

BUCKALEW: May I ask a question?

PRESIDENT EGAN: If there is no objection, Mr. Buckalew, you may ask the question.

BUCKALEW: Mr. Robertson, wasn't it your intent to prohibit the use of the initiative at all, as far as the judicial article is concerned?

ROBERTSON: That is my personal desire but I took the position that this particular amendment doesn't go that far, I don't think, because I thought that the delegates as a whole would agree with my view and I believe, with the members of the Judiciary, that creation of courts, and the defining of their jurisdiction and prescribing their rules should not be left to the initiative. For that reason my amendment doesn't go as far as your suggested question.

BUCKALEW: My thought was and that is what I thought Mr. Robertson was going to do was to except the judicial article from the initiative. I would like to hear from Mr. McLaughlin if it is in order.

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Robertson?

ROBERTSON: Mr. President, my proposed amendment is calculated to simply except from the initiative the creation of courts, the defining of their jurisdiction, and the prescribing of the rules, which I believe is self-evident. It is a good thing and shouldn't be left, as I stated on the floor Saturday, to a mass vote because those things are all highly technical. If you are going to do those things you need witnesses before a legislature. You don't need campaign orators on the subject. Furthermore, it avoids the possibility of a group of dissatisfied litigants, if a judge renders some particular decision that they feel is contrary to their best interests, of getting out and starting an initiative to create a new court by which he will be deprived of his jurisdiction. I believe that the amendment should be carried. I sincerely hope it will. I am perfectly willing to admit that, myself, I would be in favor of exempting the judiciary system entirely from it but I don't claim that my amendment has that extent.

PRESIDENT EGAN: Is there objection to Mr. Robertson's unanimous consent request? Mr. Marston?

MARSTON: Mr. President, may I ask Mr. Robertson a question?

PRESIDENT EGAN: If there is no objection, Mr. Marston.

MARSTON: If this is granted, your request here, will you not go further with more attempts to finally do what you want to do to delete from the initiative? If I get that answer I will know how to vote on this. I think that is a fair question.

ROBERTSON: I am perfectly willing to answer so far as I am concerned -- that is my agreement.

PRESIDENT EGAN: This is the only amendment we can possibly make at this time, Mr. Marston.

MARSTON: If this continues, I'll say now that I am going to oppose with all my power any further changes. I will go along with this, but this is the end of it.

PRESIDENT EGAN: Mr. Marston, are you objecting to the unanimous consent request?

MARSTON: I'm going along if there are no more amendments from the floor of this sort.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: A point of information. Will the Committee on Style and Drafting have an opportunity to check the language on this after it is adopted?

PRESIDENT EGAN: No. Even after we pass the article, if we do adopt the article, the Style and Drafting Committee will have an opportunity to look it over. If there is no objection Mr. Coghill.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Mr. Robertson, do you so move the adoption of the amendment?

ROBERTSON: I so move.

TAYLOR: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Robertson, seconded by Mr. Taylor that the proposed amendment be adopted. Mr. Coghill?

COGHILL: A point of information and may I address the question to the Chairman of the Judiciary?

PRESIDENT EGAN: If there is no objection, Mr. Coghill.

COGHILL: The prescribing of the rules of the court, what does that take in?

MCLAUGHLIN: Unfortunately, I have a different viewpoint on the subject than Mr. Robertson does. On the question of these rules, we have given the rule-making power to the supreme court for all courts, and I frankly don't think under the "55-idiot rule", if I may -- (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin has the floor.

MCLAUGHLIN: I don't think actually, by the initiative, that the people would be able to reach change the rules of the courts, largely because we have provided in the judiciary article that the supreme court can adopt the rules for all courts and those rules will remain in effect until reversed by two-thirds of the elected members of each house. So under what is known as the "55-idiot theory" -- Mr. Chairman, I know this is objectionable -- no 110 idiots would ever suggest, under the wording of the judiciary article, the rule-making power, that, by the initiative, could we change the rules of any courts. I see, personally, no objection. I am in favor of the initiative - I see no objection to Mr. Robertson's amendment as such. I will refrain from speaking a very personal intimate opinion of the thing. I don't think it affects the judiciary and I don't think it affects the initiative.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, may I further the question? The deletion, or the part of Mr. Robertson's amendment here, would not actually be in reference to law, would it? It would be up to the supreme court and up to the judicial council.

MCLAUGHLIN: Possibly. The prescribing of rules thereof would be subject. I believe, to the supreme court and couldn't be reached by initiative, but as to the creation of courts and defining their jurisdictions, that I feel, that is, other than your constitutional courts, could be reached by the initiative. I am quite sure that I know what Mr. Robertson's concern is. There is also a popular and happy belief that if you have a problem, let us say of juvenile delinquency, all you have to do is create a new court and as soon as you get a new court the problem disappears or is the responsibility of the court if the problem doesn't disappear. That is a blatant fallacy but Mr. Robertson, I suspect, is fearful that the people might become sufficiently stirred up over the dog problem in the Anchorage area, or the juvenile problem in the Anchorage area, and create a special dog court or a special juvenile court on the ballot. Can it happen? I suspect it could happen under those circumstances. It would be a unique case, but under this rule all Mr. Robertson is preventing is the creation of courts or defining their jurisdictions; that is, he is fearful that there might be popular press to establish a great number of courts as each individual popular problem arose, the public would decide

the way to solve it is to create a new court. If the divorce rate goes up they would feel a domestic relations court will automatically send it down; if juvenile delinquency increases, a juvenile court will solve the problem. I think that that is his concern, that is, the creation, jurisdictions, and multiplication of courts.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, the reason for the questions, I refer to Section 4 of the judicial article which says that the qualifications will be prescribed by law for other courts such as your justices of the peace, commissioners' courts, or such as that, and I am in question as to whether this amendment would refer to that.

MCLAUGHLIN: That definitely would not refer to Section 4 because this is a prohibition against creating courts or defining the jurisdiction, not defining the qualifications of the judges of those inferior courts. What this would attack -- what the initiative can reach -- Section 1, "courts established by law" that is, the initiative could create courts under Section 1, and could define the jurisdictions of those courts under Section 1, but it cannot touch the qualifications of the judges. That is left to the legislature, and very wisely so, because you don't know the availability of personnel under the circumstances. It is not intended to and obviously doesn't reach the qualifications of personnel.

PRESIDENT EGAN: Mr. White.

WHITE: If I may address a further question to Mr. McLaughlin, I am still getting a little more confused now, the further we go. This amendment would not prevent the passage of a law by the initiative which might say that, "No left-handed judges by the name of Jones shall be qualified to serve on the bench."?

MCLAUGHLIN: That would not prohibit it, Mr. White.

WHITE: Then I don't think it accomplishes Mr. Robertson's purpose.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: First of all, I might point out that special legislation would prohibit that, but I would like to ask Mr. McLaughlin whether it is not true that in Missouri the initiative was used to adopt what we call the Missouri Plan, the judicial plan, after the legislature would not change it.

PRESIDENT EGAN: Mr. McLaughlin could you answer that question?

MCLAUGHLIN: It is my understanding, in spite of Mr. McNealy,

it is my understanding that in fact in Missouri, the Missouri bar plan was not a concoction of the attorneys or the bar associations. It was something that was created by initiative by the people and it was actually intended to be a buffer against that Pendergast machine which Mr. McNealy insists it was a "pot of [word inaudible]"; that is, it was a defense weapon against a political machine and it was created by the initiative; and I think that that expert on constitutional law and on the Missouri court system, Mrs. Hermann, will concur with me on that statement.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask a question of Mr. Robertson? This is in the interest of the Style and Drafting Committee. Section 19 of the judiciary article says that, "The supreme court shall make and promulgate rules governing practice and procedure in all civil and criminal cases, which rules may be changed by the legislature only upon a two-thirds vote of the members elected to each house." In that case, that takes care of court rules doesn't it?

ROBERTSON: Yes.

NORDALE: So, if Style and Drafting decided that prescribing of the rules was unnecessary, we could remove it couldn't we?

UNIDENTIFIED DELEGATE: But don't do it. (Laughter)

ROBERTSON: I would have no objection to that, Mr. President. I inserted "and prescribe the rules thereof" largely at the suggestion of some of the delegates to me that it should include that. My original amendment was simply to exempt the creation of courts and defining their jurisdictions, but I think the rules are created by the supreme court and are subject to revision or amendment or repeal by a two-thirds vote of the majority members of the legislature under our present judiciary article.

NORDALE: And that is the only way they could be changed?

ROBERTSON: That is right.

HELLENTHAL: Point of information, Mr. President.

PRESIDENT EGAN: Mr. Hellenthal, your point of information.

HELLENTHAL: That only qualifies the word "legislature", or rather qualifies the word "two-thirds"; and I think Mrs. Nordale has read it incorrectly. It can be changed by the legislature but only upon a two-thirds vote. That is the way I understand it but the legislature can't change the rules. Therefore, Mr. Robertson's restrictions in the proposed amendment is very sound. I don't read that to mean that only the legislature, and

not through use of the initiative, may the rules be changed. It means only by a two-thirds vote; no other way, a two-thirds vote, but it doesn't mean the legislature to the exclusion of the initiative.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, we passed the judiciary article yesterday in third reading. It is now a part of the constitution as I understand it.

PRESIDENT EGAN: That is right, Mr. Johnson.

JOHNSON: And the section, as I read it, which has reference to rules, doesn't use the word "only". In fact, it says "shall make and promulgate rules", referring to the supreme court, "... shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts, which rules may be changed by the legislature by a two-thirds vote of the members elected to each house. There is no "only" in there.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe Mr. Hellenthal is right. I think it would be dangerous to leave out. The rules are not rules for fighting but they are as an important a part of the judicial system as the law itself, and if you have the rules that are subject --

PRESIDENT EGAN: The Convention will come to order. Mr. Taylor.

TAYLOR: The rules are a very important part of our legal system of jurisprudence and I don't believe that anybody should have the right to change them unless it is the bar, the judicial commission, or the courts had a chance to explain to the persons who are going to change them what the importance is, so I don't believe you could do it under the initiative and referendum. I think all parts of the amendment as proposed by Mr. Robertson should be retained as it is for the protection of the people and the protection of the courts.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I am quite of the opinion that we are adding just ten extra words to the constitution here that really have little or no merit and I am still going to vote against this amendment unless I hear more arguments and better arguments to the contrary than I have heard.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I ask a question?

PRESIDENT EGAN: You may ask your question.

KILCHER: If I follow correctly, the article on the judiciary already specifically states that the rules only can be changed by the legislature. The word "law" was not used there for this specific purpose, wasn't it? It was one of the exceptions so that, I think, definitely takes care of the prescribing of the rules. This part of the amendment is unnecessary and redundant, if I am correct.

MCLAUGHLIN: Mr. Kilcher, I might answer, I think that has already been rather ably answered by a member of the Style and Drafting Committee; that if we determine in our ultimate wisdom that it is unnecessary it will be stricken out in Style and Drafting. And in my ultimate wisdom I am speaking only for one-ninth of that Committee. I think it is unnecessary and possibly it could be deleted more easily in Style and Drafting.

KILCHER: Now as to the two first demands of the amendment, creating courts and defining jurisdiction, Mr. McLaughlin, is it not your opinion that the major courts, the superior courts and the supreme court, are, as it is, already immune from the initiative?

MCLAUGHLIN: The supreme court is immune from the initiative; the supreme court is immune from the initiative except in its chief justices -- that is, if the supreme court requests an increase in judges and the legislature refuses to give it, you might be able to get the increase on a request of the supreme court through the initiative. In the superior court the number of judges, which would not affect the jurisdiction, could be changed by the initiative as it now stands.

KILCHER: Upon demand by the supreme court?

MCLAUGHLIN: No. It could be changed without the request of the supreme court. You will notice the word "immune ". Now you do have the possibility of an intermediate appellate court, between the supreme court and the superior court which could be created to take care of a tremendous increase in volume. That court's jurisdiction could, at the moment, be changed by the initiative.

KILCHER: Could it also be created by the initiative?

MCLAUGHLIN: As it reads here it could be created by the initiative. That is correct.

KILCHER: Thank you. One of the arguments, Mr. President, in favor of the amendment was that inferior courts, special courts, might be blindly, as it were, under the effect of mass hysteria,

demanded, but I think that the article on special legislation would take care of that. Any court, to take Mr. McLaughlin's words, a juvenile court or a dog court would be a special problem and I doubt very much that a special problem in a special area could get any backing under our present initiative rules from 10 per cent of all of the districts in Alaska. It is impossible so actually, practically, what the initiative would amount to if it were permitted to be used in connection with the judicial article is this: if a general need should arise in the state, a general need for a general type of inferior courts or possibly a superior court, a general need like was felt in Missouri to adopt an entire new system -- a system that, as Mr. McLaughlin says, we have to be thankful to the initiative, to its operating. If such a similar situation should arise I think we owe it to the initiative to grant it the right to function in these rare and historic moments. I do not see where the initiative could possibly, or would possibly, be abused for any special or local interests. It would be prohibited from being used for these purposes and I can't see where a whole state can get hysterical about a pack of dogs or a local juvenile problem and back up an initiative which is a lengthy process, a complicated process, and a process that is safeguarded with enough time, a long enough term for everybody to think it over coolly so I think this amendment is not necessary, I doubt if the initiative ever would be abused, and I see where it possibly could be put to good use and I oppose this amendment on that grounds. I think that anybody that believes truly in the initiative should agree and vote that amendment down.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I don't know whether I am for or against this amendment yet but I would hate to see it get so muddied up that we don't know what we are voting on and I wish that this Convention would understand for once and for all that whether or not it is an "idiot rule", we are operating under a motion adopted by this Convention that says when we say "by law" or "by the legislature", we now mean one and the same thing, so that any time those terms are used, they are currently subject to the initiative. If I am wrong I will stand corrected but that is my understanding of the motion that we are operating under and we keep getting that question muddied up and we shouldn't do it because it confuses the votes. To further clarify my own mind I would like, with the permission of the Chair, to address a question to Mr. Taylor. Mr. Taylor, as seconder of this motion, I would like to ask if in creating courts, defining the jurisdiction or prescribing the rules thereof, if that covers all the abuses that you feel might be made of the initiative in connection with the judiciary article. It seems to me that this amendment deals only with the creation of additional courts. It doesn't deal with such matters as "the number of judges shall be prescribed by law", "the

jurisdiction of the court shall be prescribed by law". It doesn't deal with any of those other matters in the judiciary article so as far as I am able to understand; it deals only with the question of the creation of new or additional courts.

TAYLOR: That is right, Mr. White, it doesn't. In regard to the creation of the courts and the jurisdiction -- the defining of the jurisdictions is quite technical and the rules thereof; the adoption of that amendment will clarify the issue. In the judiciary article they have put in "the changes as provided by law". Well, this way we want it so the law would be only the legislature and not through the initiative and referendum. There are other matters connected with the judiciary article that are not so important and if they were subject to the initiative, of which I am doubtful -- I don't agree with everything that Mr. McLaughlin says -- I doubt whether they would be applicable then, but this will take care of everything that I think we are particularly interested in.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Is this intended to read: "to create courts and define the jurisdiction thereof"? In other words "define the jurisdiction of courts created". Does it apply to the jurisdiction?

TAYLOR: It does not create the courts or define the jurisdiction thereof. They are prohibited or restricted from it.

PRESIDENT EGAN: Mr. Marston.

MARSTON: May I ask the Chairman of the Judiciary Committee, Mr. McLaughlin, a question? Did I understand you to say, Mr. McLaughlin, in your opinion as head of the Judiciary Committee, that Mr. Robertson has in the initiative and referendum right now the protection he requires under this amendment?

MCLAUGHLIN: Mr. Marston, you did not understand me as Chairman of the Judiciary Committee. When I speak, I speak personally. First of all, there seems to be an impression in this Convention that whenever you render an opinion, it has to be partisan and what I am trying to do is present both sides of the question in terms of my own emotions and my intended vote. I intend to vote for Mr. Robertson's amendment although I disagree with his opinion and Mr. Taylor's on the rule-making power.

MARSTON: You feel there is protection now?

MCLAUGHLIN: I feel no great emotional necessity for it.

MARSTON: I want to speak on this just a moment here before we get to it. I am not opposed to it and I told Mr. Taylor that but I am afraid we will go over the fence here and go into a

big hassle and I would like to avoid it. I have a feeling that they are going to try to destroy this whole thing pertaining to the courts and then somebody else steps in, and I have the opinion now that I am going to oppose the whole thing, but I'd like to go along with Mr. McLaughlin.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. Marston, you realize that there has to be, under a suspension of the rules, any further amendments would take a two-thirds vote. I suggest for one amendment it would take a two-thirds vote to suspend the rules.

MARSTON: If I can get a stronger opinion here that there will be no more attempts here to destroy it, I will go along with it.

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon.

MCCUTCHEON: I don't think the delegate should endeavor to abridge the right of any other delegate here to present some other matter. After all, there are 55 delegates here and we all have various opinions, and it seems to me that anyone could present his opinion and we have to vote on the subject at issue.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: There are several questions to this article that refer to the judiciary article and I would like to get them clarified before voting so I move we recess until 1:30 p.m.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent that the Convention recess until 1:30 p.m. Are there committee announcements? Mr. Smith.

SMITH: I would like to announce a meeting of the Committee on Resources at 12:50 in one of the rooms upstairs.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment at 1:00 o'clock.

PRESIDENT EGAN: Are there other announcements? Mr. Hellenthal?

HELLENTHAL: There is a map in connection with the election districts which will be in Room 404 of the Mines Building between 1:00 p.m. and 4:00 p.m. this afternoon and if anyone has any questions or suggested change with regard to the election districts, we suggest they go there and talk to Ernie Wolfe or Bruce Thomas. Room 404 of the Mines Building. The reason we make that request is that they have detailed topographical maps there that show watershed boundaries and it is much easier

to answer any questions there than it would be here.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I would like to ask, Mr. Hellenthal, does that mean that they can change the boundaries there if they wish to?

HELLENTHAL: No, but they can answer any questions which you may have with regard to the application of the map to the written language as it has been distributed to each delegate.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I may give the added information that Mr. Thomas is from Livengood.

PRESIDENT EGAN: Mr. Thomas is from Cordova. If there is no objection, the Convention will be at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Robertson's proposed amendment. The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment -- the Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 3, Section 7, line 2, after the comma following the word 'appropriations' insert 'create courts, define the jurisdiction or prescribe the rules thereof,'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, H. Fischer, Harris, Hellenthal, Hermann, Hinckel, Johnson, King, Laws, Lee, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, White, Wien, Mr. President.

Nays: 10: Coghill, Emberg, V. Fischer, Gray, Hilscher, Kilcher, Knight, McNees, Peratrovich, VanderLeest.

Absent: 6 - Armstrong, Barr, Hurley, Londborg, Nolan, Walsh.

CHIEF CLERK: 39 yeas, 10 nays and 6 absent.

PRESIDENT EGAN: The "yeas" have it and the proposed amendment is ordered adopted. Are there other questions or proposed amendments for Article XI, the article on initiative and referendum? If not, there is no motion for advancement on the calendar. The proposal will be referred to the Rules Committee for assignment to the calendar. Mr. Doogan.

DOOGAN: Does that move it on into third reading now?

PRESIDENT EGAN: It does, Mr. Doogan. It will take its regular course and the Rules Committee will put it on the calendar in third reading. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the rules be suspended, that the article on initiative, referendum, and recall be advanced to third reading and final passage, be read by title only, and placed on final passage at this time.

PRESIDENT EGAN: Mr. Sundborg asks, moves and asks unanimous consent that the rules be suspended, that Article XI, the article on initiative, referendum and recall be considered engrossed and advanced to final passage. Is there objection?

WHITE: I object.

COOPER: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

TAYLOR: I'll second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion. The question is, "Shall the rules be suspended and Article XI be advanced to third reading?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 40 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, VanderLeest, Walsh, Wien, Mr. President.

Nays: 13 - Cooper, V. Fischer, Hilscher, Johnson, Laws, Londborg, Metcalf, Poulsen, Reader, Robertson, Rosswog, Sweeney, White.

Absent: 2 - Barr, Nolan.)

CHIEF CLERK: 40 yeas, 13 nays and 2 absent.

PRESIDENT EGAN: So the rules have been suspended, Article XI is now before us in third reading and open for debate. The Chief Clerk will please read the article.

CHIEF CLERK: "Article XI, Initiative, Referendum and Recall. Section 1. The people may propose and enact laws by the initiative and approve or reject acts of the legislature by the referendum --

TAYLOR: Point of order. I think that the motion was that it be read by title only, in third reading.

PRESIDENT EGAN: That is right. Mr. Sundborg, did your motion include that?

SUNDBORG: That was part my motion, Mr. President.

PRESIDENT EGAN: That it be read by title only?

SUNDBORG: If that is in order.

PRESIDENT EGAN: Well, under the suspension of the rules that can be done, that is correct. If there is no objection then, the article is now before us and in third reading and open for debate. Does anyone wish to discuss the article on initiative, referendum and recall? Mr. Robertson.

ROBERTSON: I am constrained to vote against this article for the reasons I stated on the floor of the Convention when it was first introduced. I think we are doing a disservice to the people of Alaska in adopting an initiative and referendum instead of doing them a service, and I think it might have been well exemplified by the experience in California with initiative and referendum and also in the State of Washington. I also feel that the limit of the denial of certification alone to judicial review instead of both the allowance and the denial also makes the article very defective. I believe there will be many more cases of where the certificate in allowing it, than where it would be denied, because I can't believe the secretary of state is going to deny very many certificates; I think he'll constrain himself, or whoever passes upon them, to allow them. For that reason I advise and announce that I shall vote against the article.

PRESIDENT EGAN: Is there further debate? Mr. Sundborg.

SUNDBORG: Mr. President, I take a view opposite that from Mr. Robertson. I feel that it is a good article; it is well drawn. It gets away by its language from the abuses which did make

the initiative unsavory in some respects in California and some other states. I believe we have in here safeguards, both to the principle, and most of our legislation will be enacted by the legislature, and also the principle which I believe is equally sound, that the people, after all, are those who have the real say in what we should have as our laws. The point that Mr. Robertson makes about denial of certification is the only thing that will be subject to judicial review, I think is not an important one because the only thing that the secretary of state is called upon to certify anyway is whether the petition or the application is in proper form. He cannot certify as to its content; all he can say is that it has been presented correctly and therefore you may go out and get your signatures on a petition. If he should turn it down and say the form is not correct, then, that would be subject to judicial review and I think that is proper. I think it's a good article and I hope it will go into our constitution.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think it's a good article; I think it's well written, if we feel that we must have initiative and referendum in the constitution. I personally am not in favor of including this article in the constitution. I don't think the initiative is actually a view of the people as a whole, of the individual Alaskan. Initiative lends itself only, almost exclusively, to use by pressure groups. The people who want good government go to the polls once; they elect their representatives. We have developed an excellent system of apportionment for our legislature. We will elect those people. The average Alaskan will vote for that person and they will have faith in him to enact the laws that he wants. The initiative will be a tool of pressure groups, such pressure groups as we have seen work upon this Convention. I don't think it will actually be in the interests of good government or of the people.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I don't think at this time that sovereign people are going to abrogate their position as sovereign people. We are going to remain a sovereign people and the history of the initiative and referendum does not prove out what Delegate Fischer has just said; it has proven good more often than it has bad. The legislature makes good and bad laws; the initiative and referendum has done the same but it has better laws on the whole than the legislature has. I cannot see how this body can go against this initiative and referendum bill we have before us. We would be disheartening to the people who are supporting us here. They have accepted it and it is in the law now, or soon will be, and I believe we will put it in there. There are 40 mavericks in this organization here. I know Mr. Maverick of Texas, lives on an island and his cattle aren't branded, and I believe we are going to go through and take care of them.

Those "holy cows" we had this morning to protect on the Judiciary -- well, it is all right if we have to do that but there are 40 mavericks here who are regular cattle and they will go according to their own thinking and I believe we will have the initiative and referendum on the laws in the State of Alaska, and I sincerely hope so and I am going to vote for it.

DOOGAN: Mr. President, does it take a motion to adopt this as part of the constitution or is this up for final passage?

PRESIDENT EGAN: It is up for final passage and the roll will be called on it, on the question.

DOOGAN: I call for the question.

PRESIDENT EGAN: Mr. McCutcheon has been attempting to get the floor.

MCCUTCHEON: I move the previous question.

PRESIDENT EGAN: Delegate McCutcheon moves the previous question.

DOOGAN: I second it.

PRESIDENT EGAN: Seconded by Mr. Doogan. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the previous question is ordered. The question is, "Shall Article XI, the article on initiative, referendum and recall be adopted as a part of the Alaska state constitution? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 43 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Riley R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, White, Wien, Mr. President.

Nays: 10 - V. Fischer, Johnson, Laws, Londborg, McCutcheon, McNealy, Poulsen, Reader, Robertson, Walsh.

Absent: 2 - Barr, Nolan.)

CHIEF CLERK: 43 yeas, 10 nays and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and Article XI, the

article on initiative, referendum and recall has become a part of Alaska's state constitution. Mr. Sundborg.

SUNDBORG: Mr. President, may we revert to the order of business of committee reports?

PRESIDENT EGAN: If there is no objection the Convention will revert to the order of business of reports of committees.

SUNDBORG: The Style and Drafting Committee has reviewed the work remaining to the Convention and we desire to report that by the action just taken we have up to this time adopted two articles for the constitution. They total 10 pages. When we total up all of the articles which have passed second reading, which I think is practically the entire body of the constitution, all of that constitutes 67 pages, so we have passed 10 out of a probable 67 or thereabouts, pages which will be in the constitution; that is speaking of the typed copies in the form in which we work on the proposals here. Now we have reported from Style and Drafting to the Convention one other article which is only two pages in length. We have in our Committee, about ready to report out, one additional article which will be six pages in length; but a great deal of work remains which our Committee hasn't even looked at yet or considered; a total of about seven articles comprising altogether something around 50 pages out of a total of 67 which will go into the constitution. I call this to your attention because I would like to ask that we again adopt a procedure such as we followed early in the Convention of holding only brief plenary sessions, at least for a few days, so that the Style and Drafting Committee can handle a great many of these proposals and get them in shape to bring to the floor, or else the floor will soon have nothing else to do, and until we do that there is no possible way of finishing up our work of drawing up the constitution and adopting these things in third reading.

PRESIDENT EGAN: Mr. Sundborg, if the Chair may, the Chair would like to suggest that perhaps the plenary session might yield to the Style and Drafting Committee to the extent that some part of the morning hours would be left open for a few days to the Style and Drafting Committee and we could continue on with our work in plenary session, if necessary, until late at night and through the afternoon; but if those morning hours could be left available to Style and Drafting it should give them time to work when they would be in a fresher mind. Mr. Hurley.

HURLEY: Mr. President, as an observation on that point, I think that most will agree with me that if we have less than two hours at any one time we are really wasting our time; not wasting it, but not as great an advantage as when we have a fairly long period of time. We get more done than when we have little periods of short time.

PRESIDENT EGAN: Well, Mr. Hurley, if the Chair is not being presumptuous, if for the next few days we would call our plenary session into session at 1:30 p.m., as we did earlier in the session for a considerable length of time, in order to attempt to accomplish this work, would that suggestion be in line with what the delegates might be thinking? Mrs. Hermann.

HERMANN: As a member of the Style and Drafting Committee and also the "nagging wife" of the Constitutional Convention, I wish to remind the Convention that the other committees had approximately five weeks of committee work at which time they were working most of the time during the day, the plenary sessions being very short both morning and evening. The volume of work that confronts Style and Drafting Committee at this time is, I would say, equal to that which confronted any of the other committees during the period that they were drafting the articles that they have. It is a different kind of work, it is true, but we can't accomplish what we have to do without liberal allowances of time between now and the end of this week; and it is my understanding that we have to complete this and have it ready to be made into a final document by the end of this week if we are going to accomplish all we have to do before final adjournment. I think we should have, certainly a five-or six-hour period daily at one time.

PRESIDENT EGAN: From 7:00 in the morning until 1:30 in the afternoon would be, wouldn't it?

HERMANN: It's broken up somewhat in that respect, and we worked yesterday from 1:00 o'clock until 7:00 o'clock with only a coffee break at 4:00 o'clock and we didn't accomplish what we had promised you, Mr. President, that we would, and which we honestly thought we could do. Now, we are going to have to speed up our work, there isn't any question about that either, but we need long periods of time to devote to this work for the next three or four days, at least, and I think we are entitled to it. I think we are entitled to the same break on this matter that the other committees had in preparing the original articles.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: As a member of the Style and Drafting Committee I agree with Mrs. Hermann. However, I feel that if we use the early hours of the day, say from 9:00 until 1:00 for the rest of this week, that in all probability we can catch up with the work that must be done and from my personal point of view that would be the better way of handling it. We still could get a bite to eat or something between 1:00 and 1:30, and if it is in order, Mr. President, I move that we adopt as a policy of this Convention that for the balance of this week our plenary sessions convene at 1:30 p.m.

PRESIDENT EGAN: Mr. Johnson moves, is there a second?

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HELLENTHAL: I second the motion.

PRESIDENT EGAN: Mr. Hellenthal seconds the motion. The question is -- Mr. Coghill?

COGHILL: Mr. Chairman, I have the bus schedule here and it might be well to look over what time the bus leaves town to the University, and there is a bus that leaves the depot at 12:30 and arrives here at 12:50, and also the next bus is at 2:30 and arrives here at 2:50. This 12:30 bus would be the one then that the delegates would wish to come out.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: If I may follow up that point of information, it occurred to me that the bus company has accommodated us up to now by furnishing a special bus daily and I am sure if we tell them we would rather have that special bus leave at 1:00 in the afternoon instead of at 8:30 in the morning, they would be glad to do that. There is a regular bus leaving each morning from the bus depot at 8:30 and the Style and Drafting Committee could use that one if it desires to hold its meetings out here instead of in the city.

PRESIDENT EGAN: Mr. Coghill, if this motion carries, will you see that the bus company is notified?

COGHILL: Yes.

PRESIDENT EGAN: Mr. Cooper.

COOPER: There is a motion before the house which is amendable, I believe, is it not? It is a motion to adopt a policy.

PRESIDENT EGAN: There is no reason why it shouldn't be amendable.

COOPER: With the consent of the mover of the motion, I would like to amend it to convene at 3:00 in the afternoon. The majority of the Style and Drafting that I have heard talk here have asked for at least six hours uninterrupted, and during that time there would be a lunch hour, and 3:00 in the afternoon would give us roughly six hours, less the dinner hour, before we had to be back in plenary session. I so move.

PRESIDENT EGAN: The motion didn't say that Style and Drafting would meet at 9:00, Mr. Cooper. They could meet earlier if they wished.

TAYLOR: For the benefit of the Style and Drafting Committee I might say there is a bus that leaves the depot at 7:30 a.m. and that would give them a chance to put in an hour or two extra.

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PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, the Johnson bus leaves at 8:30 a.m.

PRESIDENT EGAN: The Convention will come to order. Mr. Rivers.

V. RIVERS: Mr. President, I would like to hear an expression from a majority of the members of Style and Drafting as to what would be the best suited to their purposes. It seems to me that we should more or less conform to what they feel would be the best way of carrying out this rather heavy load of work.

V. FISCHER: I move a two-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Doogan.

DOOGAN: May I have the privilege of the floor?

PRESIDENT EGAN: If there is no objection, Mr. Doogan, you may have the privilege of the floor.

(Mr. Doogan was given the privilege of the floor.)

PRESIDENT EGAN: The question is, "Shall it be the policy of the Convention for the next few days to meet in plenary session at 1:30 p.m.?" Mr. Hellenthal.

HELLENTHAL: Did Style and Drafting reach any decision or do they have any suggestions because I, too, want to be amenable to their wishes.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, we did have a meeting during the brief recess and it is agreeable to Style and Drafting Committee to proceed on that schedule, at least for the next few days until we see if it does give us enough time.

HELLENTHAL: What is the schedule?

SUNDBORG: The schedule would be that the plenary sessions would not meet until 1:30 o'clock daily and that Style and Drafting Committee would have the entire morning in which to work.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: May I address a question through the Chair to Mr. Sundborg?

PRESIDENT EGAN: If there is no objection, Mr. Taylor.

TAYLOR: Mr. Sundborg, had you given thought about increasing the size of the Style and Drafting Committee and possibly breaking it up into three subcommittees so that you could turn out more work? There are a lot of committees that are not doing anything and have no work and possibly their services could be utilized, possibly four committees for that matter, and cut the time in half.

SUNDBORG: We have considered that. Our Committee is one of nine members which is one of the largest in the Convention. We have divided it into three subcommittees of three members each and we find that the greatest amount of time which we are taking is not taken in the subcommittees. They seem to run along pretty smoothly. It is when we get their reports before the full Style and Drafting Committee that we run into greater delays and I think delays which it is well that we have because it brings more minds to bear on the problems. I feel personally that if the size of the Committee was increased it would slow down the process rather than speed it up, at least in that process where we are considering the reports from the subcommittees. I believe it is working very well right now but you have to realize that we haven't had anything to work on until about a week ago and then we have had everything which we have to do in a period of about two weeks.

TAYLOR: Well, Mr. Sundborg, then in following your remarks out to a logical conclusion, if you cut the two of your subcommittees off, then you would still speed the work up more? Is that right?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I wouldn't want to cut the committees off. I think three subcommittees are about right number to handle the proposals that are before us but the thing that takes time is when all nine members come together to consider the report of the subcommittees. Yes, answering you very frankly, I think if we would cut the full committee down at that point to four or five members we would go faster but I don't think it would result in as good or as carefully considered language or parts of the constitution as we have been reporting. There is a lot more to this Style and Drafting than considering whether you say "but" or and or whether you put in a comma. We have had to go over the entire constitution and see that it is consistent in the manner in which it treats the times in which certain things are to happen and the expressions of how large a majority is required; for instance, we want to be sure the same language is used when the same thing is meant. Otherwise the constitution

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will be open to construction which was not intended by the body.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: If we should pass this motion for the first half of the day what will the members who are not serving on Style and Drafting be doing. Can anyone tell me that?

PRESIDENT EGAN: That would be up to them, Mr. Metcalf.

METCALF: Well, my friend, I am very guilty -- I feel very guilty in that case. As I said once before here a couple of weeks ago, I am apprehensive that we are not going to get done on this thing and I, for one, would like to volunteer, I think we should volunteer some of our help in some way or other to Style and Drafting to hurry up and expedite this thing, and at least have it done this week.

SUNDBORG: Mr. President, if I may comment on that, we have been through in Style and Drafting a long period of preparation for the work we are doing and it is preparation which has been in process ever since this Convention met. Style and Drafting has not been idle even though we have not had articles on which to work. We have been working up our policies and understandings and style determination, so all of which would be just "Greek" to many people who would be added to the Committee at this time and I am afraid it would take us more time to try and indoctrinate them and to get them abreast of what we are trying to do than we could possibly save for utilizing their talents.

PRESIDENT EGAN: The question is, "Shall the Convention make it a policy over the next few days of convening the plenary session at 1:30 o'clock p.m.?" All those in favor of the motion will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the motion has been adopted as the policy of the Convention. Mr. Sundborg.

SUNDBORG: Mr. President, also arising from our Style and Drafting Committee meeting held during recess, I would like to move that as for today that the Convention continue until approximately 5:30 p.m. This would be the policy and then adjourn at that time, until 1:30 tomorrow. In other words, have no night session tonight so that Style and Drafting could have the evening hours in which to work today.

PRESIDENT EGAN: Is there objection to the proposal as offered by Mr. Sundborg for the policy as of today and for today?

DOOGAN: I object.

SUNDBORG: I so move.

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PRESIDENT EGAN: Objection is heard. Mr. Sundborg so moves. Is there a second?

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers seconds the motion that it be the policy of the Convention for today to adjourn the session at 5:40 and convene again at 1:30 p.m. tomorrow. Mr. Buckalew.

BUCKALEW: Mr. President, who objected -- Mr. Davis?

PRESIDENT EGAN: Mr. Doogan. All those in favor of adopting Mr. Sundborg's motion as the policy of the Convention for today will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed motion has been adopted. Mrs. Sweeney.

SWEENEY: While we are still on committee reports I would like to report that your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal No. 6/a, local government, has compared same with the original and find it correctly engrossed. The first enrolled copies will be placed on the delegates' desks within a short time. I ask unanimous consent for the adoption of the report.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the report of the Committee on Engrossment and Enrollment be adopted. Is there objection? Hearing no objection, the report of the Committee on Engrossment and Enrollment is adopted. Mr. Taylor, the Chair notes that it is not 21 minutes after 8:00 p.m. but will we be able to take up Committee Proposal No. 16 which was held in abeyance, at this time?

TAYLOR: The one that was held in abeyance until 9:18? Yes, I will withdraw that.

PRESIDENT EGAN: We have before us Committee Proposal No. 16 and the proposed amendment as offered by Mr. Smith, which has been mimeographed and is on all the delegates' desks. Mr. Smith.

SMITH: Mr. President, I did not have an opportunity to attend the meeting of the Ordinance Committee today and I wonder if it would be permissible to ask the Chairman of that Committee if this matter was discussed at their meeting today.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President. The only discussion, Mr. Smith, was with just a portion of the Committee and there was nothing definite arrived at except that the Committee had considered earlier in the ordinances, why we had provided an ordinance there that the legislature might amend or supplement the

transitional provisions and there was some talk about then reinserting an article which we had taken out, or to offer it to the Convention, for in addition to merely the transitional measures, we would add to that particular ordinance there by amendment, as I said, for Convention consideration to provide that the legislature by a two-thirds majority of each house could make such an amendment comply with any constitutional provision. Now, that would be an argumentative matter in any event but while the Committee was divided on it, a portion felt that that would be a better proposition, in effect, to write out more or less a blank check. That was the only consideration given.

PRESIDENT EGAN: Thank you, Mr. McNealy. Mr. Smith.

SMITH: Mr. President, I gave this thing considerable thought last evening and I would like to call your attention to the provisions of House Resolution 2535 and especially to the contents of Section 203. Section 203 provides for the holding of a constitutional convention and it sets up the things which that convention shall do. We have referred to those things as the requirements as set forth by House Resolution 2535. Now there are only two questions involved here as I see it. One is, are we going to make this provision in our constitution now or are we going to wait and let Congress do it for us. One or the other I am certain is going to be done. I base that certainty on the report of the House Committee on Interior and Insular Affairs. In their action in considering the Hawaiian Constitution they set up the requirements of HR 2535 and along side of those requirements they set out the sections of the Hawaiian Constitution which met those requirements and I feel in my own mind that Congress will follow exactly that procedure in connection with our constitution when it comes up for approval. Now, I realize that this is merely an enabling bill. We don't know what the final act admitting Alaska as a state will say. However, this particular provision has been in every enabling act since 1950. Now I do not say that we must, of necessity, follow the exact language of this provision but I do feel that we must make the intent here very clear and I think the only safe way that we can do that is to follow the exact language of the enabling act. Therefore, I am convinced that the sensible thing to do is to approve this amendment as offered.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, this language has indeed, or a language similar to it, been in every enabling act since 1950 but there is one thing we have got to remember and it is the governing factor to me in this consideration and that is we are now in the process of drafting and we hope adopting a constitution prior to the passage of an enabling act. When this section as written into HR 2535 and other enabling acts, it was contemplated by the drafters of that act that the enabling act would be passed

first and then the people of Alaska would hold their Constitutional Convention, adopt their constitution and it would go to the Congress of the United States. That is exactly backwards from the way we are doing it now. Under the normal procedure, if you want to call it that, the enabling act is passed first and the people draft their constitution and then it goes to the voters for ratification. If the voters do not like the enabling act they turn down the constitution. There is provision, and there also has been in enabling acts for another constitutional convention then to be called; if the voters still don't like the enabling act, they turn down the second constitution. That is the end of the route. It goes without saying that when you read these enabling acts, that Congress can then have the option of writing a new enabling act or not. Now approaching this matter the way we are and writing and adopting our constitution first, we have, so far as I can find out, no check on any future enabling act except insofar as we provide those checks. Now, this particular section here, adopting paragraph 5 in the enabling act says, "All provisions in the Act admitting Alaska to the Union which reserve rights or powers to the United States as well as those prescribed in the terms and conditions of the grants of lands or other property made to Alaska are consented to fully by the State of Alaska and its people." Now of all of the hundreds of people I have talked to about the terms of HR 2535, I can count on something less than one hand those who like the requirement that the state will have to retain title to its minerals and may only lease them. Our answer to them as delegates to the Convention, as members of the Resources Committee or any other Committee, has only been able to be one answer and that is that it's in the enabling act that we can provide for any future change that might take place but we can't change the enabling act unless Congress does. But I think we would be ill-advised to write in here -- this section -- saying that we consent fully to those terms. Of course we may eventually have to; we may eventually want to, but I think that by leaving this out we are going to put ourselves in the same situation Hawaii got into when they left it out and I don't know that they didn't leave it out deliberately and Congress came back at them, has come back at them, in the terms of their new enabling act and said to the people of Hawaii, "You must now amend your constitution to put this section in," but that is a simple procedure. The enabling act for Hawaii, title 1 of this bill, merely provides on page 12 that this particular article be put to the people at the same time they go to the polls to elect their governor. If they adopt it the constitution is automatically amended and if they don't adopt it, "the provisions of this Act thereupon cease to be effective." In other words, the people of Hawaii by leaving this very section out have the final say-so on whether or not they want to adopt an enabling act that may be passed sometime in the future, the terms thereof they know not at present.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, yesterday the proposed Section 2 in the committee report said that the State of Alaska and its people consent to, all and singular, the provisions of the enabling act as it may be passed by Congress. That was a blank check, to be sure; we didn't like that so we struck it. We now come to a proposal for a new Section 2. That new Section 2 is limited only to saying that we would agree in advance to such terms or conditions regarding the grants of lands or property made to the state. Now we are only talking about that we consent in advance to the terms and conditions regarding the grants of lands. Well now, Congress is going to allow us a certain amount of land. Maybe it will be a 100 million acres. There is no reason to think that the amount of land that they are agreeing to allow the new state is going to be reduced in the future Congress. It has come up every time with each successive enabling bill. I think we have to put in something tantamount to Mr. Smith's proposal as a new Section 2. Otherwise, we are not eligible to have an enabling act put through Congress. Congress says, "Very well," to Hawaii, "You can have a referendum here that will pass upon the question of whether you consent to our terms and conditions or not," but the thing is I can't get it clearly through my head that Congress is going to pass the enabling act until the people of Hawaii have expressed themselves at the referendum, and how do the people of Hawaii know how much Congress is going to amend their act after they have rendered their consent by referendum. In other words, they won't give us an enabling law until you have consented in advance so we might just as well consent in advance here because this is not an unreasonable request on the part of Congress. They are asking us only to consent only to the terms and the conditions of the grants of land which will be made to the new state. I don't want to see us get into a "pickle"; I don't want to see this thing delayed by Congress pointing out that you people haven't complied, because here in the new enabling bill now we have got something the same as we had in the previous enabling bill, you people had it called to your attention -- you had fair warning that that would probably be in there, and you have chosen to disregard it. Then we are at the mercy of Congress to spell into an enabling act an authorization to have a referendum which would be regarded as an amendment to our constitution. We might get ourselves in the position of having to call another constitutional convention in order to make up for this deficiency. So, I firmly believe in this particular amendment offered by Mr. Smith. I have this to say though: I was trying to interpret Mr. McNealy's reservations about forever being bound by such consent. Did you have in mind, Mr. McNealy, that we would follow this language up as proposed by Mr. Smith by saying something to this effect, "subject only to changes as are subsequently authorized by Congress", in case Congress later liberalizes the restrictions?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President. No, that wasn't the thought behind it. The only thought we had was if this body saw fit to trust the legislature by a two-thirds majority vote of both houses to comply with some requirement of the enabling act. We were referring only to the state legislature.

R. RIVERS: Well, how could there be one until we had an election?

MCNEALY: The Territorial legislature -- it refers to the Territorial legislature.

R. RIVERS: The Territorial legislature -- oh, I see. Well that would be something to consider. I understand that now, but I also say that it might be well to add "subject only to such changes as are subsequently authorized by Congress". May I ask Mr. Smith a question?

PRESIDENT EGAN: You may.

R. RIVERS: Mr. Smith, what is your reaction to that?

PRESIDENT EGAN: Mr. Smith.

SMITH: Well, Mr. Rivers, again I would say that I hesitate to argue a point of law, constitutional law if you want to call it that, but in this reservation of power I feel certain in my own mind that Congress can only deny us those powers which are denied to other states. When a state is admitted to the Union, it is admitted on an equal footing with the other states, and Congress, with all its power, cannot deny us any rights which are granted to the other states, so I don't think that the addition is necessary.

R. RIVERS: I am afraid you didn't get the point. Now a consent under certain conditions might be regarded as forever binding. If, 10 years after that we are a state, Congress wishes to liberalize the restrictions regarding the lands that is turned over to us, then we would take advantage of that liberalization, would we not? Do you think now that it is more palatable to the people here if they are consenting to the conditions laid down by Congress subject only to such --

MCCUTCHEON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

MCCUTCHEON: Is Mr. Rivers arguing an amendment to this proposal?

R. RIVERS: Well, I assume under the guise of a question I might be leading up to introducing an amendment. I perhaps wandered a little. It may be that that is implied. Some of

the others can comment on that. It suits me the way it is.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I don't know whether you are laughing at me or what, Mr. President. If you are, I will take exception to it. (Laughter)

PRESIDENT EGAN: Mr. Buckalew, you have the floor.

BUCKALEW: Thank you, Mr. President. I think we are being unnecessarily cautious on this and I have heard the expression, "We are giving Congress a blank check". Well, I don't think that is really an accurate statement of the position we find ourselves in now. We haven't got anything. We have got an appointed governor and we have a Territorial legislature. Now I can't see that we have got anything in our credit balance. We can't lose anything by consenting to this. It is certainly going to be better than what we have got now and it seems to me that it would be better to go ahead and accept statehood and I think that we are going to get better bills as we go along anyway, and if there is something that is not exactly satisfactory to us we will have two United States Senators down there in Washington which would certainly be more effective than the people back here saying, "Well, there is one provision in this act that we really don't think is just quite right." Now, I would rather adopt an amendment and trust it to our senators, and Congress is confined by the Constitution in certain fields and if they came out with a wholly inequitable bill I am sure that our delegates and our Tennessee senators under the Tennessee Plan would certainly raise an objection.

MCCUTCHEON: I move the previous question.

METCALF: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon moves the previous question. Mr. Metcalf seconds the motion. The question is, "Shall the previous question be ordered?" Mr. Barr.

BARR: Mr. President, I thought it was said here that it was our policy not to cut off debate.

PRESIDENT EGAN: Anyone can move the previous question at any the Chair has no jurisdiction over that. The question is "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by "no". The Chief Clerk will call the roll. The Convention will come to order.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Awes, Buckalew, Collins, Cross, Doogan,

H. Fischer, V. Fischer, Gray, Harris, Hilscher, Hinckel, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Reader, Riley, R. Rivers, Taylor, VanderLeest.

Nays: 27 - Armstrong, Barr, Boswell, Coghill, Cooper, Davis, Emberg, Hellenthal, Hermann, Johnson, Kilcher, King, Laws, McNealy, Nerland, Poulsen, V. Rivers, Robertson, Rosswog, Smith Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 1 - Hurley.)

CHIEF CLERK: 27 yeas, 27 nays and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the previous question has been ordered.

CHIEF CLERK: It's a tie.

PRESIDENT EGAN: What was it?

CHIEF CLERK: 27 to 27.

PRESIDENT EGAN: Oh. Then the "nays" have it and the previous question has not been ordered. Mr. Victor Rivers.

V. RIVERS: It seems to me, I, for one, want to state that this question had inevitably tied itself up with the so-called Tennessee Plan which we listened to last night. It seems to me, if we are going to view ourselves as a state, we must have this general clause in the constitution before we can do so. I have read the wording of the enabling act, HR 2535 and the enabling act of the proposed Section 2 and they are identical and they do reserve merely the rights that Congress reserves to itself and we agree to the land grants and the reservations in regard to the lands that Congress makes. Those two things, as Mr. Smith has pointed out, the first one is bound up by the Bill of Rights and by the Constitution of the United States and the second one is entirely within the jurisdiction and the judgment of Congress and I am sure that that judgment is not going to alter appreciably at any time in regard to what the final enabling act consists of. It seems to me that we would do well to consider that if we adopt this amendment in its present form that we are in a position then to go ahead with such a plan, if we so decide, as the Tennessee Plan. If we do not, it would also seem to me that we are thereby not in a position to consider ourselves a full state upon the election of our senators and the establishment of our state government, so therefore I favor the amendment.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I am in favor of the amendment, also. Your Committee on Ordinances is considering right now and has under preparation another section to be added to Proposal 17 which we think will take care of the situation somewhat along the lines that Mr. Ralph Rivers mentioned awhile ago, that differences that will arise between the new enabling act and the one we have used here as a pattern can probably be amended in a satisfactory way and so I move again the previous question on this present amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, this is an extremely critical and serious matter we are discussing here and I don't think we should limit ourselves too severely in the debate. It would make good sense if the house resolution which has been quoted here were the act admitting Alaska to the union, but we have no assurance whatever that it will be, or the act which does admit Alaska to the union or will resemble that in any particular. What does the proposed amendment say? It has some conditions in lines 2, 3, and 4, but what it says is expressed pretty well in the first line and last. It says, "All provisions of the act admitting Alaska are consented to fully by the State of Alaska and the people."

UNIDENTIFIED DELEGATE: No, no.

SUNDBORG: All right, the lines in between say "which reserves rights or powers to the United States." I don't want to give that up, as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska. I don't want to give those up without having a look at them. I think that if we adopt this amendment we are indeed signing a blank check and I think the whole problem could be taken care of in another way which would meet both the requirements of Congress and would show the good sense, which I think Alaskans should show whenever they are entering into another form of government. Now I think the whole thing can be taken care of in a transitional measure which would permit the people of Alaska at the polls to adopt such differences as there might be between what is expressed in our constitution and what is required by the Congress in the act which finally admits Alaska. I wonder if I may have consent to read what I would suggest might be included in such a transition measure and which I think would meet the entire problem.

MCCUTCHEON: I object.

PRESIDENT EGAN: Objection is heard.

MCCUTCHEON: Are we speaking to the point of the amendment

here? We are speaking either on the adoption or denial of this amendment.

PRESIDENT EGAN: Objection is heard, Mr. Sundborg.

SUNDBORG: Then Mr. President, I offer an amendment to the amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike the language of the proposed amendment and substitute the following: 'Section 2. Provisions of the act admitting Alaska to the Union which should require consent by the people of Alaska to any condition, or inclusion in the state constitution of any language, not expressed in this constitution shall be presented for ratification at the first general election at which a governor is chosen. If ratified, such provisions shall be incorporated in this constitution as though they were an original part hereof.'"

SUNDBORG: I move the adoption of the amendment to the amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the proposed amendment to the amendment.

HERMANN: A point of order.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: Since the proposed amendment completely destroys the sense of the original amendment, hence it is not acceptable.

PRESIDENT EGAN: The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Hermann your point of order is well taken. The proposed amendment to the amendment is not in order at this time. Mr. Hellenthal.

HELLENTHAL: I asked that we hold this over until today because I wanted to study it and I have studied it and I am entirely satisfied with this amendment. I don't share Mr. Ralph Rivers worries because Congress can remedy the situation and when we become one of the sovereign states we will be able to present our grievances to Congress like any other state and we must abide by their decision. We can't dictate the terms of our admission, we just can't do it. We are not a sovereign state like Texas was. Texas did it but they were sovereign and they got away with it but there was some question about whether they

could even get away with it but since we are not sovereign to start with we just can't dictate the terms and I feel that this is a proper amendment and I therefore support it upon reflection.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: May I ask Mr. Hellenenthal a question?

PRESIDENT EGAN: If there is no objection.

HINCKEL: What if the proposals of the enabling act were entirely out of line and they were so bad we just couldn't accept them, what would be the procedure then? I know that when we go to explain to the public why we put this in, we'll have to have a logical answer and I don't have one right now.

HELLENTHAL: One, I am sure, would be this, Congress wouldn't provide probably for ratification of the enabling act by the people. Another way of showing our disapproval would be failure to organize the state government. There are many, many ways that the disapproval could be recognized and I am sure Congress wouldn't want to shove sovereignty down our throats, and there will probably be some provision for ratification of the enabling act, but better still, they will adopt our constitution without any reservations.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I recognize that there are several advantages in including this amendment; advantages working toward statehood, but I just can't bring myself to vote for it. Mr. Buckalew said there is no reason why we shouldn't write a blank check since we have nothing in the bank. Well, I will grant you that we have nothing in material things. We have no land or anything of that sort to lose but we do have rights as American citizens and if we voluntarily give up all those rights then we are bankrupt. Now I don't know whether the inclusion of this would do harm or good. It depends on the enabling act, of course. For those of you who want to vote for it I will say it might do some good in that when President Eisenhower sees it, he might remove his objections to statehood because then he could make a military reservation of everything north of the Yukon. It removes all of our objections to that, and it might advance the cause of statehood. We might get statehood four or five years sooner that way but my conscience just won't let me vote for it.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: It occurs to me that HR 2535 is still before the Congress. I don't believe it was killed last session. As I recall it, it was referred back to a committee, so it is still,

so far as this session goes, a live piece of legislation and might continue in that respect throughout the balance of this session. At least it might be subject to further consideration. Now if we are going to pursue the so-called Tennessee Plan, and should we go ahead with that type of operation then if we go to the Congress with a constitution that has in it this provision as covered by Mr. White's amendment, or rather Mr. Smith's amendment, then it seems to me that we would stand a better chance of having our constitution adopted because we are then in conformity with the enabling act as it is now pending in the Congress and which could very well be acted on at that time. So I believe that the amendment is good and ought to be passed.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, in answering Mr. Hinckel's question in part, I had some of the same reservations that he had. In looking further into it and reading the report of the Interior and Insular Committee in the House, that is report No. 80 on this particular enabling act in the hearings they had, this enabling act has been built up through a series of studies extending over a period of some 20 years and on that committee in the House we have men like Engle, Sisk, Saylor, and a number of others. Some of the letters which you read last night, we have our watchdogs there in Congress. In the Senate we have men like Knowland, Neuberger; men like Magnuson, Clinton Anderson, Earle Clements, Murray from Kentucky, others like that. They are not going to go back through all the stages and reverse this picture of development of this enabling act. I can see there might be some minor revisions but I cannot see any major upset to SB 50 and HR 2535 essentially as they now are before the Congress. I would venture to say that with only minor or slight revisions, if and when we get statehood, this or even a better enabling act will be what will pass the Congress.

PRESIDENT EGAN: Mr. McNeese.

MCNEESE: Mr. President, I agree almost wholeheartedly with what Mr. Rivers just said. I also recognize the reservations in the minds of many of the members on this floor. I approached Mr. Smith here a few minutes ago with regard to a certain suggestion and I am going to throw it out on the floor now for its merits, whatever it might have. If this were to be modified, striking the words "of the Act" in the first line and inserting "of acts to date of this constitution" what that might do to it in appeasing the various members on the floor and still not hurting the value of the article. In the house bills and senate bills to date there has been a certain pattern set up. Practically all of these provisions have appeared in every statehood bill within recent years. Furthermore, our constitution will be a dated article. I am not going to spend any more time talking

about it but it does seem to be a possible loophole that might give us a near unanimous consent.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: We seem to have proceeded in many of our debates here on the assumption that we can't trust people. That assumption has gone through every argument we have had. It has been checkmating the legislature, the executive power, this, that, or the other thing. We all stand here as American citizens. We sometimes refer to ourselves as "second-class" citizens but I don't like that term because I believe we have chosen to stay here in the Territory, and if we don't like it, we can get out; but on the other hand, if we trust these men who will vote for statehood, then let us trust that under these words they will give us the best possible type of provisions. I believe we will show trust, we will be saying to these men that we want statehood, not on any terms but on the best terms we know you will provide for us. And, Mr. President, I don't feel this is a blank check. I feel that, if we go ahead as I feel we will, for the Tennessee Plan to send our senators and representative there, we have this provision. We will not only be knocking on the door, we will be ready to walk in when the door is opened and I for one will support this.

PRESIDENT EGAN: Mr. Smith.

SMITH: I believe I have the right to close unless someone else --

PRESIDENT EGAN: Mr. Smith, you have the right to close.

SMITH: I don't have a great deal to add but I would ask each of you to ask yourselves this question. With all the difficulties that we have faced in persuading Congress to vote in favor of statehood, can anyone doubt that if we do not like the enabling act that we could persuade enough Congressmen to vote against statehood? I have no such doubt. I don't think I will go further into the technical questions involved except to point out one thing: that the land grants as provided in this act when it is finally passed will be a contract between the United States and the state. They will continue in effect regardless of any act by either party or the other without the consent. In other words, it would have to be by mutual consent before the terms of those land grants could be changed in any way.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, may I ask Mr. Smith a question?

PRESIDENT EGAN: Mr. Smith closed the argument. If there is no objection, you may ask your question.

COGHILL: There is one thing I would like to get clarified here in this amendment that you propose, Mr. Smith. Do you propose that the people of Alaska consent fully to a partitioning plan?

SMITH: I do not. I think that that situation is taken care of very well in our boundary provisions. If Congress decided to divide Alaska our boundary provision would no longer apply. There would be a direct conflict between our constitution and the enabling act and if the people of Alaska refused to ratify an amendment to the constitution, to bring that boundary provision in to line with the enabling act, then I am sure that we would not be granted statehood on a partial basis.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Smith be adopted by the Convention?"

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 46 - Armstrong, Awes, Boswell, Buckalew, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, Walsh, White, Wien, Mr. President.

Nays: 7 - Barr, Coghill, Cooper, King, McNealy, Sundborg, Sweeney.

Absent: 2 - Hurley, VanderLeest.)

CHIEF CLERK: 46 yeas, 7 nays and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. White.

WHITE: May I rise to a point of personal privilege?

PRESIDENT EGAN: If there is no objection, you may have the floor on personal privilege.

(Mr. White spoke on a point of personal privilege.)

PRESIDENT EGAN: Mr. White serves notice that he will reconsider his vote on the proposed amendment just voted upon. Under those

conditions we just might as well forget this proposal until tomorrow.

JOHNSON: A point of order.

PRESIDENT EGAN: Your point of order, Mr. Johnson?

JOHNSON: Is Mr. White's notice of reconsideration good while he has the floor on personal privilege?

PRESIDENT EGAN: He should have stated that his point of personal privilege had expired before he served notice. The Chair assumes that that was his intention. Is that correct Mr. White?

WHITE: Yes.

PRESIDENT EGAN: Is there objection? Mr. Taylor.

TAYLOR: Mr. President, I move that the rules be suspended and that Mr. White's notice for reconsideration be brought on at this time.

PRESIDENT EGAN: Mr. Taylor moves that the rules be suspended and that we consider Mr. White's reconsideration at this time. Is there a second to the motion?

METCALF: Second it.

PRESIDENT EGAN: Mr. Metcalf seconds the motion. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Collins, H. Fischer, Hinckel, Knight, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Peratrovich, Poulsen, Reader, V. Rivers, Taylor, Walsh, Mr. President.

Nays: 36 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Johnson, Kilcher, King, Laws, Londborg, McNealy, Marston, Nolan, Nordale, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, White, Wien.

Absent: 2 - Hurley, VanderLeest.)

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed motion

has failed of adoption. We have before us Committee Proposal No. 17. Mr. McNealy.

MCNEALY: Mr. President, a point of inquiry. I am not sure of the method which to follow here but due to the fact that at the time the ordinances from Section 2 to Section 20 were drawn, none of the proposals had passed the house in final form, and some changes had been made. In going over it, the consultants with the Committee, felt that there should be some definite changes and the Committee also felt that it should apply and not in any way conflict with the proposals that have already advanced through second reading on the floor, and for that reason and in order not to lose the time of the Convention, we placed upon the desk Proposal No. 17/a which contains Section 2 and Section 20 of the Committee's proposed ordinances. Now these are incorporated in ours, word for word, with those in Proposal No. 17/a. If you have some kind of a rule so these could be submitted at this time and the others held in abeyance until we complete our work on them tonight, these Sections 2 and 20 are ready, which cover the state capital and fish traps.

PRESIDENT EGAN: In other words. Mr. McNealy, you are asking that Committee Proposal No. 17/a be brought before the Convention at this time and Committee Proposal No. 17 be held in abeyance? Is that right?

MCNEALY: Yes, Mr. President. I would ask unanimous consent.

PRESIDENT EGAN: You ask unanimous consent that you submit to the floor of the Convention for second reading of Committee Proposal No. 17/a? Is that correct? Mr. Buckalew.

BUCKALEW: Could I ask Mr. McNealy a question? Don't we want the proposal that is on the desk now withdrawn? If we hold it in abeyance we are never going to bring it up.

MCNEALY: Mr. President, in answer to Mr. Buckalew I will say that until we find out what our final draft of the other is, I would prefer to wait and withdraw it tomorrow.

PRESIDENT EGAN: Is there objection to the introduction of Committee Proposal No. 17/a at this time? Hearing no objection the proposal will be accepted by the Convention. The Chief Clerk may read Committee Proposal No. 17/a.

CHIEF CLERK: "Committee Proposal No. 17/a, introduced by the Committee on Ordinances and Transitional Measures, resolved that the following be agreed upon as part of the Alaska State Constitution: SCHEDULE."

UNIDENTIFIED DELEGATE: Is this the first reading?

PRESIDENT EGAN: It is, yes. Do you ask unanimous consent that we proceed with the second reading at this time, Mr. McNealy?

MCNEALY: Mr. President, I do ask unanimous consent that the rules be suspended and Committee Proposal No. 17/a be advanced to second reading.

PRESIDENT EGAN: Is there objection? If not, the Chief Clerk may read --

ROBERTSON: I want to ask a question first. Why did they leave out Section 19 of the Proposal No. 17?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection Committee Proposal No. 17/a will be read for the second time. Is there objection? The Chief Clerk may proceed with the second reading of Committee Proposal No. 17/a.

(The Chief Clerk then read Committee Proposal No. 17/a for the second time.)

PRESIDENT EGAN: Are there amendments to Section No. 2? The Sergeant at arms may bring proposed amendments up to the Secretary's desk. The Chief Clerk may read the proposed amendment (from Mr. Hurley).

CHIEF CLERK: "Section 2, line 2, page 1, change 'Juneau' to 'Palmer'."

HURLEY: Mr. President, I move the adoption of the proposed amendment.

PRESIDENT EGAN: The Convention will come to order. Is there a second to the proposed amendment?

MCCUTCHEON: I'll second it.

PRESIDENT EGAN: Mr. McCutcheon seconds the motion. The motion is open for discussion. Mr. Hurley.

HURLEY: Mr. President, I do this in all seriousness, recognizing the many ramifications of the problem. I would like, however, to take a few minutes of the delegates' time to explain my reasons for introducing this motion and urge your serious consideration to it. The matter of a capital city of a state is an extremely important decision, one that basically should be geared to the economy of that state, one that must be

considered in the light of present circumstances as well as future circumstances. I think that, in all sincerity, Palmer is an ideal location for the capital of Alaska. It is centrally located insofar as area and present population is concerned and it would appear within our knowledge in projecting population that it will continue to be relatively near the center of population as our great State of Alaska continues to grow. I call attention to the fact that it is accessible by all means of transportation with the possible exception of water. We have rail service; we have excellent paved highway service; we have an airport capable of handling DC-3's, and within a very short time will be served by a scheduled airline. It is presently the center of many important governmental administrative agencies. They have made the decision purely on a basis of saving administrative costs and placing their personnel in the center of the area within which they work. Four of the federal government agencies and two of the Territorial agencies have headquarters in Palmer. I call attention to the conclusion that as our state grows we will follow the tendency of more and more cooperative efforts with the federal government. To that extent I feel the location of our state capital at Palmer will result in a greater liaison and cooperative work with the federal government. I call attention to a matter which I think is extremely important. At the present time and in the foreseeable future it is one of the two areas of our Territory which can be self-supporting. We may, in the event of being cut off from supplies from other parts of the United States, have to forego some luxuries but our population would be able to subsist in a very satisfactory manner with the foodstuffs and materials that we can produce right in the area. I call attention to the fact that it is probably an average climate for the Territory of Alaska. We have available the cheapest fuel in the Territory of Alaska per unit of heat. We have, even at the present time and are improving all along, excellent community facilities in the way of schools and hospitals. In all respects in my mind, it has the advantages which are desirable for the location of a seat of government for a state which has the future that I feel that Alaska has. Now I certainly recognize the many problems inherent with such a move but I feel that the facts will demonstrate that where the capital is located in the State of Alaska it will stay, and the dollars and cents that enter into the argument must be computed on a longtime basis. I am sure that the savings to the State of Alaska and to the people of the State of Alaska as a result of having the capital located in Palmer will far offset the immediate and temporary loss that may accrue to those people whose businesses presently depend upon the capital being in Juneau. I also think that another consideration which I have given much thought to, I know, is the matter of ratification of this constitution. Certainly I put that ahead of any personal feelings, but after a thorough consideration I am convinced that the constitution will be ratified with a substantial vote should my amendment be adopted, as it would be without. I recognize that there are

people who will vote against the ratification if this matter is included. But I also feel that as many people will vote in favor of ratification with my amendment adopted, as would vote against it if the amendment was not adopted. I ask the delegates to consider this matter in a long-term way. If you do not, you are not making the proper decision for your state. We have gone through this Convention in the days that we have been here in what I think is a wonderful manner of cooperation and putting aside of local interests, and I hope that you will not feel I introduced this amendment purely as a local interest matter, granted, of course it involves local interest, but yet I think it is more important that we consider the matter from a long-term basis. So keep that in mind and whatever decision we arrive at will be the proper one, just as it has in the case of considering other proposals. I ask that you give my amendment your most serious consideration.

PRESIDENT EGAN: Is there further discussion? Mr. Fischer.

V. FISCHER: Mr. President, I would like to ask a question.

PRESIDENT EGAN: If there is no objection.

V. FISCHER: Of the Chairman of the Ordinance Committee. What does it mean when we include the statement, "The capital of the State of Alaska shall be at Palmer," or Juneau or wherever it may be? Does that mean it cannot be changed, it can never be changed? How could it be changed?

MCNEALY: Mr. Fischer, the question is a good one and in all fairness should be brought before the Convention in regard to its legal implications. The schedule or ordinances are simply transitional measures and the definitions of them by the courts are that they only serve the purpose of putting a constitution in operation of a change from Territorial government to a state government and once that has been accomplished to the fullest extent, then any of the ordinances underneath this schedule are no longer to be considered as laws. If you want to put it frankly and openly here, it would leave it in this respect: after the state became a government, under the ordinance here it would be possible to change the capital by method of the legislature or it would even be open to the initiative and referendum. The Committee considered a number of proposals there, and considered them very thoroughly, and this was certainly a committee compromise.

V. RIVERS: I would also like to ask a question. It says nothing about this being an ordinance. It says Committee Proposal No. 17/a, "That the following be agreed upon as part of the Alaska State Constitution". Where is any qualifying clause that sets this up as an ordinance in this?

MCNEALY: Mr. President, you will notice the asterisks there.

It leaves out Section 1 and we also leave out the wording. There is a preamble to the schedule which is in the schedule which is in Committee Proposal No. 17 that will be withdrawn, but it will head this article at the time when it is finally all before us and, in effect, no inconvenience may result because of change from a territorial to a state form of government. It is "declared and ordained" and the reason for the use of that language was because it is language recognized by the courts in interpreting ordinances under the schedule.

PRESIDENT EGAN: Is there further discussion? Mr. Coghill.

COGHILL: Mr. President, I feel compelled to rise and speak against this amendment. I feel this is more or less just like the apportionment act and a lot of other things that when we have to draw a fine line, and I believe that Juneau was well-established within the Territorial departments. We have got several million dollars worth of the property down there that would be turned over to us. I think that if the amendment for Palmer should be adopted, why it should then be amended that Nenana or Fairbanks or Kodiak or anyplace else would get it. I think we have got to draw the line that we have established in the Territory a capital and that it should stay there.

PRESIDENT EGAN: Mr. White.

WHITE: May I direct a question to the Chairman of the Committee?

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: Mr. McNealy, you once set before us Committee Proposal No. 4 and I note that your report on Committee Proposal No. 4 that it was considered and rejected in favor of other handling of the capital in the schedule. Committee Proposal No. 4 in the outline provided that the seat of government should be Juneau until or unless changed as provided in Committee Proposal No. 4, and then the proposal went on to set up a study of the public advantages that might accrue from different locations and then to submit the locations chosen by such a committee to a vote of the people. I wonder if you could give us a little of the background of the Committee thinking in withdrawing that committee proposal and substituting the one we now have before us.

MCNEALY: Mr. President, there was a division of thinking, of course, as there is in all committees on that particular committee proposal. Even as a member of the Committee, we were not satisfied with this one here but it was the nearest thing that we could arrive at to get any degree of unanimity, and it was felt that the actual talk in the Committee and the feeling was and I believe the members when it appeared before

the Committee, if we spelled it out, there definitely had to be a referendum within a period of 10 years, that it would be spelled out there so plainly the feeling would be, especially of the property owners and others in Juneau and in the Southeastern area, that they wouldn't have any measure of security except on a 10-year basis and I grant again, being frank, that there isn't any guarantee of security in this. The only guarantee of security is if this were in the body of the constitution, which of course then could still be reached by constitutional amendment. But to answer your question, the major reason was that they felt that if it were spelled out or required an initiative that there would be a stalemate at the capital city and everybody would say, "What is going to happen in 10 years," because it is there in the constitution for them to read.

PRESIDENT EGAN: If there is no objection the Convention will be at recess until 3:50.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the amendment as proposed by Mr. Hurley. Mr. Taylor.

TAYLOR: I have an amendment to Mr. Hurley's amendment on the desk.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment to the amendment.

CHIEF CLERK: "After the word 'Palmer' strike period and insert the words: 'whenever the town of Palmer shall be able to provide a capitol building and other facilities comparable with the facilities and buildings available at Juneau.'"

TAYLOR: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor, the Chair would have to hold the amendment is a facetious amendment and is not germane to the question.

TAYLOR: Mr. Chairman, that is not a facetious amendment at all. Juneau has the facilities and I thought that Palmer should offer the same facilities if they expect to be the capital.

PRESIDENT EGAN: The Chair will still hold that the amendment to the amendment is not in order. The question is, "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" Mr. Hurley.

HURLEY: I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Davis, H. Fischer, Harris, Hurley, Kilcher, Laws, Londborg, McCutcheon, Poulsen, Reader, V. Rivers, White.

Nays: 40 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Lee, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Absent: 3 - Buckalew, McLaughlin, VanderLeest.)

CHIEF CLERK: 12 yeas, 40 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. McNees.

MCNEES: I have an amendment, Mr. President.

PRESIDENT EGAN: Mr. McNees, you may submit your amendment to the Chief Clerk.

R. RIVERS: I have one on the Clerk's desk and would like to have it follow Mr. McNees's.

PRESIDENT EGAN: If there is no objection, Mr. Ralph Rivers. The Chief Clerk may read the proposed amendment as proposed by Mr. McNees.

CHIEF CLERK: "Strike Section 2."

PRESIDENT EGAN: What is your pleasure, Mr. McNees?

MCNEES: I move the adoption of the amendment.

MARSTON: I second it.

PRESIDENT EGAN: It has been moved by Mr. McNees, seconded by Mr. Marston. Mr. McNees.

MCNEES: Well, it is felt that this is again a matter of legislative law even though many times it is written into constitutions, so is much legislation. Furthermore I feel that many of the allayed fears of the people who feel that the capital should remain in Juneau, should be alleviated by this expression or this amendment inasmuch as it would not call for moving it. I think the capital should remain at Juneau. I think it would remain at Juneau under this provision. I do not

feel that we can seriously, from an economic standpoint, consider moving the capital but neither do I feel that we should tie ourselves to definitely retaining it as a part of the constitution.

SUNDBORG: May I address a question to Mr. McNees?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg.

SUNDBORG: Your suggestion would be that we have this nowhere in the constitution? Neither in the body thereof nor in an ordinance?

MCNEES: I feel that is the way it should be.

SUNDBORG: You feel that the matter could be taken care of by, as you say, legislative law?

MCNEES: If necessary. I don't see that it would require even legislative action.

SUNDBORG: That the legislature could?

MCNEES: I think so, yes.

SUNDBORG: Where would the first legislature meet?

MCNEES: I would say definitely in Juneau.

SUNDBORG: How would that be provided? How would they know that?

MCNEES: By custom.

SUNDBORG: By custom they just --

HURLEY: Mr. President, point of order.

PRESIDENT EGAN: Your point of order, Mr. Hurley.

HURLEY: I think we should address the Chair before we proceed.

SUNDBORG: Excuse me, Mr. President. Those are all the questions I have for Mr. McNees.

PRESIDENT EGAN: Is there further discussion of this proposed amendment? Mr. Victor Rivers.

V. RIVERS: I think that this matter of the capital has been long in the minds of many people. It is a very important one to all of Alaska. To my way of thinking it should not be treated lightly, with levity. I know it is serious with all of us. I think practically everyone has a fairly strong conviction

in their minds but I believe that eventually the location of the capital should be left to the majority vote of the people after a reasonable interim for studies to be made and proper consideration to be given. I don't believe that in the essence the legislative and executive removal from Juneau would do the things that they say it would do in upsetting their economy. They have the physical plant and equipment there and they would doubtless be the service area and the government headquarters for the services rendered in the First Division, as is now Anchorage and Fairbanks in the areas in which they are located. I don't see a major upset in the economy of Juneau if the legislative and executive departments of government moved out. Now last February I visited in Olympia, Washington, I visited in Oregon, the Oregon State capital and in Seattle and Portland. In Olympia and in Salem they have very little activity of government. If you want to go where the activities of government are the state highway offices, the BPR, public health offices, welfare offices, you go to Seattle or Spokane in Washington. You go to Portland or one of the eastern cities such as La Grande in Oregon. Now it seems to me that the center of the executive and legislative being forever established in Juneau would be a grave injustice to all the people of Alaska, because there is doubtless coming a day in the not too distant future when this whole vast area of the interior of Alaska might well have a heavy population. They are entitled to be able to attend the meetings of the legislature; to have ready access to the governor; they are entitled also to have ready access to the policy-making departments of government, and it has been the experience of a great many people in Alaska that with Juneau as the capital, that has not been the case. We all realize that the economy of Alaska grew up first along our shorelands and our waterways. We had a maritime economy and for that reason the coastal areas are the oldest in development. But it has only been in recent times since roads, railroads, and airfields have opened the interior, and in that time it has begun to grow and it is growing, and growing rapidly. I, for one, do not feel that an immediate change should be made from Juneau but for them to tell me that if this constitution sets up a referendum or sets up a location by popular vote to decide on the capital after all the facts are known does not to me make sense. This matter of the location of the capital has been discussed, and has been the subject of considerable comment and understanding on the part of a lot of people for a long time. I sat in one legislature in which we decided that we would build through the Territory in different locations certain government buildings that were badly needed in the centers of these service areas. There were to be buildings located at Fairbanks, Anchorage, possibly Nome, and also in Southeastern. We appropriated \$600,000 which was basic money for what is now the Territorial Building in Juneau. It said that at first in that bill that was presented to the legislature, it first said that the building which was to be built would be located west of the Gulf of Alaska. After the bill was finally amended and adjusted the \$600,000 appropriated was spent on the Territorial Building at Juneau. I have sat through many occasions in Juneau when I realized the grave disadvantages of having it for a

capital. First and foremost is the difficulty in access and travel; secondly, of course, is the fact that it has very limited area in which to build and expand; thirdly, of course, is the fact that it is responsive more to the voice of the Fifth Division than any other part of Alaska. We have had a great deal of difficulty in getting the voice of the people of Alaska as a whole heard in Juneau as the capital. Now, those are things I think are basic in the consideration of all of our people. I have seen government agencies located in Juneau that spend more for travel than they spend for the actual cost of operating their offices. I refer to the FHA which had a very limited amount of capital operations in the First Division, very small amount of building under Title 608 of the FHA Act, and they were paying out \$64,000 a year to transport their people back and forth to the areas where they were doing 90 per cent of their building -- the Fairbanks and Anchorage areas, the Central Alaska areas. They were paying out more for that travel than they were paying out for the actual cost of operating their entire office per year in Juneau. Now we have similar patterns and parallels in such organizations as the Alaska Road Commission. The Alaska Road Commission has its main offices and its design engineering and supervisory staff in Juneau. They have no functions to perform in or around Juneau or in or around the First Division. Roads in the First Division are built by the Bureau of Public Roads and are maintained by them as they are in all national parks and all national forest areas, but there we have sitting a fairly large organization doing the planning, doing the engineering, doing the supervising of an organization which does practically all of its work throughout the balance of Alaska. Now that travel expense alone and that added cost of getting to and from their work, the work which they must necessarily perform, is a great one every year. I don't know what it is now; I know what it was in earlier years; and it was a great expense. They are far away from the actual work which they design and which they supervise. Those things are all considerations that any good study group should give in arriving at a future location for the site of Alaska. If this proposal fails I intend to submit an amendment or submit a proposal to take its place that will allow for a referendum by the people in a certain period of time, will provide for the legislature to make suitable studies of the most possible or likely sites in the Territory of Alaska, upon which a majority of the people voting on the question can then decide where the capital shall be. I can see that in our government, as government goes these days, the big function of government is the services which have an actual field function. It is not the sitting of the legislature and the chief executive, it is the services that are performed in building highways, operating schools, health and welfare. Even though the actual legislative and executive seat of the capital is

moved from one spot to another it does not necessarily disrupt that flow of activity of government in the area which is being served by those services. Where they have a field service, the field service supervision must necessarily be close to it. I point out to you that there are extremes in this matter of moving the capital. I think it is the State of North Carolina that has, by popular vote, moved their capital 14 times. However, that is an exception; it does not ordinarily happen. Once it is established as it was done in the national government, in an undeveloped area somewhere near the center of population at that time, they selected Washington, D. C., employed a planner named Major L'Enfant, a French city planner, and from that he developed the outline of the city of Washington, and it is largely as we see it today. The plan has not been deviated from. That has been the selection of a capital of the nation of the United States. It was not picked in Philadelphia because Philadelphia happened to be at that time the seat of the government as we set up our national government. So I say, therefore, it is my opinion that this is a matter to which all of the people should eventually have a voice and that we here should not foreclose them from having such a voice.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I fail to see any basis for all the fears that Mr. Victor Rivers has expressed because, as has been pointed out, this Section 2 which is now sought to be stricken is a part of the schedule, and if I understand it correctly, and understand Mr. McNealy's explanation correctly, the very first state legislature that meets could either change the capital from Juneau to some other place or do anything it saw fit to do with regard to the capital. I can see no reason at all why the matter should be stricken. Certainly there is just as much argument in support of Juneau as the capital because on the standpoint of expense alone it seems to me that the new State of Alaska is going to need all of the money we will have for other purposes.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I was the one before who asked Mr. McNealy about the possibility of changing the site of the capital if it is included in the schedule as now worded. I have looked into it a little bit more and I don't want to question the authenticity of Mr. McNealy's opinion but the point is that it is an opinion. In Section 8 of Schedule 17 you will find the following phraseology: "Until otherwise provided by" law the seal of the Territory shall be the seal of the State. In other words we say, we qualify this fact that the seal of the Territory shall be the seal of the state by saying "until otherwise provided by law". The thing is that each one of these provisions stands by itself. We have a provision for citizenship of the state; that provision cannot be changed by

the legislature if the legislature wanted to change it. I am beginning to have very grave doubts as to whether we could change the capital if it's provided in here as currently proposed in Section 2 unless we have a qualification similar to that in Section 8 "until otherwise provided by law" or "until otherwise provided by vote of the people of Alaska at a referendum". It seems to me that we have no right to tie ourselves down and freeze the location in one particular place. I voted against Mr. Hurley's motion before because I didn't feel I could sit here and say Palmer is the proper place. I couldn't vote to put it in Anchorage or Fairbanks or Glennallen -- Glennallen, by the way, if anybody bothers to study the map of Alaska, is located in the exact center of Alaska if you split Alaska, taking Tongass in the South and Point Hope in the Northwest. Be that as it may, I think that we can't freeze the location because there are cost factors involved, as Mr. Rivers brought out, and I certainly will not vote to sustain the provision as we now have it in Section 2, and I am in favor of Mr. McNees's motion.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I find myself in this situation, and I started to say something about it before. I don't completely agree with Mr. McNealy. I think his basic statement was probably an accurate statement of the law. In my opinion there is extreme danger that this language would permanently fix the capital at Juneau, looking at this section of the schedule with other sections of the schedule and looking at the language itself, I think that in all fairness to the delegates here that it would be safer and wiser to meet the question head-on and insert such language as suggested by Mr. Fischer. Since I have been at this Convention, one expert says it's temporary; another expert says it's permanent; and another expert says, "I really don't know but it could be this or that", and in view of some of the cases I have read I think it would be safer to specifically provide either by law or by referendum or whatever is the desire of the people here assembled. But I will say that I think Mr. McNealy is probably right but I think the way it is drawn now that the courts would sort of waver between first one way and then another and if we might have a judge from the city of Juneau he might find more strength in the decisions that would hold that this would be a permanent provision.

MCNEALY: Mr. President, any statements that I make in regard to the law are not my own opinion. I have heard opinions of both legal and laymen on this floor handled very loosely and for that reason any statement I make is not an opinion, it is the law. Now I have no objection, particularly, to Mr. Buckalew's suggestion. There is no pride of authorship in the majority of articles that are going to be offered here on this schedule because we have lifted the language or backed it up by

court decisions. Now, in reference to the statement there in regard to law and the state seal was lifted out of another constitution, verbatim, so to speak, as to the statement that I made, it would only take but a couple of minutes if I could read this to the body in the case of Mann v. Osborne --

MCCUTCHEON: A point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McCutcheon.

MCCUTCHEON: I fail to see how Mr. McNealy's comments at this particular time are justifying the contention that we should either adopt or deny the adoption of the amendment before us. Mr. McNealy is justifying an opinion which has been given, others challenged it. Consequently, it has no point.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. McNealy, why should we retain this Section 2 as you have stated it here in this article?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, it should be retained, first, that there be a seat of government named in the constitution as mentioned here, so the legislature will at least know where to have a place to meet, and with reference to the fact here as to its permanency and to answer the objections for which I understand this amendment was offered to strike this section, I will read from a leading case, Mann v. Osborne (S.C. Oklahoma) page 48, "Ordinances and schedules appended to a constitution as distinguished from the permanent and fundamental law embodied in the constitution itself are temporary enactments for the purpose of effecting a transition from the old government to the new and of putting the provisions of the new constitution into effect." At the heading of this final schedule will be these words, "In order that no inconvenience may result," the words are substantially this, "by reason of the changes out of the adoption of the new constitution, it is the custom to adopt a schedule which will set forth temporary regulations covering the interim before the new machinery of government is thoroughly established. The only office of a schedule is to provide for the transition from the old to the new government and to obviate confusion which would otherwise arise during the transition period and this fact may be material in determining the construction and effect to be given to the provisions contained in the schedule." I submit that all of the answers are supplied in the committee proposal here; that the words that it offers will meet the tests of the courts in deciding on this particular point.

PRESIDENT EGAN: Mr. King.

KING: I would like to rise to correct what I think is a misstatement of facts. I admire Delegate Rivers very much when he talks about the jurisdiction of the BPR and ARC, and where their jurisdiction is. I live in a district where the ARC does all the road building, Skagway is also in the same district. The area in which I live is 45 minutes by air from Juneau and much of the Road Commission equipment and everything goes through the area from which I come. I think we should be very careful about stating facts when we are talking about something as serious as this.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, a point of information. Under national law, road building in national parks and national forests is done by moneys of and operated under the Bureau of Public Roads.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: I would like to ask a question through the Chair of anyone who cares to answer it. It is my understanding that right now Juneau is the legal capital of the Territory, that the laws will carry over unless they are changed. Automatically Juneau is and will be unless we change it here, the capital of the state so I can't see there is any difference between whether we retain this language or not, provided that this language is subject to legislative action, because that is what the other course would lead us to, too.

PRESIDENT EGAN: What Mr. Emberg is asking is, does anyone have a positive answer as to whether or not the seat of government would still be at Juneau until changed by an act of the legislature if this Section 2 were deleted from this proposal? Mr. McNees.

MCNEES: I can answer to this degree, that there have been other states who, in their constitutions, have not named a capital of Alaska and the perpetuation has gone on.

PRESIDENT EGAN: The Convention will come to order.

MCNEALY: I believe, if memory serves me correctly, the Territorial capital is named at Juneau through the Organic Act which is a law of Congress and a law of the United States rather than the law of the Territory.

PRESIDENT EGAN: Does anyone wish to answer the question as asked by Mr. Emberg or does anyone have the answer? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I think Mr. McNealy pointed to the answer and that being federally enacted and part of the Organic

Act, which is going out of existence, there could be a question as to whether it carries over or not.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McNeas be adopted by the Convention?" The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike Section 2."

PRESIDENT EGAN: The Chief Clerk will call the roll. The Convention will come to order.

(The Chief Clerk called the roll with the following result:

Yeas: 9 - Cross, V. Fischer, Hurley, Kilcher, Laws, McNeas, Poulsen, V. Rivers, White.

Nays: 44 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Absent: 2 - Marston, VanderLeest.)

CHIEF CLERK: 9 yeas, 44 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments? Mr. Kilcher.

KILCHER: Mr. President, I have an amendment.

PRESIDENT EGAN: Mr. Kilcher, the President had assured Mr. Ralph Rivers that his amendment would be read next. Mr. Kilcher.

KILCHER: I wonder if it is in order to assign seniority to amendments?

PRESIDENT EGAN: Mr. Kilcher, what had happened was when the President recognized Mr. McNeas's amendment, Mr. Ralph Rivers already had an amendment on the desk and at that time asked if we would recognize his amendment next.

KILCHER: Very often there are a lot of amendments on the desk.

PRESIDENT EGAN: Mr. Kilcher, if you raise the question, you have the floor and are recognized, your amendment will be read next here.

V. RIVERS: May we have a five-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to ask the Chairman of the Committee if these proposed amendments have been cleared with the Committee or have been brought to the attention of the Committee as provided by the rules.

MCNEALY: The only one I had seen is the proposed amendment by Mr. Rivers shown to me as Chairman of the Committee and not to the Committee.

PRESIDENT EGAN: Does the Committee itself have any amendments it would like to offer with relation to this section before we get into it?

MCNEALY: The Committee has no amendments.

PRESIDENT EGAN: Does the Committee object to hearing amendments?

MCNEALY: We have no objections.

PRESIDENT EGAN: Mr. Kilcher, do you wish that your amendment be read at this time? You have the floor.

KILCHER: Yes.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Kilcher.

CHIEF CLERK: "Section 2, line 2, change the period to comma and add 'unless decided otherwise by law.'"

PRESIDENT EGAN: What is your pleasure, Mr. Kilcher?

KILCHER: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the proposed amendment. Is there a second?

POULSEN: I second the motion.

PRESIDENT EGAN: Mr. Poulsen seconds the amendment. Mr. Kilcher.

KILCHER: Mr. President, there seems to be some doubts and it certainly might create trouble in the future if we leave Section 2 as it is. It might well be that it would take court action to decide whether or not the capital could be changed by simple legislative action or not. This small addition, I think, would remove any possible doubt, trouble, and expense, and would be in accordance with other transitional measures like the one where the seal is involved, and I therefore think that the adoption of this amendment would clear the air and satisfy all contending factions in the issue.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment as offered by Mr. Kilcher -- " Mr. Sundborg?

SUNDBORG: May we have it read again, please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 2, line 2, change the period to comma and add 'unless decided otherwise by law'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 20 - Collins, Cross, Davis, H. Fischer, V. Fischer, Hellenthal, Hurley, Kilcher, Londborg, McNees, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Walsh, White, Wien, Mr. President.

Nays: 31 - Armstrong, Awes, Barr, Boswell, Cooper, Doogan, Emberg, Gray, Harris, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, Robertson, Stewart, Sundborg, Sweeney, Taylor.

Absent: 4 - Buckalew, Coghill, Marston, VanderLeest.)

CHIEF CLERK: 20 yeas, 31 nays and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: I will now offer the one I had on the desk.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 2. Strike the section and substitute the following: 'Unless otherwise determined as hereinafter set forth the capital of the State of Alaska shall be at Juneau. Within five years from the admittance of Alaska as a State of the Union, the legislature shall establish a capital site survey commission to study the merits and demerits of potentially suitable sites for the permanent capital in line with the best interest of the people of the whole state, to be followed by a report to the legislature and to the public; and a referendum by the people at a statewide election or series of elimination elections until a majority of the voters voting on the proposition have concurred on a particular site, after which the seat of government shall be changed as rapidly as feasible to the new site.'"

PRESIDENT EGAN: Mr. Ralph Rivers, what is your pleasure?

R. RIVERS: I move the adoption of that amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second?

HINCKEL: I second the motion.

PRESIDENT EGAN: Mr. Hinckel seconds the motion. The motion is open for discussion. Mr. Ralph Rivers.

R. RIVERS: Mr. President, that speaks pretty well for itself, subject to its being improved by Style and Drafting. I wrote that out; it's clear; it needs better sentence construction. It would still leave it to the legislature to set up a commission. There is nothing said about how long that commission would take to make the study and report back to the legislature and the public. After the report is in, then, of course, the legislature would be relied upon to set up suitable referendum procedure and either at a particular referendum or series of referendums at which through an elimination process, you would finally get a majority for a particular site. Now the people wouldn't be voting in the dark. They would be cognizant of the report as to the location of the various sites; their closeness to the centers of population; their accessibility by rail, or train, or air, or both, or road. They would know something about whether the foundation ground was adequate for big buildings; what the water supply was; what the weather was like, and all that sort of thing. Now you just can't pick a site out. You might pick a site out in the dead center of population and find its on permafrost or glacier that you couldn't put buildings on. In other words, a site study commission would have a big job to do, operating within certain general criteria of where they might think the capital should be, and then you have got something before the people. You are leaving it in the hands of the people of Alaska as a whole to make a determination, which would take quite a few years, but which would be an orderly

approach to a solution of the problem. I am also cognizant of the fact that there might be some delay after the referendum, as to what the word "feasible" would mean. "Feasible" would take into consideration the financial condition of the state, the cost of new construction, what bonding would be required, and other considerations that would be taken into account not to disrupt the orderly processes of government, so I think that as a sound approach for the present Constitutional Convention to take, subject to a little style and drafting, that they could well adopt the approach and policy which is contained in this proposed amendment.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I am against that amendment mainly because it is too long. I think the same thing could be said in a few words, that a referendum be provided in a certain number of years and that all of the legislation that happens to be in that amendment could be taken care of very well by the legislature and not be in the constitution.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I move to change the number from five to two.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed amendment. The amendment is quite long.

V. RIVERS: I will ask unanimous consent that we allow that to be mimeographed so we can see it more clearly before us.

PRESIDENT EGAN: If there is no objection the proposed amendment will be ordered mimeographed.

V. FISCHER: May I ask Mr. Ralph Rivers a question?

PRESIDENT EGAN: You may ask the question, Mr. Fischer.

V. FISCHER: Would you possibly like to withdraw this and rewrite it and have that mimeographed for introduction tomorrow.

R. RIVERS: Is Style and Drafting going to meet for a little bit this evening?

PRESIDENT EGAN: Mr. Cross has been attempting to get the floor. Mr. Cross.

CROSS: Mr. President, I would like to say that that proposal that is now before us is very similar to the one that was unanimously adopted by the Committee on Resolutions. Our resolution was somewhat longer than the one that is proposed there and also the time element is longer. Otherwise it is practically

the same thing as we arrived at after several weeks of study.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the amendment be held in abeyance until after it is mimeographed and available for all of the delegates. Is there objection? Mr. Gray.

GRAY: I would like to speak on a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Gray, you may have the floor.

(At this point, Mr. Gray spoke for a few moments on a point of personal privilege during which Mr. Victor Rivers rose to a point of order that a delegate cannot debate under personal privilege.)

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Objection was heard to the unanimous request to have the amendment mimeographed. Mr. Robertson.

ROBERTSON: I wasn't speaking on Mr. Rivers' unanimous consent request.

R. RIVERS: I so move.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the proposed amendment be held in abeyance until it is mimeographed and placed on each delegate's desk. The question is, "Shall the Convention adopt the motion as offered by Mr. Ralph Rivers?" All those in favor of adopting the motion of having the proposed amendment mimeographed before it is again brought before the Convention will signify by saying "aye"; all opposed by saying "no". The "noes" seem to have it. Mr. Hurley.

HURLEY: Point of order. As I understood that, the question was whether this thing would be mimeographed or not. Did everybody understand the same?

PRESIDENT EGAN: That is right.

HURLEY: Mr. Victor Rivers stated that motion, not Mr. Ralph Rivers.

R. RIVERS: Mr. Chairman, Mr. Victor Rivers asked for unanimous consent and never followed it up.

PRESIDENT EGAN: Mr. Ralph Rivers made the motion, that is

correct. The decision was that the "nays" have it. Mr. Fischer.

V. FISCHER: Mr. President, point of order. We have a rule, do we not, that any long amendments be mimeographed?

PRESIDENT EGAN: Mr. Fischer, you are correct, and it would take, then a voice vote and a two-thirds majority to vote down such a motion. However, under the rule it would be possible for the Chair to just simply state that it be mimeographed, but the Chair does not know if this particular amendment is long enough that it should be mimeographed. The Chief Clerk will call the roll on the question of having this particular amendment mimeographed. Mr. Sundborg.

SUNDBORG: Is suspension of the rules debatable?

PRESIDENT EGAN: Suspension of the rules would not be debatable.

(The Chief Clerk called the roll with the following result:

Yeas: 15 - Barr, Boswell, Cross, Doogan, Gray, Lee, Londborg, McLaughlin, Nerland, Nordale, Poulsen, Reader, Riley, Smith, Walsh.

Nays: 37 - Armstrong, Awes, Coghill, Collins, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, McCutcheon, McNealy, McNees, Metcalf, Nolan, Peratrovich, R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, White, Wien, Mr. President.

Absent: 2 - Marston, VanderLeest.

Abstaining: 1 - Buckalew.)

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: Before the result is announced, as I understood the question it was a suspension of the rules, but in the matter of requiring that it would be mimeographed, does that require a suspension of the rules?

PRESIDENT EGAN: The Chair will have to admit, Mr. Johnson, that there has been a slight error made here in putting of the motion as it were. The Chief Clerk may read the results.

R. RIVERS: I want to change my vote to "no".

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DOOGAN: I will change my vote to "yes".

SWEENEY: I change my vote to "no".

ROSSWOG: I change my vote to "no".

WHITE: I want to change my vote to "no", I think.

PRESIDENT EGAN: The Convention will come to order.

V. FISCHER: I change my vote to "no".

MCCUTCHEON: I change my vote to "no".

GRAY: I change my vote to "yes".

HURLEY: I change my vote to "no".

HARRIS: I change my vote to "no".

PRESIDENT EGAN: The Convention will come to order. Mr. Barr.

BARR: I move we rescind our action on the vote just taken.

PRESIDENT EGAN: That would not be in order until the Chief Clerk reads the result of the vote; then it would. The Convention will come to order. The Chair will admit that it's the President's fault that we are in this predicament.

CHIEF CLERK: 15 yeas, 37 nays, 2 absent and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it -- but what is the result of the vote? The Convention will come to order. Mr. Barr.

BARR: I ask unanimous consent that we rescind action on the vote just taken.

PRESIDENT.EGAN: Mr. Barr asks unanimous consent that we rescind the action just taken.

PERATROVICH: I rise to a point of order.

PRESIDENT EGAN: Your point of order, Mr. Peratrovich.

PERATROVICH: I believe that the motion is out of order because you can still reach that on reconsideration.

PRESIDENT EGAN: You are correct, Mr. Peratrovich. It is out of order at this time because it could be reached by the motion to reconsider. Mr. Ralph Rivers.

R. RIVERS: The "no" votes, I voted wrong thinking we were voting on whether we could send it to the boiler room or not,

then it occurred to me that we were voting to suspend the rules, so I changed my vote to "no", as far as suspending the rules is concerned; then the various other delegates saw the light and also voted not to suspend the rules. Now I contend that the 37 is a vote for not suspending the rules.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The motion has failed of adoption and the Chair will refer the amendment to the boiler room for mimeographing, under the rule that we have as one of our permanent rules. Mr. Robertson?

ROBERTSON: Is it in order to speak to the amendment now? To speak on the amendment?

PRESIDENT EGAN: The amendment is referred, Mr. Robertson.

ROBERTSON: I would like to speak on personal privilege for a minute.

PRESIDENT EGAN: If there is no objection, Mr. Robertson.

(Mr. Robertson then spoke on a point of personal privilege.)

PRESIDENT EGAN: The amendment of Mr. Ralph Rivers is on its way to the boiler room for mimeographing and will be placed on each delegate's desk. Mr. Harris.

HARRIS: Mr. President, at this time I would like to file a notice of reconsideration on the amendment that was made by Mr. Kilcher adding the words "as provided by law" after the period on line 2.

PRESIDENT EGAN: Mr. Harris serves a notice of reconsideration of his vote on the amendment that had been offered by Mr. Kilcher. That would hold Section 2 before us until tomorrow. Mr. McNealy, do you have a statement to make relative to the section that appears as Section 20 in this proposal as Chairman of the Committee?

MCNEALY: Mr. President, there is only one statement. The Committee, if I remember, the vote was five to four in the affirmative of reporting this out on the floor in this particular item. I believe I speak pretty well for all of the Committee. I don't believe there are any that are opposed to the abolishment of fish traps but the minority had some qualms about the language in it. In view of the fact that I voted on the minority I would like to have Mr. Buckalew, who spent a great deal of time on this, I would like to have him make any explanations that he could.

BUCKALEW: Mr. President, this particular proposal came into

life when we got a proposal from Delegate Lee. He had submitted a proposal and it eventually got to the Ordinance Committee and we prepared this particular proposal. Mr. McNealy stated once that it was Buckalew's proposal; that was inaccurate because it is a committee proposal. The purpose of this particular provision is to abolish fish traps the instant we become a state, and the proposal has the effect of taking care of that void period in the transition between the time the governor takes his seat and the legislature gets around to acting on the particular subject. It is not a part of the body of the constitution; it is strictly a transitional measure and that is the reason that you find it in the schedule. Now it was the feeling of the majority of the Committee that the trap question was of such prime importance that the state should make every effort to abolish the traps as soon as possible. It is common knowledge that there is economic distress among the individual fishermen in Alaska and Douglas McKay, our present Secretary of the Interior, has so admitted in his latest proposal on the fish trap problem. Now this ordinance will, as I say, have the effect of abolishing traps the minute we become a state. Now I think it is a proper transitional measure for the reason that it will take care of that interim period, and it depends upon when we are admitted. It might be that the traps will be able to operate at least 20 days after we were admitted to statehood and I am sure that none of the delegates would be in favor of such a mishap as that. Now it serves many purposes. One of the collateral purposes that it serves, I don't know whether all the delegates are familiar with the latest letter that McKay sent down here, or the latest fish trap legislation that is now pending in Congress. Now in the information he put out to the congressmen, his bill provides for an elimination of the fish traps over a 10-year period and in the statement of his case he says that the people of Alaska have agreed to this in a referendum. Now if we adopt this ordinance it would, of course, repudiate that statement. Now we all know that the position taken now by the Department of the Interior is misleading because 10 years ago the referendum was voted on and it was a compromise referendum anyway. It was an addition added that the traps wouldn't be abolished except over a period of 10 years. Now I think it is necessary, in addition to taking care of the transitional measure, it would serve the purpose of showing to the Secretary of the Interior that the people of Alaska want to abolish traps immediately. Using Secretary McKay's reasoning, he claims that the people of Alaska agreed to abolish traps over an 18-year period. Now it has some other effects, too. I don't think this particular act is going to affect us nationally. It is going to affect the cause of statehood adversely and I think we probably owe it to the fishermen of Alaska to protect them even during this small period. We all know that we have had the same problem with the Department of Interior, and I don't want to confine my remarks to Secretary McKay because that isn't accurate. We didn't get any better treatment in the 20 years preceding McKay's taking over of

office so our cause can't be attributed to any political party. Both major political parties have treated the issue the same way. They have neglected the need of necessary legislation. Now it seems to me that this is the first time the people of Alaska have had an opportunity to abolish fish traps. We are sovereign, I mean when the constitution comes into effect we can abolish fish traps and I think we have a duty to abolish them at the instant we can exercise our sovereignty. That is the essential purpose of the act. Now, I am not an expert on fishing matters but some of the other delegates that are can certainly, I am sure, convince all the delegates here that the language that was used in this particular provision is certainly adequate and accurate, and from the people that I have talked to, they have advised me that unless the state takes over the instant they can, that they will be materially damaged, and that's the main reason for the ordinance. You can see from the ordinance that the people of Alaska state that the salmon are a part of the public domain. The ordinance further states that we are trying to provide fair competition among the individual fishermen. To make the ordinance workable we had to put a violation clause in, and we have provided for confiscation. The reason that we provided for an individual vote on the ordinance is to insure its complete validity, because it gives the people a chance to exercise their sovereignty again. They are voting "yes" or "no" to abolish fish traps the instant they can exercise their sovereignty. I had a couple of other notes I wanted to use. Now some might argue that this isn't a proper subject for the constitution. Our position is that it is not in the main part of the constitution so it takes care of that objection. I think there is a real necessity to have such an ordinance; I think that it will serve a useful purpose; I think that its legality can be upheld; I think it will have the effect of a larger turnout to vote on the constitution itself. It points out to the individual voters that if they want to abolish fish traps they have to first become a state, and that is the only way they are going to get rid of fish traps unless they are going to wait another 10 years. That's about all I have to say on it.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I direct a question to Mr. Buckalew?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: Mr. Buckalew, I am not particularly concerned about fish traps as such but do you think the language as used in this proposed ordinance would cover fish wheels and if so, would it make an operator of a fish wheel amenable to this provision by a fine of \$5,000?

BUCKALEW: Well, we have better experts than I am. I would

say no. It is confined to traps used for the commercial taking of salmon.

JOHNSON: Well, a fish wheel is a device, I don't know whether you would call it a trap or not, but it is a device for the taking of commercial fish, and you say, "Fish traps for taking salmon for commercial purposes are hereby prohibited in all waters of the state unless otherwise provided by law." Now there are many fish wheels in operation on the Yukon and Kuskokwim and other rivers in the interior of Alaska, and they take the fish for commercial purposes.

BUCKALEW: Well, Mr. Johnson, I don't think you can cover it, but if there was any doubt in your mind I wouldn't object to adding an exception.

JOHNSON: I don't think they should be covered but I don't see that they are excluded in this.

BUCKALEW: I think Mr. Emberg could probably answer that question better than I can.

PRESIDENT EGAN: Mr. Emberg, if you would.

EMBERG: I would like to answer that question. The definition of a trap is in Section 101.14 of the laws and regulations for the commercial fisheries of Alaska. It defines the trap as any "fixed device operated for the purpose of or resulting in the impoundment of live fish", and your fish wheel doesn't do that. It takes and dumps them in the box and they are no longer live fish.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I have seen a fish wheel operating for years out here on Chena Point and the fish are caught in the wheel and they drop into a box and they stay alive for varying periods of time but they aren't dead. I've bought fish out of the box when they were still alive.

PRESIDENT EGAN: Mr. Coghill has been attempting to get the floor.

COGHILL: I would like to ask a question of whoever might be able to answer it, probably Mr. Emberg. A fish trap is considered a stationary unit and a fish wheel would be mobile by the river current. It would be a moving unit, so therefore would not come under the provisions of a fish trap.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I wish to move to amend the proposed Section 20 by deleting lines 8 to 14 inclusive on page 1, line 1 on page 2,

and the words "state legislature" on line 2 of page 2 and that a capital "T" be substituted for a small "t" in the word "the" on line 2; further that the last two sentences be deleted so that the indented portion is retained; further that the last two sentences be deleted, so that the indented portion of Section 20 will read --

JOHNSON: Point of order. Is this matter before us now subject to amendment? I thought it was simply open for discussion.

PRESIDENT EGAN: At this time your point of order might be well taken, until the Committee indicates that they are ready to have amendments proposed to this section. That would be the proper time Mr. Hellenthal.

HELLENTHAL: I will withhold my amendment until that time.

PRESIDENT EGAN: If we are still in the process of questions and answers Mr. Robertson.

ROBERTSON: Mr. President, I would ask Mr. Buckalew when the waters of Alaska became the public domain of Alaska as stated in line 12, page 1?

PRESIDENT EGAN: Mr. Buckalew, could you answer that?

BUCKALEW: I thought they were the public domain of Alaska now.

ROBERTSON: I don't think any legal definitions includes the water as public domain.

BUCKALEW: I'd say that the waters in and around Alaska would certainly belong to Alaska. They don't belong to Russia.

PRESIDENT EGAN: Are there further questions to be asked of the Committee at this time? Mr. Robertson.

ROBERTSON: I would like to ask Mr. Emberg a question. I think it was Monday of this week, Mr. Emberg, that in the Fairbanks News Miner there was quite a large picture of a fish wheel, presumably on one of these nearby rivers in which it stated that the picture was to the effect that no longer logs were being used but empty oil drums. Now aren't those fish wheels used to catch commercial fish? Don't they sell fish from them?

EMBERG: I would like to qualify my statements, of course. To start with is the fact that I don't believe there is anything that you can call an expert on fisheries. I have been dealing in fishery problems for a long time, personally, and as a representative of the fishermen, and am in a way a specialist in fishermen's troubles. I have had no experience in the commercial fisheries here on the Yukon River. I do know the

commercial fisheries on the coast, particularly those in the Bristol Bay area. I think someone else will have to answer your question whether there is actually a commercial fishery that is based on fish wheels. I think that Mr. Coghill's information or objection is true, that the fish wheel is mobile gear; it can be moved. The trap and set net are fixed gear; they cannot be moved. They fall into different classifications.

PRESIDENT EGAN: Mr. Coghill has indicated that he can answer your question.

COGHILL: I can probably answer your question as to the fish wheel. I would say that 90 per cent of the value of a fish wheel is commercial; that is, dog salmon and king salmon and all the salmon strips, the putting up of dog salmon that is sold to the traders along the Yukon River, the Native people use that as a form of economy. They store their fish and sell the excess part that they wouldn't use for their own teams. It is in a sense to them a commercial unit.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Is it not true, Mr. Coghill, that in the sense of the utility of this particular section here, that the only commercial fisheries on the Yukon River, or down at Kwiguk or Alakanuk, and all the fish that are caught there are caught by gill nets, not by fish wheels?

PRESIDENT EGAN: Mr. Robertson had indicated that he had another question when he had the floor.

ROBERTSON: I would like to ask Mr. Coghill, is your position, Mr. Coghill, then, that a fish trap must be a stationary fixed appliance in order to become condemned under this proposal of Mr. Buckalew's?

COGHILL: I have never seen a fish trap as they propose in here and in inquiring about it, that is what I had in mind, that a fish trap was one of stationary purpose and a fish wheel wouldn't be under that category.

ROBERTSON: I would like to ask the question then, do you know that Judge Folta a year ago this spring held that drifting gill nets used over near Yakutat at the mouth of the Situk River were fixed and stationary appliances; that they couldn't be set any closer than any other stationary gear?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I think that was done in a different definition. I would like to ask Mr. Emberg, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Fischer.

V. FISCHER: Are there any fish traps in Alaska located on rivers or are they all out in the Territorial waters?

EMBERG: They are all out in Territorial waters.

V. FISCHER: If that is so, would it not be possible to remove any question about fish wheels by just defining the waters a little bit more?

EMBERG: I should think that would be possible if there was any doubt; I don't see how the fish wheel can be, unless it is further reclassified - included in a class with fixed gear.

PRESIDENT EGAN: Mr. Lee.

LEE: If I can make an effort to answer Mr. Robertson's question, I think that the attorneys here, if they were willing to speak, would assure us all that there is ample information about what a fish trap is. It has gone through the courts and there are stacks of decisions that high, to my knowledge, and I think Mr. Robertson is familiar with that fact, also. I think we can have ample proof by just using the general term "fish trap" we can surely decide exactly what it is because in the court decisions that have been handed down often to the various fishery states, the term "fish traps" has been used as applying to the salmon.

PRESIDENT EGAN: Mr. Barr.

BARR: I don't like to have to go to court for a definition if it isn't necessary. We spoke of fish wheels, but I have also seen fish traps operate in very small streams. Natives use them to catch salmon. They are very small traps made out of willows, they look something like a woven basket with wings extending out. I don't imagine that those would be held to be fish traps under this but why not define fish traps? It seems to me, in many cases I have seen these traps referred to as pile-driven traps. We could say that, or if there are other types we could say "traps operated in coastal waters" or some such thing. A simple amendment it seems to me, could fix the whole thing up.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, of course this only applies to the commercial taking of salmon and the traps you probably have reference to are family-used.

BARR: Well, all of the Natives sell their fish. They may eat a few of them but if they get enough they will sell them.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, I move that the Convention stand adjourned until tomorrow afternoon at 1:30 o'clock.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand adjourned until tomorrow afternoon at 1:30. Mr. Coghill.

COGHILL: Is that excepting announcements of committees?

PRESIDENT EGAN: Are there any announcements of committees at this time?

COGHILL: Your Committee on Administration will meet tomorrow morning at 10:00 o'clock in Apartment 1012 of the Polaris Building.

PRESIDENT EGAN: Committee on Administration tomorrow morning at 10:00 o'clock in Apartment 1012 in the Polaris Building. Miss Awes.

AWES: I just wanted to ask a question. Is the bus going to be at the Nordale at 1:00 tomorrow?

PRESIDENT EGAN: Did you find out anything about that, Mr. Coghill? The bus will be at the Nordale at 1:00 tomorrow afternoon, so says the Chairman of the Administration Committee. Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances will meet immediately upon adjournment.

PRESIDENT EGAN: The Committee on Ordinances will meet immediately upon adjournment. Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet immediately upon adjournment in the gallery and will be here meeting all tomorrow morning until the time of convening.

PRESIDENT EGAN: Committee on Style and Drafting will meet immediately upon adjournment and all tomorrow morning. Mr. Knight, did you have something? Or are there any other committee announcements or is there anything else to come before the Convention before we adjourn? Mr. Coghill?

COGHILL: I have received another shipment of these Alaska reports on the White House Conference on Education and have enough for all the delegates so those who did not receive a report if they wish to have one, if they will contact me I will be glad

to give them one.

PRESIDENT EGAN: You have heard the announcement made by Mr. Coghill. Mrs. Hermann.

HERMANN: May I make a suggestion before we adjourn?

PRESIDENT EGAN: You may make a suggestion, Mrs. Hermann.

HERMANN: It seems to me that we are going to have a great many amenities to take care of before we adjourn here and thank you's to various people and things of that sort, and some of these people who are through with their work and want to be busy for awhile, might be assigned as a special committee to take care of that. That is just a suggestion. I don't make it as a motion.

PRESIDENT EGAN: We might keep that in mind and tomorrow or the next day appoint such a committee. Mr. Coghill.

COGHILL: The Committee on Administration has already started considering that.

PRESIDENT EGAN: If there is no objection, the Convention will stand adjourned until 1:30 p.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 25, 1956

SIXTY-FOURTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us today the Reverend James Gamble of the Pentecostal Holiness Church. Reverend Gamble will give our daily invocation.

REVEREND GAMBLE: Almighty and eternal God, whose glory is in all the world, we commend this session of this momentous Convention to Thy merciful care. May it be guided by Thy great hand of Providence. May weary bodies be strengthened and grant that the minds of these leaders who have wrestled with each part of this constitution these many days receive new quickening from Thee at this hour; may these who serve here on behalf of the people move with fear. Through Jesus Christ, Our Lord. Amen.

PRESIDENT EGAN: Thank you. At this time the Chief Clerk will call the roll.

(The Chief Clerk then called the roll.)

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. At this time the Chair would like to announce that the Secretary has a sheet that he would like to have each delegate sign. It will be in the order -- the signatures will be in the order that you will sign the final draft of the constitution. The Fairbanks Daily News-Miner plans to put out a special edition with relation to the Constitutional Convention and its closing ceremony. We would ask that the delegates sign this sheet in order, so that the printers might have all your signatures and be able to have them engraved or cut, as they have had to do, to expedite the work at the paper in preparing for this edition. So if the Chief Clerk will call the roll of the regular roll call and as each name is called if the delegate will come forward and sign his or her name; Mr. Stewart has the pen here, then as that person signs the sheet the next one in line will be called. The Convention will be at ease.

(The delegates signed the sheet as requested and indicated in the preceding statement.)

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew.

BUCKALEW: I had a committee amendment to Sections 20 and 21.

PRESIDENT EGAN: Well, we will go down the order of business first. Mr. Robertson?

ROBERTSON: Mr. President, I would like to ask a question, if you please. As I understand, we are signing our names for the purpose of publicity in this edition of the Fairbanks Daily News-Miner that it expects to get out?

PRESIDENT EGAN: Mr. Robertson, yes, the publisher of the paper desires to print in that edition the entire constitution along with the names as they will be signed by each delegate. In order to accomplish that in time for this edition, it is necessary that he have the names so that he can make his cuts.

ROBERTSON: If that is true then, Mr. President, I ask unanimous consent that at this time that it be the policy of the Convention that when we adjourn, we adjourn in honor of Judge James Wickersham, one of our foremost Alaskans, and the man who introduced the first statehood bill in Congress.

PRESIDENT EGAN: You are asking that that be the --

ROBERTSON: Unanimous consent, when we finally adjourn.

PRESIDENT EGAN: When final adjournment is made? Is there objection? Hearing no objection -- Mr. Rivers.

V. RIVERS: I would like to say that I think we should add the name of Anthony J. Dimond, and would ask the consent of the mover in making it in joint honor of the two men who have been outstanding characters in our political lives.

PRESIDENT EGAN: Would you have objection, Mr. Robertson?

ROBERTSON: I have no objection. I thought we adjourned our recess in honor of Judge Dimond is why I confined it to Judge Wickersham, Mr. President.

V. RIVERS: If that was the case, then I will withdraw my suggestion.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, if memory serves me, we observed Anthony J. Dimond Day, the day following the day set by statute, but I do not believe that we recessed in his honor.

ROBERTSON: Then I agree. I was a great friend of Judge Dimond, too.

PRESIDENT EGAN: Then your motion would be asking unanimous consent that the final adjournment of this Convention be in honor of Judge Wickersham and Judge Anthony J. Dimond? If there is no objection that will be the policy of the Convention. Are there any communications or petitions from outside the Convention? The Chief Clerk will please read the

communications.

(The Chief Clerk read the following communication: telegram to Herb Hilscher from Cliff Webber of Anchorage, criticizing him for neglecting to put in fish and wildlife provisions.)

PRESIDENT EGAN: The telegram will be referred to an informal committee the Chair has appointed, composed of Mr. Smith, Mr. White, and Mr. Boswell, who will attempt to answer each and every message that we have received relating to this subject. Are there reports of standing committees? Mr. Smith.

SMITH: I would like to report that the Committee on Resources has several minor amendments to offer to Committee Proposal No. 8/a, and I ask that consideration of these amendments be made the first order of business this morning in order that this report may be referred to the Committee on Engrossment and Enrollment.

PRESIDENT EGAN: Is there objection to the request of Mr. Smith? Then, Mr. Smith, when we come down to the order of unfinished business, we will take that up. Mr. Sundborg.

SUNDBORG: Mr. President, your Committee on Style and Drafting reports to the Convention its redraft of the preamble and the declaration of rights, and also reports to the Convention its redraft of the article on the legislature.

PRESIDENT EGAN: Would the Chief Clerk read the reports of the Committee for the first time.

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the preamble on the article on bill of rights for consideration by the Convention."

PRESIDENT EGAN: The report is referred to the Rules Committee for assignment to the calendar.

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the article on the legislature for consideration by the Convention."

PRESIDENT EGAN: The report is referred to the Rules Committee for assignment to the calendar. Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting worked until 11:00 o'clock last night and worked from early this morning until the time of convening of the session and should have several additional articles to report to the Convention tomorrow. In order that the delegates may have a better understanding of some of the things we are trying to do in the Committee, I wonder if we might ask the permission of the Convention to have Mr. Kimbrough Owen, who has been here as an

adviser to our Committee for the past week, speak very briefly to the entire session to point out some of the matters with which we have been dealing. I really feel, Mr. President, that this would be beneficial to everybody to know about the care with which many of the questions which are going to come up through the years with respect to the constitution are being considered in detail now. I would like to ask unanimous consent that we grant the privilege of the floor to Mr. Owen to make a brief statement.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? Mr. Victor Rivers.

V. RIVERS: Mr. President, I have no objection. I think in view of the fact that we have had a rule to the effect that we do not have consultants appear in person, that this rule should be abstained from or withheld, because Mr. Kimbrough Owen will be speaking not of substance but of composition, style, and drafting, and I, for one, would be very much in favor of hearing him.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? Hearing no objection, Mr. Owen, will you come forward and favor us with a few brief remarks as to the work being done by the Style and Drafting Committee?

OWEN: Mr. President and delegates, I think it is not unusual for the work of a style and drafting committee of a convention to be either ridiculed or regarded with great suspicion, but I think that the document when it is finished will not be interpreted in terms of one article alone but will be regarded by the court as a total document, and it is the opportunity of the Style and Drafting Committee to regard each article in relation with all the other articles of the constitution. It is not the purpose of the Style and Drafting Committee, of any style and drafting committee, to make a constitution pretty. Some people consider it as sort of an embroidery process whereby pretty words are substituted for plain words or words are just deleted. The purpose of a style committee is to see that the desire and intent of the convention is reflected as clearly as possible throughout the entire document. In order to do that, there are certain rules which are generally followed. One of those is that terms should be consistently used from article to article to express the same intention. I would just like to give you a few examples of that. One of the most common that you find in constitutions is a reference to the voting of the legislature. For example, you are talking about a two-thirds vote of the legislature, you can read it generally referred to as "two-thirds of the members", "two-thirds of the membership", "two-thirds of the house", "two-thirds of the members to which it is entitled". Now I think that any one of these expressions or combination of them can be used, so we must be careful to use the same expression when we want two-thirds of 40

as when we want two-thirds of 20, that the same expression should be used; in the same case if we mean two-thirds of those present, assuming that you have a majority, then another expression should be used. Since each article is drafted by a separate committee, it is quite possible that two committees mean the same thing and yet they will use a different expression which would be interpreted by the courts differently than the intent of the framers. So what we have attempted to do is to take the expressions that are commonly used throughout the constitution and see that they are used uniformly so that the intent will not be misunderstood. There are several expressions in the constitution in addition to voting; for example, the use of the expression, "the qualified voter" or "elector". We attempt to use, throughout the constitution, wherever we think "qualified voter" is meant, the expression "qualified voter" rather than "elector", because "elector" is not defined in the article on suffrage and elections but "qualified voter" is. Now, the same way in terms of residence requirements; if the residence requirement of the governor is expressed in one way, and the legislators in a different way, the courts can imply that a different type of residence is involved. The Louisiana Constitution is about the poorest example of a constitution in the country, but I would like to cite you an example of poor drafting in the Louisiana Constitution. On one page there is the requirement, for example, that constables be able to read and write, and two pages later there is a requirement that justices of the peace be able to read and write correctly. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

OWEN: Now that expression was in the early Louisiana Constitution, but it has had to be carried along in every subsequent constitution because the framers felt that if they deleted the word "correctly", it might be interpreted as reducing the requirement of one office, and if they added it to the other it might be considered as increasing the requirements of the office. You have such a wonderful opportunity here in this first constitution, because from now on out, every time you adopt another constitution, if you delete a phrase, then the court will interpret it that you meant to change something, so you have an opportunity to start out fresh. Not only do we try to use terms consistently with the meaning of the framers but also we attempt to arrange subject matter logically. We are following the principle that every section of the constitution should be confined as much as possible to one principle thought so that if the constitution has to be amended it would be very easy to amend a particular section of the constitution. Similarly, we have tried to make each section self-sufficient without reference specifically to other sections, so that the amendment of another section of the constitution will not necessarily affect that one. We attempt then to take the sections and arrange them logically so that they will read, not easily,

but that they will read at least in terms of the consecutive thoughts involved. We attempt to clarify the meaning of the constitution even when it means rearranging the words. For example, there is one expression about, "The legislature shall meet on the fourth Monday in January unless otherwise provided by law." The question is: does the "unless otherwise provided by law" affect only the month and the day or does it affect the meaning of the legislature in annual session. If there is any question about it, it should be stated so that it is quite clear that what the legislature is supposed to change is the day and month rather than the year. In some cases we have attempted to make the meaning more specific and less ambiguous than it was in the original draft. It is a unique opportunity because we have here all of the drafts at their latest stage, and we are constantly going through to see how one article of the constitution affects another; how the use of one word in one article could be used to interpret another article in a sense different from that intended. It is not an easy process, I assure you. We have here on cards almost every important word that is used anywhere in the draft, with the meaning of it, so that we can be sure that we are getting a consistency of expression throughout the constitution, and the point is not, as I say, to make it pretty or to sound good, but to be sure that the meaning of the document is exactly what you want and it will be so interpreted. Thank you, Mr. President. (Applause)

PRESIDENT EGAN: Thank you, Mr. Owen. The Convention will come to order. Are there reports of special committees? Does the special committee to read the journal have a report to make at this time? Mr. White.

WHITE: No report at this time, Mr. President.

PRESIDENT EGAN: That report will be held in abeyance. Are there any motions or resolutions? Mr. Marston.

MARSTON: Mr. President, at this time I would like to re-offer this resolution, "Friendly Relations with Canada", if I may.

PRESIDENT EGAN: You wish to offer the resolution?

MARSTON: Re-enter the one that I had entered here and it went through channels and ended here and was taken back for a little correction.

RILEY: May I interrupt?

PRESIDENT EGAN: You have the floor, Mr. Marston. Your question, Mr. Riley?

RILEY: The original resolution is still in the Rules Committee for placement on the calendar, and I thought it had been understood that it was to have a place on the calendar after

some of the substantive matters were cleaned up.

MARSTON: We have done that now.

RILEY: We are not speaking of that particular resolution, Colonel Marston, but it would seem appropriate that when the resolution is entered on the calendar that that could properly come in as an amendment to the resolution, or certainly the Rules Committee would have no objection to your withdrawing your earlier one.

PRESIDENT EGAN: Mr. Marston, what Mr. Riley is saying is that they have the original in the Rules Committee for placement on the calendar. It might be proper either that you withdraw the original and offer this as a new resolution, or offer this as an amendment to the resolution that the Rules Committee will place on the calendar.

MARSTON: I will offer this as an amendment to the one they have on the calendar.

PRESIDENT EGAN: When that resolution comes on the calendar then, it would be more properly handled at that time. If there are no more resolutions, we are now down to our regular order of business, which is Committee Proposal No. 17, was it?

CHIEF CLERK: It's on the calendar.

PRESIDENT EGAN: I don't have a calendar.

SMITH: Mr. President, did we pass over unfinished business?

PRESIDENT EGAN: We are down to unfinished business now, Mr. Smith.

SMITH: Well, under the heading of unfinished business, I would like to ask unanimous consent to revert to consideration of the Committee Proposal No. 8/a, for amendment purposes.

PRESIDENT EGAN: Is there objection to referring to Committee Proposal No. 8/a at this time for committee amendment purposes? If not, we have before us Committee Proposal No. 8/a at this time. Mr. Smith.

SMITH: Mr. President, I would like to ask Mr. Riley to present the committee amendments.

PRESIDENT EGAN: If there is no objection, Mr. Riley.

RILEY: Mr. President, there are several committee amendments which are on the Clerk's desk. I might preface the reading of those by pointing out to the Convention that Article 8/a was retained in second reading only because we felt obliged to

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have an interpretation from some of those who had worked in assisting the Committee, as to the full implication of the various amendments made on the floor. We have received that information and in addition we have a few of our own to offer, simply to clarify the meaning.

PRESIDENT EGAN: Are these amendments in the order as you wish them read?

RILEY: Yes, they are.

PRESIDENT EGAN: The Chief Clerk may read the first proposed committee amendment.

CHIEF CLERK: "Page 1, line 10 --"

PRESIDENT EGAN: Page 1, line 10? Mrs. Hermann.

MRS. HERMANN: I think many of the delegates haven't found 8/a yet. I am still looking madly for it and I notice several others are.

PRESIDENT EGAN: Do all the delegates have their copies of committee proposal on natural resources -- Committee Proposal No. 8/a?

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: If there is no objection the Convention will be at recess.

TAYLOR: Are you referring to the enrolled copy?

PRESIDENT EGAN: No, the old copy, the original copy of 8/a. The Convention will be at recess for two minutes while the Sergeant at Arms brings down some of the copies.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the proposed committee amendment.

CHIEF CLERK: "Page 1, line 10, strike 'now'; line 11, strike the period and add 'upon the date of ratification of this constitution by the people of Alaska'."

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: I ask unanimous consent for the adoption of the amendment as read.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for adoption of the proposed committee amendment as read. Would the Chief Clerk please read the proposed committee amendment again.

(The Chief Clerk read the proposed committee amendment again.)

V. RIVERS: Mr. President, I rise to a point of objection only to discuss the matter. We have said in our constitution we shall establish no ex post facto laws, laws after the fact. Now, in this constitution, we are intending to adopt something that is based upon ratification by the people. Ratification does not mean that it is in actual effect. It seems to me that the only way we can do that is to say "on the effective date of this constitution". I, for one, do not believe that on the day of ratification by the people it will abrogate any act of the legislature that may take place between now and the time we become a state. I think "upon the date of ratification by the people" is actually enacting within this constitution an ex post facto law and I do not believe that it could be considered to be effective unless we say "upon the effective date of this constitution", and I, for one, do not believe the words "upon ratification by the people" mean that it can be effective until such time as the constitution is actually a constitution of this state, it is not so until such time as we actually put it into effect.

PRESIDENT EGAN: Mr. Riley, do you ask for a two-minute recess?

RILEY: I don't think it is necessary, Mr. President.

PRESIDENT EGAN: Do you so move the adoption of the amendment?

RILEY: Yes, I do.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed committee amendment. Is there a second?

WHITE: I second.

PRESIDENT EGAN: Seconded by Mr. White. The motion is open for discussion. Mr. Riley.

RILEY: Mr. President, the whole purpose of this substitution of language is the word "now" relating to the present Territorial boundaries. The present Territorial area is not fixed as to time and we seek to accomplish no action by ratification; we seek only to set the time when the known and fixed territorial limits, or boundaries, shall be defined; and that is the whole purpose of this particular amendment. We have adopted it elsewhere with respect to the minerals section of this article, minerals subject to the federal mining laws as of the date of ratification of this constitution.

PRESIDENT EGAN: Is there further discussion of this? Mr. Rivers.

V. RIVERS: Mr. President, may I add that my comments on "effective as of the date of ratification" applied to all uses, not just this one, because I do not believe, for one, that we can make it effective until such time as the constitution is effective.

PRESIDENT EGAN: Is there further discussion? Mr. Buckalew.

BUCKALEW: Mr. President, I think this is a golden opportunity for the attorneys. I think this is probably the only occasion that all the attorneys will agree that ex post facto only applies to the criminal law. Maybe we ought to poll them, but I think Vic's fears are unfounded.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the proposed committee amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. The Chief Clerk will read the next proposed committee amendment.

CHIEF CLERK: "Pages 1 and 2, Section 2, strike lines 15 and 17 on page 1, and strike through the word 'state' on line 1 of page 2."

PRESIDENT EGAN: What is your pleasure, Mr. Riley?

RILEY: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed committee amendment. Is there a second?

WHITE: I second the motion.

PRESIDENT EGAN: Mr. White seconds the motion. Mr. Riley.

RILEY: Mr. President, I might state first that I have meanwhile made my peace, as it were, with Delegates Barr and Hurley, who sought various ways to accomplish this purpose when it was first considered in second reading, and for a number of reasons, the Committee has adopted the thinking expressed by several of the delegates that evening. For one thing, we still have before us Mr. Smith's proposed amendment of yesterday, having to do with our consenting to the terms of the enabling act. That is before us today on a reconsideration, perhaps. In any event, some action of that nature may be taken. Another thought in the Committee's mind is that the use of this language was pretty much a gesture to the Congress, not wholly necessary but an indication to the Congress that we were mindful of

certain limitations which might touch on resources in the enabling bill. We think it is superfluous, that the law will be the law, and we will be bound by whatever it says or whatever mention we give it here. The third point the Committee had in mind was to remove all possibility of confusion of the nature suggested by Mr. Sundborg, having to do with pending legislation in the Congress, whereby fish traps might be terminated over a 10-year period. We do not feel that there is any hazard there, except a hazard of misunderstanding, a hazard of confusion whereby the ratification of the constitution might be damaged through a campaign of distortion, shall we say. And for that reason the Committee recommends the striking of this language.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? The Chief Clerk may read the next amendment.

CHIEF CLERK: "Page 2, line 6, change the period to a comma and add 'subject to preferences among beneficial uses'."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Riley moves the adoption of the amendment.

STEWART: I second the motion.

PRESIDENT EGAN: Mr. Stewart seconds the motion. Mr. Riley.

RILEY: Originally, in one of our earlier editions of this article, that language, or language substantially resembling it, was included. The Committee itself had stricken the language thinking that it appeared elsewhere in enough places to cover our purpose. However, it has been brought to our attention by more than one specialist in the field that it has particular application to the sustained yield principle, and that without the language we have just suggested, that the sustained yield principle mentioned becomes somewhat meaningless and ineffective.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment once more.

CHIEF CLERK: "Page 2, line 6, change the period to a comma and add 'subject to preferences among beneficial uses'."

PRESIDENT EGAN: The question is, "Shall the proposed committee

amendment be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other committee amendments? The Chief Clerk may read them.

CHIEF CLERK: "Page 2, line 8, strike 'as defined by the legislature' and insert the same language on page 6, line 2, following the word 'state'."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, this might properly be a matter for reference to Style and Drafting, but to make it more certain I move its adoption.

PRESIDENT EGAN: Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Will the Chief Clerk please read the proposed amendment once more. The Convention will come to order.

CHIEF CLERK: This was an amendment which was adopted, so it might not be in your copy but I have it on mine. It is on line 8, it should actually be on line 7. It was on mine, Mr. Riley; it was after the word "waters".

RILEY: Yes, change that reading to line 7.

CHIEF CLERK: On line 7 after the word "waters", there had been inserted "as defined by the legislature" and they want it taken out of there and inserted on page 6, line 2, after the word "state".

PRESIDENT EGAN: Mr. Riley has moved and it has been seconded that the proposed amendment be adopted. Mr. Riley.

RILEY: I might say, Mr. President, that this language "as defined by the legislature" in its present placement on line 7 of page 2, was responsive to the request of Mr. Poulsen and various others of the delegates, and the Committee did not object to its inclusion. But we feel that, in a sense, it muddies the waters when placed in the general reservations section and, as I say, we think this could be corrected by Style and Drafting, but we prefer to have action on the floor whereby it shall be placed in the access section as against the general reservations section.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the

proposed amendment will signify by saying 'aye'; all opposed, by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other proposed committee amendments?

CHIEF CLERK: "Page 4, lines 1 and 2, strike 'or interests therein'."

RILEY: Mr. President, I move the adoption of the amendment as read.

STEWART: I second the motion.

PRESIDENT EGAN: Mr. Riley moves the adoption of the amendment, seconded by Mr. Stewart. Mr. Riley.

RILEY: That is simply a redundancy. It appears in a subsection and it appears earlier on page 3 in the language qualifying the subsection.

PRESIDENT EGAN: Mr. Riley has moved, it has been seconded that the proposed amendment be adopted by the Convention. Mr. Hurley.

HURLEY: May I ask Mr. Riley again where it appears before that?

RILEY: On page 3, Mr. Hurley, on line 24.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other committee amendments?

CHIEF CLERK: "Page 5, line 20 --"

RILEY: I would like to suggest to the Clerk that the word "the" might help the sense of that amendment. Shall I read the amendment?

CHIEF CLERK: Yes, please.

PRESIDENT EGAN: Mr. Riley.

RILEY: On line 20, we had, by action of the Convention, inserted, "except mineral and medicinal waters". That particular insert should, under this amendment, follow the word "shall" instead of the word "use". It was adopted following the word "use", but in the judgment of the committee, it would better follow the word "shall" for clarity of, meaning -- "except mineral and medicinal waters" inserted after the word "shall"

and set off by commas. I move its adoption.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed amendment. Is there a second to the motion?

KNIGHT: I second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Taylor.

TAYLOR: I am not objecting; this is just for information. Mr. Riley, did your Committee, in considering this amendment as to mineral springs or mineral and medicinal waters -- is that the definition as given in the Bureau of Land Management regulations?

RILEY: I would say that it is not full, but representatives of BLM in town, in Fairbanks that is, suggested to us that it would satisfy the point raised by you and others the other evening.

TAYLOR: That is right. I think that was my amendment and I wasn't sure whether that was as it was set forth.

RILEY: Yes, that is right. I am sorry I didn't check with you before.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Riley, I take it this is a matter of substance or we wouldn't be asked to pass on it.

RILEY: I would say it is a matter of substance.

HELLENTHAL: How is it a matter of substance?

RILEY: As I read it now, Mr. Hellenthal, it states, "All waters reserved to the people for common use except mineral and medicinal waters..." which would suggest that mineral and medicinal waters may not be reserved to the people for common use; but, if it is read following the word "shall": "All waters reserved to the people for common use shall, except mineral and medicinal waters, be subject to appropriation." There is a prospect there of misunderstanding, we feel, of a substantive nature. The point of the whole sentence is that these waters with that exception shall be subject to appropriation. We don't want to suggest that all other waters except mineral and medicinal waters are subject to reservation. The reservation applies across the field.

HELLENTHAL: Style and Drafting can still work on it after this amendment?

RILEY: I am sure, but with this to clarify our meaning.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The ayes have it, and the proposed amendment is ordered adopted. Are there other committee amendments?

CHIEF CLERK: "Page 5, line 24, strike 'of' and substitute 'among'."

RILEY: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Riley moves the adoption of the amendment. Is there a second?

MARSTON: I second the motion.

PRESIDENT EGAN: Mr. Marston seconds the motion. Mr. Riley.

RILEY: The Committee feels that the substitution of the word "among" in that instance ties in more clearly with the concept of concurrent use. That, too, might have been a Style and Drafting change but we feel that it does touch on substantive matter.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention? All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments?

CHIEF CLERK: "Transpose Sections 7 and 8, page 3."

PRESIDENT EGAN: Transpose Sections 7 and 8. Mr. Riley.

RILEY: Here, Mr. President, I would waive the motion to adopt, thinking it would serve the purpose to call the matter to the attention of Style and Drafting.

PRESIDENT EGAN: Are there other amendments for Committee Proposal No. 8/a?

R. RIVERS: May I address a question to Mr. Riley?

PRESIDENT EGAN: If there is no objection, Mr. Rivers.

R. RIVERS: Mr. Riley, I refer to page 3, first to line 7, which I have marked down as a new Section 8, and it speaks of "lands and interests therein". The same question applies to new Section 10 on line 24, "or interests therein", and I would like to know what that means: "or interests therein"?

RILEY: I should like to ask for a five-minute recess and

refer various correspondence to Mr. Rivers.

PRESIDENT EGAN: If there is no objection this Convention will be at recess for five minutes.

R. RIVERS: Mr. President, I want something in the record as to the meaning of those terms and I don't understand myself what it means.

PRESIDENT EGAN: You would rather have it explained in session then?

R. RIVERS: Yes.

PRESIDENT EGAN: The Convention will come to order. Riley.

RILEY: There is a duality of meaning, Mr. Rivers, as the Committee regards "or interests therein". Initially, the language was adopted with a view to its including or being confined to the cover and the content, you might say, of the land, the resources themselves. The question has arisen from time to time throughout the Committee consideration of that language, and we have recognized at times that it would also cover the leasehold itself, the documentary evidence of an interest in the land, but clearly the Committee intends by "lands and interests therein" to cover the entire resource field, embraced by the land itself.

R. RIVERS: Thank you.

PRESIDENT EGAN: Are there other proposed amendments to Committee Proposal No. 8/a? If not, the proposal is referred to the Committee on Engrossment and Enrollment. Mr. White.

WHITE: Mr. President, are we still under the heading of unfinished business?

PRESIDENT EGAN: We are, Mr. White.

WHITE: Mr. President, under that heading, I would at this time move for reconsideration of my vote on the amendment by Mr. Smith yesterday, proposing a new Section 2 to committee Proposal No. 16.

PRESIDENT EGAN: Mr. White moves for reconsideration of this vote on that amendment. Mr. White.

WHITE: Mr. President, I ask for a one-minute recess so that the new Section 2, which I propose and which has been mimeographed, can be placed on the members' desks, because I feel that in order to discuss this thing intelligently we should have that before us.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White moves for reconsideration of his vote on the amendment to Section 2, Committee Proposal No. 16. Is there a second to the motion?

MARSTON: I second it.

PRESIDENT EGAN: Delegate Marston seconds the motion which puts us back to the question, "Shall the proposed amendment be adopted?" Mr. White.

WHITE: Mr. President, yesterday I referred to the action taken on this matter in somewhat heated terms. I hope that the members will accept that as a measure of my interest, and not as a censure upon the members individually, or collectively. I do think this is a matter of the greatest importance and deserves further consideration by the Convention. Now, initially, I will agree that, eventually, we must accept such a section in order to obtain statehood. I will also agree that, if we should put such a section into our constitution as proposed here, there is probably another way around the matter of accepting an enabling act we don't like. We could probably refuse to set up our state government, as has been suggested on the floor. I think this approach that I suggest is a more direct and a more -- perhaps "honest" isn't the word -- but a better approach to it. Now why does the question arise at all? It arises because we are holding our Constitutional Convention before the passage of an enabling act. Should we be doing it the other way around, the enabling act would be before us; we would know what it says, and we would write our constitution, present it to the people of Alaska for ratification, and should the people of Alaska not like the enabling act, or not like the constitution itself, they could reject it. Most of the enabling acts have made that provision; moreover, they have made the provision that, in that event, we could call a second constitutional convention, and should the people turn the second constitution down, there would be no more conventions held under that particular enabling act. That method has always left up to the people of the State of Alaska the final say on whether or not they want to accept statehood under the terms of a particular enabling act, but we are now in a position of drawing our constitution before an enabling act is passed. We have no way of knowing what that enabling act will finally say. That is why the question arises. Now we have already dealt with this matter on two other instances. First of all, the original Committee Proposal No. 16 came out, it had a Section 2 which read. "The State of Alaska and its people hereby consent to all and singular the provisions of the enabling act that is passed by the Congress and approved by the President for the admission of Alaska

into the Union of States." We all, or the great majority of us, agreed that that was a blank check that we should not, and in clear conscience on behalf of the people of Alaska, could not sign until we struck that section. We have, just a few minutes ago, taken a similar action in relation to the boundaries of the future State of Alaska. Why? Because we cannot sit here and say we will accept any boundaries. So that in our resources article we have defined the boundaries as the boundaries of the Territory of Alaska existing upon the date of ratification of the constitution. That will give us the option in the future, should a partition plan be proposed, to say "yea" or "nay" to that partition plan. Now this matter before us is merely the same thing all over again, albiet perhaps a lesser degree. Section 2, as proposed by Mr. Smith, that we adopted yesterday, reads: "All provisions of the act admitting Alaska to the Union, which reserve rights or powers to the United States, as well as those prescribing the terms and conditions of the grants of lands or other property made to Alaska, are consented to fully by the State of Alaska and its people." Now I will agree that, under certain sections of the constitution, we cannot be discriminated against as a state and that we have certain protections under the constitution. I am referring here primarily to the "terms and conditions of grants of lands or other properties made to Alaska." Now the question arises; is there harm in adopting this section as we have adopted it? I say there is harm. It was pointed out yesterday that improvements in statehood bills have been won over a period of many years by dint of hard work, and I would suggest that further improvements are not necessarily impossible, but here we deliberately say we consent to the terms and conditions of the grants of lands, whatever they may be, and in so saying we suggest to congressmen that we are not interested in further improvements in statehood bills. We suggest to them in writing that, if they wish to make the terms more restrictive or less attractive, that we are not going to object. For example, the Resources Committee, in considering the great problem of handling our resources, has felt, I am sure unanimously, that a period of 25 years is not sufficient to intelligently and thoroughly study the problem and make the selection of our 100,000,000 acres of land. We would like to see Congress change that to, say, 50 years. Why suggest here in writing that we are satisfied with the enabling act as it stands? More seriously, I feel that in adopting this section we tie our delegate's hands. We remove from him what little bargaining position he has and we have to go back to less than a year ago, if you recall, the withdrawal proposal that was made, or several withdrawal proposals that were made. Those withdrawal proposals, even among those of us who were working hard for statehood, wanted statehood badly, wanted to accept it under almost any terms, threw us into consternation for a period of time. Perhaps some of us were willing to accept the withdrawal proposals immediately. Perhaps, after a week or two of consideration we were willing to accept it, but the fact remains that there was doubt passed; the fact remains that our delegate to Congress initially, did not know what to say to some of these proposals that were being made until he heard from the people

of Alaska. And I say to you that if we put this section in the constitution, unnecessarily, we are tying his hands and removing from him what little bargaining position he has in trying to get for Alaska the best statehood enabling act that he possibly can. Even worse for us here, I feel that the insertion of this paragraph gives to whatever opposition there may be to the ratification of our constitution, an ideal, ready-made platform on which to stand. Earlier, in urging the committee members on the resources article, Mr. Riley referred to a campaign of distortion, and I say to you, that this Section 2 which was adopted yesterday provides the grounds for the greatest campaign of distortion that you have ever seen. Now in the current statehood enabling act there is a provision that the state must retain title to all its minerals. Those of us here may or may not like that provision. We may or may not agree that it is going to be there whether we like it or not. I will be the first one to agree that there appears to be very little chance of ever getting that changed, but I would also like to point out that, of all the matters contained in the enabling act, that is far and away the most unpopular among the people of Alaska and not necessarily just among the mining industry. It is unpopular among the homesteaders, the man in the street, and everyone I have talked to, and I think that for us to sit here and deliberately, in writing, accede to that and cut the ground out from under individual Alaskans or groups of Alaskans who hope to go to Congress and try and get that changed, would be folly of the highest order. It would be the simplest thing in the world for people who are opposed to the adoption of the constitution to embark on a campaign of distortion and say that the delegates to the Convention are willing to accept statehood, if the Congress gives us one acre of land, or if they are going to propose withdrawal programs in the next statehood enabling act, they won't withdraw just 40 per cent of an area north of a certain river, but will withdraw the whole State of Alaska. There is a serious question under the current withdrawal provision as to the rights of the people living within that area. Now I might be willing to accept that and you might be willing to accept it but how easy it is going to be for opponents of statehood to go to the people and say, "Maybe that one is all right but the next one is going to be worse and do you want to accept that?" Now, the question arises: is it necessary for us to put this provision in the constitution now, and I feel that it is not necessary. I cannot conceive of a single congressman or a single senator, taking into consideration the fact that we are adopting our constitution prior to the passage of an enabling act, being offended by the fact that we have not inserted such a section in our constitution. It seems to me that a reasonable congressman or senator would admit to himself that that was merely the straightforward, businesslike approach for the people of Alaska to take, that the people of Alaska want to see the wares of Congress before they buy and I submit that there is nothing unusual about that. Now, the question has arisen that if we do not insert

this section, will it delay statehood? I submit that it won't delay statehood five minutes, whether we go by the Tennessee Plan or by some other plan. In any event, we are going to have to have an enabling act, and in any event, we are going to have to set up our state government. Now the amendment that I have had drawn and placed on the members' desks takes from HR 2535 the provisions that have been applied to Hawaii. You will find them on page -- starting at the bottom of page 11 and continuing to pages 12 and 13 of HR 2535. Suppose Hawaii left this section out and Congress has merely said to Hawaii "You must, at the time you elect your governor, submit to the people this proposition for a vote by the people -- yea or nay. If they vote 'yea' this proposition will be deemed a part of the constitution. The constitution will be so amended and you are on your way." There is no delay there at all. They have to go to the polls to vote for their governor and state officers anyway. I have read, in my interest in statehood, hundreds and hundreds of pages of the Congressional Record and I have yet to read one reference -- one derogatory reference to Hawaii because they left this provision out of their enabling act. I suspect they did it deliberately and I say we should do it deliberately. Now, as I say, the amendment which I have drawn here, I think would cover the situation, would show Congress that we haven't forgotten to put this in our constitution, that we have it in our minds, but that we are not willing, as American citizens, sovereign citizens of the future State of Alaska, to sign a blank check. There is nothing unreasonable, there is nothing that anyone, in my mind, could ever criticize about that action.

PRESIDENT EGAN: Mr. White, this is a proposed amendment you desire to offer after we vote on this particular reconsideration?

WHITE: Yes, Mr. President. If the section, as it stands, were deleted, I would propose to offer this new Section 2. Now, I, along with all of you I am sure, have worked hard for statehood for many years, much less than most of you, and I am willing to accept statehood under almost any terms, but I feel that this is a blank check again, even be it a smaller blank check than the one we talked about before, but it is a blank check all the same and it is one which I cannot, in clear conscience, sign. I feel it is undignified, unnecessary, and un-Alaskan.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment that the Convention will be voting upon when we consider this reconsideration motion. It was Mr. Smith's.

CHIEF CLERK: "Section 2. All provisions of the Act admitting Alaska to the Union which reserve rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska, are consented to fully by the State of Alaska and its people."

PRESIDENT EGAN: Now the Convention adopted that particular amendment, is that correct?

CHIEF CLERK: Yes.

PRESIDENT EGAN: If the motion made by Mr. White is carried, if the vote is "yes" on the reconsideration motion, it stays in; if you vote "no" on the motion to reconsider, you are voting to delete the Section 2 that had been adopted yesterday.

UNIDENTIFIED DELEGATE: No, no.

PRESIDENT EGAN: The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Robertson.

ROBERTSON: I voted yesterday for Delegate Smith's Section 2, but I admit I did it with some doubts in my mind. I publicly debated and wrote a thesis on statehood some 10 years ago and I have always maintained that Congress be very liberal in giving us our natural resources. In fact, I have often been appalled at the enabling act and I am not at all satisfied with it and I think that Mr. Barrie White has a very good point here and I believe it should be considered, so we can have an opportunity to consider his amendment and I don't think his proposed amendment, if I may mention it, contemplates that we have to actually vote on the constitution again, it is just a question of whether or not we include this particular provision in the constitution. So I hope we do vote favorably on Mr. White's motion for reconsideration of this matter.

PRESIDENT EGAN: The question is -- Mr. Smith?

SMITH: If I shared for a minute Mr. White's fears, I would certainly withdraw my amendment in favor of his, and I would say, too, that I have never doubted Mr. White's sincerity and his beliefs. Now I simply cannot bring myself to the point where I share the fears expressed by Mr. White. The Tenth Amendment to the United States Constitution reads, "The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people." This means that Congress has only those powers expressly delegated to it by the Constitution. This Constitution is the supreme law of the land. This Constitution would certainly govern or supersede any provisions written into the act admitting Alaska into the union or any matter written into the constitution of the State of Alaska. Therefore, what we are consenting to in this section under discussion is

the reservation of rights and powers which Congress has under the Federal Constitution. It is not a blanket grant; it is only those rights which Congress has. As to our consent to the terms and condition of the grants of lands or other property, this consent is necessary for these grants are in the nature of a contract and can only be charged at any future time by and with the consent of the state and the United States. Under Article IV, Section 3 of the United States Constitution, Congress is empowered to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States. Under this authority Congress can make any disposal it might see fit to make of any lands owned by the federal government in Alaska. In this connection I hope that no one here is under the delusion that Alaska will assume ownership of 103,000,000 acres of land on its admission into the union. Alaska will not assume ownership of even one acre of land other than that owned now by the Territory and the land on which the Federal Building and jail in Juneau are now situated. What Alaska will receive is the right to select, within 25 years, 103,500,000 acres of land and if the land provisions in the latest enabling bills are carried forward, the land so selected will become the property of the state only after the state has made its selection and the land has been surveyed and patent issued. After patent is issued to the state the lands are then, of course, beyond the reach of Congress, they are the property of the state. Until patent is issued, however, all the lands within the state boundaries, I should say with the exception of submerged and tidal lands, will still be the property of the United States and will still be subject to any reservations that the federal government might want to impose. Actually, I don't feel that we are in any manner or in any form signing a blank check by saying we consent to the reservations of powers because I think that Congress already has those powers and that those powers are limited by the provisions of the United States Constitution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, what we are trying to do here, and have been since the beginning of this Convention, is to adapt our constitution to an act of Congress which was not written with the thought that a constitutional convention would ever be held before the act itself was passed. I am sure that if Congress were drafting an enabling act which would have been passed after the Constitutional Convention of Alaska had been held and after the Alaska constitution had been ratified, they would not have required in the enabling act that the people of Alaska would have to consent in advance to whatever they might write into an enabling act. I think if we should, upon reconsideration, again write into our constitution the language proposed by Mr. Smith, we would be raising a real question in Washington in the minds of many members of the House and Senate as to our sanity and to our good judgment

because we would be consenting in advance without any knowledge of what the act might contain, to the provisions of the act. I can hear it now, the clamor that is going to be made throughout Alaska, when we come down to the ratification election with respect to this section alone, and it is going to be said, what kind of people are we Alaskans that we will crawl on our bellies to Congress and say we will take statehood under any circumstances and any kind of conditions you want to lay down." It will be said that Congress need not give us a single acre of land, a single dollar of money, and that it can impose upon us all kinds of conditions which are not in the latest enabling act but which Congress could do, I am sure, if we adopt the language proposed by Mr. Smith. I spoke yesterday on this and I feel just as I did then about it today, after more reflection. I cannot, in conscience, vote to put a thing like this in the Alaska constitution. Now I think that if we do it, we will be cutting the ground from under Delegate Bartlett and others in trying to get any change in the mineral leasing provisions of the latest enabling act. Whenever the Delegate would go to any committee of Congress to talk about that subject, the committee would very rightfully say, "Well, what is the use of our listening to you? The people of Alaska have already agreed to anything we would do here and they did it with specific reference and when they had before them the enabling act which was the one that was before the latest Congress." I really think that the way to handle it is the way that Mr. White would propose and that is that at an election to be held after the passage of the enabling act by Congress, we would consent to the conditions in that act. Now I wonder if everyone here understands that we don't get statehood anyway and we do not become a state until after we have elected our governor; that is, after we have held the first full election under statehood and after the enabling act was passed. That is set forth very clearly in the enabling act. We don't become a state until upon issuance of a proclamation by the President of the United States which it says in the act, he will not issue until after we have certified to him the results of the election of our state officers, etc. So, I contend that that election is the time, after we have had an enabling act, after our people have had a chance to see what is in it, that we should consent to its conditions and not one minute before.

PRESIDENT EGAN: Mr. Buckalew had been trying to get the floor.

BUCKALEW: I will yield, if it is permissible, Mr. President, I will yield to Delegate Awes.

AWES: Well, I wanted to raise a question on Barrie White's proposed amendment. Is this the time to do it or are we supposed to vote on the reconsideration?

PRESIDENT EGAN: Well, that amendment is not before us, Miss Awes, at all. Mr. Hurley.

HURLEY: Point of order on that. I think the amendment has been discussed so thoroughly it has a direct bearing on the way we are going to vote on this particular item and, if necessary, I ask unanimous consent that we be allowed to talk on it.

PRESIDENT EGAN: If there is the unanimous consent -- if there is no objection, Mr. Hurley, it can be done, but the amendment is not before us. Miss Awes, if there is no objection you may ask a question with relation to the amendment that is not before us.

AWES: Well, I have serious doubt as to the validity of this last sentence. Maybe Mr. White has considered it but it says, "In the event that the foregoing proposition is not adopted..." etc., "the Act of Congress admitting Alaska to the States of the Union shall cease to be effective." Well that, in effect, says that the people of Alaska shall vote to void an act of Congress. I don't think we have the power to do any such thing.

PRESIDENT EGAN: Well, do the delegates wish to argue this amendment that is not before us? Mr. White.

WHITE: Mr. President, I would attempt to say that that language could not be improved. It may be subject to some question but we would here merely be inserting on our own behalf, the exact language that Congress has inserted in the Hawaiian Enabling Act, in behalf of Hawaii. Since we are the ones taking the action, we are the ones now, if we adopt my amendment, who will have to say something about it. I read from the Hawaiian Enabling Act: "In the event the foregoing propositions are not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this act shall thereupon cease to be effective. Congress has granted that right to Hawaii and there is no reason to assume that Congress would not similarly grant the same right to Alaska. Moreover, as this Act intended when it was written, we would have the same option in voting to adopt or not adopt our constitution.

PRESIDENT EGAN: If there is no objection to arguing this amendment that is not before us, Mr. Johnson, you may argue the amendment.

JOHNSON: Well, in connection with Miss Awes' point I had the same question and in looking at the Act which is HR 2535, I believe Mr. White has misunderstood the meaning of the language which appears at the top of page 13. I think the Congress here intends that its own Act shall be ineffective if Hawaii should turn down the referendum. It doesn't mean that Hawaii would have the right to make this Act ineffective, but the Act itself would be ineffective by reason of this negative vote on

the referendum, so it is still an Act of Congress. I think some other provision should be made or would have to be made with reference to the last sentence in Mr. White's proposed amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I have a parliamentary inquiry. If it appears that we should strike the subsection, that is, strike Section 2, and then it should appear thereafter when Mr. White's proposal is submitted, that the proposal contradicts an article in the resources, which has already been adopted by the Convention, would that take a two-thirds vote to amend something which has been adopted by the resources, that is, the resources article?

PRESIDENT EGAN: What is your question, Mr. McLaughlin?

MCLAUGHLIN: If it appears upon, let us assume that Mr. White's amendment is before the body, and if it appears that that amendment contradicts or amends an article of the Resources Committee that has already been adopted, would that take a two-thirds vote?

PRESIDENT EGAN: Well, Mr. McLaughlin, the proposed amendment of Mr. White, if it ever gets before the body will be subject to amendment itself with a majority vote at any time while it is before us.

MCLAUGHLIN: What I am concerned about, sir, is if it does amend the resources article now, would it require a two-thirds vote?

PRESIDENT EGAN: If it amended the resources article or if it conflicted with the resources article, then if you wanted to go back and amend the resources article, it would take unanimous consent or a two-thirds vote under suspension of the rules; but under those circumstances, the Chair couldn't feel that there would be much of an obstacle.

SUNDBORG: May I rise to a point of order?

PRESIDENT EGAN: Your point of order, Mr. Sundborg.

SUNDBORG: My point of order is that no part of the resources article has been adopted by the Convention.

PRESIDENT EGAN: That is right, but it would take, after it goes to Engrossment and Enrollment to make any substantive change, a two-thirds vote. Mr. Hilscher.

HILSCHER: If I understand this correctly, I believe that anyone who is opposed to statehood should heartily endorse Mr. Barrie White's amendment and I wish to carry this line of

reasoning on just a bit to show how that would apply. Number one, we are going to ask the people of Alaska to ratify our constitution in April. Let's assume that they do, that they ratify the constitution. Let's assume that they go for the Tennessee Plan. Then we will send our two senators and representative back to Washington, and suppose then, as a result of their good hard work plus our own propoganda, plus the aid of the American people, we are admitted to the union. Then we have to come back to Alaska, and the people of Alaska then have to hold another election to agree to this proposition in Section 2 and what a marvelous opportunity at that time, for the second time or the third time, that the antistatehood people would have to "unsell" the people of Alaska on statehood. I think it raises a very serious situation. I know that Mr. White is ardently in favor of statehood but I think this raises a very serious problem and I, for one, shall not favor it unless it can be shown otherwise.

PRESIDENT EGAN: Now, the Chair considers that by virtue of the fact that there was no objection that you have suspended the rules and are allowing debate on this particular amendment that is not before us. Mr. Fischer.

V. FISCHER: I would like to say that I am in favor of Mr. Smith's motion, not because I think that Mr. White's motion would open the door to anti -- statehood opponents, but I think, under Mr. Smith's motion we are not going to harm ourselves, but on the other hand we may expedite our cause. I think this might have been pointed out: if we adopt Mr. Smith's motion we will be telling Congress, "You have drafted a bill and passed it and the people of Alaska have already said they are willing to accept it." I think that will be a strong asset right there. I am not worried at this point about a blank check. One might ask oneself why has Congress provided all these grants of land in HR 2535. They have done so not because Alaskans have demanded those; not because Alaskans would not have accepted statehood with 20,000,000 acres. They have done that because they felt that the success of the state requires that 100,000,000 acres be granted; that the facilities of a road commission be turned over; that grants-in-aid be made for road construction. They have done it, not at our request, they have done it because they felt it was necessary. I feel that if somebody comes to Congress with a just cause for removing restrictions on disposal of mineral rights, if Congress feels that it will be necessary for the success of the state, that it will not be against the basic principles previously stated by Congress, that Congress would include that even if the people of Alaska already accepted what is in there now. I don't think we will be done out of anything. I think that it may help statehood much sooner and I am for Mr. Smith's amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: We are considering two possible amendments here. One would, as we have been saying, give a blank check; the other one would submit the question to the people after an enabling act is passed. Now, with the adoption this morning, or this afternoon, of Mr. Riley's amendment, or the committee amendment, we have taken out any reference so far to agreement with future enabling acts. And I believe that is just the way the constitution should stand, and with Mr. White's amendment here it will be submitted to the people; but I am afraid that this is somewhat a complicated question to submit to the people. I fear that the first time they will be confronted with the question is when they will walk in and see it printed on the ballot and this has many ramifications -- this question of lands and rights, etc. It takes in the tidewater question, the tidelands questions; it takes in the reservation of mineral rights to the state, as well as the land given to the state by Congress; and it also takes in the withdrawal of large areas of land for possible military reservations, such as suggested by President Eisenhower. It is just too much to make a snap decision on when you walk in to vote. The other amendment, by Mr. Smith, says it will agree to anything Congress wants us to agree on now and in the future. Mr. Armstrong made an eloquent plea yesterday for us to trust everyone, to trust Congress, they would do what was right by us. Governor Gruening's speech, that he made on the first day to us here, has been printed and I would suggest that Mr. Armstrong obtain a copy of it and read it. It gives a long list of grievances. It gives a long list of discriminatory acts perpetrated on the people of the Territory of Alaska by the Congress of the United States. Now, perhaps that was because we were only a Territory; maybe they will reform, maybe when we are admitted as a state we will be taken into their camp as one of their brethren. But I don't know, I am a little skeptical. I believe that, as our constitution is written now, with the acceptance of Mr. Riley's amendment, where we do not bring the subject up at all, it is much better for us. If Congress has any doubts as to whether or not we agree to the present enabling act, all they have to do is read the constitution and they will see that we do agree to it. We agree to their proposition of reserving mineral rights to the state; we do not particularly like it but we agree to it so I don't think that there will be any thought in their minds of rejecting this constitution on those grounds.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I voted against Mr. White's amendment yesterday and I feel as Delegate Sundborg -- excuse me, Mr. Smith's amendment -- and I believe that Barrie White's amendment is very fine. I would like to remind the people of the Westward part of Alaska that this is an insurance that when we have to sell the ratification of the constitution to the people that we are not taking a blank check; that we are, in effect, asking the Congress to provide us with a good enabling act, and it is not

selling the people a partitioning plan which has been brought out and which might very well be brought out again. I think that the people from the Westward part of Alaska should consider this proposition real well before they vote on it. I think that Mr. White's reconsideration is well taken and the people should vote for voting down Mr. Smith's amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I rise to this question of the amendment to which Mr. White is proposing. I gave this serious consideration and the question, as I analyze it, is whether or not we place our faith in Congress and their desire to do the right thing by us in the enabling act, and from all indications in the past it has been that they would. They would not turn us loose without first giving us the chance to properly survive under the American system of free enterprise and of government by the consent of the governed; and again I have the other thought: first, should we approve, in advance, the acts of Congress, taking them at their face value and in good faith, or should we reserve that power to the people? That has bothered me and I appreciate the earnestness and sincerity and the honesty that goes into this effort and on the part of both the proponents of the Smith amendment and of this Barrie White amendment. Now, it seems to me that, we have a choice to make here and the majority will decide, but it seems to me that Mr. Smith has taken the identical words that Congress would ask us to approve in advance of their act. Mr. Smith has taken the identical words which Congress prescribed for Hawaii to take in obviating the lack of that same provision in their Constitution. I must frankly admit that I am in considerable doubt as to the best approach: should we approve it in advance by the people or should we resubmit it to the people for approval as it is drawn out and passed by Congress? I hold with Miss Awes' question, both in regard to the last line "cease to be effective" and also in regard to the use of the words "Enabling Act" which she did not bring up. I think we have, more or less, tacitly agreed that it should be considered an act of admission, rather than an act of enabling us to become a state, there may not be any particular question. I, for one, am now of the opinion that I will rescind my position and go along with Mr. Smith's thinking that we should allow the people to approve the congressional act after the enabling act rather than before.

BUCKALEW: Mr. President.

PRESIDENT EGAN: Mr. Marston has been attempting to get the floor, Mr. Buckalew.

MARSTON: Thank you. I, strange as it may seem, am going along with Barrie White today. It's a strange position I am in and I am not happy with the Smith proposition. I am not sure just where I am but I am not happy with that Smith proposition, but

I would like a chance to get out and get on firmer ground. I think we are gaining nothing by drawing out that so-called blank check. I don't think we will get paid for it and I think we are in a better position to go along with some of the ground that Barrie White has brought up here and I hope we get a chance at it before we close this thing up.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, an awful lot has been said here about a blank check. I would like to point out that when you give a check, blank or otherwise, it assumes that you have got something to dispose of. So far as these lands are concerned we don't have anything to dispose of; the lands all belong to the United States. It is just a question as to whether or not we will accept what they want to give us. It is like saying, "I am not going to let my grandfather make a will because it may not give me as much as I would like to get when he does." Now, so far as I can see it, and I appeared on this particular question before Congress in 1950, before the Senate subcommittee, and I know, I think, pretty well how these senators look at something like this. Each one of them, and a good many on that committee were people that were favorable to statehood for Alaska; some were not. At that time Senator Butler was not. But most were favorable to statehood for Alaska. But each one was examining the thing in the light of what his own state had, and I think we might as well remember that the present act gives Alaska many times more land than the most liberal provision of the previous enabling acts and, as was pointed out by somebody else here, that wasn't because of anything that Alaskans did. That was because the folks in Congress thought that we ought to have that land to make the new state work. They also had in mind that their own states, particularly in the Western states, are burdened with a large part of the public domain being held by the federal government rather than by the states. I feel just as Reverend Armstrong felt yesterday when he said that this is something over which we are not going to have any control, anyway. It is something that we are going to have to take, whatever Congress may prescribe so far as these lands are concerned. Now we hope it will be liberal and there is no reason at all to believe that it won't be liberal but it seems to me that unless we adopt a provision, such as is provided in Mr. Smith's amendment, we have left a very grave question to our friends in Congress, and it seems to me that we have provided a much better system of ammunition for those who might be against statehood than we will if we say, "Yes, we are going to abide by the laws of Congress and we are going to accept whatever our friends in Congress are willing to give us."

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I have heard a lot of talk here, Mr. President, at this Convention about taking bold, new steps and I am in favor of the Tennessee Plan but Mr. White is just a little too bold

for me. It even scares me. Now if we look at this proposal he has drawn, we go back to Senator Calhoun's doctrine of nullification. Now that was settled during the Civil War and I don't see how you can draw this proposal that he has got without nullifying an act of Congress. Now I don't know how that is going to sit with the congressmen, but I think it will embarrass the people here in Alaska, because I don't think we are in a position now to nullify any acts of Congress.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I am sorry to take up the time, Mr. President, but I would like to enlarge upon those who have spoken in favor of Mr. Smith's amendment and against the reconsideration vote on the matter of putting our trust in Congress. I think if we consider that our friends in Congress have had quite a free rein in drawing bills for statehood -- if we didn't know it before I think we had a good exposition the other night as to why we are not a state, and it is not a matter of the gifts or the grants to the new state, but a matter of strictly political balance within the Congress of the United States. Now I think that we can be fairly sure that all bills enabling Alaska to become a state that may be introduced in Congress will be as liberal or more liberal than the one that we have now, because the opposition is going to be based on a preservation of the cloture rule and not on how nice a bill is for Alaskan statehood. I am willing to put this matter into the constitution now and depend on the future to bring what it may. I am one of those who, as Delegate White said a while ago, is willing to take statehood with only an acre of land because I feel that once I get that position, I will have two senators and a congressman to give me back my other 595,000,000, or however many there are left over. I favor keeping things as they are.

PRESIDENT EGAN: Is there anyone else who wishes to be heard before Mr. White closes? Mr. Metcalf.

METCALF: I would like to ask a question. I believe the article as is, with the consent to whatever Congress may decide to do in the way of an enabling act, if we are accepted as a state, are we bound then to go ahead or can we still back out?

PRESIDENT EGAN: Are you asking the Chair that or the Chairman of the Committee?

METCALF: Well, I'll take any of the chairmen of any of the committees -- whoever --

PRESIDENT EGAN: Mr. Metcalf, there have been states who have not accepted the enabling act and they had such as boundary disputes and for reasons of other disputes, have not accepted the enabling act and Congress has gone back and changed the enabling act. Does that answer your question?

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METCALF: Thank you.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I ask that this body stand at recess until 4:05 o'clock.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Do you so move, Mr. McNees?

MCNEES: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. McNees so moves. Mr. Johnson seconds the motion. Miss Awes.

AWES: Is it all right to make committee announcements?

PRESIDENT EGAN: Are there committee announcements at this time?

AWES: I would like to call a meeting of the Bill of Rights Committee for just a few minutes immediately upon recess.

PRESIDENT EGAN: Bill of Rights immediately upon recess. Are there other committee announcements? The question is, "Shall the Convention stand at recess until 4:05?" All those in favor of standing at recess until 4:05 will signify by saying "aye"; opposed, by saying "no". The "noes" have it and the Convention is still in session. The Convention will come to order. Are there others who wish to be heard before Mr. White closes the argument? Mrs. Hermann.

HERMANN: Mr. President, I don't want to be heard at length but I do want to stand up and be counted as one who approves of the Smith amendment in preference to the Barrie White amendment and to say that I, too, was a witness at the hearing in 1950 of which Mr. Davis spoke, and well recall that after the long discussion had been heard on what lands should be given to Alaska, Clinton Anderson rose up and said, "We don't have to follow the approved pattern of giving lands to Alaska. Why can't we be bold and strike out on a new trend. I propose that we give the State of Alaska 100,000,000 acres of land to be selected from any place without the public domain that they can find." I can't say his exact words but I do know that that was the attitude of Mr. Anderson at that time and it has been included in every enabling act bill since that time.

PRESIDENT EGAN: Mr. White.

WHITE: May I close the argument?

PRESIDENT EGAN: You may close the argument. Mr. Hinckel.

HINCKEL: Aren't we voting on Mr. Smith's amendment? Mr. White has already spoken.

PRESIDENT EGAN: Mr. Hinckel, under these circumstances, Mr. White made the motion that brought the question before us again. It is sort of complicated but it is the opinion of the Chair that while it is Mr. Smith's amendment, that Mr. White made the motion that brought it before us, and the rules say that the maker of the motion that brings this subject before us has the last say. Mr. White.

WHITE: Mr. President, I will try and be as brief as I can. Mr. Smith, in discussing the retention of his motion, spent most of his time discussing the reservation of powers and rights of the United States. With that part I have little or no quarrel at all. I have granted, from the beginning, that the Constitution of the United States probably takes care of that. Most of the rest of the argument in favor of the retention of the Smith amendment has been in the nature of expressing pious hopes as to what the Congress has done and will do in the future. I feel that the proponents of the amendment have not answered the question; that this would result in a campaign of distortion at the time of ratification of this constitution; that leaving the section in would cut the ground out from under the feet of our Delegate to Congress and that it would cut the ground out from under the feet of the individual or groups of Alaskans who wish to go to Congress and have further redress of their grievances, or have listened to further proposals on their behalf that they would like to see included in statehood enabling acts. Now I would agree with Mr. Davis and Mrs. Hermann that the present treatment of Alaska in the enabling act is generous, but I also recall Mr. Davis saying that most congressmen approach the subject having in mind the treatment that their own states had gotten, and being fully conscious of the fact that Alaska is getting far more generous treatment. In effect, what I would do is to keep Congress in the same position and not say to them that should some senator get up and say in committee, "By golly, they are getting far too generous a treatment. Let's cut them down a little bit." That is possible when we say in advance that we will accept anything Congress wishes to do. I merely wish to preserve the status quo and, if possible, to improve it. Mr. Buckalew has raised the question of the legality of all of this and I can only point out again that if my amendment should go in it is no more and no less than Congress has already granted to the people of Hawaii in which they provide that the people of Hawaii shall vote on a similar proposition and they go on to say: "In the event the foregoing propositions are not adopted in said election by a majority of the legal votes cast on said submission, the provisions of this Act shall thereupon cease to be effective. In answer to a question awhile back, the Chair

answered that other states have turned down their enabling acts and I would point out that in those instances, the people, the citizens of those states, had not said in advance, "We will accept any enabling act you wish to give us." Therefore, the way was open for them to have a further redress of their grievances. Now Mr. Hilscher has said that my stand is an ideal stand for the antistatehood people because it gives them another crack at the subject later on. That is true, it would give them another crack; but Mr. Hilscher is a salesman and I would suggest to you that it is much easier to sell a given product than it is to tilt at windmills, as we will be tilting at windmills at the time of ratification when people wish to embark, as Mr. Riley says, on a campaign of distortion. That kind of campaign is very difficult to answer. I think you and I and the other delegates here could go out today and sell the current enabling act because there we have something positive to work on.

PRESIDENT EGAN: We will now be voting on the adoption of the Smith amendment. The Chief Clerk will please read Mr. Smith's proposed amendment.

CHIEF CLERK: "Section 2. All provisions of the Act admitting Alaska to the Union which reserve rights or powers to the United States as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska are consented to fully by the State of Alaska and its people."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Smith be adopted by the Convention?" Mr. Sundborg.

SUNDBORG: May we have a roll call?

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 31 - Armstrong, Awes, Buckalew, Collins, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McCutcheon, McLaughlin, McNees, Nordale, Peratrovich, Riley, R. Rivers, Rosswog, Smith, Stewart, Taylor, VanderLeest, Wien, Mr. President.

Nays: 22 - Barr, Boswell, Coghill, Cross, Gray, Harris, Johnson, King, Laws, Londborg, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, V. Rivers, Robertson, Sundborg, Sweeney, Walsh, White.

Absent: 2 - Doogan, McNealy.)

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PRESIDENT EGAN: The Convention will come to order.

STEWART: I wish to change my vote to "yes".

PRESIDENT EGAN: Mr. Stewart changes his vote from "no" to "yes".

CHIEF CLERK: 31 yeas, 22 nays and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Mr. McNees.

MCNEES: Inasmuch as we have transacted some business, I again move that we recess this body until 4:10.

PRESIDENT EGAN: Mr. McNees moves and asks unanimous consent that the Convention stand at recess until 4:10. Is there objection? Hearing no objection it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Committee Proposal No. 16. Are there other amendments to Committee Proposal No. 16?

V. FISCHER: Point or order.

PRESIDENT EGAN: Your point of order, Mr. Fischer.

V. FISCHER: According to the calendar the next business is Style and Drafting reports.

PRESIDENT EGAN: Well, Mr. Fischer, that is correct, but it is the recollection of the Chair that we were on, as unfinished business, Committee Proposal No. 16. Then Mr. White made his motion, or served notice of reconsideration and that brought Committee Proposal No. 16 back before us in, its original position. If there are no other amendments we could have it on its way to Engrossment and Enrollment quickly; that is the only feeling the Chair had on it.

V. FISCHER: I don't want to be the one to delay this matter, but I have a question on the first section.

PRESIDENT EGAN: Well, it would be before us, the proposal. That reconsideration brings it back in its original status at that time before the body.

V. FISCHER: May I address it to the Chairman of the Ordinance Committee?

PRESIDENT EGAN: If there is no objection, Mr. Fischer.

V. FISCHER: The section deals with a disclaimer to property held by the United States and the property claimed or owned by Natives of Alaska. The language followed is that in House Bill 2535. Has the Committee taken into consideration the fact that, the Senate, in its enabling bills, has considered a different section covering this matter and that there has been very strong disagreement between the two houses, the Senate not being willing to yield to the House version.

PRESIDENT EGAN: Mr. McNealy, could you answer that question?

MCNEALY: Mr. President, the Committee had considered that particular point and our thought and purpose of containing the language of the house bill was due to the fact that the house bill is still in the House of Representatives as it is. This particular house bill wasn't defeated; it was sent back to the committee and our only thought of it on that point was that since it was back to committee and there was even a possibility of that same bill coming out or the same bill being reintroduced at the next session of Congress or, if by any long chance, that that bill should be reported out of committee again this year, why then it would be the exact language of the house bill which, in effect, isn't completely dead, although it is pretty well buried in Committee. It was, of course, impossible for us to set up two alternatives, we more or less figured the lesser of the two evils.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I was wondering whether Section 2 might not possibly -- Mr. Smith's amendment which we adopted as Section 2 -- might not possibly cover the reservations of rights to the federal government and other matters covered?

MCNEALY: Well, that is possible. It is certainly very broad language in there. We felt, however, in adopting this other language out of the house bill and, if you will remember, it was the Committee that came on the floor with the recommendation then to strike Section 2 because we felt that it was almost a duplication.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I have an amendment before us on the desks that I think solves the problem. It is an amendment that proposes to delete Section 1, and I move that Section 1 be deleted.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "That Section 1 be deleted."

PRESIDENT EGAN: Mr. Hellenthal, do you so move?

HELLENTHAL: Yes.

PRESIDENT EGAN: The adoption of the amendment --

TAYLOR: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Taylor. Mr. Hellenthal.

HELLENTHAL: The reason that I make this amendment is that Mr. Smith's proposal clearly covers the subject matter of Section 1. There is no question about it. This is purely a matter of Style and Drafting and I have consulted with the Chairman of the Style and Drafting Committee and he feels that way too, but because of the fact that it is a quote from the house bill he believes it should be put before the body, but there is no ulterior motives, no designs, no nothing. This is just merely an effort to delete some 28 lines from the constitution that are totally unnecessary. The house bill lists five things that in the House's opinion should have been in the constitution. The last of the five is the Smith amendment and the Smith amendment treats of two things: provisions of the enabling act reserving rights or powers to the United States, and provisions of the enabling act prescribing terms or conditions of the grants of land or other property. Section 1 deals with precisely those things, nothing more, nothing less. It deals with the reservation of rights or powers in the United States and it deals with the prescribing of terms or conditions of grants of lands, so when the Smith amendment was adopted the necessity for the Section 1 was entirely obviated; and I have talked to Mr. Smith about it and he also agrees with me, and our sole purpose here is to prevent redundancy and to keep our constitution brief.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I fail to see any valid reason for using the Style and Drafting Committee as an excuse for striking a section which I believe is entirely proper. This section deals with the disclaimer as to Native lands and fishing rights and certainly isn't covered by Section 2, which is known as the Smith amendment. I believe it is a necessary article to have in the constitution and I think that the amendment should be defeated.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may ask a question, Mrs. Nordale.

NORDALE: Mr. Hellenthal, if you feel that that is absolutely

unnecessary, why do you suppose Congress put it in the act? It says, "The Convention shall provide in said constitution the first, second, third, fourth, fifth." This is second and the Smith amendment is fifth.

HELLENTHAL: Now, the fifth said that all provisions of the act reserving rights or powers to the United States, as well as those prescribing the terms or conditions, are consented to fully. Well, the condition of disclaimer, which we presume will be carried forward into the enabling act, if it is carried forth in the Smith amendment, we say that we consent to it fully. There is no out that the Smith amendment covers it and covers it very, very clearly.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think that section should be read in its entirety. It says, "... as well as those prescribing the terms or conditions of the grants of lands and for other property herein made to the state."

HELLENTHAL: Do you infer by that that I gave it a twisted meaning?

V. FISCHER: No. No, I think it could be misinterpreted.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, if it is the official statement of the Chairman of the Style and Drafting Committee that he saw no reason for it to be in there --

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, please, I am sure I never said such a thing to anybody.

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: And I didn't say that in my remarks.

PRESIDENT EGAN: Mr. McLaughlin has the floor: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, we have, after much debate, put into our constitution every requirement as set forth in the enabling act. We have provided that no law shall be enacted respecting the establishment of religion; we have provided that the debts and liabilities of the Territory shall be assumed by the state; we have provided that provision will be made for the establishment and maintenance of a system of public schools; we have put in specifically -- we have put in the Smith amendment; and we have provided that mines and other property belonging to citizens of the United States residing without the state shall

never be taxed higher than the lands or other property belonging to residents thereof. We have had quite some debate on very controversial issues. Now when it comes down to adding 28 lines which, in substance, might be critical or essential, merely because it adds 28 lines to the constitution, I don't think is any argument for ignoring it. I frankly believe it should be in there; that if the assertion is that it merely adds 28 lines, as an individual member of Style and Drafting, much opposed to our art, I would prefer -- no matter how inartistic it is -- that it be in there verbatim.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. Hellenthal did talk to me yesterday about this and I stated that I did believe that the second section covered the requirements of this particular section, but on the other hand I wonder if Congress would look at it in that manner. I have before me the Senate committee report referring to this section which says that, "Special attention is directed to the disclaimer clause which is set forth as a section in that part of Section 3 which lists the provisions that must be in the Alaska state constitution." It goes on to say, "The requirement of a disclaimer clause is the customary feature of the acts providing for the admission of new states into the union." Now I have checked on quite a number of the constitutions of the Western states in particular, and they do in every instance, contain a clause similar to this one. I simply could not vote for Mr. Hellenthal's amendment merely to eliminate the wordage.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 1?

HELLENTHAL: I had an amendment where I wanted to abbreviate it to four lines but I withdraw that now.

PRESIDENT EGAN: Are there other amendments to the proposal? If there are no other amendments to the proposal, it is referred to the Committee on Engrossment and Enrollment. The proposal is referred to the Committee on Engrossment and Enrollment. We now have before us on our calendar -- Mr. Sundborg, does the Style and Drafting Committee have reports on the legislative branch, the bill of rights, and suffrage and elections -- do you wish that carried over and go on with the rest of the calendar?

SUNDBORG: We are ready to proceed any time the Convention wishes to do so, Mr. President, and my understanding was that the Rules Committee had purposely put them at the head of the

calendar so that they would be cleared.

PRESIDENT EGAN: Well, then, the next item of business is the report of the Committee on Style and Drafting on the legislative branch. At this time, before we proceed, Mr. Coghill, as Chairman of the Committee on Administration, have you made arrangements for supper upstairs tonight or notified them? Is it the understanding of the Convention that we will be in session this evening? We have a full calendar to go through as yet. Then Mr. Coghill you might take care of it. The Chief Clerk may read the report of the Style and Drafting Committee, on the legislative branch for the second time.

(The report was then read by the Chief Clerk.)

PRESIDENT EGAN: Mr. Sundborg, do you or some other member of your Committee wish to explain the Style and Drafting Committee's work on this?

SUNDBORG: This article was redrafted by a subcommittee consisting of Mr. Davis, Mr. Fischer, and myself; and after the redraft was prepared, it was given to the Committee on the Legislative Branch which reviewed it and reported to us that no changes in substance had been made in our redraft and that everything of substance which was in the enrolled copy had been included in our redraft. It was then reviewed by our full Committee and is here reported to the floor. We have asked Mr. Fischer to explain the changes that have been made and to answer any questions that delegates may have with respect to the article.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: As Mr. Sundborg pointed out, no major changes were made. We did, in Section 1, reinsert the number for the membership of the senate and the membership of the house, as previously agreed when those were deleted. While on Section 1, I would like to explain the use of the term "membership" in Section 1. As Mr. Owen pointed out earlier this afternoon, one of the important jobs that has faced the Committee has been the establishment of uniformity in terminology, and that has been a particular problem when we have come up against different wording for the various types of majorities required to approve or disapprove certain measures. For sake of uniformity we have adopted the following rule: when the term "membership" is used, it means the total number of legislators to which each house is entitled or to which the legislature is entitled. To be exact, it means 20 senators, if we speak of the senate, 40 representatives, or 60 legislators. When the term "members", "senators", "representatives", or "legislators" is used in reference to a specific vote, that refers to the number affected, actually holding office and alive; not necessarily voting, but all of the members who are in existence. When we use the term "of the

house", for instance, "two-thirds of the house" or "two-thirds of the senate", that refers to the number actually voting on a particular issue, and that terminology is followed all the way through. We have, in no case, changed the original intent in applying these three categories. We have always followed the original language, insofar as intent was concerned, using the standardized language. The only other point that I would like to bring out concerns Section 2. We have run into a conflict which is substantive. In line 8, in lines 8 and 9, we refer to "resident" for a certain period immediately preceding his filing for office. In the executive article the language is similar except it refers to "immediately preceding his election to office". It is the feeling of the Committee that this matter should be decided by the Convention; we did not feel it within the scope of the Committee to make any substitution. However, it was pointed out that there are three categories which could be used in here. First of all, "immediately preceding his filing for office", "immediately preceding his election", or "immediately preceding the taking of office". Now, the last one is not used in a single instance, so far. It is the law, by the way, that governs the Constitutional Convention, that the qualifications apply as of the time that members were sworn in. Insofar as the filing is concerned, it was pointed out that there is a certain vagueness in the term because there is no specific date, as such, upon which filings are made. They can be made a year in advance of a certain election, whereas the actual election is a definite term. However, this is a matter which we left to the Convention to decide. I will be glad to answer any specific questions. We have rearranged a few of the sections so as to follow more logically the content of the article.

PRESIDENT EGAN: Are there questions to be asked of the Style and Drafting Committee? Mr. McNees.

MCNEES: I would like to ask, on page 2, lines 9 and 10, where the contents came from?

V. FISCHER: Those lines refer to, "This section does not apply to employment by or election to a constitutional convention." That comes from Section 5 of the enrolled draft which says "This section shall not apply to positions of employment in or election to any constitutional convention."

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I would like to ask for a one-minute recess to discuss something pertinent.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper, did you have --

COOPER: No. My question is answered.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I just wondered if there were any more questions.

PRESIDENT EGAN: Are there other questions to be directed to the Style and Drafting Committee? Mr. Ralph Rivers.

R. RIVERS: Are we on any particular section?

PRESIDENT EGAN: No. The Chair feels that we should begin with questions relating to Section 1 first.

R. RIVERS: I have a question pertaining to page 4, line 15.

PRESIDENT EGAN: Mr. Rivers, the Chair will ask if there are questions relating to Section 1 first; the Chair should have done that previously. Are there questions relating to Section 1? With relation to Section 2? Mr. Londborg.

LONDBORG: Mr. President, I would like to have the Style and Drafting Committee explain the difference and why they have switched from the words "have resided" to being "a resident of". I wonder if there is any difference.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, the Committee looked into this particular matter. The word "resident" is used throughout the other articles; it is used in the article on suffrage and elections. If we had used the word "resided" in this case, as Mr. Owen pointed out, it could have raised all sorts of legal questions. We then looked into the difference between "resided" and "resident" and from a legal standpoint we were advised that there would be no difference; that "resided" is the same thing as "resident".

LONDBORG: Well, it would seem to me that if you were residing some place, you are actually living there; you are keeping a home there; you are maintaining your habitat, etc., whereas, being a resident, you are merely a resident in name; you can live anyplace else that you want to.

V. FISCHER: Well, apparently the term "reside" means about the same thing.

PRESIDENT EGAN: Are there other questions with relation to Section 2? Mr. Hellenthal.

HELLENTHAL: I move and ask unanimous consent that in place of the word "be" on line 5, the words "have been" be inserted and the words "who has been a resident" on line 6 be deleted.

PRESIDENT EGAN: Mr. Hellenthal, perhaps before we accept amendments, we will proceed, under the rules, through the section by section questioning and then come back for any proposed amendments.

HELLENTHAL: I thought this was the time when such amendments would be in order.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: What decision has been reached during this recess as to whether we are going to have this "immediately preceding his filing for office" or "immediately preceding his election to office"?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: To my knowledge, Mr. President, the informal meeting of the Committee was on an entirely different subject, not related to this question.

PRESIDENT EGAN: Are there other questions with relation to Section 2 at this time? Mrs. Sweeney.

SWEENEY: I was wondering about the deletion of the words "and shall otherwise be a qualified elector".

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: In line 5 we say, "a member of the legislature shall be a qualified elector" or a "qualified voter" -- excuse me. Again this is a matter of standard use of nomenclature. We defined what "a qualified voter" is. There is no definition in the whole constitution of what a "qualified elector" is.

PRESIDENT EGAN: Are there other questions with relation to Section 2? If not, are there questions relating to Section 3? Section 4? Are there questions relating to Section 5? Mr. Cooper.

COOPER: I have one. In one other article, I forget exactly what it was, I believe it was the executive, it said service in the state armed forces did not apply to a position of profit. Does that apply in this case, also?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think it was previously pointed out that the intention was to include that particular provision

in the general and miscellaneous article where it would apply to all.

PRESIDENT EGAN: Are there other questions with relation to Section 5? To Section 6? To Section 7? The Convention will come to order. Are there questions relating to Section 8? Mr. Hellenthal.

HELLENTHAL: In Section 6, is a legislature a tribunal?

V. FISCHER: Mr. President, that, first of all, is language from the enrolled copy. Secondly, I think, and some of the attorneys might correct me, that that is standard language used for this particular provision in most, if not all, constitutions and possibly in the federal Constitution.

PRESIDENT EGAN: Mr. Fischer, if the Chair may, isn't that the language, Mr. Hellenthal, that is used in the Organic Act, with relation to that subject?

HELLENTHAL: I don't have the Organic Act committed to memory to that extent, but even if it does, I don't ordinarily think -- this makes the legislature a tribunal because it treats of the classification with other tribunals, and is questionable.

V. FISCHER: I would say that the legislature is a tribunal for impeachment cases.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I might just suggest that where the language is the same as it is in the enrolled copy, that we are wasting our time on the Style and Drafting report to go into the matter of the use of words, where we have the same words as we have here.

PRESIDENT EGAN: Mrs. Hermann, did you desire --

HERMANN: Mr. Davis said it better than I could.

PRESIDENT EGAN: Are there other questions relating to Sections 6, 7, or 7? Are there questions relating to Section 9? Section 10? Mr. Hurley.

HURLEY: Referring back to Section 9, I didn't have the question worked out. I ask this question merely because this is a different procedure. In Section 9, where you are calling a special session by a canvass of the legislators, now as I recall before, we had reference to using the term "members", if you used this, then it would be a majority, but, of course, in this case there is no session so it would be two-thirds of all of them, is that right?

V. FISCHER: That is correct; that is, the members who are alive.

PRESIDENT EGAN: Are there other questions relating to Sections 9 or 10? Are there questions on Section 11? On Section 12? The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: On line 2, page 4, it says, "... but a smaller number may adjourn from day to day and may compel attendance of absent members." Such a use of the word "adjourn" as against "convene" bothers me.

DAVIS: Once again the language is exactly the same as the enrolled copy, Mr. President.

R. RIVERS: Do they adjourn before they convene or do they convene and then call a session? The use of the word "adjourn" there might deserve some consideration, I thought.

PRESIDENT EGAN: That is the language that appeared in the enrolled copy as it left the --

HELLENTHAL: Point of order.

PRESIDENT EGAN: Mr. Hellenthal, your point of order.

HELLENTHAL: Is it not entirely proper that anything can be questioned at this stage of the proceedings, or must we confine ourselves to a certain type of mistakes?

PRESIDENT EGAN: Well, Mr. Hellenthal, we are now -- of course, what Mr. Davis meant, as the Chair understands it, is that we are now reviewing the report of the Style and Drafting Committee. Now, when we go back through the article again in its amendment stage, it will be possible to make such changes as you might think are necessary by a proposed amendment. Mr. Kilcher.

KILCHER: Point of information. Are we now reviewing what the Committee on Style and Drafting have changed, or what it also might have overlooked in making the changes?

PRESIDENT EGAN: Do you have some questions that you felt -- if any delegate has a question that he wishes to ask the Style and Drafting Committee in relation to, "Why didn't you change this?" or something --

KILCHER: (Statement inaudible.)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: A point of inquiry. With reference to the question that Mr. Victor Rivers asked regarding the use of the word

"adjourn", it occurs to me that if there isn't a quorum present, that they couldn't convene, so the only procedure left would be to adjourn.

PRESIDENT EGAN: Are there other questions relating to Section 12? Section 13? Section 14? Mr. Ralph Rivers.

R. RIVERS: I will renew my question regarding line 15. Line 14 says, starting on line 13, "No bill may become law unless it has passed three readings in each house on separate days, except that any bill may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it." I know that in practice the Alaska legislature had the first reading by title only, second reading in full, paragraph by paragraph, for purposes of amendment, and then it is only read by title in its third reading.

PRESIDENT EGAN: Mr. Rivers, the Chair does not mean to -- if the Chair may -- it is the recollection of the Chair that this subject came up for discussion at the time we had the legislative article before us, and there were amendments voted on at that time just on the particular subject that you are raising.

R. RIVERS: I wanted to ask Mr. Fischer if it is unnecessary to say that any two of said readings may be by title only, or is that unnecessary?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, we could not go into that question since that was not subject for our inclusion in this particular section. It was previously included and we felt that anything in that range would be substantive.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, if I recall, when this proposal was on the floor, the Committee announced that it had been the intent of the Committee that the procedure for the reading of bills would be the same as it is now, with the title first, the second reading to be section by section, and the third reading by title again.

PRESIDENT EGAN: The Chair does not recall exactly what it was, but I do remember that there was some discussion. Are there other questions in relation to Sections 13 or 14? If not, are there other questions relating to Section 15? Section 16? Are there questions relating to Section 17? To Section 18? To Section 19? Are there questions relating to Sections 19 or 20, or 21? Mr. Fischer.

V. FISCHER: Mr. President, if there are no further questions on the committee report, I move and ask unanimous consent that the

report of the Committee on Style and Drafting be approved.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that the report of the Style and Drafting Committee, with relation to Article II, the article on the legislature be accepted. Is there objection? If there is no objection it is so ordered. Are there more proposed amendments for Section 1? Mr. Sundborg, what is your pleasure?

SUNDBORG: I wonder if we might have a recess for several minutes so I can ask the Committee to consider a proposed amendment?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 5:15.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any committee amendments to be proposed? Mr. Sundborg.

SUNDBORG: No committee amendments, Mr. President.

PRESIDENT EGAN: Are there amendments to be proposed for Section 1? Section 2? Are there any amendments to be proposed for this article?

SUNDBORG: Mr. President, I would just like again to call attention, as Mr. Fischer did, to the inconsistency which exists here in Section 2, and between it and the article on the executive, where it speaks here of the man having to be "a resident immediately preceding his filing for office" and in the other article, "immediately preceding his election to office," and I would like to suggest that that be resolved one or the other way in both cases, or the third alternative, which Mr. Fischer mentioned that "immediately preceding his taking office"; and I don't have the amendment myself to offer on that, but I should think someone here would, to make them all uniform.

HELLENTHAL: I propose that the word "election" be substituted for "filing" and so move.

PRESIDENT EGAN: Mr. Hellenthal moves that the word "election" be substituted for the word "filing" on line 8 of Section 2. Is there a second to the motion?

HERMANN: A point of order. Would it require a suspension of the rules?

PRESIDENT EGAN: On your point of order, it would require a suspension of the rules.

HERMANN: Yes, unless he asks unanimous consent.

PRESIDENT EGAN: Do you ask unanimous consent for the adoption of that amendment, Mr. Hellenthal?

HELLENTHAL: No.

DAVIS: I had a point before he does. It seems to me that if you were going to use the word "election" at that point, it would have to be "preceding his election, period", strike the "for office" or else say "election to" in the next line. It would require one or the other to make sense.

HELLENTHAL: I would prefer to amend my motion to make it "election to" in substitution for the words "filing for".

PRESIDENT EGAN: Mr. Hellenthal moves that the proposed amendment be adopted. Is there a second? It will take a two-thirds vote to carry the proposed amendment.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion.

HINCKEL: I ask unanimous consent.

METCALF: I object.

PRESIDENT EGAN: Unanimous consent is asked. Mr. McCutcheon.

MCCUTCHEON: Mr. President, the intention of the Committee, and I think we were unanimous in this respect, was that a person should be a full resident at the time they put their name on the document which declared them for office. Obviously, there is a technicality here which we didn't consider. There is a point, however, which can be made in favor of our terminology here, but they may still require an amendment. Our idea would be that the cutoff date on filing should be utilized. For instance, I think currently it is February 1 and that they shall be a resident for a full period of term prior to the cutoff date of filing. Now a man may file the last minute, or he may file three months ahead of time. I can see that there is an inconsistency in that, but it was the intention of our Committee that the person shall be a full resident of Alaska prior to the time that they file for office. Now, I can't speak for the whole Committee inasmuch as they haven't had a meeting but I think it makes little difference to us actually which way this is accomplished, for purposes of consistency in the constitution, but our intention was that before you could file for office that you had to have the complete qualifications, and that you could not run on a basis of incomplete qualifications, assuming that if you were elected, you would be qualified to hold office.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I ask the Chairman a question?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: Well, Mr. McCutcheon, if you use the cutoff date of February 1, that wouldn't solve the problem, would it, because somebody could file before February 1 who might not be qualified at the time of filing?

MCCUTCHEON: Well, Mr. President --

JOHNSON: He might file, or was it your intent, or was it the Committee's intent, that at the time he filed his declaration of candidacy, at that time he must be a citizen? He might not be until February 1; then he would be having a gap in there. At least that occurs to me.

MCCUTCHEON: I grant that there is a point where it would require further amendment if we assume the cutoff date at the end of filing would be the period, but, as I say, I don't think the Committee has any objection to using the terminology that has already been used elsewhere in the constitution as it has been adopted so far. It was just a matter that we dealt with in one fashion, another committee dealt with in another fashion, and I don't think there is anything to hassle about at all.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to point out that as it stands here and without being amended, it would be perfectly possible for me to file tomorrow for election to the legislature at the 1966 election, to move outside and live in Seattle for 10 years and still to be qualified under this article. Now, I believe we ought to tighten it up somewhat more than that; and I favor the suggestion of Mr. Hellenthal that we fix it, both in this article, and in the one on the executive, to the date of election.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: A question, Mr. President. Doesn't the terminology "election" include filing, running, being elected, being certified? Wouldn't the term "election" cover it from the date of actual closing of the filings? "Election" would actually consist of the whole process as I visualize it, and as we discussed it briefly in the Committee.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I, frankly, have no preference as long as it is a fixed date, but an election isn't completed until you are elected and the votes are counted, and I don't see how you could say that an election would be completed with filing. It would be

the complete election. In other words, the counting of the ballots -- that is your election. I favor "election" just solely for this reason: that there is a matter of discretion in the candidate, if you tie it in with filing, and he can adjust as he sees fit, but if you tie it in with election, it is more fixed and it is more involuntary than the other amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that the present wording should be retained for the reason as advanced by Mr. Victor Rivers, the fact that a filing is a part of the process of being elected. If a man wishes to file prior to the first of February why he can do so, but he must be of the legal age, 21 years for the representative and 25 years for the senator. Now following the reasoning of Mr. Sundborg, which I was unable to see in the same light, a person residing outside could not be elected. He couldn't file, because I don't believe Mr. Sundborg read the article which said that he must have been a resident for at least three years in the Territory and in the district in which he seeks to be elected for one year preceding his filing for office. Now how could he be out 10 years and come back and file because he wouldn't be a resident in that district? So I think that this should be, if he files on February or whether he files on January 31, I think he should be of age when he expects to be elected, because he is coming in then and trying to do something when he hasn't reached the age.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" The Chief Clerk will call the roll.

KILCHER: I wish to abstain from voting because I was not here for all of the discussion.

PRESIDENT EGAN: You wish to abstain, Mr. Kilcher, because you were not present?

KILCHER: Yes.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, there is one more observation I would like to make here before we finally get the balloting on this. The question arises in my mind is: when is a person actually elected? We assume that a person is actually elected when they have received, from the secretary of state or some such other official, a notice of certification that the election has been accomplished. Now, that date could be variable by as much as two or three weeks, depending upon how the precincts were coming in in their final counting. Consequently, it is possible that you could have someone filing without proper qualifications who may assume that the final returns won't be

canvassed and the certificates elected until a month after the election, and he may be counting on that. It may be that the votes are finally canvassed and the certificates are issued only three weeks after the election, and consequently, he would then be one week short of actual qualification in running here. So, it seems to me that if there is going to be a change made from this, it is going to have to be more specific than just a plain "election to" because a notice of election is a variable situation.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I succumb to Mr. McCutcheon's compelling logic and withdraw the amendment.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hilscher.

HILSCHER: I move that the Convention be at recess until 7:00 p.m.

PRESIDENT EGAN: Mr. Hilscher moves and asks unanimous consent that the Convention stand at recess until 7:00 p.m. Are there committee announcements? Mr. McCutcheon.

MCCUTCHEON: Legislative Branch Committee will meet in the rear of the gallery immediately after recess.

PRESIDENT EGAN: Legislative Branch Committee will meet immediately upon recess in the rear of the gallery. Are there other committee announcements? Mr. Collins.

COLLINS: Committee on Referendum, Initiative and Recall will meet at 6:45 in the gallery.

PRESIDENT EGAN: Committee on Referendum will meet at 6:45 in the rear of the gallery, and what else was that, Mr. Collins?

COLLINS: Full attendance of the Committee is requested.

PRESIDENT EGAN: Mr. Collins requests a full attendance of his Committee. Are there other committee announcements? Mr. Hellenthal?

HELLENTHAL: Committee No. VI will meet at 6:45.

PRESIDENT EGAN: Committee No. VI, Committee on Suffrage and Elections will meet at 6:45.

HELLENTHAL: Upstairs in one of the rooms.

PRESIDENT EGAN: Upstairs in one of the committee rooms. Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances will meet in one of the committee rooms upstairs at 6:30.

PRESIDENT EGAN: Committee on Ordinances at 6:30 in one of the committee rooms upstairs. Are there other announcements? Mr. Kilcher? If there are no other announcements, the Convention -- Mr. Sundborg.

SUNDBORG: Mr. President, the subcommittees of the Committee on Style and Drafting will meet throughout the dinner hour.

PRESIDENT EGAN: Subcommittees of the Committee on Style and Drafting throughout the dinner hour. If there is no objection, the Convention will stand at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to be proposed? Mr. White.

WHITE: Mr. President, may we revert to the business of reading the journal?

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business of reading the journal at this time. Mr. White.

WHITE: Mr. President, the Committee to read the journal reports the journal of the 57th Convention day, Wednesday, January 18, without any recommended changes and the journal for the 58th Convention day, Thursday, January 19, without any changes, and ask unanimous consent for their adoption.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journals for the 57th and 58th Convention days be adopted as read by the special committee to read the journal. Is there objection? Hearing no objection the journals are ordered adopted. Is there other business to come before the Convention before we proceed with the legislative article? If not, do we have a pending amendment to that article? Mr. Barr.

BARR: Mr. President, I have an amendment on the Secretary's desk.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Barr. Mr. Riley.

RILEY: Mr. President, point of inquiry, if not a point of order.

On what basis are amendments before us?

PRESIDENT EGAN: They are before us on the basis of substance. Mr. Riley.

RILEY: Has the article been returned for specific amendment?

PRESIDENT EGAN: The article is not in third reading. The report of the Style and Drafting Committee has been accepted, Mr. Riley. Substantive amendments would necessarily take a two-thirds vote.

RILEY: That is what I am asking. Thank you.

PRESIDENT EGAN: That is correct. Mr. Barr, it was the understanding of the Chair that the Legislative Committee had several amendments to offer. Would it be in order to have them propose their amendments first?

BARR: I would rather have them do so first.

PRESIDENT EGAN: If there is no objection, then, Mr. McCutcheon.

MCCUTCHEON: Mr. President, your Committee met and considered some of the discrepancies that appear in the legislative article. We wish at this time to submit an amendment. Page 2, Section 5, line 4, beginning of the section, insert ahead of the word 'during' this material: 'No legislator shall hold any other office or position of profit under the United States or the State'." I will ask unanimous consent for the suspension of the rules and the adoption of the amendment.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent that the proposed amendment be adopted. Is there objection? Would the Chief Clerk please read the proposed amendment once more.

CHIEF CLERK: "Page 2, Section 5, line 4, begin the section with the following by inserting ahead of the word 'during': 'No legislator shall hold any other office or position of profit under the United States or the State'."

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Is there objection?

MCCUTCHEON: Mr. President, I will say, before objection is made, that it was the intent of the Legislative Committee that there should be no dual office holding from the standpoint of a legislator, and it was drawn to our attention that our article, Section 5 at least in the article, wasn't entirely clear that dual office holding was prohibited. So this terminology has been offered in order to clarify and fortify that point.

PRESIDENT EGAN: Is there objection to the unanimous consent

request? Mr. Johnson.

JOHNSON: A question, Mr. President. Is this a complete sentence, Mr. McCutcheon?

MCCUTCHEON: No, it is not a complete sentence. It continues on.

PRESIDENT EGAN: Would the Chief Clerk read that first sentence then as it would appear if this amendment is adopted.

CHIEF CLERK: "No legislator shall hold any other office or position of profit under the United States or the State during the term for which elected and for one year thereafter, no legislator may be nominated, elected or appointed to any other office or position of profit which has been created, or the salary or emoluments which have been increased while he was a member."

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Would the Chief Clerk then please read the proposed amendment. Mr. McCutcheon, is it your desire there be a period after the word "state" and "during" remain as the beginning of another sentence? The Chief Clerk will please read that sentence.

CHIEF CLERK: "No legislator shall hold any other office or position of profit under the United States or the State."

PRESIDENT EGAN: Unanimous consent has been asked for the adoption of the proposed amendment. Is there objection? Mrs. Nordale.

NORDALE: Mr. President, may I ask a question?

PRESIDENT EGAN: If there is no objection.

NORDALE: Mr. McCutcheon, this would exempt anyone holding an office in a political subdivision of the state, would it not?

MCCUTCHEON: That is true; it wouldn't prohibit them from holding an office somewhere down the line, like a mayor of a city, or some such thing as that.

PRESIDENT EGAN: Hearing no objection, the amendment is ordered adopted. Are there other Legislative Committee amendments? Mr. McCutcheon.

MCCUTCHEON: Mr. President, on this same Section 5, beginning

on line 9, we strike lines 9 and 10 and insert the following: "This section does not prohibit the election of any person as governor, secretary of state, or member of a constitutional convention, or the employment of any person by a constitutional convention."

PRESIDENT EGAN: What is your pleasure, Mr. McCutcheon?

MCCUTCHEON: This section does not prohibit the election of any person as governor, secretary of the state, or a member of a constitutional convention, or the employment of any person by a constitutional convention.

PRESIDENT EGAN: Do you ask unanimous consent for the adoption?

MCCUTCHEON: Mr. President, I ask that the rules be suspended and that unanimous consent is asked for the adoption of this section.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Mr. Riley.

RILEY: I will object for purposes of inquiry, if I may address a question to Mr. McCutcheon through the Chair. Mr. McCutcheon what, in your judgment, would the application of this section be to a legislator who sought to run for Congress, either house of Congress?

MCCUTCHEON: Well, it would appear to me personally that, inasmuch as the state had no concern with the emoluments of the office of Congress, it would not prohibit him from running for Congress.

RILEY: That is because it is a federal situation?

MCCUTCHEON: Yes. The reason for this additional material here is that it was felt that it was not desirable, necessarily, to prohibit a legislator from advancing to the office of governor or secretary of state. The absolute prohibition might involve restraining a number of persons who might otherwise be valuable to the state, as the governor or secretary of the state.

RILEY: But your language, if I may continue just a moment, states: "No legislator shall hold any other office or position of profit under the United States or the State." And your specific exemptions creates a question in my mind -- should not the Congress be mentioned?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon.

MCCUTCHEON: As a point of clarification, the Committee would include in the amendment offered, the words "or election to the Congress". I think that makes it specific.

PRESIDENT EGAN: Then the sentence would read -- would the Chief Clerk read the sentence then, if those words were added.

CHIEF CLERK: "This section does not prohibit the election of any person as governor, secretary of state, or member of a constitutional convention, or the employment of any person by a constitutional convention, or election to the Congress."

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. Chairman, it occurs to me that that language then would make it possible for a legislator to be both a member of the legislature and a representative to Congress if the exception applied to the whole section.

PRESIDENT EGAN: You mean the way the sentence would be worded? Mr. McCutcheon, do you have anything to say?

MCCUTCHEON: The point is that if there appears to be a conflict in it, the intent is that we are not prohibiting a person from running for Congress. Obviously, if they are elected to Congress, they can't sit in the state legislature. I am sure that Style and Drafting will have that drafted up, and I venture to say they will take out "election to Congress".

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, just a question on procedure. Does Style and Drafting get this back now that a good many amendments have been made?

PRESIDENT EGAN: Style and Drafting will get this back, as the Chair understands it, after this article is adopted by the Convention as a part of the constitution, not until then.

SUNDBORG: And we can change it at that time? That was not my understanding of the rules.

PRESIDENT EGAN: That isn't the understanding of the Chair either, that Style and Drafting can do the work that they have done up to this time, after the third reading procedure has been accomplished on the floor.

SUNDBORG: The simplest manner might be for Style and Drafting to request that after we have finished making these amendments

that it be recommitted to Style and Drafting for their consideration of the amendments which have been made.

PRESIDENT EGAN: That could be done if there was no objection.

SUNDBORG: Mr. President, I have a question to address to the Chairman of the Legislative Committee. Mr. McCutcheon, would this section, as it is now written, prohibit a member of the legislature, say the president of the senate or the speaker of the house, from succeeding to the office of governor, if the salary of the governor might have been increased while that legislator was in the legislature? I notice you have said "prohibit the election of any person as governor". How about the succession to the governorship from one of those top positions in the legislative branch?

MCCUTCHEON: It appears to me that in the line of succession as it is set up by the executive department, making specific provision for that, that that would carry the automatic exemption. Now, I may be in error in my opinion, but it would appear to me that the president of the senate, despite the fact that the governor's salary may have been increased, would not be prohibited from advancing to that position in case the circumstance came about.

SUNDBORG: Mr. McCutcheon, as I recall our action here, I think we deleted on the floor the specific succession and we just left that up to the legislature; that is, after the secretary of state who succeeds, anyone who might succeed after that, would be provided for by the legislature, so there is no specific provision in our constitution saying that any member of the legislature might succeed to the office of governor.

PRESIDENT EGAN: Mr. Sundborg, would it be advisable that we have a two- or three-minute recess at this time and consult with Mr. McCutcheon and others interested to delve into this question?

SUNDBORG: It would be all right with me.

PRESIDENT EGAN: If there is no objection, this Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McCutcheon.

MCCUTCHEON: Mr. President, in order to satisfy in the point of the possible succession to the governorship in the case of death or accident of some nature, the Committee has found it advisable to insert after the word "election" in the proposed amendment offered, "appointment or succession". This offering

is predicated on the theory that it will permit the president of the senate or the speaker of the house to advance to the office of governorship, in case it becomes vacant or it would permit, in the case of a vacancy, the United States senators or congressman for appointment to the national Congress.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. McCutcheon with the addition.

CHIEF CLERK: "This section does not prohibit the election, appointment, or succession of any person as governor, secretary of state, or member of a constitutional convention, or the employment of any person by a constitutional convention, or election to the Congress."

MCCUTCHEON: I will ask unanimous consent for the adoption of the amendment.

The Convention will come to order.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent for the adoption of the amendment which is tantamount to the suspension of the rules. Is there objection? Hearing no objection the amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: Mr. President, the Committee has another amendment to offer on page 2, Section 6, line 12, after the word "made" strike the words "or action taken" which continues on line 13.

PRESIDENT EGAN: Strike the words "or action taken".

MCCUTCHEON: After the word "duties" add "while the legislature is in session". I will ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent for the adoption of the amendment. Is there objection?

MCCUTCHEON: The Committee thinking behind this matter is that it was the idea of the Committee that a legislator should be given proper immunity for any of his actions during an active session of the legislature, but that that immunity should not continue to any investigative interim committee where he might utilize that immunity to the detriment of others. That is the reason why the Committee asks unanimous consent for the adoption of this amendment.

PRESIDENT EGAN: Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: On page 4, Section 12, line 4, the Committee asks

unanimous consent to change the word from "may" to "shall".

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection?

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard. Do you move?

MCCUTCHEON: I so move, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon, do you move then that the rules be suspended?

MCCUTCHEON: Yes. I will ask a suspension of the rules.

PRESIDENT EGAN: Mr. McCutcheon moves that the rules be suspended. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I think the motion should be that the rules be suspended for the introduction of this specific amendment, not for general purposes.

PRESIDENT EGAN: That is right -- the rules be suspended so that this specific amendment can be voted on. The Chief Clerk will call the roll on the suspension of the rules in order that this specific amendment may be offered.

(The Chief Clerk called the roll at this time with the following result:

Yeas: 53 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Absent: 2 - Robertson, VanderLeest.)

PRESIDENT EGAN: The Convention will come to order.

CHIEF CLERK: 53 yeas, 2 absent.

PRESIDENT EGAN: The "yeas" have it, and the rules have been suspended. You may offer your amendment if you so choose.

MCCUTCHEON: Mr. President, "Section 12, page 4, line 4, change the word 'may' to 'shall'." I move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Is there a second?

MCNEES: I second the motion.

PRESIDENT EGAN: Seconded by Mr. McNees. Mr. Hellenthal.

HELLENTHAL: I voted to suspend the rules because I don't want to insist on a two-thirds vote. I think this should be debated like anything else and I don't want to take any advantage of the Committee. Now, I want to be heard just briefly on it. As a matter of principle, I see nothing wrong in all lobbying. Lobbying by citizens' groups is to be encouraged. The word "lobbying" in itself has no nasty or evil connotation. It is a good word, but, if we put the "shall" in there, we are adopting, I think, rather the juvenile principle that lobbying is a dangerous thing in all cases, and I don't want to do that. That is the first point. The second point is, I trust the legislature. I think that they are going to regulate evil lobbying, but I don't want to tell them to do it. I think that they have good sense. We debated this on the floor once, and we reached the conclusion that it should be "may". I think "may" is healthy. This is some more of that old organic-act thinking, where we have boogiemen in the closets. We are grown up and don't have to worry about it. We are going to have a legitimate, decent legislature, and I don't think we should start leading them around by the nose.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by the Committee, be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The "ayes" have it, and the proposed amendment is ordered adopted. Are there any other questions or proposed amendments to the article? Mr. McCutcheon.

MCCUTCHEON: "Page 5, Section 16, beginning on line 4, strike the words 'and bills dealing with taxation or affecting expenditures'; insert in lieu: 'and bills to raise revenue'." Mr. President, the Committee will ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: The Committee, Mr. McCutcheon asks unanimous consent that the amendment be adopted. Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: Just for the purpose of getting the Committee's thinking on this.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: To set forth some of the Committee thinking on this matter: arguments have been presented to the Committee that the words "and bills dealing with taxation or affecting expenditures" was too broad a term and that virtually any bill could be construed, in effect, to, in one fashion or another, be affecting expenditures or dealing with matters of taxation. The matters might only be of an administrative nature not actually affecting the rise or the fall of the revenue. So, consequently, it was the Committee's desire to include the words "and bills to raise revenue" which makes it more specific. The thought in this matter was that, inasmuch as we have a strong executive arm who shall propose a budget and, in the event he has an increase in budget, the governor shall indicate to the legislature the areas in which the revenue should be derived in order to substantiate his increase in budget; that, by including the words, "and bills to raise revenue", would be of direct application to those things affecting the actual increase of the burden upon the citizen. Consequently, therefore, it should be submitted to the three-fourths veto override rather than two-thirds.

PRESIDENT EGAN: Is there objection to the unanimous consent request of the Committee for the adoption of the amendment?

TAYLOR: I withdraw my objection.

JOHNSON: May we have the amendment read again?

PRESIDENT EGAN: Would the Chief Clerk please read the amendment once more?

CHIEF CLERK: "Section 16, page 5, beginning on line 4, strike the words 'and bills dealing with taxation or affecting expenditures'; insert in lieu thereof the following: 'and bills to raise revenue'."

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption? Mr. Hinckel.

HINCKEL: I have a question. The way she read the last time, are the words "items and" still left in?

CHIEF CLERK: ". . . or items" is in.

PRESIDENT EGAN: Would the Chief Clerk please read it again?

HINCKEL: Read the whole thing as it would be.

CHIEF CLERK: "Appropriation bills or items or bills to raise revenue, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature."

PRESIDENT EGAN: Mr. McNees.

MCNEES: I believe, if I may ask Mr. McCutcheon a question, I believe that was to read "and the bills to raise revenue". That is the way I picked it up in Committee, anyway.

PRESIDENT EGAN: Is that correct, Mr. McCutcheon, the word "and" instead of "or"?

MCCUTCHEON: That is possible that it is.

HELLENTHAL: I have a question. What does the word "items" mean as used here?

MCCUTCHEON: In a general appropriations act, it could be an item pertaining to one particular department.

HELLENTHAL: Do you think it says that here? Do you mean appropriation bills or items of the appropriation bill?

MCCUTCHEON: Yes, items of the appropriation bills.

HELLENTHAL: I think that should be made clear then.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: It is referred to in Section 15 and this is just a further reference to it. In Section 15 it says "he", meaning the governor, "may by veto strike or reduce items in appropriation bills. . ." and this just follows to tell what happens when he sends his message back, and I believe it is clear and refers to those items.

HELLENTHAL: It will undoubtedly be clearer when you get through with it in Style and Drafting.

PRESIDENT EGAN: The Convention will come to order. The Committee ask a unanimous consent that this amendment be adopted. Is there objection? Mr. Doogan.

DOOGAN: I didn't get it. Is that supposed to be "and bills" or "or bills"?

PRESIDENT EGAN: Mr. McCutcheon, it is supposed to be "and bills", is that correct? Does the Chief Clerk have that as "and bills"? Will the Chief Clerk read it as it is now.

CHIEF CLERK: The sentence?

PRESIDENT EGAN: Yes.

CHIEF CLERK: "Appropriation bills or items and bills to raise revenue, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature."

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection, the proposed amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: On page 5, Section 18, it appeared advisable to make an adjustment there by striking the whole section and inserting the following terminology: "Laws passed by the legislature become

effective ninety days after enactment unless otherwise provided by law."

PRESIDENT EGAN: You ask unanimous consent?

MCCUTCHEON: I ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Strike Section 18, page 5, line 18, and insert the following: 'Laws passed by the legislature become effective ninety days after enactment unless otherwise provided by law'."

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the device of Section 18 was instituted originally because of a section that was stricken from the original bill which had to do with the setting out to referendum by a bill lost in the house either by veto or by the legislature, whereby either the governor could send a bill out for referendum, or the legislature, on failing to overcome a veto, could send a bill out for referendum; and it was necessary under those circumstances, to set up a specific cutoff date. Inasmuch as that particular section of the legislative article was stricken, it was felt that, under those circumstances, that we set forth a 90-day effective period and let the legislature establish such terminology as they wished for the emergency act, if it were required, or to establish any other period of time for some reason or another that may be necessary for a law to become effective. I think a quite similar practice is currently being followed in our Territorial legislature.

PRESIDENT EGAN: Is there objection? Mr. Johnson.

JOHNSON: Yes, I object to that because the procedure that Mr. McCutcheon refers to is provided for by our Organic Act, and I think it ought to be in the constitution.

PRESIDENT EGAN: Objection is heard. Do you so move for the suspension of the rules, Mr. McCutcheon.

MCCUTCHEON: No.

R. RIVERS: Mr. President, I move for suspension of the rules to entertain this amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the rules be suspended.

TAYLOR: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Taylor, so that this specific amendment might be considered.

WHITE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended. Is there objection? Hearing no objection the amendment can be placed before us for consideration.

MCCUTCHEON: I move for adoption of the amendment. Mr. President.

PRESIDENT EGAN: Mr. McCutcheon moves for the adoption of the amendment. Is there a second?

MCNEES: I'll second the motion.

PRESIDENT EGAN: Mr. McNees seconds the motion. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I sat in there during committee deliberations for a while this evening, and part of the objection to Section 18 or part of the point discussed in connection with Section 18 was that this says ". . . effective ninety days after adjournment of the session at which enacted." That is the language we have in Section 18 now. Well, with a legislature that has employment the year round, Mr. Bebout says that sometimes his state legislature worked all year with intermittent recesses, and, in that case, a bill wouldn't become effective until 90 days after the next year started, and that under our present Territorial Organic Act, bills become effective 90 days after passage and approval - that is, of the passage of a specific act. Now, I don't think we can leave it in here the way it is. We don't want to say that with indefinite terms like our legislature will be going through under the new setup that we should wait until 90 days after the adjournment of a legislature before a particular law is going to go into effect. We wouldn't know, after the law was passed, within a period of months, perhaps, when that law was going to become effective, and nobody could figure out an exact time or plan accordingly. So, whether there is objection to this proposed amendment or not, we can't leave Section 18 in there the way it is, I don't think. Now, as to this proposed amendment, "Laws passed by the legislature become effective ninety days after enactment unless otherwise provided by law." That would call forth only one possible criticism, and that would be the meaning of the word "enactment". Our Organic Act now says "passage and approval", but every once in a while, an act becomes the law without the signature of the governor in case he just lets it become law without signing it, which he sometimes does during a legislative session. So if you say "ninety days after passage and approval", then you have to say "except when an act becomes the law without the governor's signature." So, instead of that, the Committee has just stuck in here "unless otherwise provided by law." Now then, the legislature can plug up the hole as to what happens if the governor does not sign a bill, and the legislature can, also, without monkeying with the emergency clauses, say, fix any other specific effective date for a particular enactment, such as, July 1, to coincide with the fiscal year, or "thirty days from date hereof", or "effective immediately upon passage and approval" -- so this actually, in short language, covers the whole subject, and I think it

coincides most closely with what we have now under our present procedure.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I disagree. I think that striking the entire section, particularly the part that refers to the enactment of emergency legislation, is a dangerous thing. At the present time, we have that covered by our Organic Act, and my objection is to the fact that the amendment which they have offered does not go far enough. They should have reinserted the provision provided in the last four lines of the present Section 18. If they had wanted to strike the first four lines -- that is all right, and then substitute the language which they have offered. I would have had no objection, but I see no reason for doing away with the emergency process.

PRESIDENT EGAN: Mr. McCutcheon, would you have objection to a two- or three-minute recess at this time?

MCCUTCHEON: No, I have no objection, Mr. President.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Did you so move the adoption of the amendment?

MCCUTCHEON: Yes.

PRESIDENT EGAN: It has been moved and seconded. Is there further discussion?

HELLENTHAL: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment -- Mr. Kilcher?"

KILCHER: I am opposed to this amendment, unless it can be amended under the same suspension of rules that we are dealing with in this section now.

PRESIDENT EGAN: What is your question, Mr. Kilcher?

KILCHER: If this amendment that is on the floor now is subject to amendment under that same suspension?

PRESIDENT EGAN: That question has never come before the Chair before. The question is, now that we have suspended the rules, put it in this position for specific amendment, can there be an amendment to that amendment offered at this time? The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The opinion of the Rules Committee is that you cannot -- we arrived at this point by suspending the rules to consider a specific amendment, and that it cannot be amended. The proposed specific amendment cannot be amended at this time. That would have to be the ruling of the Chair. Mr. Kilcher?

KILCHER: Mr. President, in that case, I have to ask another question. Can this question be divided? I think it should. There are two substantial amendments in this one amendment, and I wonder if it could not be divided in that case?

PRESIDENT EGAN: The question when we suspended the rules was, "Shall we go into this procedure in order to introduce a specific amendment?" Now the specific amendment is before us, and the Chair would have to hold that, at this time, the only way we could reach that, Mr. Kilcher, would be after this action that we are about to undertake here is completed, that by a same motion for suspension of the rules, we would go back either by unanimous consent or suspension of the rules, that we would consider another amendment.

KILCHER: Mr. President, I intend to show that this amendment consists of two definite parts and I am going to explain what I mean and then ask the Chair again if it couldn't be divided; namely, I fully agree to the first part of the amendment that changes the word "adjournment" essentially to "enactment" and some other small changes that are merely a matter of grammar. Since we don't know how long our sessions will be, it is logical that "adjournment" be changed to "enactment" -- "ninety days after enactment". This is a substantial amendment, I think, and, personally, I am in full agreement with it. But then, in the last two sentences, from line 21 on to 24 there is a substantial part of Section 18, which has nothing to do at all with the first part of Section 18, with which change I agree fully. In the last part we say that deviation from that 90-day rule, be it 90 days after adjournment, or, as we have it here in the amendment -- "90 days after enactment." A deviation from that rule shall be arrived at only by a concurrence of two-thirds of both houses, and I think this matter is entirely divisible and we should vote on one amendment first and then on the other amendment -- two amendments.

PRESIDENT EGAN: Mr. Kilcher, in answer to your question, Mr. McCutcheon read the specific amendment that he was going to offer before we suspended the rules to go into this, to come to the point where we are now, where we were to consider that specific amendment. If there was any question, it should have been raised at that time, and the whole question in the mind of the Chair seems to hinge around, not the fact that this whole question is one question, but there is the question there -- whether, in some of the delegates' minds, whether or not it should be left to the legislature by law to provide that length of time, or whether it should be specifically stated by a two-

thirds majority, or whatever you would have. The Chair would have no other ruling it could make other than to say that the proposed amendment is in order and that it was offered as a specific amendment; the rules were suspended for that purpose.

KILCHER: A motion to divide the question would not be in order, in other words?

PRESIDENT EGAN: That would have to be the opinion of the Chair because we arrived at this point to consider this specific amendment.

KILCHER: Well, Mr. President, in that case I have to talk against the amendment as a whole. There is another amendment -- I hope the first part of this amendment will come up on its own behalf. I really think that we should give it due consideration before we change a matter that has been given a lot of thought in second reading. The first part of this amendment is all right. However, since the second part is too substantial a change for our previous thinking, I think the whole amendment should be voted down and you give way to a partial or a different amendment. I do not think that the house with the regular majority as this here would imply if the amendment were adopted, -- that the house with a regular majority should at will be allowed to name an act an emergency act, even if the emergency doesn't even say any more than the new Section 8, being if this amendment passes that the emergency should be expressed in the act. It doesn't even mention "emergency". The word "emergency" is gone. It doesn't even have to be an emergency act any more if Mr. McCutcheon's amendment is adopted. It will just simply say "laws passed are valid ninety days after enactment" unless the legislature decides different; unless they say the laws will be in effect tomorrow or six months later. Whether it is emergency or no emergency, the legislature here is actually being given carte blanche to do as they see fit, and this in in contradiction to our entire previous way of thinking where for emergency measures it would take two-thirds of the house.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I wanted to speak again unless someone else wants to be heard ahead of me.

PRESIDENT EGAN: You have been heard on this, Mr. Rivers?

R. RIVERS? Yes, but I want to be heard again.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would just like to say that I agree with Mr. Kilcher. I think the matter is two very different subject matters and I, too, am very sorry, but I will have to vote against the amendment because of the fact that I feel the last two sentences should definitely be in our constitution.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I feel the same way. There are often times when bills are enacted that they are real emergencies and they should become effective immediately. There are other times when bills are enacted when there is time needed for preparation by the people to take into effect, to learn about the law and to put it into effect. They say that ignorance of the law is no defense. They should at least, however, have the 90 days in which to accustom themselves to and prepare themselves to follow the law that we set up. Now, if we adopt the amendment as Senator McCutcheon has submitted, it would mean that by the simple majority by which the bill was passed, it would also be made operative, if they so desired, and, in the heat of the legislative activities, I can readily see that there will be practically all bills effective immediately. Some grave injustices might be done to people by reason of their not being able to prepare for the law as passed, and they would therefore perhaps be in violation and might even be held for certain violations because of this. I think, actually, that the waiting period on everyday laws, with the exception of emergencies, is good and I am merely restating here now some of the original committee statements made in defense of the measure at the time we adopted that part. I would much favor the amendment if they would only leave the last two lines in.

SUNDBORG: Mr. President, I wonder if we could have a two- or three-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, before the question, I would simply like to state that I think that the last three speakers, namely Mr. Victor Rivers, Mr. Hurley, and Mr. Kilcher, have indicated pretty well what I believe to be the thinking of the group, and, in the event that the pending committee amendment is voted down, I am sure that one will go in, -- or that a suspension of the rules will be sought to enable a specific amendment to accomplish that purpose.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Awes, Buckalew, Coghill, Collins, Cross, Doogan, H. Fischer, Hellenthal, Hilscher, Knight, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Nolan, Taylor.

Nays: 33 - Armstrong, Barr, Boswell, Cooper, Davis, Emberg, V. Fischer, Gray, Harris, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Laws, Londborg, Nerland, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Absent: 4 - McLaughlin, Nordale, VanderLeest, White.)

CHIEF CLERK: 18 yeas, 33 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it, and the proposed amendment has failed of adoption. Are there other proposed committee amendments? Mr. McCutcheon.

MCCUTCHEON: The matter has been brought to the attention of the Committee which would provide for a transitional provision which relates to Section 5. This provision would read: "The provisions of Section 5 of Article II of this constitution shall not prohibit the appointment of any member of the legislature first organized under this constitution to any state civil office or position created by this constitution or created during his first term."

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: Is it an amendment?

MCCUTCHEON: Actually, Mr. President, it would be an addition to the article as a transitional matter relating to Section 5. It would have to be a transitional matter inasmuch as it only relates to the first term of our state legislature.

PRESIDENT EGAN: Mr. McCutcheon, would that then be more proper in the article on transitional measures?

MCCUTCHEON: Yes, it would.

PRESIDENT EGAN: Would it be in order that it be referred to the Ordinances Committee for possible inclusion in the transitional matters? Mr. McNealy?

MCNEALY: Mr. President, at this late date we would be very happy to see that it gets in as part of the ordinances, but when that particular matter comes out on the floor, if the Committee doesn't understand the ramifications and background -- if Mr. McCutcheon will agree to explain it at that time.

PRESIDENT EGAN: If there is no objection, that matter is referred

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to the Committee on Ordinances.

HERMANN: Parliamentary inquiry.

PRESIDENT EGAN: Your parliamentary inquiry, Mrs. Hermann.

HERMANN: Just how many amendments can a substance committee introduce at this stage of the game?

PRESIDENT EGAN: Mrs. Hermann, that is entirely up to the committee and the body as to whether they accept or reject the amendments. Mr. McCutcheon.

MCCUTCHEON: The Committee has no further amendments.

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, in line with my last remarks, I have an amendment to submit, and I ask suspension of the rules, unanimous consent for purposes of this specific amendment which has already been described.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 5, lines 18 and 19, strike the words 'except general appropriation acts, do not'; line 19 strike 'until'; line 20 substitute 'enactment' for 'adjournment'; place a period after 'enactment' and strike the balance of the sentence."

PRESIDENT EGAN: Would the Chief Clerk please read that section now as it would be if this proposed amendment was adopted.

CHIEF CLERK: "Laws passed by the legislature become effective ninety days after enactment." Then the rest goes on, isn't that right? "The legislature may by concurrence of two-thirds of . . ."

PRESIDENT EGAN: Was that your amendment, Mr. Riley?

RILEY: Yes

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed amendment be adopted. Is there objection? Mr. Hurley.

HURLEY: I have an objection and I ask for a 30-second recess.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Unanimous consent is asked that the proposed amendment be adopted. Mr. Riley, do you have anything?

RILEY: Nothing further, Mr. President.

STEWART: Mr. President, may we have it read?

PRESIDENT EGAN: Would the Chief Clerk please read the section as it would be if the amendment was adopted.

CHIEF CLERK: "Laws passed by the legislature become effective ninety days after enactment. The legislature may, by concurrence of two-thirds of the membership in each house, provide for an earlier effective date in case of emergency. The emergency must be expressed in the Act."

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption? Mrs. Hermann.

HERMANN: I have an inquiry I would like to address to Mr. Riley.

PRESIDENT EGAN: If there is no objection, Mrs. Hermann.

HERMANN: Mr. Riley, do you think that word "earlier" might better be "another effective date" rather than "an earlier effective date"?

RILEY: I certainly wouldn't object to your suggestion.

HERMANN: It isn't a suggestion. I am asking for information, but in view of Mr. Rivers' statement that it is sometimes necessary to have additional time to prepare for effective dates, it would seem to me that it might be that "another" might fill the purpose better than "earlier".

RILEY: I think it is constructive in allowing greater latitude.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Generally, when they want to say "This act shall become effective six months from now", there is no emergency. That is something that reaches out for the convenience of the public. I would rather have it "earlier" than "another".

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I ask a question of Mr. Riley?

PRESIDENT EGAN: If there is no objection.

KILCHER: In the same line of thought with Mrs. Hermann, I had also a version of this amendment where I supplanted "earlier" with "other" and made a period after "effective date"; drop "in case of emergency" on the last sentence. Forget about "emergency" -- just have it read ". . . legislature may, by concurrence of two-thirds of the membership of each house, provide for another effective date."

ARMSTRONG: Point of order. It seems to me, Mr. President, that Mr. Riley has the floor with his amendment.

PRESIDENT EGAN: If there is no objection -- Mr. Riley.

RILEY: We may be at an impasse here, Mr. President, by reason of the rules being suspended for specific amendment only and, perhaps, if all concerned have not gotten together --

PRESIDENT EGAN: If there is no objection the Convention will be at recess.

HELLENTHAL: I object. (To a suspension of the rules.)

RECESS

PRESIDENT EGAN: The Convention is in session. Objection has been heard. Do you move, Mr. Riley, that the rules be suspended?

RILEY: The motion is well stated.

PRESIDENT EGAN: Mr. Riley moves that the rules be suspended. Is there a second to the motion?

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion. The question is --

HELLENTHAL: Mr. President, I would like to be heard.

PRESIDENT EGAN: The motion to suspend the rules is not debatable. The question is, "Shall the rules be suspended in order that Mr. Riley may offer a specific amendment?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 50 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 4 - Helleenthal, Hinckel, Laws, McNees.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 50 yeas, 4 nays and 1 absent.

PRESIDENT EGAN: Mr. Riley, do you desire to offer your amendment at this time?

RILEY: I have one amendment, Mr. President, on the floor and Mr. Helleenthal objected to a recess -- and at this point, to give effect

to the motion just passed, I will ask for a three-minute recess.

PRESIDENT EGAN: Is there objection to the three-minute recess at this time? Hearing no objection, it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, I confess to having been under a slight misapprehension as to the unanimous consent when first asked. The amendment as originally proposed is the one under consideration.

PRESIDENT EGAN: The question is -- will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 5, lines 18 and 19, strike the words 'except general appropriation acts, do not'; line 19, strike 'until'; line 20, substitute 'enactment' for 'adjournment'; place a period after 'enactment' and strike the balance of the sentence."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Riley be adopted by the Convention?" Mr. Marston.

MARSTON: May we have it read so it makes sense?

PRESIDENT EGAN: The Chief Clerk will please read the section as it would appear if the amendment is adopted.

CHIEF CLERK: "Laws passed by the legislature become effective ninety days after enactment."

PRESIDENT EGAN: Read the remainder of the section.

CHIEF CLERK: "The legislature may by concurrence of two-thirds of the membership of each house provide for an earlier effective date, in case of emergency. The emergency must be expressed in the act."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Riley be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The "ayes" have it, and the amendment is ordered adopted. Are there other amendments to be proposed for Article II or is there further discussion? Mr. Barr.

BARR: Mr. President, I have an amendment on the Secretary's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as offered by Mr. Barr.

CHIEF CLERK: "Section 16, page 5, line 1, after the word 'message', strike the comma and the balance of the sentence on lines 2 and 3 and substitute the following: 'The house receiving it shall immediately reconsider its passage, and, if passed, shall transmit it

to the other house without delay.'"

SUNDBORG: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Sundborg.

SUNDBORG: This very amendment was offered when the thing was in second reading, originally, and was rejected.

BARR: Would you like to quote me that amendment that was offered before, Mr. Sundborg?

SUNDBORG: I know it was a provision to provide for consideration of vetoes by both houses separately rather than in joint session, and it was rejected.

BARR: This amendment of mine now describes the procedure when the vetoed bill is received. It describes how it shall be received, how it shall be acted upon, and how it shall be transmitted to the other house without delay. It does provide for action by both houses, that is true, but it is not like any other amendment that has been submitted before.

SUNDBORG: I renew my point of order.

PRESIDENT EGAN: Mr. Sundborg, the Chair recollects that this matter had been open for considerable discussion at the time the legislative article was before us but cannot recall whether -- Mr. Riley?

RILEY: Is there anything properly before the house now?

PRESIDENT EGAN: There is nothing properly before the house now except Mr. Sundborg's point of order on Mr. Barr's being able to attempt to offer his amendment, and the Chair is in doubt as to whether or not such an amendment was previously offered. The only way we could determine that would be to have the Rules Committee go back through the records and check that point. Mr. Riley.

RILEY: Mr. President, did Mr. Barr seek to have the rules suspended to have this amendment proposed?

PRESIDENT EGAN: He has not as yet.

BARR: I propose doing that, yes.

PRESIDENT EGAN: But it is always in order that the amendment be read -- an objection was heard on a point of order. If there is no objection, the only thing the Chair can do is ask the Rules Committee to go through the record and determine if such an amendment was previously offered.

JOHNSON: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: Inasmuch as this would have to be acted upon under a suspension of the rules, I do not think Mr. Sundborg's point of order is any good, because if the rules are suspended we can act on any sort of proposition. If he asks to suspend the rules for a specific amendment and the rules are suspended for that purpose --

PRESIDENT EGAN: Mr. Johnson, your point of order would take precedence over Mr. Sundborg's point of order. That is true, if Mr. Barr asks that the rules be suspended. Mr. Barr.

BARR: Mr. President, I move and ask unanimous consent that this amendment be considered under a suspension of the rules.

PRESIDENT EGAN: Mr. Barr moves that the rules be suspended and that he be allowed to offer this specific amendment if the rules are suspended.

COGHILL: I object.

BARR: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Barr so moves, seconded by Mr. Johnson. The question is "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 21 - Armstrong, Barr, Boswell, Collins, Cross, Harris, Hurley, Johnson, Knight, Laws, Londborg, Metcalf, Nerland, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, Mr. President.

Nays: 33 - Awes, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers Smith, Stewart, Sundborg, Taylor, White, Wien.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 21 yeas, 33 nays, and 1 absent.

PRESIDENT EGAN: So the motion has failed and the rules have not been suspended. Are there further amendments? Mr. Ralph Rivers.

R. RIVERS: I have an amendment, and I hear groans.

PRESIDENT EGAN: The Convention will come to order. Would the Chief Clerk please read the proposed amendment that is to be offered.

R. RIVERS: There are two parts and they are both the same amendment.

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CHIEF CLERK: "Section 18, lines 22 and 23, change the word 'earlier' to 'another'; line 23, put a period after the word 'date' and strike the balance of the section."

R. RIVERS: I move the adoption of the proposed amendment.

PRESIDENT EGAN: Do you move that the rules be suspended?

R. RIVERS: I move that the rules be suspended so this may be brought before the body.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the rules be suspended and that the amendment might be offered as a specific amendment. Is there a second to the motion of the suspension of the rules?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion.

R. RIVERS: Mr. President, I would like the privilege of stating in just a few words the purpose involved so --

JOHNSON: Point of order.

PRESIDENT EGAN: Your point of order.

R. RIVERS: I am asking the privilege -- I am asking that I may state the purpose of the amendment.

PRESIDENT EGAN: Are you asking the privilege of the floor. Mr. Rivers?

R. RIVERS: Well, if that would be the way. If I could justify -- just before they decide whether to suspend the rules and vote on that, I would like to be heard for a few moments. That is my purpose.

BUCKALEW: Mr. President, does he have to state the reason that he is asking? What is he asking for, a personal privilege?

R. RIVERS: No, it is not. It is the privilege of the floor so I can state my purpose before the vote is taken.

PRESIDENT EGAN: The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

BARR: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Barr.

BARR: Mr. President, I believe there is a motion before the house now. Is it in order to grant privilege of the floor while there is a motion before the house?

PRESIDENT EGAN: On a motion to suspend the rules it is not debatable and the question should be put.

R. RIVERS: I hesitate to take advantage of the rule of asking for personal privilege. I ask unanimous consent to be heard for a moment as to the purpose of my amendment.

PRESIDENT EGAN: Is there objection to Mr. Ralph Rivers being heard on his reason for asking for suspension? Is there objection to this?

DOOGAN: I object.

PRESIDENT EGAN: Objection is heard.

DOOGAN: Point of order. If he wants to speak on it he can ask for the privilege of the assembly.

R. RIVERS: Then I ask for the privilege of the assembly and I ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent for the privilege of the assembly. Is there objection?

BARR: I object.

PRESIDENT EGAN: Objection is heard.

BARR: When the rest of us have to go through the motions of suspending the rules here --

HELLENTHAL: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal.

HELLENTHAL: I don't think this is debatable. The objection speaks for itself.

BARR: It certainly does.

PRESIDENT EGAN: Objection is heard, Mr. Ralph Rivers. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll -- for the purpose of specific amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Boswell, Cooper, Cross, Doogan, Emberg, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays: 16 - Awes, Barr, Buckalew, Coghill, Collins, Davis, V. Fischer, Gray, Johnson, Lee, McCutcheon, McNealy, McNees, Robertson, Taylor, White.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 38 yeas, 16 nays, and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Mr. Ralph Rivers, do you offer your amendment?

R. RIVERS: I now move the adoption of this amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Would the Chief Clerk please read that amendment? Is there a second to the motion?

HERMANN: I second the motion.

PRESIDENT EGAN: Mrs. Hermann seconds the motion.

CHIEF CLERK: "Section 18, lines 22 and 23, change the word 'earlier' to 'another'; line 23, insert a period after the word 'date' and strike the balance of the section." So that last sentence reads, "The legislature may by concurrence of two-thirds of the membership of each house provide for another effective date."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this is not a frivolous effort on my part; otherwise I wouldn't be making the effort. We have all been working hard in the interests of getting this thing straightened out, and I want to point out a little bit from the standpoint of legislative experience. The present Organic Act says that bills when enacted shall become effective 90 days after their enactment, unless an earlier effective date is fixed by the legislature by a two-thirds vote of the members of each house. This gimmick that they used in the legislature for many, many sessions was to say when Mrs. Jones was being reimbursed \$50 because her dress burnt up in the schoolhouse, and they wanted to give her money now instead of making her wait 90 days, that an emergency is hereby declared to exist and this act shall become effective immediately upon its passage and approval. Jack McKay, of Legislative Council, of which I am a member, used a different format in drafting bills for the last session. He cited the Organic Act which said that you could state an earlier effective date for many minor matters, or for any matter, without stating, "An emergency is hereby declared to exist." The purpose of saying that the legislature may provide another date makes sense when you do not have to hook in this emergency business, but you cannot say "An emergency is hereby declared to exist and this bill shall become effective six months from date hereof." If it was such an emergency -- I mean, if it was an emergency, it would not become effective six days from date hereof. It is because of the convenience of the public and the planning that is required that in many instances the legislature

will make something effective six months from date hereof to give everyone a chance to get organized, or upon the commencement of the next fiscal year, or for some suitable purpose. As this thing now stands, unless we doctor it up, every bill will become effective 90 days from date hereof unless an earlier date is brought about by declaring an emergency. Now, if we take it the way that I have put it, it would be exactly the way it is now under the Organic Act. Bills do become effective 90 days from time of enactment unless an earlier date is established by the legislature in that particular act. Also, the legislature has full power, under the present Organic Act, to say an act shall become effective six months from date hereof, and we do not have to declare emergencies under the present practice and procedure under the Organic Act. So, I submit, ladies and gentlemen, that we don't want to compel our legislature to declare an emergency on every little thing where they might, in all equity, want to create an earlier effective date than 90 days and we don't want to block them off from making something become effective six months later instead of 90 days later. I also point out that this creation, forcing every little thing to become an emergency, rather crosses us up on our referendum article. Our referendum article states that everything may be submitted to the people except emergencies, but they say "involving the public peace and safety", or something like that. If we are going to compel the legislature to express an emergency in every little act that they want to speed up the effective date on, we are then going to have to spell out the special kind of emergencies for affecting the peace and safety in connection to make any sense with regard to our initiative article. Now then, I certainly appreciate the vote of confidence which I know you were buying what you might call a blank check.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Question of Mr. McCutcheon. Do you, as Chairman of the Legislative Committee, do you concur with this amendment?

MCCUTCHEON: Mr. Hellenthal, the only question I wanted to propose through the Chair to Mr. Rivers was whether or not he insisted on retaining that two-thirds business in there.

R. RIVERS: Yes, by all means, that is the present rule. They can only shorten that effective date by a two-thirds vote in the present legislature. I know the sentiment now in regard to that two-thirds vote. I am leaving that untouched. I am only trying to state we don't have to declare an emergency to change an effective date by a two-thirds vote.

MCCUTCHEON: I have no objection to it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, our legislature has been operating up to

this time under a very cumbersome and illogical procedure in this matter, as Mr. Rivers has pointed out, and I believe that now is the time to correct it. We have the opportunity and we should correct it forever by adopting Mr. Rivers' amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed, by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other proposed amendments to the article? If not, Mr. Sundborg had asked unanimous consent that the article be referred back to the Committee on Style and Drafting. Is there objection? Mr. Fischer.

V. FISCHER: Will it be open again to amendments when it is reported back by Style and Drafting?

PRESIDENT EGAN: That is another question, Mr. Fischer.

V. FISCHER: All right.

HELLENTHAL: It would appear to me it would be referred back for the specific purpose only of working on the amendments that were made here this evening.

PRESIDENT EGAN: Is that in your motion, Mr. Sundborg?

SUNDBORG: That was my wish, Mr. President.

PRESIDENT EGAN: That it be referred back for the specific purpose as stated by Mr. Hellenenthal. Then, when it comes back, could Style and Drafting report it directly to the Rules Committee for assignment to the calendar in third reading? Is that the intention? This is an unusual procedure.

SUNDBORG: Mr. President, my thought would be that we would report it again with the report of our Committee to the floor and that that report would be subject to acceptance, but it would not require reading the whole act again.

PRESIDENT EGAN: The only thing to be done at that time, would be to be certain that the Style and Drafting Committee had not made any further substantive change. However, whenever it is on the floor, by suspension of the rules for specific amendment, you cannot stop anyone who desired to make such a move from attempting such a move, but it is referred back to Style and Drafting, if there is no objection, for the specific purpose of checking the amendments that were made on the floor. Mr. Sundborg.

SUNDBORG: Mr. President, I wonder if I could be permitted to address a question to Mr. McCutcheon.

PRESIDENT EGAN: If there is no objection, Mr. Sundborg.

SUNDBORG: Mr. McCutcheon, did your Committee consider the question of the date from which residence should date in the case of those who are filing for office?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The Committee discussed the matter, and it was our conclusion that one who files for office must have had full residence before filing their papers for office.

SUNDBORG: So you favor the use of the word "filing"?

MCCUTCHEON: Correct. Yes, sir.

SUNDBORG: Mr. President, I then move and ask unanimous consent that the rules be suspended and that the Committee on Style and Drafting be instructed to insert the words "filing for office" in the executive article in place of the language now there, which is "prior to his election". That covers the case of the governor and the secretary of state and that would make that article harmonious with this one.

PRESIDENT EGAN: You have heard the unanimous consent request of the Chairman of the Style and Drafting Committee. Is there objection? Hearing no objection it is so ordered and the Style and Drafting Committee is authorized to make that change in the executive article. We have before us then, the article on the report of the Style and Drafting Committee, the bill of rights, preamble and declaration of rights article. The Chief Clerk will please read the report of the Committee on Style and Drafting on Article I and the preamble.

(The Chief Clerk then read the report of Style and Drafting Committee in its entirety.)

PRESIDENT EGAN: Mr. Sundborg, does your Committee have a report to make on the work it did on this proposal?

SUNDBORG: Mr. President, the article on preamble and bill of rights was redrafted by a sub-committee consisting of Mrs. Hermann, Mrs. Nordale and Mr. Hurley. It was then submitted to the substantive committee and we understand that it was their opinion that we had not changed any matter of substance in it. It was then reviewed by our full Committee and it is now reported to the floor, and Mrs. Nordale will explain such changes as has been made and will answer any questions by the delegates.

PRESIDENT EGAN: Mrs. Nordale, will you offer that explanation at this time?

NORDALE: We made very few changes. In some instances we returned

to the exact language of the Bill of Rights in the federal Constitution because we were advised that those had been construed and the meaning was very clear. A lot of the original enrolled article was, of course, part of the federal Bill of Rights, but where it deviated, except for additions that were made to sort of modernize the thoughts, we did return exactly to the United States Constitution and Bill of Rights. The preamble we rewrote, shortened slightly. The thing we removed was "government by consent of the governed", but we did introduce that thought in another section. It just seemed that it read more smoothly if we didn't have quite so much in it, and we did add the phrase "in order to secure and transmit to succeeding generations our heritage" because we felt that that actually gave more point to the preamble than it had had before. In the first section, I think there is just very little. We did rewrite one sentence but we didn't change the meaning. Section 2 is changed considerably, but I think if you look at it carefully you will see that we did retain the thought. Obviously, the second sentence wanted to say that "government is of the people, by the people, and for the people," so we said that, "Government derives from the consent of the governed," and there is where we introduced that thought, "and exists solely for the common good." The arrangement has been changed, and there are more sections, as you note, but that is because the federal Constitution, the federal Bill of Rights in many respects has just one item, and we thought to correspond and conform with that that we would separate those rights that were separated in the Bill of Rights. Then we regrouped the sections which dealt with capital offenses and criminal -- things relating to criminal laws -- and put the civil provisions toward the end. You will notice that, in Section 11 of our draft, we have -- in relating to criminal prosecutions -- there was no mention of how the jury could be changed. In the enrolled section it said that "An impartial jury of twelve, except in courts not of record, the jury may consist of not more than twelve or less than six persons." Immediately the question arose, who is to say that the jury may consist of less than twelve? So, we added the same language that had already been put into the section on civil cases, after consulting with a former United States Attorney and several other attorneys as to just how that could possibly be changed. They told us it could be changed by law in the very same manner that the jury in a civil trial could be changed. So, we inserted the same thing here; that was in order to cause no difficulty in interpretation of the two sections. Except for its rearrangement, I believe that is the only comment I have to make at the moment.

PRESIDENT EGAN: Are there questions to be directed to the Committee with relation to the preamble? Mr. Taylor.

TAYLOR: Mr. President, I would like to address one question to Mrs. Nordale regarding the matter she was just speaking of about the jury. I didn't quite understand your remarks on that, Mrs. Nordale, as to jury of six in a criminal case.

NORDALE: The original section dealing with criminal prosecution is Section 12 of the enrolled article, and it says "In all criminal prosecutions, the accused has the right to a speedy trial, by an impartial jury of twelve, except that in courts not of record the jury may consist of not more than twelve nor less than six persons." Then Section 13 said, "In suits at common law. . .the right of trial by jury of twelve is preserved. . ." I am speaking from the enrolled copy. You see, we did rearrange it, so if you will refer to your enrolled copy --

TAYLOR: What section is that? That is what I have -- the enrolled copy.

NORDALE: No, you have the report of Style and Drafting. Go back to your original enrolled copy. It is Section 18 in this one. One section deals with criminal prosecutions and the other deals with suits at common law. Now, the enrolled section dealing with suits at common law said that said that the legislature may provide for a jury of not less than six. With reference to criminal prosecutions it said that the jury must consist of not more than twelve or less than six, but it didn't say how you would arrive at a jury of less than twelve.

TAYLOR: I was going to say that could easily be clarified. You could leave it the way it is because under the Constitution of the United States you are entitled to a jury of twelve and it is only the defendant who can waive less than a jury of twelve.

NORDALE: I understand that the Constitution doesn't say a jury of twelve. I was advised that it was a matter of common law. Maybe Mr. Buckalew could help us.

TAYLOR: A common law was a jury of twelve -- that is a common law jury and only the defendant can give his permission to be tried by less.

NORDALE: These two sections were reviewed by someone who had never seen them before. Immediately the question arose -- "How do you get a jury of less than twelve?" So, we made inquiries of some of the attorneys and they said that you get it by law.

TAYLOR: No, you get it by the defendant waiving the jury of twelve and consenting to be tried. We do it all the time. It is standard procedure in the courts that if the defendant wishes, he can be tried by a jury of less than that.

PRESIDENT EGAN: Miss Awes, do you have a question there?

AWES: I would like to make a statement on that. If it were just a question of a jury of less than twelve, when the defendant waived a larger jury, then you wouldn't have to put it into the constitution. The defendant has the right without any constitutional consent to do it, but as far as trials by the state courts go, the state constitution can provide what kind of a jury trial we reserve or save for them, and it was definitely our intent that the legislature could, in certain cases, provide a jury of less than twelve, and it has been done by other states in their constitutions.

PRESIDENT EGAN: Are there questions with relation to the preamble? With relation to the work the Style and Drafting Committee did on the preamble? If there are no questions on the preamble, are there questions with relation to the work that the Style and Drafting Committee did on Section 1? Questions relating to Section 2? Mr. Hellenenthal.

HELLENTHAL: I think I can make my point at a later date.

PRESIDENT EGAN: Are there questions with relation to Section 2 or Section 3?

HELLENTHAL: Section 2, yes. Frankly, I think that language, "Government derives from the consent of the governed," is to say the least, archaic and curious. I wonder where it came from.

PRESIDENT EGAN: Mrs. Nordale, could you answer the question?

NORDALE: The preamble did say that we "reaffirm our belief in government by consent of the governed," and I think that is an accepted American view. The word "derives" means to arise and go from, and so the thought there is that government is an outgrowth of the consent of the people, that is, their will; it originates with them if it derives from them; it is founded on their will because it is on their consent; and "exists for the common good" means that it was instituted for the common good, for the good of the people as a whole. We felt that we had included all the thoughts that were in that second sentence.

HELLENTHAL: Has that language ever been used before in any bill of rights -- the word "derives".

NORDALE: Excuse me, I am not sure.

HELLENTHAL: You are aware that the original language is, "All government originates with the people, is founded upon their will only," are you not? You think that this is preferable to that?

NORDALE: Well, this is what we decided to use.

PRESIDENT EGAN: Mr. Buckalew has been attempting to get the floor.

BUCKALEW: Mrs. Nordale cleared this provision with only part of the Committee. I know she talked to Delegate Awes and myself and we didn't see anything wrong with it. I have seen this very language in other bills of rights. I don't know that the word "derives" is archaic or not. My only comment is it is in English, and part of the Committee didn't have any objection and we thought it was an improvement.

HELLENTHAL: What bills of rights use that language?

BUCKALEW: Mr. Hellenthal, I could go back up there and find them, I guess. My only comment is I have seen the language before. It is not new or novel or anything strange about it.

PRESIDENT EGAN: Are there other questions relating to Section 2? Mr. Ralph Rivers.

R. RIVERS: May I ask Mrs. Nordale a question?

PRESIDENT EGAN: You may ask your question, Mr. Rivers.

R. RIVERS: Mrs. Nordale, that language mentioned by Mr. Hellenthal means government is based upon the consent of the governed. -- More plain words, is that what you mean?

NORDALE: Our thought was that government really is an outgrowth of the will of the people. That was more the idea that we were trying to convey. It originates and grows out of the will of the people.

PRESIDENT EGAN: Are there other questions relating to Section 2? If not, are there questions relating to Section 3? Mr. Robertson.

ROBERTSON: I would like to ask what the sentence, "The legislature shall implement this section. . ." means in Section 3, or the breadth of it or the scope of it?

PRESIDENT EGAN: Mrs. Nordale, could you answer that?

NORDALE: The original enrolled section said -- the first sentence is the same. The next sentence was, "The legislature shall provide appropriate legislation in accord herewith. We took it to mean that it was the desire, that the Committee intended that the legislature should implement this by passing legislation prohibiting discrimination. That was the only way we could interpret it, and we thought we had said that in this. I don't think it is particularly good language, but I think it is better than the other. That is my personal opinion.

HELLENTHAL: Another question. Why were the words "the enjoyment of" not included in Section 3?

NORDALE: Because we felt that this should not deny the right. -- that it is the right you are preserving, not the enjoyment of a right.

HELLENTHAL: Did you consult with any advisers or attorneys in connection with eliminating the words "the enjoyment of"?

NORDALE: Yes, we had two attorneys from your Committee who had no objection to it.

PRESIDENT EGAN: Miss Awes.

AWES: The Committee consulted with Mr. Buckalew and with me on that particular section, and we raised no objection to it at that time.

HELLENTHAL: I have another question. Why were the words --

BUCKALEW: Mr. President --

HELLENTHAL: Why were the words in Section 1, "This constitution is to promote the general welfare of the people," -- why were those words deleted?

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Our feeling was that it was not quite necessary to say it in just those words, that the constitution speaks for itself.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think perhaps we could save time if Delegate Helleenthal and Delegate Nordale could get together and they could crossexamine each other in the next five minutes and then we can get back to work. I move that we recess for five minutes.

PRESIDENT EGAN: Mr. Buckalew moves that the Convention stand at recess for five minutes. Is there objection?

ROBERTSON: I object.

V. RIVERS: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Victor Rivers. The question is, "Shall the Convention stand at recess for five minutes?" All those in favor of recessing for five minutes, will signify by saying "aye", all opposed, by saying "no". The "noes" have it and the Convention is still in session. Are there other questions

relating to the preamble, Section 1, Section 2, or Section 3? Mr. McNealy.

MCNEALY: If I might direct a question to Mrs. Nordale through the Chair, as a member of the Bill of Rights Committee and also one of the members not consulted in regard to change of language, was it the thought of the Style and Drafting Committee that in these Sections 1, 2, and 3 that the language is preferable, that is the language of Style and Drafting was preferable, or was it done for the purpose of cutting down a few words in each section?

PRESIDENT EGAN: Mrs. Nordale, could you answer that question?

NORDALE: I think it was perhaps a little of both, although it was really more of an effort to smooth the language than it was to eliminate words. As you read the thing out loud it seems to me every once in awhile a sentence sort of comes out of the bill of rights as it originally was written, that doesn't seem to quite fit the tone of the rest of the article, and we were attempting to smooth the language as much as possible.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: May I ask Mrs. Nordale a few questions through the Chair?

PRESIDENT EGAN: You may, if there is no objection.

MCLAUGHLIN: Mrs. Nordale, did you consider the possibility -- or would you consider it awkward, under Section 3, to say "No valid or bona fide person is to be denied any civil or political rights." Would that be silly?

NORDALE: I don't think it would sound quite appropriate in a bill of rights.

MCLAUGHLIN: Then, under Section 4, would you consider "No valid or bona fide person" or "no valid or bona fide law" -- would that sound silly?

NORDALE: Well, again, it seems to me that, the bill of rights is supposed to be --

MCNEALY: Point of order, Mr. President. I don't find those words, "no bona fide person".

MCLAUGHLIN: It is merely to style, and I think it will arise later in another article, Mr. President, and I wanted to make the point clear.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I rise to a question of personal privilege.

PRESIDENT EGAN: If there is no objection.

(Mr. Hellenthal spoke on the question of personal privilege.)

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I just say that actually the United States Constitution guarantees rights, not the enjoyment of rights.

HELLENTHAL: I beg to differ with Mrs. Nordale.

MCLAUGHLIN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. McLaughlin.

MCLAUGHLIN: The point of order is, Mr. President, that the comments should be addressed through the Chair and they are limited to questions.

PRESIDENT EGAN: You're correct, Mr. McLaughlin. Your point of order is well taken. Are there other questions relating to Sections 1, 2, or 3? Are there questions relating to Section 4? Mr. Barr.

BARR: Mr. President, may I ask a question through the Chair?

PRESIDENT EGAN: You may ask your question, Mr. Barr.

BARR: Mrs. Nordale, Section 4 says, "No law shall be made respecting an establishment of religion. . ." Do you mean "of religion" or do you mean "of different kinds of religion"?

MCCUTCHEON: Point of order, Mr. President. That is the identical terminology that came out of the enrolled copy.

PRESIDENT EGAN: If that is the wording in the enrolled copy, Mr. Barr, that, of course, wouldn't be Mrs. Nordale's place to answer it.

BARR: Later I will ask Mr. Hellenthal that question.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: On Section 4, may I address a question to Mrs. Nordale?

PRESIDENT EGAN: If there is no objection, Mr. Coghill.

COGHILL: Section No. 3, excuse me -- "The legislature shall implement this section. Is that a legal terminology for the same meaning in Section 3, "The legislature shall provide appropriate legislation in accordance herewith."?

NORDALE: As far as I am concerned, I don't know that it could be called legal terminology. "The legislature shall provide appropriate legislation in accord herewith" didn't sound -- well, to us, it just didn't sound very good, but obviously the intent was -- I

don't know what "legislation in accord herewith" would be unless it were legislation to carry out the idea, and so that is the way we interpreted it and that is the sentence we came up with.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Is it then the belief of the Style and Drafting Committee that the word "implement" would substitute, that the intent of Section 3 will be carried out to the letter and no deviation will be made from it?

NORDALE: I believe you are not supposed to deviate from the Bill of Rights.

COGHILL: I realize that but will the word "implement" take up the "appropriate legislation"?

NORDALE: My idea of this is, the statement is there. Frankly, I don't think the laws are needed probably, but obviously the committee that brought out this article wanted some type of legislation which would carry out the idea that no person may be denied the enjoyment of any right because of race, color, or creed, etc. So obviously, that is what they meant, and it must have been a directive to the legislature, so we thought that they meant that the legislature shall implement civil rights by legislation so that we will have them both in the constitution and on the statute book.

PRESIDENT EGAN: Mr. Hurley, a member of the Committee, has been attempting to get the floor for some time. Mr. Hurley.

HURLEY: Mr. President, I would like to point out that material in this was not only considered carefully by the subcommittee of three but was also considered in detail by the Committee of nine upon which sit three very capable attorneys. These matters were considered in the light of their legal implications, and I would like to further point out that the matter was submitted to the representative of the Bill of Rights Committee in accord with a ruling of the Chair and the suggestion of the body that each committee delegate one of its members to consult with the subcommittee on these matters. These matters have gone through their proper channels and, as far as the attorneys are concerned, they have been confronted by at least five attorneys, whom I consider all very qualified. I am not disparaging the question; the question is a good one, but the point I am trying to make is that these things have been considered in their legal light and if they are not, why we will be glad to accept an amendment on the part, but the matters have been considered.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: In this civil rights bill originally, we were cognizant of the fact that in our present Session Laws of Alaska, there has been an attempt on the part of the legislature to provide for civil liberties. We also realized that it was impossible to spell out all

the civil rights in a section in the declaration. We realize, too, that in the future there would have to be clarification of civil rights. It would have to come into being by further definition on the part of the legislature of the new state. What this is saying is that we want a retention of the bill that is on the record at the present time; that at any moment in the future there has to be further implementation of these standards that our legislature have the right and it is a mandate that they would carry it out. I feel, as a member of the Bill of Rights Committee, and also, knowing the discussion of Style and Drafting, their intent was to take from the past the best and to project into the future our prayers and hopes for the best in civil rights for Alaska.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, that word "implement" has a strict legal meaning, and it is used in law a great deal. We hear it bandied around here considerably about implementing an act. Now, section 3, as it stands without the last sentence there, would be high-sounding phrase of which we might be proud, but unless the legislature passed an act making that workable, making it enforceable, by legislation with the penalty for violation there, that is all that would remain until eternity -- would be a high-sounding phrase with no meaning whatsoever, so when they use that word, "The legislature shall implement this section," that means legally that they shall enact legislation enforcing the terms of that and providing the penalty. So I would leave it the way it is.

PRESIDENT EGAN: Mr. Barr.

BARR: I disagree with Mr. Taylor but since we're confined to asking questions, I am unable to answer him.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I don't like to belabor this point -- and the only reason I ask the question, is to possibly avoid offering an amendment later, but I would like to address either the Style and Drafting or an attorney on that Committee who used the words, "The legislature shall implement this section" -- now, in drafting and drawing of papers, the question is this: does it mean there, that we will implement and add to or change or enlarge upon this particular section in the constitution, or will the legislature be implementing the content of the section?

TAYLOR: Make it workable and forceable, Mr. McNealy -- provide a penalty.

MCNEALY: Mr. President, the question is, do the words "implement this section" mean implement the content of the section?

PRESIDENT EGAN: Mr. Hurley.

HURLEY: The word "implement" as used in here is intended to mean exactly that: to complement, or add to or carry out the desire of the section. Admittedly, this matter gets into a legal argument. The word is hard to find in a legal dictionary. However, In Webster's International, there is no question of its meaning, it is very plain; and that is what is put in there -- there is no pride of authorship. If Mr. McNealy can find a better word -- and I submit that the word that was in there before, "shall provide appropriate legislation in accord herewith", does not say any more than "implement" -- and we think it says a little bit more by saying "implement".

HELLENTHAL: May I ask Mr. Hurley a question through the Chair?

PRESIDENT EGAN: You may, Mr. Hellenenthal.

HELLENTHAL: Mr. Hurley, were you familiar with the fact that Mr. Elliott from Columbia, who came here and worked with the Bill of Rights Committee, rejected the use of the word "implement" in that section?

HURLEY: Mr. Hellenenthal, I was not familiar with that fact, but I was familiar with the fact that the material was submitted to the Bill of Rights Committee and was not criticized and on those grounds we accepted it.

PRESIDENT EGAN: Are there other questions relating to Section 3 or 4? Are there questions relating to Section 5? To Section 6? To Section 7? Mr. Harris.

HARRIS: Mr. President, it is growing close to our evening adjournment, and due to our rules, I am forced at this time to move that my reconsideration of my vote yesterday is taken care of at this time.

PRESIDENT EGAN: Mr. Harris moves the reconsideration of his vote -- was it Mr. Kilcher's proposed amendment, Mr. Harris?

HARRIS: That is right.

PRESIDENT EGAN: That proposed amendment was to Ordinance No. 17. Mr. Hurley.

HURLEY: Mr. President, I would move and ask unanimous consent that the rules be suspended and the matter be allowed to be taken up in the morning.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that the rules be suspended and that the matter be allowed to be taken up --

HURLEY: At the beginning of the next plenary session, I should have said.

PRESIDENT EGAN: At the next plenary session meeting. Is there objection to the unanimous consent request? Mr. Barr.

BARR: Didn't Mr. Hurley mean as the first order of business? Did he mean any time during the day?

PRESIDENT EGAN: Mr. Hurley, did you mean that as any time during that session, or as the first order of business?

HURLEY: I would say the first order of business, if that is desirable.

PRESIDENT EGAN: Mr. Hurley includes in his request that the matter of Mr. Harris' reconsideration of the vote on Mr. Kilcher's amendment -- that the rules be suspended and that that matter be made a first order of business at the plenary session tomorrow. Is there objection to that unanimous consent request for suspension of the rules and the consideration of this matter tomorrow? Hearing no objection, it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, may we revert to the order of business of committee reports?

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business of committee reports at this time.

SUNDBORG: Mr. President, your committee on Style and Drafting reports to the Convention its redraft of the article on health, education, and welfare.

PRESIDENT EGAN: The report may be read for the first time by the Chief Clerk. Do you have a copy of that report?

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the article on health, education, and welfare for consideration by the Convention."

PRESIDENT EGAN: The report is referred to the Rules Committee for assignment to the calendar. Mr. White.

WHITE: Mr. President, I ask unanimous consent to revert to the business of introduction of motions.

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business of introduction of motions at this time. Is there objection? Hearing no objection, Mr. White, you may. --

WHITE: Mr. President, it appears to me that some confusion or slowing up of our process may be due to a gap in our rules. When

we are in the matter of considering the report of Style and Drafting, technically, that is what we are supposed to be doing. Now we have drifted into the practice of allowing committee amendments of substance to be submitted at that time, I suppose on the theory that, those are well-considered amendments, they will be noncontroversial, and it will generally enhance procedures if their introduction is allowed at that time. No delegate feels that his amendment of substance is frivolous, and, frankly, I would like to vote with consistency at any one time as to whether I am going to consider such an amendment or not. I think that is one matter that might be considered by the Rules Committee. The second matter is that it appears to me it might speed processes considerably, now that committees have time to meet, that the final report of the Committee on Style and Drafting be submitted to the full substantive committee to avoid further waste of time on the floor. So, Mr. President, I move and ask unanimous consent that those two matters be referred to the Rules Committee for consideration.

PRESIDENT EGAN: If there is no objection those matters are referred to the Rules Committee for their consideration. Mr. McNealy.

MCNEALY: I would ask unanimous consent to revert to the introduction of committee proposals. The reason for it, Mr. President, is so that the Rules Committee can assign this to the calendar.

PRESIDENT EGAN: If there is no objection, Mr. McNealy, you may submit your proposal.

MCNEALY: Committee Proposal No. 17/b.

PRESIDENT EGAN: The Chief Clerk may read Committee Proposal No. 17/b for the first time.

CHIEF CLERK: "Committee Proposal No. 17/b, SCHEDULE."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Are there other committee reports to be made at this time? Mr. Hellenthal.

HELLENTHAL: Meeting of Committee No. VI at 1:00 tomorrow afternoon or as soon as the bus unloads upstairs. In the room where we met at this evening.

PRESIDENT EGAN: There will be a meeting of Committee No. VI, the Committee on Elections and Suffrage, tomorrow afternoon at 1:00 upstairs. Miss Awes.

AWES: There will be a meeting of the Bill of Rights Committee tomorrow at 1:00.

PRESIDENT EGAN: A meeting of the Bill of Rights Committee tomorrow at 1:00. Are there other committee announcements? Mr. Coghill.

COGHILL: A point of inquiry. How long will the Convention be holding their session when they are starting their plenary session at 1:30? Could the Chairman of Style and Drafting answer that? The rest of this week?

PRESIDENT EGAN: Mr. Sundborg, what is your opinion?

SUNDBORG: I believe under our motion it was that we do it for the next few days. I might say, Mr. President, that we have had not nearly enough time today, even though we utilized the whole forenoon and even though we worked last night after an early adjournment, and, if we should be continuing in plenary session for the length of sessions that we have had today, I am afraid that we are going to fall far behind in Style and Drafting on the work which we must do. So, I would have to answer the question by saying that we are going to have to continue the arrangement of not having plenary sessions, at least for the balance of this week, in the morning.

COGHILL: My point of inquiry was for the bus schedule, for the transit company.

SUNDBORG: That is up to the Convention to decide and not for us. I am just expressing the desire of the Style and Drafting Committee.

PRESIDENT EGAN: Are there other committee announcements? Mr. Doogan.

DOOGAN: I would like to ask a question that possibly the Rules Committee might consider along with this motion.

PRESIDENT EGAN: If there is no objection you may ask your question, Mr. Doogan.

DOOGAN: For these proposals, when Style and Drafting are through with them and return them to the substantive committee, I would like them to set a period of time, preferably short, of how long the substantive committee can hold them before reporting them out on the floor. I would like them to specify a period of time in a matter of hours or a day or something so that it can't get back into the substantive committee and be tied up there. Time is becoming of the essence.

PRESIDENT EGAN: You are offering that as a suggestion to the Rules Committee when they consider this matter?

DOOGAN: Yes, I am.

PRESIDENT EGAN: Are there other committee reports? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to announce a meeting of Style and Drafting Committee immediately upon adjournment tonight.

PRESIDENT EGAN: There will be a meeting of the Style and Drafting Committee immediately upon adjournment tonight. Are there other committee announcements? Mr. Riley.

RILEY: Rules will meet tomorrow just prior to the plenary sessions convening.

PRESIDENT EGAN: The Rules Committee will meet tomorrow prior to the convening of the plenary session. There will be a meeting of the committee chairmen at 12:30. Let's see -- being that some of the chairmen might not come out until the 12:30 bus comes, it might not be too well to call it for that time. Well, we will have to arrange a meeting of the committee chairmen some time during the day tomorrow. The Chair will not announce it at this time. Are there other committee announcements? If not, the Chair will entertain a motion for adjournment. Mr. Londborg.

LONDBORG: I move that we adjourn until 1:30 tomorrow afternoon.

PRESIDENT EGAN: Mr. Londborg moves and asks unanimous consent that the Convention adjourn until 1:30 tomorrow afternoon. Is there objection?

DAVIS: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Londborg?

LONDBORG: I so move.

DOOGAN: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Londborg, seconded by Mr. Doogan, that the Convention stand adjourned until 1:30 p.m. tomorrow. The question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow?" All those in favor of adjourning until 1:30 p.m. tomorrow, will signify by saying "aye", all opposed, by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

YEAS: 28 - Awes, Barr, Buckalew, Collins, Cross, Emberg, H. Fischer, Harris, Hellenthal, Hinckel, King, Laws, Londborg, Marston, Nerland, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Taylor, Walsh, White.

NAYS: 26 - Armstrong, Boswell, Coghill, Cooper, Davis, Doogan, V. Fischer, Gray, Hermann, Hilscher, Hurley, Johnson, Kilcher, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nordale, Peratrovich, Riley, Sundborg, Wien, Mr. President.

ABSENT: 1 - VanderLeest.)

PRESIDENT EGAN: The Convention will come to order.

CHIEF CLERK: 27 yeas, 27 nays and 1 absent. *

PRESIDENT EGAN: So the "nays" have it and the Convention is still in session. We have before us -- Mr. Hellenthal.

HELLENTHAL: May I ask a question, through the Chair, of Mr. Sundborg?

PRESIDENT EGAN: If there is no objection.

HELLENTHAL: I notice that the members of the Rules Committee voted against recessing. Is there any reason for that?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: You Mean Style and Drafting. We hadn't conferred with one another, Mr. Hellenthal, but I will tell you what my own ideas on it are. We are just now about halfway through the second item on the calendar for today, and there are a half dozen items on the calendar and we are very fearful -- or at least I am -- that unless we continue these plenary sessions nightly until such time as we clear the calendar, as long as more material is coming on it each day, we are never going to finish this Convention on time.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I take it then, that the "we" that you refer to is the Committee, and that the Committee no longer desires time in the morning to do its work.

SUNDBORG: Mr. Hellenthal, that is not true; we desire not only the full morning time but are going to be obliged to work evenings after the plenary sessions, even if they go until 1:00 in the morning.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, as one member of Style and Drafting. I would just like to say that I personally realize the amount of work that still remains, not only in Style and Drafting, but on the floor. We have a tremendous amount of work to do, and at the rate we have been going today, we haven't got a chance of finishing on time. I think, if necessary, we should put in an extra two hours every day, and in the evenings if necessary; otherwise, we will be working 24 hours straight during the last week of the session.

*See page 3147 re correction of the announcement of the roll call.

PRESIDENT EGAN: Let's get at it. Mr. McCutcheon.

MCCUTCHEON: Point of order, Mr. President. Inasmuch as the session is still in plenary session, I think it is in order that Mr. Harris' reconsideration be given at this time.

PRESIDENT EGAN: It is in order, but it was unanimously agreed it be held over to the plenary session tomorrow, Mr. McCutcheon, so it still is alive.

MCCUTCHEON: Mr. President, I dislike arguing with the Chair, but the matter was held over because of the imminence of adjournment. Since adjournment isn't about to be had, I think it would be proper and fitting to take up at this time.

PRESIDENT EGAN: It wasn't stated that way, although you are probably correct, that is probably why the request was made. If it is the desire of Mr. Harris or the body to have that heard at this time --

V. RIVERS: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Victor Rivers.

V. RIVERS: When the motion to reconsider comes on the floor, it does not take preference over something that was already on the floor. It merely takes its place after that particular item is finished. It came on in the middle of this particular item.

PRESIDENT EGAN: We have before us Article I, the article on the declaration of rights as it was reported to us by the Style and Drafting Committee. Are there questions with relation to Section 5, or Section 6, or Section 7? We had asked about those sections before. Are there questions with relation to Section 8? Or to Section 9? To Section 10? Are there questions with relation to Section 11? The delegates will please remain in their seats in the hall of the Convention. Are there amendments to Section 12? Mrs. Nordale.

NORDALE: Mr. President, I forgot to mention something here. Section 12 of our committee report is Section 9 -- oh, part of Section 9, and then there is one sentence, the last sentence of the old Section 10. That is, of the enrolled Section 10, which says, "The administration of criminal justice shall be founded upon the principle of reformation as well as upon the need to protect the public." Our feeling was that, that sentence logically belonged up with, "Excessive bail shall not be required, nor cruel and unusual punishments inflicted. . ." because it related to punishment. However, we found when we moved the sentence up, it was called to our attention that it was found in the judiciary article that the same expression had been used, "the administration of justice", and we consulted with the originating committee, and their feeling was that they didn't mean exactly the same thing that was intended in the article establishing the judiciary branch,

so they gave us exactly what they had in mind, and we substituted this language and put it into the same section that also relates to punishment, because their feeling was that it was penal administration that they wanted to call attention to, not the administration of justice, as we had used it in the judiciary article.

PRESIDENT EGAN: Are there questions to be asked with relation to that subject? If not, are there questions relating to Section 13? Or to Section 14? To Section 15? Mr. Barr.

BARR: Mr. President, Section 15 -- I don't find that in the original proposal.

NORDALE: It is Section 10 of the enrolled copy.

BARR: Oh, Section 10. Well, I have a question to ask but it is in the original, so I will have to wait and ask Mr. Hellenthal about it.

PRESIDENT EGAN: Are there questions relating to Section 16? To Section 17? Are there any questions relating to Section 18? Mr. Ralph Rivers.

R. RIVERS: Mr. President, may I ask Mrs. Nordale a question?

PRESIDENT EGAN: You may, Mr. Rivers, if there is no objection.

R. RIVERS: Mrs. Nordale, the last three words on line 12 refer to common law suit. Does that mean the same as civil suit at law?

NORDALE: I understand that it does, Mr. Rivers. If you recall, the original section began with the phrase, "In suits at common law". Then, there was an amendment added which said "in civil causes". It just said "in civil causes", if you recall. I think it was amended on the floor. The problem arose again of interpreting the constitution. We start the section by saying, "in suits at common law", and we wind up by saying "in civil causes". There was the chance that it might be interpreted that we meant two different things because we had said it in two different ways, but we were advised that it would be far better to stick to the first subject that we had introduced as a section; and that, also, was referred to the originating committee and they saw no objection to it.

R. RIVERS: Thank you.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: A question, Mrs. Nordale. Was the Committee aware that that precise question had been decided by precise amendment by this body after a floor discussion?

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Yes. I realize that, but you see our job, as Mr. Owen told us, is to try to avoid the implication that we are talking about two different things when we use different terms, and at the risk of sacrificing the style, we had to use the same terminology.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Question, Mrs. Nordale. Perhaps when we changed that wording at the one point, we intended to change it at the other and inadvertently did not do so. Could we have a chance to consult with the Committee, perhaps tomorrow, before we start the amending process? Or are we going to consult with them tonight, the Committee on Style and Drafting?

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I might suggest, in those particular cases, I think it would be very desirable to consult with the substantive committee, and I am sure we will be acceptable to anything they decide as long as it's consistent.

PRESIDENT EGAN: Miss Awes.

AWES: Would it be proper to have me make a brief statement at this time?

PRESIDENT EGAN: Is there objection to having the Chairman of the Bill of Rights Committee make a brief statement at this time? Hearing no objection, Miss Awes, you may make a brief statement.

AWES: I just wanted to make a statement about this proposal. The proposal was made by the Bill of Rights Committee and came out on the floor in due course and was referred to the Style and Drafting Committee. I was told, or made to understand, that when the Style and Drafting Committee worked on a proposal they asked to have one member of the substantive committee come before them and consult with them.

PRESIDENT EGAN: That subject came before the Convention, Miss Awes, and was agreed to.

AWES: It is also my understanding that it was the duty of the Bill of Rights Committee to draw up substantive provisions, that it is the duty of the Style and Drafting Committee to put it in the proper language so that it sounds well, that it fits in with other proposals and so that it complies with the will of the Convention. So when the Style and Drafting Committee informed me

that they would like to have me or some other member of my committee before them, I went before them, and also asked Mr. Buckalew if he would come. The two of us appeared before them and passed on certain sections which they put before us, and also answered certain questions as to intent, etc. There were certain changes which they made which I did not necessarily think had to be made, or the wording that I particularly didn't like as well as our own, but I didn't feel that the Style and Drafting was what I was concerned with. I felt that I was only there, and I think Mr. Buckalew felt the same way, that he was there to answer questions they had as to substance and meaning. That is what Mr. Buckalew and I tried to do. Now, I am not saying we may not have made a mistake, either or both of us, but we did try to answer the questions as they went, to substance, and we tried to conscientiously do that. As to style and drafting, we didn't feel that that was any of our business. I make this statement just so the body will understand how we proceeded and what was done.

PRESIDENT EGAN: Are there questions relating to Section 18? Mr. Ralph Rivers.

R. RIVERS: May I ask the Chairman again when you are meeting tomorrow?

PRESIDENT EGAN: Miss Awes.

AWES: Tomorrow at 1:00 p.m.

TAYLOR: Just for a matter of explanation to save unnecessary meetings -- that Section 18 is worded -- it cannot be improved upon and I will touch briefly upon what a suit in common law is.

PRESIDENT EGAN: Mr. Taylor, the purpose at this time -- is there any objection to having Mr. Taylor explain that -- is to ask questions of the Style and Drafting Committee.

R. RIVERS: I would rather reserve the article until tomorrow because we are going to do something about this.

TAYLOR: I never heard of anything being referred to any committee.

PRESIDENT EGAN: Mr. Taylor, it has not been referred to any committee, but at this time, we are in the question process, and at the time that any proposed amendments might be offered, at that time, they could be debated. The Chair has probably allowed unnecessary argument at this time or during this evening. The manner in which we are proceeding is that we are asking questions of the Style and Drafting Committee. If you have questions or anyone has questions, or if the body unanimously agrees to hearing a statement -- that is up to the body.

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TAYLOR: I will change my statement. I will move that we adjourn until 1:30 tomorrow afternoon.

SWEENEY: I object.

PRESIDENT EGAN: Mr. Taylor moves that the Convention stand adjourned until 1:30 p.m. tomorrow. Is there a second?

POULSEN: I will second the motion.

PRESIDENT EGAN: Mr. Poulsen seconds the motion. The question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow? All those in favor of adjourning until 1:30 p.m. tomorrow will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention is in session. Are there questions relating to Section 18 to be asked of the Style and Drafting Committee? Are there questions relating to Section 19? To Section 20? To Section 21? Are there other questions relating to this article to be asked of the Style and Drafting Committee? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no further questions, I move and ask unanimous consent that the report of the Style and Drafting Committee with reference to the preamble and the article on the bill of rights be accepted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee with reference to the preamble and the article on the bill of rights be accepted. Mr. Barr.

BARR: Mr. President, where will it be then? It will not advance to third reading. Will it be subject to amendment?

PRESIDENT EGAN: Mr. Barr, it could then be subject to specific amendment for substantive purposes, or subject to regular amendment from a standpoint of phraseology if it does not include a substantive change. Is there objection? Mr. Kilcher.

KILCHER: Mr. President, in Section 2, the language in Section 2 --

MCCUTCHEON: Point of order, Mr. President. Have you declared on the unanimous consent?

PRESIDENT EGAN: No. Mr. Kilcher, are you asking this question before you are allowing the unanimous consent request to go through?

KILCHER: Yes. With a majority only could we make amendments here that pertain to Style and Drafting? I mean, to language only?

PRESIDENT EGAN: For phraseology, yes.

KILCHER: I am afraid, of course, that would take a good bit of time, but I would like to express my opinion that several of these

sections, specifically two, the wording is not very lucky. On the other hand, I don't presume that I could sit down and do it better in two minutes. I think ten minutes would do it. I would have to agree with Mr. Hellenthal that Section 2 "government derives from" -- that is unlucky wording. It doesn't sound good and is not logical.

PRESIDENT EGAN: Mr. Kilcher, are you objecting to the unanimous consent request for acceptance of the report?

HINCKEL: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Sundborg?

SUNDBORG: I so move.

RILEY: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Sundborg, seconded by Mr. Riley, that the report of the Style and Drafting Committee be accepted. All those in favor of accepting the report will signify by saying "aye", all opposed, by saying "no". The "ayes" have it and the report has been accepted. Mr. Doogan.

DOOGAN: Mr. President, I ask unanimous consent that the article be placed on the calendar in third reading and up for final passage.

PRESIDENT EGAN: You ask unanimous consent that the rules be suspended?

DOOGAN: Yes.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that the rules be suspended. Mr. Doogan.

DOOGAN: Point of order. I don't think the rules have to be suspended.

PRESIDENT EGAN: The rules would have to be suspended. That is the only way you can get it into third reading at this time.

LONDBORG: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Londborg.

LONDBORG: I think they would have to be unless there are no amendments as to phraseology.

PRESIDENT EGAN: Mr. Londborg, they would, in any event, have to be suspended at this time to move it into third reading. Is there a second to that motion of Mr. Doogan's?

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon seconded the motion. The question is, "Shall the rules be suspended and the article on preamble and declaration of rights be advanced to third reading and placed in

final passage?" The Chief Clerk will call the roll. Mr. Armstrong.

ARMSTRONG: Does this mean then, that it would be passed?

PRESIDENT EGAN: No, Mr. Armstrong, it would mean that if this motion carries, then that this article will be in third reading, open for debate, and when that debate is completed, the vote would be called for final passage.

HINCKEL: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Hinckel.

HINCKEL: It also means that everything would take a two-thirds vote to amend it instead of a majority?

PRESIDENT EGAN: That is right, it would take --

HINCKEL: Because we could not have changes in phraseology right now without that.

PRESIDENT EGAN: Mr. Hinckel, it would take 37 votes to suspend the rules at this time and place the article in third reading. If, in third reading, an amendment were to be made of substance, a substantive amendment, there would be no change at all. I mean, it would take a two-thirds vote at this time to make a substantive amendment. It will take a two-thirds vote to send it back to second reading for specific amendment -- rather, substantive amendment -- at that time. Now, whether or not phraseology amendments could be made in third reading, there is nothing in the rules as the Chair recollects that allows any type of amendment to be made in third reading. If this motion carries it would take a two-thirds vote to do anything in third reading to change this article.

HELLENTHAL: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Hellenenthal.

HELLENTHAL: I understood and I believe some others of us understood that the committee meeting tomorrow was so that we could get together with representatives of Style and Drafting to try to ease out some of these matters expeditiously without doing it from the floor.

KILCHER: Point of information.

PRESIDENT EGAN: Mr. Kilchcr, your point of information.

KILCHER: As the situation appears now that last motion that carried, will that still leave this amendable for phraseology on a majority?

PRESIDENT EGAN: Not as the Chair sees it -- if it goes to third reading. The motion has not carried yet. If this motion carries, in order to make any change whatsoever to the article, as the Chair views the rules, it would take a two-thirds vote to send it back for specific amendment, even if it was a phraseology amendment.

KILCHER: If the vote does not carry, then tomorrow we could make --

PRESIDENT EGAN: You could make phraseology amendments with a majority vote, in the opinion of the Chair. The question is, "Shall the rules be suspended and the article on preamble and declaration of rights be advanced to third reading and placed on final passage?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Boswell, Cross, Doogan, Gray, Harris, Johnson, King, Laws, Londborg, McCutcheon, Metcalf, Nolan, Riley, Robertson, Sweeney, Taylor, Walsh.

Nays: 37 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, White, Wien, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 17 yeas, 37 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed suspension has not been adopted. Mr. Fischer.

V. FISCHER: I move we have a 15-minute recess to allow the Bill of Rights Committee to meet.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Fischer moves, seconded by Mr. Doogan, that --

V. FISCHER: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the Convention have a 15-minute recess in order to allow the Bill of Rights Committee to meet. Mr. Taylor.

TAYLOR: Before that question is put, Mr. President--

PRESIDENT EGAN: The motion is not debatable.

TAYLOR: I would like to ask of the Chairman of the Administration Committee if any arrangement has been made for a change in the bus coming out and picking up the delegates?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: No, there hasn't, Mr. President, but as soon as I get the schedule here from my able assistant -- the next bus will leave the University at 6:50 tomorrow morning.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess for 15 minutes in order that the Bill of Rights Committee may meet?" All those in favor of recessing for 15 minutes will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention is at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Sergeant at Arms will inform the delegates that the Convention has come to order. The Chair would like to inform the delegates that the Chief Clerk had sent a note up to the President, and the President did not turn the note over, and it was after business had been done, following the original first motion for adjournment, and the note said that the actual vote instead of being 27 to 27 had been 28 in favor and 26 opposed. However, it was one of those things where something had been done that could not be undone because we had proceeded with the business of the Convention, but the Chair would like to correct that matter for the record. Mr. Hinckel.

HINCKEL: Mr. President, I would like to have a few minutes on personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Hinckel, you may have the floor on personal privilege.

(Mr. Hinckel spoke on a matter of personal privilege.)

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I speak on the matter of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg, you may.

(Mr. Sundborg spoke on a matter of personal privilege.)

PRESIDENT EGAN: Miss Awes.

AWES: I think maybe it would speed up matters a little if I made a report as to what your committee did during the recess.

PRESIDENT EGAN: If there is no objection, Miss Awes, you may make a report as to what your committee did during the recess.

AWES: All members of the Bill of Rights Committee were present and there were also three members of the Style and Drafting Committee, and in addition to that, one member of our committee is also a member of Style and Drafting Committee. Several individual members brought up several suggested changes in style and drafting which we discussed. I think there were two made, and in both

cases the committee decided not to make any recommendations on the floor. Then, when it was time to convene again, a motion was made as to style and drafting, that the committee accept the proposal as brought out by Style and Drafting and that proposal, or that motion, I should say, was adopted by a vote of four to two, so as to style and drafting, the committee is not going to make any amendments. Of course, any amendments that are made by individual members will be made by them as individuals rather than as this committee.

PRESIDENT EGAN: Mr. McNees, you had been attempting to get the floor.

MCNEES: I was just going to repeat some of the remarks that Mr. Hinckel made, and the only reason I hadn't made them earlier was that I was going to reserve that until tomorrow -- I will not take the floor session tonight, I will reserve the remarks for tomorrow.

PRESIDENT EGAN: We have before us the article on preamble and declaration of rights. That has not yet been referred. Mr. Sundborg, its status right now is that it is still before us, is that right? It has been accepted.

SUNDBORG: As far as we are concerned, Mr. President, we are all through with it, but it is still before the body.

PRESIDENT EGAN: Are there proposed amendments to the preamble of this proposal? Or, I mean, are there proposed amendments to phraseology to the preamble of this proposal? Mr. Ralph Rivers.

R. RIVERS: Before we send this on I would like to ask the chairman of the substantive committee a question because I want the answer read into the record. Miss Awes, in Section 18, where we speak of suits at common law, on line 6 and on line 12, does the Committee mean "suits at law" as distinguished from "suits in equity"?

AWES: I think perhaps the best way to answer that is to say that Section 11 dealt with criminal suits, and then Section 18 we wanted to refer to civil suits as opposed to criminal suits, and by "common law" we mean just those suits that you are entitled to a jury at common law, so, as a matter of fact, it would be law as opposed to equity because at the common law you never were entitled to a jury in equity.

V. RIVERS: You are aware that the common law in Alaska in several matters is only retained insofar as it is not in conflict with the rules of civil procedure, notwithstanding that, when you say "at common law", you mean any civil case in which a person would be entitled to a jury. Is that what you mean?

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AWES: That is right.

V. RIVERS: Thank you.

PRESIDENT EGAN: Are there any proposed amendments to the preamble? Mr. White.

WHITE: I have an amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike the preamble in Style and Drafting report and reinsert the preamble from the first enrolled copy."

PRESIDENT EGAN: Mr. White, what is your pleasure?

WHITE: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. White moves the adoption of the amendment. Is there a second to the motion?

TAYLOR: I rise to a point of order.

PRESIDENT EGAN: Your point of order, Mr. Taylor.

TAYLOR: I believe the first preamble has been stricken and this one put in. I think it would be out of order.

PRESIDENT EGAN: Mr. Taylor, Mr. White's motion, as the Chair heard it, states that the preamble as it appeared in the enrolled copy, would be the exact preamble as it left the Convention to go to the Style and Drafting Committee. Is that not correct, Mr. White?

WHITE: Yes.

PRESIDENT EGAN: Then the amendment would be in order and it would be only an amendment of phraseology. Is there a second to Mr. White's motion?

METCALF: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Metcalf. Mr. White.

WHITE: Mr. President, I will not take much time on this. I just feel that the preamble as it left the floor in second reading had received a thorough and detailed consideration of a large number of the delegates, I forget how many names were appended to that preamble -- it was a good preamble and I particularly am unhappy to see the deletion of the words "reaffirm our belief in government by consent of the governed within the Union of States." I think that has point and pertinence in our preamble of the constitution of the State of Alaska at this time.

PRESIDENT EGAN: Is there further discussion? Mr. Londborg.

LONDBORG: It would seem to me that if that is the only reason that Mr. White would want this original preamble or the enrolled copy to be back, that he should move to insert those words into this. I think there is evidently some other reasons why he doesn't like the reshifting or the work of the Style and Drafting. That is my opinion and I think that with their inserting this down below that Style and Drafting has taken care of the work in fine order. If it is a matter of just that one phrase, "reaffirm our belief in government by consent of the governed", that could be inserted in place here in the Style and Drafting copy, but I can't see that they have done any harm to the preamble.

PRESIDENT EGAN: Mr. Riley.

RILEY: I rise to, I believe, a point of order.

PRESIDENT EGAN: Your point of order.

RILEY: Whichever thinking goes in, or is agreeable to the body, it will have to be under specific suspension of the rules, suspension of the rules for a specific amendment, and if Mr. Londborg sees fit to seek to amend an amendment he will have to proceed in the same manner that the amendment is --

PRESIDENT EGAN: Not as to phraseology, Mr. Riley.

RILEY: I believe this goes beyond phraseology, does it not?

PRESIDENT EGAN: Mr. Riley, in the opinion of the Chair, if Mr. White's amendment does not add anything that was not in the original preamble, it couldn't be a change in -- a substantive change.

RILEY: Even apart from that, Mr. Londborg, I believe, should seek to amend the amendment, rather than discuss at random what the approach might be.

PRESIDENT EGAN: You probably have a point there, Mr. Riley. Is there anyone else who wishes to be heard? Mr. Hinckel.

HINCKEL: One of the things that I spoke on before, that 55 delegates or thereabouts, -- I think we were pretty near all here at the time this preamble was decided upon. It was argued at length on the floor -- there was a lot of thought given to it. It doesn't even resemble the same preamble now. I think Mr. White is right in asking that the original preamble as written and amended and discussed on the floor here by the delegates of the Convention should be used and not just changed over to suit the will of a small group.

PRESIDENT EGAN: Miss Awes has been attempting to get the floor. Miss Awes.

AWES: I will vote against Mr. White's amendment. I think I voted against adoption of the preamble as shown in the enrolled copy when it was presented. Mr. White says that the preamble shown in the enrolled copy was duly considered in being drawn up, and Mr. Hinckel says it was considered on the floor. Well, I suppose that is true, but that is true of everything that is adopted, but it still goes to the Style and Drafting Committee, and I personally think that the Style and Drafting Committee has considerably improved the preamble. I think it reads much more smoothly, I think it still embodies the thought. If there is a certain phrase left out that Mr. White disapproves of, then like Mr. Londborg, I suggest that he amend to that phrase, but I don't think that it is right to just say let's throw out the work of the Style and Drafting Committee and go back to what we had before. The thing to me is a question of information, if we went back to the preamble that we had before, then wouldn't it go back to Style and Drafting again, and what would they do with it then?

PRESIDENT EGAN: Mr. Cross.

CROSS: It seems to me Style and Drafting has done an excellent job here, and I would like a chance for the body to adopt it as it is.

PRESIDENT EGAN: Is there further discussion? The question is, "Shall the proposed amendment as offered by Mr. White be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to the proposed preamble or to Section 1? Are there amendments to be proposed for Section 2? Mr. Hellenthal.

HELLENTHAL: Mr. Chairman, this is the only amendment that I am going to make.

PRESIDENT EGAN: Is it an amendment of substance, Mr. Hellenthal, or phraseology?

HELLENTHAL: No. No, it is an amendment of phraseology -- at least that seems to be the consensus of opinion. I could see on these matters where unanimity would be quite difficult. I regard it though as a matter strictly of style and that is the way that Style and Drafting must have regarded it, or they wouldn't have made it. I move that Section 2 in the committee report be deleted and Section 2 of the enrolled copy be inserted in its place.

PRESIDENT EGAN: Mr. Hellenthal moves that Section 2 of the committee report be deleted and Section 2 of the enrolled copy be inserted in its place. It has been seconded by whom?

BUCKALEW: I seconded it.

PRESIDENT EGAN: Mr. Buckalew seconded the motion.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

DOOGAN: I object.

PRESIDENT EGAN: Objection is heard. The motion is open for discussion. Mr. Hellenthal.

HELLENTHAL: I make this motion. I realize it is a matter of style, but style is rather important or we wouldn't have these committees on style, and I am familiar with the words "government is derived from the consent of the governed," and the word "derived" is sometimes used in our constitution, and I believe it was used in the Declaration of Independence, and I have studied the bills of rights of the 48 states, and I like to encourage novelty, but, at the same time, I am not familiar with this usage, "Government derives from the consent of the governed". I have never heard it before in any constitution. I have never heard it in common language before. It is a word -- I think that you just fall all over it when you read it. Now the language that was originally adopted by this body and which I think is stirring language and good language -- brief and it is excellent -- "All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole." That is the kind of language that sounds good. That is the kind of language I would like to explain to my son, but I don't want to go and tell him, "Son, government derives from the consent of the governed."

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I will be brief and frank and tell you my position on this. Mr. Hellenthal said this was the only amendment he was going to offer. He is an honorable man, I relied on him, I seconded it, and I would like to get Mr. Hellenthal's language in there, and he can play the Battle Hymn of the Republic and he can read it to his boy.
(Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. McNealy.

MCNEALY: Mr. President, I am on the Committee, and I too don't

want to take up time at this late hour, but I do hope, because it is late, that the body won't pass this over hurriedly because actually this Section 2, our platitudes were put in there, the thought of the Committee was a nice sounding thing, and I say this without any criticism of Style and Drafting in having some recognition of their work, but if the language as proposed of the government deriving something, if that is to be left in, then I would much prefer that we would strike out Section 2 entirely because it is a platitude, and if we are going to have that in the constitution,

something for the people to read -- I don't know whether my boys will ever read it or not -- but on the other hand, others might read it. I like the words there, the words that "the government originates with the people."

PRESIDENT EGAN: Miss Awes, you've had the floor, have you not?

AWES: This is one of the things that the Committee decided not to take official action on, but speaking as an individual, I also intend to vote for Mr. Hellenthal's amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Having received the assurance that Mr. Hellenthal will not be heard again on the article, I am prepared to desert the Style and Drafting Committee and vote in favor of this amendment.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I hope Mr. Hellenthal is heard from again, and I am going to vote for this motion of his right now.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I ask unanimous consent for the adoption of Mr. Hellenthal's amendment.

NORDALE: I object.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Mr. President, I feel the same thing, that Mr. Hellenthal should be heard from any time that we can. He comes up with a lot of constructive ideas.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I will go further than Mr. McLaughlin did, Mr. President. I deserted the Style and Drafting and some of their work two or three days ago. I feel this is an issue that we are going to have to face up to sooner or later, and I intend to be heard from again on this subject. I am going to support Mr. Hellenthal's amendment here, primarily because I know this floor spent hours, at times, debating some of these subjects and at a time when we had months left. We now have less than weeks left, and I don't like to see it hurried through in minutes.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I rise to a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Davis, you have the floor on a point of personal privilege.

(Mr. Davis spoke on a matter of personal privilege.)

(Mr. McCutcheon spoke on a matter of personal privilege.)

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: I should like to withdraw my amendment rather than raise what I consider to be a false issue as has been raised by the last speaker.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?"

HELLENTHAL: I ask permission to withdraw my amendment.

PRESIDENT EGAN: Do you ask unanimous consent?

HELLENTHAL: I think the harmony of this group is...

POULSEN: I object.

PRESIDENT EGAN: Objection is heard to the unanimous censent request. The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?"

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Awes, Barr, Boswell, Buckalew, Collins, Cooper, Emberg, Harris, Hellenthal, Hinckel, Hurley, Kilcher, King, McLaughlin, McNees, Marston, Metcalf, Nolan, Poulsen, Reader, Robertson, Rosswog, Smith, Stewart, Taylor, White, Wien.

Nays: 27 - Armstrong, Coghill, Cross, Davis, Doogan, H. Fischer, V. Fischer, Gray, Hermann, Hilscher, Johnson, Knight, Laws, Lee, Londborg, McCutcheon, McNealy, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Sundborg, Sweeney, Walsh, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 27 yeas, 27 nays, 1 absent.

PRESIDENT EGAN: So the "nays" have it, and the proposed amendment has failed of adoption. Mr. McNealy.

MCNEALY: Mr. President, I wish now to announce a reconsideration of my vote at the next plenary session.

PRESIDENT EGAN: Did Mr. McNealy vote "no"?

CHIEF CLERK: Mr. McNealy voted "no".

PRESIDENT EGAN: Then Mr. McNealy serves notice of a reconsideration of his vote on this amendment. Are there other amendments to Section 3? Mr. Metcalf.

METCALF: I have an amendment to Section 3, Mr. Chairman.

PRESIDENT EGAN: Mr. Metcalf may offer his proposed amendment to Section 3. Mr. Metcalf, is it a substantive amendment?

METCALF: Change back to the original section in the enrolled copy.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for about three minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the amendment proposed by Mr. Metcalf.

CHIEF CLERK: "Strike Section 3 of the report of the Committee on Style and Drafting and insert in lieu thereof Section 3 of the enrolled copy."

METCALF: Mr. Chairman, I move for its adoption.

PRESIDENT EGAN: Mr. Metcalf moves the adoption of the proposed amendment.

BARR: I second the motion.

PRESIDENT EGAN: Mr. Barr seconds the motion.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Metcalf be adopted by the Convention?"

MCNEALY: May we have a roll call, Mr. President?

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Barr, Collins, Cooper, Hellenthal, Hinckel, Kilcher, Laws, McNees, Metcalf, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Taylor, White, Wien.

Nays: 36 - Armstrong, Awes, Boswell, Buckalew, Coghill,

Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, Marston, Nerland, Nolan, Nordale, Peratrovich, Riley, V. Rivers, Smith, Sundborg, Sweeney, Walsh, Mr. President.

Absent: 1 - VanderLeest.)

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk is tallying the ballot.

CHIEF CLERK: 18 yeas, 36 nays and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments? Mr. McNealy.

MCNEALY: Mr. President, I wish to give notice at this time of my reconsideration on this vote at the next session.

PRESIDENT EGAN: Mr. McNealy serves notice of his reconsideration on his vote on the amendment. Mr. McLaughlin.

MCLAUGHLIN: I move and ask unanimous consent that we adjourn until 1:30 tomorrow.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that the Convention adjourn until 1:30 tomorrow.

LONDBORG: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

WHITE: I second the motion.

PRESIDENT EGAN: Mr. White seconds the motion. The question is, "Shall the Convention stand adjourned until 1:30 tomorrow?" All those in favor of adjourning until 1:30 tomorrow will signify by saying "aye", all opposed by saying "no". The "nays" have it and the Convention is still in session. Are there amendments, other amendments to be offered? Mr. Barr.

BARR: May I have the privilege of the floor for one minute?

PRESIDENT EGAN: You may if there is no objection. Mr. Barr.

(Mr. Barr spoke on a matter of privilege.)

PRESIDENT EGAN: Are there other amendments to the article?

TAYLOR: Other than the fact Mr. McNealy moved his reconsideration

at this time --

PRESIDENT EGAN: He served notice of reconsidering his vote which holds it over until tomorrow on this amendment, Mr. Taylor. Mr. McNealy.

MCNEALY: Point of inquiry. Are there other amendments to the article or to the section?

PRESIDENT EGAN: The sections other than those we have considered so far, beginning with Section 4, I believe it is.

MCNEALY: Mr. President, I don't have it written out, but to save time, I move to substitute the words from the enrolled copy, taking the Committee copy of Section 18, and from Section 13 of the enrolled copy, the last words in the line, the last words are "in a common law suit", and I propose that the wording of the enrolled copy "in civil causes" be substituted for "in a common law suit".

PRESIDENT EGAN: Could you write that amendment out, Mr. McNealy?

MCNEALY: Yes, Mr. President.

PRESIDENT EGAN: The Convention will be at ease, not at recess. The Chair would like to announce that the temperature is now about 40 degrees below, and, if the delegates have their cars out there, they probably should start them in order that they will start. There has been a sudden drop in the temperature - outside. (Laughter) The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, I move that the rules be suspended and that we take up Mr. McNealy's reconsideration on his vote on the Metcalf amendment.

PRESIDENT EGAN: Mrs. Sweeney moves -- Mr. McNealy?

MCNEALY: Point of order, Mr. President. Under a point of order --

PRESIDENT EGAN: Your point of order, Mr. McNealy.

MCNEALY: I wish to state -- Mrs. Sweeney got to the floor before I did, but the point is that I would like to state this, if Mrs. Sweeney will withdraw her motion, it is my intention to at this time ask to have Section 2, the reconsideration at this time, and then I will ask unanimous consent to withdraw my motion for reconsideration on the implementing section and will also ask unanimous consent to withdraw the amendment I proposed to Section 18.

SWEENEY: I will withdraw my motion.

PRESIDENT EGAN: Mr. McNealy moves that his reconsideration of his vote on Section 2 be placed before the Convention at this time. Is there a second to the motion?

SUNDBORG: Point of order. I simply want to inquire, inasmuch as we have a motion before us, is Mr. McNealy's motion in order? There was a motion by Mr. McNealy to amend a different section. It had been seconded and --

PRESIDENT EGAN: Do you ask unanimous consent to withdraw that motion, Mr. McNealy?

MCNEALY? I hadn't moved the amendment.

PRESIDENT EGAN: It hadn't been read? Is there a second to Mr. McNealy's amendment? It will take a two-thirds vote to consider the reconsideration at this time. Is there objection to the suspension of the rules in order that the reconsideration can be taken at this time? Hearing no objection, then the rules have been suspended and the question before us then, on the motion -- Mrs. Sweeney? The rules have been suspended.

SWEENEY: All right, but what I want to know now is, is it a simple majority since --

PRESIDENT EGAN: The rules have been suspended --

SWEENEY: I mean on the question.

PRESIDENT EGAN: And it will be a simple majority on the question, that is true, Mrs. Sweeney. Mr. McNealy has moved that the reconsideration take place at this time. The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" The Chief Clerk will please read that proposed amendment. Mr. Harris.

HARRIS: Mr. President, before the vote is taken on this I would like to explain my vote. I intend to vote for the enrolled copy, not because I have anything against our Committee on Style and Drafting; I think they have been doing a wonderful job. But it so happens that Section 2 in the enrolled copy appeals to me more than Section 2 in the other one, and I am not voting on the fact that it might be good style or good drafting. I am a simple country boy and I am voting for what appeals to me. So, I don't want my vote to be construed as being a vote against the Committee, I think they have done a wonderful job.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Likewise, Mr. President, I am going to vote for the amendment not as a vote of nonconfidence to the Committee.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I believe that I should mention, too, that in this I have given a little sober and serious consideration to the Section 3 I moved to reconsider on, and I am of the opinion now

that the language satisfies my thought there, and so I am going to withdraw that, but I do feel like this, that while I have respect and I have said nothing derogatory or even by implication to any of the Style and Drafting Committee, but like Mr. Harris ably expressed it, I like the language a little better in that section.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I hope that each and all of the delegates will vote on this motion according to what they think should go in the constitution, not to show confidence in the Committee or lack of confidence in the Committee. Vote according to your convictions on this motion.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hinckel, Hurley, Kilcher, King, Knight, Laws, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, White, Wien.

Nays: 19 - Coghill, Cross, Davis, Doogan, Gray, Hermann, Hilscher, Johnson, Lee, Londborg, McCutcheon, Nerland, Nordale, Peratrovich, Riley, Sundborg, Sweeney, Walsh, Mr. President.

Absent: 2 - R. Rivers, VanderLeest.)

CHIEF CLERK: 34 yeas, 19 nays and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Mr. McNealy.

MCNEALY: At this time I would like to move and ask unanimous consent that I might withdraw my notice of reconsideration to Section 3.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent that he be allowed to withdraw his notice of reconsideration on the amendment to Section 3. Is there objection?

BARR: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. McNealy?

MCNEALY: I so move.

PRESIDENT EGAN: Mr. McNealy so moves. Is there a second to the motion?

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Doogan -- Mr. White?

WHITE: I just wanted to object for a question, Mr. President. The reason I voted previously to return to the original language was because I was impressed by the arguments of some of the committee members that, if I understood them correctly, the deletion of the words "enjoyment of" weakened the section. I would like to ask Mr. McNealy if that is the point he has been satisfied on through further consideration. Is it, in your opinion, the section now as strong as it was previously?

MCNEALY: You are referring now to Section 3?

WHITE: Yes, I am.

MCNEALY: Well, I find myself in the position hard to support my own motion. I believe I can answer the question this way. The only reason that I moved to reconsider there was because of the fact that we had a colored lady appear before the Committee here and asking for very strong language and quite lengthy language, and to avoid the lengthy language we attempted to spell out -- we didn't attempt -- we did spell out the correct wording for directing the legislature there. I don't like the way it ended up with the "herewith" on it, but nevertheless we thought it made it a little bit stronger language for the parties interested, especially in civil rights.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to give notice of my intention to ask that we rescind our action on Mr. Barrie White's amendment taken this evening, and ask that my notice be entered on the minutes.

PRESIDENT EGAN: Which amendment was it?

V. RIVERS: It has to do with the replacement of the original enrolled preamble.

PRESIDENT EGAN: That motion did not carry, did it, Mr. White?

CHIEF CLERK: No, it did not.

PRESIDENT EGAN: We have a motion before us at this time, Mr. Rivers.

V. RIVERS: I just gave notice, Mr. President. I am not making a motion, I asked that it be entered on the minutes. I will bring it up tomorrow.

WHITE: I don't know if I was the only one that objected to Mr. McNealy's motion or not. Anyway, I withdraw my objection.

PRESIDENT EGAN: Mr. Barr had also objected. Mr. Barr.

BARR: Mr. President, I believe that the original wording was very good, but I especially object to the word "implement". The only thing it does is to shorten that sentence, but it does a lot of other things to it. That word "implement", regardless of whether it has been in long legal usage or not, it came into general use some time during the war when we frequently found that in long verbose government directives, in the middle of a sentence that was a page long, written by some new bureaucrat who had gone into government service, and they always seemed to use it when they couldn't think of any other words to use. I do not think it is the right kind of word to use in the constitution. Constitutions should be clear and simple, something that everybody could read, know what it means, and sounds good to them, and I prefer to go back to the original wording on that last sentence of the section, not because it is a little longer, but because it is simple and clear. I don't believe that word "implement" has any place here at all. There are a lot of other like words such as this "and/or" which has no place in the English language, but people who like to appear learned use it when some other shorter word could do it as well. Therefore, my principal objection to this present wording of the section is on account of the word "implement", and I will go along on the original wording of the first sentence also.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I speak further on this section?

PRESIDENT EGAN: You may. You can speak to the motion as to whether or not to allow Mr. McNealy to withdraw his notice, and in doing so you, of necessity, have to speak to the section.

METCALF: I feel like Mr. Barr, that this section here should be clear and simple for eighth-grade civics students. I prefer the original section in the enrolled copy.

PRESIDENT EGAN: It will take a two-thirds vote, it seems to the Chair, to order the withdrawal of the notice of reconsideration inasmuch as objection was heard. Mr. Coghill.

COGHILL: Mr. President, I think that the Style and Drafting has done a very good job on this particular section. I was the one that raised the question on "implement", and all I was seeking was to get a legal definition of the word "implement" as to uses in law. After looking it up in the dictionary and asking some of the learned attorneys of our group, we find that the word "implement" is used very extensively in defining treaties and other governmental documents. I think that it is very fitting and very fine the way Style and Drafting came out.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I feel apologetic to have to get up and speak on this, but my objection is to the word "denied" as to the words "denied the enjoyment of". "Denied" to me means -- I get this feeling and sense from this: "denied the minimum of civil and political right". When I read the enrolled copy it says "denied the enjoyment" which to me means the full enjoyment. I would like to have this be reconsidered properly; "denied the enjoyment" which to me would give any and all the full right, the full enjoyment. Leaving the word "enjoyment" out of Section 3 as it now appears to me is only offering the very minimum.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, may I speak on behalf of the subcommittee that put this word in there. Referring to both these sections, I am sure if the subcommittee had known there was as much antipathy towards the use of these words, they would not have used them. As I say, our only recourse was to the Committee, and evidently we didn't understand the reaction of the Committee. Speaking for myself as one of the three, I certainly don't think it is going to kill the constitution one way or another whether this is in there or not in there, and I sincerely regret that we have caused all of this difficulty. Had we known we were going to cause it, I am sure that we would not have made the changes because we didn't feel they were substantive changes, we felt that, perhaps, stated a little more clearly. We were not on the committee, we did not have the benefit of all the arguments, and therefore we were not as well prepared as the Committee was, but I think the matters are relatively insignificant, and I for one have no objection to either reconsidering or not reconsidering this motion.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to ask a question. We have been debating here now for about 15 or 20 minutes whether Mr. McNealy should be allowed to withdraw his motion for reconsideration. I was just wondering, do we accomplish anything by it, because if we force him to let it stand, he is the only one that can exercise that option tomorrow, isn't he, so if he doesn't want to reconsider, he still doesn't have to.

PRESIDENT EGAN: Miss Awes, that would not be quite correct. Any other delegate could move the reconsideration. It is not the Chair's understanding of rules governing reconsideration that it is only the person who serves the notice. After he has served the notice, any other delegate may move before adjournment tomorrow. Mr. Davis.

DAVIS: Mr. President, I agree with Miss Awes that we are wasting a lot of time on something of no importance whatsoever. I would

like to ask unanimous consent of the Convention at this time to let Mr. McNealy's motion for reconsideration be put right here and now, and I will waive -- as far as I am concerned, I would like to have unanimous consent that we waive the two-thirds rule so it can be handled on a simple majority.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that we do reconsider the vote on the particular amendment at this time. Do you object, Mr. McNealy?

MCNEALY: I have no objection.

PRESIDENT EGAN: Is there objection? Hearing no objection then, the motion to withdraw has been superseded by a unanimous consent motion or act of the Convention to reconsider the vote on the amendment offered by Mr. Metcalf at this time. And the question is -- then the rules have been suspended and the question is, "Shall Mr. Metcalf's proposed amendment be adopted by the Convention?" The Chief Clerk will read that proposed amendment.

CHIEF CLERK: "Strike Section 3 and insert Section 3 of the enrolled copy."

PRESIDENT EGAN: Mr. Davis.

DAVIS: You meant Mr. McNealy, did you not?

PRESIDENT EGAN: No, Mr. Metcalf offered the amendment, as the Chair recalls it, Mr. Davis. Is that correct?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Mrs. Hermann:

HERMANN: Isn't the vote on whether Mr. McNealy may withdraw his --

PRESIDENT EGAN: No. By unanimous consent, which is a complete suspension of the rules, Mrs. Hermann, by unanimous consent and without objection, including no objection from Mr. McNealy, we suspended the rules in order that the reconsideration of the vote on Section 3 may come before us at this time. That suspension of the rules allowed the reconsideration and placed before us the original question. The question is, "Shall Mr. Metcalf's proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

HERMANN: Mr. President, I wish to abstain from voting.

PRESIDENT EGAN: Mrs. Hermann wishes to abstain from voting. If there is no objection, Mrs. Hermann, you may abstain. The question is on the adoption of Mr. Metcalf's amendment proposing to delete Section 3 and insert the Section 3 that appeared in the enrolled

copy of the article. The Chief Clerk will call the roll on the adoption of the amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 19 - Armstrong, Barr, Collins, Cooper, Harris, Hellenthal, Hinckel, Hurley, Kilcher, McNealy, McNees, Metcalf, Poulsen, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Wien.

Nays: 34 - Awes, Boswell, Buckalew, Coghill, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hilscher, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, Marston, Nerland, Nolan, Nordale, Peratrovich, Reader, Riley, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Mr. President.

Absent: 1 - VanderLeest.

Abstaining: 1 - Hermann.)

HURLEY: Mr. President, I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Hurley changes his vote from "no" to "yes".

CHIEF CLERK: 19 yeas, 34 nays, 1 absent, and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Davis.

DAVIS: Mr. Chairman, at this time I move that the Convention discharge its Committee on Style and Drafting and appoint a new committee so that the business of the Convention may go forward.

JOHNSON: I will second that motion.

BARR: I object.

PRESIDENT EGAN: If there is no objection, the Chair will hold that such a motion is out of order.

DAVIS: May I explain? Normally, I would have to speak on the motion afterwards. May I give my reason? Mr. President, it is obvious to me that the Committee has not the confidence of very nearly 50 per cent of this Convention. Under those circumstances it is going to be impossible to do any business. We have a very short time to complete the business of this Convention. So far as I personally am concerned, I do not wish to be responsible for acting as a member of Style and Drafting if Style and Drafting has nothing to do, and it is obvious that many, many people here feel that that is the case. Now, I don't mean to say that people should

not vote their convictions. I said that a while ago and I meant every word of it, but I am thinking of the fact that it is entirely clear here that many people feel that Style and Drafting is going too far with their work, and it is equally clear that anything that is done from here on out is going to be continually harassed with amendments by people who feel that the language that they used first was much better than the language finally used. And for that reason, it would be much better for everybody concerned that this Committee be discharged and a new committee be appointed, a committee in which the Convention can have complete confidence, so that we can go ahead and get the job done and get this constitution written.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to speak. I am Chairman of the Bill of Rights Committee that drew up this original proposal. So far as I know, this is the first proposal to which amendments of this type have been proposed in such a wholesale order. I don't pretend to know the reason for it. The Committee as a committee made no such amendments. I, as a person, have confidence in the Style and Drafting Committee. I think they are doing a good job. Like the rest of the committees, they are not infallible. I voted in favor of Mr. Hellenthal's amendment. It is the only amendment of that type that I have voted for so far, and it is the only amendment of that type that I am going to vote for on the bill of rights proposal -- I can't say anything about the others coming up. But I do think it is going to be impossible to have a constitution unless the Style and Drafting Committee continues its work; and I think that we have some of the most competent people at the Convention on that Committee; and I think that they have shown their competence in what they have done so far; and, if such a motion as Mr. Davis has proposed comes to a vote, I think that the Convention should use it as a means of giving a vote of confidence to the Style and Drafting Committee, and I think we should stop and hesitate a long time before we continue to make motions such as we have made this evening.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I think that all of the committees have had to stand on this floor and defend their best efforts and their best thinking. Now I personally believe that this motion is not a motion that is in order. We all have to stand up and take the final agreement of 55 members of this body and I for one feel that we have all been subjected to the same thing, and we have all had to accept at times certain revisions in our thinking, and I feel that this bill of rights is one of the highly controversial issues and was worked on thoroughly on the floor. There are strong convictions on it. I feel this is the one exception perhaps to the time in which the Style and Drafting may perhaps, have their final judgment questioned. I don't think that in the final analysis, however, that the motion should be entertained by the body or voted on.

PRESIDENT EGAN: Mr. Davis.

DAVIS: It doesn't make any difference to me, one way or the other, as to whether our final judgment is upheld or whether it isn't. That isn't important. After all, we are perfectly capable of standing up here and taking all the slings and arrows that anybody can throw. Of course, the other committees did that and we should too. The point is that we have got to get ahead here. Now, in the last two hours, we have considered the preamble; we had a motion to strike it; we voted it down by a rather close margin; we have considered one, two, three other sections of the bill of rights. Of those, at least two, I think all three, have had motions to strike the Committee's work and to replace it with the original as it went off the floor. On those, the votes have been close. Two of them have had votes of reconsideration. The matter of the preamble has a reconsideration. Those things all have to be taken care of, and as long as that is going on we can't move. The point I am trying to make is that if we are not doing what the Convention wants, it is time for us to step down and let somebody else do what the Convention does want.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I don't think we should get too excited about it. I was on this Committee, and the Style and Drafting Committee called Miss Awes and they tried to get ahold of other members of the Committee, and probably we consented to things that we should have talked to other members of the Committee on, but I have seen occasions, when I was on the Bill of Rights Committee, and I think that two tigers in a rain barrel would have probably gotten along better than John Hellenthal and Buckalew at one time or another during the course of some of our debates. We have been working hard and our nerves are a little shattered and we're getting tired, and things sort of disagree with us a little, but I think that is the cause of this whole furor, and I don't think it is any lack of confidence on the part of anybody in this Convention. It is just one of those things that go with too much work and too much heat. We will probably get a little more excited as we go along, but we are going to get finished, and I don't think that there is anybody that has lost any confidence in Ed Davis or anybody that are members of his Committee.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Is a motion to adjourn in order?

PRESIDENT EGAN: It is in order, but the Chair would state again that the motion as made by Mr. Davis is not in order. The Committee on Style and Drafting is a permanent committee of this Convention. And a motion to adjourn is in order.

MCLAUGHLIN: Mr. Chairman, I move that we adjourn until 1:30 tomorrow.

PRESIDENT EGAN: Mr. McLaughlin moves that the Convention stand adjourned until 1:30 tomorrow. Is there a second?

V. RIVERS: I second the motion.

DAVIS: I wonder if I could ask Mr. McLaughlin to hold his motion for one minute. This has nothing to do with the present matter. I would like to ask, Mr. President, that the Style and Drafting Committee be allowed to make substantive changes in Section 18 of this bill of rights article, and I think that I can guarantee that we will come out with something that people can agree on.

PRESIDENT EGAN: You have heard Mr. Davis's unanimous consent request. Is there objection? Hearing no objection it is so ordered and you have that authority, Mr. Davis. Mr. Hilscher.

HILSCHER: Mr. President, before we act on the matter of adjournment we should arrange something about transportation -- a show of hands as to who has cars and how many can go with those cars. We will have to order out cabs and that will take about 15 minutes.

PRESIDENT EGAN: Would those delegates hold their hands up who need transportation? Does everyone have their hands up that need a cab? (A count was taken of those having cars, and those needing cabs.)

METCALF: May I make a motion that Mr. Davis's motion be postponed until February 5. (Laughter)

PRESIDENT EGAN: If there is no objection the motion has been carried and is ordered adopted. If there is no objection the Convention will stand adjourned until 1:30 p.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 26, 1956

SIXTY-FIFTH DAY

PRESIDENT EGAN: We have with us today Reverend Shepperd of the First Church of the Nazarene. Reverend Shepperd will give our daily invocation.

REVEREND SHEPPERD: Our Heavenly Father, we pause to give Thee grateful thanks for these men and these women, the framers of the constitution for the future State of Alaska. We thank Thee, our Father, for all their abundant labors, their selfless interests and devotion to duty they have felt and answered and especially for those aims for which they have labored, many of which have been realized as of this good day. Recognizing, O Lord, that all good government is ordained of God, we would pray Thy blessings upon this group as they come to the consummation of this great document and indeed upon the document itself, that it may find recognition among those in positions of high authority, that we may take our proper place as a sister state among those in our great republic of which we may be justly proud and for which we give Thee grateful thanks and thus we pray Thy blessings on these men and these women in the days ahead and indeed that all mankind may be vitally interested in perpetuating good government. This we pray. In the Lord's name we pray. Amen.

PRESIDENT EGAN: Thank you. The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Eight absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. The Chair would like to introduce to the delegates Marguerite Pederson who is here taking stenotype notes with no expense to the Convention and for her own pleasure. We are happy to have you with us, Mrs. Pederson. The Chair also notes in the gallery, the seventh grade of the Main School of the Fairbanks public school system. We are very happy to have you with us this afternoon and hope you enjoy the proceedings. Does the special committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: Mr. President, I would like a continuation of that report later in the day.

PRESIDENT EGAN: That report will be held until later in the day. Are there communications or petitions from outside the Convention? Are there reports of standing committees? Reports from special committees? Are there any motions or resolutions to come before the Convention? Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that the prayer by the chaplain today be spread upon the journal.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that today's prayer by the chaplain be spread upon the journal. Is there objection? Hearing no objection, it is so ordered. Is there any unfinished business? If not, we have before us Committee Proposal No. 17/a. I believe your calendar will show Committee Proposal No. 16, but that is in error. Mr. Doogan.

DOOGAN: Mr. President, I believe the first order of business is to take up the reconsideration notice as served by Mr. Harris.

PRESIDENT EGAN: Mr. Doogan, you are correct. That was set over as the first order of business.

CHIEF CLERK: That is what that is -- 17/a is the --

PRESIDENT EGAN: Is Mr. Harris here? (Mr. Harris was not present.) If there is no objection, that matter will be held in abeyance until Mr. Harris arrives. Mr. Ralph Rivers.

R. RIVERS: If 17/a is before us, I have an amendment on the clerk's desk.

PRESIDENT EGAN: Mr. Ralph Rivers, it was before us for the reason that we had decided unanimously to take Mr. Harris' reconsideration up as the first order of business. Inasmuch as Mr. Harris is not here at this time, we might hold it if it is agreeable.

R. RIVERS: What I have to offer will come up, then, when 17/a is brought back?

PRESIDENT EGAN: It will, yes, Mr. Rivers. Mr. Hilscher.

HILSCHER: Mr. President, I rise to a point of personal privilege for about 60 seconds.

PRESIDENT EGAN: If there is no objection, Mr. Hilscher, you may have the floor on personal privilege.

(Mr. Hilscher spoke on a point of personal privilege.)

PRESIDENT EGAN: Does everyone have the election district schedule before them? Mr. Hellenenthal.

HELLENENTHAL: Mr. President, before the reading of the election district schedule --

DOOGAN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Doogan.

DOOGAN: If I recall correctly, we have the bill of rights before us.

PRESIDENT EGAN: Well, the way the calendar is set up at the present moment -- Mr. Davis.

DAVIS: The Style and Drafting Committee requested that this matter go ahead of finishing the bill of rights for the reason that acceptance of this report, or second reading of this report, will affect another report the Style and Drafting Committee wants to make later in the day or tomorrow.

PRESIDENT EGAN: If there is no objection -- Mr. Hellenenthal.

HELLENTHAL: Before the reading begins, on behalf of Committee No. VI, I ask unanimous consent that the descriptions which will be read, that in the description for Election Districts 20 and 21, the word "Kuparuk" be substituted for the word "Toolik". That is K-u-p-a-r-u-k.

UNIDENTIFIED DELEGATE: Which one is that?

HELLENTHAL: In descriptions for Election Districts 20 and 21, "Kuparuk" be substituted for the word "Toolik". The word "Toolik" is T-o-o-l-i-k. In other words, strike "Toolik" in both descriptions and substitute "Kuparuk".

PRESIDENT EGAN: Mr. Walsh.

WALSH: This is on page 8 and it carries over to page 9.

HELLENTHAL: Both changes are on page 8 of the district descriptions. This change merely ties the boundary in with the tributary. The Toolik is apparently a tributary of the Kuparuk, and the designation should have been "Kuparuk". It does not alter the boundary at all. Then the next and last change is in Election District No. 2. That would be on the first page of the description, the Ketchikan Election District on the first page of the description, which is page 2 of the paper. Now here we strike the following words: "Clarence Strait and Ernest Sound". They appear in the second and third lines of the description. Strike the words "Clarence Strait and Ernest Sound" and substitute these words for them? "Burroughs Bay and the east side of Clarence Strait". I will repeat: B-u-r-r-o-u-g-h-s, "Burroughs Bay and the east side of Clarence Strait"; and then a little further on in the same section, strike the words "that area drained by Bradfield Canal and its tributaries". I will repeat: strike the words "that area drained by Bradfield Canal and its tributaries" and substitute "Lemesurier Point"; and I will spell Lemesurier. It is L-e-m-e-s-u-r-i-e-r. And this change--

UNIDENTIFIED DELEGATE: Is that Lemesurier Island?

HELLENTHAL: Lemesurier Point. Now these changes in Election District No. 2 merely make the line that was on the map conform to the actual reality. They were prompted by an observation made by Senator Nolan, checked by the Bureau of Mines people. They are no deviations from the lines that were shown on the

map that was before you when the matter was discussed. Now, in connection again with this report, there are spelling errors in the description and I ask that those errors be brought to Mr. Sundborg's attention. He has a list of most of them already, and I think that you can do it informally, rather than from the floor, to save time, and it will be checked then by Mr. Sundborg with the atlases to be sure that the spelling is correct. It will not be overlooked, in any event, so I make the following motion: that I have described here and ask unanimous consent that those changes be made.

PRESIDENT EGAN: That they become a part of the report of the Committee? Is that correct, Mr. Hellenthal?

HELLENTHAL: Yes, Mr. President.

PRESIDENT EGAN: Is there objection to that unanimous consent request? Hearing no objection, the amendments are ordered adopted to become a part of the committee proposal. Has this schedule been read? The Chief Clerk will please read the proposal for the second time.

CHIEF CLERK: The first page has been read; it is just the description.

PRESIDENT EGAN: Please read the description.

(The Chief Clerk then read Section 1 of Committee Proposal No. 14, Schedule, Election Districts, for the second time. Section 2 had been read previously.)

PRESIDENT EGAN: Are there proposed changes to Section 1 of this schedule? If not, are there proposed changes for the description, the No. 1 District? The No. 2 District? To the No. 3 District? To the No. 4 District? Mr. Stewart.

STEWART: I suggest that a check be made on page 3 at the end of line 1. I believe that must be K-r-u-z-o-f instead of -g-o-f.

PRESIDENT EGAN: Is that right, Mr. Hellenthal?

HELLENTHAL: I think it is, Mr. Stewart, and I think it is one of the points Mr. Sundborg has a note on, but I will make sure that it is checked.

PRESIDENT EGAN: Are there questions or suggested changes for No. 5? Mr. Robertson.

ROBERTSON: Mr. President, for purposes of the record, I would like to ask whether or not it is the understanding that Stephens Passage extends southward to a line drawn from Cape Fanshaw across to Pybus Bay? I have been assured by several individual delegates that it does, but it has not been my understanding of local geography.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I would like to refer that to Mr. Gray, who is far more qualified to answer that than I am.

PRESIDENT EGAN: Mr. Gray.

GRAY: Yes. Generally that is quite true. You have two sounds; you have Chatham Straits on the north and you have Frederick Sound on the bottom, and Stephens Passage is the inlet from Chatham to Frederick Sound. Now Cape Fanshaw is an actual point; you can call that a division. Now, on the other side, if you follow over there where the territory is rounded, just where is the dividing line is very hard to say, but Pyhus Bay looks to me to be more a part of Frederick Sound. Above Pyhus Bay -- Gambier bay, and so on is definitely a part of Stephens Passage. And I believe that that follows pretty much. The Pyhus Bay people are all Petersburg people, and there used to be a few farms, but I don't believe there is anybody there now. In the north, Point Retreat is definitely the break-off between Stephens Passage and Chatham Strait or Lynn Canal.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I'd like to ask another question. It says, "...including Douglas and Shelter Islands and other smaller adjacent islands". There is quite a group of islands in there, in Lynn Canal, including Cohen Island and Benjamin Island. Benjamin Island is quite a distance north of Shelter Island. The few people residing on Benjamin Island, I think, come into Juneau for trading purposes and various business purposes, but I don't know whether you would call Benjamin Island adjacent to Shelter Island or not. It is quite a distance up there. Is that the idea -- that Benjamin Island should be included with these other smaller adjacent islands?

PRESIDENT EGAN: Mr. Gray.

GRAY: When you get to Benjamin Island, it gets to be a point one way or the other. Now, actually, it is getting to be like Livengood -- which one does it belong to? We have a few -- not a few -- there probably are a great many cases where it is a question, but I am really not too concerned about the particular Benjamin Island. There is the reapportionment board, and if there are any individuals there, they can request the reapportionment board to place them in one district or the other. In general, I would say Benjamin Island falls in the other district -- the Yakutat-Icy Bay-Lynn Canal District -- that is, everything above Berners Bay. Everything below Berners Bay would fall into the Juneau district, but everything above Berners Bay would fall in the other district -- just in general.

ROBERTSON: I might say, Mr. President, I feel quite sure Benjamin Island is in the voting precinct within the Juneau recording district at the present time.

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GRAY: Could be.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Mr. President, one other small item -- I notice Berners Bay is spelled B-u-r-n-e-r-s. It is B-e-r-n-e-r-s.

HELLENTHAL: I believe Mr. Sundborg has it on his list. Also, Mr. Sundborg, do you have a "z" in Kruzof in the description for No. 4?

SUNDBORG: Yes, Mr. Hellenenthal. it is Kruzof Island on page 3, and Berners Bay; and farther down on that page, Yakobi should be spelled with an "a" -- Y-a-k-o-b-i, the next to last line in Election District No. 6.

PRESIDENT EGAN: Mr. Lee.

LEE: May I direct a question to Mr. Gray?

PRESIDENT EGAN: If there is no objection, Mr. Lee.

LEE: Mr. Gray, don't you think that, perhaps, in order to avoid confusion that might arise, to put the idea of a line being drawn from Cape Fanshaw to Pyhus Bay, if you think that would encompass the area you mean here, because I know Frederick Sound has no definite boundaries, and it is going to be awfully indefinite if we leave it in this manner.

GRAY: Well, now, that can very well be done. How many people do you think it would affect?

LEE: Well, at the present time, it wouldn't affect more than four or five people, that is all, Mr. Gray. I mean, for a matter of a definite boundary, because Frederick Sound will eventually have to be identified with certain boundaries. At the present time, it isn't.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. Rosswog had a question of a technical nature as to the location of a boundary with regard to the Chitina matter. Chitina is included in District No. 8, and there is no question about that, but it is of the location of the actual boundaries, purely a geographical matter; and perhaps we could consider this when we consider Mr. Rosswog's problem. He is over now with these geographers checking on it, and I suggest that we take up that matter of the line at the same time.

PRESIDENT EGAN: Mr. Stewart.

STEWART: I have a question in regard to Section 7. Is that, on the second line, C-h-i-t-n-a? It is that way on my copy. I wonder if that shouldn't be Chitina?

HELLENTHAL: Chitina is correct, Mr. Stewart. That is my understanding of it, but the name is used in both senses on the maps. The maps are not uniform like in many other cases in Alaska with local names, but we are going to check it with whatever official designation of names and areas the geographers come up with.

PRESIDENT EGAN: Are there other questions with relation to Sections 5, or 6, or 7, or 8? Mr. Taylor?

TAYLOR: I believe the Committee should also check on the spelling of the Chokosna and the Gilahina. I think that should be Chokotna. I don't think there should be any "s". And I don't think there is any "a" in the Gilahina. It might be a typographical error, or it might be that the geography is different from the accepted spelling in that part of the country.

PRESIDENT EGAN: The Committee will look into that. Are there questions or suggested changes for No. 9? For District No. 10? Mr. Hurley.

HURLEY: Mr. President, you passed No. 9 and I was busy. May I ask Mr. Hellenenthal a question?

PRESIDENT EGAN: You may ask your question Mr. Hurley.

HURLEY: Mr. Hellenenthal, I looked this over the first time, and my thinking that it included the former Talkeetna, Palmer, and Wasilla recording districts, and I had some conversation with you regarding that, and you said that that was true, but that they were subject to change, but I didn't pay too much attention to it from then on out, but I notice now that there is a whole area that is excluded by this description, which would be on the area that drains into the Knik River from the north, above the highway bridge. This stops at the highway bridge and leaves it in sort of a no man's land in there. Would it be possible for me to offer an amendment at the end there and say, "and the drainage on the north side of the Knik River"?

HELLENTHAL: Yes, although I think it is included there, because we discussed that point. I did myself, Mr. Coghill, I, with Mr. Wolff and the other gentlemen, the geographers, and they said the language, "on the west side of Knik Arm", by the use of that language, "the drainage on the north and east side of the river", was definitely included in the district, in their opinion. Now, they may be in error on that.

HURLEY: Well, I would, but it says "to the highway bridge" and then it ends.

HELLENTHAL: It certainly was not the intention to exclude that area; we expressly thought it had been included. But could you go over with us again and we will look at the map?

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HURLEY: O.K.

PRESIDENT EGAN: Are there questions with relation to District No. 10? District No. 11? District No. 12? Mr. Kilcher.

KILCHER: May I address a question to Mr. Hellenthal?

PRESIDENT EGAN: You may address a question, Mr. Kilcher.

KILCHER: I am sorry that I haven't had time yet to go over with the geographers, but from my memory of the lines drawn on the maps we worked on here, I see a diversion there I don't understand. It ties in with your No. 10, the Anchorage district. You are including in the Anchorage district both sides of Turnagain Arm, the south side as well as the north side?

HELLENTHAL: Do you mean Knik Arm or Turnagain Arm?

KILCHER: The area around Turnagain Arm.

HELLENTHAL: Up to and including Placer Creek, but no farther.

KILCHER: Where is Placer Creek exactly?

HELLENTHAL: Just beyond Portage.

KILCHER: That's where it goes around?

HELLENTHAL: Yes.

KILCHER: Then, there is the Hope area; where is that included?

HELLENTHAL: It is my understanding that the Hope area is included in the Seward district.

KILCHER: It should but I don't think it is plain from the description of the Seward district.

HELLENTHAL: I asked the geographers that question pointblank, and they told me that it was included in that description, and that is all I can tell you.

KILCHER: Well, it says here, "That area of Kenai Peninsula drained by streams flowing into Cook Inlet and Turnagain Arm, from but not including the area drained by Chugach Bay..."

HELLENTHAL: Well, I suggest that you go over and raise your question with those specialists, because I am getting way out of my field here. If this language fails to accomplish what we think the intention is we certainly can correct it.

KILCHER: I think there could be some deviation, because the Kenai River flows from right behind Seward and this includes all the drainage in Cook Inlet.

HELLENTHAL: We'll go over it.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe that Mr. Hellenenthal is correct there, that when we went over the Anchorage district that was also brought into consideration on the Seward district, that Hope was in that.

PRESIDENT EGAN: Are there other questions to District No. 12? Are there questions with relation to District No. 13? To District No. 14? To District No. 15? Are there questions relating to District No. 16? To District No. 17? District No. 18? District No. 19? Mr. Barr.

BARR: I promise not to mention Livengood. I notice here it mentions Clear Creek on the west side of the Tanana. Actually, there is another Clear Creek, also, farther upstream, and it is on the west side, that is, above Big Delta. It seems to me that it should be pinpointed a little more than it is here so that there will be no confusion. Of course, we are faced in Alaska with duplicate names; we have whole herds of Caribou Creeks and the like, and it seems to me it should be a little more specific.

PRESIDENT EGAN: Mr. Coghill, could you answer that?

COGHILL: I think that I will agree with Senator Barr that there are a dozen. I know of seven or eight Clear Creeks on the Tanana River itself. However, the Clear Creek that is mentioned here would not in any way be mistaken when you tie it in with the part of Goldstream that includes Nugget Creek and Spinach Creek. It is directly across from it; that Clear Creek is the one that is down here beyond the Chena Bluff.

PRESIDENT EGAN: Does that satisfy your question, Mr. Barr?

BARR: Well, not quite, no, but -- it doesn't confuse me, but it might some other people. It seems to me that if that said "Clear Creek in the Wood River area", or something like that, it would clear it up.

HELLENTHAL: Would "near Chena Bluff" solve it?

BARR: Something on that order, locate it as to the area.

COGHILL: It's the only Clear Creek that is on the --

HELLENTHAL: When we take up the other three parts, we will put some language in there so that it will be unmistakable.

PRESIDENT EGAN: Are there questions with relation to District No. 20? With relation to District No. 21? District No. 22? Are there questions relating to District No. 23? Mr. McNeese?

MCNEES: Mr. President, I think there should be a correction in spelling there -- Chamisso with a "C" instead of an "S".

PRESIDENT EGAN: Mr. Sundborg, did you get that - with a "C"? In District No. 23, Chamisso. The Convention will come to order. Are there other questions or suggestions relating to No. 23? If not, are there questions with relation to Section No. 24? Are there questions or suggestions relating to Section 2? Mr. Hellenthal.

HELLENTHAL: There will be, and they have been unanimously agreed upon at a conference between representatives of the Style and Drafting Committee and the Committee No. VI. We have already decided upon -- unanimously -- on two nonsubstantial changes and additions, purely for clarification, to make on Sections 1 and 2, which are now referred to Engrossment and Enrollment, and we shall ask unanimous consent later, when this comes out again for discussion on the floor, to make those clarifying suggestions. I merely make an observation so that we will not be considered as waiving them by not making them at this time.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Point of information. Is it necessary to refer this to Engrossment and Enrollment and have the whole thing mimeographed? Or would it be possible, under suspension of the rules, not to have it mimeographed?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I would rather not have it. I don't know what I would have to check it with, and I see very little sense in having it mimeographed; there are just a few errors in it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Could I ask Mrs. Sweeney a question through the Chair?

PRESIDENT EGAN: You may if there is no objection.

HELLENTHAL: Mrs. Sweeney, could you make a proper motion to accomplish that purpose, because I don't know how to do it.

PRESIDENT EGAN: Mrs. Sweeney, before any such motion is made, the Chair would just like to pass over the proposal until later in the day in order that Mr. Rosswog might be here. Mr. Kilcher has a question --

HELLENTHAL: Mr. Robertson, Mr. Eldor Lee, and Mr. Kilcher --

PRESIDENT EGAN: Those people who have raised questions should talk to the geographers as Mr. Hellenthal suggested to them.

HELLENTHAL: And also Mr. Barr. I think I have covered them all.

PRESIDENT EGAN: So, if there is no objection, the proposal will be held in its present position until a later time. We have before us the Style and Drafting Committee report on the legislature, the report from the Style and Drafting Committee on the amendments to the legislative article. Mr. Sundborg.

SUNDBORG: Mr. President, it occurs to me that we haven't actually made this report under the proper order of business, so I now offer the report of the Style and Drafting Committee with respect to the amendments made on the floor of the Convention last night on the article on the legislature.

PRESIDENT EGAN: Will the Chief Clerk please read the report of the Style and Drafting Committee for the first time.

(The Chief Clerk then read the report of the Style and Drafting Committee concerning the amendments to Article II, article on the legislature, which had been committed to the Style and Drafting Committee the previous day.)

PRESIDENT EGAN: What is your pleasure, Mr. Sundborg?

SUNDBORG: Mr. President, we would be glad to answer any questions about the report. I think, definitely, we have made no change in substance. You will notice in -- speaking first of Section 5 -- the only thing we would change in that would be the last sentence. We haven't touched the other two sentences. The last sentence we have made it into two sentences saying, "This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention." We feel that that carries out and probably clarifies the language which, on the floor, was amended to read: "This section does not prohibit the election, appointment, or succession of any person as governor, secretary of state, or member of a constitutional convention, or the employment of anyone by a constitutional convention or election to the Congress." Now, there is one change in it which may be looked upon as substantive, and that is in the language as adopted on the floor, it speaks only of "election to the Congress", and we have said, "This section shall not prevent any person from seeking or holding the office of governor, secretary of state or member of Congress." This would permit a legislator to be appointed to Congress by the governor in event of a vacancy, if that would be the desire of the governor. I believe that was the intention of the Convention, simply taking an office in Congress, whether appointed or elected. There is one other change which we have made which we think was in line with probably, what the Convention intended. In the earlier part of the section, it says, "No legislator may be nominated, elected, or appointed..." and then, in what was added, it says, "This section does not prohibit the election,

appointment, or succession..." It doesn't cover the fact of nomination, so, as it was amended on the floor, we would feel that none of these people could be nominated to any of these offices while we have, in our redraft, it simply said that "No person may be prevented from seeking or holding the office..." which means the nominating, the filing, the election, or occupying the office.

PRESIDENT EGAN: Does any member of the Committee, the Legislative Committee, wish to ask a question or questions of the Chairman of Style and Drafting Committee? Are there any questions relating to this report? If not -- Mr. Sundborg?

SUNDBORG: Mr. President, I move and ask unanimous consent that the report of the Style and Drafting Committee be accepted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee be accepted by the Convention. Mr. Robertson.

ROBERTSON: Is that the amendment to Section 5?

PRESIDENT EGAN: Well, the whole report, Mr. Robertson, would include the other items, too. If you have other questions with relation to the report, the Chair will not put the question. Mr. Sundborg.

SUNDBORG: We haven't suggested any other changes at all except in Section 16, and there we have simply reversed the order of appropriation bills or items on the one hand, and bills to raise revenue on the other hand. We just think it reads a little clearer to say "bills to raise revenue and appropriation bills or items" than to say it in the other order.

PRESIDENT EGAN: Is there objection to the unanimous consent request of the Chairman of the Style and Drafting Committee? Hearing no objection, then the report is ordered accepted by the Convention. Mr. Sundborg.

SUNDBORG: Mr. President, I now move that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, that it be read by title only, and be placed on final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, be read by title only, and placed on final passage. Is there objection? Mr. Taylor.

TAYLOR: I rise to a point of information.

PRESIDENT EGAN: Your point of information, Mr. Taylor.

TAYLOR: Mr. Sundborg made a motion that the report of the

Committee be accepted. Is that equivalent, Mr. President, to adoption of the recommendations of the Committee? If not, I think the motion should have been that the report be accepted and the recommendations of the Style and Drafting Committee be adopted. We have not adopted those recommendations yet, we have accepted the report is all.

PRESIDENT EGAN: Mr. Taylor, you have a point there. When you are actually suggesting changes to your original report, Mr. Sundborg --

TAYLOR: I mentioned that for the record.

PRESIDENT EGAN: That is right. Yes, accepted and adopted as a part of the article on the legislative. Mr. Sundborg.

SUNDBORG: Mr. President, I would just like to point out that, in that connection, the only motions, or the action, that has been taken here when the Style and Drafting Committee reports have come in, although they might have redrafted the article considerably, was that our report be accepted, and I understood that that would carry with it the adoption and the carrying into the articles of the language such as was contained in the report. My belief was that the same thing applied with respect to this supplemental report which we make, of course, only because there were some amendments made on the floor.

PRESIDENT EGAN: This was sort of an unusual circumstance in that the article was referred back to the Style and Drafting at that time in order to allow Style and Drafting to study those amendments. Isn't that true?

SUNDBORG: That is true. My intention, of course, was that the language suggested by the Style and Drafting Committee with respect to each of these amendments be adopted.

PRESIDENT EGAN: As a part of the report. Then it might be better then, under the circumstances, Mr. Sundborg, if you will withdraw your unanimous consent request for suspension at this time in order that we will be perfectly in order.

SUNDBORG: I will do that, Mr. President, and include in my earlier unanimous consent request the adoption of our suggested changes as well as acceptance of the report.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent to withdraw his request to advance the article at this time, and he now moves and asks unanimous consent that the report of the Style and Drafting Committee be accepted and adopted as a part of Article II, the article on the legislature. Is there objection? Hearing no objection, it is so ordered, and the report has become a part of the article on the legislature. Mr. Sundborg.

SUNDBORG: Mr. President, I now renew my unanimous consent request to advance the article to third reading.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, read the third time, and placed in final passage. Is there objection? Mr. McNeese.

MCNEESE: I don't want to object, but, for the sake of the record, I am going to point out that, in spite of a six-and-a-half hour argument that took place on the floor here one day with a vote finally being taken relative to the two houses meeting in joint session on four different items in the legislative article, that only once has that been retained in the final draft. I will admit that the referendum article was removed from the legislative article, so that would be one, leaving three other places in the legislative article where that was mentioned, and the retention has been made only in the case of the veto by the governor.

SUNDBORG: Mr. President, we absolutely deny that we have changed in any respect, or left out or altered the manner in which the legislature should act in considering anything.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to ask Mr. McNeese a question.

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may ask your question.

V. FISCHER: Mr. McNeese, would you please point out where the Style and Drafting Committee has omitted a reference to any action taken jointly by the two houses.

MCNEESE: That was not my accusation, Mr. Fischer.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, in view of the statement made by Mr. McNeese, I took occasion during the recess to get from the stenotypist, and also listened on the recorder as to just what it was that Mr. McNeese said, and what he said was that "...for the sake of the record, I am going to point out that, in spite of a six-and-a-half hour argument that took place on the floor here one day with a vote finally being taken relative to the two houses meeting in joint session on four different items in the legislative article, that only once has that been retained in the final draft. I will admit that the referendum article was removed from the legislative article, so that would be one, leaving three other places in the legislative article where that was mentioned and the retention has been made only in the

case of the veto by the governor." Now, my statement to Mr. McNeese is that I believe that it is a misstatement that he made. I wonder if he would try to show us exactly what were the two that we left out.

MCNEESE: I don't think I said, in any case, Mr. Sundborg, that Style and Drafting did leave it out, did I?

SUNDBORG: Well, certainly that was the inference which I took from it. If you weren't saying that we did, were you accusing some other committee of leaving something out?

MCNEESE: No. I was drawing a point there that where in a debate on the floor it was definitely decided here that in these four instances that the joint session was to apply, and I was drawing attention also to the floor now that, in spite of time spent on that and the final decision of the floor, in the final legislative article that that has not been retained.

SUNDBORG: Mr. McNeese, did you mean to say that we had decided on the floor in those four instances to retain it?

MCNEESE: I thought very definitely, and in fact I am convinced that that was the decision of the floor that day.

SUNDBORG: Do you find those places which you say are now missing in your enrolled copy?

MCNEESE: No, I do not.

SUNDBORG: Then it must have been something that happened, if it did happen, before it ever reached Style and Drafting.

MCNEESE: As I said, Mr. Sundborg, again, I was not pointing my finger at Style and Drafting. I was calling attention to a point in fact.

SUNDBORG: I wonder if Mr. McNeese could be entirely mistaken and that there were not four places that the Convention approved where that procedure was followed, but maybe they were discussed and the amendment was rejected. You are either saying that the Engrossment and Enrollment Committee has left something out, or that we have, and I want to know which, because I don't want to have that hanging over our heads because --

MCNEESE: It is merely a matter of a change of language but I do recall here very definitely one day, and I have pinned it down to the 39th or 40th journal by number. That is not the 39th and 40th days, however, that is the journal number, where this debate took place, and it will take me some time to follow through on it, but I would like to discuss this further with you, but I see no reason to hold up the proceedings on the floor at the present time. Certainly my quarrel was not with Style and Drafting on this particular item though.

SUNDBORG: I appreciate that, but if it is with anybody and we are leaving out something here --

MCNEES: Nor is it with Engrossment and Enrollment.

SUNDBORG: -- on which action was taken on the floor, it certainly ought to go back in before we adopt this article.

PRESIDENT EGAN: Mrs. Fischer.

H. FISCHER: Mr. President, for the record, I think if Mr. McNees will look under the executive article, he will find those places under which meeting in joint session are mentioned.

MCNEES: I am very much aware of the one that is retained in the legislative article; also the one that is in the executive article, Mrs. Fischer.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended, that Article II, the article on the legislature, be advanced to third reading, read the third time, and placed in final passage. Is there objection? Hearing no objection, the rules have been suspended, and Article II, the article on the legislature, is now before us in third reading and open for debate. The Chief Clerk will read the article by its title. Included in the motion by Mr. Sundborg was that the article be read by title only in its third reading. The Chief Clerk will read the article by its title only.

CHIEF CLERK: "Article II. The Legislature."

PRESIDENT EGAN: Mr. Cooper.

COOPER: I have no complaint. I just merely want it clarified on the floor that, in Section 16, upon receipt of a veto message, the legislature shall meet immediately, and I would like to have the word "immediately" clarified so at a future date it will be clear to both parties -- the governor and the legislature -- as to just exactly what "immediately" means.

PRESIDENT EGAN: Is there debate on that question, or is there clarification at this time on the meaning of the word "immediately"? Mr. Taylor.

TAYLOR: Mr. President, I have no doubt but that the legislature in implementing this article will spell out what the word "immediately" means. It will be "as soon as possible".

PRESIDENT EGAN: Is there debate on this article? Mr. Robertson.

ROBERTSON: Mr. President, I am constrained to vote against this article. Not that I don't respect the wonderful work that the Legislative Committee and also the Style and Drafting Committee have done on it, but I still believe, as I have said before on the floor, that you are adopting a system of having

the senatorial representation based entirely upon geography instead of partly upon geography and partly upon population; it is a departure from the bicameral system.

PRESIDENT EGAN: Is there further discussion? Mr. Barr.

BARR: Mr. President, I imagine that I will vote for every article that comes before us even if I don't agree with certain provisions within it, except this legislative article. I cannot in good conscience vote for it because the things that I disagree with are, in my mind, very serious. In the first place, I think we can get along with a smaller legislature at the present time, and when we become a new state, I believe we should operate very economically for the first few years. Not only that, but a smaller legislature makes for more efficiency. We can see here on this floor that it takes a long time to get a few amendments through. If we have a house of 40 members in the legislature, and a bill comes up, and 40 people each have amendments, and each of the 40 wants to debate on each amendment or put amendments to the amendment in, it might go on for days. A smaller number, of course, would promote efficiency. Now, I do agree we would have to have a little larger house than we have now to have proper apportionment. I disagree on adopting a unicameral process in acting on a veto when a bill is returned by the governor. We have gone on record here for a bicameral legislature by a large majority, and then we become inconsistent and turn right around and provided for the unicameral process in acting on a veto. I disapprove of that. Then, with 40 members in the house and 20 in the senate, when they act on a veto -- of course, the house can override anything that the senate wants to do. In other words, if a senate bill is being reconsidered, the senate might have no say in it. I believe that if a bill is originally considered in one house, they should also be able to reconsider it, and not turn it over to a joint session, and in the case of a senate bill, the senate would be left out in the cold; the house has full control. I also agree with Mr. Robertson in what he says. I believe these things are so serious that I just cannot vote for this article. On other articles, where they are not so serious, I will vote for them, of course.

PRESIDENT EGAN: Is there further debate? Mrs. Sweeney.

SWEENEY: Mr. President, I, too, would like to say that I cannot vote for this article for the reasons stated, and also because of the changes in the impeachment process. I feel that the process should be as before, the proceeding brought in the house and the hearing in the senate, and this has been reversed in this bill. So, for that reason, and for reasons of the change in the veto process in joint sessions, I cannot vote for this bill.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I voted against the judicial bill and I

voted against the initiative bill and I will probably vote against other bills possibly that are offered on the floor in third reading but I am going to cast my vote, for what it is worth, for the legislative bill. I think it is an excellent piece of work and will make us proud that we have this in our constitution.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I am dissatisfied with a couple of matters in this proposal -- article. One is the method of impeachment. I am against that method of impeachment in which the charges are made by the senate and it is tried by the house, but the majority voted for the inclusion of that. The majority also voted to override a veto that both houses would meet in joint session and vote to sustain or override the veto. That has been adopted by an overwhelming majority. Mr. Barr didn't point out to the members, though, that that vote by the joint session of the house and senate must be by a three-fourths majority, where ordinarily a two-thirds majority was sufficient to override the veto. I am going along with the will of this body who has adopted into this article those matters that I was not in favor of, because, if you vote against the article, you are voting against the constitution.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I think that the democratic process involves the consolidation of the opinions of many. Now, I also have some feelings in regard to various articles of this bill. We have adopted them, and by a majority of the thinking vote of this body, and I think it represents the best judgment of this body collectively. If you recall, I tried to amend the term of the members of the house to four years. My thought was that they would have greater continuity and the value and benefit of greater experience in the house. The argument in reply to that was that the house elected by itself every two years would be more responsive to the will of the people. The question there was: did they desire immediate responsiveness, or did they desire experience and continuity of policy. The body here decided to accept immediate responsiveness. Now, there are other items. I, for one, would have preferred to see additionally, four senators at large to balance off some of the geographical discrepancies, perhaps. But those things are all things that I feel have been resolved by the majority will of this body; those are all things that come out of the democratic process. No one of us can have his own way entirely in any or all of the articles which we adopt. Therefore, it is my opinion that we have here before us an entirely and completely workable and, I think, a very effective legislative proposal. I, for one, intend to vote for it.

PRESIDENT EGAN: Mr. Johnson had been attempting to get the floor. Mr. Johnson.

JOHNSON: Mr. President, I am not going to say very much. At the outset, let me assure the delegates that I intend to vote for the article. However, I am keenly disappointed, and was at the time that it happened, that the veto procedure was changed from the traditional two-house method to the method of using a joint session of the legislature. I have always felt that when the veto message was acted upon by each house separately, as I believe it should be, that it afforded an additional check and balance that very frequently was the only protection that a minority could have in a legislature which was over-balanced, one way or another, by one political party or the other. Now, I understand fully the reason why many members in this assembly desire to dilute the strength of the senate, and it stems from experience that they had in the last session of the legislature, but I daresay the time will come when they will be in the position of being in the minority and they will have lost, then, the chance of stemming the override of a veto in one house when they could not do it in a joint session. And it seems to me that that one little deviation from the traditional method of operation could well spell difficulty for those who some day may be in the minority, as some of us have found ourselves on many occasions. Now, Mr. Victor Rivers says that no one of us can have his way all the time. I certainly agree with that, and, from experience, I can say that I probably have had my way less in this Constitutional Convention than all the rest of the delegates put together. But I believe that we are here to write the best constitution possible, and I think the legislative article, by and large, is a fine piece of work, but, and I am not complimenting Style and Drafting Committee of which I am a member, but I think the principal work was done by Mr. McCutcheon's committee. But I still feel that we have set up a rather paradoxical situation which may someday be to our regret, although we do have, or will have, methods of correcting that by way of amendment. Otherwise, I certainly feel that the article is good and sound and American, and I support it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I move the previous question Mr. President, and ask unanimous consent.

PRESIDENT EGAN: Mr. Buckalew moves the previous question and asks unanimous consent. Is there objection.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Taylor that the previous question be ordered. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question --

COOPER: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 21 - Awes, Barr, Buckalew, Collins, Cross, Emberg, V. Fischer, Gray, Hilscher, Hinckel, Kilcher, Lee, McCutcheon, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Taylor.

Nays: 29 - Armstrong, Boswell, Cooper, Davis, H. Fischer, Hellenthal, Hermann, Hurley, Johnson, King, Knight, Laws, Londborg, McNealy, Nolan, Nordale, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 5 - Coghill, Doogan, Harris, McLaughlin, Riley.)

CHIEF CLERK: 21 yeas, 29 nays and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the previous question has not been ordered. Mr. Cooper.

COOPER: I ask for a five-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there further debate on Article II, the article on the legislature? Mr. Smith.

SMITH: Mr. President, may I address a question to Mr. Robertson through the Chair?

PRESIDENT EGAN: If there is no objection, Mr. Smith, you may direct a question to Mr. Robertson.

SMITH: Mr. Robertson, do you believe that if this body rejected this article at this time, that a better article could be prepared in the time left to us?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I don't anticipate that my one vote is going to beat this article. I imagine it is going to be overwhelmingly accepted. But I maintain that I have the right, on any item that comes up for final passage if I don't agree with the theory of it, that I have the right to vote against it. I don't think possibly this body would have the time to redraw a new article, Mr. Smith.

SMITH: Thank you, Mr. Robertson.

PRESIDENT EGAN: Is there further -- Mr. Nolan.

NOLAN: Mr. President, while I agree that probably 75 per cent of the article is as well written a one as could probably be produced, I intend to vote against the article mainly on the provisions pertaining to the veto, impeachment, and the yearly sessions. The yearly sessions are one that bother me particularly, due to the fact that I think a lot of good people in the Territory that would probably run for the legislature will not under those conditions just simply between campaigning and then their terms down there without any limitation upon them at all would take away a lot of good people from the legislative halls.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: That last remark of Mr. Nolan voices my sentiments on it. I think what we are doing here, we are setting up a legislature that is going to be only for professional legislators. We are going to preclude the possibility that a lot of good men that have businesses and other interests whereby they make their living from ever running for the legislature. Because of the yearly sessions and the fact that there is no end of the session, a man filing for office isn't going to know how many days he is going to be away from home. Not just one year, but two years in a row -- every year. I think that alone is enough to cause opposition to this article. Outside of that I am perfectly reconciled to go by what has been said, by the wishes of the majority.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I have been interested in that in the last two reasons given -- about people hesitating to run. I raised that when the thing was considered. But it seemed that, outside of the first two or three years when we would really be busy getting the state organized, that it would pretty well level off to about 60 days a year. We now have 60 days every two years. I believe that after a few years have gone by -- and we're writing this for the long pull -- that that timing will fairly well work itself out.

PRESIDENT EGAN: The question is, "Shall Article II, the article on the legislature, be adopted as a part of the Alaska state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 46 - Armstrong, Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, R. Rivers,

V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 6 - Barr, Londborg, Nolan, Reader, Robertson, Sweeney.

Absent: 3 - Coghill, McLaughlin, Riley.)

CHIEF CLERK: 46 yeas, 6 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it, and the article on the legislature has become a part of the Alaska state constitution. Mr. Hellenthal.

HELLENTHAL: Mr. President, I move that the rules be amended to provide that remarks on third reading in the nature of explanations of votes be confined to one minute, or, in the alternative, that each delegate be given an opportunity to present a written statement to become a part of the permanent record if they have objections.

PRESIDENT EGAN: Mr. Hellenthal so moves. Is there a second to the motion?

KILCHER: I second it.

PRESIDENT EGAN: Seconded by Mr. Kilcher. Would the Chief Clerk please read the proposed motion. Mr. Barr.

BARR: Is that an alternative, submitting a written record? It wouldn't be on the tape then, I understand?

PRESIDENT EGAN: Under the manner in which Mr. Hellenthal stated the motion, Mr. Barr, it would not be on the tape, no. Mr. Johnson.

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: Is such a motion in order at this time?

PRESIDENT EGAN: Such a motion would be in order. It would take a two-thirds vote, Mr. Johnson, to carry the amendment to the rules. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: Mr. Hellenthal moves that the rules be suspended, and that, in third reading, in explanation of the vote, the delegates be confined to one minute (each), and that, in the alternative, they be given the opportunity to present a written statement which will become part of the written record.

PRESIDENT EGAN: Mr. Hellenthal, didn't you move that the rules be amended?

HELLENTHAL: Yes.

PRESIDENT EGAN: Instead of suspended.

NOLAN: Does that include debate? In other words, you would limit debate to one minute?

HELLENTHAL: No. I limit it to explanatory statements of their vote.

PRESIDENT EGAN: The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: With the consent of the second, I should like to withdraw the motion.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the motion be withdrawn. With the consent of the second, the motion is ordered withdrawn. We now have before us Article I, the article on the preamble and declaration of rights, the report on amendments. Mr. Davis.

DAVIS: Mr. Chairman, last night, at my request, the Convention suspended the rules and authorized Style and Drafting to redraft Section 18. That has been partially done. A proposed draft has been shown to a good many of the delegates but it is not ready at this time. Accordingly, I would like to suggest that we consider, since we already have suspended the rules in that respect, consider the article without that section, and then we will present that at a later date when it is ready.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that we consider the article on the preamble and declaration of rights without the consideration of Section 18 at this time. Is there objection? It would mean, Mr. Davis, that we would have to hold up the article in any event, would it not? Perhaps would it be better if we just passed the article until you have Section 18 ready for consideration?

DAVIS: My thought was, Mr. President, that the article -- this particular article -- was to be reworked without reference to substantive matter. That is what I thought we adopted last night, and, therefore, I thought we could actually pass that article at this time and Style and Drafting could put in the article as finally written.

PRESIDENT EGAN: You mean after its final adoption into the constitution?

DAVIS: Well, after the amendment process, at any rate. It

may very well be that we will have that ready by the time we reach Section 18. I don't know. We have a draft now but I think it should properly be written and mimeographed so the delegates could see it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, it seems to me that last evening, that the first order of business this morning was the reconsideration of Mr. Harris' vote.

PRESIDENT EGAN: That is right. We held that in abeyance pending the arrival of Mr. Harris. Mr. Harris.

HARRIS: Mr. President, I finally made it, and I will be glad to have it taken up at this time.

PRESIDENT EGAN: We have, then, before us at this time -- was there objection to Mr. Davis' request with relation to holding Section 18? If there was no objection it will be so ordered, but, at this time, we will revert to the consideration of Mr. Harris' reconsideration. Mr. Harris, what is your pleasure?

HARRIS: Mr. President, at the time the vote was taken on this particular section, there was quite a bit of discussion of whether the words were surplus, whether they were needed, or if the intent of the article would be the same regardless of whether the words "as otherwise provided by law" -- I believe that's the way it read, you can correct me if I'm wrong -- were needed or not. I believe Mr. McNees stated at the time that the intent of the article was that it was a transitional ordinance, and that it could be moved "as provided by law," either initiative or referendum, or by some process through the legislature. Since that time I have talked to some other of our legal brethren, and they have informed me that there is a good possibility that, if the article goes in as it is now written, there is a possibility that the people could not move the capital of Alaska without making a specific amendment to the constitution. I am not particularly interested in seeing the capital moved in the next 10 years or 15 years or 20 years, but I am interested in the fact that, if the time should arise in the future when the people of Alaska would like to have --

PRESIDENT EGAN: Mr. Harris, the Chair does not wish to interrupt but have you moved the reconsideration?

HARRIS: If I didn't, I do now. I am sorry.

PRESIDENT EGAN: Mr. Harris moves the reconsideration of his vote on Mr. Kilcher's amendment, Section 2 of Proposal No. 17/a.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Mr. Buckalew seconds the motion. Mr. Harris, you may proceed.

HARRIS: Mr. President, I am not going to take up a lot of time with it. Mr. McNealy has stated the intent of the article, and, if that is the intent of the article, I can see where no one would have any objection to adding these three words for a matter of clarification. There seems to be a difference of opinion between our legal staff here as to whether the intent would be the same with or without the words; therefore, I am heartily in favor of adding these three words to the constitution. I don't think they make too much difference in the long run.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, of course this is just my own opinion on the location of the capital. I would prefer myself that it be in the body of the constitution and that is it. But in order to allay the thoughts of any of the members that might be in disagreement with the Committee on this, I know the Committee is right and, knowing that the Committee is right, certainly no harm can be done by adding the words which are suggested in this amendment, because it will mean exactly the same then as it does now in this particular place where it is located in the ordinances. So I think I speak for at least the majority of the Committee that we certainly would have no objections to those words being added.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Kilcher.

CHIEF CLERK: "Proposal 17/a, Section 2, line 2, change the period to a comma and add 'unless decided otherwise by law'."

PRESIDENT EGAN: Mr. Stewart.

STEWART: As one member of this Committee, I wish to go on record as saying that I was not in favor of those words. I was in favor of putting the section just as it is worded here in the body of the constitution; no additional words; no provision for a referendum. I think there should be compelling reasons why a move of this kind should be undertaken. They must be compelling because of the disruption that would occur by reason of any such intent. The capital has been at Juneau for 50 years or thereabouts. There has been no difficulty with regard to having it as the capital; it has served well. I urge all of you to consider very, very carefully any move that will bring about an uncertainty as to where the capital is during the next five, ten, or fifteen years, and I would prefer very much myself to see it in the body of the constitution. The constitution can be amended; there are provisions for that. If, over a period of years during which the state is being formed and we are going through the initial stages, there is no reason why the constitution can't be changed after a period of years if it is shown and shown conclusively and compellingly that there is a very good reason which offsets those against it.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I think I am also talking for our Committee on Ordinances, and in our Committee on Ordinances, we have given this question a lot of consideration, and I think there, also, we have reached a compromise between the stand that Mr. Stewart now has so ably expressed, and between a whole variety of positions whereby the capital at Juneau right now might be put some other place, or whereby the capital at Juneau, the capital of Alaska, should be decided in a referendum immediately upon attainment of statehood, and a whole variety of intermediate positions were taken. This Section 2 here was accepted as a committee compromise with a majority intent clearly expressed that the capital should be in Juneau, but this statement should not be embodied in the constitution itself. It should be as an ordinance to make it amendable by law. That was clearly the intent, but this little amendment of mine here is only serving the purpose of making that intent clear beyond any doubt. There have been opposing views as to whether the intent of the Committee compromise is clearly worded, and, in order to erase any possible doubt in the minds of the delegates here and in the minds of future Alaskans, I have introduced this little amendment to implement or more clearly express the Committee's intent on this compromise. In other words, what it boils down to is this, fellow delegates, do you want to see the capital site question embedded in the body of the constitution, including this here Section 2 as it is, do you want to possibly interpret it that it is embedded in the body of the constitution and not amendable by legislative action, or do you agree that possibly we should leave the capital in Juneau as it says here, subject to law? I think this little amendment would clear the air. It is a simple question. Shall the legislature have something to say about it or not? I think it should.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I believe that, as sincere as Mr. Kilcher is, that he has drawn a wrong assumption in saying that in voting against this inclusion in the article would be freezing this into the body of the constitution.

KILCHER: Point of order, Mr. President. I have not made such a statement, Mr. President. I said there is serious doubt as to whether it might or might not, and I have advocated to erase the doubt.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I am sorry I can't take back what I said, but I think the assumption is correct. Mr. President, I certainly don't pose as one who knows all the problems of Alaska, but I have traveled greatly and I have had all of Alaska on my heart. I have lived in Fairbanks, I have lived in Anchorage. The embarrassing point of living in these different cities is that

people will come occasionally and say, "Which town do you like best?". It is not a fair question, it is a natural question. I have heard of divisions of people pulling things from Anchorage to Juneau; things from Juneau to Anchorage, and to Fairbanks. And all of the time, I have tried to say that many of these tensions and provincialisms are not pressure groups. It isn't a case of robbing one place to satisfy the economic needs of another, but I think I can fairly estimate in my own heart that we do a grave injustice at this stage of our Constitutional Convention to include this intimation at this time which I think is rather unfair. I think that Mr. Stewart is correct that this constitution can be amended at periodic intervals.

KILCHER: Mr. President, point of order. Is Mr. Armstrong debating from the assumption that Section 2 as it is will freeze the capital in Juneau, or is he debating as to the necessity of the amendment to clarify the intent of the Committee?

PRESIDENT EGAN: Mr. Kilcher, we will have to wait and see --

ARMSTRONG. Mr. President, I would make it very clear at this time that I will vote to retain the language in the original article as proposed by the Committee, and I ask you with clear heads to think what this means clear on through in our life as a Territory, to vote for the retention of the language as originally proposed by the Committee. Thank you.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, we'll all admit that we think that the legal implication of putting "The capital shall be at Juneau" in the ordinance in the schedule is that it is a temporary measure. In other words, it can be changed by the legislature or by the initiative or referendum or however you want to state it. I think in all fairness to the people of Alaska we should spell it out because the average man is not going to know whether that is permanent or whether it is transitory in the sense that it can be reached by the legislature or by initiative. If it means that, I think we ought to write it in there so that everybody that reads the constitution will know exactly what the Committee meant. I don't see that it will do any harm, and I think that it might help the judge or the court if it ever comes down to judicial determination. I will agree with Mr. McNealy; I think he is probably absolutely right. But I still think that there is room for doubt, but I think the main reason that we should include this language is that I think, in fairness to the people of Alaska, we ought to spell out exactly what we are doing on an issue of this nature.

PRESIDENT EGAN: Is there further discussion? Mr. Robertson.

ROBERTSON: I would like to remind the delegates that you already have the initiative and referendum, and, no matter whether Mr. McNealy's theory of the law is correct or incorrect, under the initiative and referendum, if any demand or need develops

for the changing of the capital, the people themselves, by initiative, can call the constitutional convention and change it. So, it doesn't even have to wait ten years, which is a very short time, and it seems to me we ought to retain the language as reported by the Committee.

KILCHER: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: A point of rather correction. I think that Mr. Robertson is mistaken. There was an amendment that would have made the initiative operative for constitutional amendment or for calling --

PRESIDENT EGAN: Mr. Kilcher, Mr. Robertson is entitled to express his opinion, and it does not involve a point of order. Mr. White.

WHITE: Mr. President, I can well understand and sympathize with the views of those who feel the capital should be where it is now period. But I have been in serious doubt in listening to the debate in the two occasions it has taken place as to whether it is clear under the current Section 2 that the capital could be changed by law, and I think that, if any doubt exists, that those who wish to so provide should vote for this simple amendment. In reading my Juneau Independent today, I notice that it says, "Juneau as the capital of the State of Alaska, with no ifs, ands, or buts. The constitution would say, if the Ordinance Committee recommendation is followed, that the capital is established at Juneau," -- skipping a few words, "with no modification except by the process of constitutional amendment." Now, if it is possible for us to misunderstand each other here as to the intent or the meaning of a certain section in a certain article and some words are found desirable to clarify it, I think, if we are in favor of the clarification, we would be well-advised to adopt those words.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Could I ask Mr. Robertson a question?

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal.

HELLENTHAL: Mr. Robertson, in legal or constitutional effect, do you see any difference between the language of Section 2 in Proposal 17/a, namely, "The capital of the State of Alaska shall be at Juneau," and in the language in the proposed amendment, "The capital of the State of Alaska shall be at Juneau until otherwise provided by law."?

ROBERTSON: Yes, I do, Mr. President. You immediately, by adding those words, you immediately develop the uncertainty that

the very first legislature, and, after all, you must realize that we are heavily outvoted by the proposed legislature we have just set out, they could immediately change it without any necessity whatsoever existing therefor. I think it is to the people themselves when you leave the language as it is, to leave it plain and certain, except for what Mr. McNealy's examination of the legal decision has on the effect. This immediately says that the very first legislature might change the capital. There is no stability; there is no certainty whatsoever to the proposition when you add those words.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to ask Mr. Robertson a question. Do you think then that leaving them without those words does leave a doubt as to whether or not the legislature or other methods of law could act? Is that right?

ROBERTSON: I will answer that by saying that. I have not investigated this section as Mr. McNealy has as to the legal effect of having it in a measure that is termed a transitional measure as having it in effect in some other measure, but it seems to me that, in answer to Mr. Victor Rivers' question as I already have, that the initiative and referendum specifically authorizes the people by constitutional amendment to change this any time they want to call a convention, and you are bound under that initiative and referendum, if I remember correctly, to have a constitutional convention every ten years.

V. RIVERS: Another question, Mr. President. You keep referring to the initiative and referendum only for the purpose of calling a constitutional convention, not for actually amending the constitution, is that right? I understand that our initiative does not extend to amendments directly to the constitution.

ROBERTSON: No. That is true.

V. RIVERS: Your position is that, if we were to amend this out of ordinances, you would have to call a constitutional convention to amend it that way?

ROBERTSON: That is my understanding.

V. RIVERS: That is your interpretation?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, on the question of law, today, I ask the permission of the floor on a point of personal privilege.

PRESIDENT EGAN: If there is no objection, you may have the floor on a point of personal privilege, Mr. McNealy.

(Mr. McNealy spoke under a point of personal privilege.)

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to ask Mr. McNealy what the effect is of the preamble that appears as shown on Committee Proposal No. 17/b, which would relate to Section 2, that has been under discussion here, and I am asking that question because he made some very pertinent remarks which may very well be the basis of many votes, and those remarks weren't on the record as he was speaking as a matter of personal privilege, and I would like to have him repeat for informational purposes, in brief, what that statement was. What would be the effect of the preamble on this section as discussed?

PRESIDENT EGAN: If there is no objection, Mr. McNealy, you may answer the question.

McNEALY: As I had stated, it is almost a unanimity of opinion and decisions of the courts in regard to ordinances and whether they are permanent or whether they are merely transitory in nature that, where these words are used in the preambles of the ordinances, the courts refer back to those stating that the only purpose of the ordinance then is merely the direction of an orderly transfer of a territorial to a state form of government, and it is merely the transitional period and, strictly speaking, what it means with the capital in here, and with the wording we have in the preamble to the section here, it means that the capital has been orderly transferred from the Territory to the state. And, in conclusion, I will state again that as soon as the state government comes into effect, the entire schedule that will be offered by the Ordinances Committee will drop away from the Constitution and no longer be a part of it.

V. FISCHER: Then once the transition has taken place, Mr. McNealy, the initiative provisions would apply as well as the authority of the legislature to amending the location?

McNEALY: Mr President. That is correct, Mr. Fischer.

V. FISCHER: Thank you.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think we are making a mountain out of a molehill here. It makes absolutely no difference whether we leave the words in or whether we leave it as the Committee brought it in or put the words in as suggested by the amendment. Now we must not lose sight of the fact that when we adopt any particular article of this constitution or any particular section of any article, we are not casting it in a mold from which it cannot be taken. Everything that we do here is not bound to be that same until

eternity, because we cannot bind future legislatures, nor can we bind the people not to do something in regard to changing it. So, regardless of the fact of whether or not we adopt this amendment, if we put the capital to be at Juneau, it doesn't mean it is there forever, because it can be changed by law when the people want it to change. It is only natural that this Committee, which I think did the right thing in drawing it in its present form, should be left there, because we have to have in our transitory provisions some designation of where the capital is going to be until the people by a referendum at some future date want to amend the constitution and name a place where the capital is going to be permanently located. So, regardless of whether we adopt the amendment or not, I think it makes no difference. I think we have just wasted a lot of time here, because those words are implied in the article itself, regardless of whether they are there, so what difference does it make whether we have the amendment or not? Leave it just at Juneau because it is going to be there anyway.

PRESIDENT EGAN: Are you closing the argument now, Mr. Harris?

HARRIS: Yes.

PRESIDENT EGAN: Mr. Harris, you may close the argument. Mr. Kilcher.

KILCHER: Point of order, or rather a point of information. I went through the article on referendum and initiative, etc., and I didn't find any indication that the people, by the initiative, could call a constitutional convention. This is not the case; the people cannot call a constitutional convention. It is only the legislature by two-thirds vote or then it be automatic by referendum every ten years. Those are the only two ways to call a constitutional convention.

PRESIDENT EGAN: Mr. Harris has the floor.

HARRIS: I don't want to belabor this point or take up any more convention time. The only reason that I reconsidered my vote was that the type of discussion that we have had here today was the fact that many of us here disagree on whether it is the intent that it can be changed by law, or it cannot be changed by law; whether it takes a constitutional amendment, or whether it doesn't. I would like to have it clearly defined in our constitution whether this capital site shall be frozen, or whether it shall be subject to the people to change by initiative or referendum or by the legislature. That was the only intent that I had in making my reconsideration of Mr. Kilcher's amendment. If there is any further doubt in your mind whether this can be changed by law, then I would urge you to vote for the amendment. I hate to have anything hazy or not clearly defined that could bring up an argument, could bring up a lawsuit, could bring up

a lot of things in the future. Let's have it one way or the other. If we are going to be able to change it by law, let's state it so that everybody can understand. I don't want to see the newspapers -- as Mr. White has already told us, one paper came out and says it cannot be changed. I have seen another press release from an Anchorage paper that says if it goes in the way it is, the people can change it anytime. The newspapers don't agree; we don't agree. Let's have it one way or the other -- make it a clearly defined statement. The Committee says the intent is that it can be changed by law. Therefore if that is the intent, I see no reason why there should be any objection to the words we are adding.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 2, line 2, change the period to a comma and add 'unless decided otherwise by law'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" Mrs. Sweeney.

V. RIVERS: Roll call.

SWEENEY: Just a matter of information. Now in order to leave it the way it stands here, we should vote "no"? Is that right?

PRESIDENT EGAN: That is right, Mrs. Sweeney, we are voting again on the proposed amendment of Mr. Kilcher. The Chief Clerk will call the roll on the proposed amendment as offered by Mr. Kilcher.

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Buckalew, Cross, H. Fischer, Harris, Hurley, Kilcher, Londborg, McCutcheon, McNees, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, White, Mr. President.

Nays: 38 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, Nerland, Nolan, Nordale, Peratrovich, Riley, Robertson, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, and Wien.

Absent: 1 - McLaughlin.)

LONDBORG: I wish to change my vote to "yes".

PRESIDENT EGAN: Mr. Londborg changes his vote to "yes".

3200

CHIEF CLERK: 16 yeas, 38 nays, and 1 absent.

PRESIDENT EGAN: So the "Nays" have it and the proposed amendment has failed of adoption. Mr. Johnson.

JOHNSON: I move that the Convention stand at recess for 20 minutes.

PRESIDENT EGAN: Are there committee announcements?

AWES: Meeting of the Bill of Rights Committee immediately upon recess.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Committee No. VI will meet upstairs immediately following recess.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, could I ask you through the Chair, if there is no objection, if there is to be a meeting of the Executive Committee?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We are going to have a meeting of the Executive Committee but I don't think we have time to cover it in this period of time.

PRESIDENT EGAN: Are there other committee announcements? If not, the Convention is at recess until 4:15 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: Mr. President, now that we are on Committee Proposal No. 17/a, specifically Section 2, I move the adoption of an amendment to Section 2 which is on the Clerk's desk.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 2. Strike the section and substitute the following: 'Unless otherwise determined as hereinafter set forth, the capital of the State of Alaska shall be at Juneau. Within 5 years from the admittance of Alaska as a State of the Union, the legislature shall establish a capital site survey commission to study the merits and demerits of potentially suitable sites for the permanent capital in line with the best

interests of the people of the whole state. Upon completion of its studies, the commission shall report to the legislature and to the public. The legislature shall then provide for a referendum by the people at a statewide election or series of statewide elimination elections until a majority of the voters voting on the proposition have concurred on a particular site, after which the seat of government shall be retained at Juneau or changed as rapidly as feasible to the new site, as the case may be."

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of this amendment. Is there a second?

POULSEN: I second it.

PRESIDENT EGAN: Mr. Poulsen seconds the motion.

SUNDBORG: Point of order. Is this really before us according to the calendar?

PRESIDENT EGAN: Mr. Sundborg, as you will recall, the first thing on the calendar was the pending reconsideration of Mr. Harris' notice of reconsideration; he was not here. We held that over and then, after he arrived, we proceeded with that matter. The moment that is done it places the proposal before us in exactly the same position it had prior to the time that the reconsideration motion was made.

SUNDBORG: In other words, even though the calendar says that the only thing in this order of business is the reconsideration, it brings the whole matter back?

PRESIDENT EGAN: It does bring the matter back. Mr. Ralph Rivers.

R. RIVERS: In that case, 17/a is before us and we are now dealing with Section 2. You have heard this read. The purpose of this amendment is to spell out an orderly procedure for the expression by the state over a period of years as to the site of a permanent capital. Mr. Robertson expressed the fear this morning that, if it were left up just to the legislature, that you did not know what the first legislature could do or would do. Just the legislature can change the capital, or the capital can be changed by law; that is the position we are in right now. The Chairman of the Committee said that to put the specification that "Juneau shall be the capital" in the transitory provisions merely says that, to avoid inconvenience during the transition period, the capital shall be at Juneau; that leaves it wide open for the legislature or other ways of enacting laws to go into effect. Our not putting those words in this afternoon doesn't change that situation. It now reads "unless changed by law". Well, this would give something definite and specific; it would

refer it to the whole people in the entire state on a fair basis without our making up their minds. It would outline a framework for the legislature to follow. If there are only two really outstanding sites, then you could have one referendum, say between Juneau and one other place, but if there were three or four suitable sites, that would be before the consideration of the people. Then you could have some elimination elections. They would set up a capital site commission to study such things as the land conditions, transportation facilities, weather. When I mean land conditions, I mean foundations, water supply, drainage, and the various factors that would enter into picking a permanent site. That should be set up by the legislature within five years. It would probably take another four or five years for that site commission to explore, prospect the foundation conditions, and study the various sites that might be under consideration. After that, the legislature would provide for a referendum or series of referendums. After that, Juneau might win the referendum and the capital would remain. If Juneau didn't win, then it would be moved as rapidly as feasible which would postulate a period of years, because, as you know, you don't just move away from an established setup and build another one overnight. That, I think, is a fair proposal. I have no great heat in the matter. I just thought it was something that should be brought before the body.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, I am against this amendment for a couple of reasons. One is that it is legislation that we are writing into the constitution again. The other is that it sets up a commission and we just got through throwing all the commissions out the window after much debate. There is nothing in this section that isn't already provided for; there is nothing in this proposal that the legislature can't take care of. They can set up a commission to study all of the things that were mentioned. We still have the initiative and referendum proposal that we have adopted, and I am not an attorney, and I maintain that if the capital of Alaska is to be moved or wants to be moved, there are many ways, devious if necessary, that it can be put before the people without writing legislation such as this into the constitution.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I agree with Mr. Doogan, and the thing that concerns me primarily is that we specify a five-year period and then the people have to decide. I can very well see that for five, ten, fifteen, twenty or more years there may be no desire to move the capital at all. There may never be a desire. I think that, as long the legislature has the authority to initiate the move of the capital, or the people have the authority to do it through the initiative, that the matter best

be left until the actual need arises rather than, five years after we become a state, go through this process of trying to decide right then and there whether -- not just whether -- but where the capital should be moved, because this provides for a definite referendum. It implies that it will be within five years, and that at that time people will be given the choice of at least two sites to vote on, and I would much rather leave it to action of the legislature or the people when the need arises.

PRESIDENT EGAN: Mr. McNees has been attempting to get the floor.

McNEES: Mr. President, I would like to ask Mr. Doogan a question, if I may. Is it not true, Mr. Doogan, that Proposal No. 17/b here is all interim legislation?

DOOGAN: I think it is.

McNEES: I was much in favor of the more brief amendment submitted earlier, but in view of its having been voted down, I am going to support Mr. Rivers' Amendment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, as Secretary of the Ordinance and Transitional Committee, we held what you might call an open meeting for the members to express themselves upon the location of the capital on January 13. Seventeen persons expressed their views on the matter. Our Committee held this meeting in order to save time, in order to speed the action of this Convention, and now we come up to amendments, new ideas, etc. I feel that this subject has been adequately covered, and for heaven's sake, let's leave something to future generation Alaskans to perfect. Our work is without question marvelous, but there must be something that the legislators and the future citizens of Alaska can perfect that we just haven't made absolutely perfect. I am constrained to vote against this, and I say let's get on with our work. We have less than 255 hours left until 10:00 a.m. on the 6th.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: I wish to speak against this amendment for the reason that here we are setting up a special referendum provision machinery. I don't see how we can do that in this assembly here, to go for that after we have set up an initiative and referendum procedure in the constitution. If we do, in effect, we are telling the people of Alaska that we have no confidence in what we have done here in this other article.

PRESIDENT EGAN: Mr. Ralph Rivers, are you closing?

R. RIVERS: I shall close unless anyone also wishes to be heard. If not, I rather object to Mr. Hilscher's statement or implication

that this is not part of the work of the Convention. This is worth considering and turning down if you don't like it. I don't care whether it's five years that the legislature is allowed in which to set up a site commission, or 15. This is the framework; that could be changed and if the public has no desire to change the capital in five years or after they get a report from the site commission, then they could vote in favor of Juneau and leave it there. This is something that I think is a fair way of getting it before the people and having the people of Alaska guided in the matter, and I just submit it to you, that is all.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?"

SUNDBORG: I would like a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 11 - Cross, H. Fischer, Harris, Hinckel, Hurley, Londborg, McCutcheon, McNees, Poulsen, R. Rivers, V. Rivers.

Nays: 40 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hermann, Hilscher, Johnson, King, Knight, Laws, Lee, McNealy, Marston, Nerland, Nolan, Nordale, Peratrovich, Reader, Riley, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 4 - Hellenthal, Kilcher, McLaughlin, Metcalf.)

CHIEF CLERK: 11 yeas, 40 nays, and 4 absent.

PRESIDENT EGAN: So the "Nays" have it and the proposed amendment has failed of adoption. Mr. Boswell.

BOSWELL: Mr. President, I have an amendment to Section 20 on the Secretary's desk.

PRESIDENT EGAN: Are there other amendments first, Mr. Boswell, to Section 2? If not, we will proceed to Section 20. The Chief Clerk may read Mr. Boswell's proposed amendment.

BUCKALEW: Mr. President, I wonder if Mr. Boswell would consent -- the Committee has amendments to Sections 20 and 21. Would you consent to the introduction of the Committee amendments first?

BOSWELL: Yes.

PRESIDENT EGAN: Mr. Boswell consents. The Chief Clerk may read the proposed amendment as offered by the Committee. The Convention will come to order. Do all of the delegates have a copy of that proposed amendment before them?

JOHNSON: Point of information. Are we working on 17/b?

PRESIDENT EGAN: 17/a, Mr. Johnson. Would the Sergeant at Arms please bring Mrs. Hermann a copy of Committee Proposal No. 17/a; Mr. Collins needs one also; and the amendment that is being offered by the Committee to Section 20 of Committee Proposal No. 17/a. If there is no objection, the Convention will be at recess for two minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We now have the amendment to Committee Proposal No. 17/a, Section 20.

CHIEF CLERK: "Strike Sections 20 and 21 and substitute the following: 'Section 20. If this constitution shall be accepted by the electors and a majority of all the votes cast for and against the proposition to abolish fish traps shall be cast for adoption of the proposition, then the following shall become effective: As a matter of immediate public necessity, to relieve economic distress among individual fishermen and those dependent upon them for a livelihood, to conserve the rapidly dwindling supply of salmon in Alaska, to ensure fair competition among those engaged in commercial fishing, and to make manifest the will of the people of Alaska pending the establishment of the first state legislature, the use of fish traps for the taking of salmon for commercial purposes is hereby prohibited in all the coastal waters of the State until otherwise provided by law. Violations of this section shall be punishable by a fine not to exceed \$5,000.00 and by confiscation of the fish traps. The police power of the State shall be used to the extent necessary to enforce this section. Section 21. Each qualified voter who offers to vote upon this Constitution shall be given a ballot by the election judges which in substance shall contain the following proposition:

Shall the proposed constitutional provision	_____
prohibiting the use of fish traps for the taking	YES
of salmon for commercial purposes until otherwise	_____
provided by law, become effective?	NO."

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I ask unanimous consent for the adoption of the amendment.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Do you so move, Mr. Buckalew?

BUCKALEW: I so move.

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Buckalew so moves, seconded by Mr. Knight. Mr. Fischer.

V. FISCHER: Mr. President, I very much object to the words on the first page in the second line from the bottom, "until otherwise provided by law", and the same language in the proposition to be put on the ballot. I think that it is unnecessary language, first of all, in view of the fact that Mr. McNealy explained this is going under the preamble of the schedule of ordinances. But even aside from that, I feel that it is undesirable language because it implies that it may be a year after we get statehood, it may be two years after we get statehood the legislature may provide for fish traps. I don't think that is desirable language, Mr. President, and I would like to amend the amendment by striking the words "until otherwise provided by law" in Section 20. May I do it for both sections at the same time?

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, the Committee doesn't have any objections.

HILSCHER: Mr. President, I rise to a point of order. I am Secretary of the Committee and I don't think I have a copy of the amendment that Mr. Buckalew is calling a committee amendment. I think it is the Buckalew amendment. I fail to find any.

BUCKALEW: We had a meeting of the majority of the Committee, Mr. President, and it was adopted. I don't know where Mr. Hilscher was. He is kind of hard to find sometimes.

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer.

V. FISCHER: I move that the words "until otherwise provided by law" should be deleted in Sections 20 and 21.

PRESIDENT EGAN: Mr. Fischer moves. Is there a second?

BUCKALEW: I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment as proposed by Mr. Fischer. Is there objection? Hearing no objection, the amendment is ordered adopted. Mrs. Hermann.

HERMANN: May I ask Mr. Buckalew a question? I would like to know just how one would go about confiscating fish traps.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: You mean the mechanical process?

HERMANN: Yes.

BUCKALEW: I imagine you would confiscate it the way you would a boat or a seine or anything else. It would probably be a little difficult. I imagine you would just tear the rigging out so the traps would be inoperative. I don't think the state would pull the pilings out. If you confiscate it, you would put it in such condition that it couldn't fish anymore.

HERMANN: Is that what "confiscate" means?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to elaborate on it. We have two types of traps; that is, a large trap with what they call a floater, put together with logs, and towed to and from the site where it is set out for the summer, and it can be confiscated the same as any other thing. The other matter of confiscation would be merely a matter of prohibiting the use of it, and in time, the weather and elements would take the piling out and there would be no fish traps there.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: May my amendment be read now?

PRESIDENT EGAN: Mr. Boswell, we have the pending amendment before us.

BOSWELL: I thought that was the unanimous consent.

PRESIDENT EGAN: No, that was just for the adoption of the deletion of those words, Mr. Boswell.

HURLEY: I rise to a point of order. I believe Mr. Boswell seeks to amend the amendment.

PRESIDENT EGAN: Well, he has a separate amendment. If he desired to amend the amendment, he would be in order, but that isn't the Chair's understanding.

BOSWELL: My amendment is to strike the entire amendment.

PRESIDENT EGAN: Is that your amendment, Mr. Boswell? Whether or not that would be -- it's sort of hard to feel that that

would be an amendment to this amendment. You will be in order though when this --

BOSWELL: Their amendment replaced their original section, and Mr. Buckalew asked permission to put it in before my amendment and that was granted. I take it that that is in now.

PRESIDENT EGAN: No, it isn't in now, Mr Boswell. When we act on that, your amendment will certainly be in order. Mr. Johnson.

JOHNSON: May I direct a question to Mr. Buckalew?

PRESIDENT EGAN: You may direct a question, Mr. Johnson.

JOHNSON: In Section 21 of your proposed amendment, the proposition as suggested to be placed on the ballot contains the language, "shall the proposed constitutional provision prohibiting the use of fish traps", and so on. Now the thought that occurs to me is, if this amendment carries and becomes a part of the schedule, will this language be correct? Is it a constitutional provision?

BUCKALEW: Yes, it is a constitutional provision, Mr. Johnson.

JOHNSON: Well, I was under the impression that the schedule was not a part of the constitution.

BUCKALEW: It would be a constitutional provision; it would remain in effect until the legislature acted on this subject. It might remain in effect forever, but it would still be a transitory measure.

JOHNSON: If it is not in the constitution, how could it be a constitutional provision? That is the point I make.

BUCKALEW: Well, it's just the language. What else could you call it? It is a provision in the schedule and the schedule is part of the constitution. That is the only terminology I have seen used -- "constitutional provision".

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. Buckalew a question?

PRESIDENT EGAN: You may ask a question.

R. RIVERS: Could you say "constitutional ordinance"?

BUCKALEW: Well, Mr. Rivers, there is a technical distinction; it's not too well defined between an ordinance and a constitutional provision. The reason I used this language is because of the type of provision it is. If I used the word "ordinance", it

might be subject to attack on the grounds that it wasn't a pure ordinance in the strict sense that we know of other ordinances that you find in the constitution, and the cases that I have read; in similar situations, they used the expression "constitutional provision".

R. RIVERS: Mr. Buckalew, you spoke of action by the legislature which you say might never happen. This is set up to be a self-executing ordinance, is it not?

BUCKALEW: That's right.

R. RIVERS: The legislature wouldn't have anything to do with it, would it?

BUCKALEW: The reason that the matter is put in the schedule is that, if the legislature ever wanted to act on the subject, they could act on it. If you put it in the body of the constitution, perhaps it would be abolished forever and the legislature could never legislate on that subject unless they amended the constitution, and the purpose of this provision is to only insure the immediate closure of the traps the instant the state receives her sovereignty. The minute they are admitted the traps are outlawed, and that would cover the time from the instant we are admitted until the time that the first legislature meets. It might be three weeks; it might be a month; it might be two months. But, if it happened during the fishing season, it is possible the traps could fish for another whole season. That is the reason the ordinance is in there -- to cover that situation.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I am still going to stand with these particular sections, 20 and 21, whether they should be adopted or stricken. What happens to Section 19, then, and the original Proposal 17, which is still left in? Does all that take the same effect then?

PRESIDENT EGAN: Mr. McNealy, what happened to Section 19? Is that still in Proposal No. 17/b?

MCNEALY: There was different numbering. Mr. President, I want to explain on this, it comes out as a committee amendment without any objection on my part. The original ordinance, as I understood it to be, was voted on by the Committee. At that time it had another number, and the Committee vote was five to four on it, and we reserved the right to talk as we saw fit. But now as to the section numbers, Mr. President, they will have to be either arranged by Style and Drafting there on our consideration, that is, the full Committee consideration was given under different numbers, but I believe this is substantially along the lines.

BUCKALEW: Well, now, as I recall it, when this proposition came up, we voted eight to one to put the ordinance in the schedule, and the vote was five to four to put the fish traps in the body of the constitution. Wasn't that the vote?

McNEALY: Mr. President, if I remember correctly, the original vote was eight to one in Committee in favor of the abolition of fish traps and was based upon a proposal given the Committee by Mr. Lee, which simply stated in just about two lines that "fish traps shall be abolished". And then, an amended version and a longer version was first brought on the floor here, was voted on, Mr. Buckalew, and the vote was five in favor of putting that particular ordinance in the constitution, or provision, as you call it, and I believe that you and I talked over this amendment here and I don't know what other conversations you had with the others on the Committee, but it was five to four on the longer version. I believe that should be in the Secretary's record.

PRESIDENT EGAN: Mr. Buckalew, the Chair was wondering and perhaps Mr. Robertson was wondering where these other sections went between Section 2 and Section 20. He specifically asked the original question with relation to Section 19.

BUCKALEW: The thing is, we have a whole schedule, and we wanted to get the capital and the fish traps out because they were finished. Now the 1 to 19 is on the desks of the Committee, it has been introduced.

PRESIDENT EGAN: Section 19 will still come before the Convention? Is that correct?

BUCKALEW: What is Section 19?

COOPER: Point of information. Isn't Committee Proposal No. 17 automatically withdrawn by being superseded by Committee Proposals 17/a and 17/b?. If so, there would be no Section 19, there would be no other sections.

PRESIDENT EGAN: Was that the action taken last Saturday by the Convention?

COOPER: I don't know, sir. I am asking you. Isn't 17/a and 17/b superseding Committee Proposal No. 17?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: My recollection is that Mr. McNealy or some member of his Committee asked the Convention's permission to consider these two sections, which are really three sections, before they considered the whole Proposal No. 17, and that permission was granted.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McNealy.

McNEALY: Mr. President, I move and ask unanimous consent to withdraw Committee Proposal No. 17.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent that the original Committee Proposal No. 17 be withdrawn at this time. Is there objection? Hearing no objection, Committee Proposal No. 17 is ordered withdrawn, and we have before us Committee Proposal No. 17/a. Is there further discussion regarding Committee amendments? Mr. Hurley.

HURLEY: Mr. President, point of information.

PRESIDENT EGAN: Your point of information?

HURLEY: It is my understanding that Committee Proposal No. 17/a, Section 20, to be in accord with 17/b, should be numbered 24 and 25. In other words, 20 should be changed to 24, and 21 to 25; and then we'll be, I think, in order.

PRESIDENT EGAN: Does the Committee have objection to renumbering in their proposed amendment Section 20 to read Section 24, and Section 21 to read Section 25? Is there objection? Do you ask unanimous consent, Mr. Buckalew, that that be included as a part of your proposed amendment?

BUCKALEW: I do.

PRESIDENT EGAN: Hearing no objection, it is so ordered, and the renumbering is included as a part of the proposed amendment. If there is no further discussion with relation -- Mr. Smith?

SMITH: Mr. President, I would like to ask Mr. Buckalew a question.

PRESIDENT EGAN: If there is no objection, Mr. Smith.

SMITH: On line 1 of page 2, where you say "pending the establishment of the first state legislature", is it your thought there that this ordinance shall only be effective until the first state legislature is established?

BUCKALEW: My thought was that the first state legislature -- they would be abolished from now on; if the first state legislature didn't act on the subject, they would still be abolished.

SMITH: Well, do you think this language says that?

BUCKALEW: I think it does, but I think we could make it clearer than that. Now that I read it, I see your question.

PRESIDENT EGAN: Do you ask for time to make that change, Mr. Buckalew?

BUCKALEW: Well, I ask for a two-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall the proposed amendment as offered by the Committee, Sections 24 and 25 of Committee Proposal No. 17/a -- Mr. Lee?

LEE: Mr. Chairman, I don't know if all the people here -- are we voting on the adoption of this amendment or changing it?

PRESIDENT EGAN: It would be on the adoption of the proposed amendment that we have before us here, Mr. Lee.

LEE: I would like to say a few things, not very much, if this is the time.

PRESIDENT EGAN: It isn't the final vote, Mr. Lee.

LEE: Oh, that's what I wanted to know.

PRESIDENT EGAN: This is a vote as to whether or not to adopt this proposed committee amendment to Committee Proposal No. 17/a.

LEE: All right. Thank you.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted by the Convention?"

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

METCALF: May I abstain, sir?

PRESIDENT EGAN: Do you ask to abstain, Mr. Metcalf?

METCALF: I do.

PRESIDENT EGAN: If there is no objection, Mr. Metcalf, you may abstain. Mr. Davis.

DAVIS: Mr. President, maybe I misunderstood you, but I thought you said a moment ago that we were voting on whether or not this amendment would become a part of the committee's report, and then I thought the last time you put the question you said, "The question is whether or not we should adopt this amendment." There is quite a difference.

PRESIDENT EGAN: As a part of the committee report. Mr. Hilscher?

HILSCHER: As a member of the Committee, may I ask what we are voting on now? Is it to include this in or out or what?

PRESIDENT EGAN: This vote that you are going to be voting up on now, Mr. Hilscher, is on the question whether or not to adopt this proposed committee amendment as a part of Committee Proposal 17/a.

HILSCHER: And then it becomes Sections 24 and 25?

PRESIDENT EGAN: That is correct. Mr. Taylor.

TAYLOR: Mr. President, I am just rising to a point of information.

PRESIDENT EGAN: Mr. Taylor, your point of information.

TAYLOR: Is it permissible to offer an amendment to this now in the event it is adopted and goes in as 24 and 25 --

PRESIDENT EGAN: Yes, amendments can be offered at that time.

TAYLOR: At that time, not this time?

PRESIDENT EGAN: Of course you can offer amendments to the amendment, if you so desire, Mr. Taylor, but if it would be adopted, other amendments could be offered for the adopted section. Mr. Hinckel.

HINCKEL: I am only rising to a point of information.

PRESIDENT EGAN: Your point of information.

HINCKEL: I would like to speak in favor of this or some similar article, but I just don't understand when.

PRESIDENT EGAN: Mr. Hinckel, you could speak to the adoption of this proposed amendment if you desire to do so. You could also, then later, speak to it in third reading, to the whole proposal, if you so desired.

HINCKEL: Maybe I'd better speak now, first. I haven't a great deal to say except that I think that everybody here understands

pretty well what a fish trap is and what the disadvantage of their continuance in use is. They also understand how the fishermen all feel about it. I come from a part of Alaska where a great many of the people are fishermen and depend upon their fishing for their livelihood. The people over there have sent me no ultimatums or anything in particular up to now regarding the constitution, but they have asked me to support anything that would get rid of fish traps. I have also seen in the paper the last few days where the Alaska Department of Fisheries held hearings over there in Kodiak. It was on the 23rd of the month. And you probably noticed the items that the people over there voted that they wanted immediate abolition of the fish traps. They were not satisfied with the proposal of the Department of the Interior; neither were they satisfied with Delegate Bartlett's five-year plan. They want them out, and out now. This amendment that is offered here now, one of the main things about it is that it is asking for them to be gotten rid of immediately upon the acceptance of the constitution, and it's for the good of the people, to relieve economic distress, and believe me, there are parts of Alaska where there is economic distress due to these fish traps. I ask you to do anything that you can, either in accepting this amendment or getting the section into the ordinances, or whatever it is that can be done to make sure that we will eliminate or abolish fish traps as soon as possible. It's for the good of the people of Alaska.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to ask a brief question of Mr. Buckalew. Is this amendment designed to eliminate any questions about fish wheels or any other gear used by Natives in rivers or any place else?

BUCKALEW: Mr. President, I will just take a few minutes. It's confined now to the coastal waters of Alaska, and all the questions that were raised on the floor I feel confident have been cured. I should explain one thing to the body, Mr. President. The reason that this thing is so lengthy is that, after spending four days' research on ordinances and constitutional provisions, on a matter such as this, you have to show the reason for including it in the schedule. You have to establish that it is in there for a purpose. You have to show that there is an emergency, and you have to show that you are trying to take care of that transitional period, from the time you receive your sovereignty until the time that the legislature has a chance to work. Now Mr. Smith is a little worried about a question. He says it only abolishes traps up until the time the legislature is formed; well, that is not true. The thing reads, "...to conserve the rapidly dwindling supply of salmon in Alaska, to ensure fair competition..., and to make manifest the will of the people of Alaska pending the establishment of the first state legislature..." fish traps are abolished. Now, if the legis-

lature never acts on them they are still abolished, but we are trying to take care of that interim period, and I feel that all of this language is necessary because I suspect that if the ordinance is ever in court, I want it to stand up, and I feel a little fearful if any of the language is stricken.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I rise to a point of information.

PRESIDENT EGAN: Your point of information.

R. RIVERS: I think there is still some confusion in the minds of the delegates. I am not too clear on it. This is offered as a committee amendment to what is now known as Sections 24 and 25. If we adopt this amendment, do we still have Sections 24 and 25 before us for further action?

PRESIDENT EGAN: Yes, Mr. Rivers.

R. RIVERS: I might say I support this amendment, although I propose to oppose the main proposition later, after we get it in the form we want it in. This improves the previous draft, so let's get it in.

PRESIDENT EGAN: The question is, "Shall this proposed Committee amendment be adopted?" Mr. Lee.

LEE: It's inconceivable to me that any representative of the people of Alaska could think about barring any change to eliminate the fish traps. It has been a burden upon the people of Alaska for my entire life and, prior to that, on other people, and I can't see how you people can fail to include this in your constitution. The people have always shown they have wanted them out, get rid of them, they have never had any power. If that same power can work on a body like this as it has on others, and we neglect to take care of the people of Alaska in this problem, I, for one, will be greatly disappointed. Now, in '48 we had a referendum on it. Eight to one they voted to abolish the fish traps. What better argument could we have for getting ratification of our constitution? People want the fish traps out, it has been proven. Now, if this is in our constitution, the people are going to go and vote to get the traps out, and there are going to be many of them that will vote that otherwise would never have voted before, and they will vote to ratify our constitution, and that, of course, will work to serve our purpose here. I don't know if all of you people are familiar with the operation of a fish trap. A fish trap is a huge piece of equipment, bigger than -- it covers as much area as this building. It is fastened from the shore; it has piling going out from the shore; it has a long lead -- they call it a lead. I couldn't find the length that is the limit on them. I should be

corrected -- I think it is 500 yards -- a thousand feet -- that it can project out into the sea, and that has a huge structure that works like a maze, and the salmon follow in through and they go around through the different compartments of the trap until they come to what is called the "spiller", and there they bunch up until they are gathered into a boat and taken into town. Now, a salmon comes in from the sea; it is a free fish; belongs to all of us people. It comes in, and it works its way in toward its stream from which it originated; it falls with the tide, and goes and hits this lead that is projecting out there 24 hours a day except during closed period. It hits the lead and it doesn't get away; it follows and goes in there and is caught. Of course, fishermen can't fish within a certain area of that trap because it is not permitted, that is, with regular gear that is handled by Alaskans, and this trap is designed so that it catches fish no matter what way they go. A fish travels with the tide -- a salmon -- and it continues toward the stream and each time, after it goes a certain distance, on the outgoing tide again, it will drift back a certain distance; then the trap catches it from the other side. A trap, of course, doesn't select what fish it catches. You talk about conservation of salmon. This also applies to a great number of other types of fish -- snappers, trout, king salmon, halibut, codfish, and many other fish that operate in the same way. They lead along any type of lead. This lead projects way down to the bottom, and the trap itself has a bottom. The fish can't get out after they once get into this maze. Now, we have a certain number of these traps that have been there for many years. I can't get one. I couldn't afford to get one, in the first place, and they won't give me any either. The trap sites that are occupied now are the only ones that can be had. That's un-American, un-Alaskan, indecent, and that is what we are living under now. I used as a comparison the other day in my argument before the Committee, I compared a fish in the sea to be very like a caribou out on the tundra. You people aren't faced with a problem where a certain group has permission to set up a huge corral and catch the migrating caribou as they come by for their exclusive use, and then not permit anybody else to set up that type of trap. Now that is the thing we have facing us in the fisheries. I hope I have convinced you. It is a desperate situation, and we will lose a great deal of the faith of the Alaskan people if we fail to vote to include this.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment be adopted as a part of Committee Proposal No. 17/a?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley,

Johnson, King, Knight, Lee, Londborg, McCutcheon, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 2 - Laws, Robertson.

Absent: 4 - Collins, Kilcher, McLaughlin, Stewart.)

CHIEF CLERK: 49 yeas, 2 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment has become a part of Committee Proposal No. 17/a. Mr. Boswell.

BOSWELL: Mr. President, may I introduce my amendment now? It will have to be changed to conform with the new numbers.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment of Mr. Boswell, including the section number changes.

CHIEF CLERK: "Strike Sections 24 and 25."

BOSWELL: I so move.

PRESIDENT EGAN: Mr. Boswell moves the adoption of the amendment. Is there a second?

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. Boswell.

BOSWELL: In proposing this amendment, I seek to strike to the heart of this problem and possibly save some Convention time. I think the first thing we must decide is whether this should be a part of the constitution as an ordinance, and if we can arrive at that proposition, we will save a lot of time amending the amendments. We have wasted about 40 minutes now discussing this matter; we argued around the other evening a half-hour, trying to decide whether a fish wheel was a fish trap; so I was interested in trying to save some time. The problem that faces us, as I see it, is not based on the faults or the merits of fish traps, but is, rather whether an ordinance is a proper approach to the problem. For the past 20 years, legislatures have been passing memorials to Congress to abolish fish traps, and it's inconceivable to me that the first state legislature wouldn't do this as a matter of course, and they would do it in an orderly manner. The danger of this ordinance, as I see it, is that it gives the

trap interests some very strong ammunition for opposing statehood and for opposing ratification of this constitution. It also might mean the temporary loss of important revenues to the new state by the action taken on Mr. Buckalew's ordinance. I am going to call this Mr. Buckalew's million dollar ordinance, because it could very easily cost the new state a million dollars if this should happen at the height of the fishing season or at the beginning of the fishing season. Now, as I understand it, the abolishment of fish traps will require a lot of boats and a lot more fishermen, and how are we to know when these fishermen are going to have to step into the breach and take up the place of the fish traps. If this should happen on some day during the height of the season, the traps close down, there would be many cannery workers out of work because the boats wouldn't be in the proper place at the proper time; they couldn't possibly be. So, the inevitable result would be a serious dislocation of the entire industry and the loss of the revenues, perhaps for that entire season, and that could be a very sizeable sum. We studied this matter in the Resources Committee. It was not a unanimous decision, but it was a majority decision that we could reach this proposition better by a resolution from the Convention to the first state legislature, and it seems to me that that is a better approach. I think we should strike these sections because I think they are dangerous, and I think they might result in a serious temporary dislocation of the fishing industry and perhaps a great loss in tax revenues.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think that I can remember all of the points that Mr. Boswell made, but the first point I would like to take up is, he spoke of the enemies of statehood and how they are really going to come after us if this ordinance is in there. Well, they have been fighting us for years anyway. Their battle lines are drawn, and it is not going to give them any ammunition, because they have been fighting us all this time anyway, and this just points out to them that, when we get to be a state, they have had it. And it's certainly not going to cause us to lose any friends in Washington, because Alaskans have been going back there for years and years, yakking about these traps, passing memorials and referendums and what not. Now let's be logical about this -- Buckalew's million dollar ordinance -- I would like to call it Mr. Lee's million dollar ordinance because he sent it to the Committee. I don't know whether that would improve my credit to have an ordinance referred to as Buckalew's million dollar ordinance; it might improve my credit; I don't know. Now, when we get ready to be admitted to statehood, the salmon industry is going to know as much about that as anybody in Alaska. They are going to know approximately what date the state is going to be organized.

They can tell you within a day what date the state will be able to strike the traps. Now, they will make arrangements to take care of themselves. Now, as far as the individual packers are concerned, I hope there will be enough fish left, but I think the individual fishermen here in Alaska will be able to catch enough fish out of what is left of the run to get along, and I don't think there is going to be any inconvenience at all. Now from what I have heard from Delegate Emberg, Delegate Smith, Delegate Peratrovich, the situation with the salmon industry and the salmon run is critical. Now, they have advised me that, if things keep going like they are, and even if there is a period in there where the traps as they are now set up, they could fish another season, they claim it depends upon when we are going to be admitted, and we don't know. So we might as well forget about it because there are not going to be any fish left anyway. So we don't have to worry about these people in the canneries, because in a few years there aren't going to be any canneries anyway because there aren't going to be any fish. And that is what we are trying to do -- we are trying to step in and save our heritage at the first possible moment. And this million dollar amendment, whichever amendment it is, or ordinance or proposition, has merit. It's strictly a transitional measure. Now we are trying to stop up a void in Mr. Boswell's resources thing. I will agree with Mr. Boswell. I don't think it should go in his resources article, but I do see that there is a big gap in his ordinance. He claims in his ordinance that we own all the fish of Alaska. Well, who is going to protect those fish until the first legislature is convened? We have got to do it, and that is what we are trying to do, and that is the purpose of the ordinance. It is not going to cause inconvenience; we are not going to lose any friends in Washington. The battle lines are drawn anyway, and I don't think any of his arguments have too much merit.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. Chairman, I would like to state that I would have to disagree with Mr. Boswell on his vote -- deletion of this. I believe that we should have something in our ordinance. I admit that I thought this over quite a while before I decided that it should be in the constitution, someplace. I think this is such a serious matter to so many people in our Territory that an ordinance like this would have a good effect, particularly lately, since there has been talk in the government and in the newspapers that Alaskans were willing to wait for ten years to eliminate traps. I think a statement at this time, or when the constitution is adopted, would be of great help.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: I would like to refer to some of the statements made by Delegate Boswell. He referred to this as a "million dollar

ordinance". I am going a little further than that. To the best of my knowledge, since the fisheries were started and were developed in Alaska, they have produced about two billion dollars worth of salmon. The question is now, how long are we going to have salmon as a resource? I would call this a "billion dollar ordinance" and would be proud to be associated with passing it. I would like to make another comparison in regard to fisheries. Delegate Lee mentioned that he compared the salmon with the caribou as a resource. I would like to compare it with mining. I know there is no one in the Territory of Alaska, or the State of Alaska, who would be satisfied with a mining law that said only the operator of a dredge could hold a property right in minerals. Then you raise the question of competition of the little man. That is what we are up against in fishing. I am not going to ask that question of Delegate Boswell because I know what his answer would be to that sort of a proposition without asking him. Then there is one more thing I would like to bring to your attention about this. As long as traps are legal fishing gear in Alaskan waters, the Fish and Wildlife Service, the administration agency, has the alternative course, when the fisheries are depleted to a certain extent, to close down a fishing area for four years, five years, if necessary, to bring the salmon back. They can do that because traps are legal. I don't believe the industry is worried much about depletion, because they figure, when it is carried far enough, the fishing areas are closed down three, four, or five years, the small fishermen are starved out. And when the area is opened up, who will be there? The trap men and the canneries. I say that if we can -- and I feel that it's a legitimate function of this body -- to legislate through ordinance, I think we should provide this. This is very, very essential to the future of Alaska.

Mr. Taylor.

TAYLOR: I might make it a little clearer, a person being in the legal profession, that we talk about fish traps, but it happens to be that I lived for 29 years in one of the best fishing areas in Alaska. I have been on traps, and I have been on fishing boats, and I have been around canneries, and I know quite a bit about them. In fact, I had an opportunity, or it was a necessity of making a study one time when I was in the legislature when there was a bill regarding an attempt to tax fish traps out of existence. At that time, there were something like 500 traps in Alaska. They have since been reduced a little bit. And it was felt by a survey by fishermen and men who were supposed to know that it would take 3,000 fishing boats to do the work that these 500 or 600 traps were doing. Figuring at least four men to a boat, which would give you about 12,000 men working and who, in all probability, the fact that these boats are not large, would become residents of the Territory of Alaska. They would have their families here; they would become a part of the Territory; and with that number of men working in addition to the

fishermen we have now, with their own boats, it would be a \$10,000,000 ordinance instead of a \$5,000,000 ordinance. In addition to that, it means money for the Territory; it means more business; it means boat building shops; it means ship chandlers; and the nets and other things that goes to making up the fishing industry. I think this is a necessary ordinance. Now, we have good authority that the traps are the destroyers of the fish. We have the figuresto show, and right in the paper today, the smallest catch of fish in Alaska in 50 years was in 1955; and we have it upon good authority that the traps were responsible for that depletion of the fish, because Mr. McKay, Secretary of the Interior, has recommended to Congress that a ten-year elimination period for fish traps be put into effect. Where did Mr. McKay get his information that he could make that recommendation to Congress? He got it from the Fish and Wildlife Service in Alaska here, and they know that the financial ruin of thousands of people in Alaska can be attributed directly to the unrestricted use of traps over the years. And as long as we have the traps, we are going to lose more fish until, as Mr. Emberg says, finally they will starve the small man out and the canneries will come back. I don't believe, as Mr. Boswell says, that this is a million dollar ordinance; it's a ten million dollar ordinance. It means ten million dollars more a year to the people of Alaska, if not more, and it will mean also that in the years we can build up, by proper protection and propagation of the species, we'll get the fishing industry back to where it was years ago, and the money derived from the fishing industry, to a great extent, will go to those people of Alaska who go out and wet their hands and their nets and their boats, pull that harvest out of the sea and take it to the canneries, and we get some benefit of it, and I think this ordinance should be there. I feel very keenly about this. I saw the distress and want of many of the villages of Alaska by reason of when the fish were running heavy, the traps were full. What happened? Did the fishermen get any benefit? No! The canneries said, "We can't take your fish because we are getting so many in the traps we can't handle them. You come on in and work in the cannery here and we will give you \$1.25 an hour." The fishermen didn't get any benefit from the run, and I think if everybody is on the same footing, he has his fishing boat and he goes out, it is going to mean a great deal of prosperity to the entire coastal waters of Alaska. I think Mr. Peratrovich and Mr. Emberg can bear me out in the statements I made.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, this is such an important question, I am compelled to rise and say what I have against the amendment proposed by Mr. Boswell. I know this question, perhaps, is not understood by, I would estimate, 40 per cent of you here. By that, I mean you don't realize how vital it is to us people down from the Southern Division of Alaska. As Mr. Taylor has related

to you, and other speakers here, this attempt of doing something about this unfair competition of fishing with traps has been carried on for years. We have gone to the legislature, and I have been a part of the legislature where an attempt was made to memorialize Congress. In most cases we were successful in doing so, but those of you that are familiar with the proceedings of the legislature are aware of how meaningless memorials are to Congress. You can memorialize all that you want to on any issue you want to, not only fish traps, but that is as far as it will go. You never get any action on it in Congress. Now, I can't say that it was exactly the fault of the legislators that we memorialize Congress to do something about the traps. We had no other alternative under the Organic Act; that was the only way we could approach this vital question, but we made several attempts as I stated. Now, in drawing this constitution, we are very much concerned with our natural resources; we made provisions for one of our major resources -- mining -- and I was satisfied to abide by the people that were familiar with this type of work. I do feel that fisheries is a very important resource to Alaska, too, and it has come to a point where those of us that are willing to live in Alaska and know of no other place, are going to live here permanently, I think it is our duty to try to do something about it. And it is with that thought in mind that I feel that I am compelled to stand here and try to help do something about this unfair competition if I can. Now, it was brought out here that, if this sort of provision is put in the Constitution, it is going to cost the Territory a million dollars. That may be so, but I ask you which is cheaper for us people here to decide. Is it best to lose this approximate figure of a million dollars or else perhaps expend five million dollars to support the people who depend on this type of work? And right today, your welfare departments are taxed to death and, I might add, it's not only the Natives; you have white families as well as the Natives who depend on the welfare departments. The fishermen, they have no way to turn; their resources are depleted to a point where they can't even pay interest on their boats. They can't go to other towns to secure work because they have their own problems also. So I feel that we are going to evade the issue here if we don't make a provision in this constitution. I don't think anybody is going to condemn us for it, and I don't think the canned salmon industry is going to persuade enough people to defeat our constitution just on that ground. Whatever the consequence may be, I think we owe it to the people of Alaska to take care of this resource. Mr. Taylor related that approximately 12,000 people are dependent on this resource. I venture to say it is around 20,000, because, instead of having four men to a boat, you have to have seven now. That is what the seiners are doing also to take care of themselves. They can very easily get along with perhaps four, but there are men with families that need work, consequently they take on extra, and every boat that you see now fishing has approximately seven men on it. Now, that is the situation that exists today, friends, and I think we are evading

the issue if we don't take a stand here one way or the other. I urge you to retain such a provision in our constitution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, subject to committee and other announcements, I move we stand at recess until 7:00 p.m.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent. Are there committee announcements to be made at this time? Mr. Victor Rivers.

V. RIVERS: The Committee on the Executive will meet upstairs at 6:45.

PRESIDENT EGAN: Executive Committee will meet upstairs at 6:45. Mr. Nerland.

NERLAND: Finance Committee will meet immediately upon recess.

PRESIDENT EGAN: Finance immediately upon recess. Mr. Riley.

RILEY: Mr. President, Rules immediately and briefly upon recess.

PRESIDENT EGAN: Rules immediately and briefly on recess. Mr. McNealy.

McNEALY: Mr. President, Committee on Ordinances will meet immediately upon recess.

PRESIDENT EGAN: Committee on Ordinances immediately upon recess. Mr. Sundborg.

SUNDBORG: I renew my unanimous consent request for a recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 7:00 p.m. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Mr. Boswell's proposed amendment. Mr. Boswell, are you rising to speak on this?

BOSWELL: If there is anyone else who wishes to speak on this --

PRESIDENT EGAN: Is there anyone else who wishes to speak? Mr. Smith.

SMITH: I would like to say a word or two on this. Mr. President, I would like first to simply endorse almost entirely the things which have been said here before. However, there is one other

thing which should be said. I know that there are some of you who wonder whether this issue is basic enough or fundamental enough to justify action by this Convention. I can say in all sincerity that it is my opinion that this one issue is the thing which gave the greatest impetus to the statehood movement which resulted in the calling of this Convention. This issue is so basic and so fundamental that I simply cannot conceive of any written history of Alaska without a full and complete coverage of the history of the impact of the fish traps on one of the greatest natural resources ever known to man. This impact has been so great that this resource is much closer to final destruction than most of us realize. It will probably be said, as it has been said in the past, that we should give the trap operators ample notice before taking any action; that there should be some time element written into the provision whereby we would be sure that the coming of effect of this ordinance would not disrupt the fishing industry in the middle of the season. I submit to you that, when the people of Alaska ratify this ordinance, first notice will have been served. Passage of the enabling act will be the final notice, but even then, there probably will be another period of grace pending the final formation of a state government. The question of the effect on Congress will be raised. The people of Alaska have never made any secret of the fact that, when they achieve statehood, the traps will go. They have abundantly made it clear that this will be so, and they have made it clear for a long number of years. Bills to accomplish this purpose have been before Congress every year for at least 15 years. Alaska is going to face a long and difficult task in rebuilding the salmon run, and the longer present management policies continue, the longer, harder, and more expensive this task is going to be.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, in view of the fact that no other delegate has spoken in favor of Mr. Boswell's amendment, I feel constrained to speak in favor of the amendment, and for these reasons, but very briefly and not particularly strongly on it, because I feel that those of us residing in the Second and Fourth Division realize that this is an Alaskan problem and the vote here would be overwhelmingly to abolish fish traps. But I believe the greater problem lies with the First and Third Divisions. Now, at the outset and to explain my reasons for supporting the amendment as offered, the Committee had agreed almost unanimously -- I believe it was eight to one -- supporting an ordinance as offered by Mr. Lee which was short and concise and to the point and said fish traps would be abolished and that we provide for a referendum. Then and at the time I felt, and several members felt, that it was a legislative matter, but we didn't urge the point too strongly until the amendment came out in the Committee with the \$5,000 fine and various other sundry things which, to a blind man, spells legislation. Now, I trust that anything I may

say will not be taken personally against me by those who are so strongly in favor of the fish trap ordinance, and I felt quite strongly the other day and was somewhat disappointed in speeches on the floor by a great number now who are supporting the fish traps in regard to the game commission, and I am sure that we took that with a smile when it failed to carry the body, and I am sure that those of you who are so strongly in support of this fish trap ordinance as it stands should give me the same consideration. I was disappointed at that time and a little hurt by some of the speeches that were made here against the sports fishermen. Some of them I considered very inappropriate and so, therefore, you may also consider some of my remarks inappropriate as to the fish traps, but I feel here that it is a legislative matter. I can't conceive of any legislature going to Juneau, and the first legislature sitting in Juneau but what a bill would be proposed, and probably one of the first bills before the legislature to abolish fish traps. The state would have a sovereign power to abolish them, and I can't imagine any representative or senator voting against the abolition of fish traps unless he was intending to move on to Seattle right after the session was over. It is, in my opinion, strictly a legislative matter. As my personal feeling goes, I am for the abolition of fish traps. And in the last term of the legislature, every bill that came out in the house that in any way opposed the canned salmon interest I voted for it, and a good many of the bills carried my name along with Mr. Stanley McCutcheon whom I am sure most of you present know how his feeling is in regard to the fish traps. In closing, only this one thought: when we thought of legislative matters it was along this line, that in writing it in -- I simply throw this out for consideration -- there have been any number of states who have written in provisions of certain types that the Congress or some of the members of Congress didn't want to accept and, therefore, they sent the constitution back to the people to change. This was discussed in Committee and that is all that it's worth as to its weight -- that there would be a possibility if the ten-year graduated trap elimination law would be passed by the Federal Government, some of the Congressmen and Senators might raise the point and say, "Well here they have gone contrary in the constitution to the wishes of Congress", and strictly in the face of this federal law, and they might get enough support to say, "We will agree to admit them providing you send it back and have it taken out of the constitution." That has happened in Arizona in the recall of state judges; it has happened in Puerto Rico in the welfare clause; it has happened in Michigan and in 14 or 15 other states in little items that Congress sent the constitutions back. Now, whether that has any point in it or not, I do not know. I still feel -- I still am in favor of the abolition of fish traps, but on such premise as I have spoken, I believe it is a legislative matter, and regardless of this federal law, once we became a state, the first state legislature could exercise its state sovereignty and abolish the traps forthwith, and on that I will close and whichever way this amendment might go, I do hope that if the amendment remains on as part of

the article here, that it is substantially changed. In its present form, I believe it is quite dangerous to possibly even the chances of immediate statehood.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I merely wish to ask a question. I have been under the impression, and maybe I have been wrong, that an ordinance is more nearly in the nature of legislation than it is in constitutional law, and I would like to be informed on this fully, whether or not this amendment is legislation in the sense that we know legislation or if it is being put in an ordinance embodied in the constitution. I was of the impression that the ordinances were temporary measures and were not an integral part of the constitution, and that by their nature they were temporary legislation. I want to know.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think Mr. McNealy will agree with me that the schedule is not a part of the constitution, it's not an integral part of it, and it is strictly a transitory measure. Isn't that right, Mr. McNealy?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: That is right, Mr. President.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Mr. President, I feel like this is my duty as a delegate to let my views be known; how I feel about this issue since I have been connected with the fishing industry for the last 23 years, both as a fisherman and also a little in the packing end of it in the later years. I have fished in Bristol Bay; I have fished with gill nets; I have fished over on the peninsula around Chignik; on boats with gill nets; seining and on traps. I have also fished over on Kodiak Island, and I also know that the traps are not all of our ills. We need to regulate other gears as much as traps. Now, I will clarify that a little bit. I doubt very much if there are very many that are more against traps than I am, but I don't know if an ordinance of this kind is the right thing. I was very much for Mr. Lee's idea to put in the constitution just a few words, "There shall be no fish traps", or something to that effect. But if this is the only way that we can get something in, or that is within the law and that is workable and not be a political football afterwards, I am going to vote for this ordinance.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. McNealy a question?

PRESIDENT EGAN: If there is no objection, Mr. Rivers.

R. RIVERS: Did your Committee consider putting this question in the form of a resolution to the first legislature?

McNEALY: No, that wasn't -- as I remember it wasn't considered, at least not to the Territorial legislature. There was talk about a resolution to the Congress.

R. RIVERS: I am speaking of the first state legislature.

McNEALY: Oh, the first state legislature -- I believe not. I think all members of the Committee felt that the first state legislature would abolish them; the feeling was quite strong, Mr. Rivers, on the Committee. I think my answer to that is that possibly a referendum would be a good thing. There may be others on the Committee -- I see that Mr. Hurley has an intelligent look on his face and he might have the answer.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I guess this is one of the few times I do have an intelligent look on my face. My understanding, Mr. McNealy, was that there were definitely considered three methods of handling the matter when I was referred to us. It was, as I understand, referred to us with the recommendation that there might be a resolution, but we considered the matter as to whether it should be a resolution, whether it should be in the form of an ordinance, or whether we should report it out at all. And when I voted on that eight-to-one question, I was voting that it shouldn't be a resolution but should be in the ordinances.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, so there is no misunderstanding on my position on fish traps, I just wish to refresh the memories of those who have lived in Alaska since 1948. I handled the campaign for the fishermen against the fish traps, and, as you remember, that vote was eight and a half to one. Therefore, my sincerity, my interest in the elimination of fish traps I trust will not be questioned. Mr. President, the method as recommended by "Governor" Buckalew for the method of handling the elimination of fish traps I think is highly ill-advised, and, in case that the matter before us at the present time results in the defeat of that measure, then I shall introduce or request someone to introduce an amendment or substitute amendment which shall be in substance: "The first state legislature is hereby directed to abolish fish traps for the taking of salmon for commercial purposes in the coastal waters in the State of Alaska." This is a legislative matter; it is a highly emotional thing; it is 100 per cent political. I know how the people of Southeastern feel; I know how Frank

feels, and I know how the rest of you feel, and I feel just as deeply about it as they do, but let's do this thing in an orderly manner. Let's do this thing -- everything else we have done so far we have done in a logical manner. Now, let's not be carried away by this. We can accomplish this just as quickly, just as sensibly, in fact a lot better. Now, I should also like to point out that if we entertain Mr. Buckalew's present amendment, we will be complicating our job in Congress, and I must repeat again we have an end product to sell and I think that is terrifically important to us. Now let's not complicate our problem in Congress. We know very well that it would be political suicide for anyone to go to that first legislature and not be in favor of the immediate elimination of fish traps. This, I am sorry to say, I feel, is much of a gimmick. It is a swell publicity deal. I do not question the sincerity of the fishermen and of everyone else to eliminate fish traps, but let's do this thing in an orderly manner, like we are doing everything else.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I feel constrained to talk on this question. I think, in order to reach the heart of the question, we must review slightly what we have before us. I think the question before us should be whether or not we favor including in the constitution a clause actually eliminating fish traps. Now I have studied this matter of fish traps, and the last time was in 1949. At that time, there were 455 fish traps in Alaska. They were owned by 138 owners, practically all residents of the Pacific Northwest. At that time, they were taking between \$80,000,000 and \$100,000,000 a year in fish out of Alaska waters for a total catch, approximately one-half of which was caught by fish traps. They have, as we all know, seriously depleted the resource, but the question comes to my mind as to whether or not we are justified in taking an action here on this floor in this manner. I believe that it is not constitutional matter and I am going to try and tell you why. I have stood with -- firmly in the matter of putting in the constitution what we thought was basic and needed. I know something of the struggle that went into getting the control of the fisheries under our constitutional act placed in the new state, and I am very fearful that if we do this -- if we pass this in becoming effective immediately upon the acceptance of the state enabling act by Congress, that we will, in all probability, have one of two alternatives. They will either take the fish and the administration of the fisheries out of the constitution; they will either delay it maybe eight or ten years until their ten-year law, if they have one, goes into effect, or else in all probability they will set up some kind of a commission upon which we will have some kind of representation to administer the commercial fisheries. That is the problem as I see it. Now I have voted for the elimination of fish traps; I have worked hard for it;

but in the same breath I do not want to see us upset the possibility of statehood and the control of the fisheries by having in here some clause that possibly would be very difficult for the Congress to accept. And I can see as you can see that, if we get statehood, if we get the power of the fisheries, we have the absolute control of the fisheries within our state. Then we can take the action. But now, if we put this up them as a red flag before they give us statehood, I think we are asking them to take the fisheries out from under the new state and in that manner I am sure that the constitution would not be acceptable to the people of Alaska. I know the things are true that have been said here, and I appreciate the sincerity of every man that has said them, but in the same breath I feel that we should put the strongest form of words we could into a resolution, state our position, and pass it on to the first state legislature. I think we are approaching a problem here that will determine whether or not we can arise above the immediate emotions of the moment and act in such a manner that Congress will trust us, or whether we are going to allow our emotions to govern us to take an action which we will regret for a long time. I sincerely feel that; I feel that we should give this matter full thought; and as I said before, I don't think the question is one of whether we are for or against fish traps. The question is: do we want to put it in the constitution, do we want to make the constitutional ratification election a referendum on a law prohibiting fish traps as soon as we get statehood? To my way of thinking, it is an impossibility for those men sitting in Congress, 5,000 miles away, to view anything of the criticalness of the type of problem we have here and not to lean back and say, "Before these people get statehood they are starting to abuse the power." I feel that is the issue. It doesn't seem to me, and I feel sure that the men who have spoken here feel as I do, we know that the fish trap is an obsolete form of monopoly. We can look back and compare it to the old ranch days when they had thousands of acres of range land under their control and a few owners owned all of it and bred their cattle there. They had a grand monopoly on a large piece of grazing land and every year they took advantage of that, and as the time came when it became necessary to spread that resource out among more people, they had to limit the size of their pastures. They had to fence them. They had to raise higher grade cattle to get more beef so more people could participate, and that is what we all want. But I fear gravely that, if we do take this action, that we are going to strike a serious blow at statehood and, if we do take this action, I fear we are going to strike a serious blow at the control of the fisheries, which we now have in our enabling act. So, therefore, I must oppose this amendment -- or this ordinance rather -- coming on the floor, and support the amendment to strike it. I want to say this in closing, that I will go for a good strong resolution to the first state legislature to get busy. Now if we put this ordinance into effect, what happens? It says the police power of the state shall be used to enforce it.

There is a \$5,000 fine. How are we going to effectuate it? We have no administration within a department; we have no floating gear to get around to these traps and enforce it. The thing is inoperative, unworkable. It's a wonderful expression of an intense opinion on all of our parts, but I don't think it strikes at our problem and I fear if we put it in we are going to do ourselves a great deal more harm than good.

SMITH: Mr. President, might I ask Mr. Victor Rivers a question?

PRESIDENT EGAN: If there is no objection, you may ask your question.

SMITH: Mr. Rivers, do you think the Congress can enact any law affecting our fisheries which will be binding upon the state after admission?

V. RIVERS: I don't think so. I don't think that Congress will infringe upon our rights once they grant it to us. I am talking about the original enabling act, the act of admission, where they very well could. We had a definite struggle to get in that act the control of the fisheries. We now have it in the act and I fear that there is a very grave chance that this would be the reason for striking it or withholding statehood.

SMITH: Mr. President, I would like to ask consent, being as I have spoken once on this, to read just one sentence from the Senate report.

PRESIDENT EGAN: Is there objection? Hearing no objection, you may read it.

SMITH: The Senate report says, "Under Supreme Court decisions, control over the fisheries and wildlife within its borders passes to a new state upon its admission as an incident of statehood."

PRESIDENT EGAN: Is there further discussion? Mr. Robertson.

ROBERTSON: I would like to comment on the question. I endorse quite fully Delegate Boswell's view on this question. I don't speak on the merits or the demerits of fish traps, but I do think sincerely that this is not constitutional matter. I think it is entirely legislative matter and I have little doubt, relying upon the views of the delegates here tonight, that the first state legislature would abolish fish traps but they would also make some provisions for it -- how the fish trap owners would be compensated, if they are entitled to compensation; some period of time as to when they would be closed, and I think this matter ought to be left up entirely to the legislature.

LEE: Mr. President, may I address a question to Mr. Robertson?

PRESIDENT EGAN: Mr. Lee, you may ask the question if there is no objection.

LEE: I wonder if you are familiar with any payments ever being made to any fishing boats that have been closed out of fishing areas?

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I know this, Mr. Lee, and I believe that you and Mr. Peratrovich will agree with me, that the great competition among the fishermen, the purse seiners, of Southeastern Alaska today, is not so much the fish traps but the purse seiners with the big boats come up from Ketchikan I mean from Puget Sound, and they even come up from California, and today it's the amount of mobile gear in our waters that is destroying the catch of the local fishermen. They fish more intensely than many of our local fishermen do. They have bigger outfits and we have no protection against them at all --

LEE: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

LEE: I am sorry to interrupt you, Mr. Robertson. I know you are familiar with the law that states that no boat over 50-foot keel length is allowed to fish in Alaskan waters.

ROBERTSON: That is right, but they still come up with all these boats and they fish there. They are fishing out of Mr. Peratrovich's country in the summertime; they are fishing up in Icy Straits; they are fishing up in Chatham Straits. We have got so many boats down here, I understand -- of course I am not familiar with it in Cook Inlet -- but today a local fisherman barely has a chance, and I have no doubt that is one of the troubles over in Mr. Emberg's country -- in Bristol Bay. They have too many boats with too much mobile gear.

LEE: Well, the point I was trying to get was that you mentioned that they brought up so much bigger boats from the states.

ROBERTSON: Well, probably the word "big" might be mistaken, they are better equipped and they are more efficient in their fishing and they do fish harder. You know that, Mr. Lee.

LEE: No, sir. I question anybody ever fishing any harder than I do.
(Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Peratrovich.

PERATROVICH: I just want to clarify a statement Mr. Robertson made there.

PRESIDENT EGAN: If there is no objection, Mr. Peratrovich.

PERATROVICH: It is true that we are getting some of their larger boats for outside fishing, off Cape Addington and Icy Straits, but I will also add that they don't find it profitable. They are there about a week and then go back South. Why is that? They can make better money there for the simple reason that they were farsighted enough to eliminate their traps about 15 years ago and have built up their run. Some of our boys, those that can afford it, even have to go down there now to make a living. They can't do it up here. That is the reason we would like to get the traps out.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, may I address a question to Mr. Buckalew through the Chair?

PRESIDENT EGAN: If there is no objection, Mr. Riley.

RILEY: Mr. Buckalew, could you differentiate for me, and others perhaps, the schedule provisions with the constitutional coverage per se, constitutional matter as we normally think of it. How does that differ from a schedule provision? I think you touched on this earlier, but I think the ensuing discussion might warrant its mention again.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think, in fairness to the Convention, Delegate Lee and some of the other members on the Committee discussed for many weeks whether it was a proper subject to even put in a schedule. We rejected the idea that it was proper to go into the constitution itself, and after an examination of the law and the various types of ordinances that have been provided in other schedules, this seemed to be more than proper to put it in our schedule here in Alaska. It is not a part of the constitution; it is an appendage that is added to it and just takes care of the transitory or transitional measures, and I don't think you could say in any wise it's a part of the constitution. I don't know whether that answers your question or not.

RILEY: Thank you. One other question, if I may.

PRESIDENT EGAN: If there is no objection.

RILEY: Assuming that the pending amendment is defeated, there is every possibility is there not that the language which may be objectionable in your amendment might then be corrected or changed?

BUCKALEW: I'd hate to see much of the language stricken, but if that is the will of the body, I guess it has to be done.

RILEY: It's certainly in the amendment process though?

BUCKALEW: It's in the amendment process, certainly, subject to amendment.

HELLENTHAL: May I ask Mr. Riley a question?

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal.

HELLENTHAL: Do you have amendments to propose?

RILEY: It wouldn't be in order at the moment, and I have none now, no.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? If not, Mr. Boswell, you might close.

BOSWELL: Well, in closing, I wish to make it perfectly clear that I have no brief for fish traps and I certainly will agree with anything Mr. Lee, Mr. Emberg, Mr. Smith, and Mr. Peratrovich have said regarding the abolishment of fish traps. The only thing that I do feel rather strongly about is that this is not the proper way to go about it. I would much rather see this handled as a resolution by the first legislature, and, barring that, if we do have something like this, I would like to see it set up in a way that it would be done in an orderly manner so we will not find ourselves in a bad position when we become a state.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, I would like to direct a question to Mr. Boswell through the Chair.

PRESIDENT EGAN: If there is no objection.

McCUTCHEON: Mr. Boswell, do you have a resolution prepared on this matter?

BOSWELL: I have not.

McNEES: May I ask Mr. Boswell a question?

PRESIDENT EGAN: You may.

McNEES: Would you prepare such a resolution, Mr. Boswell?

BOSWELL: I would be glad to work on one.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment --"

LEE: I request a roll call.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Strike Sections 24 and 25 of Proposal 17/a."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll. The delegates will please refrain from speaking when a person's name is called.

ROSSWOG: I though we were voting on his motion to strike the matter.

PRESIDENT EGAN: That is right.

(The Chief Clerk called the roll with the following result:

Yeas: 19 - Armstrong, Barr, Boswell, Cooper, Cross, Davis, Doogan, Hilscher, Johnson, Laws, Londborg, McNealy, Metcalf, Reader, R. Rivers, V. Rivers, Robertson, Walsh, Wien.

Nays: 30 - Awes, Buckalew, Coghill, Emberg, H. Fischer, F. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Smith, Sweeney, Taylor, White, Mr. President.

Absent: 6 - Collins, McLaughlin, Nolan, Stewart, Sundborg, VanderLeest.)

HERMANN: I wish to change my vote to "no".

PRESIDENT EGAN: Mrs. Hermann changes her vote to "no".

McNEES: I would like to change my vote to "no" also.

PRESIDENT EGAN: Mr. McNees changes his vote to "no".

CHIEF CLERK: 19 yeas, 30 nays, and 6 absent.

PRESIDENT EGAN: So the "Nays" have it and the proposed amendment has failed of adoption. Mr. Buckalew.

BUCKALEW: Mr. President, since we don't have numbers on the amendment, but one, two, three, four, five, six lines up, I would like to strike the language, "pending the establishment of the first state legislature" and retain the comma. I ask unanimous consent.

PRESIDENT EGAN: Page 1?

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BUCKALEW: It's on page 1.

SMITH: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Smith.

SMITH: On the copy that I have it is on line 1 of page 2.

PRESIDENT EGAN: The amendment that was adopted -- as offered by Mr. Buckalew -- is on sixth line from the bottom.

HELLENTHAL: Point of information. Could we refer to it as the amendment of January 25? I think then we will know what everyone is talking about at all times.

BUCKALEW: That is perfectly agreeable with me. The amendment of January 25, then. Mr President, sixth line up, starting with the word --

PRESIDENT EGAN: It is the 26th, so you can change the date. It says on the amendment the 25th, but, it is the 26th.

BUCKALEW: Then, six lines up, strike the language, "pending the establishment of the first state legislature", and move the comma back up to Alaska.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that the amendment be adopted. Mr. Hellenthal.

HELLENTHAL: Point of information. I have been working here with an amendment dated January 25.

PRESIDENT EGAN: It says January 25, but this is the 26th today.

BUCKALEW: He was referring to the date on the amendment, Mr. President.

HELLENTHAL: I should like perhaps to have the delegates refer to the date on the paper so we will all know what paper we are talking about, and that is the 25th.

PRESIDENT EGAN: Mr. Hellenthal, it has become now a part of Committee Proposal No. 17/a. Mr. Buckalew.

BUCKALEW: I ask unanimous consent that the language be stricken.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent for the adoption of the amendment.

UNIDENTIFIED DELEGATE: I'd like to ask you, why did you do that?

UNIDENTIFIED DELEGATE: I'll raise objection, Mr. President.

PRESIDENT EGAN: Do you so move, Mr. Buckalew?

BUCKALEW: I so move.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the amendment. Is there a second?

EMBERG: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Emberg. Mr. Buckalew.

BUCKALEW: The language -- when I first started working on the proposal, I was trying to tie it in with the Tennessee Plan, and then subsequent changes in the preamble of the schedule makes the language unnecessary, and it is confusing. That is the reason why I wanted it stricken.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: It appears to me that by striking this terminology we, in effect, make it a part of the constitution. Despite the fact that this may appear to be a transitory provision, it certainly doesn't make anything transit of it when it states there is an absolute prohibition. There is no "pending the first state legislature" or anything else.

BUCKALEW: Mr. McCutcheon, it is in the schedule, which means it would be a proper subject for the legislature to handle. If it was in the body of the constitution, you would have to amend it, so it is a transitional measure in that sense.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, if I recall Mr. Buckalew's statement correctly during the argument on the Boswell amendment, I recall him saying that the purpose of this proposal was to prevent the use of fish traps after we became a state, and, if the first legislature did nothing about it, that then this matter would still stay in full force and effect, which is vastly different to my way of thinking than what he says now, that as soon as we do become a state, this language would no longer be effective because it is in the schedule and under the transitory provisions. I, for one, would like to know what position he expects to stand on.

BUCKALEW: Mr. President, I don't think I am standing in an inconsistent position, because the state legislature can still act on it and there are certain transitional measures that are in the schedule that will probably be in effect for years and years and years, and as I understand the law, if the legislature never acted on this, fish traps from then on would probable be abolished by this transitional measure.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, in line with the discussion on the proposed amendment, I wonder if Mr. Buckalew would explain here -- on all the other transitional provisions or ordinances in effect, and that others are termed "by ordinance" or were in Committee and here, this is called a "proposed constitutional provision". Does the use of the word "provision" have any effect on a "provision" as differentiated from an "ordinance"?

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: As I recall from the cases I have read, using the term "provision", you have broader latitude in the subject matter that you can handle in a schedule, and I was a little fearful that if I used the term "ordinance", it might be grounds for attack in court. And I suspect that, depending upon when we are admitted, this particular ordinance will probably be subject to a lot of litigation. I just wanted to be sure that it would stand up. In this form I think it will serve the purpose for which it was drawn.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Awes, Buckalew, Coghill, Cross, Emberg, V. Fisher, Gray, Harris, Hellenthal, Hinckel, Kilcher, King, Knight, Laws, Lee, McCutcheon, Marston, Nerland, Nordale, Peratrovich, Smith, Stewart, Taylor, Wien, Rosswog, Mr. President.

Nays: 24 - Armstrong, Barr, Boswell, Cooper, Davis, Doogan, H. Fischer, Hermann, Hilscher, Hurley, Johnson, Londborg, McNealy, McNees, Metcalf, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Sweeney, Walsh, White.

Absent: 5 - Collins, McLaughlin, Nolan, Sundborg, VanderLeest.)

PRESIDENT EGAN: Did the Chief Clerk get Mr. Stewart's vote?

STEWART: I believe not. I vote "yes".

CHIEF CLERK: He was absent when I --

PRESIDENT EGAN: Mr. Stewart votes "yes".

CHIEF CLERK: 26 yeas, 24 nays, and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Fischer.

V. FISCHER: I would like to ask unanimous consent for a two-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to Section 24 of Committee Proposal No. 17/a? Mr. Buckalew.

BUCKALEW: Mr. President. I would like to offer one more amendment and then I will be through. Looking at the amendment of January 25, 1956, at the bottom of the line, strike "by a fine not to exceed \$5,000 and", so that it will read, "Violation of this section shall be punishable by confiscation of the fish traps."

PRESIDENT EGAN: What is your pleasure, Mr. Buckalew?

BUCKALEW: I so move the adoption and ask unanimous consent.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the amendment and asks unanimous consent. Is there objection?

UNIDENTIFIED DELEGATE: Could we have it read again, please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Last line on page 1, strike 'by a fine not to exceed' and on page 2 strike '\$5,000 and', so that the sentence reads, "Violations of this section shall be punishable by confiscation of the fish trap.'"

PRESIDENT EGAN: Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Are there other amendments to Section 24? If not, are there amendments to Section 25? Mr. Kilcher.

KILCHER: Is it in order to make amendments to Section 24?

PRESIDENT EGAN: It is, Mr. Kilcher.

KILCHER: I move and ask unanimous consent that the last sentence of Section 24 be stricken.

PRESIDENT EGAN: Mr. Kilcher moves and asks unanimous consent that the last sentence of Section 24 be stricken. Will the Chief

Clerk please read the amendment, the sentence that is to be deleted.

CHIEF CLERK: "The sentence, 'The police power of the state shall be used to the extent necessary to enforce this section.' shall be stricken."

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Kilcher?

DOOGAN: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Kilcher?

KILCHER: I so move, Mr. President.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Kilcher moves the adoption of the amendment, seconded by Mr. Knight. Mr. Kilcher.

KILCHER: I think the language is superfluous. If we want these fish traps confiscated, there certainly will be somebody there to do the job, and it makes the ordinance longer than necessary and uses language that I think is too strong for sensitive nerves.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I certainly will support the amendment and I think we should try to make the best possible language and sense out of these things. I voted on the opposite side of this, not because I was not in favor of the action, because I felt there was a different route to accomplishing this, but this is now becoming amended to the place where I think it isn't as offensive as it was. I certainly will support deleting this sentence.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to know why Mr. Buckalew or whoever wrote this put that in there.

KILCHER: Point of order -- that is not the question at hand.

PRESIDENT EGAN: Well, Mr. Sundborg asked --

SUNDBORG: What is the purpose of having that in there?

PRESIDENT EGAN: Mr. Sundborg, if there is no objection, you may ask the question.

SUNDBORG: It was put in by some member of the Committee or by the Committee. Is it necessary or is it superfluous?

BUCKALEW: I probably got carried away with myself, Mr.

Sundborg. I think that the language can be stricken.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All of those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments for Section 24? Mr. Johnson.

JOHNSON: May I ask Mr. Buckalew a question?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: Mr. Buckalew, in connection with the first part of this section where it says, "If this constitution shall be accepted by the electors," are you referring there to the election which will be held in April of this year?

BUCKALEW: Yes.

JOHNSON: And if the majority should adopt the constitution -- or ratify it -- and adopt the referendum which we propose, do you say that "the following shall become effective", do you mean immediately after this election that this language will become effective?

BUCKALEW: It will become effective when the President issues his proclamation.

JOHNSON: Well, then, why do you say that "If this constitution be accepted by the electors, the following shall become effective..." How do you propose to bring that about? That is what I am interested in.

BUCKALEW: Well, the constitution would have to be accepted by the people.

JOHNSON: But that doesn't make it effective.

BUCKALEW: No, it won't become effective until the President issues a proclamation authorizing us to become a state; that is when this ordinance will become effective.

JOHNSON: Then we would have that power anyway, wouldn't we?

BUCKALEW: That is true -- that is true.

JOHNSON: Then what is the purpose of this?

BUCKALEW: The purpose of this ordinance -- as I said before -- the minute the President issues the proclamation the traps are illegal. We don't have to wait 30 days, 40 days, or six months for the legislature to get around to acting.

PRESIDENT EGAN: Are there other proposed amendments for Section 24? Mr. Hellenthal.

HELLENTHAL: I would like to ask this question of Mr. Buckalew. Mr. Buckalew, would you object to using the language "ratified by the people" rather than "accepted by the electors" in Section 24?

BUCKALEW: I can't see that it makes any difference, Mr. Hellenthal.

HELLENTHAL: I notice that the Enabling Act, Chapter 46 of the 1955 legislature, uses the words, "ratification of the constitution by the people".

BUCKALEW: I figured Style and Drafting could probably take care of it but I wouldn't have any objection to it.

HELLENTHAL: I move and ask unanimous consent that the word "accepted" be stricken and the word -- if you feel, Mr. McCutcheon, that this is a matter for Style and Drafting, I withdraw my motion.

MCCUTCHEON: I will propose a question, Mr. President. I would ask whether or not the Style and Drafting Committee had been discharged yet or not?

PRESIDENT EGAN: The Style and Drafting Committee is a full-functioning Committee as it will be until the time that this Convention adjourns sine die. Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Sundborg a question? Do you feel that that change would be a proper subject for your Committee?

SUNDBORG: I feel it would be a proper subject for us to consider. I can't say what the Committee would do; we will consider it, Mr. Hellenthal.

HELLENTHAL: You wouldn't regard it as a matter of substance?

SUNDBORG: No, I would not.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: May I ask permission to ask Mr. Buckalew -- ?

PRESIDENT EGAN: If there is no objection, Mr. McNealy, you may ask a question.

McNEALY: Mr. Buckalew, what would you say is the benefit, if any, of the words in the indented part there, starting out "as a matter of immediate public necessity" and down to the second time "Alaska" is used? What is the purpose or necessity for the words?

BUCKALEW: The only reason that language was inserted, Mr. McNealy, is to justify the use of the proposition in the schedule, and it set out that it is a matter of immediate public necessary and that is the reason the language should be left in here. Otherwise, if it wasn't a necessity, we could wait until the first state legislature, and I think the language serves a necessary purpose.

PRESIDENT EGAN: Are there amendments? Mr. Johnson.

JOHNSON: May I direct another question to Mr. Buckalew?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: Mr. Buckalew, we have, I believe, in some other part of our constitution some language which says that no property shall be taken from a citizen without just compensation. Do you believe that some provision should be made for repayment for the taking of these traps under this proposal?

BUCKALEW: I certainly do not, Mr. Johnson, because the courts of Alaska have ruled time and time again that there is no property right in fishing, that it is an annual privilege; and I don't know of any legal question that could be raised, because you don't even have a right from year to year in a trap site. I think even Judge Folta has held that it is an annual privilege. I believe Mr. Robertson will bear me out on that.

JOHNSON: I thought I understood Mr. Eldor Lee to say that he couldn't even acquire a trap site because they were all held by other people.

BUCKALEW: I advised you of what my understanding of the law is and I think it is settled. Now, if you want to ask Mr. Lee about that, I don't know anything about it.

JOHNSON: Well, this is your amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: If I might say a word on that, the trap sites are held by the parties who hold them under a series of regulations which make it impossible for any more than a certain number to hold

those sites. They are actually open to anyone. It's the economic feature which prevents anyone from going in and taking over those trap sites.

McCUTCHEON: Point of order, Mr. President. What is the matter at issue?

PRESIDENT EGAN: Mr. McCutcheon, there is no matter at issue. A question was asked and the delegates have been attempting to answer it. Are there other amendments for Sections 24 or 25? Mr. Taylor.

TAYLOR: Mr. President, it seems to me like we have been talking about an ordinance, and in looking this over, it seems to me that we have a constitutional referendum instead of an ordinance -- a referendum will be taken on this subject.

PRESIDENT EGAN: Mr. Taylor, are you offering an amendment?

TAYLOR: I am going to offer an amendment. I am going to move that the last five lines be stricken and the following inserted in its place: "Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon be adopted?" Striking "for commercial purposes until otherwise", as I feel that it would be superfluous because nobody would ever build a fish trap for pleasure. (Laughter)

PRESIDENT EGAN: The Convention will please come to order. Mr. Taylor moves the adoption of the proposed amendment. Is there a second?

MARSTON: I second that motion.

PRESIDENT EGAN: Seconded by Mr. Marston. Mr. Lee.

LEE: I ask unanimous consent that we have a one-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the amendment as proposed by Mr. Taylor. Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon be adopted?"

PRESIDENT EGAN: It has been moved and seconded. Wasn't it moved and seconded?

CHIEF CLERK: No.

PRESIDENT EGAN: I thought Mr. Marston seconded. Mr. Stewart.

STEWART: What was that clause?

CHIEF CLERK: (Answer not audible.)

PRESIDENT EGAN: We have before us the motion as it was presented by Mr. Taylor.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: Wasn't it a motion to strike and substitute?

UNIDENTIFIED DELEGATE: Yes.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Strike the last five lines on page 2 and insert the following: 'Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon be adopted?'"

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, is his new amendment amendable right now or not? I would like to move that the words "for commercial purposes" be inserted in there.

TAYLOR: I would include the insertion of the words "for commercial purposes".

PRESIDENT EGAN: If there is no objection the words "for commercial purposes" are not being deleted under the amendment. The Chief Clerk will now read the proposed amendment.

CHIEF CLERK: "Strike the last five lines on page 2 and insert in its place: 'Shall the proposed constitutional ordinance prohibiting the use of fish traps for the taking of salmon for commercial purposes be adopted?'"

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I favor this amendment. Our handbook here which contains a copy of the act of the last legislature says, "The Constitution and proper ordinances or such ordinances as the Constitutional Convention adopts may be referred to the public for ratification." So I would rather have this called a consti-

tutional ordinance than a constitutional provision.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I ask unanimous consent the amendment be adopted.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection the amendment is ordered adopted. Mr. Hilscher.

HILSCHER: I have an amendment to Section 24. The last line on page 1, starting with "violations of this section shall be punishable by confiscation of the fish traps" -- strike that sentence.

PRESIDENT EGAN: Mr. Hilscher moves. Is there a second to the motion?

ROBERTSON: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Robertson, that the last sentence in Section 24 be deleted. Mr. Buckalew.

BUCKALEW: Mr. President, I am sure --

HILSCHER: May I say something?

BUCKALEW: Go right ahead.

HILSCHER: Do I have the floor?

PRESIDENT EGAN: You may have the floor, Mr. Hilscher.

HILSCHER: "Violations of this section shall be punishable by confiscation of the fish traps." The objections that we will hear probably are that we have to have that in there in order to take care of the police powers of the state. The police powers are already inherent in the state and by the elimination of that language it will ease the job that we have to do to sell statehood to Congress.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: If I may speak before Mr. Buckalew closes, and that is, the only thing you can confiscate is contraband. You can't confiscate property. Now those traps might have some salvage value. I am afraid we are getting into trouble if we talk about confiscating those fish traps so I am going to support the amendment.

PRESIDENT EGAN: Mr. Lee.

LEE: I am not familiar with the problems that would be involved in the legal matter concerning this, but I do know that if a fishing boat violates a law, his equipment is susceptible to being confiscated immediately, and it seems that this would be similar, I don't know. Maybe there is something I can't see about it, between a trap and a seine or something like that.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Well, if this amendment carries, we might as well forget it because it's meaningless. There would be no point in putting this ordinance out for a separate vote of the people. That is the purpose of sending it out to the people, so that we can get the authority to exercise the police power. Now, if you are not going to provide for confiscation, it wouldn't have any force or effect at all. It would be useless and a waste of time.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: You could provide for confiscation by an action in rem in the courts, and you also can confiscate the fish that were in the traps. They would be contraband because they were caught unlawfully with the traps, but they can't take a boat and say "this is ours now". The government can't do that and the state can't do it because that is taking property without due process of law. If you catch one, shackle the gear out in the water and the illegal fish -- it is only 50 yards long, you have still got to bring an action in rem in the district court, which is a libel action, to take that piece of gear and keep it and sell it. You cannot take it and say this belongs to the government or to the state. They can take and hold them all right, just the same as when you catch anybody committing a crime or a felony and hold them until they get released. You can put up a bond and get your boat released.

BUCKALEW: Mr. Taylor, with this language, you still have to use the courts. You still just can't go out and grab them.

TAYLOR: It's a word I don't like to use too much but the legislature could implement this. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer.

V. FISCHER: I personally do not see eliminating this language unless we substitute something else in lieu. This provision is designed primarily to take care of the period from the time we become a state until the time that our first legislature could meet and pass the necessary legislation. Unless we declare this a felony or have some fine provided or do something, the rest of it means exactly nothing, so they are illegal. The point is we have a governor established; we have an executive who has the executive powers. This would provide for violations, I mean this

would still say that the taking of salmon is prohibited. It doesn't say what kind of a violation it is or anything. To me, strictly as a layman, that section would mean nothing and I certainly would want to have a very thorough explanation of what powers would be left if nothing else is substituted for the sentence.

PRESIDENT EGAN: Mr. Barr has been attempting to get the floor.

BARR: May I ask a question of Mr. Buckalew?

PRESIDENT EGAN: If there is no objection, Mr. Barr.

BARR: Mr. Buckalew, I am working for the state here and there is a question in my mind whether it's desirable for the state to confiscate the fish traps. Now, after the state takes it over, what becomes of it? Wouldn't they be obliged to go to a lot of expense to pull the piling as a navigational hazard?

BUCKALEW: Mr. Barr, that is really not the problem. The only thing the state would do would be to see that the traps cease fishing and probably just leave the piling out there.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Fischer a question?

PRESIDENT EGAN: You may, Mr. Hellenthal.

HELLENTHAL: Mr. Fischer, do you think that if provision were made that violations of the section -- or could it be possible to say, "Adherence to this section shall be enforced by injunction, mandatory injunction, restraining orders" -- would that remove your objections?

V. FISCHER: I don't know if that would be sufficient. I have a feeling that it should be equivalent to a law for this interim period to provide the actual means and charge under which somebody could be taken to court, fined, or some kind of penalty imposed. I may be completely wrong, but that is the way it seems to me.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: May I answer Mr. Fischer's question.

PRESIDENT EGAN: If there is no objection, Mr. Taylor.

TAYLOR: Mr. Fischer, we have a very adequate remedy for cases like that. Now, according to the ordinance, it would be prohibited to operate a fish trap. If the trap was operated or operating, the owners of the trap can be taken into court, and

an order can be issued restraining them from operating the trap. If they violate the injunction, then they can be brought for contempt of court and given a jail sentence or a fine. You have the method of punishment.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I am firmly of the opinion that "confiscate" is not the word that should be used there, and I don't think it is possible to confiscate, in the literal meaning of the word, confiscate a fish trap, and I think that some better language had better be worked out. You can destroy it certainly, but there is a property value there even though the man never owns a trap site. There is a property value in the trap itself, and the investment he has in it, and the money he spends to build it and to equip it. I think all of that would be subject to compensation, and I don't think you can confiscate it, and what would you do with it if you did? You can't haul it away; you can't sell it; you can't fish with it because trap fishing is being barred. It's a very poor provision in the act.

PRESIDENT EGAN: Mr. Smith.

SMITH: May I ask Mrs. Hermann a question? Mrs. Hermann, is a gun property?

HERMANN: Certainly.

SMITH: I know it for a fact that the Fish and Wildlife Service has made a practice of confiscating the guns used in the illegal taking of game. How is that accomplished?

HERMANN: Well, that is accomplished by confiscating the gun, but try and confiscate a fish trap that is the size that we have agreed they are.

PRESIDENT EGAN: Mr. Hellenthal has been trying to get the floor.

HELLENTHAL: I just want to say that I think our difficulty here is that we are trying to legislate in a constitutional ordinance, and I ask for a recess of a couple of minutes to see if we can approach it from another angle.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have Mr. Hilscher's proposed amendment before us at this time. Is there further discussion? Does anyone else want to be heard? If not, Mr. Hilscher, you may close the argument.

HILSCHER: Mr. President, a great deal of legal discussion has gone on in this last recess on what should be done in case that last sentence is stricken. Now, it is doubtful that we can arrive at a full and complete settlement of this matter at this time. Yet I would like to point out a couple of items which should be under consideration in whatever action we take on this amendment. As I understand it, the principal value of a fishing location is not the fish trap itself, but it is the location of the trap at a particular point, a particular cove, or at some location where salmon congregate. That location has a definite value. How you are going to confiscate that location on the map of Alaska is a question which must be settled. Now, if the members here are agreeable to arriving at a better wording of this amendment that will result as a result of my withdrawing my motion, I am perfectly agreeable to withdrawing the motion, provided that an attempt will be made to arrive at a better understanding of it.

PRESIDENT EGAN: Do you ask unanimous consent that your proposed amendment be withdrawn, Mr. Hilscher? Is that your desire?

HILSCHER: May we have a 30 second recess?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order.

HILSCHER: I ask unanimous consent to withdraw my amendment.

PRESIDENT EGAN: Mr. Hilscher asks unanimous consent that his amendment be withdrawn. Is there objection? Hearing no objection, the proposed amendment is ordered withdrawn. Mr. Buckalew.

BUCKALEW: Mr. President, in view of the amendments that have already been adopted and offered by Mr. Taylor, I would ask unanimous consent in line 3, to strike the word "proposition" and insert the word "ordinance"; and in line 4, to strike the word "proposition" and insert the word "ordinance"; and then to further clarify the matter, in line 4, I would like to add this language: after the word "effective" add "upon the entry into force of this constitution", and ask unanimous consent.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "On lines 3 and 4, change the word 'proposition' to ordinance'; and on line four, after the word 'effective', add the following words: 'upon the entry into force of this constitution'."

PRESIDENT EGAN: Is that your wording, Mr. Buckalew?

BUCKALEW: That's the wording, Mr. President.

PRESIDENT EGAN: What is your pleasure?

BUCKALEW: I move its adoption.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of his amendment. Is there a second?

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Mr. Hellenenthal.

HELLENTHAL: I don't know what that language means.

PRESIDENT EGAN: Is there a second to Mr. Buckalew's motion?

KNIGHT: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Knight. Mr. Hellenenthal.

HELLENTHAL: What date is that?

BUCKALEW: I can tell you the time that it would take place. The constitution would enter into force after the governor was elected and the legislature was elected and the President issued the proclamation. You would have your governor and the legislature and the returns would be certified and I think the minute the governor certifies the election then the constitution goes into effect.

HELLENTHAL: Then would there be any need for this if it is going to be after the first legislature is elected? I thought that you had been telling us that this was for the period prior to the election of the first legislature.

BUCKALEW: No. Your governor is going to take his office prior to the time the legislature convenes. You have all your state officers. The elections would be certified to cover the time from the date the proclamation is issued until the state legislature convenes and acts on the subject.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: That would be about one month in the middle of the winter.
(Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. President, I ask the privilege of the floor for discussion on this matter.

PRESIDENT EGAN: If there is no objection, Mr. Rivers, you may have the privilege of the floor.

(Mr. Victor Rivers spoke for a few moments under privilege of the floor.)

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: In my opinion, this Convention wouldn't have the authority to put a referendum on fish traps out to the people, because it wouldn't be a necessary part of the Convention. This is part of the schedule. This is a subject which is within our authority. We have no authority to require the governor to put another referendum on fish traps on the ballot. I mean, they can strike it before we got started.

PRESIDENT EGAN: The question before us is the proposed amendment as offered by Mr. Buckalew. The question is, "Shall the proposed amendment be adopted by the Convention? All those in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments? Mr. McNealy.

MCNEALY: In Section 25, where it states, "shall the proposed constitutional ordinance", I move and ask unanimous consent that the word "proposed" before "constitutional" be stricken. It will not be a "proposed ordinance" if it is adopted by this Convention. It will be an "ordinance".

PRESIDENT EGAN: Mr. McNealy asks unanimous consent that the word "proposed" in the first line of the question that will be on the ballot be deleted. Is there objection to deleting the word "proposed" in that question? Hearing no objection, the amendment is ordered adopted. Are there other amendments to Sections 24 or 25? Mr. Armstrong.

ARMSTRONG: I thought there would be an amendment after Mr. Hilscher withdrew his suggestion on confiscation of fish traps. I thought there was to be additional words that would be brought in, and that was why you withdrew your amendment.

HILSCHER: That is correct.

ARMSTRONG: Does anyone have the wording that you suggested?

PRESIDENT EGAN: Is there such an amendment to be offered at this time?

HILSCHER: May we have a two-minute recess and see if we can resurrect it.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments for Sections 24 or 25? Mr. Buckalew.

BUCKALEW: Mr. President, we seem to have a disagreement here on the violation provision. I would like to ask unanimous consent to put this over until a time certain, and give us a chance to work the penalty provision out that would be acceptable to the body.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent --

V. RIVERS: I rise to a question on that. I'm wondering if the Committee, if they do have this time certain, will consider the fact that all these fish traps are governed by the leased land which is part of the upland, and I wonder if, when the Territory becomes a state, not having jurisdiction over any lands and that part not being withdrawn, just exactly how far our jurisdiction would extend? In our clauses here, we have accepted all these lands subject to existing leases and so forth. I am wondering what the immediate effect would be, and I hope the Committee will keep that in mind when they start working out their enforcement clause.

BUCKALEW: We will keep that in mind, Mr. Rivers.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, at the point of saving time, I wonder if I might direct a statement through the Chair to any of the legal members here, if this is carried over until tomorrow, Mr. President, to consider that the only right that we have to draw ordinances in this Constitutional Convention and which has been considered by part of the Committee is under the enabling act calling this Convention, and, if the attorneys and others are interested, before tomorrow we will consider this legal proposition very seriously, because the language of our Act says the Convention shall have the power to make ordinances and take all measures necessary or proper in preparation for the admission of Alaska as a state of the Union, and I can read nothing into that, and it was based upon that particular section, Mr. President, that we will probably attempt to advance the Tennessee Plan because that will advance statehood. If it can be read into this that the fish trap ordinance will advance statehood, then the ordinance will be legal. But I wish those members interested

would consider it overnight. It is a serious legal proposition.

PRESIDENT EGAN: Is there objection to Mr. Buckalew's unanimous consent request that the consideration of Committee Proposal No. 17/a --

METCALF: I object.

PRESIDENT EGAN: Objection is heard. Did you move, Mr. Buckalew?

BUCKALEW: I so move.

PRESIDENT EGAN: Mr. Buckalew so moves. Is there a second?

EMBERG: I second it.

PRESIDENT EGAN: Seconded by Mr. Emberg that the proposal be held over until a later date. All in favor of holding the proposition over until a later time will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposal is ordered held over. Mr. McNees.

McNEES: At this time I would like to give notice of reconsideration, having voted on the prevailing side on the Boswell amendment, giving notice of reconsideration of my vote tomorrow.

PRESIDENT EGAN: You voted "no" on that?

McNEES: Yes, I did, sir.

PRESIDENT EGAN: Mr. McNees serves notice of his intention to reconsider his vote on the Boswell amendment.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal No. 8/a on resources, has compared it with the original and find it correctly engrossed. In enrolling it, there were two sets of enclosing commas that were inadvertently left out but I made note of those for the enrolling committee rather than send it back to the boiler room, and I hope that will be acceptable to the delegates in that fashion. The enrolled copies will be placed on the desks this evening, and I move the adoption of the committee report.

PRESIDENT EGAN: Mrs. Sweeney moves the adoption of the report of the Committee on Engrossment and Enrollment. Is there objection?

RILEY: I second the motion.

SWEENEY: I ask unanimous consent.

PRESIDENT EGAN: Mr. Riley seconds the motion. Unanimous consent is asked. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee is now ready to make the report which we passed over earlier on our calendar.

PRESIDENT EGAN: Mr. Sundborg, before you proceed, Committee Proposal No. 8/a is referred to the Committee on Style and Drafting. Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting is now prepared to make the report on amendments to the preamble and declaration of rights which we passed over earlier.

PRESIDENT EGAN: Article I, Article on Preamble and declaration of rights.

SUNDBORG: The report, Mr. President, is on Section 16, which by unanimous consent -- Section 18 -- which by unanimous consent was recommitted to our Committee last night with instructions to bring out new language, and the proposed new language is on the desk of the Chief Clerk and copies are being distributed now to delegates.

PRESIDENT EGAN: The Chief Clerk will please read the committee report.

CHIEF CLERK: "Strike Section 18 and substitute the following: 'In civil cases where the amount in controversy exceeds two hundred fifty dollars, the right of trial by jury is preserved to the same extent as it existed at common law. The legislature may make provision for a verdict by not less than three-fourths of the jury, and in courts not of record, may provide for a jury of not less than six or more than twelve.'"

SUNDBORG: I move the adoption of the amendment.

UNIDENTIFIED DELEGATE: I second the motion.

UNIDENTIFIED DELEGATE: We don't have them in the back.

PRESIDENT EGAN: We'll hold that motion up until we have them in the back. Something must have happened to the President's copy of Article No. I -- not the amendments, but the article itself -- Style and Drafting report. What is your pleasure, Mr. Sundborg?

SUNDBORG: Mr. President, I move for the adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the proposed

amendment. Is there a second?

TAYLOR: I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment as offered by the Committee on Style and Drafting be adopted. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: We have two additional committee amendments to Article I which we would like to move at this time.

CHIEF CLERK: "Section 3, page 2, line 1, after the word 'denied' insert 'the enjoyment of'."

SUNDBORG: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment. Is there a second?

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Hellenthal.

JOHNSON: I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked that the proposed amendment be adopted. Is there objection? Hearing no objection the amendment is ordered adopted. Is there another amendment? The Chief Clerk will please read it.

CHIEF CLERK: "In the preamble, fourth line after the word 'liberty' add the words 'within the Union of States'."

PRESIDENT EGAN: What is your pleasure, Mr. Sundborg?

SUNDBORG: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment. Do you ask unanimous consent, Mr. Sundborg?

SUNDBORG: I will ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked. Is there objection? Hearing no objection the amendment is ordered adopted. Mrs. Hermann.

HERMANN: Mr. President, I ask that the record show that I do not approve of either of these amendments.

PRESIDENT EGAN: You offered no objection but you just wanted the record to show it?

HERMANN: I offer no objection.

NORDALE: I'll join Mrs. Hermann in those sentiments.

PRESIDENT EGAN: Mrs. Hermann and Mrs. Nordale wish the record to show that they do not approve of these two amendments but they offer no objection. Are there other amendments or questions relating to Article I, the article on the preamble and declaration of rights? Mr. Victor Rivers.

V. RIVERS: Mr. President, I will move and ask unanimous consent that we consider at this time my motion to rescind our action on Mr. Barrie White's amendment to the preamble.

PRESIDENT EGAN: Mr. Victor Rivers moves that the Convention at this time rescind its action on the amendment offered by Mr. Barrie White to the preamble of this article. Is there a second to the motion?

COOPER: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Cooper. Mr. Victor Rivers.

V. RIVERS: Mr. President, I bring this matter back on the floor because we spent some two-and-a-half hours on that. The original preamble was authored by 12 members of this body jointly; there is no individual pride of authorship. It was voted for by 49 of the members of this body, and 4 absent, and 2 dissenting. I feel that in context there has been a material change in the body -- or rather, in the intent, at least, of this body by the amendment offered by the Style and Drafting Committee. For that reason I move this rescinding motion at this time.

PRESIDENT EGAN: Now, would the Chief Clerk please read the proposed amendment that had been offered by Mr. White.

CHIEF CLERK: "Strike the preamble in the Style and Drafting Committee copy and insert the preamble from the first enrolled copy.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, I was one who voted in favor of the preamble as it was offered in the enrolled copy, but immediately upon looking at it, I said publicly here to delegates here that certainly this will have to be dressed up by Style and Drafting. I don't believe that any of us ever vote on a particular formation and coupling of words together. We always vote knowing that there has to be some changes to dress the thing up. Therefore, I will oppose this move.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I also have no particular pride of authorship. I was a member of the subcommittee that broached the redraft which was accepted by the full committee without changes, I think Mrs. Nordale and Mr. Hurley served with me on that committee and we were advised by our technical advisers. However, I wish to say this: that the original amendment as offered by Mr. White is even faulty mechanically. It lacks some fundamental things that belong in any well-written preamble. It states no purpose in writing a preamble. The Constitution of the United States reads as follows -- I am not sure I can give you all the -- exactly the order in which the provisions fall:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, and promote the blessings of liberty to ourselves and our posterity, do ordain this Constitution." And I am not quoting it exactly, but I am giving you the substance of it. In other words, every well-written preamble to a constitution has that phrase - "in order to do" something. In this preamble which we wrote, we have "In order to secure and transmit to succeeding generations our heritage of civil, political, and religious liberty". That is the phrase which gives us the reason for writing the constitution -- "In order to transmit to succeeding generations our heritage of civil, political, and religious liberty, we do ordain and establish this constitution for the State of Alaska." There is nothing whatsoever in the original constitution, even if it was written by 12 people and subscribed to by the whole dozen, that says "in order to do" anything. It is a collection of words -- high-sounding, nice words, with God in the middle instead of up front where he belongs, and it in no sense says "in order to do" something. Now I don't mind having my own phraseology changed, but I hate to be one of a Style and Drafting Committee that turns out on the world a preamble, which is probably the only part of the constitution that will be read by hundreds and thousands of people, that isn't even mechanically correct in its structure, and for that reason I am going to oppose the rescission motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, noting that many of the delegates do not have both copies before them, I would ask unanimous consent that the Chief Clerk read first the preamble which appeared in the enrolled copy, and next the preamble which is in the Style and Drafting Committee report.

PRESIDENT EGAN: If there is no objection, the Chief Clerk will please read first the preamble as it appears in the enrolled copy, and then the preamble as it appears in the report by the Committee on Style and Drafting.

CHIEF CLERK: "We the people of Alaska, conscious of our heritage of political, civil, and religious liberty, faithful to God and

to those who founded the nation and pioneered this great land, reaffirm our belief in government by the consent of the governed within the Union of States, do ordain and establish this Constitution for the State of Alaska."

CHIEF CLERK: "We the people of Alaska, grateful to God and to those who founded our nation and pioneered this great land, in order to secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the Union of States do ordain and establish this constitution for the State of Alaska."

PRESIDENT EGAN: Now if you vote "yes" on this motion to rescind you will be in effect -- you will be substituting the enrolled copy of the preamble as it appears in the enrolled copy, for the preamble as it appears in the report of the Committee on Style and Drafting. If you vote "no" on the motion for rescinding, the preamble will remain as it is in the report of the Committee on Style and Drafting. Mr. White.

WHITE: Mr. President, I am sorry this has to be such a long drawn out procedure but I would just like to take a minute. It was inferred last night, I think, on the floor, and again tonight, that one of my motives in moving this substitution was the fact that the word "God" may appear somewhere near the middle of this first draft and it is way up front in the second one. That is not my objection; I think it's fine way up front. My objection primarily was that the Style and Drafting draft left out the words "reaffirm our belief in government by consent of the governed within the Union of States," which I think is a very happy phrase to have in our preamble. As the report came out from Style and Drafting Committee, that phrase did indeed appear way down in Section 2, but you will recall that we have now replaced Section 2 with the old Section 2 so this phrase now no longer appears anywhere in the bill of rights. Secondly, "in order to secure and transmit to succeeding generations" doesn't appear to me to be a very strong or happy phrase for our preamble. It may mean to some people to give up something we now have and hand it on to future generations, but I don't think it is a very well-worded phrase. For those two reasons I preferred and I felt that a lot of the other members preferred and I am sure -- at least I was so assured by several members of the Committee on Style and Drafting -- the original preamble.

PRESIDENT EGAN: The question is, "Shall the Convention rescind the action taken in voting down Mr. White's amendment?" Mrs. Hermann.

HERMANN: A roll call, please.

PRESIDENT EGAN: Mr. Cooper.

COOPER: The way you placed that statement --

PRESIDENT EGAN: "Shall the convention rescind the action taken in voting down Mr. Barrie White's proposed amendment?" If you vote "yes" you are voting for Mr. White's amendment; if you vote "no" you are voting in opposition to Mr. White's amendment. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 8 - H. Fischer, V. Fischer, Kilcher, Laws, Poulsen, V. Rivers, White, Wien.

Nays: 41 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Emberg, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Lee, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nerland, Nordale, Peratrovich, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Mr. President.

Absent: 6 - Coghill, Collins, McLaughlin, Marston, Nolan, VanderLeest.)

CHIEF CLERK: 8 yeas, 41 nays, and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the Convention has failed to rescind its action. Are there other questions or proposed amendments for Article I, the article on the preamble and declaration of rights? Miss Awes.

AWES: I have a committee amendment but I think it goes to substance. Is this the proper time for it?

PRESIDENT EGAN: Well, it would be the proper time, Miss Awes, it would take a suspension of the rules. Would you care to read the amendment?

AWES: The amendment is on the Chief Clerk's desk.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 19, page 5, strike 'except in case of absconding debtors' and substitute: 'this does not prohibit civil arrest of absconding debtors'."

AWES: What do I move, to suspend the rules so we can vote on this amendment?

PRESIDENT EGAN: Now the question is, is that a change in substance or is it a change in the method of accomplishing the same thing? The Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair will rule that the proposed amendment is not a substantive amendment; it is a clarifying amendment and consequently is just a phraseology amendment. Miss Awes, do you move the adoption?

AWES: I move the adoption and ask unanimous consent.

PRESIDENT EGAN: Miss Awes moves adoption of the proposed amendment and asks unanimous consent. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other questions relating to Article I? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no further amendments, I move and ask unanimous consent that the rules be suspended, that the preamble and the article on declaration of rights be advanced to third reading and final passage, be read by title only and placed upon final adoption.

PRESIDENT EGAN: Mr. Sundborg moves -- Mr. Kilcher.

KILCHER: Did Mr. Sundborg make his motion [to include] "in case there are no amendments"? I have an amendment to offer.

PRESIDENT EGAN: Do you have an amendment to offer to the -- what section, Mr. Kilcher?

KILCHER: Section 19, Mr. President.

PRESIDENT EGAN: An amendment in substance and consequently will take a two-thirds vote, I realize that.

TAYLOR: I am going to rise to a point of order.

PRESIDENT EGAN: Your point of order.

TAYLOR: The point is that it comes too late, that Mr. Sundborg had made another motion.

PRESIDENT EGAN: Mr. Taylor, in effect, Mr. Kilcher's rising at that time constitutes an objection to the unanimous consent request for the purpose of submitting an amendment, and the Chair has no other way that the Chair could rule. Mr. Kilcher.

KILCHER: I move the rules be suspended and the amendment in Section 19 be adopted, namely, to strike the rest of the sentence after the comma and make a period out of the comma -- "except in case of absconding debtors".

PRESIDENT EGAN: Mr. Kilcher moves that the rules be suspended. Is there a second to the motion?

UNIDENTIFIED DELEGATE: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

UNIDENTIFIED DELEGATE: Isn't this the same amendment that was offered when this was in second reading?

PRESIDENT EGAN: Was this amendment ever presented to the Convention previously? If it was, it is out of order.

SUNDBORG: Mr. Kilcher has asked for a suspension of the rules. I think under a suspension of the rules that he would be in order.

PRESIDENT EGAN: Mr. Sundborg, if Mr. Kilcher could get a suspension of the rules, you are correct.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: The sentence has been amended by the amendment offered by Miss Awes, and consequently he is asking us to strike the wrong thing.

PRESIDENT EGAN: Isn't there a comma there anymore, Mrs. Hermann?

KILCHER: Yes, change the comma to a period, but strike the rest of the sentence.

PRESIDENT EGAN: Mr. Kilcher's motion now is, "Shall the rules be suspended in order that he might submit this amendment?"

HERMANN: May we have read how the rest of the sentence is now?

PRESIDENT EGAN: Would the Chief Clerk please read how Section 19 reads at this time.

CHIEF CLERK: "There shall be no imprisonment for debt but this does not prohibit civil arrest of absconding debtors."

PRESIDENT EGAN: The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 15 - Barr, Boswell, Buckalew, V. Fischer, Harris, Hurley, Kilcher, Lee, Londborg, Marston, Nerland, Nordale, Riley, Stewart, Sundborg.

Nays: 35 - Armstrong, Awes, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Laws, McCutcheon, McNealy, McNees, Metcalf, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Absent: 5 - Coghill, Collins, McLaughlin, Nolan, VanderLeest.)

CHIEF CLERK: 15 yeas, 35 nays, and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the preamble and the article on declaration of rights, under suspension of the rules, be advanced to third reading, be read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the preamble and Article I, the declaration of rights, be advanced to third reading, read the third time by title only, and placed in final passage. Is there objection? Hearing no objection it is so ordered and the article on the preamble and declaration of rights is now before us in third reading and open for debate. Mr. Barr.

BARR: Mr. President, because I hear that the coffee shop closes at 10:00 o'clock or soon thereafter, I now move that we have a 15-minute recess.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Chairman, I wonder if the mover of the motion would agree to extend it 10 minutes. I should like in any event to call a meeting immediately of the Committee No. VI, Suffrage and Elections and Apportionment, upstairs following the recess --immediately following the declaration of recess.

BARR: I will amend my move then for a recess until 9:50.

PRESIDENT EGAN: Delegate Barr moves that the Convention stand at recess until 9:50. Unanimous consent is asked. Is there objection?

McCUTCHEON: I object.

PRESIDENT EGAN: Objection is heard. Mr. Smith.

SMITH: Mr. President, I wanted to ask Resources Committee to get together for about two minutes immediately upon recess.

PRESIDENT EGAN: When recess commences, Resources Committee will get together for about two minutes. Are there other committee announcements?

McCUTCHEON: Mr. President, I move that we advance the bill in third reading and read the bill.

PRESIDENT EGAN: Was there a second to Mr. Barr's -- the Chair did not hear a second.

McCUTCHEON: He did not move for his adjournment, Mr. President.

BARR: I asked for unanimous consent. I will now move for a recess. Some of us are getting a little short-tempered. It's time we had some coffee.

McCUTCHEON: Objection.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Barr moves that the Convention stand at recess until 9:50, seconded by Mr. Doogan. The question is, "Shall the Convention stand at recess until 9:50?" All in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

COGHILL: On the desks of the individual delegates they will find a package that has 25 of the invitations for the closing ceremonies for use of the individual delegates. There will be invitations sent to all the Territorial officials, the members of the last legislature, and to the cabinet members, as well as the President and all of the national Senators and the House of Representatives.

PRESIDENT EGAN: We have before us Article I, preamble and declaration of rights, before us in third reading and open for debate. Mr. McCutcheon.

McCUTCHEON: Has the article been read yet by title?

PRESIDENT EGAN: The Chief Clerk will please read the Article.

CHIEF CLERK: "Preamble, Article I, Declaration of Rights."

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, may we have Section 19, as amended by Miss Awes, read again, please?

PRESIDENT EGAN: Will the Chief Clerk please read the article or Section 19, as it now reads.

CHIEF CLERK: "There shall be no imprisonment for debt but this does not prohibit civil arrest of absconding debtors."

PRESIDENT EGAN: Is there a discussion or debate on Article I, the declaration of rights and preamble? If not -- Mr. Doogan.

DOOGAN: A question has been bothering me. I have asked this of one member, but I wonder about this final passage business; this reading by title only. I am wondering if it wouldn't be better for future legal interpretation if we avoided this reading by title only and read the article in its entirety.

PRESIDENT EGAN: Mr. Doogan, that would be up to the delegates of course, but it is the definite feeling of the Chair that it makes no difference as far as future reference is concerned. There is nothing in the Act that set up this Convention that would make suspending the rules and reading the article for the third time by title only, illegal. It is a procedure that is adopted in other bodies. The question is, "Shall the article on the preamble and declaration of rights be adopted as part of the Constitution of the State of Alaska?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 44 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McNees, Metcalf, Nerland, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 0

Absent: 11 - Collins, V. Fischer, McLaughlin, McNealy, Marston, Nolan, Peratrovich, Robertson, Smith, Stewart, VanderLeest.)

CHIEF CLERK: 44 yeas and 11 absent.

PRESIDENT EGAN: The "yeas" have it, and the article on the preamble and declaration of rights has become a part of Alaska's state constitution. We now have before us Article V, the article on suffrage and elections. Mr. Sundborg.

SUNDBORG: Mr. President, I ask permission to revert to the order of business of committee reports.

PRESIDENT EGAN: If there is no objection the Convention will revert to the order of business of reports from standing committees.

SUNDBORG: Mr. President, the Committee on Style and Drafting is now reporting to the Convention its redraft of the article on the executive. Copies are now being passed out to the delegates.

PRESIDENT EGAN: Do you wish that that article be read at this time and referred to the Rules Committee?

SUNDBORG: For placement on the calendar I think the usual procedure is not to read it but just to assign it to the Rules Committee.

PRESIDENT EGAN: If there is no objection, the article on the executive is referred to the Rules Committee for assignment to the calendar. We have before us Article V, the article on suffrage and elections. The Chief Clerk may read the report of the Committee.

(The Chief Clerk read the report of the Committee on Style and Drafting.)

PRESIDENT EGAN: Does the Committee on Style and Drafting have a report to make at this time? Mr. Sundborg.

SUNDBORG: Mr. President, just before we give our oral report, I would like to have a committee amendment incorporated in the draft as if it were an original part thereof. I will ask the Chief Clerk to read the committee amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed committee amendment.

CHIEF CLERK: "Section 1, line 6, after the word 'year', strike the article 'a' and insert the following: 'an actual, bona fide, and continuous'; at the end of the same line, after the article 'a', insert the word 'like'."

PRESIDENT EGAN: What is your pleasure, Mr. Sundborg?

SUNDBORG: I ask unanimous consent that the amendment just read be incorporated in the draft as if it were a part thereof at the time of its being submitted to this Convention.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the amendment just read become a part of the report.

UNIDENTIFIED DELEGATE: May we have it read again, please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

(The Chief Clerk then read the proposed amendment again.)

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Is it then the intention of the Style and Drafting Committee to arrange the other articles of the constitution already adopted to have like terminology as this?

PRESIDENT EGAN: Mr. Sundborg, could you answer that question?

SUNDBORG: Mr. McCutcheon, it is not, and we are offering this as a committee amendment only because it was argued to us by the Chairman of the substantive committee which handles this article that that language had been in the enrolled copy and that therefore our striking it amounted to striking a matter of substance, or changing a matter of substance. Now, we have put it back in, feeling that it was our duty to do so, but we do not feel bound as individuals or even as a committee to vote in favor of leaving it in. We believe as reported back to the floor it should be in there for such consideration as the Convention wants to give it.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, may I address a question to Mr. Sundborg?

PRESIDENT EGAN: If there is no objection.

RILEY: Did I understand you to say a moment ago that you are presenting it now as a committee amendment or do you simply wish to incorporate it in your report as it comes out?

SUNDBORG: We wish to incorporate it in the report as it comes out.

RILEY: Still subject to amendment?

SUNDBORG: Subject to amendment.

RILEY: Thank you.

PRESIDENT EGAN: Mr. Barr.

BARR: I would like to ask a question.

PRESIDENT EGAN: If there is no objection.

BARR: Mr. Sundborg, in your opinion when you use the word "continuous", does that mean that a man should actually be in Alaska

for the previous year? If he went on a vacation in July and went to the states, then he couldn't vote in October?

SUNDBORG: Mr. President, I should say at this point that this redraft was the product of a subcommittee of the Style and Drafting Committee consisting of Mrs. Hermann, Mr. McLaughlin, and Mr. Johnson, and that we have asked Mrs. Hermann to answer such questions as there may be with respect to this article, so I wonder if Mrs. Hermann would take over the fielding of the questions from this point on.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Well, our usual procedure has been for the chairman to explain the changes that were made in general, and then have a period of questioning on each section, and I would prefer to handle it that way.

SUNDBORG: Mr. President, I wonder if we might not have this incorporated in our report, and then we would be glad to answer any questions about it or deal with it in any way that the delegates desire.

BARR: I will defer my question then until after the whole thing has been covered.

PRESIDENT EGAN: You are asking unanimous consent, Mr. Sundborg, that it be incorporated at this time? It does not preclude amending it later, Mrs. Hermann. Is there objection to incorporating the proposed committee amendment at this time to become part of the report? Hearing no objection, it is so ordered. Mr. Sundborg, do you wish that an explanation be made of your work on this article?

SUNDBORG: Mrs. Hermann will give such an explanation, Mr. President.

HERMANN: Mr. President, members of the Convention, you will note, if you will refer this to your enrolled copy, that we have taken the first section of the enrolled copy which was one sentence, and made it into several sentences. We have not eliminated anything from Section 1 and since putting in the amendment which Mr. Sundborg just read, we have practically made no change except for purposes of condensation and shearing off some unnecessary words. The first section sets up the qualifications of voters. I might say, in that connection, that if you accept this first section as it is written, containing the expression "actual, bona fide, and continuous resident" etc., you will be at variance with the residence requirements that are set up in the legislative article and also in the executive article. Section 2 of the legislative article provides that the qualified voter has been a resident of Alaska for at least three years and of the district

from which he is elected for a year immediately preceding his filing for office. There is nothing said in the legislative article about his being an actual, bona fide, and continuous resident. He merely is a resident. We thought the words "actual, bona fide, and continuous" were very redundant, and if he had been a resident for the period stated next preceding the election, he had all those qualifications without their actually being set down. In the residence requirement that is set up under Committee Proposal No. 10/a, which is for the executive department on which you will probably be acting on tomorrow, the residence requirement is that he shall have been a resident of Alaska seven years next preceding his election, and that, also, there is no reference to his being an actual, bona fide, and continuous resident. In that respect, there is a lack of uniformity in the residence requirements as set up in the suffrage and elections article and in the legislative and executive articles, and, of course, one of the things which Style and Drafting always seeks to undertake is to have uniformity of language through all the sections of the constitution. It will, of course, be up to the body here to determine whether they want to make that exception in this case or not. We moved up Section 2 from a place which was toward the end of the original article and put it next to the section on qualified voters since it sets up the disqualifications. Under Section 3, we have combined several sections, including a new one that had been placed at the end which included secrecy of voting shall be preserved. I believe there has been no change of substance in any of these. We have only five sections of the entire article. It's brief, and we shouldn't have to spend the next week arguing. I would also call your attention to the special voting provision which appears at the bottom of the page and is labeled Section 6, and that refers to the exemption that was made for voters who voted in November, 1924, and we believe that that does not belong in a permanent article in the constitution and that it should be transferred to the transitional section, and will make that request at the proper time. Now, if there are any questions, I will be glad to answer them.

PRESIDENT EGAN: Mr. Londborg, do you have a question?

LONDBORG: As I read this report of Style and Drafting Committee which includes the words "actual, bona fide, and continuous resident", that sets up the qualifications for a person to be an elector, is that right?

HERMANN: Yes. An elector or a voter. I might add here that no place in any of the articles have we used the word "elector", because we have set up qualifications for voters and from here on, we will call them "voters".

LONDBORG: A "qualified voter" -- pardon me.

HERMANN: Yes.

LONDBORG: We would call them a "qualified voter", and in both the legislative and executive article, the candidates seeking office, as our adopted report stands, must also be qualified voters, so I would think that you have complete harmony then with the other two articles because in order to file for either the governorship or member of the legislature, they must be a qualified voter, and you look back here, and it says they must be an actual, bona fide, and continuous resident, so I think you have harmony.

HERMANN: That is not a question but I am glad to have the expression of the opinion.

PRESIDENT EGAN: Are there questions to be asked of Mrs. Hermann? Mr. Barr.

BARR: No, my question hasn't been answered yet, Mr. President. I want to know if this would bar a man from voting if he took a 30-day vacation in California before the election. It says here he must be a continuous resident for the previous year. Now just what does that mean?

HERMANN: I think that is exactly what it does mean; that he couldn't vote if he were not here continuously for the year previous.

BARR: He and a convicted criminal, then, could not vote? That must be a criminal act. I don't think I would go for that.

HERMANN: He could vote absentee, of course.

BARR: But he's not a qualified elector.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I would like to ask Mrs. Hermann two questions. You say that the definition of a "qualified voter" is contained in other articles?

HERMANN: No. The definition of a "qualified voter" is limited to this article, but, in the other articles, they say he must be a qualified voter but they set up residence only as a requirement. They don't include those words "actual, bona fide, and continuous", just a resident. I might say that before we worked over some of these articles, some of them said 'who has resided in the Territory or state' for so long, and others that were residents of the state for so long, and in order to get the uniformity which we feel is essential in the constitution as a whole rather than in the separate sections, we tried to put all of those residence requirements in exactly the same language.

TAYLOR: Then, I cannot see, Mrs. Hermann, why it must be an "actual, bona fide, and continuous resident". You say a person

goes outside and that breaks the continuity of their residence. What would be the use of giving him an absentee ballot, because they're not able to vote?

HERMANN: Probably -- I think the word "continuous", as well as "actual and bona fide" and so on, limit the meaning of the word "resident", myself.

TAYLOR: Does the Committee that drew this up give any thought -- I think this is the article in which a legal voter should be described.

HERMANN: The qualifications were set up here on the floor at the time this article was considered as a committee proposal. The only thing we have done to them is to group them into sentences instead of leaving them in a long sentence that covered a whole page in which they were originally presented.

TAYLOR: Have you given any thought to making a separate sentence out of this: "A legal resident shall have had such yearly residence in the Territory and 30 days in the precinct."

HERMANN: Well, I think we have made a separate sentence out of it.

TAYLOR: And then you could refer to him as a legal voter -- a legal resident.

HERMANN: Well, of course, I think when they are qualified to vote, they are a legal voter. We have given no thought to any change in the language beyond what was absolutely necessary to move it into this section.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Chairman, may I ask Mrs. Hermann a hypothetical question?

PRESIDENT EGAN: You may, if there is no objection.

METCALF: Under this section with the new language, Mrs. Hermann, if I should, ten days before the general election, travel from the Seward precinct to the Anchorage precinct for a couple of days business, would I be allowed to vote under this, because my presence in the precinct would not be actual?

HERMANN: I personally think that unless you were living in the other precinct that you could vote. Making a trip I don't think would make any difference at all. If there is anybody on the Committee who wishes to enlarge upon that, I would be very glad to have them put in their two bits worth.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I don't know whether I can enlarge upon that or not, but I take an entirely different view of this thing from what Mrs. Hermann has just explained, if I understood her correctly. I believe that a resident remains a resident whether he is physically present at his place of residence at all times or not. I can think of many instances where the law allowed a person to be physically absent and yet retain his residence. One of them, the most common one in this country, is military service. A person neither gains nor loses residence by being elsewhere in military service; he keeps his residence. He is still a resident of the place where he was when he went into the military service. Another instance that is commonly recognized by the courts, as I understand it, is where a person goes to the states from Alaska for medical attention; he may be gone for ten days or two months or even five years, but he hasn't intended to change his residence. He is still a resident of Alaska -- a continuously and actual, bona fide resident even though he may not be physically present. That is my understanding of it. On top of that, as I understand it, the term "residence" in law requires a concurrence of two things: one, physical presence; two, intent. Now a person can be a resident and not be actually physically present if he intends to maintain his residence at that place. On the other hand, he may be physically present some other place and he does not gain residence unless he has intent. Now the intent is where we usually have trouble in the courts, because intent, of course, is in a person's mind; and he may say, "Yes, I intend to live in Alaska", when in fact he doesn't. Well, then you look at various things he does to indicate whether he has that intent or whether he doesn't. We run into it continuously here in the matter of divorce cases where the present law requires you to be an actual resident -- I don't think they use the word "actual" -- but you have to be a bona fide resident and inhabitant of Alaska for two years before you can file for divorce. Now we have many, many cases where people are physically present in Alaska, but they haven't formed the proper intent to be a resident and accordingly they cannot gain the residence requirements. Once again, the most common example of that is the military service. We have people who are sent up here by the military; they are physically present in Alaska all right, but they did not have the required intent because they were sent here by the military, and, at least in our courts, we have taken the position that in order to show anything, they had to do something that would separate them from the ordinary run of military people. They had to live off of the Post; possibly pay taxes; they had to have resident fishing and hunting licenses. I don't mean to say they had to have all those things but those are all indications of intent. That is my understanding of this word "residence".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I should like to be heard on this. As the Chairman of the Elections and Suffrage Committee I gave it considerable thought.

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: There is nothing before the Convention at this time.

PRESIDENT EGAN: There is nothing before us unless there is a question directed --

DOOGAN: May I ask a question?

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I would like to ask Mrs. Hermann this: if this language, "actual, bona fide, and continuous" was left out, what would be the position of a person that left one election district and went to another for the purposes of taking a job for a period of anywhere from 30 days to two years, moved his family, but still wanted to vote by absentee ballot in the precinct or election district where he came from.

HINCKEL: Point of order, Mr. Chairman.

PRESIDENT EGAN: Your point of order.

HINCKEL: I think the questions are being directed to the wrong committee chairman. They didn't change the substance; they put it in just exactly the way it came from the Committee. I think if they want to argue about it they had better direct their questions to the Committee.

PRESIDENT EGAN: That question could be properly directed to the Chairman of the Committee on Suffrage and Elections.

V. FISCHER: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Fischer.

V. FISCHER: I think Mr. Hinckel's point of order in part was that this is a report of the Committee on Style and Drafting, the report concerns only the language. The question should be, should there be any changes in language to keep the intent of the original article as it was in second reading. It seems to me that we should first take care of this Style and Drafting as a --

PRESIDENT EGAN: Mr. Fischer, you are entirely correct.

DOOGAN: All right, I will withdraw my question.

PRESIDENT EGAN: The questions should be directed to anything that the Style and Drafting Committee may have changed.

HELLENTHAL: May I say on behalf of the Committee that we agree fully with the Committee version of the Suffrage and Elections report. The Committee has gone over it as a whole and they have no objection to it whatsoever.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask a question of Mr. Davis and Mrs. Hermann? The same question?

PRESIDENT EGAN: If there is no objection, you may.

NORDALE: I would like to know if there is any difference between a resident, an actual resident, a bona fide resident, or a continuous resident. I would like to have both of you answer the question.

PRESIDENT EGAN: Mr. Davis.

DAVIS: That is one of those loaded questions, Mr. President, like have you stopped beating your wife. In my opinion, for what it may be worth, the words "actual, bona fide, and continuous" add nothing to the language -- "a resident". It means the same thing. Now, that is my opinion; it is not Mr. Hellenthal's opinion. That is the way I look at it. On the other hand when you say, is there any difference between an "actual resident" and just "a resident", there could be. If you say, is there any difference between "a bona fide resident" and "a resident", there could be. A resident might be somebody who was here and who claimed he had an intent, but he wasn't. He didn't have a good faith intent. That is what "bona fide" means, after all, is good faith; continuous also, there is certainly a lot of difference between "resident" standing by itself and "continuous resident". I can be a resident of Alaska today; I can move to Seattle tomorrow with full intent to make my home in Seattle tomorrow. I can move back to Anchorage the next day with intent to live in Alaska from there on, and certainly it couldn't be said that I had had continuous residence in Alaska. It's a matter of intent, and, as I said awhile ago, that is something that is in a man's head and you have to show it by proof of some kind or another when you get down to these points. Now we can argue here a long, long time about this, but I suspect that we are not going to come to any very satisfactory conclusion because the law books are full of cases -- you can stack them up to the ceiling on cases on residence, and you wouldn't ever get all the cases -- all the variations of it.

PRESIDENT EGAN: Well, there again we are --

McCUTCHEON: Mr. President, I want to support Mr. Fischer's point of order.

PRESIDENT EGAN: The Chair recognizes that, Mr. McCutcheon.

McCUTCHEON: I think it is incumbent upon the Chairman of the Committee on Style and Drafting to move for the adoption of his report so we can proceed to other matters here.

PRESIDENT EGAN: Mr. McCutcheon, you are correct. The questions at this time should be directed only to matters that the Style and Drafting Committee had before them. The enrolled copy contained the words "actual, bona fide" and also the word "continuous" and that line of questioning is not in order at this time.

NORDALE: Mr. President, I apologize, but my point was that as a matter of style, I thought it sounded all right just to say "a resident" and I wanted to clarify it.

PRESIDENT EGAN: Are there questions relating to the report as it has come from the Committee on Style and Drafting? Now comes the question as to whether it is better to withhold the motion to accept the report until after we have considered any possible amendments and then have the Committee ask for the adoption of the report as amended. Mr. Davis.

DAVIS: Mr. President, it seems to me it would be more orderly if there are amendments as to style to make the amendments now. As far as substantive amendments, I think we would do better to do it after the report has been adopted, if it is adopted.

PRESIDENT EGAN: Are there any amendments to be proposed as to style or phraseology? Mr. Ralph Rivers.

R. RIVERS: Has it been decided that this "actual, bona fide, and continuous" as distinguished from the word "resident" alone is a matter of substance or a matter of style?

PRESIDENT EGAN: Well, it could very well be a matter of substance.

R. RIVERS: I understand that Mr. Hellenthal regarded it as a matter of substance, so I will make my motion to strike that later.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I might state, Mr. President, that that is the reason it is in here, because it was considered a matter of substance and we had left it out, and Mr. Hellenthal called it to our attention and we felt that he had properly called it to our attention, and we put it back in.

PRESIDENT EGAN: Thank you, Mr. Davis. Are there amendments to be offered to Section 1 with relation to style? Mr. Buckalew.

BUCKALEW: Mr. President, I'm going to take a chance on this. I think I have an amendment as to style.

PRESIDENT EGAN: Would you state the proposed amendment, Mr. Buckalew?

BUCKALEW: "Strike 'continuous, bona fide' and strike that other word too, and insert 'resident and inhabitant of Alaska'." I think it means the same thing.

PRESIDENT EGAN: Would you read that again, what you are attempting to strike, Mr. Buckalew.

BUCKALEW: I will withdraw that if it is all right to talk to Mr. Hellenthal. I am sure there would be an objection to it.

PRESIDENT EGAN: Are there other proposed amendments as to style on Section 1 and Section 2? Are there proposed amendments to Section 3? Section 4? Or 5? Now, does this provision come out of here -- Section 6? Is that going to be your recommendation, Mrs. Hermann?

HERMANN: In Section 5, we made a slight change there by adding "the month and day may be changed by law" instead of "the date may be changed by law". I think that is style entirely but I thought I had better call it to your attention.

PRESIDENT EGAN: Are there any questions relating to Section 5, or Section 6, or is this section to be recommended to the Committee on Transitional Measures? Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that Section 6 be referred to the Committee on Ordinances for incorporation in the transitional section of the constitution.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that Section 6 be referred to the Committee on Ordinances with instructions that the section be included in the provisions for transitional measures. Mr. Ralph Rivers.

R. RIVERS: May that be called "miscellaneous provisions" instead of "transitional measures"?

PRESIDENT EGAN: What is the feeling of the Chairman of the Style and Drafting Committee?

SUNDBORG: Mr. President, as we have outlined our tentative thoughts on how the constitution would be arranged, we would have the transitional measures set out separately from the miscellaneous provisions, although that, of course, is a decision which we and the Convention will still make some time in the

future. But I believe I stated my motion correctly in the first place, and that was that it be referred to the Committee on Ordinances for incorporation among the transitional measures.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing none it is so ordered. Mr. Sundborg.

SUNDBORG: Now, Mr. President, if there are no amendments as to style or phraseology, I move and ask unanimous consent that the report of the Committee on Style and Drafting be accepted, and that the changes which have been made in language in the article on suffrage and elections be adopted.

PRESIDENT EGAN: Is there a second?

R. RIVERS: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Ralph Rivers.

HERMANN: I will have to object for the purposes of propounding an inquiry.

PRESIDENT EGAN: Your inquiry, Mrs. Hermann.

HERMANN: If that isn't accepted as Mr. Sundborg stated, does that bar us from asking that all that surplusage of "actual, bona fide, and continuous" be eliminated?

PRESIDENT EGAN: It does not bar you, Mrs. Hermann, but at this time, or after this motion of Mr. Sundborg's would be adopted, it would take a suspension of the rules to accomplish that.

BARR: After we adopt it?

PRESIDENT EGAN: Or at this time, it would also.

BARR: At this time?

PRESIDENT EGAN: Yes.

HERMANN: For substance.

PRESIDENT EGAN: For anything that is not strictly style, anything that contains substance.

BARR: This is already in the other committee report, as I understand it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, will I, on behalf of the Committee, have an opportunity, prior to any request for suspension of the

rules, to give the background of these words that we feel definitely are not surplusage?

McCUTCHEON: He would have to have something at issue before we could get at that.

PRESIDENT EGAN: Or if Mr. Hellenthal would choose to ask for the floor and ask unanimous consent to be heard and no one object, he could give that explanation. Mr. Hellenthal.

HELLENTHAL: I am Chairman of the Committee and I speak in their behalf; we have no desire to impose on the body, but I do think it would certainly clarify things if we could give a brief explanation of the nature of this setup.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Chairman, I would suggest to Mr. Hellenthal that the words he wants in are now in. Unless and until somebody moves to take them out, then they stay there. There is no need for an explanation. If somebody moves to strike them, certainly he can explain in connection with his vote or with his motion.

HELLENTHAL: Point of information. If the motion is to suspend the rules, then we cannot be heard until after the vote on the motion to suspend the rules, because I understand it is not debatable.

McCUTCHEON: I second the motion.

PRESIDENT EGAN: It has been moved and seconded -- Mr. Hellenthal.

HELLENTHAL: I have a request because of that matter, to at this time, and I believe it will expedite matters, to give the explanation of this --

SUNDBORG: Mr. President, I had asked consent to have our report accepted and the amendments which we have made adopted. Now is there objection to that?

PRESIDENT EGAN: Is there objection to the unanimous consent?

HERMANN: I had objected temporarily but I withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption -- acceptance of the report and the adoption of the changes that were made by the Style and Drafting Committee? Is there objection? Hearing no objection the report is ordered accepted and the changes adopted. Mr. Riley.

RILEY: I might suggest to Mr. Hellenthal, if I may, that the language is now in. I suspect there will be a number of requests

for suspension of the rules for specific amendment, amendments identical or nearly so, and perhaps it would save a little time if we had a recess so Mr. Buckalew and Mr. Hellenthal could get together. Certainly, if the rules are suspended, there will be opportunity for Mr. Hellenthal to be heard; if they are not there will be no need.

HELLENTHAL: I hoped that the members would be able to know what they were voting on when the request for suspension was made. That is the only reason I asked for it.

RILEY: I ask unanimous consent, Mr. President, for a few minutes' recess.

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: I ask unanimous consent that the rules be suspended to return Article V to second reading for the purposes of specific amendment. I believe the Clerk has a number of identical or nearly identical amendments.

PRESIDENT EGAN: Would the Chief Clerk read the proposed specific amendment.

CHIEF CLERK: "Page 1, line 6, strike 'an actual, bona fide and continuous'; strike 'like'; insert the article 'a' after 'year'."

PRESIDENT EGAN: Who was that by?

CHIEF CLERK: Mr. Riley.

PRESIDENT EGAN: The question is, "Shall the rules be suspended in order that the proposal can be returned to second reading for specific amendment?" The Chief Clerk will call the roll.

UNIDENTIFIED DELEGATE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked. Is there objection to the suspension of the rules for the specific amendment?

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard.

RILEY: I so move.

PRESIDENT EGAN: Mr. Riley so moves.

McCUTCHEON: I second the motion.

PRESIDENT EGAN: Seconded by Mr. McCutcheon that the rules be suspended. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 36 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Lee, McCutcheon, McNees, Marston, Metcalf, Nerland, Nordale, Reader, Riley, R. Rivers, V. Rivers, Smith, Sundborg, Sweeney, Taylor, White, Wien, Mr. President.

Nays: 13 - Coghill, Davis, Gray, Hellenthal, Hinckel, Knight, Laws, Londborg, McNealy, Peratrovich, Poulsen, Rosswog, Walsh.

Absent: 6 - Collins, McLaughlin, Nolan, Robertson, Stewart, VanderLeest.).

HERMANN: Mr. President. I wish to change my vote to "yes".

PRESIDENT EGAN: Mrs. Hermann changes her vote to "yes". The Convention will come to order. Mrs. Wien.

WIEN: I wish to change my vote to "yes".

PRESIDENT EGAN: Mrs. Wien changes her vote to "yes".

TAYLOR: I change my vote to "yes".

PRESIDENT EGAN: Mr. Taylor changes his vote to "yes". The Convention will come to order. The Chief Clerk is attempting to tally the vote.

CHIEF CLERK: 36 yeas, 13 nays, and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. It takes 37 votes to suspend the rules. Are there any other proposed amendments to Section 1 or Section 2? Mr. Hellenthal.

HELLENTHAL: I would like privilege of the floor for five minutes to explain this, if I may have it. I don't want to take your time unnecessarily, but I do think it might clarify it.

PRESIDENT EGAN: Is there objection?

McCUTCHEON: I object. Yes, I object, Mr. President. The rules have not been suspended and there is no use wasting the time.

PRESIDENT EGAN: Objection is heard. Are there other amendments to be proposed. Mr. Barr.

BARR: Mr. Hellenthal is the Chairman of the committee and I think we owe him the courtesy of hearing him. It doesn't matter about rules or anything else. We have always been willing to hear the chairman of a committee on any subject that the committee has dealt with, and I think we should hear him.

HELLENTHAL: I will be happy to talk to each of you individually at any time on this, but I can assure you that you will be interested.

PRESIDENT EGAN: The Convention will come to order. Are there other amendments to be proposed to Sections 1, or 2, or 3? Mr. Doogan.

DOOGAN: Mr. President, I move at this time to rescind our action on that last amendment, on the suspension of the rules.

PRESIDENT EGAN: Is a motion to suspend the rules rescindable? It is the feeling of the Chair that it is not. Mr. Davis.

DAVIS: In any case, Mr. President, the motion for reconsideration is still open on this particular vote.

PRESIDENT EGAN: You can't reconsider a motion to suspend the rules; the Chair is certain of that. Mr. Barr.

BARR: Mr. President, I move that Mr. Hellenthal be given the privilege of the floor for five minutes for the purpose of explaining this section.

PRESIDENT EGAN: Mr. Barr moves that Mr. Hellenthal be given the privilege of the floor for a five-minute period for the purpose of explaining this election section.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall Mr. Hellenthal be given the privilege of the floor for the purpose of explaining the section?" Mr. McCutcheon.

MCCUTCHEON: The point that I would like to make is, why is it necessary to take up the time of the Convention with an explanation on one side only, when there is no argument that can be heard from the other side? The question is patent here. It is in the act that we have adopted or are about to adopt and there is no question about it at all. If the delegates were desirous of having the rules suspended to hear these points of argument on both sides, then they should have voted for suspension.

LONDBORG: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Londborg.

LONDBORG: I can agree with Mr. McCutcheon on that, but it seems that, at the same time, the suspension of the rules is for the protection of the minority and I think the minority hung onto that, because once they would give it up, then it would come to a majority vote, and I think there might be some of the minority that would yield to the suspension of the rules if they heard the argument a little bit.

PRESIDENT EGAN: Mr. Barr moves -- Mr. Davis.

DAVIS: Mr. President, I voted "no" on suspension of the rules and I did it for this particular reason: the thing that Mr. Hellenthal wants is in here now. If the rules had been suspended, then it would have become necessary to explain this thing. Since the rules have not been suspended, and since, at least at this time, the section stands the way Mr. Hellenthal thinks it should stand, it seems to me we are wasting time of the Convention to make any explanation. It stands that way -- just the way that he wants it, as I understand it.

PRESIDENT EGAN: Mr. Barr.

BARR: What Mr. Davis has said is true, but some other member here might get up and make a motion to suspend the rules for a specific amendment which applies to this section, so it is still open to amendment in a way.

PRESIDENT EGAN: Mr. Barr moves that Mr. Hellenthal be granted the privilege of the floor for five minutes. All those in favor of granting Mr. Hellenthal the privilege of the floor for five minutes will signify by saying "aye"; all opposed by saying "no". The "noes" have it. Are there amendments to Section 3? Mrs. Hermann.

HERMANN: I would like a citation to the rule that says a motion to suspend the rules cannot be rescinded. It takes a two-thirds vote, whatever it was.

PRESIDENT EGAN: What was that, Mrs. Hermann? Mr. Doogan asked -- or moved that the Convention suspend -- or rescind the action taken on the suspension vote, is that right?

HERMANN: That is right.

PRESIDENT EGAN: Is that what you were referring to?

HERMANN: That is what I mean. I would like a citation to the rule that covers that.

PRESIDENT EGAN: Well, it would be in Robert's Rules of Order. It is impossible to reconsider a suspension of the rules, you cannot reconsider. Now, whether or not it is impossible to rescind -- the Chair will declare a two-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Doogan, the Chair will rule that the motion to rescind does not apply to a suspension of the rules, and the reason for that is that, if the motion to rescind did apply to a suspension of the rules, then any delegate any time a suspension of the rules was voted down could override that vote by a vote of 28 delegates, because it only takes 28 votes to rescind an action.

DOOGAN: Is it in order then, to ask for suspension of the rules again for the same specific amendment?

PRESIDENT EGAN: You might be able to do it at another meeting tomorrow but under Robert's Rules it isn't possible at this time. Mr. Rosswog.

ROSSWOG: I would like to move that we adjourn until 1:30 tomorrow afternoon.

PRESIDENT EGAN: Mr. Rosswog moves that the Convention adjourn until 1:30 tomorrow afternoon. Is there a second to the motion.

KNIGHT: Second the motion.

PRESIDENT EGAN: Seconded by Mr. Knight. The question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow?" Are there committee announcements? Mr. Londborg.

LONDBORG: Last evening, I went in with the back seat vacant. I would like to pick up three or four delegates. I don't think there is a need of calling a cab.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I don't believe in sitting on each others laps.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe that if we take a vote to adjourn and if it is a majority vote, then we should stay seated and arrange for transportation.

PRESIDENT EGAN: If this vote carries would the delegates stay in their seats and decide about how they are going to get to town. Mr. McNealy.

McNEALY: If the vote carries, then I would like definitely to have all members of the Ordinance Committee here by 1:00 tomorrow, and if some come earlier, that will be well, too.

PRESIDENT EGAN: Are there other committee announcements?

SUNDBORG: Style and Drafting will meet here immediately upon adjournment, whenever that is tonight.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Committee on Finance will meet very briefly immediately upon adjournment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Suffrage and Elections at 1:00 tomorrow afternoon in the usual room upstairs.

PRESIDENT EGAN: Suffrage and Elections 1:00 tomorrow, upstairs. Are there other announcements? If not, the question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow?" All those in favor of adjourning will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the Convention is still in session. Mr. Riley.

RILEY: If I may have the floor upon personal privilege for a moment?

(Mr. Riley then spoke on a matter of personal privilege.)

PRESIDENT EGAN: The Convention will come to order.

RILEY: As a matter of fact, Mr. President, in view of the change in time in that suggestion, I move now that we stand adjourned until 9:00 a.m. tomorrow morning.

PRESIDENT EGAN: Mr. Riley moves that the Convention stand adjourned until 9:00 a.m. tomorrow. Is there a second?

DOOGAN: Point of order.

PRESIDENT EGAN: Your point of order.

DOOGAN: We just had a motion for adjournment.

BUCKALEW: Not until 9:00 a.m.

COGHILL: I believe we had. Mr. Riley --

PRESIDENT EGAN: Mr. Riley was talking in between on what constituted business. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Knight. The question is, "Shall the Convention stand adjourned until tomorrow morning at 9:00 a.m.?" All those in favor of adjourning until 9:00 a.m. tomorrow will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the Convention is adjourned.

ALASKA CONSTITUTIONAL CONVENTION

January 27, 1956

SIXTY-SIXTH DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Londborg, would you care to give us our daily invocation? Reverend Londborg will give our daily invocation.

REV. LONDBORG: Our heavenly Father, we pray that You be with us today as we further deliberate. We ask that You bless us. Help us that we might think clearly and act wisely. We pray that You bless each of us. In Jesus' name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk then called the roll.)

CHIEF CLERK: Seven absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: The journal of the 59th day, Friday, January 20, we did not discover any errors or omissions. I request that it be approved by unanimous consent.

PRESIDENT EGAN: Mr. Knight asks that the journal of the 59th day be approved as read by the special Committee to read the journal. Mr. Londborg.

LONDBORG: It would seem that the roll call on our vote on Committee Proposal 6/a should have been listed also, as well as any other roll call. That was the one pertaining to the name of the local government unit. All that we have here is just the tally.

PRESIDENT EGAN: In the journal of the 59th day?

LONDBORG: Yes.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the approval of the journal of the 59th day will be held in abeyance. Are there any communications or petitions from outside the Convention? Are there reports of standing committees? Special committees? Are there any motions or resolutions to come before the Convention? If not, we have the article on suffrage

and elections before us. Are there any other proposed amendments to the article? Mr. Ralph Rivers.

CHIEF CLERK (submitted by Mr. Ralph Rivers) "Page 1, line 3, following the word 'article' strike 'and not barred by any other provision of law'."

R. RIVERS: Following the word "article".

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

R. RIVERS: Mr. President, this is a matter of substance, I believe, and so I will move that the rules be suspended for the purpose of bringing forward this particular amendment, and there is very good reason which is based on study which has been made overnight.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the rules be suspended.

HELLENTHAL: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Hellenthal.

HELLENTHAL: Might I observe at this time that this matter was taken up by the Committee on Suffrage and Elections yesterday, and they unanimously agreed that the deletion should be made.

PRESIDENT EGAN: The question is, "Shall the rules be suspended?" Do you ask unanimous consent? Unanimous consent is asked for suspension of the rules. Is there objection? Hearing no objection, the rules have been suspended. Mr. Ralph Rivers.

R. RIVERS: I would like to explain.

PRESIDENT EGAN: Do you move the adoption?

R. RIVERS: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Is there a second?

HERMANN: I second the motion.

PRESIDENT EGAN: Mrs. Hermann seconds the motion. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Page 1, line 3, following the word 'article' strike 'and not barred by any other provision of law'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we say in Section 1 that every citizen of the United States who is at least 19 years of age, qualified

to vote under this article, may vote in any state or local election. That is the way it would read if these words were deleted. If we say "and not barred by any other provision of law" that would mean we have undermined our suffrage section, because that would throw it open to the legislature to attach property qualifications to all voters and things like that, such as has occurred in certain states. Now, the purpose of saying "and not barred by any other provision of law" was to allow for local governments to put on property restrictions in local bond elections. That was the only purpose of it. If this is a general article on suffrage, then, obviously, the legislature could hook on conditions to everybody being able to vote. But, if we look to our section on local government, and right in that local section, we say "property restrictions may be imposed on bond elections", and, if in our article on finance -- in there we would have to take a look -- and put this business about property restrictions to vote in bond elections in local governments, then we haven't done any harm. We know that the restrictions can apply only to those particular situations and we wouldn't undermine the general right of suffrage.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: May I ask a question of Mr. Hellenthal?

PRESIDENT EGAN: If there is no objection, Mr. Hurley.

HURLEY: Mr. Hellenthal, is there any conflict in your mind when we say in one place in the constitution that you may vote if you are so and so, and in another place it would say that you can vote differently?

HELLENTHAL: No. The reason that this language was included is that the language was adopted before the body adopted the local government provision. In the local government provision, accent is placed on the charters of the local government and the -- Dillon's Rule, if you will recall, was reversed to a large extent. In other words, the cities now have the powers that aren't taken away from them, so the necessity for this is no longer needed since we have adopted local government. Another very good illustration of it is registration. This was in, primarily, so that local governments could adopt registration without any constitutional hurdles. Now that local governments have all the powers that aren't taken away from them, it is no longer needed.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: May I ask Mr. Ralph Rivers a question?

PRESIDENT EGAN: You may, Mr. Londborg.

LONDBORG: You mentioned that in the local government article they could put on certain restrictions. Is that right?

R. RIVERS: Yes.

LONDBORG: Would that not run into a conflict then here? It says, if they are 19 years of age and meet the other qualifications, they may vote in any local election.

R. RIVERS: In any state or local election, that is the general rule. Then your specific exceptions are pinpointed as specific exceptions. If you put it under the general rule though, then our legislature could start throwing exceptions on all voters generally.

LONDBORG: Well, I see that, but here it gives them a specific right to vote in any local election regardless of any specific thing that might come under the local government article. I am just wondering if that wouldn't be a conflict?

R. RIVERS: Well, exceptions can be allowed to any general rule, and I know the exception is a modification of the general rule where this Constitutional Convention specifically pinpoints the exception.

LONDBORG: Well, what I was getting at is, if you can bar them through some provision in the local government, then it is not true that they can vote in any local government election as it says here.

R. RIVERS: Well, you might say "except as otherwise provided by this constitution", but you can't say "except as otherwise provided by other provisions of law". You see my point? Mr. President, may I ask Mr. Londborg a question?

PRESIDENT EGAN: If there is no objection.

R. RIVERS: If one were to say "and may vote in state or local elections"?

LONDBORG: I was merely raising the question. If any of the legal minds can see any possibility of conflict I thought it should -- it really doesn't matter to me.

R. RIVERS: May I ask for a one-minute recess?

PRESIDENT EGAN: Mr. Fischer has been attempting to get the floor. Mr. Fischer.

V. FISCHER: In the finance article we have a sentence, "Additional requirements and qualifications of voters may be provided by law." That is a specific qualification of this general authority to vote.

UNIDENTIFIED DELEGATE: On bond elections?

V. FISCHER: Yes, that would include bond elections. I do doubt whether cities could prescribe registration under this; that is something else. But there is no problem on bond elections. That is taken care of.

PRESIDENT EGAN: Mr. Ralph Rivers, did you say you wanted --

R. RIVERS: I wanted a one-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: If I may have the privilege of the floor for a moment before I ask for consent to make a correction in this amendment.

(Mr. Ralph Rivers then spoke for a few moments under personal privilege.)

R. RIVERS: My amendment includes those additional words at the end of the sentence.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that his amendment include the addition of the words as he just stated them. Would the Chief Clerk please read the proposed amendment if these words were included.

CHIEF CLERK: "Page 1, line 3, following the word 'article' strike 'and not barred by any other provision of law'; line 4, change the period to a comma and add 'subject to any other qualifications imposed under this constitution'."

PRESIDENT EGAN: Is there objection to having these words become part of Mr. Ralph Rivers' proposed amendment?

AWES: I object.

PRESIDENT EGAN: Objection is heard.

R. RIVERS: Mr. President, perhaps this could be for Style and Drafting, but after the word "age" on line 2, we have to insert the word "and" and strike the comma. I ask unanimous consent. Style and Drafting Committee might want to use the word "required" instead of "imposed" or some little change like that.

PRESIDENT EGAN: Now, how will it read when the word "and" is added in there? Would the Chief Clerk please read the proposed section as it would be if the amendment with the suggested change of Mr. Ralph Rivers becomes a part of the amendment.

CHIEF CLERK: "Every citizen of the United States who is at least 19 years of age and qualified to vote under this article may vote in any state or local election subject to any other qualifications imposed under this constitution."

PRESIDENT EGAN: Unanimous consent is asked that this new wording become a part of the original proposed amendment.

AWES: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Ralph Rivers, that these words become a part of your original amendment?

R. RIVERS: I asked unanimous consent.

PRESIDENT EGAN: Objection was heard.

R. RIVERS: Yes, I so move. I think perhaps that word "imposed" ought to be studied a little and maybe a better one used, but I so move.

PRESIDENT EGAN: Mr. Ralph Rivers so moves. Is there a second?

V. RIVERS: I second.

PRESIDENT EGAN: Seconded by Mr. Victor Rivers that his proposed amendment be amended by inserting these additional words. Mr. Armstrong.

ARMSTRONG: I am going to have to vote against it because I think it should be studied now and not later, because this is our final roll call on this.

PRESIDENT EGAN: Mr. Rivers do you have objection to a recess at this time?

R. RIVERS: No objection.

PRESIDENT EGAN: There being no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, we can go ahead with the rest of this article until some decision is made as to what will be offered here on the amendment that is pending. Are there other questions or proposed amendments to this suffrage article?

BARR: I have an amendment on the Chief Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 1, line 6, strike the words 'actual, bona fide, and continuous' before the word 'resident' and insert the word 'legal' before the word 'resident'."

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, during the past eight days, I have submitted two amendments, and we all realize that they have been floating

around here like snow flakes. They were both turned down. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

BARR: I only submitted two because I could only think of two that were important enough to submit, and I wasn't allowed to even speak on one of them. I am going to try it again. I ask unanimous consent that the rules be suspended for the purpose of submitting a specific amendment.

PRESIDENT EGAN: Mr. Barr moves and asks unanimous consent that the rules be suspended in order that he might submit a specific amendment. Is there objection?

MCNEALY: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Barr?

BARR: I do.

PRESIDENT EGAN: Mr. Barr so moves, seconded by Mr. Knight, that the rules be suspended. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Riley, V. Rivers, Smith, Sundborg, Sweeney, Taylor, VanderLeest.

Nays: 12 - Coghill, Davis, Hellenthal, Londborg, McNealy, Nordale, Reader, Robertson, Rosswog, Walsh, Wien, Mr. President.

Absent: 5 - Collins, Nolan, R. Rivers, Stewart, White.)

CHIEF CLERK: 38 yeas, 12 nays and 5 absent.

PRESIDENT EGAN: So the rules have been suspended. Do you so move, Mr. Barr?

BARR: I move for the adoption of the amendment.

PRESIDENT EGAN: Mr. Barr moves for the adoption of the amendment. Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The Chief Clerk

will please read the proposed amendment.

CHIEF CLERK: "Page 1, line 6, strike the words 'actual, bona fide, and continuous' before the word 'resident' and insert the word 'legal' before the word 'resident'."

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I and quite a few other people are not quite satisfied with these words. They are unnecessary and sound a little bit awkward. The idea has been advanced here that they are in the Organic Act and they haven't caused us any trouble; therefore, they should be in our constitution. Now, our Organic Act was designed to restrict and govern us as a Territory. We are going to be a state, and the reason we are here is to write a constitution to replace the Organic Act. There is no reason on earth why we should adopt anything from that Act. We should write something new, something to suit our new state. The reason I ask to put the word "legal" in front of the word "resident" is this: we have heard from our attorneys here how the word "resident" is really not very definite, that it is subject to interpretation by the courts and has caused a lot of trouble. If that word "legal" now, if we adopt it to modify the word "resident", we would merely mean that it would still be subject to interpretation by the courts, but I hope that our legislature will put through an act defining the word "resident", and if so, then the word "legal" would have a definite meaning. It would mean a resident as defined by the legislature. The people are stuck with me for one more session in the senate, and, if no one else initiates such a bill, I think I will do so myself. I think it is high time that we have that word "resident" defined properly.

PRESIDENT EGAN: Is there further discussion? Mr. Sundborg.

SUNDBORG: Mr. President, I think Mr. Barr is certainly on the right track, but I don't think he has quite reached the goal yet, and I think inserting this word "legal" raises the same kind of questions as are raised by the words that are now in there. If we do it, it raises the question, can the governor -- can a candidate for governor be an illegal resident -- where we just say that he must be a resident for so long. Can a candidate for the legislature be an illegal resident for so many years? What does "legal" mean? It doesn't mean anything. I think that what we want is "for one year a resident of Alaska" and not "legal", not "actual", not "bonafide and continuous" -- just "one year a resident of Alaska".

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I was going to say that I believe Mr. Barr's amendment should be amended. If he is only taking out "actual, bona fide, and continuous" he is leaving in the word "and" and it wouldn't fit in properly before the word "legal". I think we should take out the whole thing and put in "a legal".

PRESIDENT EGAN: Is there further discussion? Mr. Taylor.

TAYLOR: The word "legal" is not necessary in there in the present form of the article. It needs a definition of what a "legal resident" is. To merely say a "legal resident" imposes that certain restrictions or certain qualifications or certain definition would be put on it and we have it in there. We have "a resident of Alaska for one year and for thirty days a resident of the precinct". That is the definition of a "legal resident" so the word "legal" is not necessary. Neither are the words "actual, bona fide, and continuous", and I don't think the word "legal" should go in but the other words should come out.

PRESIDENT EGAN: Miss Awes.

AWES: I would just like to ask a question about procedure here. I don't like the word "legal" there, I don't think it adds anything. But I don't like the words "continuous, bona fide, and actual" either. Now, if this amendment -- is there any way this amendment can be either amended or, if it is defeated, can we again bring up the question of just striking those three words?

PRESIDENT EGAN: Miss Awes, there can be no amendment offered at this time other than the specific amendment before us, unless by unanimous consent which would take -- the unanimous consent naturally would carry a suspension of the rules with it. The question under a suspension of the rules, for just plain striking the words, could be made. The move for suspension of the rules in order to do that would be in order if anyone wished to do so. Mr. Taylor.

TAYLOR: I have a proposal of division of the question -- that we vote separately on the striking of the words "actual, bona fide, and continuous". Separate that from the word "legal"; have a separate vote on each one.

PRESIDENT EGAN: Mr. Taylor, it would take a move first to suspend the rules. Mr. Victor Rivers.

V. RIVERS: I have an amendment to the amendment. I move we strike the word "legal". I ask unanimous consent.

PRESIDENT EGAN: The question came up the other day, twice, as the Chair recalls it, and it was his opinion that once you go in for specific amendment, that amendment is the only thing that can be acted upon, the specific amendment that was placed before us. Mr. Victor Rivers.

V. RIVERS: Mr. President, it is my understanding that anything that is pertinent to the main question is amendable, whether it is under a suspension of the rules or not. This is pertinent to the main question, whether we use the word "legal" resident, "bona fide, continuous, actual, conscientious resident", or whether we strike all those words and just use the word "resident".

PRESIDENT EGAN: Mr. Rivers, at the time that it occurred the other day, the Chair declared a recess, spoke to members of the Rules Committee, and was informed that you could do nothing but adhere to the specific amendment under which the suspension was called for, and that was the ruling of the Chair twice, day before yesterday, and there was no objection. It isn't a matter of the Chair's feeling on it, it was a matter of the rules. Mr. Taylor.

TAYLOR: Is it not a fact, then, that matter that came up the other day, that it was striking a particular part of an article and inserting something in its place. In this case, it is not. It is a striking of the five or six words, but put another word someplace else; not in its place, not inserting something in lieu of it. It would actually be two separate amendments. It couldn't be anything else.

PRESIDENT EGAN: Mr. Taylor, the Chair recalls one of the cases. One of them was when Mr. Kilcher merely asked to have a division of the question before us after we had gone in for specific amendment. There was vigorous objection on the floor from many of the delegates, and the Chair called a recess, talked to some of the delegates on the Rules Committee, as the Chair recalls it, and came back and ruled that it could not be done. It was the ruling then, it will have to be the ruling now that when we went in for specific amendment, it is for that specific amendment as it was stated, unless the rules --

TAYLOR: I believe then that we should take a recess and submit this to the Rules Committee, because it looks to me like --

PRESIDENT EGAN: The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr.

BARR: Mr. President, I ask unanimous consent for the withdrawal of my amendment.

PRESIDENT EGAN: Mr. Barr asks unanimous consent to withdraw his amendment. Is there objection? Hearing no objection, it is so ordered. Mr. Barr.

BARR: Mr. President, now I ask unanimous consent for the suspension of the rules for submission of a specific amendment which seems to correct the discrepancy of the first one.

PRESIDENT EGAN: Mr. Barr asks unanimous consent that the rules be suspended in order that he may submit a specific amendment. Is there objection:

LONDBORG: I object. I would like to hear the amendment.

PRESIDENT EGAN: Would the Chief Clerk please read the specific

amendment that would be offered.

CHIEF CLERK: "Section 1, line 6, strike 'an actual, bona fide, and continuous'; insert the article 'a' after 'year'; and at the end of line 6, strike 'like'."

PRESIDENT EGAN: Mr. Barr asks unanimous consent that the rules be suspended in order that he might submit this specific amendment. Is there objection?

MCNEALY: I am going to object again.

PRESIDENT EGAN: Objection is heard.

BARR: I so move.

KNIGHT: I second it.

PRESIDENT EGAN: Mr. Barr moves, seconded by Mr. Knight, that the rules be suspended. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 40 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Sundborg, Sweeney, Taylor, VanderLeest, Wien.

Nays: 11 - Coghill, Cross, Davis, Hellenthal, Londborg, McNealy, Robertson, Rosswog, Smith, Walsh, Mr. President.

Absent: 4 - Collins, Nolan, Stewart, White.)

CHIEF CLERK: 40 yeas, 11 nays and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Mr. Coghill.

COGHILL: Mr. President, for the good of the Convention, I move and ask unanimous consent that the debate be closed at 9:55 and the question be put.

PRESIDENT EGAN: Mr. Coghill moves that the question on the adoption of this amendment be put at 9:55. He asks unanimous consent. Mr. Barr.

BARR: I agree to that and hope it is closed before that.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Hellenthal.

HELLENTHAL: I don't want to object, but I do want an opportunity to explain the position that the Committee has held on this, and frankly I don't think it can be done in five minutes, but I don't want to be the one to hold up the progress of this Convention.

BUCKALEW: I'll object.

PRESIDENT EGAN: Objection is heard. Mr. Coghill moved -- who seconded the motion?

DOOGAN: I'll second it.

PRESIDENT EGAN: Mr. Doogan seconds the motion that the Convention agree to close the debate and vote on this question at 9:55. Miss Awes.

AWES: For the reason that it is only five minutes, the first person up can take the whole five minutes giving his side of the story and we have no time left for rebuttal.

PRESIDENT EGAN: The question is -- Mr. Kilcher?

KILCHER: Would it take a two-thirds vote?

PRESIDENT EGAN: It would take a two-thirds vote; it would be a suspension of the rules.

KILCHER: May I address a question to Mr. Coghill?

PRESIDENT EGAN: If there is no objection.

KILCHER: I am afraid, Mr. Coghill, that we are losing more time with this roll call than you would save. I think there would be a short debate, anyway, and I think you ought to withdraw your motion.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I would suggest that inasmuch as we are going to have a roll call on this, that will take some more time, that the five minutes run from the time that you announce the debate was open on the question, rather than setting a specific time; and that the two sides be allotted two and a half minutes apiece.

PRESIDENT EGAN: Well, is that the understanding in your motion, Mr. Coghill?

COGHILL: Mr. President, since we have discussed it, I move and ask unanimous consent that my motion be amended to read 10:00 o'clock.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the vote be put on this question at 10:00 o'clock.

ROBERTSON: Is there a motion before the house to amend?

COGHILL: A motion to limit debate, Mr. President, has to be put after the main motion is on the floor.

PRESIDENT EGAN: Well, the main motion is not on the floor then, because Mr. Barr did not move adoption of this proposed amendment yet. Mr. Barr.

BARR: I will, Mr. President, I so move.

PRESIDENT EGAN: Mr. Barr moves the adoption of the proposed amendment. Is there a second?

AWES: I second it.

PRESIDENT EGAN: Seconded by Miss Awes.

COGHILL: Now, Mr. President, I move for my motion to limit debate on the question until 10:00 o'clock.

PRESIDENT EGAN: Mr. Coghill moves that the question be put on this proposed amendment at 10:00 o'clock -- by this clock. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Barr, Coghill, Doogan, H. Fischer, V. Fischer, Gray, Harris, Hilscher, Johnson, Kilcher, Knight, Laws, Londborg, McNealy, Metcalf, Peratrovich, VanderLeest, Wien.

Nays: 33 - Armstrong, Awes, Boswell, Buckalew, Cooper, Cross, Davis, Emberg, Hellenthal, Hermann, Hinckel, Hurley, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Taylor, Walsh, Mr. President.

Absent: 4 - Collins, Nolan, Stewart, White.)

BOSWELL: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Boswell changes his vote to "no".

CHIEF CLERK: 18 yeas, 33 nays and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. The motion is open for debate. Mr. Barr.

BARR: Mr President, I think, if anybody reads this, it is obvious why those words are unnecessary and who they sound awkward. Now, I am sure that other people will talk for this amendment. I know that some of the attorneys agree with me and some of the committee agree with me, so I am not going to talk very much. I am going to allow Mr. Hellenthal to use most of my time.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I have looked into this, and I follow the school of thought expressed by Mr. Davis, that the word "resident" interpreted by the courts means the same with all these adjectives hooked on to it. And I am very concerned about having the qualifications for governor and members of the legislature say just "resident", which is a term that the courts are well able to interpret, and have these extra adjectives stuck into this particular one on the subject of voters. We want the governor to be a qualified voter, and we want the legislators to be qualified voters, and for the sake of uniformity, let us knock out these adjectives.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I tried not to bring this debate upon us, and I don't feel responsible for imposing on your time to discuss this matter, and I shall try to be as brief as possible. Now, first of all, this is not an argument between lawyers. Some lawyers take one side, other lawyers take the other side. Now, I happen to know among this group here, for example, Mr. Robertson. Mr. Collins, myself, feel that these restrictions and these requirements should be continued in force in the constitution. Others, on the other hand, think that the word "resident" alone should be left in the constitution. Reasonable men differ. Now those who advocate the use of the word "resident" alone, they may be correct. Among them, Mr. Riley, Mr. Barr, Mr. McLaughlin, some of the other attorneys have straddled it a little bit, but they feel that the word "resident" is synonymous with the words "actual, bona fide resident". I hope that they are right. I sincerely hope that they are right. I do that for my sake as a taxpayer, because, if they are wrong, we are going to be forced into litigation throughout the new State of Alaska, and I shall try to briefly explain to you why. I sincerely hope those men are right. That is why I say it isn't a dispute, I agree with them. I hope they are right. If a case comes up and they are on the side asserting the viewpoint that "resident" is synonymous with the term "actual and bona fide", if I have the opportunity I will help them in that case because it means an awful lot to me as a taxpayer. However, if a client comes to me and offers to engage my services on the other side of that case, I shall be very, very happy to take his position because I am quite sure I will prevail. Now let us see what we are doing here. First of all, this was not explained yesterday by Mr. Barr, Mrs. Hermann,

or anyone else here. This law that the committee reported out and the words that came out of Style and Drafting, "actual, bona fide, and continuous", are exactly, identically the words that have been in effect for Alaska for 55 years without change. They are not in the Organic Act; they preceded the Organic Act by a good 20 or 15 years. They were in the Act of June 6, 1900. We have lived with them, we know what they mean. I have never met a single man in Alaska who said that those words were unnecessary, or who criticized our voting laws as they are interpreted. Mrs. Hermann told me last night that, in answer to Mr. Barr's question, she made a mistake. She thought that Mr. Barr had asked her, if a person moves Outside, does he lose his voting residence, and her answer to that question was correct. It was "yes". But, if a person goes Outside temporarily, "no" is the answer, and she will agree with me. Now, some of you old-timers will remember this: one of the first cases that came up was one similar to the question posed of Mrs. Hermann. It was the Bill Holzheimer's case. Holzheimer, who many of you knew personally, lived in Ketchikan and was sent to Nome to be the judge, and in 6 Alaska 681, that case is written up, and there the words "actual and bona fide" were tested one of the first times. There were many other times. In that case, the court ruled that Holzheimer did not lose his residence, either local residence or Territorial residence in Nome, by moving temporarily to Ketchikan. Bob Bartlett has lived under this law and held office under this law and lived in Washington continuously, and under that law, Bob Bartlett is a resident of Alaska and a resident of the Juneau voting precinct. That is well settled. But under the proposal that Mr. Barr gives us, doubt, uncertainty, we don't know, but we know with these words. Now let me go a little further. In my practice of law, I can recall two outstanding cases where the words "actual and bona fide resident" and "continuous resident" were interpreted by the courts. One time in Girdwood, it was about five or six years ago, a fellow by the name of Bob Dorf had a saloon there. They were building the Whittier road. There were several hundred construction workers there. They were also building a railroad. Hundred is a modest estimate -- there were maybe a thousand or more. Dorf had the only saloon in Girdwood. Some competitors came along, and Dorf hired me and my partner to see to it that the census that was taken by his competitors in their petition for a liquor license was knocked out on the grounds that the census did not represent actual and bona fide residents of the Territory of Alaska. The construction workers had all signed it. They were all on the census and they in turn had signed the petition. The church people also joined with Mr. Dorf in financing the case, and in that respect it was a little unique because it shows how people sometimes line up on these problems of residence. Judge Dimond considered it carefully, and Judge Dimond ruled that all of the construction workers who had signed the petition and who had in turn been entered on the liquor census were not actual and bona fide residents of Alaska, although many of them had been in the Territory three and four years. Some of them had actually got

divorces here. Let's not get confused -- the divorce residence requirement is still another thing. That reads, you must be "a resident and inhabitant" of the Territory of Alaska. So some of those people were not qualified voters, though they could get a divorce, they could doubtless have a hunting license, they could doubtless have met other residence requirements. But remember, the word "resident" is a word of variable meaning; it has shades of meaning; it is one of the most subtle words known to lawyers. This is what separates the men from the boys in the legal profession -- words like "resident". I might observe, too, that just merely picking up Webster's Dictionary looking for the definition of the word "resident" will not solve any residence problems. If the practice of law were that simple, I would not have bothered to go to law school nor would any of the other lawyers in this room. Now let us go on. The next case we had came down from a cannery. Some fly-by-night cannery operator down at Sanak had a company store and he had the business down there and he decided that he wanted a liquor license during the canning season, and so he got out the census. The census was the cannery employees. They were, most of them, Seattle people; they were not the residents of the area. He signed it; his buddies signed it; it was presented to the court. Our firm was engaged by the school teacher, some of the church people, and some of the responsible cannery people in that area, and -- I might add -- that is the only time I have ever been engaged by a cannery. They engaged us to see what could be done about that census, which was supposedly a census of actual, bona fide, and continuous residents of Alaska. Judge Dimond ruled in that case that those people, although they had been physically present in many instances for well over a year, were not voters of Alaska, and the words that prevented it were the words "actual, bona fide, and continuous". So there is another case, I can cite others. One of the most famous cases is the case of the soldiers at Valdez, Fort Liscum. Some of you oldtimers will remember that. It's in the Sulzer-Wickersham -- the election contest. They threw the soldiers in and voted them; the question was, were they residents. The courts said they could have been residents if the word "resident" had not been qualified by the words "actual and bona fide"; so, you see. Now, I am not saying that this is going to happen if the word "resident" merely is included in this constitution, which I am proud of and which I will be proud of even if it is unqualified. Now, I am not going to say that that is going to permit the construction workers to vote and to sign applications and censuses for liquor licenses. I am not going to say that it is going to permit soldiers to vote. But it might. Now if you want that, and not one of the proponents of this amendment has suggested it, if you want that, if you want to give me a lot of good fees, and I am only human, stick that word "resident" in there all alone. But if you want to consider this as citizens of Alaska, if you want to consider it objectively, if you want to make the best constitution you can, don't leave that word dangling in there. Now let's go a little bit further. When I was a young lawyer --

BARR: Point of order, Mr. President. I believe Mr. Hellenthal has spoken over five minutes.

PRESIDENT EGAN: There is no time set, Mr. Barr.

BARR: Under our general rules?

PRESIDENT EGAN: No.

HELLENTHAL: I will beg your indulgence for just a few moments. When I was a young lawyer, and I don't like to admit I am old, but that was 18 years ago. When I started practicing law with my uncle, Jack Hellenthal, who was a pretty fair lawyer in Juneau, I was going to toy with words occasionally and improve things and would say "Uncle Jack, it would be better if we eliminated those unnecessary words. After all, let's streamline this thing and let's just forget those old words." And he would say, "John, if your client and you want your names on a leading case," and you all know what a leading case is, "go ahead and eliminate those words." But he said, "The average client that comes in my office, he doesn't want interminable litigation and notoriety for his attorney. He wants stability; he wants certitude in his business affairs. He doesn't want to be a leading case." Now that is exactly what we are doing here. We have everything to lose by throwing out the words "actual, bona fide, and continuous", everything to lose and absolutely nothing to gain -- absolutely nothing to gain. Now, as I said before, I hope that Mr. Riley is right and I hope Mr. Barr is right. I hope Steve McCutcheon is right in his conclusion that the word "resident" is the same as "actual, bona fide, and continuous". I hope they are right, but why take a chance? When I came here to write this constitution, I felt that, if it were to be a good constitution, that it should be a document of certainty so we would know where we stood, and so the people of Alaska would know where they stood. For 55 years they have had the election laws and the identical wording that this document contains. No one has complained. Stability, economic stability, political stability have been achieved. We are happy. There has been no criticism of our election laws because of residence requirements, none whatever. Why abandon that certitude? Why abandon those 50 or more judicial decisions that have grown up? Why abandon those all for the sake of brevity or for the sake of something that sounds better, unless there is a good reason? And I have heard nobody advance any reason for changing the law as to residence. Now, I talked to Mr. Clasby, a lawyer in Fairbanks, yesterday about this matter. He told me that not only would it affect political stability, but that it would have a very, very grave effect on tax residence matters if we were to change the old trusted, tested, and tried residence laws that have guided us so sensibly for 50 years. I respect his opinion. Now, there has been some talk about the fact that the governor will have to be changed if we don't make it easy and just use the word "resident". Now -- and I am quoting from memory -- the present article that we have on the governor says that he shall

be a qualified voter and resident for five years. If "resident" means the same as these words mean -- and everybody has told you that it does -- why don't we just say that he shall be a qualified voter for five years? Bob Bartlett has been a qualified voter ever since he first voted in Alaska. What are we afraid of? No one has told me anything that we are concerned about. Why should we make this change? Now I could go on; I am not going to go on. It is just simply this: on the one hand you have a certain rule that has guided us for 55 years with great beneficial results -- on the one hand. There are many, many judicial interpretations of that language that have grown up and become a part of our custom and our heritage; that is on the one hand. On the other hand is uncertainty -- the problems regarding liquor; the problems regarding taxes; problems in every field where residence is a factor, because the term "resident" in tax matters is always correlated with the term "residence" in divorce matters, the term "residence" in voting matters. We have certainty on the one hand, although maybe we do use a Latin word, but we have certainty. On the other hand we have possible chaos, disruption of our status quo. I don't want to take your time, I don't like to take your time, but I think this thing should be fully delineated to you and I think I can, if you have any questions. And I want to tell you this is one of the most subtle fields of law. If you have any questions, I shall be happy to try to answer them. But don't give up, don't promote this uncertainty that no one has given a good reason for promoting. Keep to what we've got, and that which works.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, I haven't had advantage of those long years of experience, particularly in matters of voting, but since apparently this question might be determined on the question of who is the expert on what, I now speak, not as a member of the bar, but merely as the only special master ever appointed by a district court in Alaska to sit on hearings on liquor petitions. And my recollection distinctly, not as a lawyer but as a special master, first of all is that the liquor laws of Alaska, either existing prior hereto or as amended to date, have nothing in them concerning actual and bona fide residence. There is nothing in it. It merely says "residence". I might point out that there is an inconsistency. If we put this thing in, we and Louisiana, I believe, will be somewhat unique. We will be the only two states of the Union that have "actual and bona fide" in them. It might be a little bit embarrassing to insist it. But what it is used for in Louisiana is keeping down the Negro vote. That is the only reason why it is in there. Some people cannot say that because of embarrassment, but that is actually a fact why it is in the Louisiana Constitution. But we will be unique, we will have it, and Louisiana will have it. We might use it well. Actually, what does it mean -- actual and bona fide? Bona fide, as every first-year high school student knows, means in good faith. It is just the equivalent of the English -- "in

good faith". Residency, whenever the courts read anything, they read good faith into it, because residency is a matter of intent and good faith is of necessity implied in intent. There was something here suggesting there were 50 cases. I cannot find them. "Actual and bona fide" means nothing. You can qualify everything in the constitution, as was brought out here the other night when Mrs. Nordale was being questioned. You can insert actual and bona fide" in front of every word, "resident" in the constitution, and you will arrive at nothing more. The liquor laws, in fact, are not affected by it. Where is your difficulty? Your difficulty is in this: your difficulty is that you are saying, "actual and bona fide resident" in one part of your constitution, and in other parts, you are using the word "resident" and you are not so qualifying, and if there is going to be confusion and lawsuits, that is the way to develop them, because the courts are going to look at the instrument as a whole, as they always do, and they will say, "Now, if the governor is supposed to be a resident and the legislators are supposed to be residents and the only people who can vote in municipal elections or in borough elections, in certain types of elections, are residents, then it must be intended that these residents are different than the voting residents, and that these people don't have to be actual and bona fide." That is the point; that is where your litigation is going to arrive, because the court is going to read into that "actual and bona fide", of necessity, something that isn't there. They are not going to say, "Well, they left it in there as a concession to one man's opinion; or certainly they didn't leave it in there as a concession to history." They are going to say, "That had some valid, perfect meaning which distinguishes 'actual and bona fide resident' from 'a resident' alone." If we keep qualifying these things we shall, in fact, cause the confusion that we are trying to avoid. It would be just as absurd to suggest that, by way of compromise, that we add "actual and bona fide resident" to qualify the governor's qualifications and apply the same thing to the legislators. That does not apply. There has been a suggestion here that there are 50 cases. I have not, in fact, seen them. No one else has seen them. That "actual and bona fide", when it is cited -- it is cited in the law, they cite the whole section. I notice that here on the desk we have one of the latest cases on it -- the Bowden case -- and in there, there is no emphasis applied at all. It was distinctly on another matter.

HELLENTHAL: Mr. President, I arise to a point of order. I brought this book down to Mr. Bebout solely so that he would discuss the residence -- the registration requirements of the Bowden case, not for actual and bona fide residence.

MCLAUGHLIN: I have still to hear -- there is an insistence that there are these 50 cases. I haven't seen them. I feel sure -- possibly, I haven't been here long enough -- but I am sure that in the next 20 years I will not be able to discover them. The fact is that decisions on residency are always strong and always

numerous. Does this protect anyone -- this question of adding "actual and bona fide"? Nothing at all. As a matter of fact I notice some gentlemen in this room are perturbed about the fact that if we don't keep it in there, the voting practice of one individual, who constantly runs for the legislature, will be encouraged by dropping out "actual and bona fide". It hasn't prevented him from doing it in the past; it won't prevent him in the future. The words are useless and meaningless, and if we drop them out, it isn't a question of form. We are dropping them out, and then we don't have any legal problem. We are conforming to the 47 states. The only one that has "actual and bona fide" is not a common law state. The State of Louisiana is based -- its law is based upon the Napoleonic code, as most of you gentlemen know. So actually we are conforming, if we drop them out, to the 47 states that have common law codes. There is no point in keeping those words in there. I am just as violently opposed to substituting the word "legal" because "legal" means nothing as such, but if you put it in, then the courts will say, "They meant something different than ordinary resident when they added the word 'legal'." Anything that you add to the word "residency" is mere surplusage and it can lead to the trouble that Mr. Hellenthal is trying to avoid.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, we have heard both sides for more than five minutes. I now move the previous question.

PRESIDENT EGAN: Mr. Fischer moves the previous question.

V. FISCHER: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the previous question be ordered. Is there objection? Hearing no objection, the previous question has been ordered. Will the Chief Clerk please read the proposed amendment.

(The Chief Clerk then read the proposed amendment again.)

PRESIDENT EGAN: Mr. Davis.

DAVIS: Isn't the word "actual"?

PRESIDENT EGAN: Would the Chief Clerk please read the amendment again.

(The Chief Clerk again read the proposed amendment.)

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 35 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Laws, Lee, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Nordale, Riley, R. Rivers, V. Rivers, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Wien.

Nays: 17 - Coghill, Cross, Davis, Hellenthal, Knight, Londborg, McNealy, Marston, Peratrovich, Poulsen, Reader, Robertson, Rosswog, Stewart, Walsh, White, Mr. President.

Absent: 3 - Collins, Hinckel, Nolan.)

CHIEF CLERK: 35 yeas, 17 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I now ask unanimous consent to withdraw my first attempt at amending Section 1, with the idea of substituting some better phraseology. Unanimous consent request on Section 1, knocking out --

PRESIDENT EGAN: Oh, that is pending. Unanimous consent is asked by Mr. Ralph Rivers for the withdrawal of his proposed amendment to Section 1. Is there objection? Hearing no objection, it is so ordered. Mr. Rivers.

R. RIVERS: And now, I move the new wording, which is the result of our boiling it down and consulting with three of the consultants for phraseology.

PRESIDENT EGAN: Do you intend to offer this amendment if the rules are suspended? Is that right, Mr. Rivers?

R. RIVERS: Well, Mr. President, they were suspended for this purpose, and I ask unanimous consent -- well, I ask unanimous consent that the rules now be suspended so that we may attempt the same purpose with this new phraseology.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed specific amendment.

JOHNSON: Mr. Chairman, has the new amendment been mimeographed?

R. RIVERS: No. It is about three or four words.

PRESIDENT EGAN: Would the Chief Clerk read it first. Then it will be determined if it should be mimeographed.

CHIEF CLERK: "Page 1, lines 3 and 4, after the word 'this' delete the following 'article and not barred by any other provision of law', and substitute the words 'constitution and laws enacted pursuant thereto'."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I move the adoption of the amendment.

PRESIDENT EGAN: You ask first, Mr. Ralph Rivers, unanimous consent that the rules be suspended, is that right?

R. RIVERS: Yes.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that the rules be suspended in order that this specific amendment can be offered. Is there objection? Hearing no objection, the rules have been suspended. Now, Mr. Rivers?

R. RIVERS: Now I move the adoption of this amendment and I ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed specific amendment and asks unanimous consent.

MCNEALY: Mr. President, I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

NORDALE: I second the motion.

PRESIDENT EGAN: Mrs. Nordale seconds the motion for adoption. Mr. McNealy.

MCNEALY: If I could direct a question to Mr. Rivers through the Chair?

PRESIDENT EGAN: You may, Mr. McNealy.

MCNEALY: Except for the change of wording, what difference is there between the amendment offered, Mr. Rivers, and the present language?

R. RIVERS: Will the Chief Clerk please read it as it would be if the amendment were adopted?

PRESIDENT EGAN: Would the Chief Clerk please read the sentence, if the amendment were adopted.

CHIEF CLERK: "Every citizen of the United States who is at least 19 years of age, qualified to vote under this constitution and laws enacted pursuant thereto, may vote in any state or local election."

R. RIVERS: Mr. McNealy and Mr. President, I will now answer the question.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: By striking the word "article" and substituting the word "constitution" you haven't changed the qualifications of voters. The "and laws enacted pursuant to this constitution", Mr. McNealy, pertains to residence requirements which local governments might, by ordinance, require in bond elections or for the registration of voters within cities. So you see, instead of having it so broad here as to be in conflict with those provisions in finance and local government, this now adjusts it so that everybody may vote as qualified under this constitution and laws, those local laws that are made under this constitution, so it actually irons out a conflict.

PRESIDENT EGAN: Miss Awes.

AWES: I don't think it irons out anything. In fact, I don't think it changes the meaning. It changes it to "any law enacted under this constitution" or anything like that. Well, every law passed by the state legislature has to be enacted under this state constitution or it is unconstitutional and void. So I think it means just exactly the same thing as it says right here.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: In a general clause of this kind you have got the general rights to vote; everyone may vote. The only place in our constitution where these qualifications could come in would be under local government and under finance as pertains to bond elections, there is no other place. So that laws made pursuant to this constitution can only be those specific authorizations with regard to bonds and registrations or such as that. So you see, this doesn't allow them to change the basic qualifications, although we are on a state level, or anything like that. I think the distinction is there, and it meets with approval -- as far as clearing up the problem, it meets with the approval of three of the consultants, and, if I cannot get this amendment through, I am sorry.

DAVIS: Mr. President, it is obvious that we are getting into a hassle here that I think we need not get into, and I wonder if I would be in order here to request the same kind of a thing that I requested the other night, to ask unanimous consent to suspend the rules to send this back to Style and Drafting with the idea of ironing the thing out and presenting language that -- I know we are all trying to get to the place here. It's just a matter of using the proper language. I think that it might save the time of the floor and get the job done.

PRESIDENT EGAN: Do you ask unanimous consent that we hold this article in abeyance while Section 1 is referred back to Style and Drafting?

DAVIS: If I may, I'd like to go ahead with the rest of the article and pass it, subject to getting this thing straightened out. I am sure that there will be no difficulty if we can sit down for a few minutes and take care of it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I wonder if it is proper to refer it to Style and Drafting. I just wonder what cap they would be wearing when they passed on the questions of law.

DAVIS: I withdraw my suggestion.

PRESIDENT EGAN: Mr. Davis withdraws his suggestion. Mr. Hurley.

HURLEY: I move and ask unanimous consent that we recess for 15 minutes.

PRESIDENT EGAN: If there is no objection we will recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce before we entertain any business that the News-Miner photographer would like to get group pictures of all committees sometime during the day if possible. We felt that it would be fine to have the photographs, rather than on a division-wide basis, to have them of each of the committees. Is it possible that this afternoon sometime we could arrange to have that done, or on some other day? What is the feeling of the delegates?

DOOGAN: Do you want a motion that this be done at some particular time?

PRESIDENT EGAN: You might, Mr. Doogan.

DOOGAN: All right. I will move that it be done this afternoon then, and get it out of the way.

PRESIDENT EGAN: What time, Mr. Doogan?

DOOGAN: About 4:00 o'clock.

PRESIDENT EGAN: Is there objection to notifying the photographer of that?

METCALF: Can it be done some other day of the week?

PRESIDENT EGAN: Well, if it is your wish that we drop it -- the Convention will come to order. Mr. Doogan.

DOOGAN: I would like to revert to the business of reading of the journal. The journal for the 60th Convention day, Saturday, January 21. It has been checked and is O.K. I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the journal of the 60th day be adopted. Is there objection? Hearing no objection, it is so ordered. Mr. Doogan.

DOOGAN: I would like to put out for consideration the fact that the Chair take under consideration the possibility of excusing the Style and Drafting Committee, or the subcommittees that are not actively engaged in reporting an article on the floor, during the plenary session of the Convention, so that they might get on with their work. In view of the action that was taken a few days ago, we were to convene at 1:30 so that they could work, and now it has been changed so that we convene at 9:00 o'clock in the morning, with the possible idea that we adjourn sometime in the early part of the afternoon, and I have watched particularly Mr. Fischer and Mr. Davis operate as a subcommittee of the Style and Drafting Committee, and it seems to me they have operated in a very efficient manner, in that they have retired to the gallery to do their work. Somehow, they seem to be able to pay attention to what is going on while accomplishing their work and be present when their vote is needed, particularly in a roll call. I think that it might speed up and expedite matters, even if it were necessary during general discussion of many of these items, that the whole Style and Drafting Committee be excused to carry on their work.

PRESIDENT EGAN: Do you make a motion, Mr. Doogan?

DOOGAN: Yes, I so move.

METCALF: I'll second it.

PRESIDENT EGAN: Mr. Doogan moves, seconded by Mr. Metcalf, that subcommittees of the Style and Drafting Committee or, if it is deemed necessary at times, for the whole committee to be excused in order that their work might be more quickly accomplished. Mrs. Hermann.

HERMANN: As a member of the Style and Drafting Committee, I want to object to being moved around according to other people's wishes. I want to be present at the plenary sessions. There are many things coming up here in the closing days of the session that I consider extremely vital to the State of Alaska and the future, and I want to have a part in, and I don't think that this Convention or any other group should ever tell any of its committees that they have to get off the floor and go to work.

We are doing the work and catching up with it in spite of the limited time that we have. If Mr. Fischer and Mr. Davis want to go back there and work, I have no objection to their doing it, but I think it should be left entirely optional with the people on the committee.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I might point out that Mr. Doogan's intention wasn't to force the committee to go out and work, but under Rule 18, "No standing committee may hold meetings during the sessions of the Convention without permission of the Convention." Under this motion, if it passes, when and if the Style and Drafting Committee saw fit to hold a meeting during the Convention, if something is up on the floor which did not demand their presence, the committee could be excused without each time asking permission of the Convention.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I might add that it is also quite desirable that we be here, or at least some of us, during the argument on the floor, because it is through that argument that we get the intent of the body, and it isn't always possible to find it through any other medium.

PRESIDENT EGAN: It seemed to the Chair that what Mr. Doogan meant was that, mainly, if a subcommittee wished to work during the plenary session until such time as a vote might be called, if they wish to work in the back of the room, it would then be their prerogative without engendering any ill-feeling from the other delegates in the Convention. Mr. Barr.

BARR: Mr. President, this is not an unusual procedure. I know in the legislature during the last stages, when the Finance Committee or the Ways and Means Committee are working on the appropriations bill, they are absent from the floor quite a bit of the time, and, if they have some particular piece of legislation coming up that they are interested in, they always arrange to have a friend call them to come in in time to vote or to take part in the debate, and here it is very handy. If the subcommittee meets in the rear of the gallery, they are easy to contact, and I don't see anything against it at all. Of course, we don't want to force them to.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I don't object to this at all, and I think what Mr. Doogan meant was that we be given permission to hold meetings during the plenary session at such times as we would desire to do so. I might mention that it is a little different from a legislature in that, as Mr. Barr said, if a member has an interest in some particular piece of legislation, he comes back on the floor. Well, the difference here is that every single

thing the Convention does has to go through us, eventually, and if we are not here when it is being discussed, as Mrs. Hermann said, in many cases, we don't know just exactly what it was that the Convention intended. I want to mention something else, and that is that our subcommittee work is pretty well finished. We are right up to the Convention and the subcommittees are just awaiting the Convention getting some more work off the floor and in to us, and the meetings that we have to have are full committee meetings with all nine members going over subcommittee drafts. Now, that is rather a noisy procedure, and we would be glad to go back and do it, but I am afraid it would inconvenience the people in the gallery and that they would probably hear a good deal more from that rear table than they would through the loudspeaker from this room. I don't object to that, but I just say it might inconvenience the gallery.

PRESIDENT EGAN: The question is "Shall Rule No. 18 be suspended in order that the Style and Drafting Committee or its subcommittees might use its own judgment in leaving the floor for committee meetings?" Mr. Fischer.

V. FISCHER: Mr. President, this is not a suspension of the rules; this is permission under Rule 18. A simple majority, I think, will do it.

PRESIDENT EGAN: Well, the rule states that you have to have the consent of the body, does it not? Actually, it would be a suspension, Mr. Fischer. Is there objection to the request? If not, it is so ordered. Is there a pending amendment to the article on suffrage and elections? Mr. Ralph Rivers.

R. RIVERS: Mr. President, the proposed language is going to be a rewrite of the entire section. Mr. Davis and I spent the recess with the consultants, and we ask that that be kept in abeyance now until we get it mimeographed.

PRESIDENT EGAN: Are there proposed amendments to other sections of Article V? If not, Article V will be held on the calendar until Section 1 is reported back from the Style and Drafting Committee. We have before us Article VII, the Article on Health, Education and Welfare. What number is that in the Style and Drafting Report?

SUNDBORG: Article VII.

PRESIDENT EGAN: Article VII. The Chief Clerk will please read the committee report. Mr. Robertson needs a copy of Article VII; Mr. Armstrong needs a copy of Article VII; Mr. Knight, Mr. Marston need a copy, Mr. Kilcher. The Convention is at ease.

(The Convention was at ease for a few moments while the needed copies were obtained.)

PRESIDENT EGAN: The Chief Clerk will read the report of the Committee on Style and Drafting.

(The Chief Clerk then read the report of the Style and

Drafting Committee on its redraft of Article VII, Health, Education and Welfare.)

PRESIDENT EGAN: Does the committee have a report to make at this time, Mr. Sundborg?

SUNDBORG: Mr. President, this article was redrafted by a subcommittee consisting of Mrs. Hermann, Mrs. Nordale, and Mr. Hurley, and it has been discussed with and, I believe, agreed to by the substantive committee, the Committee on the Bill of Rights. We have asked Mr. Hurley to explain what changes have been made and to answer any questions.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, the Committee on Style and Drafting made very few changes in this particular article because they found it, I might say, unnecessary to do so. The first change from the enrolled copy embodied the second word in Section 1 in which the enrolled copy said that the "state" shall do something, and we have suggested that the term "legislature" be used in order to pinpoint it to a particular division of the state government with the thought that the state is a combination of the executive, the judicial, and the legislative branches. It was felt the intent was that the legislative branch was the one that should make the provisions. The same carried down to Section 2 and the same should have carried down to Section 3; I can explain Section 3 a little bit later. I think there were no changes other than that in Section 1, other than perhaps reversing the order of one or two words. Section 2 appears precisely as it was in the enrolled copy.

PRESIDENT EGAN: Are there any questions to be directed to Mr. Hurley regarding this article?

HURLEY: Shall I go on to Section 3?

PRESIDENT EGAN: Yes, Mr. Hurley.

HURLEY: Section 3 had considerable discussion, and, because of the feeling that we had as to the intent of the Convention and the possible conflict of the wording as it appeared in the enrolled copy with the intent of the body, we called it to the attention of the substantive committee, and I believe that they are prepared to suggest a committee amendment to that particular section. So, I would be glad at this time to answer any questions that anyone may have, if I can, concerning the article.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. Hurley, I notice the phrase "which shall be" on the end of the second line, and the third line of Section 1, was omitted. Do you think that that dilutes the meaning of the enrolled copy or not?

HURLEY: Which words were eliminated from the enrolled copy?

METCALF: The phrase "which shall be" which begins at the end of line 2 and again on line 3 of Section 1. I notice that has been omitted.

HURLEY: Yes, Mr. Metcalf. I find your question now, and it is our opinion that it not only was not necessary, but if anything, it probably is stronger now than it was before. We feel that the schools are -- that the intent of the group is that the schools be open to all children in the state, and it is not even mandatory, it is something that we expect. It didn't seem to add anything or subtract anything so we felt it was better to leave it out.

PRESIDENT EGAN: Are there other questions? Mr. Barr.

HURLEY: Mr. President, I might answer the question directly by saying, no, I don't think it dilutes anything.

BARR: Mr. Hurley, in Section 3, "The State may provide for public welfare". That word "welfare" was in the original section, I presume?

HURLEY: Yes, Mr. Barr.

BARR: Did the committee consider any other word? Now, in asking that, really "welfare" has a very broad meaning. It is accepted generally as meaning a dole or assistance, and so forth, but in our Constitution of the United States, it says "to promote the general welfare" which means many, many things. Now, I think there ought to be a better word than that -- consistent.

HURLEY: I might say that part of our suggestion on that was that the legislature would not actually provide for public welfare but would provide a framework of government within which public welfare work would be carried on, and we had the suggestion that it was, in reality, a program of public welfare, but that will probably be embodied in the amendment that may be offered, and it may solve the problem you seek to solve. If it doesn't, perhaps at that time you might discuss the matter. I see your point, however.

PRESIDENT EGAN: Are there other questions on the article -- Section 1? Or Section 2? Mr. Ralph Rivers.

R. RIVERS: I want to talk about Section 3. May I ask a question of Mr. Hurley about Section 3?

PRESIDENT EGAN: You may.

R. RIVERS: Mr. Hurley, I see the wording "a standard of living compatible with health and human dignity" were left in as originally, I believe, approved by this body. There was a big argument about how are you going to keep a millionaire in his proper dignity if he should go broke. Has that matter been taken up?

ARMSTRONG: Point of order.

PRESIDENT EGAN: Your point of order.

ARMSTRONG: I think if Mr. Rivers had been following Mr. Hurley's intent, that this would be up for discussion when the amendments come in from the substantive committee.

R. RIVERS: You are right.

HURLEY: Mr. President, if there are no further questions on Sections 1 and 2, we might perhaps go into the amending process by the substantive committee and perhaps this matter could be taken of then.

PRESIDENT EGAN: Are there any other questions? Miss Awes.

AWES: I have an amendment to Section 3 if it is all right to submit it at this time.

PRESIDENT EGAN: Do you have a committee amendment?

SUNDBORG: Mr. President, I am just wondering, isn't Miss Awes, your amendment in the opinion of your committee, one which changes the substance or is it just a change in phraseology?

AWES: Well, I would say we changed it to clarify it.

SUNDBORG: In other words, it is just a change in phraseology?

PRESIDENT EGAN: The Chief Clerk can read the proposed amendment.

SUNDBORG: I was going to say, Mr. President, if it is a change in substance, it is not in order at this time; if it is a change in phraseology, we would like to have it considered before our report is accepted.

PRESIDENT EGAN: Would the Chief Clerk read the proposed amendment.

CHIEF CLERK: "Strike Section 3 and substitute: 'The State shall provide for public welfare.'"

PRESIDENT EGAN: Now is that a substantive change or not?

AWES: I think I might say that the Committee feels that this clarifies it in that it expresses the intent better of the Convention, but it might be a matter of substance. The reason we are changing it, we were afraid of the interpretation that might be placed on it as it stood.

UNIDENTIFIED DELEGATE: Could we have a recess for a minute or two?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. The feeling of the Chair on this particular amendment -- the personal feeling of the Chair is that it isn't a substantive change. However, the Chair knows that there are many delegates who feel that it is a substantive change. It is one of those questions on which it is pretty hard to draw the line between, and it might be better to ask for unanimous consent for suspension of the rules, or something of that sort. Miss Awes.

AWES: I ask for unanimous consent that the rules be suspended and the amendment be considered at this time.

PRESIDENT EGAN: Miss Awes asked unanimous consent that the rules be suspended in order that the specific amendment might be offered.

METCALF: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Miss Awes?

AWES: Well, I don't know. I think there were only a few words changed in this and I think maybe, if Mr. Sundborg would ask that it be approved as the report of Style and Drafting, then I'd make my amendment. It might save going through a roll call.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Has the motion or request for unanimous consent been withdrawn?

PRESIDENT EGAN: Objection was heard, so the --

SUNDBORG: Mr. President, if there are no further amendments as to phraseology only, I now ask that the report of the Committee on Style and Drafting on the article on health, education, and welfare be accepted, and that the changes in wording which appear in our draft be adopted.

PRESIDENT EGAN: You have heard Mr. Sundborg's unanimous consent request -- Mr. Metcalf.

METCALF: I object. I have an amendment.

PRESIDENT EGAN: Is this an amendment for wording?

METCALF: It's a return to the original wording of the enrolled section, that's all. Is that an amendment to phraseology?

PRESIDENT EGAN: Is that in Section 1?

METCALF: Yes, sir, it is.

PRESIDENT EGAN: You may offer your amendment. Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Section 1, on line 2, after the phrase 'public schools' insert the phrase 'which shall be'."

PRESIDENT EGAN: Mr. Metcalf, what is your pleasure?

METCALF: I move for the adoption of the amendment. That is the same phrase which is used in the enrolled copy. Personally, we spent many, many hours working on the enrolled copy. I like it just a shade better than the one here. That is my own personal opinion. I'd like the opinion of the Convention on it.

PRESIDENT EGAN: Mr. Metcalf moves the adoption of the amendment. Is there a second?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the proposed amendment be adopted?" All those in favor of adopting the proposed amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the amendment has failed of adoption. Are there other phraseology amendments to be offered? If not -- Mr. Sundborg?

SUNDBORG: I now ask unanimous consent that the report of the Style and Drafting Committee on the article on health, welfare, and education be accepted and that the changes incorporated in our draft be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Committee on Style and Drafting -- Mr. Metcalf.

METCALF: That doesn't include the amendment of Delegate Awes, does it?

PRESIDENT EGAN: No, it does not. Be accepted and the changes made by the Style and Drafting Committee be adopted. Is there objection? Hearing no objection it is so ordered. Miss Awes.

AWES: I wonder if one word in that amendment could be changed?

PRESIDENT EGAN: You mean the proposed amendment that you have?

AWES: Yes. I said, "The State shall provide for public welfare", and in the other sections Style and Drafting changed it to the "legislature", and I would like to change it to, "the legislature shall provide for public welfare", and I move its adoption.

PRESIDENT EGAN: Miss Awes, you would first have to ask for suspension of the rules.

AWES: I move that the rules be suspended and ask unanimous consent.

PRESIDENT EGAN: Miss Awes moves and asks unanimous consent that the rules be suspended.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Is there a second?

DOOGAN: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Doogan. Mr. Cooper.

COOPER: In the Style and Drafting copy that I have, it says "The state may provide for public welfare for persons unable..."

PRESIDENT EGAN: That is right. Mr. Cooper, that is part of Miss Awes' amendment which she changed -- that the word "state" be changed to "legislature". No, it isn't changed yet; it is in the amendment that she seeks to offer as a specific amendment. Will the Chief Clerk please read the amendment as proposed by Miss Awes if the motion to suspend the rules carries.

CHIEF CLERK: "The legislature shall provide for public welfare."

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Point of inquiry. Did the Committee on Health, Education, and Welfare appear before the Style and Drafting Committee on this, and what was the action of the Style and Drafting Committee?

PRESIDENT EGAN: Mr. Hurley, could you answer that?

HURLEY: Mr. President, I think it was the other way around. The Committee on Style and Drafting appeared before the Committee on Health, Education, and Welfare, and at the time and the number of people there, as I recall, the action was unanimous to introduce this particular amendment.

PRESIDENT EGAN: The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 42 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hurley, Johnson, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 9 - Cooper, Cross, Harris, Kilcher, Laws, Metcalf, Peratrovich, Reader, Taylor.

Absent: 4 - Collins, Hilscher, Hinckel, Nolan.)

CHIEF CLERK: 42 yeas, 9 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Miss Awes.

AWES: I move the adoption of the amendment.

PRESIDENT EGAN: Miss Awes moves the adoption of the amendment.

ARMSTRONG: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Armstrong. Miss Awes.

AWES: The committee originally adopted the section as it appears in the Style and Drafting Committee provision -- copy. When it came out for argument on the floor, as I recall, there was some question about whether it might be too liberally construed. I remember an argument about providing for millionaires or something. Since it has been adopted, there have been many who have seriously questioned the fact that it might be too restrictive in that it might be interpreted by a court to mean that we could only provide public welfare under this provision in the sense of the old-fashioned dole, and that these new programs like unemployment insurance and things of the nature of social security would not be allowed under this provision. The state, I believe, even without a provision, would have the authority to take care of the public welfare as necessary, and all that we intended to do and we believe that the Convention wanted to do was set forth in the constitution that that power was reserved to the state, and we believe that the amendment proposed so states -- and won't cause any of these difficulties that have been anticipated.

PRESIDENT EGAN: Is there further discussion? Mr. Armstrong.

ARMSTRONG: Mr. President, I want to say this: that I was one

who defended the inclusion of these words because they seem to set forth a basic philosophy; but long before we took our Christmas recess, it became evident to me, the more I consulted with people who knew our intent, that we had definitely damaged the cause of public welfare instead of helping it, and I certainly would recommend that we delete these words as recommended by the committee.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: May I ask Miss Awes a question?

PRESIDENT EGAN: If there is no objection.

HERMANN: Miss Awes, in changing from "state" to "legislature", did you mean to limit that to the legislature or use it interchangeably with "by law"? Could it be provided by initiative or referendum?

AWES: I understand that "legislature" and "by law" are used interchangeably, and the only reason I changed it to "legislature" was so that it would conform with the other sections as revised by Style and Drafting.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed amendment be adopted by the Convention? All those in favor of adopting the proposed amendment signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to be proposed by the Committee? Are there other amendments to be proposed by the Committee? Mr. Cooper.

COOPER: Mr. President, inasmuch as I made so much noise on that last vote, may I have the floor now on personal privilege?

PRESIDENT EGAN: If there is no objection, you may have the floor, Mr. Cooper.

(Mr. Cooper then spoke briefly under the point of personal privilege.)

PRESIDENT EGAN: Are there other proposed amendments? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no other proposed amendments, I now move and ask unanimous consent that the rules be suspended, that Article VII on health, education, and welfare be advanced to third reading, be read by title only, and placed on final adoption.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended, that Article VII, the article on

health, education, and welfare, be advanced to third reading, be read by title only, and placed on final adoption. Is there objection? Hearing no objection the rules have been suspended and Article VII is now before us in third reading. The Chief Clerk may read the title of the article.

CHIEF CLERK: "Article VII, Health, Education, and Welfare."

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The article is open for debate. The question is, "Shall Article VII, the article on health, education and welfare, be adopted as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 48 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 4 - Coghill, Laws, Londborg, Metcalf.

Absent: 3 - Collins, Hinckel, Nolan.)

CHIEF CLERK: 48 yeas, 4 nays and 3 absent.

PRESIDENT EGAN: So the "yeas" have it and Article VII, the article on health, education, and welfare, has become a part of Alaska's constitution. We now have before us Article III, the article on the executive, the report of the Committee on Style and Drafting. The Chief Clerk will please read the report of the Committee on Style and Drafting.

(The Chief Clerk then read the report of the Style and Drafting Committee, dated January 26, 1956, Article III, The Executive.)

PRESIDENT EGAN: Mr. Sundborg, does the Style and Drafting Committee have a report to make?

SUNDBORG: Mr. President, this article was redrafted by a subcommittee consisting of Mr. Armstrong, Mrs. Hermann, and Mr. Hurley. Our redraft has been reviewed by the Committee on the Executive, and we understood that it is their feeling that we have not changed the substance in any particular and that they

approve of this draft. We have asked Mr. Armstrong to explain the changes that have been made and to answer any questions.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, your subcommittee on Style and Drafting met with the entire Committee on the Executive and found them most receptive to this article, and I believe that they would concur in that we have not changed intent. The major thing that was done was breaking paragraphs down into subsections and rearranging them to give them sequence, and to give a picture of what would be executive authority, limitations, succession, compensation, and the other features that would have to go along with the authority in setting up of the various executive departments of the article. If any one is in question, I believe we can give the cross-referencing of where the material comes from various sections. In very few places has the wording been changed and, if it has been changed, it has been only to keep it in context with other sections of the constitution. I believe, sir, that there is probably only one amendment that will be proposed by the committee, and I will leave that for the Chairman, Mr. Victor Rivers. I believe this is all of the explanation that is necessary unless there are questions, and I believe that you would be free to hear from Mr. Victor Rivers if he wants to speak to this and our work with his committee.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as you have been told, the entire Executive Committee scanned and went over the draft of the Style and Drafting Committee, and we agree, there has been no change in substance. There has been a slight rearrangement in composition in order to derive the most effective wording, arrive at it, I shouldn't use that word "derive". Anyway, there are one, and possible two, small substantive amendments, one of which would have to do with becoming effective after the adjournment of the legislature.

PRESIDENT EGAN: They are substantive?

V. RIVERS: They are in that sense, because they will have to be made to conform with the article we adopted on the legislature. There is one other small possible amendment clarifying the succession of the secretary of state if he fails to qualify, which is being studied by one of the consultants and which may or may not be entered by the committee. It is not a matter of major substance; it is a matter of clarifying the entire section. So those two possibilities exist as to being submitted by the Committee on the Executive. I do not yet have the draft which we asked for in connection with Section 23. The way it reads now, "Where these changes require the force of law, they shall be set forth in executive orders which shall become effective at the close of the next regular session of the legislature, unless

otherwise disapproved by a resolution...", etc. Now, we are going to add in there the words, "unless disapproved by the legislature within 60 days or the adjournment of the legislature if it takes place sooner", but we haven't got the exact wording ready yet.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, if there are any questions, I will be glad to try to answer them for the Convention.

PRESIDENT EGAN: Are there any questions to be directed to the subcommittee of the Style and Drafting Committee with relation to phraseology in the article on the executive? If there are no questions -
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ARMSTRONG: Mr. Sundborg, the Chairman of the Committee -- I would turn this back then to our Chairman for the usual motion to accept the report of the committee.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I would like to call attention to a misprint on page 6, line 6, in the spelling of "legislature".

PRESIDENT EGAN: Will Style and Drafting see that this is taken care of? Mr. Sundborg, there seems to be no question with relation to the work that Style and Drafting has done on this article.

SUNDBORG: Mr. President, I move and ask unanimous consent that the report of the Style and Drafting Committee on Article III, The Executive, be accepted, and that the changes in wording proposed by the Style and Drafting Committee be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee on Article III, The Executive, be accepted, and that the proposed changes in wording be adopted. Is there objection? Hearing no objection, it is so ordered. Are there any substantive amendments -- would the committee wish to offer any substantive amendments?

V. RIVERS: Mr. President, I request that this be held over until after the noon recess, and we will then have possibly only one minor substantive change.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the article on the executive be held over until after the noon recess. Hearing no objection it is so ordered. Mr. Coghill.

COGHILL: A point of inquiry to the Chairman of the Executive Committee. To which section is that, Mr. Rivers?

V. RIVERS: That was Section 23, which would make it then conforming with the legislative article that we adopted earlier. We have set up here "effective after adjournment", but the fact came out, of course, that we have a continuous session, so we will have to modify that to conform with the article on the legislative.

COGHILL: Does that hold the whole article over then, we can't act on any of it?

PRESIDENT EGAN: Well, if there are other amendments by the delegates to be proposed to sections, it would be in order now. Mr. Coghill.

COGHILL: Mr. President, in that light and to pursue the matter further, I would like to propose a substantive amendment, and ask that the rules be suspended, to Section 26, page 7, strike the comma and add a period and strike the remainder of the last sentence, line 3 and 4.

PRESIDENT EGAN: Does the Chief Clerk have the wording of that amendment? Now, you moved that the rules be suspended? Is that correct, Mr. Coghill?

COGHILL: Yes.

PRESIDENT EGAN: Mr. Coghill so moves, that the rules be suspended.

COGHILL: I ask unanimous consent.

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard. Is there a second?

LONDBORG: I will second it.

PRESIDENT EGAN: Mr. Londborg seconds the motion that the rules be suspended in order that this specific amendment might be offered. Mrs. Hermann.

HERMANN: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: It seems to me this identical amendment was offered on the floor at the time we were discussing this.

PRESIDENT EGAN: Was it, at the time --

LONDBORG: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

LONDBORG: The suspension of the rules takes care of it.

PRESIDENT EGAN: That is correct -- if the rules would be suspended, Mrs. Hermann, it would suspend all those rules. Mr. Victor Rivers.

V. RIVERS: I will point out that this amendment was offered on the floor. The tendency of it would be --

PRESIDENT EGAN: Mr. Rivers, the motion on the suspension of the rules is not debatable.

COGHILL: Is it in order to clarify the proposed amendment or do we have to wait until the rules have been suspended?

PRESIDENT EGAN: No, only to read the proposed amendment. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll. Will the Chief Clerk please read the amendment again.

CHIEF CLERK: "Line 3, page 7, strike the comma and insert a period and strike the remainder of the sentence."

PRESIDENT EGAN: The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 13 - Coghill, Cooper, Hurley, Kilcher, Laws, Londborg, McNealy, Metcalf, Nerland, Peratrovich, R. Rivers, Walsh, Wien.

Nays: 36 - Armstrong, Awes, Barr, Boswell, Buckalew, Cross, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Johnson, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nordale, Poulsen, Reader, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Taylor, VanderLeest, White, Mr. President.

Absent: 6 - Collins, Davis, V. Fischer, Hinckel, Nolan, Sundborg.)

CHIEF CLERK: 13 yeas, 36 nays, and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Mr. Coghill.

COGHILL: May I have the personal privilege of the floor for three minutes?

PRESIDENT EGAN: If there is no objection, Mr. Coghill, you may have the floor.

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard.

HERMANN: Point of order.

PRESIDENT EGAN: Your point of order, Mrs. Hermann.

HERMANN: Don't our rules provide that a member may have the privilege of the floor at any time whether there is objection or not?

PRESIDENT EGAN: That is right, Mrs. Hermann, but if objection is heard -- the Chair thought of that last night -- if objection is heard --

BUCKALEW: Mr. President, I will withdraw my objection if it is only going to take three minutes.

PRESIDENT EGAN: Mr. Coghill.

(Mr. Coghill then spoke on a point of personal privilege.)

PRESIDENT EGAN: The Convention will come to order. Mr. Doogan.

DOOGAN: It is just about noon and I will ask unanimous consent to recess until 1:30.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the Convention recess until 1:30 p.m. Are there committee announcements?

ARMSTRONG: The subcommittee on the resources article would like to meet at 12:45 and would request that Mr. Riley meet with the committee, and Mr. Boswell, with the subcommittee on resources at 12:45 in the gallery.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: The Committee on Apportionment had announced a meeting for 1:00 o'clock, but we would like to call it for 12:00 o'clock, and I should like to ask Mr. Kilcher, Mr. Stewart, Mr. Metcalf, Mr. Hurley, and Mr. Cross to be present if they want to pursue their suggestions any further, and any others that might have suggestions with regard to the descriptions of the election districts.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Committee on Ordinances at 1:00 o'clock in the committee room upstairs.

PRESIDENT EGAN: Committee on Ordinances at 1:00 o'clock in the committee room upstairs. Mr. McLaughlin.

McLAUGHLIN: Mr. President, there will be a brief meeting of the Judiciary Committee right in the rear here upon adjournment.

PRESIDENT EGAN: The Judiciary Committee in the rear of the room upon recess. Mr. Sundborg.

SUNDBORG: Style and Drafting immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration will meet just briefly just prior to the plenary session this afternoon, and we are prepared to bring in a report on the closing ceremony or the signing ceremony, at that time.

PRESIDENT EGAN: The Committee on Administration will meet just prior to the plenary session this afternoon. If there are no other reports, the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have the article on the executive, Article No. III, before us at this time. Mr. Knight.

KNIGHT: Mr. President, may I have the privilege of the floor?

PRESIDENT EGAN: If there is no objection, Mr. Knight, you may have the privilege of the floor.

(Mr. Knight spoke on a matter of personal privilege.)

PRESIDENT EGAN: Well done, Mr. Knight. Are there proposed committee amendments of a substantive nature? Mr. Victor Rivers.

V. RIVERS: Mr. President, I have the amendments here that constitute the redraft of a couple of sections and they are now being mimeographed in the boiler room. I would like to have them read. I think they will be down by the time we get to acting upon them. So, I will ask at this time to submit an amendment covering Section 10.

PRESIDENT EGAN: Would the Chief Clerk read the proposed amendment to Section 10.

CHIEF CLERK: "Strike Section 10 and insert the following: Section 10. If the governor-elect dies, resigns, or is disqualified, the secretary of state-elect shall succeed to the office of governor for the full term. If the governor-elect fails to assume his office for any other reason, the secretary of state-elect shall act as governor and if the governor-elect does not assume his office within six months of the beginning of the term, the secretary of state shall then succeed to the office.'"

PRESIDENT EGAN: Mr. Victor Rivers, do you ask unanimous consent for the suspension of the rules?

V. RIVERS: I will move and ask unanimous consent for the suspension of the rules for purposes of introducing this committee amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the suspension of the rules for the purpose of introducing this amendment. Mr. Kilcher.

KILCHER: Mr. President, would it be asking too much to have it read once more?

PRESIDENT EGAN: Would the Chief Clerk please read it once more?

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules? Mrs. Hermann.

HERMANN: I think I am going to object for a moment. I want to ask a question.

PRESIDENT EGAN: Of an information purpose?

HERMANN: Yes. Is that purely an amendment in phraseology, Mr. Rivers?

V. RIVERS: No. I might say there is a gap filled in there in case the governor-elect does not qualify. It was felt to be a blank in the article and it adds an additional provision. I checked it with the committee yesterday, and in substance we agreed that was a subject we should cover on the floor, and I asked the Style and Drafting through their consultant to draft this measure up so we could give it consideration.

HERMANN: May I ask just where that is inserted?

V. RIVERS: It takes the place of Section 10, covers the same subject matter, but the matter of the governor-elect failing to qualify or to accept office was not covered, and that covers this contingency only. It does not alter the intent of the committee.

KILCHER: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: Is this not a very long amendment not to be available in mimeographed form?

V. RIVERS: It is being mimeographed, and I thought it would be here by the time I brought it out.

PRESIDENT EGAN: Is there objection to the suspension of the rules? Hearing no objection, the rules have been suspended.

V. RIVERS: If you will look at the present Article 10, you will see that it does not cover the case of the governor-elect actually failing to take office; we have provided if he fails to do so within a period of six months for any reason whatsoever -- such as health, indisposition, bankruptcy, or anything of that nature, then that would cause him to fail or lack the desire to take office, automatically the secretary of state succeeds him to that office and fills and serves the term. That is the only matter covered.

PRESIDENT EGAN: Mr. Victor Rivers, do you move the adoption?

V. RIVERS: Yes, I'll move and ask unanimous consent.

LONDBORG: I'll second the motion.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that the amendment be adopted. Mr. Taylor.

TAYLOR: I just want to ask Mr Rivers a question. Section 11. Is it a fact that the provisions of Section 11 to a certain extent are included in the amendment that you were offering?

V. RIVERS: If you will look at it, it does cover another contingency. In Section 10 at the present time, it says, "In case a governor-elect fails to qualify and assume office for any reason, the person elected with him as secretary of state shall succeed to the office of governor for the full term." Now, if he were temporarily away and could not assume it immediately, the question at law would arise, when should the secretary of state take over the office of governor if the governor-elect fails to qualify? So, we put that same six-month period in there that appears in the other part of the article. It covers a contingency and sets a time limit where this present clause does not set a time limit as to when the secretary of state shall actually become governor. It was felt to be a lack in the article after going over it with the consultants and the committee.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I would like to ask one question. I don't object to the amendment but in place of such a long amendment, I wonder if inserting the word "or" in place of "and", between "qualify" and "assume" wouldn't cover most of the things that you are trying to arrive at?

V. RIVERS: It would still not give a time as to when the governor should be considered under law to have failed to qualify or have failed to assume. The only thing we do is set up the period in which he will have been considered to fail to qualify or fail

to assume office. We set it very liberally at six months.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I direct a question to Mr. Rivers?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: Mr. Rivers, did I understand you to say in discussing this proposed amendment that bankruptcy of the governor would be a disqualification?

V. RIVERS: He might feel it was -- morally he might feel -- I just used that as an illustration. I didn't intend to assume it would actually be. He might feel in his own mind, though, that his business affairs would not allow him to take office under those circumstances. That wasn't intended to be one of the causes by which he would fail to qualify.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I would like to point out that by action taken this morning, I don't think anybody will ever be bankrupt in Alaska now. The public welfare will take care of it.

PRESIDENT EGAN: Mr. Rivers, the people that you had consulted with evidently haven't taken the material to the boiler room yet to have it run off.

V. RIVERS: Mrs. Nordale assures me they have.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a couple of minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: I will ask unanimous consent to hold this until the mimeographed copies are ready for the members.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent to hold this proposed amendment until mimeographed copies are available. Mr. Hurley.

HURLEY: Mr President, if there is no objection, I would ask unanimous consent that we at this time take up the suggested amendment to the article on suffrage and elections which has been placed upon our desk.

PRESIDENT EGAN: If there is no objection, we will revert back to the article on suffrage and elections. You will recall Section

1 was referred to the Committee on Style and Drafting for a redraft. Mr. Ralph Rivers.

R. RIVERS: Mr. President, that work has been done and mimeographed copies are being put on the desk. If anyone wants one, there are some available. I now ask unanimous consent to withdraw the amendment which I offered this morning.

PRESIDENT EGAN: You had a pending amendment, is that right, Mr. Rivers?

R. RIVERS: Yes.

PRESIDENT EGAN: Unanimous consent is asked for the withdrawal of the amendment as proposed by Mr. Ralph Rivers. Hearing no objection, it is so ordered. Mr. Davis.

DAVIS: Mr. President, at this time I would like to move an amendment to Section 1 of Article V, the amendment to be the amendment striking Section 1 as it now appears, and substituting the mimeographed draft which has been passed around. I should point out now that this mimeographed draft says it is a draft by the Committee on Style and Drafting. Actually it is not. Style and Drafting hasn't seen it. It is a draft that was prepared by Mr. Rivers and myself and the three experts upstairs and George McLaughlin. We all got in on the act. But if you will look at the mimeographed copy, you will see that there is a change in the third line of the mimeographed draft to the effect that says "who meets registration requirements which may be prescribed by law". Then the rest of Section 1 remains as it was in the Style and Drafting copy as amended this morning. We have added a new sentence at the end of Section 1 to read as follows: "Additional voting qualifications may be prescribed by law for bond issue elections of political subdivisions." Mr. Rivers and Mr. McLaughlin and I thought that that covered what we were trying to do this morning, and I might mention I have showed it to several of the delegates and apparently it seems to meet the need.

PRESIDENT EGAN: Mr. Davis, do you ask unanimous consent that the rules be suspended in order that you might submit this amendment?

DAVIS: I think the rules were suspended this morning in connection with Mr. Rivers' amendment. If they were not, I ask for unanimous consent for the suspension of the rules and for the adoption of the proposed amendment.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing none, the rules have been suspended. Mr. Davis, do you move the adoption of the proposed amendment?

DAVIS: I do.

PRESIDENT EGAN: Mr. Davis moves the adoption of the proposed amendment. Is there a second?

HERMANN: I second the motion.

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Mrs. Hermann seconds the motion. Mr. Ralph Rivers asks unanimous consent for the adoption of the proposed amendment. Mrs. Nordale.

NORDALE: Mr. President, I would like to ask a question.

PRESIDENT EGAN: State your question.

NORDALE: What might be the registration requirements prescribed by law? Would they add to these basic requirements to be a qualified voter?

DAVIS: They would only add to the basic requirements the necessity of being registered and of course we have already taken care of that in Section 4 of the draft as we have it. The only reason for putting it in here is so there couldn't be any possible conflict between Section 1 and Section 4. Does that answer the question?

NORDALE: Yes. If no system of registration ever were established, then that would have no effect at all.

DAVIS: That would have no effect at all. It is only "as may be prescribed".

PRESIDENT EGAN: Is there objection to the unanimous consent request for adopting the amendment? Hearing no objection, the amendment is ordered adopted. Are there other amendments to be proposed to Article V, the article on suffrage and elections? Mr. Johnson.

JOHNSON: Mr. President, if there are no further amendments, I move that the rules be suspended, and that Article V be advanced to third reading and up for final passage and be read by title only.

PRESIDENT EGAN: Mr. Johnson moves -- and asks unanimous consent -- did you, Mr. Johnson?

JOHNSON: Yes.

PRESIDENT EGAN: That the rules be suspended, as to Article V, the article on suffrage and elections, that the article be advanced to third reading, read the third time by title only, and placed in final passage. Is there objection? Hearing no

objection, the rules are suspended and Article V is now before us in third reading. The Chief Clerk will read the title of the article.

CHIEF CLERK: "Article V, Suffrage and Elections."

PRESIDENT EGAN: Is there debate? The article is open for debate.

R. RIVERS: Question.

PRESIDENT EGAN: If there is no discussion, the question is, "Shall Article V, the article on suffrage and elections, be adopted as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 46 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Stewart, Sweeney, Taylor, VanderLeest, Walsh, Wien, Mr. President.

Nays: 4 - Laws, Londborg, McNealy, Reader.

Absent: 5 - V. Fischer, Smith, Sundborg, White, Robertson.)

CHIEF CLERK: 46 yeas, 4 nays, and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and the article on suffrage and elections has become a part of Alaska's state constitution. Mr. Victor Rivers, would it be your wish that we pass the executive article for the time being and come back to it later?

V. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: If there is no objection then, we have before us Committee Proposal No. 14 the proposal on the election districts. Mr. Hellenthal.

HELLENTHAL: Mr. President, I ask the indulgence of the body to offer some 10 or 11 minor changes in the description of election districts. We debated having them redone but determined that it would be best to dictate them from the floor and that in the long run it would save time, and so I ask your indulgence, and I should like to take them up one at a time in connection with the election district to which they refer. These have been approved by the

committee after meetings with delegates who offered them. Some were considered; some were rejected; some were accepted in part or in whole. May I, unless there is objection, then, proceed with the first change other than those we gave you a couple of days ago. It is in Election District No. 3, page 2, third line, after the word "north" add the following: "and partly bounded on the north by a line drawn between Cape Fanshaw and the north side of Pybus Bay". I ask unanimous consent that that change in the description be incorporated into the description for Election District No. 3.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the incorporation of this change become a part of the description of Election District No. 3. Mr. Hellenthal, is that correct?

HELLENTHAL: Yes.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Mr. Doogan.

DOOGAN: I would like to ask a question. Is there some other word you could use other than "partly because that denotes indecision.

HELLENTHAL: No other word can be used.

DOOGAN: I think it ought to be straightened out a little further and for that reason I'll object because --

HELLENTHAL: May I explain to you why the word "partly" is used, and I think Mr. Nolan who is very interested in this area will confirm it. It is not the complete boundary, but it was one that Mr. Robertson wanted. It is impossible to outline -- under the method we have pursued in all these election districts, we do not give descriptions of code; we use watersheds or areas. We have not attempted to close the boundaries. It would take a detailed survey to close that boundary we have in mind, but this does cover the area described on the map fully and completely with no omissions. Does that help, Mr. Doogan?

DOOGAN: It doesn't straighten out the "partly" as far as I am concerned, but if everybody else is willing to go along with it, I will withdraw my objection.

HELLENTHAL: Afterwards, if you will come and look at the map with me, I think you will agree that it is all right.

PRESIDENT EGAN: Unanimous consent is asked that the amendment for Election District No. 3 be adopted. Is there objection? Hearing no objection, it is so ordered.

HELLENTHAL: Now, in Election District No. 5, the description consists of seven lines. In the sixth line, delete the second

"and"; the word "islands" stricken; insert a comma after the word "Douglas". After the word "Shelter" insert a comma and the words "and Benjamin Islands,". So that it will read, "...including Douglas, Shelter, and Benjamin Islands, and other small adjacent islands."

PRESIDENT EGAN: Do you move and ask unanimous consent for the adoption of that proposed amendment?

HELLENTHAL: I do, Mr. President.

PRESIDENT EGAN: Is there objection to Mr. Hellenenthal's unanimous consent request? Hearing no objection, the amendment is ordered adopted. Mr. Hellenenthal.

HELLENTHAL: I move and ask unanimous consent that in the description for Election District No. 6, Yakobi be spelled Y-a-k-o-b-i rather than Y-o-k-o-b-i.

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption of the amendment? Mr. Taylor.

TAYLOR: I was going to ask about the spelling of Berners Bay. Isn't that B-e-r-n-e-r-s?

HELLENTHAL: I think we made that correction at the last gathering, Mr. Taylor.

CHIEF CLERK: It was just to be Style and Drafting -- it was not adopted.

HELLENTHAL: Then I ask unanimous consent that in the description of Election District No. 5, Berners Bay be spelled "B-e-r-n-e-r-s.

PRESIDENT EGAN: We have another unanimous consent request here on Yakobi. Is there objection to the unanimous consent request of Mr. Hellenenthal on the spelling of Yakobi? Hearing none, it is so ordered.

HELLENTHAL: And I likewise ask unanimous consent that the spelling of Berners Bay be changed to read B-e-r-n-e-r-s.

PRESIDENT EGAN: If there is no objection, the amendment is ordered adopted. Mr. Stewart.

STEWART: Mr. President, was any action taken on the spelling of Kruzof in Section 4?

PRESIDENT EGAN: There again, that was left to the Style and Drafting Committee, but if Mr. Hellenenthal wishes to do that at this time?

HELLENTHAL: Yes. I move and ask unanimous consent that in the first line at the top of page 3 with relation to the description

of Election District No. 4 that Kruzof Island be spelled K-r-u-z-o-f.

PRESIDENT EGAN: Is there objection to the unanimous consent request? If not, the amendment is ordered adopted.

HELLENTHAL: Now, Mr. President, in the description of Election District No. 7, with relation to the first line on page 4, I ask that, beginning with the word "including", strike the balance of the section and substitute the following: "not including the Tiekel River on the west; and up to and including the Chitina River on the east." Tiekel is spelled T-i-e-k-e-l, and Chitina is spelled C-h-i-t-i-n-a.

PRESIDENT EGAN: Mr. Hellenthal, is Tiekel on the map spelled T-i-e-k-e-l?

HELLENTHAL: Yes. Mr. President, we just checked it a moment ago.

UNIDENTIFIED DELEGATE: Might we have that amendment again?

(Mr. Hellenthal then repeated the amendment to the description of Election District No. 7.)

PRESIDENT EGAN: Mr. Hellenthal, would you --

HELLENTHAL: I move and ask unanimous consent that the suggested amendment with regard to District No. 7 be adopted.

PRESIDENT EGAN: Mr. Hellenthal, if the Chair may, I wonder if the Chair might ask a question of Mr. Rosswog. Mr. Rosswog, that means that the Copper River would be the boundary? That would be the only change, bringing it out to the Copper River. Is that right?

ROSSWOG: Yes, that would be it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Point of information, Mr. President.

PRESIDENT EGAN: Your point of information, Mr. Rivers.

R. RIVERS: Mr. Hellenthal, there is a semicolon after the word "west".

HELLENTHAL: Yes.

R. RIVERS: Well, now, is this up to and including the Chitina River -- is that within the exclusion or is that something after the exclusion ends?

HELLENTHAL: "Not including the Tiekel River on the west; and up to and including the Chitina River on the east." Frankly, I

think the semicolon is not necessary, but the mapping people thought it was.

R. RIVERS: That is within the exclusion then, is it?

HELLENTHAL: No, it is not within an exclusion. It is "and up to and including the Chitina River on the East."

R. RIVERS: Then the semicolon would be necessary.

PRESIDENT EGAN: But that would not include the town of Chitina?

HELLENTHAL: It does not include the town of Chitina.

R. RIVERS: No objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing none, the amendment is ordered adopted.

HELLENTHAL: In Election District No. 8, a similar amendment must be made. We move and ask unanimous consent that in the description of Election District No. 8, in the fifth line, beginning with the word "but", strike the balance of the sentence and insert the following: "and including the Tiekel River on the west, and above but not including the Chitina River on the east." I will repeat it. Beginning with the word "but", strike the balance of the sentence and insert the following: "and including the Tiekel River on the west, and above but not including the Chitina River on the east." I move and ask unanimous consent that the amendment be adopted.

PRESIDENT EGAN: Mr. Hellenenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: Mr. President, I move and ask unanimous consent that the following change be made in the description of Election District No. 9: the sixth line, after the word "including", insert the words: "the area draining into the". After the word "River", insert the following words: "from the north and from the south". And I repeat them again: "from the north and from the south".

PRESIDENT EGAN: Would the Chief Clerk please read how that would read following the semicolon.

CHIEF CLERK: "...and that area draining into Knik Arm from and including Fish Creek and its tributaries on the west side of Knik Arm to and including the area draining into the Knik River from the north and from the south to the highway bridge."

HELLENTHAL: I move and ask unanimous consent for the adoption of this amendment.

TAYLOR: I object.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent for the adoption of the proposed amendment. Objection is heard. Mr. Taylor.

TAYLOR: I object for the purpose of information. I believe that the highway bridge, I think it should designate what highway that is.

HELLENTHAL: There is only one highway bridge on the Knik River.

TAYLOR: What highway is that?

HELLENTHAL: That is the one this side of Palmer.

TAYLOR: What is the name of the highway?

HELLENTHAL: Anchorage-Palmer. I think.

TAYLOR: Why isn't it in here?

HELLENTHAL: They thought it was not necessary, and for the sake of brevity, they follow this method. I think it is pretty clear.

PRESIDENT EGAN: Is there objection to the adoption of the amendment? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: The next amendment is to the description of Election District No. 10, and it is in the last two lines of that description. I move and ask unanimous consent that, in the last two lines of the description of Election District No. 10, the following words be stricken: line 6, after the word "tributaries", strike the balance of the section and substitute the following: "to but not including Beluga River on the south." The insertion, I will repeat it again: "to but not including Beluga River on the south." I move, Mr. President, and ask unanimous consent that this change be adopted. I might add that this change merely illustrates the line that was on the map in words. It definitely includes Tyonek in the Kenai Election District, which had not been too clearly done in the first draft.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent for the adoption of the amendment. Mr. Kilcher.

KILCHER: Objection just for clarification.

HELLENTHAL: It is to exclude Tyonek from the Anchorage district. Your next amendment will include it in the Kenai.

KILCHER: May I ask another question of Mr. Hellenthal?

PRESIDENT EGAN: If there is no objection.

KILCHER: On the third to last line, "Beluga River" should be stricken -- "and Beluga".

HELLENTHAL: Yes, that on the third line from the end, following the comma after the word "Theodore", the two words "and Beluga" should be stricken, and I ask that my previous motion in asking for unanimous consent, that those two words be included in it.

PRESIDENT EGAN: Is there objection to including that? If there is no objection then, Mr. Hellenthal asks unanimous consent that the proposed amendment be adopted. Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: The next is in Election District No. 11. I move and ask unanimous consent that line 2, the words "and including Chugach and Windy Bays" be stricken, and that the words "Gore Point" be substituted.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection?

CHIEF CLERK: How do you spell Gore?

HELLENTHAL: G-o-r-e.

PRESIDENT EGAN: Is there objection? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: Mr. President, I move and ask unanimous consent that, in the same description of Election District No. 11, at the end of the sentence, that a semicolon be substituted for the period and the following words added: "and to and including the confluence of the Kenai and Russian Rivers on the west".

(Mr. Hellenthal then repeated the proposed amendment.)

PRESIDENT EGAN: Does that mean where they meet?

HELLENTHAL: Yes, Mr. President, that is a fancy word meaning where they meet.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection? Hearing no objection, this amendment is ordered adopted.

HELLENTHAL: The next is in the description of Election District No. 12, line 2, after the word "into", I move and ask unanimous consent that the words "the Gulf of Alaska" be inserted.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent for the adoption of the amendment. Is there objection?

UNIDENTIFIED DELEGATE: What was that last?

HELLENTHAL: "...the Gulf of Alaska" comma.

PRESIDENT EGAN: Is there objection? Hearing no objection the amendment is ordered adopted.

HELLENTHAL: Then, in the same second line of the same description of District No. 12, the words "but not" be stricken, and the word "and" be substituted in their place. I move and ask unanimous consent.

PRESIDENT EGAN: Mr. Hellenenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: In line 4 of the same description for Election District No. 12. I ask that the words "by Chugach Bay" be stricken and the words "into Port Dick" be substituted; further, that after the word "south", that the words "to Gore Point" be inserted. I so move and ask unanimous consent.

PRESIDENT EGAN: Mr. Hellenenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: In line 4 of the same description of Election District No. 12, I move and ask unanimous consent that the word "Creek" be substituted for "River".

PRESIDENT EGAN: Mr. Hellenenthal moves and asks unanimous consent that the amendment be adopted. Is there objection?

NERLAND: Mr. Hellenenthal, will you read how that section will sound under the amendment?

HELLENTHAL: I have two more and then I hope to read it all and see if we have it right. Was there objection to it?

METCALF: Mr. Hellenenthal, I am not sure, is that the one that comes down to Hope, is that what you mean?

HELLENTHAL: That is the Resurrection Creek near Hope.

METCALF: Does that say "Creek" or "River"?

HELLENTHAL: "Creek". We checked it specifically with that in mind. Was the last amendment adopted?

PRESIDENT EGAN: Not yet. Is there objection to the adoption of the amendment changing the word "River" to "Creek"? Hearing no objection, it is so ordered.

HELLENTHAL: On this same line 4 of this same Election District No. 12, following the semicolon after the word "north", I move

and ask unanimous consent that the following words be inserted: "and the area east of the confluence of the Kenai and Russian Rivers and". I further move and ask unanimous consent in connection with line --

PRESIDENT EGAN: Mr. Hellenthal, you didn't move and ask unanimous consent for the adoption of that last amendment. Is this to be included?

HELLENTHAL: I move and ask unanimous consent that it include the words: "and the area east of the confluence of the Kenai and Russian Rivers and" be inserted following the word "north", fourth line of the description of Election District No. 12.

PRESIDENT EGAN: Is there objection to the unanimous consent request for adopting the amendment? Mr. Kilcher.

KILCHER: Mr. President, for information, the semicolon, I think, should be stricken; it adds confusion.

PRESIDENT EGAN: That is what you wished, Mr. Hellenthal?

HELLENTHAL: Yes. I move and ask unanimous consent that the semicolon in the fourth line of this same description of Election District No. 12, be stricken.

PRESIDENT EGAN: If there is no objection, the semicolon is ordered stricken and the amendment adopted.

HELLENTHAL: Now, Mr. President, I move and ask unanimous consent that in lines 6 and 7 the word may I correct that? In Line 6 only, the word "Chakachatna" be stricken and the word "Beluga" be inserted in its place, and that the comma be changed to a semicolon.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? If there is no objection, the amendment is ordered adopted.

HELLENTHAL: The last amendment in the description of Election District No. 12 is in line 8, and I move and ask unanimous consent that in line 8, the words "Chakehamna Lake;" be stricken.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection? Mr. Armstrong.

ARMSTRONG: Mr. President, it has been drawn to my attention that someone has misspelled the name "Resurrection". I didn't have my Bible here but Webster certainly has a different version of it. Strike one of the s's.

HELLENTHAL: I move and ask unanimous consent, Mr. President, that --

McLAUGHLIN: And add an extra "r".

PRESIDENT EGAN: First, we didn't -- there was no objection though to the amendment that had been offered by Mr. Hellenenthal striking the words "Chakehamna Lake" was there? If there is no objection, that amendment is ordered adopted.

HELLENTHAL: Mr. President, I move and ask unanimous consent that the word "Resurrection" in line 4 of the description of Election District No. 12 be spelled correctly.

PRESIDENT EGAN: Unanimous consent is asked that the word "Resurrection" be spelled correctly. Mr. Rivers.

R. RIVERS: Point of information.

PRESIDENT EGAN: Your point of information.

R. RIVERS: I wonder what happened to the semicolon after "Chakehamna Lake".

PRESIDENT EGAN: Was that included in your amendment?

HELLENTHAL: I thought I took that out in the motion.

CHIEF CLERK: No, you just said "Chakehamna Lake". Do you want the semicolon left, or the comma after "Rivers"?

HELLENTHAL: Mr. President, I will read it all to see if we all have it right, as requested by some gentleman here. "That area of Kenai Peninsula drained by streams flowing into the Gulf of Alaska, Cook Inlet, and Turnagain Arm, from and including the area drained into Port Dick on the south to Gore Point, to but not including Resurrection Creek on the north and the area east of the confluence of the Kenai and Russian Rivers and that area west of Cook Inlet drained by all streams flowing into Cook Inlet from Cape Douglas on the south to and including Beluga River; including Elizabeth Island and adjacent islands in Cook Inlet." If that conforms with the rest, I ask that the word "Resurrection" in Section 11 likewise be corrected as to spelling, and I so move and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the correction of the spelling. If there is no objection, so ordered.

HELLENTHAL: Now, if you will turn to the description of Election District No. 19. In that description, in the second line, I move and ask unanimous consent that the description of Election District No. 19, in the second line thereof, following the words "Clear Creek", be amended by inserting a comma and the words "near Blair Lakes," -- B-l-a-i-r Lakes, plural.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: I move and ask unanimous consent that, in the description of Election District No. 22, in the second and third lines thereof, the words "but not" and "Buckland" be stricken and the following words, respectively, inserted in their place: first, "and" in place of the words "but not"; and secondly, in line 3, strike the word "Buckland" and insert the word "Goodhope".

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: In the description of Election District No. 23, I move that, in that description of Election District No. 23, in the third line thereof, the word "and" be stricken and the words "but not" be inserted in its stead. I so move and ask unanimous consent.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? Mr. Cross.

CROSS: Would you read that section again, Section 23?

HELLENTHAL: Read the third line or the entire amendment?

CROSS: The change.

HELLENTHAL: That, in the third line of the description of Election District No. 23, the word "and" be stricken and insert in lieu thereof the words "but not".

PRESIDENT EGAN: Do you have it, Mr. Cross?

CROSS: That word "Buckland" should be changed.

HELLENTHAL: Yes, that will be the next amendment, Mr. Cross.

PRESIDENT EGAN: Is there objection to the adoption of the amendment? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: I move that, in the fourth line of the description of Election District No. 23, the word "Buckland" and the word "and" following "the word "to" be stricken and in lieu thereof the word "Goodhope" be substituted for "Buckland", and the words "but not" be substituted for the "and".

HERMANN: Which "and"?

HELLENTHAL: Following the word "to".

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

HELLENTHAL: I move that the references to the Pastolik River in the descriptions of Election Districts No. 23 and 24 be corrected

so as to spell it with a "k" instead of a "c", and ask unanimous consent to accomplish this purpose.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Hearing no objection, it is so ordered.

HELLENTHAL: I observe parenthetically that Chamisso was corrected the other day to begin with a "C". Now, in the description of Election District No. 24, in the second from the last line thereof, I move and ask unanimous consent that the words "but not" be stricken and the word "and" be substituted in their place.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Does the Committee have other proposed amendments, Mr. Hellenthal?

HELLENTHAL: May I have a half-minute's recess?

PRESIDENT EGAN: If there is no objection, the Convention is at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: Mr. President, the Committee has two other amendments which will be mimeographed. They are not substantial, but they are lengthy and they involve the use of letters, numbers, and designations; and both are matters of form. One is to correct an obvious mathematical error, and the other is to group for purposes of designation only, and we will present them -- unless it is out of order, we will present them tomorrow morning when we consider the body of the article rather than merely the election districts.

PRESIDENT EGAN: Mr. Hellenthal, haven't we considered in second reading the legislative apportionment part of Committee Proposal No. 14 already in second reading? We have already had that before us as the Chair recalls.

CHIEF CLERK: It has even been returned from Engrossment and Enrollment.

PRESIDENT EGAN: Yes, it has been to Engrossment and Enrollment. Now, are these amendments to that?

HELLENTHAL: They are to Section 1 of the schedule; they both relate to Section 1 of the schedule.

HERMANN: Mr. President, I think it goes to Style and Drafting now.

PRESIDENT EGAN: Mr. Hellenthal, now, the procedure is that those are now on the way to the Style and Drafting Committee or in the Style and Drafting Committee, that section of Committee Proposal No. 14.

HELLENTHAL: Mrs. Alexander suggested that we mimeograph them and hand them in, but I think that in five minutes I can explain them and perhaps we could save time. Style and Drafting, as a matter of fact, have them and are using them already.

V. RIVERS: I would object to unanimous consent on that. I understood that John had approximately ten amendments. We have gone through about 50, and I think we have about ten pages of journal on it now. I would rather see them mimeographed.

PRESIDENT EGAN: Mr. Hellenthal, it would be proper that Style and Drafting would bring that back -- could incorporate it in the report and bring it back to ask our acceptance of the report, Mr. Hellenthal. It would not be proper for them to do that?

HELLENTHAL: There are many ways that it can be done, and I want to accommodate everybody.

PRESIDENT EGAN: If they would do it that way, it would probably be the easiest way to accomplish it, if you work with the Style and Drafting Committee, and then, when they bring the report back, those necessary changes could be included.

HELLENTHAL: We shall do that then. Might I observe at this point that the number of amendments was due not -- it was just due to the natural order of things. People think of these things at the last moment and bring them in at the last moment. Some of them we had never heard about until this morning, so I do apologize for the matter, but I think we are speeding things along this way.

PRESIDENT EGAN: The Chair feels the delegates recognize that. It is not the fault of the Committee. That is the fault of the delegates themselves. Mr. Coghill.

COGHILL: What is before the house at this time?

PRESIDENT EGAN: Right at the moment the Chair is about to refer this description of election districts to the Committee on Engrossment and Enrollment. If there is no objection, that description of election districts, a portion of this report, is referred to the Committee on Engrossment and Enrollment. Mr. Coghill.

COGHILL: I would like to have about a three-minute recess for the Committee on Administration to meet in the ping pong room.

PRESIDENT EGAN: If there is no objection, the Committee on Administration can meet in the ping pong room. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration would like to revert to the order of committee reports.

PRESIDENT EGAN: If there is no objection, we will revert to the order of committee reports at this time. Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration has met and has prepared the following program for the occasion of the signing of the constitution for the new State of Alaska and recommends its approval by the Convention. The program will be -- the opening -- "Star Spangled Banner" by the University band; convening of the Convention in session by the President; invocation by the Reverend John C. Stokes; roll call of delegates; address by the Honorable B. Frank Heintzleman, Governor of Alaska; then the signing of the constitution by the delegates; a prayer of dedication will be given by the Reverend R. Rolland Armstrong; followed by an address by the Honorable William A. Egan, President of the Alaska Constitutional Convention. After that there will be the singing of the "Alaska Flag" by the Ladd Field men's chorus; benediction will be given by the most Reverend Francis D. Gleeson; and adjournment until February 6, that is Monday. The University has offered, if it is the pleasure of the Convention, to entertain the delegates and their family members present in Fairbanks with a supper and short novelty program of entertainment at the University dining room, 6:30 p.m., Sunday, February 5, 1956. The University would appreciate an expression of the delegates with regard to this invitation, which is given with the understanding that the Convention may feel free to decline if the occasion should not be convenient. Your committee proposes the printing of 100 copies of the constitution on parchment or high-grade paper. The pages would be 13 by 18 in dimension, and the text would be printed in double columns, and the pages would be encased in a suitable cover. Five of those copies would constitute the official copies provided by the Convention Rule No. 51. These copies would be signed at the ceremonies on February 5 and, in addition, the signature page of a copy to be written on parchment by hand. The balance of the printed copies would be distributed to each delegate, and otherwise as the Convention may determine. Mr. President, this is our report for the close of the program. I move and ask unanimous consent that it be adopted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent for the adoption of the report for the close of the Convention program.

DOOGAN: I object for a moment. I think that adjournment you speak of on February 5 should be recess.

COGHILL: We usually adjourn until the following day. That is not to adjourn sine die.

DOOGAN: That doesn't make any difference. February 5 is supposedly our last day.

PRESIDENT EGAN: It is still February 5 until 10 o'clock a.m. on February 6 so far as we --

DOOGAN: That's right, so it should be "recess" rather than "adjourn".

COGHILL: Excuse me, "recess".

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I don't know whether I should say anything about this subject or not, but I don't want to give my unanimous consent.

PRESIDENT EGAN: I think it should be discussed by the delegates.

COGHILL: I so move.

DOOGAN: I second it.

PRESIDENT EGAN: If there is no objection, the discussion is open.

BUCKALEW: I realize that perhaps it is wise to have an address by the Chief Executive of the Territory, but I would be inclined to favor someone else other than the governor for many reasons. He is an appointive official. As you well know, he came out with the plan of dividing Alaska, and it doesn't seem quite proper to me.

HELLENTHAL: Mr. President, point of information. I suggest that any changes that we might have, and I know I am toying with a few myself, we take before the committee for their action.

PRESIDENT EGAN: If there is no objection, any discussion relating to things like that might be taken before the committee. Mr. Coghill.

COGHILL: Mr. President, I don't wish to take up any time of the plenary session, but we are going to have to have programs made and these programs are going to have to go all over the Territory.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess. The committee will meet again and anyone who has suggestions might -- Mr. Victor Rivers.

V. RIVERS: I object to these meetings during plenary sessions. We have a limited time today and it won't be very long before we will adjourn, and then the committee could meet and hash it out and hear the witnesses.

POULSEN: President Egan, I think we should adopt the committee's report, if we have to, and let us vote on it now.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent for the adoption. Was there objection?

BUCKALEW: I object.

PRESIDENT EGAN: Mr. Buckalew objects.

COGHILL: I so move.

H. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Coghill so moves, seconded by Mrs. Fischer, that the report of the committee be adopted. The question is, "Shall the report of the Committee on Administration with relation to the signing ceremony be adopted by the Convention, be accepted by the Convention?" Mr. Doogan.

DOOGAN: Just for a matter of information, if there are to be any changes made or accepted, does this bind us so there will be none?

PRESIDENT EGAN: It would not allow, if we accepted, or adopted, this motion, it would not allow any changes without the consent of the body, but as Mr. Coghill said, it is necessary that they have that information as quickly as possible and get it to the printer.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the report of the Committee on Administration be adopted by the Convention?" All those in favor -- Mr. Sundborg?

SUNDBORG: Is this debatable?

PRESIDENT EGAN: It is.

SUNDBORG: I was wondering, Mr. President, as I heard the report, whether it would not be more fitting if the signing of the constitution should not be the climax of that ceremony -- that is, not come early and enter in the middle of it to be followed by speeches, but to be the final action at the ceremony, just as at a commencement -- there are plenty of speeches but the thing that happens last, and the thing the people are really there to see is the awarding of diplomas, etc.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I rise to a point of order. There will not be any lengthy speeches, Mr. Sundborg. The only one is to

be a short address by the governor of Alaska, and there will be a short address by Mr. Egan, our President of the Convention. They are the only two speakers on the program.

SUNDBORG: I am aware of that, but my point, Mr. Coghill and Mr. President, was that I feel that, whether the speeches are long or short, they should be given before the constitution is signed, and the signing of the constitution should be the thing that is really the climax and the end of that ceremony.

PRESIDENT EGAN: Mrs. Fischer.

H. FISCHER: We followed the program used in New Jersey, am I not right, at the ceremonies? And we thought that your speech, Mr. President, a very short one after we had signed the document, (laughter) pardon me, would be most fitting to have it in that place.

V. FISCHER: Could I ask the Chairman of the Administration Committee a question?

PRESIDENT EGAN: You may.

V. FISCHER: Is the short speech for the President written already by the Committee? (Laughter)

COGHILL: I don't have to answer that.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, it seems to me that, if we have the speeches and then have the various delegates go up four at a time, as I understand, the audience might get a little restive and start moving out on us, whereas, if they know there is a speech or two to come afterwards, we might be able to hold them all.

PRESIDENT EGAN: Is there further discussion of this subject? If not, the question is, "Shall the report of the Committee on Administration be adopted by the Convention?" All those in favor of adopting the report will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the report has been adopted. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am a little bit concerned about that invitation for dinner on Sunday night. May I ask Mr. Coghill a question?

PRESIDENT EGAN: You may, Mr. Rivers.

R. RIVERS: About when would the signing ceremony and the short speeches end? What time of day?

COGHILL: We have it planned for 2:00 o'clock in the afternoon to start, and I imagine it would probably take about two or two and

one-half hours to go through the program. This dinner will be upstairs in the cafeteria at 6:30 in the evening, and we will be the guests of the University and their faculty.

R. RIVERS: Mr. President, there is going to be about a two-hour lag in there after the ceremony is over and before the dinner. That, of course, raises a situation that perhaps half of the delegates and their parties are going to have other arrangements and perhaps will be leaving the campus, and then it raises the question as to how many of them are going to come back to the campus for that cafeteria dinner, and I think we owe them the courtesy, though, of letting them know whether we accept as a body or whether we should have a show of hands and indicate to them how many would be availing themselves of that invitation. I don't think I will be available to come out here that night, but would make it a first order of business if this body is obligated to do so.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, as I understand it, "Operation Statehood" is coming in a plane load from Anchorage sometime on Saturday, and there is a desire to either meet with this body or some sort of an occasion on Saturday evening, and, until that is definitely settled, I believe that we have an out as far as the Administration Committee's report is to find out whether we would be available on Sunday night. Incidentally, the Administration Committee does want to make it perfectly clear the University is not going to be offended if we do not accept their invitation. I just talked to Dr. Patty this morning and he is very anxious to extend any courtesy to us. It would cost them several hundred dollars to put on this dinner but he said they would not be the least bit offended if we did not accept.

PRESIDENT EGAN: The Chair would like to make it clear, though, at this time there is no indication but that we might be working late on Saturday night. We have nothing to go on now that would indicate otherwise. Mr. Doogan.

DOOGAN: My feeling on this matter is that the University has done everything in their power to help us perform the function that we were sent here to do. I think that it would only be common courtesy that, after the document is signed, they have kept out of our hair this long, they would like to show us some appreciation for the service we have tried to do and we in turn should do all in our power to show them appreciation for all the things that they have tried to do to help us, and I think it should be a mandate that this body attend their function on Sunday night, the entire body.

PRESIDENT EGAN: Are you moving, Mr. Doogan, that we accept the University's invitation?

DOOGAN: I'll so move.

PRESIDENT EGAN: Mr. Doogan so moves. Is there a second to the invitation?

KILCHER: I second the motion, Mr. President, and I would like to speak on it at the same time. I fully share the sentiments of Mr. Doogan. I think that, one way or the other, Sunday evening, either here or if somebody has a better program, the Convention should meet in a body, in a farewell, informal farewell party of their own, and I hope sincerely that the Convention will not break up immediately after signing into various little groups, and previous commitments should not be taken. I think the cohesion of this body should last all through Sunday and, accordingly, steps should be taken to meet here or to meet in town, but I really would like to remember this part of the Convention as having been a cohesive effort and a harmony that lasts to the last day, all of Sunday, and I would hate to see a breaking up into small little groups with individual allegiance.

PRESIDENT EGAN: Mr. Kilcher, there is no doubt in the mind of the Chair that the Convention will still be cohesive on Monday morning. Mr. Fischer.

V. FISCHER: I am somewhat concerned about the optimism that seems to pervade the Administration Committee as to the work that we still have ahead of us and as to when we will be finished. I don't think that we can be thinking in terms of taking Saturday night off, of taking all day --

COGHILL: I rise to a point of order. There is nothing said about Saturday night. The Committee on Administration has not planned anything until 2:00 o'clock Sunday afternoon, and we have left it completely clear to the Convention that, until 2:00 o'clock Sunday afternoon, we have not planned a thing because we didn't want to stand in the way of the Convention work.

V. FISCHER: I stand corrected on that point, but I still am concerned, because I think we may possibly be working through the night, Sunday night, and I think we should be aware of that possibility. I go along with Mr. Doogan. I think it would be very good to have a final supper session here with the University, with the understanding that it not be an all-night affair, that, if there is work to be done, we come right back here.

PRESIDENT EGAN: Mr. Doogan moves, seconded by Mr. Kilcher, that we accept the University's offer of the entertainment they planned for us if we accept on Sunday evening at 6:30 p.m. in the cafeteria upstairs. All those in favor of accepting the University suggestion will signify by saying "aye", all opposed by saying "no". The "ayes" have it and Dr. Patty will be so notified.

COGHILL: One other proposition, Mr. Chairman, is the 100 copies of the constitution, and I move and ask unanimous consent for the adoption of that part of our report.

PRESIDENT EGAN: Wasn't that a part of your report?

COGHILL: Yes, but it was not a part of the schedule, nor the dinner part.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that that part of the report that dealt with the printing of 100 copies of the constitution on the style of paper that was referred to and the bindings that was referred to be adopted by the Convention. Is there objection? Hearing no objection, it is so ordered. Mr. Barr.

BARR: I had a question to ask. That invitation from the University -- is that just for the delegates, or delegates and wives?

COGHILL: For the delegates and their family members present in Fairbanks.

HINCKEL: I would like to ask a question.

PRESIDENT EGAN: You may.

HINCKEL: Has any provision been made for a reserved section for any out-of-town guests that might come on the invitations that were sent out or that any members might send out?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: We had planned on meeting tomorrow, the Committee, when we had time, and we were going to go over at that time the setting up and seating arrangements of the gymnasium, and we will take that into consideration at that time.

HINCKEL: I am informed that Admiral Craig and part of his staff at Kodiak intend to come here for the ceremonies. That is the reason that I was particularly interested.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: If I understood correctly, when this discussion came on the floor before, that there would be no seating arrangements other than the necessary seating arrangement for the delegates so that they would be in a body, but that there would be no other seating arrangement.

PRESIDENT EGAN: It would seem to the Chair that, if the Chair may, it might be very difficult in the building where it could very conceivably be that there won't be enough room to really

reserve seats other than for the delegates. I don't say that that should be that way, but that -- Mr. Lee.

LEE: If I may address a question to Mr. Coghill, these people that were invited were the delegates and their families, members of the families that are in Fairbanks, that is correct? Are they the ones to be invited?

COGHILL: Yes.

LEE: I think that since we have had our staff working with us all the time, I think it would be nice if they were also invited.

COGHILL: They are also invited.

PRESIDENT EGAN: It should have been so stated. Mr. Marston.

MARSTON: Have the military properly been invited and other public officials of the Territory been invited to this Convention?

COGHILL: Yes, they have.

MARSTON: Thank you.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I was wondering if one of the signed copies was going to be available for the University museum?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: In the last section that we just adopted, there will be 100 copies, and five of those were the official copies so set forth by Rule 51. There will be 55 of those copies, one for each delegate, and there will be 40 left, and the feeling of the Committee on Administration is that the Convention should determine where those will go. We can have the signatures printed on those copies such as from the signatures that we took the other day for the newspaper article, and they could be distributed to the universities, the high schools, and some of the other organizations throughout Alaska. However, we did not feel that this should be brought up on the floor at this time.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I was just thinking that if it wouldn't be much trouble to sign an extra copy, or if one hasn't been planned for the University, it would be a fine thing for their museum, and we could show our appreciation for all they have done for us by providing a signed copy for the University.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I move that we sign an extra copy, not necessarily at the ceremony, but any time, and that it be presented to Dr. Patty at the dinner he gives for us Sunday evening.

TAYLOR: I second that motion.

STEWART: I ask unanimous consent.

PRESIDENT EGAN: It has been seconded. Unanimous consent is asked that that be done. Mr. Johnson.

JOHNSON: I would like to include in that something which I think the Convention has already done, but we may have forgotten, and that is that the official gavel which you have is to be presented to the University, and perhaps it could be included with the constitution.

PRESIDENT EGAN: That is correct, Mr. Johnson. Mr. Marston.

MARSTON: May I suggest to the Committee that this here fine pen and walrus tusk that was given back from President Taft to the museum be used at the signing of this document, or be there.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Marston, I think we are probably taking up a lot of valuable time, and anyone who has any ideas that they wish to have brought before the committee, that we will be meeting tomorrow afternoon and they can appear before us at this time.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I want a little information. To whom or to where or to what do the signed copies that are personally signed go?

PRESIDENT EGAN: To whom do the signed copies that will be signed go? How will they get there?

COGHILL: That is one of the items that the Committee on Administration is going to have to figure out tomorrow afternoon at their meeting and to consult with the President of the Convention and then bring it before the Convention for their adoption.

PRESIDENT EGAN: Mr. Barr.

BARR: I still have a motion.

PRESIDENT EGAN: Is there objection to that motion that a particular copy, a special copy be made of the constitution with all the signatures attached and presented to the University? Mr. Coghill.

COGHILL: Mr. President, one of these copies, one of these five originals could very well be one of them that will be placed in the museum at the University, and I would like to see you hold that in abeyance until we act upon this tomorrow afternoon at our meeting, and I will certainly bring it up, Senator Barr.

BARR: Mr. Coghill, I heard you say a while ago that these copies with printed signatures would be distributed around to various people, and I was afraid one of those would be given to the University, and I think it should have original signatures on it, and it should be presented during this dinner to Dr. Patty; that is why I made the motion.

PRESIDENT EGAN: Why couldn't seven copies instead of six be signed at that time? It can be worked out by the Administration Committee. If there is no further discussion then, the Administration Committee will have its meeting, and those delegates who might have suggestions for the Administration Committee at that time are free to make those suggestions. Mr. White.

WHITE: Mr. President, is there anything before us?

PRESIDENT EGAN: There is nothing before us right at the moment.

WHITE: Mr. President, I rise to a point of inquiry of the Chair.

PRESIDENT EGAN: Your point of inquiry.

WHITE: Mr. President, I was absent from the Convention floor a short time ago on Convention business and with the express permission of the Chair. During that time the article on suffrage and elections as I understand was passed in third reading. I would very much like to have my vote reported in favor of that passage. I suppose I am not alone in this situation, but I think the question should be raised and that is my point of inquiry.

PRESIDENT EGAN: The article was passed, adopted as a part of the constitution. You want the journal to show, Mr. White, that your vote would have been "yes" on the proposal, is that right?

WHITE: If that is the proper procedure, that is my desire, Mr. President.

PRESIDENT EGAN: If there is no objection, the Chief Clerk may show Mr. White's vote as being "yes". Mr. Smith.

SMITH: Mr. President, may I make the same request?

PRESIDENT EGAN: Mr. Smith makes the same request that the record show that he would have also voted "yes" for the article on elections and suffrage. At the present time, Mr. Victor Rivers, have your mimeographed amendments to the executive article come back yet?

V. RIVERS: Yes, they have, and they have been distributed to the members.

PRESIDENT EGAN: We will have before us the Style and Drafting Committee report on the article on the executive. Mr. Victor Fischer.

V. FISCHER: Mr. President, I would also like to ask unanimous consent to be shown as voting "yes" on the adoption of the suffrage and elections article.

PRESIDENT EGAN: Mr. Fischer, it will be shown that you would have voted "yes" on the passage of the suffrage and election's article. Mr. Sundborg.

SUNDBORG: I was also absent from the Convention floor at the time the vote was taken and I wish the record would show that if I had been present I would have voted "yes".

PRESIDENT EGAN: Mr. Sundborg also wants the record to show that he would have voted "yes" on the article. Mr. Victor Rivers.

V. RIVERS: In the mimeographed copies on your desk you have the amendment to Section 10. I previously asked unanimous consent for the suspension of the rules and consideration of that section. The order of business was held over until you could get the mimeographed copies. The Secretary or Chief Clerk has already read the amendment as submitted.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment again? The rules had been suspended, isn't that correct, and it is before us as an amendment? The Chief Clerk will please read it.

CHIEF CLERK: "Page 2, Section 10, strike the section and insert the following: 'Section 10. If the governor-elect dies, resigns, or is disqualified, the secretary of state elected with him succeeds to the office of governor. If the governor-elect fails to assume office for any other reason, the secretary of state elected with him shall serve as acting governor and succeeds to the office if the governor-elect does not assume his office within six months of the beginning of the term.'"

PRESIDENT EGAN: Mr. Victor Rivers has already moved --

CHIEF CLERK: No, but this is different so would you withdraw the other one?

V. RIVERS: I will ask to withdraw the other one.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that he be allowed to withdraw his original amendment. Unanimous consent is asked that this new amendment take its place. Is there objection?

HELLENTHAL: Are there copies of this amendment?

V. RIVERS: You have them on your desk.

PRESIDENT EGAN: Does the Sergeant at Arms have another copy for Mr. Hellenthal? Is there objection to Mr. Victor Rivers' request?

SWEENEY: Yes.

PRESIDENT EGAN: Objection is heard.

SWEENEY: Just so I can ask a question.

PRESIDENT EGAN: What is your question, Mrs. Sweeney?

SWEENEY: In the old Section 10, there is a statement on the last line, "will succeed for the full term", and that is not in this new section here.

PRESIDENT EGAN: Mr. Victor Rivers, would you care to answer that?

V. RIVERS: It was implied that he would continue out the term. He was then actually governor and took the place of and succeeded the other governor.

SWEENEY: Why would you put it in the first place? It seems to me it should be in there.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent to substitute this amendment for the original amendment. Mrs. Hermann.

HERMANN: Point of inquiry. After these amendments are adopted, these will go back to Style and Drafting for consideration?

V. RIVERS: These were prepared with the help of Style and Drafting.

PRESIDENT EGAN: They would not go back to Style and Drafting until after final passage in third reading, Mrs. Hermann.

HERMANN: After then they can have no changes made?

PRESIDENT EGAN: That is correct, Mrs. Hermann.

HERMANN: There is one word I think should be changed, if it isn't going back to Style and Drafting.

PRESIDENT EGAN: Mr. Victor Rivers, under the circumstances where there have been two or three people who have asked questions, do you think it would be wise to have a recess so you might confer with these delegates? It might save time under the circumstances.

V. RIVERS: All right.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, inasmuch as the amendments are not ready, I move that we have our afternoon recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 3:55.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read the communication.

CHIEF CLERK: Telegram from Mayor Charles W. Wilson of Palmer: "The people of Palmer express their thanks for your efforts in framing a constitution and congratulations for the excellent results."

PRESIDENT EGAN: The communication will be filed. The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, we have this amendment on the Clerk's desk, and the copy you have on your desk -- there are in the first amendment three slight changes. The amendment to Section 10 has three slight changes to conform to the request of Delegate Sweeney and the Drafting Committee.

PRESIDENT EGAN: Do you wish to offer those now, Mr. Victor Rivers, and ask unanimous consent?

V. RIVERS: I will ask unanimous consent for the suspension of the rules to offer these amendments. They are not substantive. In line 2, after the word "him", insert the word "shall" and strike the "s" on "succeeds". "The secretary of state elected with him shall succeed to the office of governor." After the word "governor", strike the period and add the words "for the full term." Line 3, the line will then read, "If the governor-elect dies, resigns, or is disqualified, the secretary of state elected with him shall succeed to the office of governor for the full term." Then down in line 5, after the word "and", strike the word "succeeds" and add the words "shall succeed". The line will then read, "the secretary of state elected with him shall serve as acting governor and shall succeed to the office if the governor-elect does not assume his office within six months of the beginning of the term." I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked that these proposed amendments become a part of the original amendment. Is there objection? Hearing no objection, it is so ordered, and we have the proposed amendments to Section 10 before us at this time.

V. RIVERS: I think, Mr. President, the amendment is self-explanatory. It amplifies the original Section 10. I therefore move and ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection, the amendment is ordered -- Mr. Riley.

RILEY: Mr. President, I will object just for a moment for clarification. On the third line of Section 10, as we see it, with the addition of "for the full term", is the committee satisfied, Mr. Rivers, that there is no uncertainty there as to the full remaining term or the full unexpired term?

V. RIVERS: I brought that point up and "for the full balance" or the "full remaining" was discussed, and we were satisfied this covered only the full time for which the governor-elect had been elected and failed to qualify.

RILEY: Or "in the event of death that remaining..."?

V. RIVERS: Yes.

RILEY: Thank you.

PRESIDENT EGAN: Is there objection to the adoption of the amendment? Hearing none, the amendment is ordered adopted. Mr. Rivers.

V. RIVERS: The next amendment is on the same mimeographed sheet. It is to strike Section 13 on page 3, and add the words of the section which we have provided here. The Chief Clerk has the amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 13, page 3, strike the section and insert the following: 'Section 13. Provision shall be made by law for succession to the office of governor in the event that the secretary of state is unable to succeed to the office. Provision shall also be made for a person to serve as acting governor in the event that the secretary of state is unable to act as governor. No election of a secretary of state shall be held except at the time of electing a governor.'"

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I will move and ask unanimous consent for the adoption of this amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: We have one other amendment. Section 23, page 6, line 4, and the Chief Clerk has the amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 23, page 6, line 4, insert a period after the word 'orders', strike the balance of the section and substitute the following: 'These orders shall become effective after sixty days of a regular session of the legislature have elapsed following their issuance or at the close of the next regular session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of the legislature in joint session.'"

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: I want to call to the attention of the delegates the word "shall" has been inserted before the word "become", as you have it on your desk. The word "sooner" has been changed to "earlier". That is the way the copy was presented to the Chief Clerk. I will now move and ask unanimous consent for the adoption of this addition to Section 23.

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption of the amendment? Hearing no objection, it is so ordered. Mr. Stewart.

STEWART: Did he say, "Put the word 'shall' in there"?

V. RIVERS: On the mimeographed copy you have, after the words "these orders" insert the word "shall" and "whichever is sooner," change "sooner" to "earlier", and it will be correct, Mr. Stewart.

PRESIDENT EGAN: Do you have other committee amendments to propose, Mr. Rivers?

V. RIVERS: Mr. President, that is all the amendments the committee has to offer.

PRESIDENT EGAN: Are there other amendments to be proposed to Article No. III, the article on the executive? If not -- Mr. Sundborg.

SUNDBORG: Mr. President, do I understand that the only amendments which have been made in the report of the Style and Drafting Committee are the three which have just been adopted?

PRESIDENT EGAN: That is correct, Mr. Sundborg.

SUNDBORG: Mr. President, these amendments have been reviewed by most of the members of the Committee on Style and Drafting, and we feel they do not require any further consideration by our committee. I hear some dissent from some members, so I will not move to advance the article.

PRESIDENT EGAN: This could not go back to Style and Drafting until after its final passage, isn't that correct, unless by suspension of the rules?

SUNDBORG: We recommitted an article the other night where there had been some amendments so we could look at them. Is it the understanding of the Chair that the Style and Drafting Committee still has authority to change wording of articles even after they have passed third reading?

PRESIDENT EGAN: The understanding of the Chair is not too clear as to just why the article is referred to Style and Drafting after it goes to third reading, under the rules. But it isn't the opinion of the Chair that Style and Drafting can change any wording, it is just that the Style and Drafting Committee can arrange the constitution. At least that is the opinion of the Chair as to the only purpose of the article going back to Style and Drafting.

SUNDBORG: That was my belief, Mr. President, and I believe our rules set that forth. In view of that, I would not want to advance this article until after Style and Drafting has looked at the amendments.

TAYLOR: They are by Style and Drafting.

PRESIDENT EGAN: We don't have anything else on the calendar, but we did have Proposal No. 17/b that was never considered in second reading. There is a motion for reconsideration on 17/a, but, of course, that can be made at any time before adjournment and the motion would not be lost, but the Chair was wondering, Mr. McNealy, would it be your desire that the Convention consider Proposal No. 17/b now, or what is the desire of the Convention?

V. RIVERS: Mr. President, I understood that 17/b was referred back to the committee and that they were going to do certain specific studying and possibly present some amendments, and I think it is now in order if they are ready.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I don't remember which --

PRESIDENT EGAN: The fish trap was 17/a. The other portion of your ordinances was under 17/b, isn't that correct?

MCNEALY: It has never been read.

PRESIDENT EGAN: For the second time it hasn't been read?

MCNEALY: That's right.

PRESIDENT EGAN: Is it the pleasure of the Convention that we read Committee Proposal No. 17/b for the second time, now? Mr. Sundborg.

SUNDBORG: Mr. President, before we do that, I would like to move and ask unanimous consent that those portions of the article on general and miscellaneous provisions which have been in the Engrossment and Enrollment Committee be forwarded by that committee to Style and Drafting.

PRESIDENT EGAN: You mean in order to facilitate the Style and Drafting work?

SUNDBORG: So that we can get to work on them.

PRESIDENT EGAN: Mrs. Sweeney, are you just holding those matters in order to receive the rest of them, is that right?

SWEENEY: The Chief Clerk is holding them for me. I don't have them.

SUNDBORG: We recognize there will be others, Mr. President, very likely, but we would like to get the ones that are already through second reading so that we can start to work on it because we are running out of work.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the transitional measures that are in -- Mrs. Sweeney.

SWEENEY: Mr. President, I am afraid you can't take them out of Engrossment and Enrollment, we don't have them yet; unless we have time to work over them and get them out --

PRESIDENT EGAN: It was the understanding of the Chair they had been referred to the Engrossment and Enrollment Committee to be held there pending the action upon other transitional measures. At least that is what the Chair intended to do.

CHIEF CLERK: We have been holding them to follow the numbers, and she hasn't checked them yet.

PRESIDENT EGAN: Those articles will be referred to the Engrossment and Enrollment Committee at this time. The Chief Clerk will proceed with the second reading of Committee Proposal No. 17/b.

(The Chief Clerk at this time read Committee Proposal No. 17/b in its entirety.)

PRESIDENT EGAN: Are there amendments to Section 1? Section 3? Mr. McNealy.

MCNEALY: Mr. President, I have a committee amendment to Section 3 on line 8, to strike the words "not inconsistent" and insert the word "consistent".

PRESIDENT EGAN: Mr. McNealy, do you ask unanimous consent?

MCNEALY: I'll ask unanimous consent on that.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection?

HARRIS: May we have the amendment again?

CHIEF CLERK: "Section 3, line 8, strike the words 'not inconsistent' and insert the word 'consistent'."

PRESIDENT EGAN: Is there objection to the adoption of the amendment? Hearing no objection, the amendment is ordered adopted. Are there other amendments to be proposed for Section 3? Section 4? Are there amendments for Section 4? If not, are there amendments for Section 5? Mr. Hellenthal.

HELLENTHAL: Question. Is it the feeling of the Chairman of the Committee that the words "local subdivisions" includes health districts?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, this particular section was given to us very late in the day and I believe, in conjunction with Mr. Ralph Rivers, was prepared by one of the experts, and the Ordinance Committee had no intention of including it, and I believe Mr. Ralph Rivers felt it was essential.

PRESIDENT EGAN: Mr. Ralph Rivers, can you answer the question?

R. RIVERS: Yes, Mr. President. The general clause that, until the constitution was put into effect, existing measures, etc., could be carried out, didn't quite serve the purpose. After the constitution goes into effect, there will be some lag, maybe as much as a couple of years, before the reorganization takes place which will result in the new forms of local government, and your school districts and your public utility districts at the present

time have the taxing powers, and under our finance article, the taxing power can be extended only to cities and boroughs. Well, I didn't want the public utilities districts and the school districts to be out of conformity with the finance article by trying to continue to exercise taxing power for two or three years before the boroughs were organized, and so I merely took it up with the committee on the subject of saying "pending adoption of measures" to carry out the provisions of local government. Those adoptions of measures would be action by the state legislature and ordinances set up on the local scene to create the new city setups under boroughs. Pending that organization, the existing public utility districts and school districts could continue to tax as they are now allowed to tax for the purpose of meeting their bonding indebtedness and other obligations. So, I didn't realize I was causing any difficulties on the procedure here.

HELLENTHAL: May I ask Mr. Rivers a question through the Chair?

PRESIDENT EGAN: You may ask your question.

HELLENTHAL: Health districts, as you know, have the taxing power, too, and I have an interest because we formed the Anchorage Health District, and I am sure they will feel discriminated against. Would you object to saying "school districts, health districts, public utility districts"?

R. RIVERS: I overlooked the fact that there was an incorporated health district with taxing power, and I will be very glad to have "health districts" included. That was my purpose.

PRESIDENT EGAN: Mr. Hellenthal, do you offer such an amendment?

HELLENTHAL: I should like to, subject to the committee's --

PRESIDENT EGAN: Do you have objection to that, Mr. McNealy?

MCNEALY: I have no objection.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I move and ask unanimous consent that the words "health districts" be inserted between the phrases "school districts" and "public utility districts" in line 9, Section 5.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? If there is no objection, the amendment is ordered adopted.

R. RIVERS: With a comma after the word "districts".

PRESIDENT EGAN: Are there other amendments to Section 5? Section 6? Mr. McNealy.

MCNEALY: Mr. President, I have a committee amendment to Section 6.

PRESIDENT EGAN: The Chief Clerk may read the proposed committee amendment.

CHIEF CLERK: "Section 6, page 2, lines 15 and 16, strike the words 'performing functions vested by this constitution in the State' and insert 'of the Territory or under its laws,'. On line 18, delete 'those' and insert 'their'."

MCNEALY: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the proposed amendment. Is there a second?

STEWART: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Stewart. Mr. McNealy.

MCNEALY: The purpose here, this is one of the places where the committee fell afoul of an expert and we were merely reinserting the original language. And after the expert had included this when it hit the boiler room, calling his attention to the fact that it didn't match the court decisions and didn't convey the meaning, why, he also agreed that the original language should go back in. As the language was, it would only allow the Territorial officers performing functions vested in the constitution in the state; in other words, there would be that period when the state came into the Union. Just one example would be, there would be no attorney general, at least until the governor appointed a legal officer, and there would be a vacuum there that Jerry Williams wouldn't be able to operate for a short period of time there, so we thought it was very essential. Incidentally, the language used here, there is no pride of authorship. A number of the schedules of constitutions which have stood the test of cases in court, and we have the cases -- deciding cases as in Oregon and Arizona where they have used the same language, that the cases stood up in court with the language offered in the committee amendments.

PRESIDENT EGAN: Mr. White.

WHITE: The word deleted should be "these" rather than "those".

PRESIDENT EGAN: Mr. White states that the word to be deleted should be "these" rather than "those". Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. McNealy a question? Was it "all officers of the Territory or under its laws," -- wouldn't the "or" be an "and" instead?

MCNEALY: Well, we used the exact language on that particular phrase from the Oregon Constitution and the courts had interpreted that with the "or" in it.

R. RIVERS: The "or" meant "and" then, didn't it? Why don't we say "and"?

MCNEALY: The court didn't say anything about "or" meaning "and", so we left the "or" in.

R. RIVERS: Will this go to Style and Drafting?

MCNEALY: Unless an exception is made.

R. RIVERS: I shall back away.

PRESIDENT EGAN: Is there objection then to the adoption of the amendment? Mr. McNealy, you asked unanimous consent?

MCNEALY: I will ask unanimous consent.

PRESIDENT EGAN: Is there objection to the adoption of the amendment? Hearing no objection, the amendment is ordered adopted. Are there other amendments for Section 6? For Section 7? Mr. Nerland.

NERLAND: Mr. President, I don't believe many of our committee had an opportunity to take this up with Mr. McNealy as yet, but we have a similar section to Section 7 in the finance section, Section 15, and originally we had assumed that this would be handled by our committee and transferred into transitional measures. But we have been informed by the consultants that this should be retained as part of the permanent constitution because debts and liabilities of the Territory, and also assets, might crop up and become apparent and obvious for many, many years to come, and consequently, it seems logical that this should be in the permanent part of the constitution. I will therefore move and ask unanimous consent that Section 7 of Committee Proposal No. 17/b be stricken and that the matter be handled under Section 15 of the finance article.

PRESIDENT EGAN: There is such a section in the finance article now? Is that right?

NERLAND: Would you care to have me read the two sections, Mr. President?

PRESIDENT EGAN: That might be well, Mr. Nerland.

NERLAND: "Section 7. The debts and liabilities of the Territory shall be assumed and paid by the State, and all debts owned by the Territory shall be collected by the State. The State shall succeed to all property and records owned or held by the Territory,

or any agency thereof." Section 15 of the finance article reads, "The debts and liabilities of the Territory of Alaska shall be assumed and paid by the State of Alaska, and debts owed to the Territory of Alaska shall be collected by the State. Assets of the Territory of Alaska shall become assets of the State."

PRESIDENT EGAN: Mr. Nerland moves and asks unanimous consent that Section 7 be deleted from Committee Proposal No. 17/b. Is there objection?

V. RIVERS: I rise for a question.

PRESIDENT EGAN: Your question, Mr. Rivers.

V. RIVERS: I wonder if Delegate Nerland feels the word "assets" would cover "records"?

PRESIDENT EGAN: Mr. Nerland, could you answer that?

NERLAND: I would think it would, yes.

V. RIVERS: Cover records, property, etc.?

NERLAND: I would think so.

HELLENTHAL: "Claims", would that be included in "assets"? Unliquidated claims?

NERLAND: Yes.

HELLENTHAL: Where there's no debt involved?

PRESIDENT EGAN: Miss Awes.

AWES: This goes more to Mr. Rivers' question. I am a member of the Finance Committee, and it was my intention, if this section was deleted, to propose in committee meeting that the phrase "and records" be added to the finance provision.

PRESIDENT EGAN: That would be possible by specific amendment even yet, Miss Awes. It would be the general understanding. Mrs. Nordale.

NORDALE: Mr. President, if that article appears only in the finance section, would the word "records" relate only to financial records? It seems to me that this word covers a little broader field, or is this dealing only with finance?

PRESIDENT EGAN: It deals with everything that might be debts, liabilities, or assets. Mr. Victor Rivers.

V. RIVERS: It is my thought, Mr. President, that if the first sentence of this section were stricken, the finance article

would apply in full to everything else; and if we retain this last sentence, we would accomplish what we desire. Would that be agreeable to the Chairman?

NERLAND: That would be agreeable, and I will so change my motion.

PRESIDENT EGAN: Mr. Nerland, then you would ask unanimous consent that your original motion be withdrawn?

NERLAND: Yes.

PRESIDENT EGAN: Hearing no objection, it is so ordered. Then you would move that the first sentence of Section 7 be deleted, is that right?

NERLAND: Yes, that could be handled in Section 15 in the finance article.

PRESIDENT EGAN: Mr. Nerland moves and asks unanimous consent that the first sentence of Section 7 be deleted from Committee Proposal No. 17/b. Is there objection? Mr. Johnson.

JOHNSON: Mr. President, I am not objecting, I just have a point of inquiry. Will the last sentence then in Section 7 of this Committee Proposal 17/b remain in this committee proposal?

PRESIDENT EGAN: That is right if this motion carries, Mr. Johnson.

JOHNSON: If I may address another question through the Chair, it seems to me that, if there is to be a transfer of all property and a succession of all property, that that should properly be a part of the constitution just as much as the matter of debts and liabilities; and I still don't understand why the remainder of the section should not be transferred to some part of the constitution.

PRESIDENT EGAN: Mr. Johnson, it seemed from the statement that Mr. Nerland made that there is this fear that debts might show up later, but that the transfer of all property and records could be accomplished in the transitional period, easily. That seems to be the reason for offering this amendment.

JOHNSON: It was my understanding at the time Mr. Nerland offered his original amendment that the reason for it was that this transfer of property might not be effected immediately; it might take some time, and for that reason, the provision should be in the constitution rather than in the transitional measures.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, I think the idea was more that for many years to come it might be likely that the different debts

and liabilities of the Territory, as well as assets that hadn't become apparent previously would appear; whereas, such property and records as are owned and held by the Territory should be fairly obvious at the time of the transition to statehood.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Well, I understand now what Mr. Nerland had in mind, although it seems to me that there is still further amendment that should be made.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Nerland has asked unanimous consent for the adoption of the amendment. Mr. Nerland.

NERLAND: Mr. President, there still seems to be quite a little uncertainty as to just how this should be handled. It might be advisable to pass this over due to the fact that we won't get through the rest of this anyway.

PRESIDENT EGAN: If there is no objection, we will pass the proposed amendment to Section 7. Mr. Stewart.

STEWART: Mr. President, in view of the progress that's been made this afternoon and what's ahead of us, I move that we adjourn until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: What was that, Mr. Stewart? Do you move that the Convention stand adjourned until tomorrow morning at 9:00 o'clock?

STEWART: Yes.

PRESIDENT EGAN: Mr. Stewart moves that the Convention adjourn until tomorrow morning at 9:00 o'clock.

LEE: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Lee. Mr. McNees.

MCNEES: I have a reconsideration of my vote pending on the Boswell amendment of yesterday.

PRESIDENT EGAN: It would be proper at this time even though a motion to

MCNEES: Either that or carry it over until the question is reopened by the committee. They have those two sections -- 24 and 25 -- committed to them.

PRESIDENT EGAN: Are you asking unanimous consent, Mr. McNees, that you be allowed to bring up that reconsideration at the time that Committee Proposal No. 17/a might be placed before us?

MCNEES: I had intended to delay it only until 17/a came back on the floor, so I would like that consent, yes.

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules in order that Mr. McNees could be allowed to reconsider his vote at such a time as 17/a would be before us for consideration? Is there objection? Hearing no objection then, Mr. McNees, you will be allowed to offer your reconsideration motion at that time if you so desire. Mr. Lee.

LEE: Mr. Chairman, I would like to withdraw my second on adjournment.

PRESIDENT EGAN: Mr. Lee asks that his second to the adjournment motion be withdrawn.

TAYLOR: I'll second it.

PRESIDENT EGAN: Mr. Taylor seconds the motion for adjournment. Miss Awes.

AWES: Mr. President, I --

PRESIDENT EGAN: Is this a committee announcement?

AWES: No, just a point of information. I know that a motion to adjourn is not debatable, but would it be out of order to have the Chairman of Style and Drafting state what the wishes of their Committee are in this matter?

PRESIDENT EGAN: I believe that the Style and Drafting Committee Chairman will tell you that they can use all the time that is available, Miss Awes. Mr. Hinckel.

HINCKEL: Didn't I understand the Chairman to state that they were running out of work?

PRESIDENT EGAN: That seemed to be the statement of a few minutes ago, but I believe that he meant that possibly some of the subcommittees were running out of work because there are, I think, Mr. Hinckel, five proposals to come back yet. Mr. Sundborg.

SUNDBORG: Mr. President, we are running out of fresh material from the Convention floor for consideration by subcommittees of our committee, but we have quite a backlog of work which has been done by our subcommittees and which now must be reviewed by our full committee, and we do need time for that. We have been working, those of us who have been able to, most of today in short snatches, but it is the kind of work that can't be done unless we have long, uninterrupted sessions. It would be a convenience to our committee if the Convention could adjourn at this time and give us throughout the night or until a very late hour tonight to bring some more of our reports back to the floor, which we could do in the morning if we could have our full committee work on them from this time on.

PRESIDENT EGAN: It has been moved and seconded that the Convention stand adjourned until 9:00 a.m. tomorrow.

STEWART: The reason I made this motion at this time is, there is a bus at 5:10, and, if we adjourn at this time, that bus will be available.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, in view of the facts presented by the Style and Drafting Committee Chairman, I ask unanimous consent.

DOOGAN: Object.

PRESIDENT EGAN: Objection is heard. Mr. Cooper.

COOPER: Just one announcement -- I would like to ask the Fairbanks delegates to meet for one or two minutes after the recess.

PRESIDENT EGAN: Mr. Cooper asks that, in the event of an adjournment, that the Fairbanks delegates will meet with him immediately upon such adjournment. Mr. Nerland.

NERLAND: The Finance Committee will meet immediately upon adjournment.

PRESIDENT EGAN: Finance Committee immediately upon adjournment. Mrs. Sweeney.

SWEENEY: I would like to inquire of the Chief Clerk if the boiler room is working tonight whether we are here or not?

CHIEF CLERK: Yes.

PRESIDENT EGAN: The boiler room is working tonight. Are there other committee announcements? Mr. Sundborg.

SUNDBORG: Style and Drafting will meet immediately upon adjournment at the rear of the gallery.

PRESIDENT EGAN: Style and Drafting immediately upon adjournment in the rear of the gallery. Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment will meet immediately upon adjournment.

PRESIDENT EGAN: Engrossment and Enrollment immediately on adjournment. Are there other announcements? If not, the question is, "Shall the Convention stand adjourned until 9:00 a.m. tomorrow?" All those in favor of adjourning until 9:00 a.m. tomorrow will signify by saying "aye", all opposed "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, McNealy, Marston, Nerland, Nolan, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien.

Nays: 10 - Doogan, Kilcher, Laws, Lee, Londborg, McCutcheon, McNees, Metcalf, Peratrovich, Mr. President.

Absent: 7 - Barr, Davis, V. Fischer, McLaughlin, Nordale, Robertson, VanderLeest.)

CHIEF CLERK: 38 yeas, 10 nays and 7 absent.

PRESIDENT EGAN: The "yeas" have it and the Convention stands adjourned until 9:00 a.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 28, 1956

SIXTY-SEVENTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Father Boileau of the Catholic Church. Father Boileau, will you give us our daily invocation.

FATHER BOILEAU: Grant, almighty God, to us that that which we have begun in humility, courage, and charity may be prospered by you and brought to a happy conclusion for the good of our country and Your glory. Through Christ, our Lord, Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Six absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. Knight.

KNIGHT: Mr. President, going back to the journal of the 59th day, page 14 has been corrected and I now ask unanimous consent for it to be passed.

PRESIDENT EGAN: Mr. Knight asks unanimous consent for the adoption of the journal of the 59th day. Is there objection? Hearing no objection, the journal of the 59th day is ordered adopted. Mr. White.

WHITE: Mr. President, reporting to the Convention for the 62nd Convention day, Monday, January 23, page 1, at the bottom of the page, change 1955 to 1956. On page 4, third paragraph, second line, change the "C" in "Chair" to a small "c". With those corrections, Mr. President, we ask unanimous consent for the approval of the journal of the 62nd day.

PRESIDENT EGAN: Mr. White asks unanimous consent for the approval of the journal of the 62nd Convention day, incorporating the corrections by the special Committee to read the journal. Is there objection? Hearing no objection, it is so ordered. Are there any communications or petitions from outside the Convention? Are there reports of standing committees? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting reports its redraft of Article No. IX on finance and taxation, and Article No. XIII on amendment and revision, copies of which have been distributed to the delegates.

PRESIDENT EGAN: Are there reports of special committees: Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment to whom was referred Committee Proposal No. 12, has compared same with the original and find it correctly engrossed. Enrolled copies are being placed on the delegates' desks, and I ask unanimous consent for the adoption of it.

PRESIDENT EGAN: Unanimous consent is asked that the report of the Committee on Engrossment and Enrollment be adopted. Is there objection? Hearing no objection, it is so ordered. Mr. Sundborg, did you ask that that report be referred?

SUNDBORG: I ask that it be referred to the Rules Committee for assignment on the calendar.

PRESIDENT EGAN: Yes, but under the regular order -- but you had asked yesterday that it be referred to....

SUNDBORG: I am sorry, Mr. President, I was still talking about the reports that I made to you and which I don't think you referred.

PRESIDENT EGAN: That is right, because it was not officially before the Convention.

SUNDBORG: Now we would like to have Mrs. Sweeney's report referred to Style and Drafting.

PRESIDENT EGAN: If there is no objection, it is so ordered, and Committee Proposal No. 12 is referred to the Style and Drafting Committee. Are there other reports of standing committees? Are there reports of select committees? Are there any motions or resolutions? Is there any unfinished business? We would have before us, then, in second reading, Committee Proposal No. 14. Mr. Hellenenthal.

HELLENTHAL: Each delegate has before him two papers that were handed out last night entitled "Committee Amendments to Committee Proposal No. 14". Each consists of a schedule describing, on the one hand, election districts by their name, number, and by the number of representatives they will have based on the 1950 census, and the other paper represents the composition of the senate, giving the name of the senatorial district, the composition of the district, listing the election districts comprising it, and showing the number of senators from each district. The members will recall that during the discussion it was determined through amendment on the floor that a distinction would be made between the election districts at large, in the sense that they were combined, there being four such districts, and the paired senatorial districts, and the one amendment does that. You will notice that they refer to the Ketchikan-Prince of Wales Senate

District; the Wrangell-Petersburg-Sitka District; Juneau-Yakutat; Cordova-Valdez; Seward-Kenai; Fairbanks-Fort Yukon; etc. That is new matter. The remaining new matter in the other committee amendment is to change an error in mathematics in the application of the method of equal proportion that was mentioned during the floor discussion when Committee Proposal No. 14 was adopted, with regard to Sitka and Juneau. The paper that you have before you now shows the number of representatives from Sitka to be two; the number of representatives from Juneau likewise to be two based upon the method of equal proportions in the 1950 census; and that error must be corrected. So with that point in mind and the naming of the paired senate districts, I move first that the amendment to the apportionment schedule....

PRESIDENT EGAN: Mr. Hellenthal, first, in order that the record would be clear, the Chair feels that the rules be suspended.

HELLENTHAL: I move and ask unanimous consent that the rules be suspended to consider the two schedules.

PRESIDENT EGAN: Is there objection to the suspension of the rules? Hearing no objection, it is so ordered. Mr. Hellenthal.

HELLENTHAL: I now move, Mr. President, that the amendment to the apportionment schedule be adopted. This amendment is the one dealing with election districts, their names and the number of representatives.

PRESIDENT EGAN: Mr. Hellenthal moves and asks unanimous consent that the apportionment schedule be adopted.

ROBERTSON: I object.

HELLENTHAL: I did not ask unanimous consent.

PRESIDENT EGAN: Did you just so move, Mr. Hellenthal?

HELLENTHAL: Yes, Mr. President.

PRESIDENT EGAN: Is there a second?

HINCKEL: I'll second it.

PRESIDENT EGAN: Mr. Hinckel seconds the motion. The question is, "Shall the apportionment schedule be adopted?" Mr. Robertson.

ROBERTSON: Mr. President, I will admit I have been misled by this. I was going by the schedule which shows the Juneau precinct is entitled to three representatives and, in my opinion, it is very unjust to the Juneau recording district to reduce the number to two. It puts it in the same category in representation, although we all know the population is much larger, as Sitka, Nome, and Kodiak. And I don't believe the people of Juneau district

are going to be very well pleased with that representation. I was satisfied to go along with three, but I am not satisfied to go along with two, based upon what I think is entirely a theoretical apportionment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Robertson, I believe, was not here the evening that the application of the method of equal proportion was explained, when the Committee Proposal No. 14 was adopted in second reading, and, at that time, it was shown that the application of the method of equal proportion indicated clearly that Juneau was to receive two representatives based on the 1950 census and Sitka, two. It was also shown that in 1960, or following the 1960 census and the first reapportionment, that Juneau would be the second most deserving. In any event, it would be the second most deserving, and if anyone was entitled to an extra member of the house, Juneau would be considered first after one other election district -- I forget the name of that district -- and that if Juneau's population remained the same as it is now and there were no further sensational growths elsewhere, that Juneau would probably get two or three more representatives. That same rule will likewise apply to other districts, and I can assure Mr. Robertson that Juneau is not being singled out and is not being given any treatment other than any of the other districts.

PRESIDENT EGAN: Is there further discussion on the motion for the adoption of the apportionment schedule? If not, the question is, "Shall the apportionment schedule be adopted as a part of Committee Proposal No. 14?"

ROBERTSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 43 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Smith, Stewart, Walsh, White, Wien, Mr. President.

Nays: 7 - Collins, Johnson, Laws, Nolan, Robertson, Sundborg, Sweeney.

Absent: 5 - Doogan, Riley, Rosswog, Taylor, VanderLeest.)

COGHILL: Mr. President, may I change my vote to "yes"?

PRESIDENT EGAN: Mr. Coghill changes his vote to "yes".

HELLENTHAL: Mr. President, I move and ask unanimous consent....

PRESIDENT EGAN: Mr. Hellenthal, the Chief Clerk hasn't tallied the vote.

CHIEF CLERK: 43 yeas, 7 nays, and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment has been adopted. Mr. Hellenthal.

HELLLENTHAL: Mr. President, I move and ask unanimous consent that the spelling of "Wrangell" in the amendment to the apportionment schedule as just adopted be corrected.

PRESIDENT EGAN: Is there objection? If there is no objection, it is so ordered and the spelling will be corrected.

HELLENTHAL: Mr. President, I now move that the amendment to Committee Proposal No. 14 with regard to senate districts be adopted.

PRESIDENT EGAN: Mr. Hellenthal moves that the proposed amendment to Committee Proposal No. 14 with regard to senate districts be adopted.

COOPER: I second it.

PRESIDENT EGAN: Seconded by Mr. Cooper.

HELLENTHAL: Again I invite the attention of the group that the only new matter in this is the lettered designations of districts and the naming of the paired districts. Now, as a matter of local pride, some people here might have suggestions that weren't presented to the committee when they chose these names for the paired districts.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: May I have a copy of that? I don't seem to have a copy.

PRESIDENT EGAN: May Mr. Robertson have a copy of the proposal relating to senate districts? The Convention will come to order. Is there discussion on this proposed amendment? Mr. Robertson.

ROBERTSON: My objection to that is the same as I have heretofore made that the apportionment is based upon both geography and population as I understand it, which I think is a departure from the bicameral system of the legislature.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, there was some discussion that met with some support, I know, that the name of the Central district be changed to I think it was the North Central or something like that. May I ask that there be a recess for one minute?

PRESIDENT EGAN: If there is no objection, the Convention is at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal.

HELLENTHAL: I think this matter was discussed and I doubt if there are any amendments along that line.

PRESIDENT EGAN: Is there other discussion? Mr. Victor Rivers.

V. RIVERS: I wonder, Mr. President, these are long names because of local pride, seem to me to be very cumbersome. I wonder if the Committee gave any thought to trying to make one name for every district. I can just visualize the speaker of the house getting up and saying, "The Chair recognizes the gentleman from the Wrangell-Petersburg-Sitka-Southeastern Alaska District".

UNIDENTIFIED DELEGATE: It's nothing like that.

V. RIVERS: Well, you have got to recognize them from some area; you wouldn't want to use any local name. It looks to me like these names should be shortened considerably. It seems to me that they are just about as convenient and efficient as a pocket in your underwear.
(Laughter)

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall the amendment relating to the senate districts be adopted by the Convention."

ROBERTSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 45 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Walsh, White, Wien, Mr. President.

Nays: 5 - Barr, Laws, Nolan, Robertson, Sweeney.

Absent: 5 - Doogan, Riley, Rosswog, Taylor, VanderLeest.)

LAWS: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Laws changes his vote to "no". The Convention will come to order.

CHIEF CLERK: 45 yeas, 5 nays, and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and the amendment is ordered adopted. Mr. Hellenthal.

HELLENTHAL: Mr. President, I move and ask unanimous consent that in the name of Election District No. 9, the name "Palmer-Wasilla-Talkeetna" as shown on the amendment be adopted rather than its original designation of "Talkeetna-Palmer-Wasilla".

PRESIDENT EGAN: Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to say that the Style and Drafting Committee will probably shortly be considering this schedule and, if any delegates have suggestions as to changing these names, particularly in the senate districts, we would be considering that along with the rest of the schedule; we would be glad to have such suggestions.

PRESIDENT EGAN: If there are no other amendments to the schedule, this part of the schedule with relation to the election districts -- Mr. Hilscher.

HILSCHER: Mr. President, if I may say so, if Mr. Rivers is serious about his suggestion, we could call it the "Pa-Wa-Ta" -- that would be Section 9, And "Ke-Co" would be Kenai-Cook Inlet. That would shorten things up nicely, and we could have a lot of fun.

PRESIDENT EGAN: The Convention will come to order. If there are no other amendments to be offered, the schedule with relation to the election districts is referred to the Committee on Engrossment and Enrollment to become a part of that part of the schedule which relates to the description of election districts, which is already in Engrossment and Enrollment. If there is no objection, it is referred to the Engrossment and Enrollment Committee. Mr. Sundborg.

SUNDBORG: Mr. President, your Committee on Style and Drafting wishes to report its redraft on Article VI on legislative apportionment. Copies either have been or will shortly be distributed to delegates.

PRESIDENT EGAN: Article VI is referred to the Rules Committee for assignment on the calendar -- but the Chair notes that it is already on the calendar. We have before us Committee Proposal No. 17/b. The proposal has been read for the second time and it is in

the amendment stage. At the time we left this proposal yesterday, an amendment as offered by Mr. Nerland was pending, was it not?

CHIEF CLERK: No, we passed over it and went on.

PRESIDENT EGAN: We passed over it and went on, then. Mr. Nerland, did you wish to renew your request for adoption of that amendment at this time or what was your pleasure?

NERLAND: The Finance Committee met yesterday and had considerable discussion on this subject, and it seemed to be the consensus of opinion that there was a variance -- a wide variance of opinion as to just what the status of these transitional articles would be. One school of thought seemed to be that they were just for the period until the Territory was converted into a state, and others felt it was something that would go on for perhaps many years, and the Committee felt that some clearer understanding or statement by the Convention should result for the record in that matter, and it would largely influence our recommendations as to whether this particular section should be left in the ordinances and transitional measures or transferred over to finance. Our present thinking is that it should be transferred over to finance.

PRESIDENT EGAN: Would you at this time, then, ask to pass it over again, or what is your desire?

NERLAND: Perhaps for the time being, it might be just as well to pass over that and let the delegates give some thought to the whole matter.

PRESIDENT EGAN: Are there amendments to Section 8, then? Section 9? Mr. McNealy.

MCNEALY: Mr. President, I might state to the Chair on Section 9 and Section 10, it was suggested to the committee by possibly two or three delegates that these sections be included. I think that all of the members of the Convention realize that they are not essential to be included since they are presently a part of Territorial law, but we put them in. If any delegate or if the Convention desires to strike those two sections, it will cause no harm.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Chairman, may I address a question to the Chairman of the Committee?

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: Mr. McNealy, what happened to the bird and the song?

MCNEALY: Our answer to that is that we are going to be consistent.

The willow grouse might also be included here.

PRESIDENT EGAN: Mr. White, did you wish to offer an amendment to preserve the song, as it were? (Laughter)

WHITE: (answer inaudible)

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenenthal.

HELLENTHAL: I move that Sections 9 and 10 be deleted.

PRESIDENT EGAN: Mr. Hellenenthal moves that Sections 9 and 10 be deleted. Is there a second to the motion?

MARSTON: I'll second the motion.

PRESIDENT EGAN: Seconded by Mr. Marston. The question is, "Shall Sections 9 and 10 be deleted from the proposal? Is there discussion? Mr. Hellenenthal.

HELLENTHAL: I make this motion solely to be consistent with our expressed desire to make the constitution as brief as possible and to omit anything that is considered unnecessary, and if the Committee feels this is unnecessary, and I do myself, I think we should delete it.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, that is just as consistent as a statement that was made on the floor here the other day that, unless we specified where the capital would be, the legislature wouldn't know where in the world it was supposed to go. I think it would be better to be left in.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Which law is it, Mr. McNealy, that carries over in regard to retaining the flag and the seal?

MCNEALY: I forget the section about the...

R. RIVERS: Was it in the Territorial code or an Act of Congress?

MCNEALY: It could be in...

R. RIVERS: I think it ought to be left in.

PRESIDENT EGAN: Mr. Ralph Rivers, I think what you meant -- that what law is on the statute that would say that the seal becomes the seal of the state and the flag, the flag of the state.

R. RIVERS: There is an act that says such and such will be the flag and such and such will be the seal, but what law is there

that is going to change the word "Territory" to "State", and in both of those deals unless we have one that says in all the laws of the Territory of Alaska, the word "state" shall be substituted for the word "Territory". Will we have a transitory measure like that?

UNIDENTIFIED DELEGATE: Section 3.

MCNEALY: We didn't spell out the words "transfer from Territory to state"; that would be a side matter, and if this were stricken -- in other words, it would leave it up to the first state legislature in due time to adopt.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, my understanding of Section 3 is that it obviates the necessity of a whole series of provisions changing the word "Territory" to "state", and that a law dealing with the seal or the flag under the provisions of Section 3 that we have adopted so far would continue in force until altered or repealed. That is why I think that 9 and 10 are unnecessary.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: In the last two months, we have gone over these matters and compared them with other constitutions, and, in each one of them, we have found a reference to the seal as well as to the flag, and I, for one, think that -- this is a complete surprise to me that it should be suggested to be stricken. So far, it has always been considered essential for the state to have it here subject to change by the legislature, if they so see fit, and I certainly think they should be in here like in all other constitutions and I am in favor of leaving Sections 9 and 10 in there.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: This pins it down. However, it pins it down for the interim period, and would maybe constitute a directive to the first state legislature, but once the state comes into being, as I have mentioned before, these particular sections here, 9 and 10, of course, would be no longer operative as ordinances. Then the first state legislature could change the flag or make any change in the seal as they saw fit.

KILCHER: Pardon me, I didn't quite understand Mr. McNealy's explanation. Do you mean to say, Mr. McNealy, that if Sections 9 and 10 stay in there they would, like any other ordinance or transitional measures, be subject to change by the legislature?

MCNEALY: Yes, Mr. Kilcher, that is correct.

KILCHER: Thank you. In other words, that is the purpose of most of these amendments which are in there.

PRESIDENT EGAN: The question is, "Shall the amendment as offered by Mr. Hellenthal be adopted by the Convention?" All in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the amendment has failed of adoption. Are there other amendments for Sections 9 or 10? Section 11? Section 12? Are there amendments to be offered to Section 12? Do you have an amendment, Mr. Fischer?

V. FISCHER: No, sir.

PRESIDENT EGAN: Are there amendments to be offered to Section 13? Section 14? Are there amendments for Section 15? Section 16? Section 17? Mr. Victor Rivers.

V. RIVERS: Mr. President, may I ask the Chairman a question on Section 16?

PRESIDENT EGAN: You may.

V. RIVERS: Was it determined that the third day of January in an odd-numbered year is the regular date of expiration of all of the regular terms of the Senate and the House of the United States?

MCNEALY: The day slips my mind for the moment. It was either on that day or the day after that that Congress convenes in the new session of Congress.

V. RIVERS: This is in conformity with the expiration of their terms as you understand it, is it?

MCNEALY: Yes. If the Chair will permit, Mr. Rivers, we included the words there "to be determined by the authority of the United States" on lines 19 and 20 so it would not conflict with any rule of the Senate regarding an election of a third of them every two years.

PRESIDENT EGAN: Are there other questions relating to Section 16, or amendments? Section 17? Section 18? Section 19? Mr. Hellenthal.

HELLENTHAL: Mr. President, the election which is contemplated in Section 14 and thereafter will be conducted under Territorial laws -- is that the intention of the Committee?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, the election there will be conducted, actually, under the provisions of the constitution as nearly as possible, with the Territorial laws making up the difference, for that part of the constitution that can't be applicable at the time of election will be supplemented by Territorial laws.

HELLENTHAL: Do you anticipate there might be some difficulty

there where under the constitution you have 24 election districts and considerable changes from the time-honored custom, with thought given to making it quite clear so that it would avoid the possibility of, perhaps, litigation or controversy over the exact method and manner of holding that election?

MCNEALY: If I might ask Mr. Hellenthal a question?

PRESIDENT EGAN: If there is no objection.

MCNEALY: Was the thought, Mr. Hellenthal, did your question include the election of state officers as well as for the purpose of ratifying the constitution? If it is for ratifying the constitution, that is the Territorial laws. The first election -- that is, the election of the state legislature would come under the election districts as provided in the constitution.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I think that answers my question.

PRESIDENT EGAN: Are there questions relating to Section 20, or amendments? Section 21? Mr. Ralph Rivers.

R. RIVERS: May I address a question to Mr. McNealy?

PRESIDENT EGAN: You may.

R. RIVERS: On line 13 of page 7, Section 21, we find this thought: "within thirty days after the legislators are elected if a regular session of the legislature would not normally fall within that period". This refers to the convening of a special session of the first state legislature by the governor. Does "elected" mean the day they are certified by the canvassing board to have been elected?

MCNEALY: That was the intent, Mr. Rivers. Now whether that is clear enough or not -- I remember this, there was some discussion on that in the Committee. It was left in this way because of brevity. Now if the interpretation there is a place where possibly an interpretation of the "elected" is not sufficient, it might be deemed to be "elected" upon the very date that they received the largest number of ballots, is from the election date.

R. RIVERS: Mr. President, I would like to propose an amendment from the floor. After the word "are" on line 13, page 7, Section 21, insert "certified to have been"; and I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the amendment and asks unanimous consent. Mr. Victor Fischer.

V. FISCHER: May I address a question to Mr. Rivers?

PRESIDENT EGAN: You may, Mr. Fischer.

V. FISCHER: What would happen in case there is some contest in the election and some of the legislators are not certified at the same time? I mean, say the certifications are different?

R. RIVERS: Well, under our present practice, if the canvassing board has any doubt it just goes ahead and certifies them and lets the house or the senate decide the argument in deciding upon the membership of its own body, and they complete their canvass before they issue their certificates, and under our existing law, which will carry over, they will certify them all on the same day. If there was one stray that the canvassing board wouldn't certify, then his case might go to court, but they would still certify the rest of them.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to ask for a one-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there objection to Mr. Ralph Rivers' unanimous consent request. Mr. McNealy.

MCNEALY: Mr. President, I will object for the purpose of having an opportunity to speak.

PRESIDENT EGAN: Objection is heard. Is there a second to Mr. Ralph Rivers' motion?

COOPER: I'll second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. McNealy.

MCNEALY: Mr. President, the members of the Committee called my attention to exactly what the conversation in committee was on this and the reason for not putting in the certification, and since we had realized that, in setting up the state government, it was important that the legislature get into operation as soon as possible, and, when we spoke of the certification, we thought it very possible that it might take 20 or 30 days, even for the legislators to be certified, and, if we included the word "certified", then it would mean 30 days after that before under this wording; at least it would be 30 days after that before the legislature could be convened and there would be a lapsed time of possibly 60 days, then, from the date of their actual election, and it was our thought that, at that time, it was very important for the state government to get the show on the road just as soon as possible. That is the reason it was left out, as the members of the Committee refreshed my memory on it.

R. RIVERS: Mr. President, may I ask a question?

PRESIDENT EGAN: You may.

R. RIVERS: Is it your thought, then, that it would be 30 days from election day?

MCNEALY: We had assumed that they would be certified within 30 days from election day.

R. RIVERS: Wait a minute. I am talking about the language in your section here. Shall the governor call them into session 30 days from the election day, or 30 days from the day they are certified?

MCNEALY: The Committee's thought was 30 days from the date they were elected, and assumed that they would be certified within that 30 days, so it was the election date they had in mind.

R. RIVERS: I see. Now, if the canvassing board doesn't complete its canvass within 30 days from the election date, then could you convene the legislature before they are certified?

MCNEALY: It was the thought that this canvassing board would be pretty much on their toes during that period, too.

R. RIVERS: Well, would it be all right with you if we left them on their toes and said "thirty days from date of certification"?

MCNEALY: The Committee felt that that would carry it over for possibly too long a time; it would maybe result in a stalemate in government for possibly 60 days.

R. RIVERS: Mr. President, now that we are pinning this down, my contention being we should state a certain period of time from the date of certification, I would like to ask Mr. McNealy another question. Would it be all right if we shortened the period of time to two weeks, for instance, after date of certification, or one week after date of certification? But let's get them all certified, at least, before you call the legislature together.

PRESIDENT EGAN: Would you, Mr. Ralph Rivers, like to have a short recess to talk this matter over?

R. RIVERS: I believe so.

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

MCNEALY: I believe, Mr. President, that Mr. Rivers has an amendment to offer to his amendment.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to include in my amendment a change on line 12 of Section 21, page 7, change "thirty" to "ten" and I ask unanimous consent for changing my proposed amendment.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that his proposed amendment be amended to change, on line 12, "thirty days" to read "ten days". Is there objection? Mr. White.

WHITE: A question. What does this now mean? When are they elected?

R. RIVERS: Well then, I am retaining my former amendment, and it would be ten days after certification.

WHITE: Oh, I see.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Could we hear how it reads:

PRESIDENT EGAN: Would the Chief Clerk please read that section as it would read if Mr. Ralph Rivers' present amendment is adopted with the suggested change.

CHIEF CLERK: "The governor shall convene a special session of the first state legislature without limit as to duration within ten days after the legislators are certified to have been elected if a regular session of the legislature would not normally fall within that period."

PRESIDENT EGAN: Is there objection to the unanimous consent request to change "thirty" to "ten" in line 12?

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Rivers?

R. RIVERS: I so move.

PRESIDENT EGAN: Is there a second?

STEWART: I second the motion.

PRESIDENT EGAN: Mr. Stewart seconds the motion. Mr. Ralph Rivers.

R. RIVERS: I would like to clarify the matter now. I would like to ask unanimous consent to change "thirty" to "ten". That would be all we are voting on at this point.

PRESIDENT EGAN: Well, you have now moved that the "thirty" be changed to "ten", Mr. Ralph Rivers, and that is the question. Mr. Victor Rivers.

V. RIVERS: I object to that because the section says "the governor shall convene within thirty days" and it would now say "shall convene within ten days". I think if he called a session within 10 days he would be doing good, but I am not too sure he could convene a session within 10 days. It seems to me it says "within thirty days". If this governor is on the ball, and I expect he will be, he will probably call it the second or third day after he takes office, and he has authority to do so within this thirty-day clause. To me, convening a session within 10 days doesn't quite all add together in my way of thinking.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I had more or less overlooked the fact that it said "within thirty days", but the point is that the thinking -- "within thirty days" was written when they used the word "elected". The Committee was thinking of 30 days after election day. We are trying to change this to be more specific to say within a certain time after the legislators are certified to have been elected. Well, if you say "within thirty days" -- Mr. Victor Rivers' point is well taken, but the Committee wanted me to agree on 10 days. May I hear from the Committee on that?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I believe Mr. Victor Rivers probably stated correctly that if the governor is actually on the ball and wants to get things moving, he could call it in 10 days even though we left in the word "thirty". I see a point. The Committee felt it should be tied down rather specifically -- not to allow too much time. It may be that we should have greater convictions here so as not to hold up time on the floor, but the important thing is that the first legislature get started in passing laws here, but, if it is the contention of the body here that the governor will actually do it and do it as soon as possible, then, of course, the words "thirty days" -- we have no particular objection to it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Inasmuch as it says "within thirty days", I withdraw my motion to change the "thirty" to "ten".

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent to withdraw his motion changing the proposed amendment to the amendment from "thirty" days to "ten". Is there objection?

KILCHER: I object.

PRESIDENT EGAN: Objection is heard. The question is, "Shall the "thirty days" be changed to read "ten days"? All in favor of the adoption of the amendment to the amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment to the amendment has failed of adoption. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I renew my request now for unanimous consent for the adoption of my original amendment.

PRESIDENT EGAN: It was so moved and seconded, but if you wish to ask unanimous consent -- Mr. Marston.

MARSTON: Does the Committee go along with this thinking?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I hesitate to speak for the other members of the Committee on this. I do know that we all feel that there should be no chance of a time lag. I say, personally, I have no objection, but there are other members of the Committee who are more or less positive in their feelings on this.

PRESIDENT EGAN: Well, it has been moved by Mr. Ralph Rivers and seconded by Mr. Cooper that the proposed amendment be adopted. The question is, "Shall the proposed amendment be adopted?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. The Convention will come to order. Are there other amendments to be proposed for Section 21? If not, are there amendments for Section 22? Section 23? The Chair notes an amendment -- a mimeographed amendment. Mr. McNealy.

MCNEALY: Mr. President, the Committee has an amendment to offer to Section 23.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed Committee amendment for Section 23.

CHIEF CLERK: "delete Section 23, page 8, and insert:

'Until Alaska is admitted as a state and the courts provided for in the judicial article are organized, the courts, jurisdiction, and judicial system in the territory shall remain as at present constituted until otherwise provided by law or this constitution.

'When the state courts are organized, new actions shall be commenced and filed therein, and all pending causes in the present constituted courts brought under or by virtue of territorial law shall be transferred to the proper state court, or agency, as though commenced, filed, or lodged therein at the first instance, subject to applicable acts of Congress.'

PRESIDENT EGAN: What is your pleasure, Mr. McNealy?

MCNEALY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the amendment. Mr. Buckalew seconds the motion. Mr. McNealy.

MCNEALY: Mr. President, the purpose of offering the amendment here is that Section 23 as it is constituted there in the article represents the work of one of the experts here, which we feel did not take into consideration fully the fact that we have a different situation here in the type of court system that we have, and it would be safer for us to pattern after, so far as possible, those states which had a federal -- were under federal jurisdiction at the time the transfer was made over to the state court. The language we have adopted here in the first paragraph as to court jurisdiction and judicial system will definitely leave the present constituted courts open for both civil and criminal actions without any question, and, further, the language providing for the filing of new actions in the state courts and then the transfer of actions as though commenced, filed, or lodged therein, the language is carefully taken from that of other jurisdictions. I won't take the time on the floor, unless it is necessary, to name the states or cite the cases in which the courts held that this was an orderly procedure in all instances. There have been some very involved matters come up in state courts concerning this transfer of legal procedure, and the language that we propose in the amendment has, without fail, been upheld in the supreme courts of the other states. And then, of course, we have had at least two leading cases in West Virginia and Idaho where the courts of those states have held and stated in their opinion that it is the general law that, where the constitutional ordinances containing the same language is upheld under one jurisdiction, then, under the principle as the attorneys know as stare decisis the same language and ordinance will be upheld in another state. There are two very good opinions written on that in the courts of Idaho and the courts of West Virginia, which are the controlling cases, and we feel that under this section here we would be taking no chance, and also where we stated in the first paragraph "unless otherwise provided (provided) by law" and in the second paragraph "subject to applicable acts of Congress". I think most of the delegates are familiar with page 57, and going along for two or three pages under H.B. 2535 where the Congress spells out in detail in lawyers language, the transfer in which we actually incorporate herein "and subject to applicable acts of Congress". I think this amendment will take care of the judicial system in very good shape.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, can I ask a question of Mr. McNealy?

PRESIDENT EGAN: You may.

HELLENTHAL: "At present" in the first paragraph of the proposed amendment, by the words "at present", do you mean, in effect, on the date of ratification by the people?

MCNEALY: That is correct, Mr. Hellenthal.

HELLENTHAL: Had you given thought to using that language rather

than the unqualified use of the words "at present", which remind me of B. D. Stewart's story of the French Canadians on the riverboat but is not to the point here. (Laughter)

MCNEALY: Mr. President, the language here was taken, as I remember and construed from cases in California, Arizona, and New Mexico. The language is not original, as is practically nothing in this article or anywhere else in the ordinances. We adopted language that the courts had passed on, and there is no pride of authorship throughout these ordinances.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: May I address a question to Mr. McNealy? Mr. McNealy, in the act of Congress, does it specially provide for cases where the trial has already been had but the proceedings and judgment haven't been entered to retain those in the courts that conducted the trial and not transfer them to another court so that the court in which the trial was conducted could complete his proceedings?

MCNEALY: Yes, Mr. Rivers. The act provided that, if a case shall continue to judgment in the district court -- if a case is in process of trial or has been tried, then it shall continue in the district court of the Territory until final judgment. And then it also provides further that an appeal from that judgment can be taken to the Ninth Circuit Court and continued on; or, if after judgment transferred to the state court, it can be appealed within the state court, or if we left it open, it can also be taken to the Ninth Circuit.

R. RIVERS: Mr. President, in that case I support the amendment.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Mr. President, may I ask Mr. McNealy a question? In plain language, all the cases, the backlog in the district courts, would that be an expense of the state when they take over the judicial -- would you take over all those cases?

MCNEALY: It would depend, Mr. President, upon the act of Congress that is passed at the time of admission. There is provision under H.R. 2535 -- putting it this way -- that those actions that are not too far along would be transferred. They speak about pending cases in the house bill. With your permission, Mr. President, I might read: "That all causes pending in the District Court of the Territory of Alaska at the time of admission of Alaska as a state which are of such nature as to be within the jurisdiction of the District Court of the United States shall go to the United States District Court, and all other causes pending at the time of admission shall be transferred to the appropriate state court." So I fear, except that where they are in the process of final judgment, that the state would have to take over those cases; that is under this enabling act.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: If I may add to the question -- it is, however, provided, or most likely will be, that several million dollars for such and other purposes will be made available to the future state by the federal government, so actually we won't have to pay for them.

BUCKALEW: Mr. President, this same bill we are talking about provides \$17,000,000 the first year.

PRESIDENT EGAN: For courts, Mr. Buckalew?

BUCKALEW: Yes.

PRESIDENT EGAN: Is there other discussion? Mr. Hellenthal.

HELLENTHAL: I have another question of Mr. McNealy. The enabling act that we have been guided by to a large extent here says that "pending cases at the time of the admission of Alaska as a state", and don't you feel that the words "at present" are intended to mean cases pending at the time of admission of Alaska as a state?

MCNEALY: Mr. President, I believe that I would stand corrected on that because the constitution would have no effect except for the purpose of starting the process of bringing the state into being; until such time as it was actually admitted, none of these transfers can be made or attempted -- until such time as there is the proclamation of admission.

HELLENTHAL: Isn't it likewise your intent that the organization and judicial system shall remain constituted the same as it was on the date of admission unless otherwise provided by law, or do you mean it to remain constituted as it will be on April 26, 1955, or April 24, 1955? There is quite a lag there -- or could be.

MCNEALY: I don't quite --

HELLENTHAL: I am trying to decide what the Committee meant by the use of the words "at present".

PRESIDENT EGAN: Mr. Hellenthal, would you object to having our morning recess now? Perhaps the attorneys might be able to confer on this.

HELLENTHAL: Not at all.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess until 10:45.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hilscher.

HILSCHER: Mr. President, I ask for the privilege of the floor for a moment.

PRESIDENT EGAN: If there is no objection, Mr. Hilscher, you may have the privilege of the floor.

(Mr. Hilscher then spoke under personal privilege of the floor.)

PRESIDENT EGAN: The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have an important communication, and the Chief Clerk -- if the Chief Clerk needs assistance, she may call upon one of the delegates. Mr. McLaughlin, you might read the communication.

(Mr. McLaughlin read a letter addressed to Mr. Doogan from the Chief of the Editorial Department of the New York Daily News regarding the various pronunciations of the word "borough".)

PRESIDENT EGAN: The communication may be filed. Mr. Fischer.

V. FISCHER: I would like to ask unanimous consent that this communication be mimeographed and copies be made available to all delegates.

PRESIDENT EGAN: If there is no objection, it is so ordered.

BARR: Wouldn't it just be a lot simpler to do away with the word and simply call it "division"? (Laughter)

PRESIDENT EGAN: The Convention will come to order. We have before us the committee amendment to Section 23 of 17/b. Mr. McNealy.

MCNEALY: Mr. President, after discussion with some of the attorneys here I would like to at this time move an amendment to the amendment. In line 4 of the first paragraph, strike the words "at present", and after the word "constituted" at the end of the line, add the words "on date of admission".

PRESIDENT EGAN: Mr. McNealy moves the adoption of the proposed amendment. Is there a second?

MARSTON: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Marston.

TAYLOR: I'll ask unanimous consent.

PRESIDENT EGAN: Would the Chief Clerk please read part of the section as it would read if the amendment were adopted.

CHIEF CLERK: "Until Alaska is admitted as a state and the courts provided for in the judicial article are organized, the courts, jurisdiction, and judicial system in the Territory shall remain

as constituted on the date of admission."

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Hellenthal.

HELLENTHAL: Mr. President, the remaining last line is still a part of the amendment, is it not?

CHIEF CLERK: Yes

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, in that connection, I move further the adoption of the amendment to the amendment: in line 3 of the second paragraph, strike the word "present", and after the word "courts", add "on date of admission".

PRESIDENT EGAN: Do you move the adoption of the amendment?

MCNEALY: I so move.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the amendment. Is there a second?

KNIGHT: I'll second it.

PRESIDENT EGAN: Mr. Knight seconds the motion. Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "When the state courts are organized, new actions shall be commenced and filed therein, and all pending causes in the constituted courts on date of admission" etc.

PRESIDENT EGAN: The question is, "Shall the amendment be adopted?" All in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted -- the amendment to the amendment. The question is, "Shall the proposed amendment as amended be adopted by the Convention? All those in favor of adopting the proposed amendment as amended will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments for Section 23? If not, are there amendments for Section 26? Are there other amendments to be proposed for Committee Proposal No. 17/b? Miss Awes.

CHIEF CLERK: "Section 10, line 1 --

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Before we proceed with that, I wonder if I may ask the Chairman of the Committee a question with relation to Section 26?

PRESIDENT EGAN: Mr. Johnson, you may ask a question with relation

to Section 26 before we consider this proposed amendment.

JOHNSON: Mr. McNealy, as I understand Section 26, it says that "the Territorial legislature shall enact" etc., "measures designed to give effect to the provisions of this article". Now, if this provision becomes effective, it cannot be until after we are granted statehood, as I understand it. And upon the granting of statehood, would the Territorial legislature still be active or have any power?

MCNEALY: The Committee thinking on that, Mr. Johnson, was that should there be some necessary act required to, in any manner, supplement these transitory measures -- do something that we had overlooked there, that this section would give the Territorial legislature the authority to enact a law to supplement or to speed up the transitory period. Right offhand, I can think of nothing there, and the background for this may not be of the best. I think it is similar but it doesn't go quite as far as the language set out in the Fourth Amendment to the Constitution, and it was merely a safeguard, as I say. I personally can think of no situation right at the moment. There may be other members of the Committee that could speak more fully upon that, but it was put in there in the event that some matter would come up that these -- some little additions or some little supplement was needed to really make these articles effective during the transitional period; that is, from the date that Congress first voted to admit us to the union until we finally became a state, it would leave that power in the hands of the legislature.

R. RIVERS: May I ask a question of Mr. McNealy?

PRESIDENT EGAN: You may ask a question, Mr. Rivers.

R. RIVERS: I think Mr. Johnson has brought up an important point. The way it is written, it sounds as though most of this article is not self-executing. It is self-executing after we obtain statehood. We are creature of the Territorial legislature; we are not telling them what to do. We are laying down the law for the first state legislature and subsequent state legislatures. We know that the Territorial legislature is going to be confronted with a few problems, but I don't think it is up to us to put in this particular schedule any such language to the Territorial legislature. Do you think we need it?

MCNEALY: Mr. President, frankly, noticing the word "shall" in there -- that the Territorial legislature "shall" enact a measure I think is improper. My own opinion is that, if we insert the word "may", then it wouldn't mean any more than if we didn't have it in there, and I think it's a matter that was brought out here mainly for the consideration of the body and I question whether it is necessary. The only constitution that I have ever found it in is that of Puerto Rico.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Johnson's point is excellent. The language there preferably should be either entirely stricken or, if a vestige is to remain, the word "may" should be substituted.

PRESIDENT EGAN: Is there an amendment to be offered? Mr. Johnson.

JOHNSON: Mr. President, I move that Section 26 be stricken.

PRESIDENT EGAN: Mr. Johnson moves that Section 26 be deleted. Mr. McNees.

MCNEES: I was wondering if we couldn't get around that by striking just the word "Territorial". Whatever legislature is in effect at the time would be the acting body.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may I have the privilege of answering that question?

PRESIDENT EGAN: If there is no objection, Mr. Rivers.

R. RIVERS: Then, under this wording, this whole thing would not be in effect until the legislature took some action, Mr. McNees. This is a self-executing document.

PRESIDENT EGAN: Is there a second to Mr. Johnson's motion?

METCALF: I'll second it.

PRESIDENT EGAN: Mr. Metcalf seconds the motion. The motion is open for discussion. The proposed amendment is that Section 26 be deleted from the proposal. Mr. Johnson.

JOHNSON: Mr. President, very briefly, it occurs to me that, as Mr. Ralph Rivers has pointed out, that the entire document is self-executing, or should be, and these transitory provisions in particular, and it looks to me like we would be running into loggerheads with the Territorial legislature if we attempted to retain any power in that organization because, once we are granted statehood, then certainly the authority of the Territorial legislature would cease, and it doesn't strike me that it lends itself or adds anything that we do not already have.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, the thought of the Committee has been that, not knowing exactly when statehood will be achieved, it may well be that the Territorial legislature will be in session at that very time and certainly, as we view the mechanics of the other sections in this article here, we can see that a considerable amount of time will elapse from the first proclamation to the smooth functioning of the first newly elected state legislature.

Now, it is the very nature of these transitional measures to take care of all possibilities, and it has been the thought that the whole Territorial government -- that is the executive as well as the legislature -- will have to act as a sort of transitional provisional government; and as such they have to fulfill their past duties and such duties as are necessary by the very act of transition. And that is why this article is in here. There are certain things they shall have to do. So I think the article has a very good place in here, and it should not be stricken.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. The Chief Clerk may read the proposed amendment by Miss Awes to Section 10.

CHIEF CLERK: "Section 10, line 11, after 'flag' add a comma and words 'official song and official bird'; line 12, after 'flag' add a comma and words 'official song and official bird'."

PRESIDENT EGAN: Miss Awes.

AWES: I move its adoption.

PRESIDENT EGAN: Miss Awes moves the adoption of the proposed amendment. Is there a second?

BUCKALEW: I'll second the motion.

PRESIDENT EGAN: Mr. Buckalew seconds the motion. Miss Awes.

AWES: When we voted on whether to delete Section 10, I voted to delete it. I don't think it's necessary, but as long as the body wants it, then I think since the Territory has adopted these three things they should all be mentioned to be consistent. Otherwise, there is an implication that we tend to reject the acts of the state legislature on these two things.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Didn't the Territory also adopt an official flower?

PRESIDENT EGAN: Yes, it has. The Convention will come to order.

Mrs. Hermann.

HERMANN: There'll be an amendment covering the flower in a moment.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, the Committee has given this matter some thought -- that only matters that have an immediate need and use should be mentioned in the article on the transitional measures. Certain acts will have to be committed in the transitional period

where a seal is needed, and certain acts will be committed. Occasions will arise where a flag is needed, and the other matters will be decided -- should be decided by the legislature. Most likely the same thing will come up. Maybe a contest will be held for other emblems -- the smaller ones. We shouldn't be tied too much in those respects, we thought, except for things that are outstanding and actually needed. We need the seal and the flag.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, it seems to me that we are getting pretty far off the job here. We have on our calendar today four of our substantive provisions. Now, this may or may not be necessary, but, if it is necessary, we should take care of it after we get the work of the Convention done. I will vote "no" on this amendment and any further amendments along this line.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Miss Awes be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the amendment has failed of adoption. Are there other amendments to Committee Proposal No. 17/b? Mr. McNealy.

MCNEALY: The Committee has an amendment to offer to Section 21.

PRESIDENT EGAN: The Chief Clerk may please read the proposed Committee amendment.

CHIEF CLERK: "Line 13, strike the words 'the legislators are certified to have been elected', and insert 'the President's proclamation announcing the results of the elections'."

MCNEALY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the amendment. Is there a second?

BUCKALEW: I second it.

PRESIDENT EGAN: Seconded by Mr. Buckalew. The Chief Clerk will read the proposed amendment once more.

(The Chief Clerk read the proposed amendment again.)

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I am sorry the Committee has to take up this time on the floor, but it was called to our attention during the recess, and rightly so, that these words should have been in there originally because it relates back to the election of all the officers of the Territory. And under the Enabling Act of House Bill 2535 where it states that, "When such state and other

officers and members of the state legislature, a representative and senators in Congress, shall be so elected and the returns thereof made, canvassed, and certified as herein provided, the governor of the Territory shall certify the results of said election to the President of the United States, who thereupon immediately shall issue his proclamation announcing the results of the election", and it goes on, "Alaska being admitted as a state"; on that basis, I would ask that the amendment be adopted.

PRESIDENT EGAN: Mr. Ralph Rivers.

RIVERS: May we hear how the section would read?

PRESIDENT EGAN: The Chief Clerk will please read that section as if the amendment had been adopted.

CHIEF CLERK: "The governor shall convene a special session of the first state legislature without limit as to duration within thirty days after the President's proclamation announcing the results of the elections if the regular session of the legislature would not normally fall within that period."

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: I admit I haven't given this the thought that the Committee has, but I have here the act and I don't see any reference to the President's proclamation in it.

PRESIDENT EGAN: Of the United States?

HELLENTHAL: Yes, the President of the United States. I don't see any reference to a proclamation.

PRESIDENT EGAN: It's the federal enabling act.

HELLENTHAL: Now, this is taken care of in Section 16 of the Territorial Act of 1955, and it speaks there of, "There shall be an election" where you elect state officials and the representatives and senators to Congress. Now I just wonder about the wisdom of tying it in with a house bill again. If the legislature didn't see fit to do that in 1955 why should we do it now?

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Well, Mr. Hellenenthal, historically the same procedure has been followed. The returns are submitted to the President of the United States and then he issues his proclamation, and you wouldn't call your first state legislature together until after the proclamation was issued. It has been done the same way for years -- I mean, our bill wouldn't have any effect on it.

HELLENTHAL: That is what your bill says: "Persons elected hereunder shall assume their offices and the state government shall

become in effect" -- now they don't tie it in with the proclamation -- they say "at the time and in the manner that the Congress may provide in the enabling act."

PRESIDENT EGAN: Mrs. Wien.

WIEN: Mr. President, in the enabling legislation it states, "When such state and other officers and members of the state legislature, and a representative and senators in the Congress of the United States shall be so elected, and the returns thereof made, canvassed, and certified as herein provided, the governor of said Territory shall certify the results of said election to the President of the United States who shall thereupon immediately issue his proclamation announcing the results of said election so ascertained, and upon issuance of said proclamation by the President of the United States, the State of Alaska shall be deemed admitted by Congress into the Union by virtue of this Act', etc."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Mr. Johnson.

JOHNSON: May I direct a question to the Chairman with reference to Section 12?

PRESIDENT EGAN: You may, Mr. Johnson.

JOHNSON: Mr. McNealy, in the proposition which you have set out, there is no mention as to the date of the Constitutional Convention and I am just wondering whether or not that might be necessary. For instance, the enabling act says that "this Convention shall convene and assemble at the University of Alaska on the 8th day of November, 1955". In other words, is the official title of this convention "The Alaska Constitutional Convention of 1955" and should that be mentioned in this proposition or is that necessary?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, we have stated that the ballot shall in substance contain that wording. This wording was suggested, I believe, by Mr. Bebout and the Committee we didn't do a great deal of talking on that. Originally the Committee had the words in there "For the Constitution" and "Against the Constitution" was the thinking of the psychological effect and that was the only words the Committee had in, but it was stated that New Jersey used the same language here in adopting their recent Constitution. I have no opinion as to whether the use of the word "1955" is necessary or not.

PRESIDENT EGAN: Are there other questions or proposed amendments?

Mr. Ralph Rivers.

R. RIVERS: I have given some thought to Section 7 about debts and liabilities and records. I talked to two or three people about it and have concluded in my own mind that that subject matter could better be handled in the finance and taxation article where the Chairman says they might make specific reference to records in there to cover the whole subject, so I move that we strike Section 7 and renumber the remaining sections.

PRESIDENT EGAN: Mr. Ralph Rivers, there is a pending motion on that -- or was it withdrawn?

CHIEF CLERK: Unanimous consent was asked--

PRESIDENT EGAN: Oh, that's right. You never moved and got a second on that motion, is that right, Mr. Nerland?

NERLAND: I don't recollect.

PRESIDENT EGAN: Then your motion would be in order.

R. RIVERS: I so move.

NERLAND: I second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers moves that Section 7 be deleted from the proposal, seconded by Mr. Nerland. Mr. Smith.

SMITH: Mr. President, I would like to ask Mr. Rivers a question. Did you intend that this whole section be stricken, Mr. Rivers?

R. RIVERS: Yes, I did, because we speak about records here. That isn't justified where a slight amendment to finance and taxation can include those. They might change the word "assets" to "property", and they might say "claims and records"; so whatever adjustments we make to cover all of these points I think should be in the one place. We don't need any part of this.

PRESIDENT EGAN: It would be understood that Style and Drafting -- that Mr. Nerland would take that matter up with Style and Drafting with relation to the finance article.

NERLAND: Mr. President, we have the Style and Drafting report but it is the intention of the Finance Committee to change this last sentence something along this line: "Assets and records of the Territory shall become the property of the state."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted? All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments to be proposed for Committee Proposal No. 17/b? If not -- Mr. Victor Rivers.

V. RIVERS: Mr. President, I have no amendment but under the privilege of the floor I would like to say --

(Mr. Victor Rivers spoke for a few moments under privilege of the floor.)

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I would like to ask a question here. It seems to me that we are abusing the privilege of special privilege. I think you are supposed to state your privilege when you stand or rise, and you state your privilege, you request, and you are supposed to talk on that alone. Now, Mr. Rivers called somebody on that the other day -- on the very same thing he is doing today. I think it is time we clamp down on those things.

V. RIVERS: I asked for the privilege of the floor which has to do with the good and interest of the entire body. I did not ask for personal privilege.

PRESIDENT EGAN: Mr. Rivers, the Chair has been allowing, on previous occasions, persons, and the Chair does not recall just the number of people who have raised a point of order when people have had privilege of the floor. If they had some point of order that was a point of order, most of the time there was no point of order, but there never had been any objection to that previously. Whether or not. when a man has the privilege of the floor, another delegate can rise to a point of order is questionable. However, the Chair feels that Mr. Peratrovich has a point in saying that a delegate should state what he wants the privilege of the floor for. Mr. McCutcheon.

MCCUTCHEON: Mr. President, it appears that a question of privilege is designed to obtain the attention of the Chair at once -- to ask a question or to attend to some matter of business that cannot wait. In this particular instance, Mr. Kilcher was perfectly in order because there was a discrepancy between the record on one side and the record on the other side in this matter of privilege, and I think he arose under a proper point. However, it will be a matter for the Chair to decide, I am sure.

PRESIDENT EGAN: In this case, Mr. Kilcher was probably in order in raising a point of order if he so chose to do, as many delegates have done in the past. Are there other proposed amendments for Committee Proposal No. 17/b? If not, the proposal is referred to the Committee on Engrossment and Enrollment. We have before us Article III, the article on the executive. Mr. Sundborg.

SUNDBORG: Mr. President, I believe the only reason we have Article III before us is so that the Style and Drafting Committee can report on three substantive amendments that were adopted at the last moment and after our report has been accepted, these amendments being requested and moved by the Committee on the

Legislative Branch. Now, we are not ready and will not be until after the noon hour to give you our report on these amendments.

PRESIDENT EGAN: We will hold it over until later in the day when Style and Drafting is prepared later in the day to submit a report. Then, we will have before us the article on finance, Article No. IX. Mr. McNealy.

MCNEALY: Point of information.

PRESIDENT EGAN: Your point of information.

MCNEALY: As I remember, there was a matter of reconsideration on Sections 20 and 21 of the Committee Proposal No. 8/a, and there was something said about taking that up when it came up under Sections 24 and 25 today; the reconsideration should have been made yesterday.

PRESIDENT EGAN: Well, it was agreed yesterday that Mr. McNees' reconsideration could be taken up at a later time, at such time as the Proposal No. 17/a would be before us. Now, 17/a does not appear on the calendar and if you wish to go through the calendar and then bring that matter up -- Mr. Riley.

RILEY: Mr. President, I believe that it was decided two or three days ago that these various items in the 17 series were presented severally, were fairly severable, and would be considered as separate items. I don't believe that those sections are before us.

PRESIDENT EGAN: That is correct, Mr. Riley, they are not before us at the present time. We have the article on finance before us at this time. The Chief Clerk will please read the report of the Committee on Style and Drafting.

(The Chief Clerk read the report of Style and Drafting on Article IX.)

PRESIDENT EGAN: Does the Chairman of the Style and Drafting Committee have a report to make at this time? Mr. Sundborg.

SUNDBORG: Mr. President, the article on finance and taxation was redrafted initially by a subcommittee consisting of Mr. Johnson, Mrs. Nordale, and Mr. McLaughlin. It has been presented to the Committee on Finance and Taxation and we understand it is their belief that we have had no changes in substance. We would like to have such changes as we have made in language explained by Mr. Johnson who will also answer questions of delegates.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, as Chairman Sundborg has said, the subcommittee and the full Committee on Style and Drafting has made

some changes; however, certainly nothing of any substantive nature; and all of the changes that were made in wording have been cleared, not only with the representative of the Finance Committee assigned to the subcommittee, Mr. Barrie White, but also the full Finance Committee. I don't know that it would be necessary to go through the entire article and point out exactly what changes have been made in wording. Those of you who have your enrolled copies will note that on many sections no change has been made at all, and we believe that in those sections where there has been some rearrangement that the Style and Drafting Committee report puts it in a little better form and makes it more readable, and makes it conform to other articles that have already been adopted in the constitution. I am referring specifically to Section 9. There were some changes made there. The wording was rearranged somewhat from the enrolled copy and cut down, but, if you will read Section 9 in the Style and Drafting report and compare it with Section 9 of the enrolled copy, I believe that you will find that all of the substance is contained in the proposed Section 9 -- that it does read, I think, more smoothly. In Section 11, there has been some change with reference to the last exception, which is, if you look on your enrolled copy, on page 4, line 9. You will note after the semicolon the words "or special assessments". The Finance Committee had prepared and delivered to the Committee on Style and Drafting a proposed change there which we have included in our report. And our report, now, in Section 11, which appears on page 3 at the bottom of the page, beginning on line 23: "The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property nor do they apply to refunding indebtedness of the state or its political subdivisions." As you can see, there has been some change in wording with reference to special assessments. In other words, we have added "on the benefited property". These words were suggested by the Finance Committee. They had intended making this as a committee amendment, but Style and Drafting Committee felt that it could just as well be included in this report and save the time of the Convention in the amending process. If there are any questions that I can answer, I will be glad to do so.

PRESIDENT EGAN: Are there any questions to be directed to Mr. Johnson?
Mr. Ralph Rivers.

R. RIVERS: Are we going to retain Section 12 about the governor's budget in this, or are we going to strike it? I think it would be retained in the executive.

V. RIVERS: No, in the legislative.

R. RIVERS: Or in the legislative.

JOHNSON: That I cannot say; the Finance Committee didn't indicate one way or the other about it. We felt that, if it ever should become necessary to remove it from this section and place it in the executive section, that when the Style and Drafting Committee

makes its final rearrangement of the entire constitution, then we could, under the rules, move the section from one place to the other. We left it here for the time being.

PRESIDENT EGAN: Are there other questions? Mr. Nerland.

NERLAND: May I ask for a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a time.

RECESS

PRESIDENT EGAN: The Convention will come to order.

Mr. Johnson.

JOHNSON: Mr. President, it has been called to my attention that I forgot to explain that, in Section 9 of the Committee on Style and Drafting report, some words that were contained in the enrolled copy, namely "additional qualifications and requirements of voters at these elections may be prescribed by law" were left out of the Style and Drafting report. Now I forgot to mention that that was done purposely because that same language in reference to this same type of election is contained in Section 1 of the article on suffrage and elections, which we have already adopted, and the Committee felt that it wasn't necessary to duplicate that language here because the point was already taken care of in the suffrage and elections article.

PRESIDENT EGAN: Mr. White, did you have a question to ask of Mr. Johnson?

WHITE: Mr. President, I wanted to ask two of them; that clears up one. The second had to do with Section 3, page 3, line 2, where it now says, "The state may by law contract debt for the purpose of repelling invasion". The words "by law" are a change from the Style and Drafting substantive report since the last time I saw it, which the report said, "The state may without ratification contract debts for the purpose of repelling invasion". Now the words "without ratification" conveyed the intent of the Finance Committee in this matter. My question is, do you feel that the words "by law" convey the same intent?

PRESIDENT EGAN: Mr. Johnson, would you care to answer?

JOHNSON: I wonder if I might ask Mr. Davis to explain that particular matter, because it took place at a meeting when I was absent from the Style and Drafting.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I will try. As I remember it, this matter came from one of the experts who was with us last night who pointed out that since in the first part of the section we had

required ratification for certain types of state debts, that then, if we went ahead and said in the next section that the state debts of the kind there intended could be provided by law, that the words "without ratification" were surplusage, and that is why it was done that way. Now that is my remembrance of it.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I would then address a further question to Mr. Davis. Mr. Davis, in Section 8, we not only provide for ratification in the first instance, but we specify capital improvements. Now couldn't it be -- the second sentence -- couldn't it be construed to be that this is an exception to capital improvements rather than an exception to the ratification process? If that construction could be put the sentence, had we not better put back in "without ratification"?

DAVIS: Well, I might state, Mr. President, in answer to Mr. White's question that, so far as I am concerned, I have no objection at all to putting "without ratification" back in. The Committee, after the talk with Mr. Owen last night, felt otherwise.

PRESIDENT EGAN: Mr. Sundborg has been attempting to get the floor.

SUNDBORG: Mr. President, there is another matter at issue here. I believe. In the first sentence of Section 8, we say that the state debt may be authorized by a majority vote in each house of the legislature, and then ratification. Now, a majority vote in each house of the legislature is not equivalent to passing a law, because it does not require the signature of the governor, and it does not require conformance with the provisions of this constitution and the provisions of such laws as will be passed under it with respect to the procedure in enacting a law. So, when we say in the second sentence, "The state may by law", we are saying that that law must be passed by the legislature in the manner that is required by the constitution and the statutes, and either signed by the governor or passed over his veto or become law without his signature in the manner provided in the constitution, which we felt was the real intention of the body rather than merely requiring that the legislature by a majority in each house and without adhering to any of those other restrictions and without any reference to the governor could contract debt on behalf of the state.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, may I ask Mr. Sundborg a question? Mr. Sundborg, would you object to saying, "The state may by law without ratification contract debt"?

SUNDBORG: I certainly have no objection to that. I think the question should be addressed to the Committee on Finance and Taxation rather than to us.

HELLENTHAL: Your remarks were addressed to the retention of the words "by law"?

SUNDBORG: That is correct.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I don't think you incur debts by law. You incur debts by contract through your administrative setup. You might authorize the incurring of debts by law. You don't contract by law either. You contract administratively after the legislature has authorized such a contract. So I would like to see the words "by law" knocked out of there and "without ratification" or something that fits in with the facts of life go in there.

PRESIDENT EGAN: Is there a group here who would like to get together and discuss this matter? The Chair notes that it is noon right now, and it might be advisable to have a recess and this subject be taken up by the Finance Committee and other interested parties. Mr. Hellenthal.

HELLENTHAL: Mr. President, I think one of the reasons for knocking off at 12:00 rather than 12:30 was that there was a big backlog upstairs or something. Does that reason still exist now?

PRESIDENT EGAN: Mr. Hellenthal, one of the other reasons is that, very often and almost every day, committees do have important questions to come before them during that extra half hour and it seemed to be a profitably spent time, and now in this instance here, it might be. Mr. Johnson.

JOHNSON: Mr. President, I move that we stand at recess until 1:30.

PRESIDENT EGAN: Delegate Johnson moves that the Convention stand at recess until 1:30. Are there committee announcements to be made at this time? Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting will meet immediately upon recess at the rear of the gallery, and we invite any delegates who may be interested in this particular question of the "by law" or "without ratification" to meet with us at that time and we also invite members of the Finance and Taxation Committee to meet so that maybe we can resolve this before the delegates come back from noon recess.

PRESIDENT EGAN: Style and Drafting at the rear of the gallery immediately upon recess. Mr. Nerland.

NERLAND: I would like members of the Finance Committee (Committee) to make themselves available for that meeting with Style and Drafting.

PRESIDENT EGAN: The finance Committee will meet with Style and Drafting Committee immediately upon recess. Mr. Coghill.

COGHILL: Committee on Administration will meet at 3:30 this afternoon.

PRESIDENT EGAN: Committee on Administration at 3:30 this afternoon. Are there other Committee announcements? If not, the Committee will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have Article IX, the article on finance and taxation before us. The Chair recalls that we were on Section --

CHIEF CLERK: I have an amendment now. Are we ready for them?

PRESIDENT EGAN: The Chief Clerk may read the -- no, we are not ready for amendments as yet; we are still in the question period.

SUNDBORG: Mr. President, I might announce now that the Style and Drafting Committee will have two committee amendments at the proper time, which I think will clear up the questions that were raised just before the noon recess.

PRESIDENT EGAN: Are they substantive amendments, Mr. Sundborg?

SUNDBORG: No, Mr. President, they are only amendments as to phraseology.

PRESIDENT EGAN: That will come though before you move to adopt -- to accept the report. Are there other questions to be directed to the Committee with relation to the work done by Style and Drafting on this article? Mr. Victor Rivers.

V. RIVERS: Only by the work done by Style and Drafting or by substance?

PRESIDENT EGAN: At the present time we are only dealing with the work done by Style and Drafting. If there are no other questions, are there amendments to be proposed as to phraseology? Mr. Sundborg.

SUNDBORG: Mr. President, before we start on that, if I could have about one minute I think I could present the Style and Drafting Committee's amendment as to phraseology and then we could get the report adopted.

PRESIDENT EGAN: The Convention will be at recess.

RECESS

PRESIDENT EGAN: Mr. Sundborg

SUNDBORG: Mr. President, Style and Drafting Committee submits an amendment to Section 8, page 3. I have submitted it to the Chief Clerk, Mr. President.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 8, page 3, line 2, strike the words 'by law' and substitute 'as provided by law and without ratification'."

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The sentence would then start "The state may as provided by law and without ratification contract debts" etc. I move and ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the amendment be adopted. Is there objection? Mr. Kilcher.

KILCHER: I would like an explanation; I would like to know what the necessity of it is.

PRESIDENT EGAN: Is there a second to the motion?

HERMANN: I second it.

PRESIDENT EGAN: Mrs. Hermann seconds the motion. Mr. Sundborg.

SUNDBORG: It was pointed out to us on the floor this morning, Mr. President, and during the recess at a joint meeting between the Finance Committee and the Style and Drafting Committee that the enrolled copy did carry this thought, that the debt which could be contracted for the special purposes of repelling invasion, etc., could be contracted without ratification of the action of the legislature, and the reason it is necessary here is that we have divided what was formerly one sentence into two, and "without ratification" is necessary in order to keep the substantive idea which was expressed in the enrolled copy.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Another question, Mr. President. In other words, the administration -- in this case the state -- the administration may raise money in an emergency? Is that the idea?

SUNDBORG: Mr. President, that is correct. They can do it as provided by law and without ratification by the people.

PRESIDENT EGAN: Mr. Sundborg moves. Do you ask unanimous consent, Mr. Sundborg?

SUNDBORG: I will renew my request for unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Sundborg.

SUNDBORG: We have an amendment to Section 15 on page 4, which I will ask the Chief Clerk to read.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "On line 26, page 4, after the word 'assets', insert 'and records', and on line 27, strike the word 'assets' and substitute 'property'."

SUNDBORG: I am sorry, Mr. President, I left out the word "the" in the last insertion. Strike "assets" and insert "the property". The sentence would then read "The assets and records of the Territory shall become the property of the state." I move and ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection. the amendment is ordered adopted. Does the Committee have any other phraseology amendments? Mr. Taylor.

TAYLOR: Mr. President, it might have been a typographical error, but I believe the word "benefited" in the last line of page 3 is not properly spelled. They put two "t's" in there. I think there is only one.

PRESIDENT EGAN: Do you ask unanimous consent that that correction be made, Mr. Taylor?

TAYLOR: Well, I thought Style and Drafting might want to check on the spelling of it.

PRESIDENT EGAN: Style and Drafting won't get this back again. Mr. Nerland.

NERLAND: May I ask the Chairman of the Style and Drafting Committee a question?

PRESIDENT EGAN: You may, Mr. Nerland.

NERLAND: Mr. Sundborg, was it the intention of the Committee in Section 6, after the word "levied" on line 10, and after the word "made" on line 11, that there should be commas? Would that express the intention of it?

SUNDBORG: I think it would be exactly the same meaning if they were in there, and just as one individual, I might say I think

it would be preferable if there should be commas in the two places you indicate. I don't think our committee is any member of it would object if you should want to ask that those commas be inserted.

PRESIDENT EGAN: Do you ask, Mr. Sundborg?

SUNDBORG: Line 10, on page 2, after the word "levied", insert a comma; line 11, after the word "made", insert a comma. I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent for the adoption of the amendment. Is there objection? Do you also ask unanimous consent to change that word "benefited" to be spelled properly?

SUNDBORG: I don't feel sufficiently sure of my spelling prowess. I would like to refer to the dictionary.

TAYLOR: I did look that up, Mr. President, it didn't look right to me the way it was and I went and looked it up, and there is only one "t" in there.

SUNDBORG: In that case, Mr. President, on page 3, line 25, I ask unanimous consent to drop one "t" out of the word "benefitted" so that only one will remain.

PRESIDENT EGAN: Unanimous consent is asked. Hearing no objection it is so ordered. The Convention will come to order. Are there other amendments, phraseology amendments to the article? If not -- Mr. Riley.

RILEY: I have failed to clear with the Style and Drafting Committee on this, but we have discussed it with the Finance Committee and, as I see it, it is mostly a matter of phrasing; it doesn't change the meaning. I have an amendment to offer. On page 2, line 6 -- it simply involves inserting the word "possessory" after the first word "other" on line 6. I had failed to catch that when we were first considering the finance article. It has some bearing on the resources article. I think all of you will recall that Delegates Vic Fischer and Ralph Rivers raised the question -- perhaps others did too -- as to what the resource article meant by "interests in land". At that time I had not noted this mention of "interests in land" in the finance article and would not care to have, in the future, the sense in which "interests in land" is here used applied to limit the use of that phrase in the resource article. By inclusion of the word "possessory" here to qualify all of the "interests in land" concerned in the finance article, I think we correct any possible misconstruction in the resource article, and I ask unanimous consent that that be adopted.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the amendment be adopted.

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BARR: I object.

PRESIDENT EGAN: Objection is heard. Is there a second?

STEWART: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Stewart. Mr. Barr.

BARR: I am not certain just what change this will make, but it seems on the face of it that possessory interest would not include, for instance, timber on the land. Here we are speaking of taxing interests on land, on federally owned lands. Now is that a possessory interest?

RILEY: Well, you would have a contract, would you not, for the timber?

BARR: I assume so, yes.

RILEY: Well, contracts are covered. I feel that the word "possessory" is consistent with the rest of the language in this section, Mr. Barr, but my fear is that because of the mention of "interests in land" in Section 5 of the finance article we run into a little difficulty in the resource article for the very reason you mention. In the resource article, we think not only of the possessory interests which are evidenced by an instrument of some sort, but we think also of the physical interests in the lands themselves, the resource, the content of the land and the cover of the land. I should not care to chance this narrower use of the phrase being taken to limit the use of the phrase in the resource article.

BARR: I disagree with you in that I think the word "possessory" narrows it quite a bit, and I am afraid that, if we use that, we might cut out the possibility of taxing some part of this land that is not necessarily a contract or an interest in the land itself.

RILEY: Mr. President, may we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, it appears that there are those who feel this is a matter of substance and, consequently, I will withdraw my motion until the proper time.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that his amendment be withdrawn. Hearing no objection, it is so ordered. Are

there other phraseology amendments to be proposed to the article? Mr. Sundborg.

SUNDBORG: If there are not, Mr. President, I move and ask unanimous consent that the report of the Style and Drafting Committee on the article on finance and taxation be accepted and that the amendments made by the Committee be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee with relation to Article IX, the article on finance and taxation, be accepted, and that the changes as made by the Style and Drafting Committee be adopted. Is there objection? Hearing no objection it is so ordered. Mr. White.

WHITE: Mr. President, the Finance Committee has an amendment to offer which may or may not be one of substance. It will take care of any eventuality, and we will ask that the rules be suspended so that we may be able to offer the amendment which is on the Chief Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment that would be offered if the rules are suspended.

CHIEF CLERK: "Section 8, page 2, lines 23 and 24, strike 'a majority vote in each house of the legislature' and insert in lieu thereof the word 'law'."

WHITE: Mr. President, I ask unanimous consent for suspension of the rules.

PRESIDENT EGAN: Mr. White, was that just the word "law" to be inserted in there?

WHITE: Well, it is qualified by the word "by". We left the "by" in.

PRESIDENT EGAN: Mr. White asks unanimous consent that the rules be suspended in order that the Finance Committee might submit this specific amendment. Is there objection to the suspension of the rules? Hearing no objection, the rules have been suspended. Mr. White you may offer your amendment.

WHITE: We now offer the amendment just read, and ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that the proposed Committee amendment may be adopted. Is there objection?

GRAY: I object.

PRESIDENT EGAN: Objection is heard.

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GRAY: I object to a point of what difference has been made, Mr. White?

WHITE: I'm not sure that any difference has been made.

PRESIDENT EGAN: Do you so move, Mr. White?

WHITE: I so move.

KNIGHT: I second it.

PRESIDENT EGAN: Seconded by Mr. Knight that the amendment be adopted.
Mr. White.

WHITE: I am not sure that any difference is made, Mr. Gray, except that it was stated on the floor this morning that when you phrase it this way, it may mean without the approval of the governor. That, of course, was never our intent in the first place. As this came from the Committee originally, it said "by law", and, if you recall, we got into a long amendment which involved a two-thirds vote of both houses -- or a majority vote of both houses and ratification by the people. In that sense this wording made sense and was necessary. Once that amendment had been amended, it no longer made sense, and it may be away from our intent. And this amendment will shorten our constitution.

GRAY: I withdraw my objection.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: A point of inquiry. Did that withdraw the "a" in the last word in line 23?

WHITE: Yes.

PRESIDENT EGAN: Now would the Chief Clerk please read that sentence with the amendment in it.

CHIEF CLERK: "No state debt shall be contracted unless authorized for capital improvements by law with ratification by a majority of the qualified voters of the state who vote on the question."

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, there is one question which occurs to me. There might not be much basis to it, but it seems to me that, if we would adopt this amendment, we would be opening this question up to a decision by an initiative, because if you put it "by law", it can be an initiative matter, where in our initiative and referendum, such a method is not allowed. I think it would make an inconsistent matter in the constitution. I think, to be on the safe side, we should leave it the same as it is. I am not

arguing the motion because it is not before us yet because there hasn't been a suspension of the rules, but I --

PRESIDENT EGAN: There has been a suspension of the rules, motion is now before us.

TAYLOR: Pardon me, but I just thought that I would bring that up, that we may have an initiative put out where I don't think it would be proper to have one.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President it occurs to me there is no conflict between this act and the initiative and referendum because, as I recall it, the initiative and referendum exempts any such procedure as this, so it wouldn't apply in any event, and I think adding the words "by law" strengthens this section because it could be that, if the wording were left as it is, that other than an actual law passed by the legislature, some other method might be used to create the indebtedness to begin with.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I would also like to point out the meaning is fairly clear here when we say "by law with ratification" because, if we would hold an initiative election, we would have to turn right around and have that ratified again, so this must mean "by the usual process of law", meaning the legislature.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" All in favor -- Mr. Buckalew.

BUCKALEW: One question before we vote on this. I think we ought to give it a little more consideration to make it clear. I think probably the language in other bills would probably take care of it. I just thought of it this minute, that would indicate approval by the governor, but I don't know what this means -- whether the governor has to approve it or not. It doesn't make sense to me. Maybe I am not following the discussion.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: If I may help, Mr. President -- the usual process of making laws includes the approval by the governor or it becomes a law without his approval. So, when you say "by law", you take in all those steps. The way it was before though, it might have been argued that you meant to exclude the governor, so I think this improves matters and would like to see it pass.

PRESIDENT EGAN: Would the Chief Clerk please read that sentence in Section 8 as it would read if the amendment was adopted.

CHIEF CLERK: "No state debt shall be contracted unless authorized for capital improvements by law with ratification by a majority of the qualified voters of the state who vote on the question."

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" Mr. Londborg.

LONDBORG: I would like to ask one question regarding this. If the governor vetoes this, would that necessitate three-fourths to override that on appropriations?

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" All those in favor will signify by saying "aye"; all opposed by saying "no". The "ayes" have it. and the amendment is ordered adopted. Are there any other amendments to be proposed for Article IX, the article on finance and taxation? Mr. Victor Rivers.

V. RIVERS: This would be an amendment of substance. Would I have to have a suspension of the rules?

PRESIDENT EGAN: Yes, Mr. Rivers.

V. RIVERS: I ask unanimous consent for a suspension of the rules to present an amendment and then discuss it.

PRESIDENT EGAN: Would you read the amendment that you would then propose.

V. RIVERS: Lines 19 and 20, page 2, I would change "upon the date of ratification" to "upon the effective date of this constitution" and strike the words "by the people of Alaska".

PRESIDENT EGAN: Mr. Rivers moves and asks unanimous consent that the rules be suspended.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard.

V. RIVERS: I so move.

PRESIDENT EGAN: Mr. Victor Rivers so moves. Is there a second?

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. McNealy seconds the motion. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 42 - Armstrong, Awes, Boswell, Buckalew, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, Gray,

Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays 9 - Barr, Cooper, Hellenthal, Johnson, Knight, Laws, Londborg, Taylor, White.

Absent 4 - Coghill, V. Fischer, Metcalf, VanderLeest.)

ROBERTSON: I will change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Robertson changes his vote from "no" to "yes".

CHIEF CLERK: 42 yeas, 9 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules are suspended. Mr. Victor Rivers.

V. RIVERS: Mr. President, I have just been advised that is the most effective argument I have made yet. (Laughter) Now, this matter of whether or not we can make the retroactive date of earmarked funds effective on the date of ratification, I mentioned once before. I have done a little work on it --

PRESIDENT EGAN: Do you move the adoption?

V. RIVERS: I move the adoption. On lines 19 and 20, strike the words "date of ratification" and put in the words "effective date of this constitution period" and strike "by the people of Alaska".

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the amendment. Is there a second?

R. RIVERS: I second it.

PRESIDENT EGAN: Seconded by Mr. Ralph Rivers.

V. RIVERS: The question of whether we can earmark funds and make the prohibition of earmarking effective on the date of ratification is one I have given some thought to. I checked this and discussed it with some of the committee chairmen including Mr. McNealy, who had a number of legal opinions upon the effective date of when a constitution took effect. I am just going to mention some of them. One of them is in reciting the instances regarding one case in the State of Utah in 1895. It says, "Under all circumstances it seems to be the unanimity of the authorities that it is absolutely necessary that Congress expresses its assent before a state can enter the Union; that a state does not come into existence until such assent is given." Another one is

referred to, a case of Scott v. Detroit Young Men's Society's Lessee, 1 Douglas, Michigan. "The question is to when a state -- a territory ceases to be such and becomes a state and as to when the constitution and governmental machinery of a new state go into operation as one upon which even courts and constitutional lawyers are not agreed. One theory is that a territory continues in all respects a territory until admitted into the Union by Act of Congress; but until such Act of Admission, the proposed state constitution cannot take effect nor any part of the machinery of a state government go into operation." Retroactively, we would be putting into operation a law here prohibiting actions -- nullifying actions taken by a territorial legislature while it is still the only government body of this Territory under the Congressional Acts of the United States which established this as a territory. Now, it is my opinion that the ratification date does not extend back to nullifying any laws passed by that Territorial legislature until such time as the constitution becomes effective, not upon its ratification date. Therefore, I move this amendment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, in one section of the constitution, we have said that residents or persons who voted in the election, I think, of 1924 may vote. We have, in other words, backdated something. It seems to me that, if we adopt the provision as it now stands without the amendment, all we are doing is saying "dedicated funds existing as of April 1956"; that is all we are saying. We are not passing any ex post facto legislation or anything. The constitution can't annul acts of the Territorial legislature, I don't think there is any question about it, when the constitution goes into effect. To me it seems vital that this existing language be maintained or that some other language be put in which would freeze the existing earmarked funds. Otherwise, we are opening up ourselves, and not just ourselves but the people of Alaska, up to a race for earmarked funds prior to the date of ratification, and that would seem a most dangerous thing to do. I see no reason why we cannot say, "as of such and such a date, any funds existing can continue".

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, this matter has been argued continuously on this floor. In substance, the effect of Mr. (Victor) Rivers' amendment would be that, until the time that we received statehood, that the legislature can go ahead and continue to earmark funds, and all of those earmarked funds then would, in substance, be exempt under the constitution of the State of Alaska and could be exempt. We would be in the identical position of these states that have 90 per cent of their funds earmarked. The intent of this section -- and it is clear and patent and only a sophist could insist that it is something other than what it reads -- is that sometime this year, in the spring, at that date, at a precise date on which this constitution is ratified, that

earmarked funds or dedicated funds existing at that time will at least be permitted to continue under statehood, and it means in substance that if at that time no limited funds are earmarked, that that is the cutoff date. It defines in here "upon the date of ratification of this constitution by the people of Alaska" refers specifically to a specific date that can be determined. Sometime. I presume, in April 1956 is the cutoff date. There will be no more earmarked funds, and earmarked funds which are created by the legislature in future years will not be subject to the provisions of this article. If we substitute the words "effective date", it means that the whole validity of Section 7 is done away with, because the legislature from year to year to year can and will dedicate more and more funds and, eventually, by the time that this constitution becomes effective, the section will be completely ineffective. Insofar as I am concerned, I am sure that this expresses an exact date, an exact time, and the intent of the article would be destroyed by the amendment.

PRESIDENT EGAN: Mr. Barr has been attempting to get the floor.

BARR: Mr. McLaughlin and Mr. Fischer both have stated the exact facts as to the reasons why we must have this language in here. Now I would also like to say that Mr. Rivers' fears are entirely ungrounded. There is no retroactive law stated here whatsoever. It merely says that the continuance of these earmarked funds shall not continue, meaning shall not continue after the date this constitution goes into effect -- the date we become a state. Then the question is, what earmarked funds shall not continue? That is why we put this in here -- the ones that were in effect on the date it was ratified. There is no question of a retroactive law whatever.

PRESIDENT EGAN: Miss Awes, were you attempting to get the floor?

AWES: All that I wanted to say has been said by other delegates.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is -- Mr. Victor Rivers.

V. RIVERS: Mr. President, I have heard some oratory here that seems to me to be entirely without foundation of facts -- it's a matter of an opinion. It is my opinion from what I have been able to read that this constitution, ratified by the people, does not become effective until also ratified by the Congress and the President of the United States; and that anything that is not effective then, until that time, must be reaching back by this very clause, and I venture to say that, if this clause is adopted, that it will lead to a number of law suits in connection with the actions of the legislature between the time this cutoff date is set up and the time the constitution is ratified. I have heard a number of men say here they are sure. I, for one, am not sure, and I am pretty sure there would be a number of

others that are not sure. I also believe it would be a matter for the courts to decide. I don't believe that, even though we leave the clause in, that it is going to be an active or effective clause, because I am pretty sure that the preponderance of opinions are that we are still a Territory, and that, as such, our people are not able to legislate for the state. We are not able to cut off what the legislature can do. We are not able to postdate what effective actions this constitution will be. We are not able to backdate the time it becomes effective to when the people ratify it. It has no force and effect of law until such time as the Congress and the President of the United States ratify it. For that reason, I think it is probably opening the way to considerable litigation to leave the clause in.

PRESIDENT EGAN: Mr. Rivers was closing. Did you --

KILCHER: May I ask a question of Mr. Rivers?

PRESIDENT EGAN: If there is no objection.

KILCHER: Do you think, Mr. Rivers, your fears could be resolved by putting in a specific date, say April 26, 1956?

V. RIVERS: I don't think so. I think it has no effect or value until such time as the constitution is actually operative -- when it takes effect as my amendment reads.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, the schedule that we have says that all laws --

HELLENTHAL: Point of order. Mr. President.

PRESIDENT EGAN: Mr. Londborg --

HELLENTHAL: The argument has been concluded on this subject in accordance with our rules, if they are to be adhered to.

LONDBORG: Point of order. The rules state that no one shall speak twice unless all the rest have been heard that want to be heard, and if they are closing, they state they are closing. I don't believe Mr. Rivers stated that he was closing.

PRESIDENT EGAN: The Chair felt that Mr. Rivers felt he was closing, but it wasn't so stated. Do you wish to ask a question?

LONDBORG: No, I just wanted to bring out here, if I have the floor --

V. FISCHER: Point of order, Mr. President

PRESIDENT EGAN: Your point of order, Mr. Fischer.

V. FISCHER: I think Mr. Rivers was closing, and I don't think we should extend the debate any further.

LONDBORG: Well, I will be glad to withdraw as far as that, although I do feel I have the right of the floor.

PRESIDENT EGAN: The Chair will have to admit that he didn't ask Mr. Rivers if he was closing.

SUNDBORG: I ask unanimous consent that Mr. Londborg be permitted to express his views.

PRESIDENT EGAN: If there is no objection, Mr. Londborg, you may express your objections.

KILCHER: I object.

PRESIDENT EGAN: Objection is heard. All those in favor of allowing Mr. Londborg to be heard will signify by saying "aye"; all opposed by saying "no". The "ayes" have it. Mr. Londborg, you may be heard. The Convention will come to order.

LONDBORG: I believe according to our schedule that all laws are in force that are not inconsistent with the constitution, and to feel that any law passed according to this, after the date of ratification, that that law wouldn't be -- couldn't be annulled or, as he mentioned, the constitution retroactive. I think that it would mean that any law passed from now on by the legislature could supersede the constitution.

PRESIDENT EGAN: Mr. Victor Rivers, if you would wish to make a closing statement, you may have the floor.

V. RIVERS: I have no other comments. What Mr. Londborg refers to are the ordinances and transitory provisions, and what I am talking about is in the body matter of the constitution. I don't think there is any bearing on the question in regard to the point Mr. Londborg has made.

KILCHER: I would like to explain my lone "no" vote. I was of the opinion that Mr. Londborg, in the first place, had the right to speak and did not need unanimous consent.

PRESIDENT EGAN: The Convention will come to order. The question is, "Shall the proposed amendment as offered by Victor Rivers be adopted by the Convention?" All in favor of adopting the proposed amendment will signify by saying "aye"; all opposed, by saying "no". The "noes" have it, and the amendment has failed of adoption. Are there other amendments to be proposed to Article IX? Mr. Riley.

RILEY: Mr. President, I would like to ask for a one-minute recess. I ask unanimous consent.

PRESIDENT EGAN: If there is no objection, Mr. Riley.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other amendments? Mr. Riley. Mr. Johnson.

JOHNSON: May I have the floor for just a minute on a point of personal privilege?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

(Mr. Johnson then spoke briefly on a point of personal privilege.)

PRESIDENT EGAN: The Convention will come to order. Mr. Riley, did you have something?

RILEY: Mr. President, I ask for suspension of the rules to introduce a specific amendment.

PRESIDENT EGAN: Would you state your amendment?

RILEY: The amendment will be to strike the word "other" on line 6, page 2, and I wish to state, simply for the record, that the purpose in striking the word "other" is to avoid any limitation of the meaning "interests in lands" as it appears in the resource article, which will come out later from Style and Drafting and in which article that phrase appears a number of times.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the rules be suspended. Is there objection? Hearing no objection, the rules have been suspended. Mr. Riley, you may offer your amendment.

RILEY: Mr. Chairman, I move that on page 2, line 6, the word "other" be deleted.

PRESIDENT EGAN: Mr. Riley moves for the adoption of the amendment. Is there a second?

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other amendments for Committee Proposal No. 9? Mr. Hellenenthal.

HELLENTHAL: I have a question I want to ask of Mr. Nordale for purposes of the record and to assist Style and Drafting in a possible clarification. Mr. Nerland, I mean. In Section 11, where the Committee deals with the nonapplicability of the restrictions on debt, in the case of revenue bonds issued by public

corporations of the state, first; public enterprises of the state, second; and thirdly, any political subdivision. Does the Committee mean by that language that any political subdivision can issue revenue bonds either through a public corporation or through a public enterprise, or directly, like the City of Anchorage did with its Eklutna project; and in the event that they choose to issue them directly without employing the device of the public corporation, will those bonds be exempt from the restrictions applicable to debt?

NERLAND: That was the intention of the Committee, Mr. Hellenthal.

PRESIDENT EGAN: Are there amendments to be offered for Article No. IX? Mr. Sundborg.

SUNDBORG: If there are no amendments, Mr. President, I move and ask unanimous consent that the rules be suspended, that Article IX, Finance and Taxation, be advanced to third reading, read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended as to Article IX, the article on finance and taxation, the article be advanced to third reading, be read the third time by title only, and placed on final passage. Is there objection? Hearing no objection, the rules have been suspended and Article IX is now before us in third reading. The Chief Clerk will please read the article by title only.

CHIEF CLERK: "Article IX, Finance and Taxation."

PRESIDENT EGAN: The article is open for debate. Is there discussion? Mr. Boswell.

BOSWELL: I just wondered if there were some members who are out who would like to be here on this final vote.

PRESIDENT EGAN: Mr. Fischer, Mr. Doogan, Mr. Marston, Mr. Coghill -- did the Sergeant-at-Arms go upstairs to see if any of them were in the committee rooms? The Convention will be at ease for a minute. The Convention will come to order. Is there debate on Article IX, the article on finance and taxation? Mr. Armstrong.

ARMSTRONG: Mr. President, I was not here the day you voted on Section 8 of this article, and I would just like to register that, if I had been here. I certainly would have voted for the inclusion of a two-thirds vote of all the members to which each house is entitled to be included in that, because I think it is a serious mistake and one that will prove to be a liability as we go on through in the building of our state.

PRESIDENT EGAN: The question is, "Shall Article IX, the article on finance and taxation, be adopted as a part of Alaska's state constitution?" Mr. Barr.

BARR: Point of information.

PRESIDENT EGAN: Your point of information.

BARR: I would like to set Mr. Armstrong's mind at ease before he votes. It is true that it has to pass the legislature by a simple majority, but it has to be ratified by the people after that. It was the feeling of the Committee that we should only allow the state to go into debt if the people say so.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I'm sorry, but I go on the theory that, when you send a person to the legislature, you empower them to act for you, and you send them there with the complete trust, not only for your social life. but your economic life and your general well being; and that if we can ever come to the place where we can get two-thirds of either one of these houses to agree on a major issue for capital improvement, then that would be something that would be out of this world. I'd say that, if you could get that kind of agreement. you should certainly have the improvement for the state.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Armstrong a question.

PRESIDENT EGAN: If there is no objection, Miss Awes.

AWES: You mean that you would have approved of the amendment that was suggested that would allow a debt to be incurred with a two-thirds vote of the legislature without ratification?

ARMSTRONG: That is correct, Miss Awes.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Article IX, the article on finance and taxation, be adopted as a part of the Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 51 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 0 -

Absent: 4 - Coghill, Doogan, Marston, VanderLeest.)

CHIEF CLERK: 51 yeas and 4 absent.

PRESIDENT EGAN: The "yeas" have it, and the article on finance and taxation has become a part of the Alaska state constitution. We now have before us in second reading Article XIII, the article on amendment and revision. The Style and Drafting Committee report will be read at this time. The article had been read for the second time previously.

(The Chief Clerk read the report of the Style and Drafting Committee on Article XIII.)

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, the redraft of the article on amendment and revision was prepared initially by a subcommittee consisting of Mr. McLaughlin, Mr. Armstrong, and Mr. Johnson. It has been discussed with the Committee on Direct Legislation, Amendment, and Revision, and we understand it meets with their approval. There are one or two substantive amendments, or maybe even more than that. We understand Mr. McLaughlin, who is going to explain the article and answer questions, says he will undertake to convince everybody they are wholly desirable. I will now turn the floor over to Mr. McLaughlin to tell what has been done to this article.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, as the Chairman of the Style and Drafting Committee says, the Convention may put its mind at ease on the subject of style; we haven't changed much of it; we've only made changes in substance in the article. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

MCLAUGHLIN: The necessity for the changes in substance, which were agreed upon or may not be substance, but we point them out as substance so the Convention can do its will upon the article, were agreed upon by the substantive committee as representing their intent at the time. I might point out that under the enrolled copy -- actually under the literal reading of the enrolled copy -- it turns out that the legislature could prevent the automatic calling of a constitutional convention because of the fact that they can provide for a constitutional convention; and additionally to that they may provide otherwise provisions counter to those of the law providing for the Alaska Constitutional Convention of 1955. It was the intent of the substantive committee to make sure that there could be a constitutional convention every 10 years. As it stood, the legislature could, by making a limited

call for a constitutional convention, limit it to certain subjects, and, limiting the convention powers as expressly set forth therein, could, every nine years, call for a constitutional convention with very limited powers and thereby block the automatic calling of a constitutional convention on the 10th year. In order to overcome that, certain additions were made. In addition, in Section 2, provision was made for submitting by ballot title by the attorney general. By general consent of the Convention, the words "secretary of state" were substituted for "attorney general", but, in the subsequent section, Section 3 of the enrolled copy, the burden was then passed upon the governor. In order to make it uniform, the Style and Drafting Committee made the one individual responsible, the secretary of state. In addition, they put the duty upon the secretary of state to make the call. The reason for that is that, as we recognize, that you cannot mandamus a whole legislature, and you have to have some one that you can impose the will of the courts on to compel the issuance of the call. I shall point out just, section by section. where the new phrases, clauses, or substantive changes are, so that the Convention will know. On line 4 of Section 1, we have added the words, "and proposition summarizing". We took that phrase from the initiative and referendum; we are making them conform. And on line 8, we added the words, "Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the secretary of state". We added that for the obvious reason that it now conforms with most other provisions that we do have in the other portions of the constitution. It means that, on the night of the general election, there might be a very radical constitutional change -- let us say, abolishing the legislature or abolishing the judiciary, and no one would know, possibly for a week, in Alaska, whether or not the courts or the legislature had been abolished. I am using an extreme example, but it points out the difficulty. We want to make it effective 30 days later, but we have not changed the intent, because the legislature, if it so desires, can designate the effective date of the amendment and can literally say, "on the night of election". We just wanted to put in a cautionary note there if the legislature should happen to forget when it became effective. The next change was in Section 3, page 2, line 1. We substituted "secretary of state" for "governor". As you recall, I said, in Section 2, in the enrolled copy, the governor had had the original duty and we figured that we should make -- the secretary of state had the original obligation on constitutional amendments, and we decided that we should make it uniformly the responsibility of one man, the secretary of state. On line 6, we used the expression "statewide election" -- "statewide" was added; and then we put parenthetically "unless the legislature provides for the election of the delegates at a special election". On line 8, additionally added was "The secretary of state shall issue the call for the convention." As I said, that was so the courts would have some one to mandamus. I think the only expression in your constitution permitting the mandamus of the governor is to be found in

your apportionment article. The secretary of state, the duty is imposed upon him to make the call. We have added Section 4. These changes are with the consent of the substantive committee. "Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention." We had to put in a blanket statement such as that to prevent these limited calls by the legislature, which would normally block and completely block the desire of the people to secure a complete constitutional convention. For that reason, it was set forth that the constitutional convention would have plenary power and that there could be no limitations upon that power to review the constitution. Mr. Chairman, I was wondering if there were any questions on this.

PRESIDENT EGAN: Are there any questions to be asked of Mr. McLaughlin with relation to this? Mr. Smith.

SMITH: Mr. President, first, I want to compliment Mr. McLaughlin on an excellent job, and then I want to ask him, in line 2, page 1, where you say. "Amendments to this constitution may be approved by a two-thirds vote", where I think, in the original draft, it said, "amendments to this constitution may be proposed by a two-thirds vote"; and I notice down below on line 5, you have reference to the amendment as a proposed amendment. It would appear to me that it might not be entirely clear as to the intent in line 2.

MCLAUGHLIN: I think that we changed the wording because we wanted to use distinct words and to make the processes clear. Where originally we said they may be "proposed", we changed that, I believe, to "approved" because we wanted to make, then, the language on line 4, "the proposition" as used in the initiative and referendum -- we wanted it indicated, then, that that was the approved measure for the ballot and that we were conforming on line 4 -- "the ballot title and proposition summarizing each proposed amendment" would conform to the initiative and referendum.

SMITH: One more question, Mr. McLaughlin. Where does this amendment originate?

MCLAUGHLIN: There is no indication in the first enrolled copy where it originates. Apparently it can originate in either house. We have not changed the wording on that at all.

SMITH: The thing that was in my mind was this: you say here that amendments to this constitution may be approved by a two-thirds vote, where actually what they are doing to begin with is they are approving proposed amendments. Isn't that true? They are not amendments until they are ratified by the people.

MCLAUGHLIN: May I request a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I move and ask unanimous consent that the word "approved" on line 2, page 1, be stricken and, in place thereof, the word "proposed" be substituted.

PRESIDENT EGAN: On line 2 -- you are offering that as a committee amendment?

MCLAUGHLIN: That is a committee amendment. For the word "approved" substitute the word "proposed".

PRESIDENT EGAN: Mr. McLaughlin, would that be a substantive or a phraseology amendment?

MCLAUGHLIN: That, unfortunately, is the first style amendment suggested. (Laughter)

PRESIDENT EGAN: It wouldn't actually be a substantive change, would it?

MCLAUGHLIN: It is not. It is merely a change in style. Regrettably, as I say, Mr. President, it is.

PRESIDENT EGAN: Mr. McLaughlin moves the adoption of the proposed amendment. Is there a second?

BUCKALEW: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I did mean to mention to you -- I just noticed, on page 2, line 18 -- originally, the enrolled copy made some provision about the claim on the general fund of the state treasury. Since we have no reference, I believe, in our constitution to the general fund, we made it as a first claim on the state treasury, the theory being that it would be a broader claim and merely return it to the general fund.

PRESIDENT EGAN: Are there questions to be directed to Mr. McLaughlin with relation to this article? Mr. Sundborg.

SUNDBORG: Mr. President, I apologize to Mr. McLaughlin because I have had this before me for several days, and this has not

occurred to me. In Section 3, the language is, "If during any ten-year period a constitutional convention has not been held," and so on, the question is placed on the ballot. Now, what if the question is placed on the ballot and the returns of the election are, "No, we don't want to have a constitutional convention"? Does it go on the ballot at the next general election, also, and at every general election until we have one? Under this language, there would not have been a constitutional convention in the ten-year period; there would have been a referendum, that is true, on whether the people wanted one, but if they vote negatively, what happens?

MCLAUGHLIN: Is this on Section 3?

SUNDBORG: Yes, sir.

MCLAUGHLIN: There is only one call; there is only required under this one call for a constitutional convention in any ten years, and the secretary of state is required -- Section 3 refers specifically where no constitutional convention has been held -- we didn't say called -- where it hasn't been held within the ten-year period -- then the secretary of state must place it on the ballot at the next general election. Now, if they vote it down, then you don't have it for another ten years.

SUNDBORG: You don't have another referendum for another ten years?

MCLAUGHLIN: That's right.

SUNDBORG: Under what language?

MCLAUGHLIN: Under the language that it is only required to do it once; that is, the whole implication is that he does it once.

SUNDBORG: That may be the implication, but it says, I think, "If during the ten-year period a constitutional convention has not been held".

MCLAUGHLIN: May we have a one-minute recess?

PRESIDENT EGAN: If there is no objection. The convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I have a proposed amendment, and I know it will be subject to objection.

PRESIDENT EGAN: Are you going to move -- at this time, until there are no further phraseology amendment, we should be considering --

MCLAUGHLIN: This might prove to be an amendment in substance, and

there is some dispute on what was intended by the Committee at the time they first presented this on the floor.

PRESIDENT EGAN: You may state your proposed amendment.

MCLAUGHLIN: The amendment which I propose is on line 3, page 2, after the word "convention", insert the words, "if the vote is in the negative, the proposition will be placed on the ballot ten years thereafter."

PRESIDENT EGAN: That would be the proposed amendment that you would wish to offer? Is that Correct?

MCLAUGHLIN: I offer it, not on behalf of the Style and Drafting Committee; I offer it merely, Mr. Chairman, to point up the difficulty before the Convention. Actually, as this language now reads, that is unamendable. As the language now reads, it means that, if there is no call by the legislature and the proposition is put on the ballot and fails, that is the people by referendum don't want a convention, then technically, the succeeding year it would again be put on the ballot and yearly thereafter, that is at general elections, until such time as the people would vote for a constitutional amendment. As I say, it is a substantive difficulty because some in the Convention say that it was their intent that it should recur yearly to be voted upon by the people, and others say that was not, that they wanted to give the people every ten years an opportunity to vote on the question of whether or not they wanted a convention.

PRESIDENT EGAN: Mr. McLaughlin, the Chair feels that it is a substantive amendment. The Chair does not recollect that there has been any real discussion on this particular question at the time the article was before us in second reading, and therefore, we will have to go by the statement contained in the first sentence as it is in the article and, consequently, the amendment would be one of substance.

MCLAUGHLIN: I will withdraw it; I merely presented it to point it up.

PRESIDENT EGAN: It would be in order to present that amendment later if you so choose. Mr. Metcalf.

METCALF: Mr. Chairman, does the intent of the members of the Committee mean anything in arriving at conclusions as to whether this is substance or phraseology?

PRESIDENT EGAN: Well, if the Chairman of the Committee would like to make a statement with relation to your question --

HELLENTHAL: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Hellenenthal.

HELLENTHAL: Might it be possible at this time to refer the matter back -
-

PRESIDENT EGAN: It is a matter of substance, the Chair ruled.

HELLENTHAL: -- to the Committee and proceed on with another article so that we don't have to make up our minds on the floor and can be guided by the Committee's thought on the matter?

PRESIDENT EGAN: Mr. Hellenthal, the Chair has ruled that, at this time, that amendment is not in order because it is an amendment in substance. Are there other phraseology amendments? Are there questions to be directed to Mr. McLaughlin?

MCLAUGHLIN: I hope, Mr. President, that Mr. Sundborg has no further afterthoughts.

PRESIDENT EGAN: Mr. Sundborg, do you have any other questions?

SUNDBORG: No, sir, Mr. President. If there are no more questions as to phraseology, I move and ask unanimous consent that the report of the Style and Drafting Committee on Article XIII, Amendment and Revision, be accepted, and that the amendments made by the Style and Drafting Committee be adopted, and I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee on Article XIII, the article on amendment and revision, be accepted, and that the amendments made to the article by the Style and Drafting Committee be adopted. Is there objection?

SUNDBORG: Mr. President, I should have included in that motion a suspension of the rules since there have been substantive amendments to this article.

KILCHER: I object. One thing at a time, please.

PRESIDENT EGAN: Mr. Kilcher, in order that the body could accept, there would have to be a suspension of the rules. Now, do you want it to just be included as a suspension of the rules, or do you wish to vote on the suspension of the rules separately?

KILCHER: Can't we adopt the report as such?

PRESIDENT EGAN: If we adopt the report in this case where substantive charges have --

KILCHER: No substantive changes have been made so far as what they have here -- there are some proposed in the future.

PRESIDENT EGAN: Mr. McLaughlin, in giving his explanation, stated in several instances that substantive changes had been

made. He explained all of those instances. This question that he just raised a moment ago was one of --

KILCHER: I withdraw my objection then.

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended and asks unanimous consent that the Style and Drafting Committee report on Article XIII be accepted, and that the amendments as contained in that report be adopted by the Convention. Is there objection? Hearing no objection, the report with the amendments is ordered adopted. Now, are there substantive amendments or amendments for Section 1? Mr. Hellenthal.

HELLENTHAL: I have one question. I notice that the certification of election returns shall be made by the secretary of state, who is the same person who prepares the proposition and ballot title. I had been told that that was not in the enrolled copy, and I raise the question of the chairman of either committee or anybody, is that not rather a legislative matter and is it not possible that certification might be made by some other officer of the government? I know now the Director of Finance makes certifications under the reorganization. I wonder if that is a constitutional matter.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order.

JOHNSON: I believe that that question is moot now since the Convention by unanimous consent has adopted the report of the Style and Drafting Committee, which included this additional language as a substantive change.

PRESIDENT EGAN: That is correct. Mr. Hellenthal.

HELLENTHAL: In that connection, no. The decision of the Chair was that we approve the report only as to matters of style. I don't care at all, but --

PRESIDENT EGAN: Mr. Hellenthal, that was the question raised by Mr. Kilcher, and the Chair asked just what Mr. Kilcher was objecting to, and it was explained that Mr. Sundborg asked for a suspension of the rules and unanimous consent was granted that the report, including the amendments, was adopted. The report was accepted and the amendments adopted.

HELLENTHAL: That may be very proper.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, now is the time, though, when we may

come in with substantive amendments.

PRESIDENT EGAN: That is right, and Mr. Hellenthal, if he desires to offer a specific amendment, could ask first for the suspension of the rules and then offer his amendment.

HELLENTHAL: I could ask for the deletion of that. That is why is it proper to ask a question as to why it was included now?

PRESIDENT EGAN: Well, that would be proper if there is no objection, Mr. Hellenthal.

HELLENTHAL: Well, that was my question. Is there anyone who would care to answer that?

SUNDBORG: I think Mr. McLaughlin would be best able to answer that.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: It is true, as Mr. Hellenthal states and as I have stated, that was added on by the Committee, that is, making the effective date 30 days after the certification of the election returns by the secretary of state. What we were trying to do was make the duties in an important thing like a constitutional amendment, which would presumably rarely occur, particularly in view of the fact that it requires a two-thirds vote of each house and ratification, we felt that the duty should be imposed on someone to make the certification, and it wasn't legislation in a sense, because it was something that was sufficiently important that the duties of the specific individual be referred to in the constitution, making one man, in substance, responsible mechanically or ministerially on amendments and revisions and calls of the conventions. Whether or not it is legislation is a matter, of course, for the Convention, but, as I say, that was the reason for its insertion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: If I may add to that, I believe there was one other consideration by the Committee and that was that it desired to make this as nearly as possible self-executing so that the legislature, if there were a gap in it. could not prevent the working of this process of getting a constitutional convention if the legislature didn't want one, which probably the legislature would not.

PRESIDENT EGAN: Are there other questions or proposed amendments for Section 1? Section 2? Are there amendments to be proposed for Section 3? Mr. Fischer.

V. FISCHER: I move a three-minute recess, Mr. President.

PRESIDENT EGAN: If there is no objection, the Convention will

stand at recess. Perhaps we should take our -- for three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer, did you have a question? Are there proposed amendments for Section 3? Mr. Sundborg.

SUNDBORG: Mr. President, I know that there will be an amendment, and during the recess, I have had an opportunity to confer with Mr. Collins, the Chairman of the Committee on Direct Legislation, Amendments, and Revision, and he suggested that the Style and Drafting Committee take a hand in the matter of preparing an amendment which would fill the hole which most of us feel exists, and which Mr. McLaughlin was trying to fill by proposing an amendment. But I think that probably should be done after a little study and off the floor. I don't like to ask that this be returned to the Style and Drafting Committee now, because there may be other questions relative to it, and we would like to have the benefit of discussion on other questions so, if there are to be other changes, we can do it all in one session and not have to keep coming back to the floor with it; but, at such time as there are no more questions, I will ask to have it recommitted to the Style and Drafting Committee.

PRESIDENT EGAN: Are there other questions or proposed amendments for Section 3? Mr. Ralph Rivers.

R. RIVERS: I see we are asking for questions now; we started on the amending process.

PRESIDENT EGAN: That is right; we are on the amending process, but, if there are questions that might clear up a possible amendment, it would be in order. Are there amendments for Section 4? Are there other amendments to be proposed for Article XIII? Does any delegate have another amendment to propose for Section 13? If not -- Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent that the Article XIII on amendment and revision be recommitted to the Committee on Style and Drafting.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that Article XIII, Amendment and Revision, be recommitted to the Committee on Style and Drafting.

KILCHER: I object.

PRESIDENT EGAN: Objection is heard.

SUNDBORG: I so move, Mr. President.

PRESIDENT EGAN: Mr. Sundborg so moves. Is there a second?

BOSWELL: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Boswell.

KILCHER: Is a unanimous consent request debatable? There is no change of the rules is it?

PRESIDENT EGAN: That is a motion to commit it. In this position, it just came from the Committee on Style and Drafting, therefore, it would take only a majority vote to send it back to the committee it actually came from. Mr. Kilcher.

KILCHER: I would like to know the specific purpose. As far as I can see here, it has been accepted and it is perfect. I would like to know what the reason is to go back to Style and Drafting. Is Style and Drafting dissatisfied with it, Mr. Sundborg?

PRESIDENT EGAN: Mr. McLaughlin could you answer that?

MCLAUGHLIN: Mr. Chairman, I believe that I had pointed out here when the question was raised by Mr. Sundborg that there is a patent ambiguity in this, and I know that there would be in all probability some amendments offered.

PRESIDENT EGAN: Well, isn't it the intention, Mr. McLaughlin and Mr. Sundborg, that if you get it off the floor -- Mr. Kilcher, the Committee, and other delegates who might be interested in this question could work this problem over and come to the solution and find out what the general intention was.

KILCHER: I was also worried about the propriety of committing it back to the Committee on Style and Drafting. There seems to be a substantial conflict and not a conflict of phraseology, so it would be just as proper to send it back to the original committee.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, as I attempted to explain when I made the motion, I have checked with the substantive committee. They say they prefer that the Committee on Style and Drafting work on it. We would again bring it to the floor and, if delegates don't like what we report, they would then have the opportunity to reject our proposed language. If it is language of substance, we would have to have the rules suspended even to propose the change in language, so I don't think Mr. Kilcher has anything to be afraid of.

KILCHER: I was never afraid, Mr. Sundborg, just a little worried once in a while. (Laughter)

SUNDBORG: Mr. President, I see it is the hour of 3:30 and near

our afternoon recess, and I was going to suggest that, when we do recess, I will announce a meeting of the Style and Drafting Committee at the rear of the gallery, and the members of the Committee on Direct Legislation, Amendment, and Revision, and any other delegates who are interested in this question that was raised are invited to meet with us to go into this specific matter if the article is recommitted to our committee.

PRESIDENT EGAN: Mr. Sundborg moves, seconded by Mr. Boswell, that Article XIII be referred back to the Style and Drafting Committee for the purposes as stated by Mr. Sundborg. The question is, "Shall the article be committed to the Style and Drafting Committee?" All those in favor signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the article has been committed to the Style and Drafting Committee. Mr. Sundborg.

SUNDBORG: I announce a meeting of the Style and Drafting Committee for the rear of the gallery. Subject to other committee announcements, I move and ask unanimous consent that we stand at recess for 15 minutes.

PRESIDENT EGAN: Style and Drafting Committee will meet for the purpose outlined at the rear of the gallery immediately upon recess. Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration will meet in the large committee room upstairs on recess.

PRESIDENT EGAN: Committee on Administration upstairs immediately upon recess. Are there other committee announcements? If not, the Convention will stand at recess until 3:55.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg, what is your pleasure?

SUNDBORG: Mr. President, the Committee on Style and Drafting, having considered the article on revision and amendment, Article XIII, during the recess, reports it unchanged back to the Convention. We understand that at least one delegate will have an amendment to propose.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, the Chief Clerk has on her desk a proposed amendment. At this time I would like to request unanimous consent for suspension of the rules to offer, as an individual, an amendment to take care of the situation that has been explained in connection with this Article XIII. The proposed amendment is as follows: In Article XIII, Section 3, page 2, line 3, after the word "constitution", insert the following sentence: "If a majority of the votes cast on the question are in the negative,

the question need not again be placed on the ballot until the end of the next ten-year period." I ask unanimous consent for suspension of the rules to propose that amendment.

PRESIDENT EGAN: Mr. Davis, would that come after the word "convention"?

DAVIS: It would come after the word "convention". It would be just inserting another sentence in that place.

PRESIDENT EGAN: Mr. Davis moves and asks unanimous consent that the rules be suspended in order that this specific amendment might be offered. Is there objection?

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Davis?

DAVIS: I so move.

V. RIVERS: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Victor Rivers that the rules be suspended. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll. Mr. Fischer.

V. FISCHER: Could I ask for a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Davis has offered a motion to suspend the rules in order that he might submit a specific amendment. The Chief Clerk will please read the amendment that would be offered if the rules are suspended.

CHIEF CLERK: "Section 3, page 2, line 3, after the word 'convention', insert the following sentence: 'If a majority of the votes cast on the question are negative, the question need not again be placed on the ballot until the end of the next ten-year period.'"

PRESIDENT EGAN: The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 48 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King,

Knight, Lee, McCutcheon, McLaughlin, McNealy, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 5 - Emberg, Kilcher, Laws, Londborg, McNees.

Absent: 2 - Doogan, Marston.)

PRESIDENT EGAN: The Convention will come to order while the Chief Clerk tallies the ballot.

CHIEF CLERK: 48 yeas, 5 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Mr. Davis.

DAVIS: Mr. President, at this time I now offer the amendment which has been placed on the Chief Clerk's desk.

PRESIDENT EGAN: Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Section 2, page 2, line 3, after the word 'convention', insert the following sentence: 'If a majority of the votes cast on the question are in the negative, the question need not again be placed on the ballot until the end of the next ten-year period. "

PRESIDENT EGAN: Do you move the adoption, Mr. Davis?

DAVIS: I do move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Mr. Davis moves, seconded by Mr. Armstrong, that the proposed amendment be adopted. Mr. Davis.

DAVIS: Mr. President, the matter was brought before the Convention here of a possible situation arising under the Article XIII which some of the delegates feel was not intended. In fairness, I should state that some of the delegates feel that it was intended exactly as written. Under the section as written if the matter were placed on the ballot at the end of a ten-year period, and if the people voted "no" on that question, then so far as I can see it, the matter would continue to be placed on the ballot at each election thereafter until such time as the people voted "yes". Now, as I said a minute ago, some people say that that is what is intended. Others say it is not what was intended. The amendment is offered to fill that gap, if in fact it is a gap. The Style and Drafting Committee as such has passed on the proposed amendment and approves the language if the Convention wishes to adopt the language. Style and Drafting has taken no position at all on whether or not the amendment is desirable, as such, it's a matter for the Convention to decide what they want.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, as a member of the Committee from which this proposal originated, in my own mind I have no doubt but what it was the committee intent that the proposition of holding a constitutional convention should go on the ballot only at ten-year intervals, as will be done if this amendment is adopted.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: I would support the amendment if the word "ten" were changed to "six". First I will tell you why. First, I don't believe in too many constitutional conventions for the purpose of amending the constitution, but if a voter, when he goes to the polls after the ten-year period is faced with this: "If I don't vote for it now I am going to have to wait ten years before I get another crack at it", he is going to vote for the convention right now. It will tend to cause these conventions being held, which I don't think some of the supporters of this desire to do, so, if you make it "six", there will be less tendency of them being held.

SUNDBORG: Point of order.

PRESIDENT EGAN: Your point of order.

SUNDBORG: That isn't the question before us. If Mr. Hellenenthal wants to change it to "six" he can offer an amendment to that effect.

HELLENTHAL: I think it was a very great bearing on an analysis of the effect of this amendment --

SUNDBORG: I would like a ruling on my point of order, Mr. President.

PRESIDENT EGAN: Mr. Sundborg, in speaking to the amendment if Mr. Hellenenthal wishes to state why he is not going to vote for this, and upon which terms he might vote for it, he isn't offering the amendment, but he is explaining his position. The Chair would not hold that he is out of order. It seems that he is getting around to explaining his stand on this particular amendment. Mr. Barr.

BARR: May I address a question to Mr. Davis through the Chair?

PRESIDENT EGAN: If there is no objection, Mr. Barr.

BARR: Section 2 says the legislature may provide for a constitutional convention and I assume that means anytime. Section 3 says it will be placed on the ballot every ten years automatically. Now, with your amendment, it need not be placed there the following election and the one following that, automatically, but that

doesn't prevent the legislature from providing a referendum does it, at any time?

DAVIS: No, it does not. It does not prevent the legislature from providing for a constitutional convention, nor does it prevent the legislature from initiating an amendment itself under the other section.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? Mr. Kilcher.

KILCHER: I have a question to ask Mr. Davis, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Kilcher.

KILCHER: In Section 2, it says the legislature may provide for a constitutional convention. Does that legislature in this case also mean the law, including initiative? We have a general policy that was adopted a few days ago that the legislature would include initiative and also, I think Mr. Robertson yesterday in a discussion seemed to have been of the opinion that an initiative can call an amendment, when we discussed the capital question, so I wanted to have this understood.

DAVIS: If that was addressed to me I was reading a note here and didn't get the first part of it. However, in my opinion the mere use of the word "legislature" at this point under the policy statement we adopted a while ago does not limit it to the word "legislature". Now, it's my remembrance that the initiative article itself is not made applicable to the constitutional amendments, but I am not certain. I haven't checked it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: If I may, the initiative article is not applicable as far as amending the constitution by initiative, but it wouldn't prevent the initiative from operating to bring about a referendum.

PRESIDENT EGAN: Mr. Kilcher, does that answer your question?

KILCHER: I am not satisfied. I don't quite understand. I mean, my vote on Mr. Davis' amendment will hinge on this question.

PRESIDENT EGAN: Mr. McLaughlin, could you answer?

MCLAUGHLIN: Mr. Chairman, I am convinced that the word "legislature" in Section 2 means that the people can, by the initiative, pass an act calling a constitutional convention and making provision in it.

HINCKEL: Mr. President.

PRESIDENT EGAN: Mr. Hinckel, Mr. Kilcher still has the floor.

KILCHER: No, it was only a question.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I was going to attempt to answer Mr. Kilcher's question. During the Committee meeting, it was discussed at considerable length, and it was the intent of the Committee that through the initiative they could initiate a call for the convention, but the people could not initiate an amendment to the constitution itself.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Davis be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the amendment is ordered adopted. Are there other amendments to be offered to Section 3? Section 4? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no further amendments, I move and ask unanimous consent that the rules be suspended, that Article XIII, Amendment and Revision, be advanced to third reading, that it be read by title only, and placed in final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended as to Article XIII, the article on amendment and revision, that the article be advanced to third reading, be read by title only, and placed in final passage. Is there objection? Hearing no objection, it is so ordered, and the rules have been suspended. Article XIII is now before us in third reading. The Chief Clerk may read the title of the article.

CHIEF CLERK: "Article XIII, Amendment and Revision."

PRESIDENT EGAN: The article is open for debate. If there is no debate, the question is, "Shall Article XIII, the article on amendment and revision, be adopted as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 53 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 0 -

Absent: 2 - Doogan, Marston.)

CHIEF CLERK: 53 yeas and 2 absent.

PRESIDENT EGAN: The "yeas" have it and Article XIII, the article on amendment and revision, has been adopted as a part of Alaska's state constitution. Mr. Sundborg.

SUNDBORG: Mr. President, may we revert to the order of introduction of committee reports?

PRESIDENT EGAN: If there is no objection the Convention will revert to the order of business, introduction of committee reports, at this time. Mr. Sundborg.

SUNDBORG: Mr. President, your Committee on Style and Drafting reports with respect to the article on the executive, specifically on the three amendments, substantive amendments which were made on the floor yesterday. Our report is contained in a letter which is on the desks of each delegate, and I would like to ask that the Chief Clerk read it at this time.

PRESIDENT EGAN: Would the Chief Clerk read the report of the Committee on Style and Drafting with relation to the executive article.

(The Chief Clerk read the report of the Style and Drafting Committee with relation to proposed changes by that Committee on the executive article.)

PRESIDENT EGAN: Mr. Sundborg, what is your pleasure?

SUNDBORG: Mr. President, we have cleared our proposed language with the Chairman of the Committee on the Executive, Mr. Victor Rivers, and we understand that our language expresses the substance which was desired by his Committee when it brought in the amendments. I call your attention -- on the fifth line from the bottom of the first page, there is a typographical error where it says "officer", it should say "office"; the fifth line from the bottom on page 1 beginning with "unable to succeed". The next word should be "office" instead of "officer". This is in the report of our Committee, Mr. Gray, which was just read. Mr. President, I ask unanimous consent that the report of the Style and Drafting Committee on the three amendments to the article on the executive be accepted, and that the amendments therein be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Committee on Style and Drafting be accepted, and that the amendments therein be adopted. Is there objection? Mr. Taylor.

TAYLOR: I'll object for just a moment. I would like to ask Mr. Sundborg as Chairman of the Committee on Style and Drafting --

PRESIDENT EGAN: Your question, Mr. Taylor?

TAYLOR: Is the typographical error you mentioned in the fifth line from the bottom, it says "succeed to the officer" and that should be "office"?

SUNDBORG: Yes, Mr. Taylor.

TAYLOR: Well, should there not be an "of" so it says succeed to the office of or act as governor"?

SUNDBORG: Not in our belief, Mr. Taylor. As it is now, "Provision shall be made by law for succession to the office of governor and for an acting governor in the event that the secretary of state is unable to succeed to the office or act as governor." It isn't to succeed to the office of or act as governor. I believe it is two separate situations.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection it is so ordered and the report has been accepted and the amendments adopted as a part of Article III, the article on the executive. Mr. Victor Rivers.

V. RIVERS: Mr. President, while we are under this, the amendments as provided, or revised by Style and Drafting, leads us to one other slight change in Section 14. When we set up the article on the executive, we provided for succession from the governor to the secretary of state to the president of the senate to the speaker of the house. Now this body in their wisdom struck the president of the senate and speaker of the house, but under Section 14, we took some of the duties of the secretary or other officer when he succeeds to the office of governor and set them up. It was the opinion of some of the members of the executive and of Style and Drafting that we should strike the words on line 19, Section 14, strike the words "or other officer". Now that will mean that all of the provisions of succession including title, emoluments, and everything else will lie with the legislature and will not be partly in this article and partly in the hands of the legislature. So I will ask unanimous consent for suspension of the rules.

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules in order that this amendment might be proposed? Mr. Fischer.

V. FISCHER: May I ask a question, please?

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may ask your question.

V. FISCHER: Is it necessary to delete this language, since whatever officer succeeds would succeed to all those items mentioned?

V. RIVERS: I am following the suggestion to properly clear this matter with Style and Drafting on this only. Now some of the members of the Committee, a number of them, thought they should

be deleted, and that would then leave all the power in the hands of the legislature to set up all the terms of succession. It would not appear to be an inconsistency. It was merely a nicety that I acceded to and I will now ask unanimous consent that the words on lines 19 and 20, "or other officer" be stricken.

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules? Hearing none, the rules have been suspended. Now do you offer your amendment, Mr. Rivers?

V. RIVERS: Didn't I just offer it?

PRESIDENT EGAN: Well, when Mr. Fischer arose, the record would show --

V. RIVERS: All right, I will now ask unanimous consent -- or I will now move that the words "or other officer" on lines 19 and 20, Section 14 -- the words after "state" -- "or other officer" be stricken.

PRESIDENT EGAN: Mr. Victor Rivers moves for the adoption of the amendment. Is there a second?

COOPER: I'll second it.

PRESIDENT EGAN: Mr. Cooper seconds the motion.

V. RIVERS: I'll ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection the amendment is ordered adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I now move that the rules be suspended, that Article III, the Executive, be advanced to third reading, be read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended as to Article III, the article on the executive, that the article be advanced to third reading, be read the third time by title only, and placed on final passage. Is there objection? Hearing no objection the rules have been suspended and the article is now before us in third reading. The Chief Clerk will read the title of the article.

CHIEF CLERK: "Article III, The Executive."

PRESIDENT EGAN: The article is open for debate. Mr. Fischer.

V. FISCHER: Mr. President, I would just like to rise and say I think the Committee on the Executive Branch did a wonderful job in preparing this article and that we will probably view this article when we become a state as the best basis for the organization of the executive of any state in the Union.

PRESIDENT EGAN: Is there further discussion or debate? If not, the question is, "Shall Article III, the article on the executive, be adopted as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 53 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 0 -

Absent: 2 - Doogan, Marston.)

CHIEF CLERK: 53 yeas and 2 absent.

PRESIDENT EGAN: So the "yeas" have it, and the article on the executive has been adopted as a part of Alaska's state constitution. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to report on behalf of our Committee that we foresee that there will be 15 articles in Alaska's state constitution and we have now passed through third reading nine of them. The total number of pages in the nine articles passed is 39 out of a probable total of about 80 in the entire constitution, so we are just at the halfway mark as far as the number of pages is concerned, but we are well past the halfway mark as far as the number of articles is concerned.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, with that in mind, I would like to place before the Convention if I may at this time, the proposition of whether we are going to work tomorrow -- the plenary session in the afternoon or at any time in the evening. The food service would like to know.

PRESIDENT EGAN: Mr. McNealy, will the ordinance on the Tennessee Plan be in shape so we can handle that tomorrow afternoon, or begin its discussion tomorrow afternoon?

MCNEALY: It will be, Mr. President.

PRESIDENT EGAN: Then, subject to the wishes of the body, the Chair would just venture the suggestion that it would be proper that we work tomorrow afternoon, beginning at sometime in the afternoon, and that there will be an ordinance before us that would take probably the whole afternoon and perhaps part of the evening. Mr. McNees.

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MCNEES: In line with that, I move that we do convene the assembly here tomorrow afternoon at 1:00 o'clock.

PRESIDENT EGAN: Mr. McNees asks unanimous consent that it be the policy of the Convention -- will there be a bus at that time, on Sunday, do you know, Mr. McNees, or could a special bus be provided?

COGHILL: A special bus could be arranged.

PRESIDENT EGAN: The Chair would also like to also inquire, is 1:00 o'clock too early in line with some of the church services in town, if 2:00 o'clock might not be a better time? Would that be a time when all of the services will be completed? Reverend Armstrong, do you know?

ARMSTRONG: That would be satisfactory, I am sure, to anyone who had their dinner after church.

PRESIDENT EGAN: Would that be satisfactory then, Mr. McNees, that it be the policy of the Convention --

MCNEES: I have no objection. I have a bus schedule here and it shows a bus at 12:30 and the next one at 3:45, leaving town for the University.

ARMSTRONG: I thought we were speaking about 2:00.

PRESIDENT EGAN: That is what I was speaking of, Mr. Armstrong, that we might probably interfere in some manner with the church services if we convened at 1:00. Mr. Coghill.

COGHILL: If it is the pleasure of the Convention, then, we will obtain the special bus to leave the Nordale Hotel at say 1:30?

PRESIDENT EGAN: Would that be satisfactory with you, then, Mr. McNees, if we set the time and policy for convening tomorrow at 2:00 p.m., and the Administration Committee will take care of having a bus at the hotel at 1:30 p.m.?

MCNEES: Yes, it will.

COGHILL: Mr. President, I have one other item of importance. Would it be in order to present that at this time?

PRESIDENT EGAN: If there is no objection, Mr. Coghill.

COGHILL: On the wishes of the delegates as to invitations, now, if any of the delegates wish to have any extra invitations other than the 25 that were placed on their desks, if they will leave their name and the amount they will want this evening in the message center room, we will have them Monday afternoon.

PRESIDENT EGAN: That same thing will go for the employees of the

Convention if they so desire to have a few more invitations.

COGHILL: Yes.

PRESIDENT EGAN: Will the Chief Clerk please read the message that is before us?

CHIEF CLERK: Mr. Moberg has sent a message that the following have not turned in their biographical data: Awes, Barr, Collins, Cooper, Cross, Egan, Emberg, Mrs. Fischer, Victor Fischer, Hermann, Laws, Lee, Londborg, McNeas, McLaughlin, Nolan, Peratrovich, Reader, Ralph Rivers, Victor Rivers, Stewart, Smith, Walsh, White, VanderLeest.

PRESIDENT EGAN: The Chair would like to implore all the delegates who have not turned in their data to do so. (Laughter) Mr. Barr.

BARR: I would like to have a little more information about this questionnaire that we received. Has it any official status, who is buying it, etc.? When I answer a lot of personal questions, I would like to know where it is going.

PRESIDENT EGAN: It will probably -- that biography will go into the archives with relation to the history of this Convention, Mr. Barr. That is the understanding of the President. Mr. Johnson.

JOHNSON: Dr. Moberg is the head of the History Department of the University, I believe. It is entirely for the University records.

PRESIDENT EGAN: Miss Awes.

AWES: I don't think I even have it anymore. Is there any place where we can get duplicates?

CHIEF CLERK: I have some.

PRESIDENT EGAN: Those delegates who have not complied with that will --

SUNDBORG: I wonder whether anything has been done about the request of the Nenana school that biographies of the delegates be supplied to them for their use in their school publication?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Yes. That was turned over to the Secretary and he is having one of the boiler room girls take care of that, and probably in the next day or two you will have a questionnaire on your desks.

PRESIDENT EGAN: We now have before us then, Article VI, the article on legislative apportionment -- the report of the Style and drafting Committee on that article. The Chief Clerk may read

the report of the Committee on Style and Drafting.

(The Chief Clerk read the report of the Style and Drafting Committee on Article VI.)

PRESIDENT EGAN: Mr. Sundborg, does your Committee have a report to make at this time?

SUNDBORG: Mr. President, the Style and Drafting Committee redraft of the article on legislative apportionment was prepared initially by a subcommittee consisting of Mr. Davis, Mr. Fischer, and myself. It has been reviewed by the full Apportionment Committee, we are told, and it meets with their approval. They don't feel that we have changed any matter of substance in it, and I would like to ask Mr. Davis to explain such changes as have been made in phraseology and to answer any questions by delegates.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, before proceeding, I would like to call attention of the delegates to page 4 of the Style and Drafting Committee report, line 21, in the middle of that line, it says -- well, in that line it says, "Article XV; A, B, C, D," etc. The "C" which is in there is a typographical error and should be deleted. At this time I would ask unanimous consent that that "C" may be deleted from the report.

PRESIDENT EGAN: Unanimous consent is asked for the deletion. Is there objection? Hearing no objection, the deletion is so ordered. Mr. Davis.

DAVIS: Now, Mr. President, in reviewing this article as against the enrolled copy, some things are apparent to begin with. In the first place, Section 4 of the enrolled copy is matter that was already previously covered in the legislative article, and, accordingly, we have left that section completely out of the redraft. In the second place, the report in the enrolled copy contains certain transitory provisions, one on the senate and one on the house, and we have left them out of the order in which they appear in the enrolled copy, and have placed them in transitory provisions at the end of the redrafted article. The same thing is true of certain language which appeared in Section 1 and Section 2 of the original enrolled copy. There were certain things there of a purely transitory nature and we have taken them from the body of the Style and Drafting report and have moved them into a transitory article, which we have at the end in order that they may be placed in the schedule, and, incidentally, we have talked in here through this article quite a bit about Section 1 and Section 2 of Article XV. Article XV is the schedule. Now, it may be that at a later date, that it will be given another number, but at any rate it is given a special place as an article in the constitution, and, when we make reference to those sections, that is what we mean. You will also note that we have changed the

order of some of the sections, so that they don't come in the same order that they did in the enrolled copy. That change was made for the purpose of trying to work out a logical sequence. Section 1 as we have redrafted has to do with the house of representatives. Now, lest there be some question as to whether the house of representatives or the senate is the higher body, and as to which one may properly have come first, I would like to explain that we have placed the house first because it has to do with -- I notice that a change was not made, and I will stop at this point. In Section 1, line 6, on page 1, it says, "Section 2 of Article XV"; that likewise is a typographical error. That should be Section 1. And in Section 2, line 9, it says, "Section 1"; that should be "Section 2", and I would like at this time to ask unanimous consent to correct those numbers.

PRESIDENT EGAN: Mr. Davis requests unanimous consent that those number changes be made. Is there objection? Hearing no objection the changes are ordered.

DAVIS: Now, as I started to say a while ago, we placed the house first because the reference to the house is in Section 1 of the schedule, where the reference to the senate is in Section 2 of the schedule. We are not attempting to say that the house is first or the senate is first or the other way around. I might say that we met with the full substantive committee on two occasions, and we have met with the Chairman of the Committee and some other members of the Committee on several occasions, and I am satisfied that the redraft as we have written it meets with the approval of the Committee. At the request of the Committee, we have made certain changes in our draft. We have also made one change which might possibly be considered as a substantive change, and we have made that change at the request of the Committee because it apparently was their intent, and we have made that change to carry out their intent in connection with this article. That particular change had to do with the language found in lines 16 and 17 on page 3, which reads: "Deliberations and decisions of the board shall be free from political considerations." Now, you will find in the original enrolled copy that the apportionment board was supposed to be set up as a nonpartisan board. Style and Drafting in their draft of this article changed the nonpartisan, as you will find it in Section 8, the next to last sentence of Section 8, "Appointments shall be made without regard to political affiliation." And we made that change to conform to the same change that had been made in connection with the judicial article so that it all would be the same sort of language. When we brought that change to the attention of the Committee on Apportionment, we were advised that that change by itself did not cover their intent. They intended that the board should actually in all respects act as a nonpolitical body, and accordingly asked us to add another sentence which would make it clear that the board was to act without regard to partisan politics. Following that, then, we prepared the last two lines I mentioned in Section 9 and submitted them to the Chairman of the Committee and they have likewise been approved. Now I will attempt to answer any questions that may be

asked concerning the redraft of this article.

PRESIDENT EGAN: Are there any questions to be directed to Mr. Davis. Mr. Hinckel.

HINCKEL: I have a question on Section 5, but I will take it in order if you're going to do it that way.

PRESIDENT EGAN: Are there questions relating to Section 1?

UNIDENTIFIED DELEGATE: May we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there questions relating to Sections 1 or 2? Mr. Davis.

DAVIS: Before going ahead it has been called to my attention another error that we might as well correct now; also, on line 21 of page 4, we have a capital "AND" -- upper case "AND". I would like to change that to lower case.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that that change be adopted.

DAVIS: In this line. I would like to let it be known that I am not criticizing the boiler room. After all, those girls worked until well after midnight last night getting this out.

PRESIDENT EGAN: If there is no objection the capitalized "AND" on line 21, page 4, next to last word -- if there is no objection it is so ordered. Mr. Hinckel.

HINCKEL: Section 5. I would like to ask Mr. Davis if, in his opinion, the last three words of the Section 5 on line 11 where it says, "in this article", mean the same as in the enrolled copy on page 8 where it says, "as provided above"? I will wait a minute while you take a look at it.

DAVIS: I won't take time to look at it, Mr. Hinckel. We have used "in this article" in all cases to refer to something else in the particular article in the constitution, so I would say it does mean the same as "as provided above".

HINCKEL: Well, may I make a short statement regarding this, Mr. President?

DAVIS: Mr. Fischer apparently has some different idea.

FISCHER: May I make a suggestion?

PRESIDENT EGAN: Yes, if it is in answer to Mr. Hinckel's question.

V. FISCHER: Yes. In this case it previously said "as provided above". Now this says, "The reapportionment of the new districts shall be determined as provided in this article." The only place where it discusses the apportionment for any district is in Section 4. Actually, you could almost put in "as provided in Section 4", because the subsequent section refers to the redistricting when a new district is created. Here one is created automatically, practically automatically, under this provision of the constitution. So, actually, Section 4 would apply in this case.

HINCKEL: I still would like to state my reasons for asking this question. It's my opinion that when the Committee was discussing this, in referring back to "as provided above", they were referring to the reapportionment as it's described in Section 4, but the words on line 10 where it says, "the new district", is confusing to me in that the only place where any reference is made to a new district is beyond that in Section 6; and then again in Section 6 -- of course, they are talking about new districts which might be created and where they will use the vote quotient in the allocation of the representation, and to me it appears that it would be practically certain that the new district, as they call it, formed by the combining of two districts would cause some confusion. If both of those new districts, say, for instance, Valdez and Cordova districts, had fallen below the half-quotient in this next reapportionment, and then they were combined, it would be very possible that they would not have a new district, have a full quotient and would therefore lose their representative again and have to be recombined again with something else in order to have representation, and I don't think that was the intent of the Committee nor the intent of the Convention, and so, unless I can get an interpretation from the Committee that I am wrong and that that is not the intent of the Committee or that that is not the way the Style and Drafting Committee read it, I would like to have it amended. Of course, I would offer the amendment later but the reason for asking the question was to try and clear this up in my mind at this time.

PRESIDENT EGAN: Mr. Davis, will you answer the question?

DAVIS: Well, only to this extent, Mr. Hinckel. For the benefit of the Convention, we might say that Mr. Hinckel met with us in connection with this section, and he believed if I misquote you, Mr. Hinckel, say so -- he believed that the enrolled copy as it came out did not express the intention of the Committee or of the Convention. I am quoting you correctly on that, Mr. Hinckel?

HINCKEL: Yes, that is approximately correct.

DAVIS: He felt that there had been a change in the thinking of the Committee between the time that they were deliberating on this and final passage and that it was not properly brought out so that the Convention adopted one thing possibly meaning another. Following, I might mention that we had redrafted this particular section with possibly to be more clear on what we thought the Convention meant in adopting this article, but, in meeting with the Committee, the Substantive Committee, on this, we were advised that they had not intended this article to read as we had drafted it and, after consultation with them, we changed it back to the way it was previously. Now the particular places involved are: in line 8 of Section 5 on page 2, it is provided that when a district falls below the one-half quotient that it shall be attached to another district; and then the sentence -- think Mr. Hinckel mentioned it -- farther down we talk about a new district. I'll see if I can find it. Yes, in line 14, Section 6, it talks about "each new district so created". But after our consultations with the Committee, they convinced us that the change we had made was actually a change of substance which was not what they, at least, meant and which they thought the Convention did not mean, and, accordingly, in the Style and Drafting we changed it back to the words that they had used in these two particulars. So, so far as we are concerned, we are reporting the language, we feel, as it came out in the enrolled copy. Now I believe that Mr. Hinckel's question is a matter of substance that is going to have to be resolved by the Convention itself and not by this Committee.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I had other questions at the time I talked to you. At the time I talked to the Committee, I had other questions, too. But this particular question is one I think, while it is of substance, it is a rearrangement of words which has caused the change in substance. I felt that it was not intentional, if I read it correctly, that, where they refer to what is said in it "as provided above", and at where they say "as provided above", they refer back to a certain way of making apportionment. I just wanted to be sure that it was supposed to still read the same way. It says here, "as provided in this article". Well, the article is the whole article, and so, when you say "a new district" and there is no mention of new districts until after you pass that and go into Section 6 where new districts -- the description of new districts, and their creation, and their apportionment is discussed and an entirely different basis, so now, to be blunt about it, do you interpret the thing now that, if two district were combined that they would have to have the full quotient? Is that your interpretation?

DAVIS: Well, I am afraid you are way beyond me here. It was my belief and still is my belief that the Convention intended that, when one district fell below its quotient -- its one-half quotient in this case -- that it lost its identify as an election

district, not as part of a senate district but as an election district, and was combined with another district, and that whole thing became a new district which later could be recreated or not depending on what factors were involved on a reapportionment; but, apparently, that is not the intent of the Committee and not the understanding of the Committee as to what the floor did. So, to try to answer Mr. Hinckel's question, it was our belief that the language we have used here has not changed the language at all as it came off the floor. Now, maybe we are wrong, but that is what we thought we were doing.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: If I may add a little bit more in reply to Mr. Hinckel's question, the new district created under Section 5, according to our understanding, would be subject to reapportionment as any district would under Section 4, and, if the two districts that had been combined into this new one had a major fraction of a quotient, then it would obtain a representative.

HINCKEL: That was the way I thought it was intended to be. I just wanted to make sure the wording did not destroy that.

PRESIDENT EGAN: Mr. Gray.

GRAY: That is correct. I believe that what would answer Mr. Hinckel is, in line 14 where it says "each new district", if you said "such new district", would that clarify your point?

HINCKEL: That might do it.

GRAY: In other words, the new district as in Section 6?

HINCKEL: Can we have a more or less informal discussion in front of the group here?

PRESIDENT EGAN: If there is no objection. Mr. Cooper.

COOPER: This entire substantive (question) can be resolved in line 11 so that it will have the intent of the Committee and of the body. After the word "in", it would read "as provided in Section 4 of this article". That would answer all the problems that are on the floor at this time and that would be in keeping with the enrolled copy which says "as provided above".

DAVIS: Mr. President, we can very easily do that, except that I would like to point out that we have avoided using that kind of language wherever possible in the constitution for the reason that, if one section should be repealed, then you have to go through the constitution to find other references to that section that need changing, where if we don't refer from one section to another in the constitution, that problem doesn't arise. That suggestion, incidentally, was made to me a minute ago, that I

might make that motion, and I didn't for the reason that it may very well upset the plan in that respect. Now, I will admit in a minute that we have done just that in connection with the schedule provision. However, the schedule is something a little different than something in the body of the constitution.

HELLENTHAL: Mr. President

PRESIDENT EGAN: Mr. Hinckel, did you have other questions?

HINCKEL: I'll defer to Mr. Hellenthal.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I am firmly convinced that absolutely no change or no harm results from the use of the words in this article. I can't see Mr. Hinckel's point at all.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I don't want to disagree with Mr. Hellenthal but I still feel that there is a difference there. I have another suggestion: that the word "new" -- I made a similar suggestion once before and I hate to make the same thing again but I made the suggestion that the word "new" be changed to "combined" and get away from that "new district" which is referred to later on down the line, but, anyway, it accomplishes the purpose --

PRESIDENT EGAN: It may be best when we get to the substantive amendment state that --

DAVIS: Well, that was going to be my suggestion, Mr. President, because it is obvious that there is a certain amount of disagreement here as to just what is meant. Now, I think that the language we have used carries out the intent of the enrolled copy. I think we have carried that forward, but it may or may not carry out the intent of various delegates, so I think the thing to do, if everybody else agrees, is to pass on it as a matter of Style and take care of it as a substantive amendment if something needs to be changed.

PRESIDENT EGAN: Mr. Coghill, did you have a question?

COGHILL: I believe that the Committee thinking is along the lines of what Mr. Hinckel has there that I believe that it is a change just in style as far as the Style and Drafting Committee and that they have overlooked the point that, in our enrolled copy, it says "as provided above", which goes back to the major fraction of the quotient. It might be, for example, that the population increased to the point where the major quotient was 6,000 and, under our apportionment as of now, two districts wouldn't have the major fraction but together they would have the major fraction; well, they should be allowed to have one representative by

being combined, and I believe that it is the feeling of the Committee that that should be done, so, if they put in "as in Section 4", or, as Mr. Hinckel recommended, "combined district", why, it would solve the problem.

V. FISCHER: May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Davis.

DAVIS: Mr. President, in an effort to get this thing going and get this article taken care of, I would move at this time and ask unanimous consent that in line 11, on page 2, at the end of Section 5, after "in", we insert the words "Section 4 of", so it would read "as provided in Section 4 of this article".

PRESIDENT EGAN: That, in your opinion, Mr. Davis, would not be a substantive amendment? It would just clarify what is meant by that language?

DAVIS: I would say that is the case.

PRESIDENT EGAN: That would be the feeling of the Chair, also. In the opinion of the Chair, it is not a substantive amendment. Mr. Davis moves and asks unanimous consent that the proposed amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Davis.

DAVIS: I will try to field any other questions that may be asked.

PRESIDENT EGAN: Are there any other questions relating to Sections 4 or 5? Mr. Londborg.

LONDBORG: I have been wondering if there shouldn't be a differentiation made between the new district defined in line 10 and the new district defined in line 14? I don't feel that I agree with Mr. Hinckel that the word "combined" should be in place of "new"; it's the same meaning, it's just one of clarification.

DAVIS: I don't think there is any question but that this is a change in substance. Mr. President. If the Convention wants to do that, that's fine, but I don't think that that could possibly be considered a change in styling.

PRESIDENT EGAN: That would come at the time, Mr. Londborg, when we consider substantive amendments. Mr. Barr.

BARR: I would like to ask a question; page 3, line 16, on the sentence starting with "Deliberation and decision of the board

shall be free from political considerations". Wasn't the intent there, actually, that the board should be free from partisanship -- partisan politics, in other words? What was the intent?

DAVIS: I feel quite sure that that was the intent, free from partisan politics, because we used that language to substitute for a previous word "shall be a nonpartisan board".

PRESIDENT EGAN: Are there questions relating to -- Mr. McCutcheon.

MCCUTCHEON: Mr. Davis, I notice in the enrolled section here, in the first line of Section 5, it says "nonpartisan board", and on lines 9 and 10 in Section 8 it says, "Appointments shall be made without regard to political affiliation". Is that Style and Drafting's opinion that "without regard to political affiliation" establishes the same principles as "nonpartisan board"?

DAVIS: That was our belief and for that reason we stopped at that point to begin with, then, as I pointed out, a while ago, the Committee advised us they had intended the language to go farther than that, that the board was to be nonpartisan in all respects, not only in its appointment but in its deliberations and otherwise; and for that reason, we made what we considered a change in substance to that extent, the extent of the language at the end of line 9.

PRESIDENT EGAN: Are there questions relating to Sections 5, 6, or 7? Are there questions relating to Section 8 or 9? Section 10? Mr. Davis.

DAVIS: Mr. President, I might make one comment here so that there will not be any misunderstanding. In section 8, in line 7, page 3, we have provided at least one member shall be appointed from each of these various districts. Now, as you will notice by reading the enrolled copy, it says, "one member shall be appointed from each of these districts", and, obviously, since there are five members and four districts, somebody would have had no place to go and we, then, in attempting to meet what was the obvious intent, made it "at least one".

PRESIDENT EGAN: Are there other questions to be asked with relation to Sections 8 or 9? Mr. Hellenthal.

HELLENTHAL: I would like to point out that the words "at least one" are an exact quotation from the enrolled copy.

DAVIS: If so -- yes -- apparently one of our drafts is rather than the enrolled copy. At any rate, we have made it "at least one".

PRESIDENT EGAN: Are there questions relating to Section 10? Section 11? Section 12? Mr. Davis.

DAVIS: Mr. President, I might mention that, if there are questions

as to Section 12, that Mr. Fischer is much more familiar with that than I am and he can answer the questions.

PRESIDENT EGAN: Are there questions relating to Section 12? If not, are there questions relating to Section 13? Section 14? Mr. Johnson.

JOHNSON: I move that the Convention stand at recess until 7:00 o'clock.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand at recess until 7:00 p.m.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Is there a second?

KILCHER: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Kilcher. The question is -- are there committee announcements, in case the Convention recesses? Mr. Sundborg.

SUNDBORG: Style and Drafting Committee will meet immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Style and Drafting Committee will meet immediately upon recess at the rear of the gallery. Mr. Coghill.

COGHILL: May I ask a question of the Chairman of Style and Drafting?

PRESIDENT EGAN: You may, Mr. Coghill.

COGHILL: How much more time would you be needing for your Style and Drafting Committee? If we are going to work tomorrow afternoon, wouldn't it be advisable not to work tonight in plenary session?

SUNDBORG: As far as our Committee is concerned, we have now reported to the floor every article which has been referred to us except the article on resources, the article on local government, and part of an article which came to us today on the subject of general and miscellaneous provisions. We will need some time over the weekend and I know we will be working tonight whenever the Convention adjourns, whether it be at this time or whether it be at 9:30, and we will also, in all likelihood, be working tomorrow morning, and we can use any of the time that the Convention could allow us. We will have nothing else to come on the floor until Monday at the earliest, and it may be that we will not have anything until Monday afternoon.

PRESIDENT EGAN: Mr. Sundborg, it is the feeling of the Chair --

if it is the feeling of the body -- we have hanging from previous actions the question relating to the capital and the question relating to the fish traps. Now, it would be the opinion of the Chair that, if we could get that out of the way this evening, we would have accomplished something that would really clear our calendar and it is something that we are going to have to clear anyway, and it has been two days since that particular Proposal 17/a was held up, and it would seem that we might get on that and see what the outcome of it is.

SUNDBORG: Mr. President, please don't interpret anything I have said as pleading for more time for our Committee. I feel that things are very well in hand by our Committee, and I am much more concerned about the slowness of work here on the floor than I am about the shape of things in our Committee.

PRESIDENT EGAN: The Chair thought that perhaps there might be some feeling as to what we might take up tonight. If it would be the feeling of the delegates, the Chair would feel that it would be a proper time and it might not go until 9:30 if we did come back, but we would have that on the way to Engrossment and Enrollment in one form or another. Are there other committee announcements? The question is, "Shall the Convention stand at recess until 7:00 p.m.?" All those in favor of recessing until 7:00 p.m. will signify by saying "aye"; all opposed by saying "no". The "ayes" seem to have it, and the Convention stands at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Will the Sergeant at Arms see if there are any delegates upstairs? The Convention will come to order. The Convention is at ease until the absent delegates present themselves. The Convention will come to order. We have before us Article No. VI, report of the Style and Drafting Committee. Are there questions with relation to Section 8 or Section 9 to the work that has been done by the Style and Drafting Committee? Are there any questions with relation to the work that has been accomplished by the Style and Drafting Committee to any of the sections including Sections 8 or 9? To Section 10? Are there questions to be directed to the Style and Drafting Committee with relation to Section 11? To Section 12? To Section 13? Or to Section 14? Mr. Cooper.

COOPER: Mr. President, I have a question on Section 5. There seems to be a word, part of a word left out of Section 5 that was in the enrolled copy. "Should the total civilian population within any election district fall below one-half of the quotient, the district shall be attached to an election district within its senate subdistrict". Now the word "subdistrict" appears in the enrolled copy but not in the Style and Drafting. I wonder if I might ask Mr. Davis the reason for that?

PRESIDENT EGAN: Mr. Davis, can you answer that question?

DAVIS: I will answer it to the best of my ability. As a matter of fact, in the whole article as it stands, there isn't any such thing as a "subdistrict". Every district is a senate district; that is, every one of these "A, B, C's" that we adopted this morning, the "regions" as we have called them, are only senate districts themselves, except that you elect senators from at large from those districts. That is the reason the so-called subdistrict was left out because it didn't mean anything. Does that answer it?

PRESIDENT EGAN: Mr. Cooper.

COOPER: In answer to Mr. Davis's question to me, to actually answer him, Mr. President, I will have to take the floor on a matter of personal privilege for about one minute.

PRESIDENT EGAN: If there is no objection, Mr. Cooper you may have the floor on personal privilege.

(Mr. Cooper spoke on a matter of personal privilege.)

PRESIDENT EGAN: If there is no objection, the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any other delegates in the building?

V. RIVERS: Delegates McNealy and Ralph Rivers are in the building and somewhere nearby. I think they are upstairs.

PRESIDENT EGAN: The Sergeant at Arms just went upstairs. Had we completed asking questions with relation to the Style and Drafting Committee? Or, Mr. Davis, you had brought up a question with relation to the deletion of the sub senate districts, or Mr. Cooper had brought that up.

DAVIS: Mr. President, as a result of the conference that has been held by a large portion of the Convention, if not all of it, on behalf of Style and Drafting, I would like to offer a change on page 2, Section 6, line 14. I would like to delete the word "section", and insert in place thereof the word "article". I ask unanimous consent for that change.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that that change be adopted. Is there objection? Hearing no objection, it is so ordered.

DAVIS: Following that then, Mr. President, I have another proposed amendment which may or may not be a question of substance, depending on what was meant by the enrolled copy. In Section 7, lines 23 and 24, page 2, I would like to move and ask unanimous

consent that we strike the words "Southeastern, Southcentral, Central and Northwestern". If we strike those words the section would read, "Section 7. The senate districts, described in Section 2 of Article XV, may be modified to reflect changes in election districts. A district, although modified, shall retain its total number of senators and its approximate perimeter." I offer that amendment and, incidentally, this is not now a Style and Drafting amendment. This is a result of the conference held in the back of the room.

PRESIDENT EGAN: Mr. Davis, it is the opinion of the Chair that that is a phraseology amendment for the reason that previously in line 9 of Section 5, the word "sub" had been there, and the --

DAVIS: I understand that is the Chair's interpretation?

PRESIDENT EGAN: The interpretation of Section 7, then, meant that the "district" meant the "subsenate districts". Mr. Fischer.

V. FISCHER: Mr. President, on a point of order. I don't want to disagree with the Chair, but I think if you look back to the original language from which Section 7 was derived, which is on page 2 of the enrolled copy, line 20 --

PRESIDENT EGAN: Page 2 of the enrolled copy, line 20?

V. FISCHER: Proposal 14, page 2 of the enrolled copy, Mr. President, it seems to me that that definitely was meant to apply to the four regional senate districts. While I do not object to the change that Mr. Davis proposed, I definitely feel it is a substantive change.

PRESIDENT EGAN: It was the opinion of the Chair that Mr. Cooper quoted from the enrolled copy where it said "subdistricts".

COOPER: Line 8, page 2.

DAVIS: I don't think there is any use of getting into a hassle as to whether it is substantive or whether it isn't, Mr. President.

PRESIDENT EGAN: Mr. Fischer, the Chair thought that it was -- that it mentioned "subdistrict" all down through that section.

V. FISCHER: No, this specifically referred to districts where senators at large were elected.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think it would not be a substantive change. It would be merely a change in phraseology because if you say "Southeastern, Southcentral, Central and Northwestern senate districts" you have all the senate districts in the state. If you say "the

senate district" described in Section 2, that includes all the senate district in the Southeastern, Southcentral -- so it is just the same thing; it means absolutely the same, identical thing.

DAVIS: In any case, whatever it may be, I ask for unanimous consent and if unanimous consent should be granted, it would make no difference whatsoever.

PRESIDENT EGAN: Mr. Davis asks unanimous consent.

V. RIVERS: I have to object for a question.

PRESIDENT EGAN: Objection is heard --

V. RIVERS: As I visualized our original apportionment, we had four senate districts, approximately the present judicial divisions from which we would have a given number of senators, some of them at large, some of them from a subdistrict that would revolve around within that district in relation to population. Now, as I see this change, that condition would no longer exist. Is that correct?

DAVIS: There isn't any question that if this change is adopted that each senate district set up on the schedule, including what you have called "subdistricts" --

V. RIVERS: What we have called "subdistricts".

DAVIS: All right, what in the enrolled copy possibly was called "subdistricts", each of those districts will retain its senator from here on out until the constitution is amended. There is no question about that in my mind.

V. RIVERS: They won't revolve around on a population basis within the district, is that right?

DAVIS: My belief is that if this amendment is adopted that each of the districts named will retain the same number of senators as listed in the schedule.

PRESIDENT EGAN: Is there objection to the unanimous consent request?

V. RIVERS: I will object.

MCCUTCHEON: Mr. President, I would like to have Mr. Gray interpret the amendment here.

PRESIDENT EGAN: Do you so move, Mr. Davis?

DAVIS: I do so move.

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COOPER: I second it.

PRESIDENT EGAN: Seconded by Mr. Cooper that the amendment be adopted.

V. FISCHER: Mr. President, is this a suspension of the rules, now?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess while the Chair confers with the Rules Committee.

RECESS

PRESIDENT EGAN: The Convention will come to order. After consultation with the Rules Committee, the Chair feels that, at this point in the proceedings, the proposed amendment will have to be viewed as a substantive change. Mr. Davis, you asked unanimous consent, did you not?

DAVIS: I asked unanimous consent and objection was heard, Mr. President. I so move.

STEWART: I second it.

PRESIDENT EGAN: Mr. Davis so moves, seconded by Mr. Stewart, that the rules be suspended. The question is, "Shall the rules be suspended in order that this amendment might be offered?" The Chief Clerk will call the roll.

V. RIVERS: Is that suspension for that specific amendment only?

PRESIDENT EGAN: That is correct, Mr. Rivers.

SUNDBORG: Mr. President, before we start, I just want to point out that this is a departure from our usual procedure here. We usually go through, and as soon as there are no more amendments as to phraseology, the report of Style and Drafting Committee is accepted; then, if the Convention wants to get into substantive amendments -- I wonder, are we through with all the phraseology amendments?

PRESIDENT EGAN: Mr. Davis.

DAVIS: For that purpose and with the consent of my second, I will at this time withdraw the motion I made and let the motion be made concerning the Style and Drafting report.

PRESIDENT EGAN: Are there any other phraseology amendments to be offered? Mr. Barr.

BARR: Mr. President, I have a very harmless little amendment.

PRESIDENT EGAN: Would you read it please, Mr. Barr.

BARR: On page 3, line 17, before the word "political" insert the word "partisan".

PRESIDENT EGAN: What is your feeling, Mr. Barr? Do you feel that is a phraseology or substantive amendment?

BARR: I asked Mr. Davis during the questioning period what the intent was there, and he told me the intention was to keep the deliberations of this board from being partisan, politically partisan. I don't want to argue on it until I make the motion.

PRESIDENT EGAN: Mr. Barr, are you offering that proposed amendment?

BARR: I move that this amendment be adopted.

PRESIDENT EGAN: Mr. Barr moves that the proposed amendment be adopted. Is there a second?

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Kilcher seconds it. Now, the Chair has to decide whether that is substantive -- Mr. Sundborg.

SUNDBORG: Mr. President, may I say that in the enrolled copy it said it should be a nonpartisan board, and I do feel that it is not at all substantive matter to offer the word "partisan".

PRESIDENT EGAN: And that is the feeling of the Chair also, Mr. Sundborg, that it is just spelling out what the words "political considerations" mean.

BARR: My reason for offering this is I just believe that we should be technically correct here. It is a small thing really, but the way it reads now, "Deliberation and decision of the board shall be free from political considerations". "Politics" means a science of government. "Political" means pertaining to government. I looked it up in the dictionary, by the way. It also means pertaining to the administration of government. A government board could hardly be free from political consideration, but the intent here is it shall be free from partisan political consideration, so I think we should spell that out. That is why I offer this amendment.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I ask for unanimous consent.

PRESIDENT EGAN: Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other phraseology amendments to be offered? Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the

report of Style and Drafting Committee as to Article VI, Legislative Apportionment, be accepted, and the amendments in the Committee draft be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee with relation to Article VI, the article on legislative apportionment, be accepted, and that the amendments contained therein be adopted. Is there objection?

TAYLOR: I will object for the time being. Does that mean that we are barred from offering amendments?

PRESIDENT EGAN: No, Mr. Taylor, if at this time you offered an amendment of substantive nature, it would take a two-thirds majority. You may offer substantive amendments later if you can get a suspension of the rules, the same as you could right now.

TAYLOR: Could I get a ruling of the Chair as to whether or not something is substantive, that is, a motion to strike a matter that has no meaning whatsoever?

PRESIDENT EGAN: Of course, if it is a part of the article, it probably would have some meaning or it would not be there, Mr. Taylor. (Laughter) The Convention will come to order.

TAYLOR: I might say I have an amendment to offer, and I don't want to lose my opportunity.

PRESIDENT EGAN: Objection is heard to the motion to accept. Do you wish to read to the Chair what the proposed amendment would be at this time? Perhaps it might expedite things.

TAYLOR: I have written the motion and it is on the Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment that Mr. Taylor would offer which he wants a decision on as to whether it is a substantive or phraseology amendment.

CHIEF CLERK: "Section 9, lines 16 and 17, strike the last sentence of Section 9."

PRESIDENT EGAN: Well, Mr. Taylor -- the Convention will come to order. The Chair would have to rule that that would be a substantive amendment, all right. It means something. The Convention will come to order. Do you still object to Mr. Sundborg's unanimous consent request?

TAYLOR: Yes, so I can offer this amendment.

SUNDBORG: Mr. President, have you so ruled that this is a substantive amendment that Mr. Taylor has offered?

PRESIDENT EGAN: That was the ruling of the Chair -- that it was a substantive amendment.

SUNDBORG: Therefore, it would take a suspension of the rules either before or after?

PRESIDENT EGAN: That is right, either now, Mr. Taylor, or later. Do you still object to the unanimous consent request, Mr. Taylor?

TAYLOR: I have no objection.

PRESIDENT EGAN: Hearing no objection, the motion of Mr. Sundborg is ordered adopted. Are there proposed amendments for Section 1? Mr. Davis.

DAVIS: Mr. President, at this time, I again make the motion that I made a while ago to strike the words "Southeastern, Southcentral, Central, and Northwestern" in lines 23 and 24, on page 2, in Section 7 of the Style and Drafting report.

PRESIDENT EGAN: Do you move that the rules be suspended, Mr. Davis?

DAVIS: I do move that the rules be suspended for the purpose of making that motion.

PRESIDENT EGAN: Mr. Davis moves that the rules be suspended for the purpose of making the motion. Is there a second to the motion?

STEWART: I second it.

PRESIDENT EGAN: Seconded by Mr. Stewart.

SUNDBORG: Mr. President, I ask unanimous consent that this be debatable at this time so we can find out what it is about before we have to vote on suspension of the rules.

HARRIS: I object.

PRESIDENT EGAN: Objection is heard.

SUNDBORG: I move that the rules be suspended and that --

PRESIDENT EGAN: The motion for a suspension of the rules is already on the floor, Mr. Sundborg, and I don't see how we could have two motions to suspend the rules before us at the one time. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 51 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann,

Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee. Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 0 -

Absent: 4 - Coghill, Collins, H. Fischer, Marston.)

CHIEF CLERK: 51 yeas and 4 absent.

PRESIDENT EGAN: So the rules have been suspended. Mr. Davis.

DAVIS: Mr. President, I trust I am in order this time. I now move that in Section 7, lines 23 and 24, the words "Southeastern, Southcentral, Central and Northwestern" be stricken.

PRESIDENT EGAN: Mr. Davis so moves. Is there a second to the motion?

TAYLOR: I second the motion and ask unanimous consent.

PRESIDENT EGAN: Mr. Taylor seconds the motion and asks unanimous consent for adoption of the amendment.

V. RIVERS: I object.

PRESIDENT EGAN: Objection is heard.

V. RIVERS: I object to ask a question. If you strike those words, Mr. Davis, what becomes of the at-large senators from the overall area and district, the overall senate districts, I am not talking about the senate subdistricts?

DAVIS: Not a thing, Mr. Rivers. The only change would be, then, as the section is written, the at-large senators, the at-large districts are the only ones that have assured senate representation. If we strike these words then the section would read, "The senate districts described in Section 2", which includes those areas I mentioned, "of Article XV, may be modified to reflect changes in election districts. A district, although modified, shall retain its total number of senators and its approximate perimeter." The Section 2 of Schedule 15 describes all the senate districts including the at-large districts that I mentioned. Now I don't think there is any need of my belaboring this point any more because I did it a while ago, I would just be wasting time.

PRESIDENT EGAN: Is there still objection to the unanimous consent request?

V. RIVERS: I want to have further discussion on it.

MCCUTCHEON: Yes, there is, Mr. President; I would like to have Mr. Gray offer us a few observations on this matter.

PRESIDENT EGAN: Mr. Gray, would you care to?

GRAY: After the "brainwashing" I have had in the last hour, I don't know whether I can get back on the road again. You must understand that this whole plan is a compromise. It has come out of being not only one little group meeting that we had this evening -- we have had dozens of them. And we finally came to this. Now in this -- this is a compromise -- my belief in this plan is that the senate lines are too strict and they should be more elastic. I say that because, from the beginning this is government of the people; it is not government of the mountain tops or the lakes or the flats; it is government of the people. If you have a section with mountain goats on it and no people, it is questionable what representation they are entitled to. I lay that in a broad field, so my belief all the way through has been representation of the people. We have an elastic, very elastic, house plan. The senate plan as set up works good for today. How is it going to look tomorrow? It works at present but as long as this is being nailed down strictly, you must project yourselves into the future. What we haven't experienced, and this was deliberated many, many times, was the old rotten boroughs -- excuse the word -- of England. That is what we are staring in the face right now unless there is a way to correct it. Of course, the way to correct it is amendment to the constitution. The plan is very acceptable at the present time, there is no question about that -- but it does not take care of population shifts. If every section grows in relationship, it will still work; but, if some of these senate districts collapse, you could have a position where they could not have one representative and still they could have two or three or four senators. It will never get to that. The theory of the thing is that it is possible under the strict senate rule. As long as it works as it does today and to keep the show on the road in the committee meeting, we agreed, at least I did, to the change as submitted because it works; it is fair today. Now, whether it is going to be fair in 1970 or 1980, I do not know.

V. RIVERS: What change do you speak of, as submitted?

ROSSWOG: May I ask Mr. Gray a question? How could a senate district that lost its population, or stayed the same, or fell below its quota, get two or three senators?

GRAY: In my relationship, a senate district was the senate region, and the subdistricts were subdistricts of the senate district. That was my contention, and it denoted it because we used the word "subdistrict". "Subdistrict" to me means a part of a senate district. That was my belief right up to this moment. As I say, this has been with the discussions, that all the way through that has

been my idea; and using the senate districts, and we can take it then as a senate district, and it is possible with a population shift that they could lose their population to the extent that they could not even retain a half-quotient and still they would be allowed four senators without one representative to the house. Nothing like that will ever happen, I assure you, but the pattern exists, so, in this change, to help the show get on the road, to get the thing going, why as long as the plan works today, I will go for the plan, but it works for today only.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: This plan, as we have it now, is counter to my understanding of the Committee's program which I understood was a compromise, and in that compromise, we viewed the four division as we have them now as being an over-all senate district, and in those senate districts were certain subdistricts that would float around within that district in relation as the population shifted. Now that division -- what we call a division now, what we would call a senate district in this would never change except for approximate changes in its perimeter. It would still have a given number of senators, but it would not have what Mr. Gray has rightly referred to as "rotten boroughs". They would either be at large or they would be from some of the election districts, and I for one must necessarily oppose forever freezing these lines within the senate districts. I even think the approximate perimeter clause, as I told the Chairman of the Committee, was too strict to allow the apportionment board to do proper adjusting within very moderate limits. But as I view our whole picture in Alaska, we are not sitting here to prepare a constitution for today, we are sitting here to prepare a constitution for 50 or 100 years from now as well. That is the history of all constitutions, that that is generally as long as they have to last, and we don't want to end up here within a short time with disproportionate representation. This plan is geared first on the election districts to the ratio of population, the proportional population within a district; then they have geared that same election district to a senate subdistrict in which they have then cast into the mold of the over-all division, which I did not particularly object to; but as I see this picture, some of the areas in the sub-senate districts are afraid they would lose population to where they might lose a house representative and also might eventually end up by losing a senate representative. Now, that is not my conception of the future and growth of Alaska. I think that we must necessarily rely upon our vast area and our vast resources to produce our wealth. I think the raw material will be the wealth of Alaska, and in order to get that raw material, we must have people out in the rural areas. I do not visualize Alaska as a great industrial area, because we do not have ready access to great markets, and it will be a long time before we have a great market within our own area, and so, consequently, we must depend upon raw resources for our wealth; and, if we do, it is reasonable to assume that the growth in the rural areas and the outlying areas will either keep abreast of or will exceed the growth

of your urban centers, because industrialization is what brings growth to urban centers, and I cannot see, in my mind, that we freeze these senate subdistricts as well as freezing the senate districts. That was never my concept on this floor or in the committee meetings that that was the intent of the substance matter of this original draft or the enrolled copy. If we adopt this amendment, then we are forever freezing the possibility of a lot of rotten boroughs occurring here in a short time. I agreed with the original committee concept, but I cannot agree with this concept of freezing the lines of the subdistricts as well as the senate districts. If we allow them to float around, I think that is fair and right, they should, possibly part of the senate, follow the population, and the rest of the area be represented by the two over-all senators; but I, for one, cannot see freezing these senate subdistricts down in relation to where there may be a large population over to one side of the same area and no population in that area that is being represented. I know this is a compromise, but it certainly doesn't seem to me that this last measure is a compromise.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I can see Mr. Rivers' viewpoint of wanting these to float around. If I were in Mr. Rivers' position, I would probably want them to float around also.

V. RIVERS: Point of order, Mr. President.

HARRIS: I haven't got started yet. Mr. Rivers, give me a chance. I can easily visualize where 20 years from now, it is very possible, I am not saying it will happen, it is very possible that the senators would be coming from the cities as well as your house representatives. Well, the idea of the whole compromise from the beginning was that one would be based on a geographic standpoint and the other one on a population standpoint, and the rural areas went along with it with that in mind, that they would be guaranteed representation. We went home for the Christmas recess. I know a lot of the other people from the rural areas did the same as I did and said, "We may lose our house representatives, it is very possible, but we will never lose our senator." That was in our minds and we thought that was what the article said. We have found out that wasn't exactly what it said, but we did have other problems confronting us and that is the reason that this amendment tonight was asked for. It is a compromise. It is a guarantee to the rural areas that they will always have representation, and that was the compromise that was made at the beginning with the Apportionment Committee.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, to clear up any doubts that the senate was to be based strictly on area and the house strictly on population, to clear up any doubts that any member may have had as to

whether or not the senate was to be based strictly on area and the house strictly on population (and apparently some delegates felt that was true) let me read from the report of the Committee: "In the composition of the senate, stress was placed upon area with minor stress upon socio-economic groups." Now, I merely say that so there will be no misapprehension in this group that any one was misled by anyone else. It did develop, though, that there was a conflict in the Committee. Some committee members felt one way; some, the other; which, of course, they are entitled to. I frankly agree with Mr. Rivers' contention. A rigid senate plan for Alaska is not advisable, it is not advisable; and with that in mind the minor stress was placed on people, socio-economic areas, people. You have to have people to have socio-areas. That was the reason for it. But as I see, and as we all see, a little trouble developed. There was some misunderstanding over it; and, although I agree with Mr. Rivers we have a good constitution, it can be amended from time to time; it is going to have to be reconsidered from time to time; and I therefore have enough faith in Alaska, in Alaska and all of its segments, to believe that, even if this amendment were not passed, that the problem that Mr. Rivers worries about will never take place. I think we are going to go forward together. For that reason, I voted in the Committee in favor of this amendment that is now before us. The Committee vote was 5 to 1 on it, in case any of you want to know, and I was one of those who voted in favor of this amendment to make it crystal clear, and it is crystal clear. The senate of Alaska, and the constitution is now based strictly, 100 per cent upon area, but the great objective of this group has been secured in that the minor areas are assured of representation. That was what we set out to accomplish, that the minor areas in Alaska, the small hinterland, would be assured of representation, and it wouldn't all go to the cities. We never thought it would all go to the cities. I think that they are all going to -- their population will grow simultaneously, but we have accomplished that objective. This is actually a minor thing, and I therefore speak for two purposes: first, to get the record clear so that no one will have in their minds that there were any misrepresentations made, and secondly, to indicate I feel this amendment is a good amendment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, for the first time, I think for quite some while, I am in agreement with Mr. Hellenthal. I certainly think that this amendment accomplishes what I believe to be the most serious defect in this whole article. I think one of the essential ingredients in our form of government is, particularly on the apportionment features is stability in the senate district boundaries, and, with the article as it was previously drawn, there certainly was a very grave question as to whether or not that could be accomplished. I think with this amendment that purpose can be accomplished and we have strengthened our constitution and our form of government in the State of Alaska just that much more. I am heartily in favor of the amendment.

PRESIDENT EGAN: Mr. Hinckel has been attempting to get the floor.

HINCKEL: I have very little to add. The previous speakers have said practically everything I wanted to say, except I would like to call attention to the fact that the language we have just deleted was put into the article on January 12. It was after we came back from our holiday and the statements that were made when we went home on our holiday that we explained the arrangement of the senatorial districts, and assured our people that they were going to have senatorial representation no matter what happened. Those statements are correct, because we did do that -- I'm sure most of us did -- because that was the way it was explained to us. It was the way it was written in the article, the explanation that went along with the article. Another thing, I had another point that I wanted to make -- I can't think what it was.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. Chairman, I was a member and still am a member of the Apportionment Committee, and during our various committee meetings, right from the start, I found myself in the minority, and I think every member of the Committee will agree with me, and we battled along, and in due time we came to a compromise, and that compromise is exactly what Mr. Davis's amendment offers to you tonight; and proof further of that is, which I don't want to elaborate on, is that, less than an hour ago, we had a vote of the Committee in favor of Mr. Davis's amendment. Now that is the compromise, and that is what we came back to this floor with.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, if these allegations are all true, I would like to have somebody point out to me the action that took place in putting these several words, "Southcentral", etc., into this article. How did they get in there if you all allege that Mr. Davis's amendment accomplishes the matter which was finally compromised in the Committee. How did we get these words in here? I would like to know.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I believe I can explain that. In the bill that was sent to Engrossment and Enrollment, you had the Roman numerals I and IV, II, and III, or some such thing -- I don't remember the combination -- but those numbers had been changed I believe on a motion of Mr. Boswell, and, when it was engrossed, I said that those numbers should be changed because I and III, II, and IV was not going to mean anything, so that is where those names come in. After Mr. Boswell changed those district numbers to names, the engrossed copies were then changed.

HELLENTHAL: The Committee approved that change and those names. There is no question about that.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I believe, Mr. President, this amendment of Mr. Davis's clarifies this matter and I think makes it a better bill. I was alarmed when Mr. Victor Rivers was talking about these senatorial districts that were going to be floating around. I thought it would be like going hunting, one of them might fall over one, but I got to thinking it over. They are not going to float around so fast as you might think. They are going to stay pretty well bedded where they are for at least 10 years. Ten years is the period in which our constitutional convention is called. If there is anything wrong with this apportionment or this legislative representation, it can be taken care of. I think those senatorial districts will lay dormant until we can do something about it with the constitutional convention to change this. Now, as I said before, I have been a number of times in the legislature, and very near every time we are down there, there has been an effort made by the people in the sparsely populated parts of the Territory to get some representation. Usually they come there -- there might be one or two from Ketchikan, the rest from Juneau representing the First Division. Maybe Mr. Peratrovich might be there, or Frank Johnson from Kake. Then the Third Division was mostly from Anchorage; Mr. President was from Valdes -- that would be about all. The same would hold true with the Fourth Division -- all from Fairbanks. This is a far departure from what we have had in the past. It seems to me that the more populous areas have gone overboard to give the sparsely populated areas ample representation in the legislature; and I believe that I am going along with this on the amendment and going along on the whole article with the exception of a little amendment I am going to put in. (Laughter) I hope we will adopt Mr. Davis's amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, we are writing here a constitution which is patterned after the National Constitution as far as possible, and we have constructed a framework of state government which is patterned after other state governments in the Union, and we have apportioned our representatives in the legislature the same way even using the same formula for apportionment, and yet the Committee wanted to make a compromise on apportioning the senate. Mr. Hellenthal was afraid that we didn't understand that, that we did not understand that they were only partly apportioned according to area and partly according to population. I understood it very thoroughly, and I understand it is very bad. It is un-American. I don't see why we have to change the system of government that has worked so well in all the other states, and also in our national government. Now this amendment corrects that. It is according to area. That is why it is a good amendment. I am even going to vote for the article now.

DAVIS: Mr. President, I will close.

PRESIDENT EGAN: Mr. Davis is closing the argument -- if anyone else wishes to be heard -- Mr. Davis.

DAVIS: Mr. President, I find myself torn two ways on this argument. In the first place, as a member of Style and Drafting, I wrote up the article on the basis of the enrolled bill as it was, and I came out with one result. On the other hand, as a member of the Convention, I know very well that, at the time we were arguing this thing, it was definitely stated on behalf of the Committee that under the plan, no matter what might happen to the house representation, that people would not lose their senate representation no matter what might happen to the population. I would just like to throw out one thought here. When we are voting for the senate, more so than when we are voting for the house, we are not voting for a senator to represent our own district; we are voting for a senator who is going to do the best possible job for the State of Alaska; and I hope that we won't lose sight of that here. This Convention has been completely free of divisions according to traditional division lines, and I venture that it is the first gathering that was ever held in Alaska that was free of those division. And it seems to me that, if we can assure each area a representation, a direct representation in the senate, that we have accomplished what we set out to do, and I believe that a person from one of these smaller districts will represent Alaska just as well as if he were from one of the larger districts in population; and for that reason I am willing to go along with this amendment; that coupled with the fact that there isn't any doubt in my mind at all that that's what at least a large number of people in this Convention thought was being accomplished with the apportionment article as it was written.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 2, Section 7, lines 23 and 24, strike the words 'Southeastern, Southcentral, Central, and Northwestern'."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Davis be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify --

HARRIS: Roll call, Mr. President.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 45 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan,

Reader, Riley, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 6 - McCutcheon, Nordale, Peratrovich, Poulsen, R. Rivers, V. Rivers.

Absent: 4 - Coghill, Collins, H. Fischer, Marston.)

CHIEF CLERK: 45 yeas, 6 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it, and the proposed amendment is ordered adopted. Are there other amendments up to and including Section 7 of Article No. VI? Mr. White.

WHITE: Mr. President, a point of inquiry. Did we adopt the amendment changing the word "section" to "article" on line 14?

PRESIDENT EGAN: Yes, it was adopted by unanimous consent, as the Chair recalls it. Are there other amendments up to and including Section 7? Are there amendments to be proposed for Section 8? For Section 9?

CHIEF CLERK: Yes, by Mr. Taylor.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment for Section 9.

CHIEF CLERK: "Section 9, page 3, lines 16 and 17, strike the last sentence of the section.

PRESIDENT EGAN: Mr. Taylor, did you move a suspension of the rules?

TAYLOR: I move the suspension of the rules and adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor moves for the suspension of the rules in order that the proposed amendment might be offered. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the rules be suspended?"

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended in order that Mr. Taylor might offer this amendment.

ROBERTSON: I object, Mr. President.

PRESIDENT EGAN: Objection is heard. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 31 - Armstrong, Awes, Buckalew, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, McCutcheon, McLaughlin, McNees, Metcalf, Nordale, Riley, V. Rivers, Sundborg, Sweeney, Taylor, VanderLeest, White, Wien, Mr. President.

Nays: 19 - Barr, Boswell, Cooper, Cross, Hellenthal, Hinckel, Lee, Londborg, Nerland, Nolan, Peratrovich, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Smith, Stewart, Walsh.

Absent: 5 - Coghill, Collins, H. Fischer, McNealy, Marston.)

CHIEF CLERK: 31 yeas, 19 nays, and 5 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Mr. Robertson.

ROBERTSON: I wonder where they are going to get the members of the board from.

PRESIDENT EGAN: Are there other amendments to be offered for Section 9? For Section 10? Mr. Metcalf.

METCALF: Could I ask Mr. Davis a question?

PRESIDENT EGAN: If there is no objection, Mr. Metcalf.

METCALF: In striking those words, "Southeastern, Southcentral", etc., in Section 7, I notice the same words over in Section 8. Will it be necessary to strike them there?

DAVIS: No, I am sure it won't. Those remain, Mr. Metcalf, as senate districts. The only change that has been made is in the section which we struck. They were the only districts which were entitled to assured senate representation. That is the only effect of that amendment.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may.

AWES: In Section 8, these districts are mentioned, "Southeastern, Southcentral", etc., where are they defined?

HELLENTHAL: They are defined in the Schedule, Section 2 of the Schedule, where it says, "A. Southeastern", composed of Election Districts 1, 2, 3, 4, 5, and 6; then it goes on to "E. South-

central", composed of Election Districts 7, 8, 9, 10, 11, 12, 13, and 14, and the same for the senate districts, and the last one which is the "Northwestern 21, 22, 23 and 24".

AWES: Oh, I see. Thank you.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Point of inquiry. Was that amendment carried putting the word "partisan" before "political"?

PRESIDENT EGAN: Yes, that was adopted, Mr. Stewart.

STEWART: The same expression appears in Section 9.

PRESIDENT EGAN: That is where it was adopted, Mr. Stewart, line 17, Section 9. Are there proposed amendments for Section 10? For Section 11? For Section 12? Mr. Robertson.

ROBERTSON: Mr. President, I think I understand the various explanation they have given here of what they mean by Article XIV, actually, as far as I can understand Section 2 of Committee Proposal No. 14 -- I admit that was very confusing to me for a while -- I would like to ask, have these A, B, C, D, etc. been carefully checked out by someone? They could lead to a terrible injustice if they have not been properly checked out to see what the senatorial representation is coming out.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I might say that the breakdown as to who gets a two-year term and what district gets a four-year term was prepared by the Apportionment Committee. These figures, I think, have been checked time and again by the Apportionment Committee and Style and Drafting. We have checked, double checked, and triple checked them.

HELLENTHAL: We hope the members will all do it, too, because it would be catastrophic were there to be an error.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Maybe it should be mentioned for the record that it was determined by the toss of a coin which districts would get the two-year and which would get the four-year terms to start with.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, as a matter of information, I would like to have the Chief Clerk read back the motion that Mr. Taylor made a few moments ago with respect to lines 16 and 17, Section 8, a moment ago.

PRESIDENT EGAN: Was it not Section 9?

MCCUTCHEON: Section 9, I beg your pardon.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed motion.

CHIEF CLERK: For the suspension of the rules?

MCCUTCHEON: Read the motion Mr. Taylor made.

PRESIDENT EGAN: Mr. Taylor never had an opportunity to move for the adoption of his amendment, it was on the suspension of the rules.

MCCUTCHEON: Mr. Taylor made a motion and I would like to hear it read.

CHIEF CLERK: Well, I don't take them literally. I just put down that he moved for the suspension of the rules.

TAYLOR: I believe my motion was for the suspension of the rules and adoption of the amendment.

UNIDENTIFIED DELEGATE: He made a compound motion, Mr. President, and you didn't rule it out of order.

CHIEF CLERK: When he called the question --

PRESIDENT EGAN: The Chair never heard Mr. Taylor use the words "and adoption of the amendment".

MCCUTCHEON: Mr. President, could the body be at ease for a moment or two?

PRESIDENT EGAN: The body will be at ease for a moment. The Convention will come to order. The Chair would like to state that in relation to Mr. McCutcheon's point of order, that the stenotypist's record shows that Mr. Taylor moved a suspension of the rules and also asked for the adoption of the amendment. The Chair did not evidently hear Mr. Taylor make the compound motion and stated the question as being, "Shall the rules be suspended?" Mr. McCutcheon, do you rise to your point of order?

MCCUTCHEON: Mr. President, inasmuch as the motion was incorrectly put and since it was a compound motion, I think that we should have opportunity to vote on the suspension of the rules individually as against the adoption of the amendment. I am convinced that there are a number of people here who would move to suspend the rules. I'm not necessarily concerned that they would move to adopt the amendment, but, in all fairness, I think we should have that try.

PRESIDENT EGAN: Mr. McCutcheon's point of order, so long as it has been raised, is a valid point of order. Mr. Hellenthal.

HELLENTHAL: How long do we have to raise these points of order with regard to compound motions?

PRESIDENT EGAN: That is a question too, Mr. Hellenthal, whether you can go back after business has been done and raise the point of order. Of course, it went back to the record. The record showed at that time the Chair was in error. Mr. Taylor.

TAYLOR: I will renew my motion for suspension of the rules.

PRESIDENT EGAN: Just a suspension of the rules, Mr. Taylor?

TAYLOR: That is all.

PRESIDENT EGAN: Mr. Taylor moves that the rules be suspended in order that he might offer his proposed amendment to Section 9, which would be deletion of the last sentence in Section 9. Is there a second to the motion?

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon seconds the motion.

SUNDBORG: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended in order that Mr. Taylor might offer his proposed amendment.

EMBERG: I object.

PRESIDENT EGAN: Objection is heard. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 37 - Armstrong, Awes, Boswell, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, Knight, McCutcheon, McLaughlin, McNees, Metcalf, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, White, Wien, Mr. President.

Nays: 13 - Barr, Buckalew, Cross, Hinckel, King, Laws, Lee, Londborg, Nerland, Poulsen, Reader, Stewart, Walsh.

Absent: 5 - Coghill, Collins, H. Fischer, McNealy, Marston.)

HURLEY: I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Hurley would like to change his vote from "no" to "yes".

HARRIS: Mr. President, I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Harris changes his vote from "no" to "yes".

LONDBORG: I will change my vote from "yes" to "no".

PRESIDENT EGAN: Mr. Londborg changes his vote from "yes" to "no".

COOPER: I will change my vote from "no" to "yes".

CHIEF CLERK: 37 yeas, 13 nays, and 5 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Mr. Taylor.

TAYLOR: Now I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Taylor moves the adoption of the amendment. Mr. Doogan, are you seconding the motion?

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection to the unanimous consent request?

POULSEN: I object.

KNIGHT: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Knight. Mr. Hellenthal.

HELLENTHAL: I would like to ask Mr. Taylor a question. I was swayed by Mr. Taylor's persuasive argument. I had already made up my mind that the word "nonpartisan" should be included in this act. We had a debate the other night and Mr. Taylor on a very close question gave me great consolation because he got up and made a little speech and said that every delegate here, when they came to this group, took an oath that they would be nonpartisan in the conduct of their deliberations here, and I think some of you will remember that, and doubtless Mr. Taylor remembers it. Mr. Taylor, where did you find that in the act?

PRESIDENT EGAN: The Convention will come to order. Is there discussion of this proposed motion? Mr. Sundborg.

SUNDBORG: Mr. President, I hope at this point you are not going to turn down your good old Style and Drafting Committee. This sentence is one of the proudest productions of our Committee. We had help in drafting it, not only of all of the members of our own Committee, but of Mr. Hellenthal's Committee, and further help on the floor tonight from Mr. Barr who wrote in the word "partisan"; and I think there may be something worse than this in the

constitution up to date, but I can't tell you where it is.

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: Can I be heard again?

PRESIDENT EGAN: Mrs. Hermann had been trying to get the floor. Mr. Hellenthal. Mrs. Hermann.

HERMANN: I don't want to dispute Mr. Sundborg's statement that every member of Style and Drafting had something to do with that. I did not and I would certainly blush all over the country if I thought that anything that I had anything to do with that was that bad as a sentence was going into the constitution of the State of Alaska.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Since the Style and Drafting board has been unanimously covered and charged and blamed for this amendment. Mr. President, I might point out that, at the time it was adopted, the only reason I consented to it was that I presumed under the "55-Idiot Rule" the Convention would promptly knock it out.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, to get on a little more serious vein, I will agree that in Section 8 "Appointments shall be made without regard to political affiliation" -- I think that is a very fair and honest way to approach a design of a board that is as important as this board will be to the future of Alaska. Such a board will probably resolve some of the very questions that we have spent some time, and there have been some heated discussions, privately at least, in attempting to resolve, and one that this body has finally resolved by eliminating four or five words from our constitution with respect to districts. At some future date, this board will have these very things to consider again and properly so, and properly so their decision should not be predicated upon any necessary partisan politics. The thing that I find it difficult to believe, though, is that one sentence in our constitution, if those people decided that they were going to have partisan politics enter their consideration, that this one sentence here would offer a Boy Scout's oath of honor to prevent their mind from straying to partisan consideration, and that is the only argument I have to offer, that it is difficult to police the mind, and, if the intention of politics enters into a person's mind and they are so swayed, you certainly can't rule it out with a simple sentence of this nature. I think it is a frivolous inclusion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to close.

PRESIDENT EGAN: Are you closing, Mr. Taylor?

TAYLOR: I'll close.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? The Convention will come to order. Mr. Riley.

RILEY: Mr. President, just to intrude for a moment, Mr. Taylor, I would like to call attention to the fact that for several weeks. for a couple of months that I know of, various members of the Convention have been seeking to persuade the sportsmen that it was rather futile to work into the Convention any guarantee of nonpartisanship or the absence of political activity, and for that reason, I am especially pleased, myself, to see this sentence attract the notice it has this evening.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, this is going to hurt me deeply. I finally had an amendment adopted here tonight. (Laughter) I am even going to vote for Mr. Taylor's amendment which will eliminate mine. I, too, agree that it is absolutely impossible to police anyone's mind, tell them how they are going to think. You might control their actions but not their mind, and I think that this is entirely unnecessary and just a little bit ridiculous in the constitution.

TAYLOR: I will waive closing.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. The Convention will come to order. Are there other amendments to be proposed for Section 9? Section 10? Section 11? Are there amendments for Section 12? For Section 13? For Section 14? If not, are there amendments for Section 1? Are there other amendments to be offered to Article No. VI, the legislative apportionment article? Mr. Kilcher.

KILCHER: Could we have a one-minute recess?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 1 or 2? Mr. McCutcheon.

MCCUTCHEON: Mr. President, we have been through it on one occasion for purpose of amendment.

PRESIDENT EGAN: We are going through to see if there are any other

amendments. Our procedure has been to go through everything twice, Mr. McCutcheon, to give them the opportunity. Are there amendments to Section 3 or 4? To 5 or 6? Mr. Kilcher.

KILCHER: Mr. President, there is an amendment on the Clerk's desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment that would be offered by Mr. Kilcher.

CHIEF CLERK: "Section 5, line 11, add the following: 'Districts that have in this manner lost their representation shall regain it when in the next census they meet the requirements under which they were originally established.'"

ROBERTSON: Please reread it.

PRESIDENT EGAN: The Chief Clerk will please read the amendment again.

(The Chief Clerk reread the amendment.)

COOPER: Mr. President, point of order.

PRESIDENT EGAN: Your point of order.

COOPER: That means that 100 years from this date that an election district would be re-established on 1,362 people, and I believe that is entirely out of order.

PRESIDENT EGAN: Mr. Cooper, there is no point of order there. Mr. Kilcher has to move for a suspension of the rules first in order to present the amendment. Mr. Kilcher.

KILCHER: Mr. President, I feel that in view of Mr. Cooper's broaching the subject --

HELLENTHAL: Mr. President, point of order.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: We have adhered quite strictly to the rules on these matters and I submit that any remarks whatsoever other than " I move for"--

PRESIDENT EGAN: The only statement that can be entertained is a motion to suspend the rules. Mr. Kilcher.

KILCHER: I would like to speak on a point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: My point of order is that Mr. Cooper was out of order in discussing an amendment when it was read for introduction, and I

maintain that because of the fact that Mr. Cooper spoke out of order that it would be fair if I were given permission -- to get unanimous consent -- to answer one thing Mr. Cooper mentioned to offset its possible influence on the unanimous consent.

PRESIDENT EGAN: Mr. Kilcher asks unanimous consent that he be allowed to answer Mr. Cooper's statement. Is there objection? Mr. McCutcheon.

MCCUTCHEON: I raise objection on this point, that the Chair ruled Mr. Cooper out of order. I have no objection to Mr. Kilcher making any statement that concerns this, but I do object to his predicating his remarks on the basis that Mr. Cooper was out of order and that the Chair did not rule him out of order.

PRESIDENT EGAN: That is correct. Is there objection to Mr. Kilcher making his statement?

MCCUTCHEON: No, I withdraw my objection.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Cooper, the Chief Clerk will read the amendment again and you will see that there is no number of inhabitants mentioned and the manner in which they lose it is mentioned, and if they meet the specifications -- the specification is the major fraction, Mr. Cooper, and you are conversant with that. Do you agree? If they meet the specifications of the major fraction, that would reestablish them. That major fraction in 100 years may be a half million people, not 1,300.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I rise to a point of order, then, on this point, that Section 5 of line 11 says that "the new district shall be determined as provided in Section 4 of this article", which refers to exactly what Mr. Kilcher is trying to say.

KILCHER: Section 4 talks about a major fraction.

PRESIDENT EGAN: Mr. Kilcher, do you move a suspension of the rules? Mr. Riley.

RILEY: I think there is a valid point of order here. The Clerk was asked to read a motion on which Mr. Kilcher's suspension of the rules was to be sought. If there is any occasion for arguing it or discussing it, that will come after the suspension has been granted.

PRESIDENT EGAN: That is correct. The Convention will be at recess while the Rules Committee decides the question.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Kilcher, do you ask for the suspension of the rules?

KILCHER: Mr. President, I so move.

PRESIDENT EGAN: Mr. Kilcher moves a suspension of the rules. Is there a second to the motion?

HERMANN: I second the motion.

PRESIDENT EGAN: Mrs. Hermann seconds the motion. The question is. "Shall the rules be suspended in order that Mr. Kilcher might introduce this amendment?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 31 - Awes, Barr, Buckalew, Cooper, Davis, Emberg, Harris, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nerland, Peratrovich, Poulsen, Riley, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Walsh, Wien, Mr. President.

Nays: 17 - Armstrong, Boswell, Cross, Doogan, V. Fischer, Gray, Hellenthal, King, Knight, McNealy, Nolan, Nordale, Reader, R. Rivers, Sweeney, Taylor, White.

Absent: 7 - Coghill, Collins, H. Fischer, Laws, Marston, Stewart, VanderLeest.)

CHIEF CLERK: 31 yeas, 17 nays, and 7 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Are there other amendments for Article No. VI, the article on legislative apportionment? The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I might say first that the several amendments which have been made here on the floor to this article will not require it being recommitted to Style and Drafting. They have all been cleared with Style and Drafting and are acceptable to us. Then, I would like to say I have not desired to arrogate to myself the honor here of moving these various articles along in position for their final adoption, and I think it would be altogether fitting if Mr. Hellenthal, as the Chairman of the Committee on Apportionment, would make the appropriate motion to advance this article, if he desires to do so.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I probably will fall on my face doing that because I

lack that political finesse. However, I move that the article on apportionment be considered as a part of the constitution. Is that the proper motion?

PRESIDENT EGAN: That the rules be suspended, and the article be advanced to third reading and read the third time by title only and placed on final passage.

HELLENTHAL: I so move. (Laughter)

PRESIDENT EGAN: Mr. Hellenthal so moves and asks unanimous consent that the rules be suspended as to Article No. VI, article on legislative apportionment, that the article be advanced to third reading, read the third time by title only, and placed in final passage. Is there objection? Hearing no objection, the rules have been suspended, and Article No. VI is now before us in third reading. The Chief Clerk will read the title of the article.

CHIEF CLERK: "Article VI, Legislative Apportionment".

PRESIDENT EGAN: Is there any debate? Mr. Victor Rivers.

V. RIVERS: I would like to say a few words on this article. Mr.

President. It seems to me that we have arrived at a point in this Convention when we must take a little bit of stock of our position. We have adopted now an article on apportionment which places approximately 60 per cent of the representation in the rural areas in the senate, representing 25 per cent of the population. We have placed 65 per cent of the representation in the rural areas representing 25 per cent of the population. It seems to me there should be and there was an intent in this body that we would try and gear our population transition in the house and half-way in the senate. We have not now done that. It seems to me this is supposed to be a democratic process. As I see this article now, as we go further and further along, it will be the darkest blot on this constitution that we have. It will be the only bad blot that I see to date and to my way of thinking, the article is a very undemocratic one, and I hope that it will work a lot better than it appears to me now. I think that actually the intent of this committee and this body was clearly stated to everyone before the hearings and after, and tonight we have reversed the substance matter to where that article no longer exists.

PRESIDENT EGAN: Is there further debate? Mr. Kilcher.

KILCHER: I am glad to have this opportunity to say some of the arguments that I would have said in my amendment that did not go through a minute ago. They apply, however, to the whole article, and in part will answer the speaker who has spoken ahead of me. In the discussion of this article tonight and weeks ago, when it was in first reading, the word "rotten borough" had been used frequently. It has been used without much thought to what the original rotten borough is. The English rotten borough is a feudal entity that is

not subject to any constitutional amendment. England has no constitution. It is unfair to compare any part of America with England. The English rotten borough dates back into the Middle Ages. Ours only dates back to today. We have a constitution, I hope, and we will probably have other constitutional conventions; if not conventions, we'll have amendments to it. If any situation ever arises that becomes lopsided, grossly unfair, I trust that the people as a whole will recognize that and recognize it in time and they are given the means to change it. I disagree fully with Mr. Rivers that this article is undemocratic. This article is quite democratic, much more democratic than a lot of other articles in other constitutions we have studied. In this process, I think that as far as the urban populations are concerned, the population idea is well taken care of in this article right now in 1956 -- much more so in 1980. Both houses in my opinion are largely based on population. The two senators that are chosen at large in the four senatorial districts, they are based on population; they are only based on area in as far as they come from four areas, but within these four large areas they are based on population. Before long the house districts will all be based on population. They will be extinguished, one after the other, as the small ones will be overshadowed by the development of urbanization. The larger the towns, the more will they get representatives in the house, which is fair enough; but the concession made in the senate to population by the fact that two senators are chosen at large, that concession made to population in the house, that always has been based on area -- that concession is much greater than the equivalent concession in the house of representatives to area. That is what my amendment a while ago was going to come in. The concession made in the house of representatives in this article, and mind you, I like the article as it is now -- I would like it better if it had been the other way -- the concession that is made to area in the house of representatives is very small, much smaller than the one made to population in the senate. So I can't see how urban thinking could disagree with this article.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I guess Alaska has grown up, because we are starting out on the conflict between the urbanites on the one hand and the ruralites on the other, and I hope that, as we become a state and go forward, that we will always use the good sound judgment that this body has used in resolving this conflict. I move the adoption of the article, that it be made a part of Alaska's constitution.

KILCHER: I second the motion.

PRESIDENT EGAN: Is there further debate? Mr. Smith.

SMITH: Mr. President, I would just like to say that in reference to the term "rotten borough", I have also had the feeling that rotten boroughs are made by people, not by apportionment plans,

not by areas, or anything else. Any plan is what the people make it, and the effect of it is determined by what the people do with it. I have full faith that the people of Alaska will use this plan in the manner which it was developed here and that it will work.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If there is no further debate, the question is, "Shall Article VI, the legislative apportionment article, be adopted as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 45 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nordale, Peratrovich, Reader, Riley, R. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 5 - McCutcheon, Nolan, Poulsen, V. Rivers, Robertson.

Absent: 5 - Coghill, Collins, H. Fischer, Marston, VanderLeest.)

CHIEF CLERK: 45 yeas, 5 nays, and 5 absent.

PRESIDENT EGAN: So the "yeas" have it, and Article VI, the article on legislative apportionment, has become a part of Alaska's state constitution. Mr. Hilscher.

HILSCHER: Mr. President, I request unanimous consent for permission to revert to the business of introduction of resolutions. I have a resolution.

PRESIDENT EGAN: If there is no objection, Mr. Hilscher, the Convention will revert to the order of business of introduction of resolutions. The Chief Clerk may read the proposed resolution.

(The Chief Clerk read a resolution introduced by delegates Doogan, Emberg, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, McCutcheon, McNealy, McNees, Metcalf, Peratrovich, Riley, Stewart, Smith, Sundborg, Taylor, VanderLeest, White, and Wien designating Mr. George H. Lehleitner of New Orleans, Louisiana an honorary member of the Convention.)

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I ask unanimous consent for the passage and acceptance of this resolution.

PRESIDENT EGAN: Mr. Hilscher asks unanimous consent for the passage and acceptance of the resolution. Mr. Fischer.

V. FISCHER: I ask unanimous consent also for the inclusion of all the delegates as the cosponsors of this resolution.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that all the delegates be included as cosponsors of the resolution. Is there objection?

HILSCHER: I so move.

PRESIDENT EGAN: Hearing no objection, it is so ordered. Mr. Hilscher asks unanimous consent that this expression contained in this resolution be adopted. Mr. Poulsen.

POULSEN: Do you have any objection to change the word "Tennessee" to "Alaska" plan?

PRESIDENT EGAN: Hearing no objection, it is so ordered and the resolution will become a part of the journal. Mr. Robertson.

ROBERTSON: I rise to a point of inquiry. Here in this Article VI it refers to Sections 1 and 2 of Article XV, which I understand have not yet been formally adopted by the Convention. What is the status of those two?

PRESIDENT EGAN: They have not been as yet adopted as a part of the constitution, that is correct, Mr. Robertson. If anything would happen that the Article XV in going through the process of final passage would be materially changed, rescinding action could be taken with relation to Article VI. That would be the way to accomplish any necessary change that might possibly show up.

ROBERTSON: I was just wondering, Mr. President, whether or not the adoption of this by references to Article XV necessarily carried the two sections of Article XV?

PRESIDENT EGAN: It does not carry it, no, Mr. Robertson. Is it the wish of the body that we proceed at this time with another order of business? Mr. Riley.

RILEY: Mr. President, I move and ask unanimous consent that we adjourn until 2:00 o'clock tomorrow afternoon.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the Convention adjourn until 2:00 o'clock tomorrow afternoon. Mr. McNees.

MCNEES: Prior to adjournment, Mr. President, I would like to ask

unanimous consent that the reconsideration of my vote be carried over until tomorrow, inasmuch as the article has not been brought up.

PRESIDENT EGAN: Mr. McNees, it is the understanding of the Chair that that was agreed unanimously last night, that your reconsideration could be held over until any such time that we would have 17/a before us.

MCNEES: Thank you.

PRESIDENT EGAN: Are there committee announcements to be made at this time? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet immediately upon adjournment at the rear of the gallery.

PRESIDENT EGAN: The Committee on Style and Drafting will meet immediately upon adjournment at the rear of the gallery. Are there other committee announcements? If there are no other committee announcements and if there is no objection, the Convention stands adjourned until 2:00 p.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 29, 1956

SIXTY-EIGHTH DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Armstrong, could we call upon you to give the daily invocation?

REVEREND ARMSTRONG: Gracious Father, at the beginning of this new week, we thank Thee that we can come together on this day, Thy day, to discuss the business that is important to our future lives. We pray that the decisions made today might spell a forward advance for statehood, for better living, towards a higher way of life for every one of us. We trust in Thee. We thank Thee for the trust Thou hast placed in us. In Christ's name. Amen.

PRESIDENT EGAN: Would the Chief Clerk please call the roll.

(The Chief Clerk then called the roll.)

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present and the Convention will proceed with its regular order of business. Are there any communications or petitions from outside the Convention? Are there reports of standing committees or of select committees? Mr. McNealy.

MCNEALY: Under reports of standing committees, I would like at this time on behalf of the Committee on Ordinances to introduce Proposal No. 17/c, the Tennessee Plan.

PRESIDENT EGAN: The Chief Clerk will please read Committee Proposal No. 17/c for the first time.

CHIEF CLERK: "Committee Proposal No. 17/c, Schedule."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Mr. Riley.

RILEY: Mr. President, in view of the fact that the calendar was completed yesterday, the calendar did not appear on the desks this morning. The Rules Committee anticipated that other measures would be introduced today and, accordingly, I ask unanimous consent that the rules be suspended and that Proposal No. 17/c be advanced to second reading for consideration and first place today on the calendar.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the rules be suspended, that Committee Proposal No. 17/c be placed on the calendar in second reading for consideration at this time. Is

there objection? If there is no objection, it is so ordered and 17/c will be our first order of business in second reading today. Are there reports of select committees? Are there reports or resolutions to be placed before the body? Is there any other unfinished business? If not, the Chief Clerk may please read Committee Proposal No. 17/c for the second time.

(The Chief Clerk then read Committee Proposal 17/c for the second time.)

PRESIDENT EGAN: Are there amendments? Mr. Stewart.

STEWART: I would like to call attention to what I think is a typographical error at this time.

PRESIDENT EGAN: It would be proper, Mr. Stewart.

STEWART: On page 4, line 10, "Alaska Constitutional Convention by Chapter 46, Session Laws of Alaska, 1945", I think that is "1955".

PRESIDENT EGAN: Do you ask unanimous consent that that change be made, Mr. Stewart?

STEWART: I do.

PRESIDENT EGAN: Hearing no objection to that change, it is so ordered. Are there proposed amendments for Section 27? Mr. McNealy, do you have an explanation or statement to make in relation to this?

MCNEALY: Mr. President, there are probably two fundamental matters here: one is whether the Convention is going to adopt the Tennessee Plan ordinance, and second, an almost equally fundamental matter is whether consideration is to be given to the method of primary elections. I do wish to call attention that it was promised to have been ready to distribute by 1:30; it was to be on the desks here. It was a substitution. The only difference in the substitution will be that the dates would be more clearly set out as to direct primary procedure. That is one of the big problems that faces the Convention here that a great many people feel that there should be a direct primary and a great many people feel that, due to the time element, that a party convention system of nominating candidates, and, in addition to that, allowing the independent candidates to file should be adopted. The only difficulty we find with the direct primary is the tight, the very tight schedule that is involved here, if it is possible for it to work out. The Secretary of the Convention has contacted the various clerks of the court, and they say that it is administratively possible to use the direct primary system providing that no one falls down anyplace along the line from the dates of filing until the distribution and

counting of the ballots is concerned. And that was the reason the Committee thought of providing this alternate plan of the party convention, because we have discussed this matter and worked on it and considered it from every angle, and the Committee is very fearful of the direct primary nominations. And, for that reason, we definitely felt or knew that we had to put in the party convention system of nominating; in the event that fell down, we would be able to proceed through the party convention. The difficulty with trying it -- there are many things -- of course, that can happen here. There is a possibility, I think, which I think all of the attorneys realize here, which in fact I think everybody realizes here, and that is that on the direct primary there is some little question there about the legality of running for an office which doesn't exist, which of course would be cured at the time the constitution is ratified and the convention held afterward -- the nominations for the office -- if it would cure that one legal technicality there. The other is that I don't think we have too much to fear from this -- about the Director of Finance not cooperating, because all of us who are present here remember, at least in the house of representatives, and very likely the same thing in the senate, that when this Convention bill was passed that there was doubts whether or not the Governor was favorable or not favorable; whether actually there would be the possibility of voting upon the delegates to this Convention since that was about as irregular for the Legislature to do as the adoption of the Tennessee Plan would be for this Convention. However, as we all know there was cooperation on the part of all of the Territorial officials and clerks of the court to make this Convention possible, and from what Mr. Stewart has been able to learn, there will be that same cooperation in regard to the ratification vote of this constitution and, also, to this Tennessee Plan. Now, I just had a note here from the boiler room that the revised Tennessee Plan will be down in about 20 minutes, which will undoubtedly obviate a great deal of amendments to be offered from the floor. We have called in several here who are conversant with election mechanics -- "Dixie" Hall, Clerk of Court, and others, together with the experts -- and there will be a lot of so-called bugs ironed out of 17/c as to the direct primary, and the rest of it will probably remain the same. I do want to call attention to the fact of how close the schedule will run, and I believe these will be mimeographed also and placed on the desks, but, as we all know, the Territorial date for filing of primary candidates and for independent candidates filing for office is on February 1. We won't sign the constitution until February 5. Territorial law requires that these candidates file before February 1 and be certified to the clerks of the court by February 10. It is proposed in this ordinance to advance the filing dates for primary candidates and independent candidates to February 20, which, as we know, is a 20-day jump in time there; and then to allow -- the date for certifying these candidates to the clerk of the court would be advanced to February 25 rather than February 10, and, under the

Territorial statutes, all the ballots are required by law to be in the precinct by March 15 because of absentee ballot voting, which I believe allows some 40 days, so the ballots from this Convention must also be in the precinct on March 15. And then, of course, there would be the primary election on April 24. The clerks are then required to certify the primary results to the Director of Finance by June 15, with the deadline for the primary results to be certified from the clerk of court to the Director of Finance by June 25. Now, if the direct primary system did for any reason fail, then the party nominating conventions would have to be held about June 25, or between June 25 and July 15, in order that the results could be certified to the Director of Finance by July 15, which would also be the deadline under Convention system for independent candidates to file because they must be in the hands of the Director of Finance so he would have to certify the names to be printed on the ballots in the elections to be held this fall. And I might state as to printing the ballots that Mr. Hall felt, and I believe it will be required also since the February 1 date has gone by, that any ordinances passed by this Convention together with the ballot on ratifying the constitution will of necessity have to be printed -- caused to be printed by the Secretary of the Convention. There are a great many problems, and your Committee felt that the matter of the direct primary election should be discussed from the floor and the only fault that I find at all is that, in the event that it should fall down, the direct primary, somewhere along the line and not be able to go through, it might give the people a chance to discredit it in light of any party conventions later on. The Committee feels it is strictly a matter for the Convention, and we have done everything possible here to provide the mechanics for a direct primary and, in the alternative, for the party convention.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I have a parliamentary inquiry addressed to the Chair. If I should move to strike subsection 1 of Section 28 in order to get the proceedings on the way, would that require a suspension of the rules?

PRESIDENT EGAN: No, it would not because we are in the amending process in second reading.

McLAUGHLIN: Then, Mr. Chairman, I move to strike subsection 1 of Section 28. I might point out, I believe, that that would in effect nullify the whole Tennessee Plan and I so move merely to get it before the Convention. I move to strike subsection 1 of Section 28.

PRESIDENT EGAN: Mr. McLaughlin moves that subsection 1 of Section 28, that it be deleted from the proposal. Is there a second to the motion?

BUCKALEW: I second the motion.

PRESIDENT EGAN: It is moved and seconded that subsection 1 of Section 28 be deleted from the proposal. The proposed amendment is open for discussion. Is there any discussion on the proposed motion? Mr. Stewart.

STEWART: May we ask Mr. McLaughlin to give a little clearer explanation as to what is involved here.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: The explanation is that, if the Convention, in substance, as I understand it, votes yes to strike that section, the Convention then has gone on record that they do not desire the Tennessee Plan, because you have in substance cut the essentials of the plan immediately from the schedule. So that issue, as I understand it, is that if you vote yes, in favor of my amendment, you don't wish the Tennessee Plan. If you vote no, against my amendment, you desire the Tennessee Plan. So, at least the question is presented to the Convention: whether you desire the Tennessee Plan or whether you do not. I present it to the Convention merely because I presume the next question is the question as to the primaries; how it shall be held or how the selection of candidates will be determined, but the first question should be whether or not you favor the Tennessee Plan.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, it seems to me the issue is clearly outlined and I request a roll call.

PRESIDENT EGAN: If there is no further discussion -- Mr. Marston.

MARSTON: Mr President, you mean to say we are going to vote now on whether to have the Tennessee Plan or not?

PRESIDENT EGAN: No, Mr. Marston, what Mr. McLaughlin said was that it will indicate, if you vote yes on this deletion of this subsection at this time, it would indicate that you do not favor the Tennessee Plan, because it cuts the heart out of this proposed plan. If you vote no, it indicates that the Convention favors some sort of plan such as this.

MARSTON: Are we going to have debate on this question? Well, I think now is the time to do it, not later on.

PRESIDENT EGAN: If any person opposes the motion or if he favors the motion, he can debate that motion now.

MARSTON: Mr. President, may I speak now?

PRESIDENT EGAN: Mr. Marston.

MARSTON: I have not been selected for this job; I didn't know it could be decided so suddenly. If somebody is going to talk on this and present it, I would like to sit down and listen to it.

PRESIDENT EGAN: Mr. Marston, this does not decide the question. It merely puts before the Convention a motion that would indicate the feeling of the Convention as to whether or not -- because if you adopt this motion as it is presented here, it would probably indicate that the Convention does not favor this sort of plan. So, you have the floor and you can debate this motion.

MARSTON: I wasn't picked to do this job and had no intention to do it, but I don't want to see this time go by without expression from the floor. I think "Sir Galahad" who came here from the South and presented this great program has the right plan. I think it's a terrific story, and I think that it is now or never for statehood and Lehleitner -- the Tennessee Plan is the only course; if we turn that down, then we have wasted our time here. We came here to build a constitution for the great State of Alaska and we can become a state now and not wait forever; it's now or never, and I think the Tennessee Plan is the only course that we can take. That is all I can say. Thank you for the time.

PRESIDENT EGAN: Is there further discussion of the proposed amendment? If not the question is, "Shall the proposed amendment as offered by Mr. McLaughlin be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 0

Nays: 53 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 2 - Coghill, R. Rivers.)

CHIEF CLERK: 53 nays and 2 absent.

PRESIDENT EGAN: So the "nays" have it, and the proposed amendment has failed of adoption. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I haven't consulted with Mr. McNealy on this, but I am trying to get the show on the road. I now move to strike subsection 4 of Section 28 as it appears on page 3.

PRESIDENT EGAN: Mr. McLaughlin moves to strike, or delete, from Committee Proposal No. 17/c, subsection 4 of Section 28, page 3.

V. RIVERS: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Victor Rivers. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I make this motion because subsection 4 as it reads will determine the only thing in substance. If you vote for my amendment, it means, in substance, that you will vote against party conventions. You will vote against party conventions because just a cursory reading indicates that it would prohibit party conventions, and then the determination is whether you want to put it on the primary alone; that is, is it to be a primary election? That is my understanding that that would be the result of it. I present it on the floor so that there can be debate.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I direct a question or two to the Chairman of the Ordinance Committee?

PRESIDENT EGAN: If there's no objection.

WHITE: Mr. McNealy, in presenting both sections 3 and 4 to the Convention, was it the intention of the Committee that possibly we might allow them both to remain in, or was it the definite intention of the Committee that one or the other would be stricken?

McNEALY: It was the intention of the Committee, and I might state that we felt that it would be almost necessary that Section 4 at least remain in because of the mechanical, the administrative difficulties, and the possible legal difficulties of the direct primary. In answer to that and, as Mr. McLaughlin stated, and he certainly is on the right course of getting this matter before the body for consideration, but in his proposed amendment -- Mr. Chairman, could I ask for a one-minute recess at this time?

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, with my usual deliberation, I glanced through the proposal and picked the wrong section to be stricken. I request unanimous consent that my proposed amendment be withdrawn.

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent that his proposed amendment be withdrawn.

LONDBORG: I object.

PRESIDENT EGAN: Mr. Londborg objects to the withdrawing of the proposed amendment.

McLAUGHLIN: If I might explain to Mr. Londborg through the Chair, the amendment that I had presented does not strike at the heart of the problem. The amendment which I propose to substitute for it will strike at the heart of the problem, the determination whether it shall be primary or by convention.

LONDBORG: Mr President, how am I to know whether it strikes at the heart of the problem? As far as I am concerned, I don't know what else you are going to offer.

McLAUGHLIN: Mr. Londborg, here is what I am going to offer. I am prepared to offer an amendment to strike, commencing on page 2, line 21, after "offices", all wording following the word "offices" to the end of page 2, and all wording commencing on line 1 of page 3, all the way down to the word "then" in line 13.

PRESIDENT EGAN: Is objection still heard to Mr. McLaughlin's unanimous consent request?

LONDBORG: I have not withdrawn.

PRESIDENT EGAN: Do you so move, Mr. McLaughlin?

McLAUGHLIN: I so move.

RILEY: I second the motion.

PRESIDENT EGAN: It was so moved, seconded by Mr. Riley. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to say to Mr. Londborg that if he still thinks he wants to strike, that he can offer the motion that Mr. McLaughlin is attempting to withdraw. It doesn't mean it can't be renewed; it hasn't been voted on.

PRESIDENT EGAN: The question is, "Shall Mr. McLaughlin be allowed to withdraw his proposed amendment?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 45 - Armstrong, Awes, Buckalew, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Robertson, Smith, Stewart, Sundborg, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 8 - Barr, Boswell, Cooper, Londborg, Reader, V. Rivers, Rosswog, Sweeney.

Absent: 2 - Coghill, R. Rivers.)

CHIEF CLERK: 45 yeas, 8 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it, and the amendment is ordered withdrawn. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I move to strike all the words on line 21, page 2, following the word "offices"; and I further move to strike all the words on page 3 commencing with the first word of line 1 down to and including line 13, the word, first word in line 13, "then".

PRESIDENT EGAN: Mr. McLaughlin, do you also include in that the capitalization of the word "One", of the "O" in the "One"?

McLAUGHLIN: I also strike the word "One"; everything on page 3 commencing with the first word of line 1 down to and including "then one" on line 13 of page 3.

PRESIDENT EGAN: Mr. McLaughlin moves the adoption of the proposed amendment. Is there a second?

STEWART: I'll second.

PRESIDENT EGAN: Seconded by Mr. Stewart. The proposed amendment is open for discussion. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, as I understand it, when I move to strike this, I, in substance, have stricken and am prepared to raise the question of whether or not the primary shall be held on the 24th day of April with qualifying candidates.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, as Mr. McLaughlin has said, this would, in effect, strike the primary system, and it seems to me some basic questions arise, and I would like to address a further question to the Chairman of the Ordinance Committee.

PRESIDENT EGAN: If there is no objection, Mr. White, you may address your question.

WHITE: Mr. McNealy, whether or not the Convention prefers one system over another, it seems to me there are at least three basic considerations in trying to decide whether or not we should strike the primary system. I would wonder what the advice of the Ordinance Committee is as to the practicality as to timing of going through the primary system, first of all; secondly, the power of the Convention to provide a filing date separate from the one already in existence under Territorial law; and thirdly, the power of the Convention to provide that nominations would take place in the primary election at the same time the ordinance was ratified.

PRESIDENT EGAN: Mr. McNealy, you may answer the question if you wish.

McNEALY: Mr. President, from the outset, the Committee on Ordinances felt that a direct primary system should be had for the nomination of these candidates and we worked from every angle there to provide for a direct primary. We finally ran up against the legal obstacles as well as the administrative obstacles of holding the elections at later dates than were provided by law, and we then dropped the primary plan and wrote only the convention plan into our ordinance. However, there were a number of people, members of this Convention and outside the Convention, that approached the Committee with reference to making every attempt to provide for a direct primary, so a complete and further study was made and we endeavored to get all of the advice we could. As I mentioned before, Mr. Stewart contacted the various clerks of the court and it eventually resolved it down to this, in just a few words: that if everyone, from the candidates filing themselves, if they can get their filings in by February 20, and then if the Director of Finance will accept those, and if he will certify them back to the clerks of the court, and if the ballots can be printed and distributed to all precincts by March 15; in other words, if everyone who comes in contact -- our problem is not only on this Tennessee Plan, the greater problem is here. I grant that because it is a matter of additional ballots as far as the administrative problem is concerned, though you have the same thing to face with ratification of the constitution, or any other ordinances that might come out of this body. But the word that we have from the clerks of the court, at least, and especially from "Dixie" Hall here in Fairbanks that, if every person from the Director of Finance on down to the precinct level will cooperate and there are no slipups any place, then it is administratively possible for a direct primary. If there is a holdup on the part of the Director or clerk of any court or distribution of these by the various commissioners or under the clerks of the court, then it would possibly, in effect, be administratively impossible to work under

the direct primary system. I don't know whether I have answered all of Mr. White's questions.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, that answers part of it. Mr. McNealy, the second part was the opinion of the Committee as to the power of the Convention legally to provide for a separate filing date and legally to provide for the primary election of those candidates at the same time as the ratification is taking place, the ratification of the ordinance.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: In answer to that, Mr. President, it goes back to -- I might answer a portion of that, Mr. President, by reading a short citation from a case cited in 59 Southwestern on a subject somewhat similar in covering elections that, "A constitutional convention is not a coordinate branch of the government but is a body of representatives of the people convened only on special occasions and for the purpose of reviving or revising or framing a constitution. The powers it has are usually expressly conferred upon it together with such implied and inherent powers as may be necessary to carry into effect those expressly conferred." The Convention here has an inherent power, and under our enabling act, to take all measures necessary and proper in preparation for the admission of Alaska as a state. However, to enforce any of these, this Convention would have no power by way of a writ of mandamus to force the Director of Finance to do anything, or to force the clerks of the court to do anything, any more than we have the power to force them to cause a vote to be taken upon the ratification of this constitution. The only thing there I can say, Mr. White, is the officials of the Territory and the federal government did cooperate with the calling of the election held for the delegates of this Convention, and that we can only hope that they will furnish the same cooperation in voting, providing the votes and the ballots for voting on the ratification of the constitution together with any ordinances adopted by this Convention. The very serious thought, though, had the Committee thought that had we a 90 per cent chance of being able to elect by a direct primary, we would not have put in an alternative method of the party convention. If there is one slip-up, if they fail to hold the elections in one division, or if it is attacked on the legal question of whether it is possible for people to run for offices which do not exist and which will not exist, then we still have the convention plan left to fall back on and which might, in effect, deter anyone from bringing action. If the convention plan were knocked out, I don't think there would be any elections held on this at all. There is that very grave possibility. The Committee considered, also, and we tried to tie it in so far -- and the revised copy that comes out here on the desks will possibly save a great many amendments on the

floor, because we tied it in as closely as possible with the Territorial law; and all of you here who are familiar with the public utility districts and the organizing of them -- we do have a little precedent here in Alaska that it is possible for the courts to order an election which would be similar to this Convention ordering an election. If the people vote to become independent as a public utility district, then the candidates running at the same time, and the five highest number of candidates are elected to office, so they are, in effect, running for an office which does not exist unless the people vote for a public utility district. So we do have that little precedent in Territorial law which we have endeavored to follow as much as possible.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I would like to make an inquiry of the Chair and then ask a question of Mr. McNealy, if I may.

PRESIDENT EGAN: Your inquiry, Mr. Davis?

DAVIS: In the first place, while Mr. McNealy has been talking, there has been passed out a proposal marked, Committee Proposal No. 17/c, Revised, and I think I notice that the section numbers are different in that revised plan than in the original plan, and I would like to inquire of the Chair as to whether or not it is clear that the vote we took a while ago and the vote that will be taken on Mr. McLaughlin's motion has to do with the original plan and not with the revised plan?

PRESIDENT EGAN: Mr. Davis, that question has arisen in the mind of the Chair. If Mr. McLaughlin and the other delegates would be agreeable, it would seem that it might be well, inasmuch as it seems to be the wish of the Committee that this Committee Proposal No. 17/c, Revised, be placed before the Convention in some way at this time, that possibly we could read this proposal and then hold any amendments in abeyance until such time as we would have the revised proposal before us. Is that --

DAVIS: Either that or, since we are voting here to find out actually the intent of the body, as I understand it, then it seems to me we could proceed under the present Proposal No. 17/c. All I want to do is make sure the record shows that we are voting on Section 28 of the present one, because Section 28 of the revised is something entirely different.

PRESIDENT EGAN: That is correct.

DAVIS: Either way, I think, would be acceptable; it's just a matter of making sure how we are proceeding is what I had in mind.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I request unanimous consent to withdraw my proposed amendment to Committee Proposal No. 17/c.

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent for the withdrawal of his proposed amendment to Committee Proposal No. 17/c.

McLAUGHLIN: My purpose for doing that is that it is my understanding Mr. McNealy is going to withdraw No. 17/c and submit 17/c, Revised, and then I shall move later to remove the comparable words.

PRESIDENT EGAN: Is there objection to Mr. McLaughlin's unanimous consent request? Mr. Davis.

DAVIS: One question first: if I understand correctly, he is only withdrawing his last motion?

PRESIDENT EGAN: Yes, that is right, at this time. Is there objection? If there is no objection, it is so ordered and the motion is ordered withdrawn. Mr. McNealy.

MCNEALY: Mr. President, I move and ask unanimous consent that the original Committee Proposal No. 17/c be withdrawn from the record.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent that the original Committee Proposal No. 17/c be withdrawn from the calendar. Is there objection? If there is no objection, Committee Proposal 17/c is ordered withdrawn. Mr. McNealy.

MCNEALY: I now offer Committee Proposal 17/c, Revised, for consideration of the body.

PRESIDENT EGAN: Mr. McNealy -- the Ordinance Committee now offers Committee Proposal No. 17/c, Revised, for the Convention. The Chief Clerk will please read Committee Proposal No. 17/c, Revised, for the first time.

CHIEF CLERK: "Committee Proposal No. 17/c, Revised, Schedule."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I infer that it has been referred to the Rules Committee for placement on the calendar, and I ask unanimous consent that the rules be suspended and that Committee Proposal No. 17/c, Revised, be placed on the calendar as the next order of business.

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that Committee Proposal No. 17/c, Revised, be placed on the calendar in second reading as the next order of business. Is there

objection? Hearing no objection, it is so ordered. The Chief Clerk may proceed with the reading of Committee Proposal No. 17/c, Revised, for the second time.

(The Chief Clerk then read Committee Proposal No. 17/c, Revised, for the second time.)

PRESIDENT EGAN: Mr. McNealy, would you care to offer an explanation of the changes made in this?

McNEALY: Mr. President, first I wish to state that I have, on two or three occasions on the floor if not more, have not spoken so very highly of some of our experts connected with this Convention. I do wish, in regard to this particular ordinance, to say that the experts have been of invaluable aid in the technicalities involved in this particular one and have been of great assistance. The greater change made here under this is that in the matter of endeavoring to pinpoint the essential elements necessary, such as the filing fees and the actions to be taken by the Director of Finance, the clerks of the court, and the time in which these various parties should act. It has gone along -- I believe on each desk there is a mimeographed sheet showing a possible Territorial and State Election Schedule, and by "state election schedule", we mean the ratification of the constitution and any ordinances; and while it is a very tight schedule, it has been coordinated insofar as possible with the proper sections of the Territorial law. We have also provided in this, which I note was not in the other, that in the event some candidate holding another office, if he should be successful, then he would not be entitled to the compensation of both offices. I do wish to state also that, wherever Chapter 46 of Session Laws of Alaska appears, it says, on my mimeographed copy, it says 1945; however, the meaning is 1955. I believe that this more clearly expresses the intent of the Committee, and it also contains Sections 27 and 28 which the Convention remembers are ordinances or transitional measures that were referred to us from other committees here on the floor, and they are included here so that this completes all of the proposed ordinances of the Ordinance Committee unless more are referred to us in some way.

PRESIDENT EGAN: Are there questions or proposed amendments for Section 27 of Committee Proposal No. 17/c, Revised? Are there proposed amendments to be offered for Section 28? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question I would like to direct to Mr. McNealy.

PRESIDENT EGAN: You may, Mr. Sundborg.

SUNDBORG: Mr. McNealy, I take it that the reason you include Section 28 is that, although this would be in a transitional measure in our constitution, that transitional measure would not yet be in effect? Is that correct, Mr. McNealy?

McNEALY: That is true.

SUNDBORG: Would not the original law, part of the federal law, which is already in effect and which takes care of this problem, be still in effect and thus make it unnecessary here?

McNEALY: I might state, Mr. President, that it was the feeling or the opinion of the Committee that it was true, since Section 28 is set out by federal law, that it still would be in effect; notwithstanding, however, it was referred to us from another committee and was taken to remove it from the body of the constitution.

SUNDBORG: I am sorry; I was trying to read this with reference to the Tennessee Plan which -- it is not in there with reference to the Tennessee Plan at all, is it?

McNEALY: No. It goes back to the Organic Act.

SUNDBORG: I am straightened out on that now; thank you.

PRESIDENT EGAN: Are there proposed amendments to Section 29? Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I move that on page 3 -- I move to strike all language on page 3 commencing with the numeral 4, the bracketed numeral 4, on line 14, line 14 of page 3, and all subsequent wording on that page; and I move additionally to strike all the wording on page 4; and I move to strike additionally on page 5 all the wording commencing on line 1 down to the word "then" on line 7 -- it includes the word "then" on line 7. If I may read this again -- I move to strike all the wording on page 3 after line 13, all the wording on page 3 after line 13; all the wording on page 4; all the wording on page 5 commencing with line 1 down to and including the word "then" on line 7, page 5.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. McLaughlin moves the adoption of the amendment, Mr. Sundborg seconds the motion. Mr. Davis.

DAVIS: Now, Mr President, in order to get this matter clear in my mind, I would like to ask Mr. McNealy some questions.

PRESIDENT EGAN: If there is no objection, Mr. Davis, you may ask your questions.

DAVIS: Mr. McNealy, as I understand the proposed amendment, if adopted, the effect will be that the senators and representatives, if authorized by the ratification of the constitution and adoption of the ordinance, those parties would be nominated then strictly by party conventions. We have stricken out any

reference to a primary here for nomination of those officials. Is that your understanding?

McNEALY: Mr. President. That is my understanding, Mr. Davis.

DAVIS: Now then, it is also my understanding that, if we take the 17/c, revised, as it is written, that you set up alternative plans: first, a plan to nominate the proposed senators and representative by primary if a primary can be used for that purpose, but that the Committee has doubts, first, as to whether or not there might be some question about the legality of using a primary for that purpose (you have already mentioned the reasons for your doubts); second, you have further doubt as to whether the primary can be made to work administratively even if there wasn't any question about its illegality, and, for that reason, you have put in the alternative plan. Is that correct?

McNEALY: That is correct. We felt that it was most essential to retain the alternative plan of the party convention for the reasons stated, Mr. Davis.

DAVIS: Now then, one further question. It is the Committee's belief, if I understood you correctly a while ago, that, if the primary can be made to do the job, that that is a desirable way to proceed here, and you have only put in the alternative to take care of the contingency of the primary failing either by reason of being held to be illegal or by reason of being administratively impossible? Is that right?

McNEALY: Mr. President. That is a correct statement, Mr. Davis.

DAVIS: So, if we adopt Mr. McLaughlin's proposed amendment, we have then taken a course that the Committee feels is not desirable? Is that right?

McNEALY: Mr. President, it's a question that I can't answer directly, because it's the feeling of the Committee and from the parties that we have talked to who are in the know that there is, probably, I would say there is a very slim chance of the primary system working.

PRESIDENT EGAN: Mr. Davis.

DAVIS: However, to put my question another way, it is the desire, or it is the feeling of the Committee that both plans should be retained, and that the primary should be used if it can be made to work; otherwise, we will fall back on the alternative plan? Is that correct?

McNEALY: That is the feeling of the Committee, our desire to have the direct primary if at all possible, but with all the obstacles we face, then we can fall back, as you state, Mr. Davis, on the alternative.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I direct a question to Mr. McNealy?

PRESIDENT EGAN: You may direct a question, Mr. Johnson.

JOHNSON: Mr. McNealy, if the primary plan should fail or be inoperative, administratively, and if it should develop that that fact wouldn't be known until after a considerable amount of money had been expended by way of preparation of ballots, etc., then that expense would be of no avail and would be wasted? Is that correct?

McNEALY: That is true, Mr. Johnson; the cost of printing ballots would be money thrown away.

JOHNSON: I believe that, under the convention system, as I understand it at any rate, all of the expense would fall on the respective political parties, is that not correct, rather than upon the Territory or this convention fund?

McNEALY: Mr. President, in answering that, the expense there would fall upon the political parties.

JOHNSON: Thank you.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think Mr. McNealy outlined the position of the Committee quite fully. The only thing I wanted to say is that the Committee had a desire to use the primary machinery if at all possible; and then, within the last couple of days, we discovered that it looked like it was almost administratively impossible, and the Committee, of course, was aware of all the legal obstacles, subject to a taxpayer's suit, whether this Convention could alter the existing election laws and require the Governor to allow the filing dates on February 20. I think the opinion of the Committee now is that we probably can't use the primary machinery, except we wanted to get it out on the floor and let the Convention make the decision. If the Convention felt like it was possible, well, fine; but we just wanted the Convention to make the decision. I think that was right, wasn't it, Mr. McNealy?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, that is correct.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I would like to ask Mr. McNealy some questions merely to point out the problem. First of all, Mr. McNealy, are you aware that at some of our public hearings,

some people indicated favoring the Tennessee Plan if the primary plan is adopted, that is the Tennessee Plan, where you have a regular primary election? You could anticipate that, could you not? And people might be opposed to the Tennessee Plan if it were based -- the selection of candidates that were to run for the Plan were picked by party convention.

McNEALY: Mr. President, that has been called to the attention of the Committee.

McLAUGHLIN: Has the Committee considered the possibility that the party convention plan might not be representative?

McNEALY: My answer to that, Mr. President, we feel it is not as unrepresentative as some think, for the reason that there is provisions for party convention due to death or disability of any person who is already in office here in the Territory, and then further, there still is the opening there for the independent candidates to file. However, I believe, in answer to Mr. McLaughlin's question, we all realize, at least to my knowledge, it has been a great many years since an independent candidate has been elected to any important office in the Territory.

McLAUGHLIN: Has the Committee considered the possibility that in some parties you might have several conventions? (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin, do you have another question?

McNEALY: Is it necessary that I answer that?

McLAUGHLIN: I will pass over that. Another question, Mr. McNealy: you based your premise of a primary election on the date, holding it on the 24th of April, 1956. Had the Committee considered other independent primaries, either this year, let us say, special primaries, or primaries in subsequent years, and the possibility of having money available to pay for those primaries?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, that is one thing that the Committee very early in the Convention kept almost as much an eye on the funds under the control of the Administration Committee as they did themselves, hoping there would be sufficient funds to hold a special primary election. The other alternative there for a primary and the only one that we know would be the primary election in 1958. I won't speak on that at this time except that we felt that, if the primary election was delayed until 1958, there would be no need of the plan at all. It would have lost any effectiveness that it might have. Mr. President, if I might state as a point of information to the delegates, there have been a number of states who have elected their representatives

and senators to Congress on the same day that the people ratified the constitution. That was done in Michigan, California, Minnesota, and Tennessee where there was no enabling act; and, to speed up the processes in the seven states where there was an enabling Act of Congress, Nebraska, North Dakota, South Dakota, Utah, Washington, Montana, and Oklahoma also elected their representatives to Congress on the same date that they voted to ratify their constitutions.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. McNealy a question?

PRESIDENT EGAN: You may, Miss Awes.

AWES: Mr. McNealy, did your Committee consider something else that seems to me might be a serious problem here? Even if we adopted this today, there would still be about only three weeks left before the final filing date, and some of your substantial residents of the Territory, the type of people you would want to file, often are very involved in their business or profession, whatever it might be, and it might take them considerably longer than three weeks to even know whether they could arrange their personal affairs so that they could do a thing of this type, so you might end up on February 20 with a certain number of people who had filed, but not what you could consider an adequate list of candidates.

MCNEALY: The Committee had considered that point also and that there was that possibility of getting candidates who might not be the most suitable or the most representative candidates. However, since the direct primary had to be considered and that most everyone knows there has been talk about this particular plan, at least the possibility of its being adopted, and while it may cause inconvenience to some, in answer to Miss Awes' question, while it would be entirely possible that we might lose some good candidates, at the same time, it was just a question of what was the greater good for the whole is the way the Committee felt on that point.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: May I ask Mr. McNealy a question?

PRESIDENT EGAN: You may, Mrs. Hermann.

HERMANN: Have you also considered the possibility, Mr. McNealy, that you might not get very good candidates through a political convention?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: The Committee felt this way: that through the Convention system, we probably would get political candidates with the emphasis on the political, Mrs. Hermann.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I think the Committee generally felt that through the party convention we would possibly get the best available candidates in the Territory. I think Mr. McNealy was probably just joshing, but I think this is a serious matter. I think we will get the best qualified people in Alaska through party conventions.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I rise to speak in favor of the amendment. I have been interested along with most of the others in the Tennessee Plan for a long time, and it is wonderful to me to see at the outset that we are all agreed unanimously on the advisability of undertaking the plan, and, in that connection, I think its only merit, its only usefulness to us will be if we go through with it as soon as possible; so, in my thinking, I have long since discarded the possibility of putting it off until the next general election in 1958. Now, I am not a lawyer, but in my mind there is no doubt as to the legality or power of the Convention to undertake the plan in the first place and, in the second place, to provide any system that is deemed workable. The Enabling Act of the Convention distinctly says, "...the Convention shall have power to make ordinances and to take all measures necessary or proper in preparation for the admission of Alaska as a State of the Union." Further along, "...at which election the persons entitled to vote for delegates under this Act shall be entitled to vote on the ratification or rejection of the constitution and the ordinances submitted, under such rules and regulations as the Convention may prescribe." And, in an opinion submitted to us by the Attorney General on another matter, I find these quotations: in a decision rendered by the Supreme Court of Minnesota, "In a territory, the source of all power is Congress. But in the formation of a constitution and state government the power emanates from the people,"; and in a decision rendered by the Supreme Court of Mississippi referring to a convention, "It is the highest legislative body known to free men in a representative government. It is supreme in its sphere. It wields the powers of sovereignty, specially delegated to it, for the purpose and the occasion, by the whole electoral body, for the good of the whole commonwealth." So, I think that it is within our power and it is legal to provide a primary system, to provide a separate filing date if that is necessary, and to provide for nominations of candidates for these offices at the same time the constitution is being ratified. I have, since the outset, hoped that we would be able to go the primary route on this matter because I think it is preferable. I don't share the opinion expressed here a minute ago that we would necessarily get the best candidates at party convention, but I am impressed

by the decisions, the opinions of the Ordinance Committee that, because of the date, that this whole thing might fall down administratively on a timing basis, and that should it fall down or should certain individuals vitally concerned with the carrying out of the primary system not hurry to perform their duties, the Convention would have no power to force them to. Now, the next thing that is before us for consideration is the inclusion of both of these systems, but, in considering them, it seems to me that to leave in the provisions for a primary election and then make provision for a party convention should the primary election fall down might lead to chaos. Who is going to decide when it has fallen down? I can envision all kinds of difficulties arising from leaving both sections in, so it appears to me that we must strike one or the other. Early in the Convention, I was interested with others in looking into the possibility of the Convention having enough money left over when it got through to provide for a separate primary so that we could vote on the ordinance and the ratification of the constitution at the regular primary election in April, and then hold another primary specifically to choose these candidates at some subsequent date; but, as you all know, I am sure, I am advised by the Administration Committee that there is no possibility that we will have enough money left over at the end of this Convention to pay for a separate (separate) primary, which would cost, I understand, approximately \$40,000. So, it seems to me, in weighing all these factors, we would come at last to the convention system, and I think that, if this body decides that the convention system in this case is the only orderly and safe way to approach this matter, that the public, in its wisdom and in favoring the Tennessee Plan as we are all sure they do, will accept this system in this instance as being the most practical, or the only practical way of approaching the matter. I think there is plenty of precedent for a convention system and that with an approach seriously by both parties, as I am sure it will be, our chances of getting good candidates from party conventions are probably at least equal to getting good candidates from a primary election.

PRESIDENT EGAN: Mr. Stewart had been trying to get the floor for some time.

STEWART: Mr. President, most of what I would say has already been said, but we have gone on record here as being in favor of the Tennessee Plan, which means sending of two senators and a representative to the United States Congress, and the general understanding of the plan is that that should be as soon as possible. At the earliest possible date, those men should appear there, and we must send to the Congress in those capacities the men who will represent the Territory in the best possible manner by their character, by their abilities. They must be outstanding men. They will have serious duties to perform. Now, I think that it has been amply demonstrated here by what has been said that the primary election system, which we would all like

to follow if feasible, may work out disastrously, and the filing date, for one thing, is so early -- so soon now -- the necessary filing date -- that I doubt that the kind of men we are talking about could possibly make up their minds and decide they would take the chances that are involved in this primary procedure and file; whereas, by following the method of nominations, the eyes of the Territory will be focused on those two conventions. I don't believe those party conventions would dare, in the face of that public observation, put up men except those that they are pretty sure of -- or quite sure of -- as sure as possible will be the type of men that we want to send back there as senators and a representative. Therefore, I think this amendment should carry and we should go right ahead on this basis, boldly and earnestly, on the basis of having them nominated by conventions. Then the uncertainties will be largely wiped out. I don't think anyone is going to object on a legal ground when this Convention decides to go that route, and I urge you that that is the best way to do it in my estimation.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr President, I am on the Ordinance Committee, and one of the first items and perhaps the item that took up most of our time for the first three or four weeks of this Convention was this matter. I never dreamed that I would be standing on the floor of any public body and recommending that we not use a primary system for election of officers, but I find myself entirely in agreement with Mr. White in this particular case. I think the only proper way and logical way for us to proceed is to provide for nomination of these candidates by party convention. Some of the fears which I had to begin with when we found ourselves in the position of having to consider party nominations was that perhaps the parties in Alaska are not, in my opinion, truly representative of all of the voters. I have always felt that Alaskans are by nature independent and for that reason are quite apt to vote not on strict party lines. I was somewhat worried about the general idea, but the more thought I gave to it, the more I was convinced that this is the only practical way to solve our problem. The hearings that I held and the immediate criticism of the Tennessee Plan, the way we had reported it out for the hearings, was that parties would nominate the candidates. Fortunately, I had an opportunity to explain the reasons why this was adopted temporarily, and I had no opposition after it was fully explained. The other thing that I feel very strongly about is that, if we do eliminate the primary system for this particular election that two things follow: one is that the political parties have a duty to the voters of the Territory to nominate their candidates at a special Territorial convention after having gone to the grass roots of their party system and nominated -- elected their delegates from the various small areas to convene in the manner of the democratic system. I think it would be a blow to the confidence of the people if the hierarchy of the party

system in rump session were to decide on the candidates to be put on the ballot. They owe it to the people to start from the beginning. In my own mind, I am yielding to what I am not entirely proud of in order to get this job done, and, if these political parties react in the manner that they should, I feel that they will do a great justice not only to themselves but to the people of Alaska. There is one other item which gives me great fears concerning the primary election; that is, electing these candidates at the regular primary and that again goes to the matter of the calendar. I note that there are only five days allowed for the closing date for filing of candidacy and the certification of those candidates to the clerks of the court in the four judicial divisions. I am reasonably sure that a complaining party could obtain a temporary injunction for the distribution of these ballots for five or six or ten days with very little grounds, and on that basis destroy the whole procedure of the primary election. It has been mentioned before that the Committee gave great thought, intense observation to the finances, attempting to figure out how we could finance a special primary election. We decided it could not be done, so the only alternative was to recommend the party convention and that was done before the recess. After recess there were reverberations, just as I had mentioned, about the convention system. Very recently, some of the people who I thought would be the last to complain about the party nomination system have complained vigorously, but I feel that the Committee has considered all of the facets of this problem, and in presenting these alternatives to the floor, I think desires that the floor express themselves one way or the other; because, as Mr. White so aptly pointed out, there is quite apt to be a waste of money and considerable confusion if we allow both systems to remain in our ordinance. I therefore feel that we should support the amendment that is offered to strike from our ordinance the nomination for the special offices by primary election.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I favor the course advised by Mr. White, Mr. Stewart, and Mr. Hurley, not only for the reasons stated but for an additional set of reasons. Even if we had the money, even if it were legal, and even if we had time, I believe it would be ill-advised to elect the people who would be our members of the Congress at the very same election where voters would be casting their ballots for or against the Tennessee Plan. Inevitably, the Plan would become involved with personalities, at least in the minds of the voters, and when they were looking at the Plan, they would also be looking at the list of candidates, they would be fearful of some of the candidates. Anybody can file in this Territory. All you need is the desire to do so and \$40. And I would venture that, if we opened this up to a primary, we might have a list of 15 or 20 people there, maybe some of them just running for the free advertising involved, and some of them in the hopes that they might get in. But in any event I think we might have a great

list of screwballs and crackpots at this first election where all they needed, as I say, would be the desire to run and \$40, so I think the thing to do is to support Mr. McLaughlin's amendment and to go straight out for nomination by party convention the first time around. If we do that, I think it might be desirable to provide that the initial terms for the senators might be somewhat shorter than are provided in 17/c, Revised, but we could get to that in due course. But I do support the amendment.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to ask a question of Mr. McNealy or Mr. Hurley.

PRESIDENT EGAN: You may ask your question, Mr. Smith.

SMITH: The question is; Did the Committee consider that the question as to whether or not, if this Convention sets up whatever dates it might feel desirable for a special primary, if the people voted in favor of the ordinance, would there be any doubt but what the legislature would appropriate the necessary moneys to carry out the primary?

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, yes, we certainly did. The reason we went off of that track was because of the simple fact that, unless there was a special session called by the Governor, there would not be a meeting of the Territorial legislature until after the next general election, and we hesitated to expect the Governor to call a special legislative session in order to appropriate the money, but we did feel that, if this plan was accepted by the people and if there were a Territorial legislature available and funds available, that they would certainly appropriate the money for a special primary. But we discarded the plan because of the fact that a regular session will not come until after the general election.

SMITH: Thank you, Mr. Hurley. My thoughts had run in a little different direction; that it would be quite a bit cheaper to hold a special general election also, but since the discussion here, I have no fears at all but what the people of the Territory will accept this Plan either way. I think that they will accept it if the nominations are brought about by convention, and, actually, I have no doubts whatsoever that either way will be acceptable after being fully explained.

PRESIDENT EGAN: Mr. Nolan, the Chair would like to declare a 20-minute recess at this time. The stenotypist has been going very steadily here and, if there is no objection -- are there committee announcements? Mr. Rosswog.

ROSSWOG: Local Government Committee will meet immediately upon recess.

PRESIDENT EGAN: The Committee on Local Government will meet immediately upon recess. Mr. McNealy.

McNEALY: The Committee on Ordinances will meet in the back of the gallery. If there are any questions, we can answer them at that time.

PRESIDENT EGAN: The Committee on Ordinances will meet in the back of the gallery immediately upon recess. If there is no objection, the Convention is at recess until 4:15.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Nolan.

NOLAN: Mr. President, I am against Mr. McLaughlin's amendment striking out the primary system at this time. There are a number of reasons that come to my mind. One of them is that the Republican party at this time has two committees; we don't know if they will be able to get together to pick a candidate. If one group picks a candidate, the other group might file some kind of injunction against them to prevent them, and I can't see anything in here that would take care of that, and I think its a rather serious situation at this time; and the other reason is that I think it is a rather dangerous step to deprive the people of the primary right. I think that the Committee's original proposal here of allowing the two plans is very good, and I think that the people who are interested in filing for this office would have lots of time, because this plan will probably be adopted by the Convention by February 1, which would give them 25 days to make up their minds and file instead of the five days, and, in fact, I think the people that would be interested in filing have practically made up their minds already. I also think that the question of legality of it or whether there would be enough time can be determined in two or three weeks, and then, if it was found out that the primary plan wasn't feasible, the people would know it through the papers that there was no other alternative but the convention system. I think if the Convention itself came right out and said, "The only way that you can have senators and a representative is by the convention system", I don't think that would set so well with them. It might tend with a lot of people to have them vote against the adoption of the Tennessee Plan. That is why I would like to see both the primary system and the Convention system stay within the article.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, we have been...

KILCHER: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Kilcher.

KILCHER: I believe Mr. Buckalew has spoken once.

PRESIDENT EGAN: Have you spoken on this amendment, Mr. Buckalew?

BUCKALEW: Yes.

PRESIDENT EGAN: Then your point of order is well taken, Mr. Kilcher. Mr. Peratrovich.

PERATROVICH: I would like to ask Mr. McLaughlin a question, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Peratrovich, you may ask your question.

PERATROVICH: If your proposed amendment should carry, the intent of that is just a one-time operation as to the method of nominating the candidates. Am I right on that?

McLAUGHLIN: Mr. Peratrovich, my intent is to raise the question of whether or not we want a primary. If my amendment is successful, no primary is possible under the circumstances; that is, you have to rely on party conventions.

PERATROVICH: But I mean that is only for a one-time operation?

McLAUGHLIN: That is a one-time operation.

PERATROVICH: That's the point I want to make. Thank you.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I don't believe I have spoken on this matter before; I did ask a question. So, if I may make just one observation --

PRESIDENT EGAN: If all you have done was asked a question, you may speak on this.

JOHNSON: Senator Nolan has raised the point that perhaps the Republican party would not be able to hold a convention and nominate any candidates. I fail to see that that is any argument against this motion, because, as someone else has pointed out here today, it is certainly the responsibility of each political party to hold conventions, duly constituted, and to nominate the best men available, and I am quite certain that that will be done not only in the Democratic party but in the Republican party. So I don't believe that Mr. Nolan's fears are well taken; I am for this amendment.

PRESIDENT EGAN: Is there further discussion? Mr. Londborg.

LONDBORG: I thought for a while I might be the only one to speak against the amendment, but I hear Senator Nolan speaking against it. It seems to me we have become victims of circumstances here as far as the elimination of this paragraph. The way it has been explained now by Mr. McNealy and others is that there is such a fine line of possibility of having a primary that we had better forget about it. I think, if we had thought of this a little sooner or at least brought it out on the floor sooner, gotten the Tennessee Plan adopted sooner, we could have gotten in under even this first primary filing date of February 1. I received the information when I was home on the recess and read every word of it and was sold on the plan, providing that we could follow through with the proper procedure for elections, having the primary and the general elections. I was rather disappointed that the plan didn't come out as soon as we got back, but for some reason it was postponed and postponed and postponed -- maybe so that the filing date would be too near on us -- I don't know. But I think the first two senators and the first representative that we send should be the people's choice right from the beginning to the end. It may be, and probably will be, our most important ones we ever send out there, and I think they should be the ones that the people have a right to pick in the first place. If we vote for this amendment, we are precluding any possibility of the people's choice; it is going to be just a party caucus, a party choice, and the people will have to vote in the general election on someone the people as a whole had no say-so about. Now a lot of things have been brought up through the question period; for instance, the possibility of having our own primary election after the ratification of the constitution. Now we are informed that we wouldn't have enough money to do that. Well, it seems the legislature appropriated a certain amount of money that was to be enough to include a special election for ratification if necessary. Evidently we have gone overboard on our spending so that we can't even have a special primary election. I think we should have checked in on that. Figuring that we would gear it along with the regular primary election, it probably gave us a little extra money to spend and it's evidently spent. It seems that another question has been raised that we wouldn't be able to provide for another legal filing date; the one mentioned was February 20. We have the right to do as the law states; we have the right to set a special election date or ratification date if we want to; and, if we don't have the right to provide for a legal filing date or even another legal primary, then I don't think we have the right to put in these candidates on with the general election either. It has also been mentioned that there may not be enough filing time between now and the 20th of February. I think sometimes, if you have a shorter filing time, you might get your best candidates. They are the ones that are going to say, "I will go regardless of what it will cost." If you give them enough time to think about it, then you may get, as somebody said, 10 or 20 of them going in just for the ride and the free advertisement.

The longer you have, why, perhaps the more you will get in there. It's just like what one fellow said about another's crowded cabin, "If it was any bigger, there would be more junk in it." I think the same could be true here. You might be assured of getting the best ones. I think Mr. McNealy's remark that it would be a political candidate, although it was inferred that remark was humorously put, I think it is a very well-put remark. It would be a political candidate -- it would be a politician in the strictest sense of the word. Otherwise they wouldn't be nominated, I don't believe, at a party convention. It seems to me that we would have just as good a chance to get as good, if not better men elected in the general election if they are nominated in the primary. That has been the system that we have used up here in Alaska, and I don't know if we should give it up just because we are on a fine line as far as the schedule is concerned to make it and rule this out entirely. Someone mentioned that, if they can have a nomination by party convention, that you will get better ones; and that, if they have a whole bunch in the primary, they will vote against the Tennessee Plan because they see a bunch of names and they don't like those particular people. I am not so sure but what there will be a few voting against the Tennessee Plan because they are not certain, and they'll never know until the middle of summer who the party is going to put up. That is really getting a pig in the poke. I think we have a lot better chance of selling the Tennessee Plan when this constitution comes out for ratification if the people could be assured of nominating their candidates for these two senate offices and the representative office on the primary election, and I think this amendment to strike this section should be voted down, and that is the reason, by the way, that I objected to Mr. McLaughlin's withdrawal of the other one because I think that is the one that should be struck. It wasn't because I didn't understand it or hadn't read it, but I think that is the one that should have gone out. I think we all ought to give a lot of serious consideration to this before we just throw away our primary system. Someone said it would get down to the grass roots if we have it by the party, but I think we would go to the brass most probably, just whoever happens to be the party chief, they are the ones who would do the picking.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Mr. President, with the Chair's permission, I would like to direct a couple of questions to Mr. Londborg.

PRESIDENT EGAN: If there is no objection.

McCUTCHEON: Mr. Londborg. do you belong to a political party?

LONDBORG: Mr. McCutcheon, yes I do.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I object on a point of order to that line of questioning here. We are here under a nonpartisan ballot and I don't believe it is proper.

McCUTCHEON: Mr. President, the question is not frivolous. I am attempting to evaluate Mr. Londborg's comments and there are two questions that I require to have answered before I can evaluate properly his comments on this subject, which is pertinent.

PRESIDENT EGAN: The Convention will be at recess, Mr. McCutcheon, for a minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there further discussion? Mr. Walsh.

WALSH: During the previous recess, I went to the Chairman, Mr. McNealy, with these thoughts in mind -- before any of this argument started in this Convention -- and I talked and expressed myself to Chairman in these terms -- these words: If the McLaughlin amendment carries, then we wouldn't have any names on the primary ballot for these offices, is that right?

PRESIDENT EGAN: That is right.

WALSH: But we would have on the primary ballot a referendum for or against the Tennessee Plan. My fears were then, at that time, and I think so again, that there would be a sufficient, or could be a sufficient number of people disappointed because they were not allowed to vote on the primary ballot for these candidates who would be subsequently nominated by the convention system, and it might possibly -- these are my thoughts, nobody else's but my own -- cause our Tennessee Plan to be rejected as a result of that and I think we should give more thought to it. Now, I approached the Chairman of the Committee with those thoughts in mind before this argument started, and those are still my thoughts.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I have had a good deal of experience in the process of sending ballots out for both primary and general elections, and I am convinced that there is absolutely no possibility of getting the ballots out in any orderly fashion. I can foresee the regular primary ballots going out to the precincts; these ballots coming along later; the tally sheets and the certificates of judges getting lost in the shuffle; and it being a very disorderly and an ineffective sort of thing, which could do much more damage to the Tennessee Plan than if we just forget it and go ahead by party convention. The people who are so afraid of party organizations should stop and think that, in a convention, which starts with a caucus in the town where all members of the party are free

to go and express themselves, and moves on to the division and then on to the Territorial convention, the people who attend that convention are going to give a good deal of very serious thought to that individual whom they wish to carry that party label into the Congress of the United States. And in the meantime, the people who do not have any party affiliation and who do not believe in the party system of government have plenty of time to seek among the independent members of the population for someone to represent them, and it is no difficult task to get a petition signed and to get out and back that candidate in the very same manner that the political parties back theirs. So, I don't think anyone has any need to fear not good representation from the whole population in a general election.

PRESIDENT EGAN: Mr. Hilscher.

BUCKALEW: I had a question for Delegate Nordale.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I, as a member of the Committee, should like to say a few words on this. I somewhat feel like Mr. Walsh does, that we have a critical situation to take care of. We have learned apparently that the only organized opposition to the Tennessee Plan is being directed to the possible lack of a primary. Now, I think it is sufficiently serious that this Convention should weight this very carefully before adopting Mr. McLaughlin's amendment, because, as Mr. Walsh points out, there may be many people who for one reason of propoganda or otherwise might call this thing a rigged election. Now, I also would like to point out, as our Chairman has, the difficulties of getting the ballots out to the precincts. Normally here in the Fourth Division, if I remember correctly, at practically every election there are one or two precincts that do not even get their ordinary ballots in time for election. Now, we should very seriously weight whether or not an elimination of a possible primary is going to build up a vocal opposition to the Tennessee Plan, seizing upon any feature which they might serve to defeat the plan, or whether we should leave it in and, if it works, fine and dandy; if it doesn't work, then revert to the party system. If Mr. McLaughlin can come up with an amendment or another idea which will still give any independent, any NP [no party], who wishes to protect his rights, then fine and dandy.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: One suggestion that I would like to ask of Mr. McNealy which might clarify some of the objections to the amendment is this: Mr. McNealy, what is required under the provisions of page 5? It say, "The names of qualifying independent candidates for these offices shall also be placed on the ballot for the next general election." What is the requirement to file as an independent candidate; what are the qualifications?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President. Mr. McLaughlin, if I am incorrect on this statement I know that Mrs. Nordale can clarify it. My remembrance of the law is that they would be required to have a

petition, I believe its 200 signatures on a Territory-wide basis, and to pay a filing fee of \$40 with the Director of Finance to have their name placed on the ballot. It's either 150 or 200 signatures and the \$40 filing fee is the only requirement.

McLAUGHLIN: Now, assuming that we struck out the primary system as being unworkable at the moment, and then on page 5 we provided that the chairman and secretary of the central committee of each major political party shall, immediately upon such nominations being made and in no event later than July 15 -- if we changed July 15 to July 1, 1956, that would mean, would it not, that the conventions of both, shall we say, the Democratic and Republican parties will have been held and the chairman and secretary of the central committee will have reported to the clerk of court the names of candidates nominated by the conventions. And, if you have left open until July 14 the time for filing independent candidacies, would that not mean that anyone who felt that he had been deprived of his right to run by virtue of the failure of the party to nominate him at the convention, that would give him, in substance, 15 days to secure the 200 signatures to get on the ballot, would it not?

McNEALY: Mr. President, that is entirely right; it would. As I remember it, if that amendment were made, it would give the independent candidate an advantage that he doesn't have at the present time. He could see who was nominated and, if he wasn't satisfied or if he wasn't nominated, he could then file.

McLAUGHLIN: Then in theory, if that convention in nominating Mr. A and Mr. B were not following the will of the party, then Mr. C would have substantially 14 days to secure the signatures of 200 dissenting Democrats or Republicans and secure \$40 to put himself on the ballot?

McNEALY: That is correct.

PRESIDENT EGAN: Is there further discussion? Mrs. Hermann had been trying to get the floor.

HERMANN: I intended to stay out of this hassle, but I think we are losing sight of the principal factor involved, and that is whether or not a vote for this amendment will tend to convey to the people of Alaska that we are scrapping the primary system. I can't vote for the amendment; I am going to vote against it, not because I think we should choose between the primary and the convention system of nominating, but because I think that, as long as there is any chance whatever of our being able to proceed by the primary system, we should not scrap it by any vote in this Convention. If it fails, if the time element is too close and it fails to work as we hope it will and as the Committee says it has a chance of working, although maybe not a 50-50 chance, then I think we should keep it along with the convention system, and we can at least say to the people of Alaska that we tried to keep the candidates nominated by the primary election system. If it won't work, we still have the convention system to fall back on. Now, I know a whole lot about convention systems of nominations, and when they are not backed by a primary, they tend to become somewhat corrupt, and that is a masterpiece of under-

statement. I don't know who the respective Republican and Democratic parties in Alaska would nominate for officers under this plan, but I do know the sentiment every place I have heard it, both here in Fairbanks and in my travels to hold hearings, is distinctly against nominations by convention. I think we will have an awfully hard time convincing the people of Alaska that we are on the up-and-up in this desire of ours if we right now rule out the primary system and say, "No, you have to choose your candidates by the convention system." Let's keep it in the ordinance and, if it doesn't work, even if it costs some money, as everybody seems to be a little bit worried about, what it costs in money is going to be worth many times that amount in public relations that are going to be generated in favor of the Tennessee Plan. Even if it costs some money to keep it, let's keep it. Let's use it if we can and, if in the final analysis we find it won't work, we still have the convention system that we can resort to. I don't take too much stock in this independent filing, because I think that most people who would want to run for the office of United States Senator and Representative won't want to run on the Independent ticket. I think that most people who aspire for such high office desire to be associated with a party and not to be eliminated from it, either through the choice of the convention for someone else or because they deliberately withdraw from it themselves. I don't think that is the answer, providing that independent candidates can file. What we are asked to do here today by this motion which Mr. McLaughlin has put before us for the sole purpose, he says, of letting us make a determination and not for any interest he has in it himself one way or the other -- what we have to do here today is to decide whether we are going to say we are not trusting to the primary system; we would rather have the convention system. I cannot vote for the motion and I hope that less than 28 people will vote for it.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I respect Mrs. Hermann's opinion in these matters, but this is one time I will have to say I disagree with her. Personally, I think there are so many risks connected in putting this matter in the primary election that we should hesitate about keeping the primary provisions in the article. We are not scrapping the primary system. It just happens that circumstances are such that time alone makes it hazardous to scrap the convention system and let the convention system come on in. And then, another thing, we know the primary elections are handled by the clerks of the court; they are paid out of federal funds. Now, we do not know whether all of the clerks of the federal court, of the United States courts in Alaska, are going to react favorably in handling, in addition to the primary election of the Territorial officials, the added problem of distributing these ballots to the election judges, who are also paid by the United States, and whether they are going to be zealous in the dis-

charge of their duties if they do, to see that these special ballots are put out to the election judges in the various precincts both near and far. Furthermore, this Convention has no mandate to do this. We have no authority to expend the money which they say it would take to have these ballots printed and distributed. We might have to go to the next Legislature with our hat in our hands and say we made a mistake; we spent \$4,000 or \$5,000 on the printing of ballots, but we didn't get them in the hands of the election judges in time and now we would like to have you bail us out. I think the members of this Convention would receive a lot of censure from all directions if we did that when we stand here and know and have been informed that the time is so short that it is well nigh impossible to use the primary, and I believe that the people of Alaska understand that. Now, I don't see that there is anything too terribly wrong about a convention system, especially where any person that doesn't believe in conventions has a right to get his group together to sign a petition for an independent. Now, those people that don't belong to one of the great parties actually have no business selecting the candidates for those parties. If they cannot take enough interest in political affairs to align themselves with one of those parties, they should run independently or support independent candidates. And now we go back, and for many many years candidates were selected only by conventions. All of our presidents were selected by convention. Lincoln and Roosevelt were both selected by conventions; Wilson, and all of the great presidents as well as the mediocre and the poor ones have been selected. We have selected men by the primary, wonderful men, and we have also selected some failures, so the primary is no criterion -- the use of the primary is no criterion that we are going to get good men always. And I think in this first election that, when the word goes out -- down to the precincts where the call goes for the delegates to a divisional convention to select candidates for a territorial election [convention] to select the nominees for Senators and one Representative for Washington, D. C., that they will immediately start thinking as to who would be the best person that they could send back there, or the best persons, and I think we can get as able a person out of the convention as we will be a primary. Another thing, I think every person in Alaska, regardless of whether Republican or Democratic, is going to be intensely interested in their candidates for the positions of the Senators and Representative. It will be the biggest convention ever held in the Territory, and they will go there for the purpose of selecting the best and the ablest men they possibly can to go back, because, when those men get back there, they are going to have to be men of knowledge and of influence, because they are going to do a selling job upon our constitution and our admission to the states. I would hesitate very much to risk our chances of having candidates before the general election this fall by attempting to subject the selection of these candidates to the primary. I think we should support Mr. McLaughlin's amendment.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I haven't lost faith in the convention of the political parties, either Democratic or Republican, of which I am a member, although I have probably been thrown out of more conventions than any other person here. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

ROBERTSON: I am going to stand by our Alaskan time-honored system of the primary in this matter, and I think what Mr. Walsh suggested, and also Mrs. Hermann, should bear great weight with us in casting our votes upon this matter, so I will have to vote no, against this motion.

PRESIDENT EGAN: Mr. Knight.

KNIGHT: I fully concur with the remarks of Delegates Hermann, Walsh, Nolan, and Robertson, and I am going to vote against this amendment because I think we are throwing away our birthright.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I had not intended to speak on this, but I feel that, when the people of Alaska go to the polls, faced with the question of "for the Tennessee Plan" or "against the Tennessee Plan", and let us say they vote for the Tennessee Plan, the people will then have indicated clearly and unequivocally (unequivocally) that they desire the plan to be instituted through the use of the party convention. The people will have their chance to speak on this matter, and, if the people vote for the plan, and I hope that they will, I think that they will then remove any doubt. In the last analysis, the people of Alaska will decide this thing. I would feel like Mr. Robertson if the people were not going to have a chance to express their wishes at the referendum, but since they are, I feel that this motion should be carried and the matter should be left to the political conventions.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: We have unanimously voted only a little while ago that we are in favor of the Tennessee Plan. Our job right now is to find what is the most workable way to put that plan into operation. Numerous questions have been raised about whether the primary process can work in this case. I am sure every delegate here, or almost every delegate, wants to have the primary if possible. But since the primary may very well spell defeat of the Tennessee Plan because of the machinery not being able to operate properly, I believe that we should adopt Mr. McLaughlin's amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Is there anyone else who wishes to be heard? Mr. Kilcher.

KILCHER: Mr. President, I have intended to speak all along on this question, and having learned a few things I think is some advantage in letting others speak first. It relieves me of commenting on a lot of things that I was going to because others have already said it. However, I think I have to reply to some of the previous speakers, some of their arguments or shades of arguments, rather, and I would like to make the theme of my little speech a note that I jotted down a few minutes before Delegate Hermann has spoken, and I am pleased to note that in this particular instance that we had almost a totally identical idea. My little note says here -- a little catch word, "at least we have tried"; and I have to go back to the time of our Christmas holidays, of our hearings at home, and there are a lot of us to our great surprise have found not only little opposition to the Tennessee Plan but have found that the Tennessee Plan had been a boost to the general statehood idea as such. And like Delegate Hermann, I have found that the main -- possible -- objection to the plan was that it might be handled too politically, and politically I mean in the more evil sense of the word. In other words, the need of the primary has been stressed. I have received letters only a few days ago where this very need was stressed again. I have, ever since we came back, been holding in favor of the Tennessee Plan. I have tried to find a solution whereby the primaries, if possible, could be worked in, and I think we have found such a solution. It is before us now. I am sorry that the plan, as such, had not been brought before the Convention sooner. I personally think it could have, but that is spilled milk; there is no use to talk about it even. Now as to the question at hand, the amendment of Mr. McLaughlin's -- for me the question boils down simply to the following: Which course will insure us greater success for statehood? And, in a narrow sense, statehood now means the Tennessee Plan. Which course will insure greater success? That is for me the only consideration. I am, I think, in the enviable position of having no ax to grind. I can afford to be unpopular. I actually can't lose a thing by saying what I am going to say, so I say that to point out that my arguments in the matter are based on quite a deal of observation and study, as a member of the Committee and otherwise, and I have come to the conclusion that this plan as it is before us is workable, and not only workable with some degree of success, some chance of success, but it is desirable, a desirable plan, even if it should not work out. Now to start with its technical aspects, it has been stressed all along, and I think it has been stressed too long. Too much time has been lost in stressing that point; time lost that actually makes the point more stressed. Namely, that it technically is impossible to have primaries; for instance, 30 days are legally necessary for the ballots to be available before the election date. Somebody is welcome to

interrupt me if I am wrong -- I would appreciate it. Now, in the elections in which we were chosen as delegates to this Convention, I recall that out in the outlying areas the ballots only came in from three to seven days ahead of the election, entirely illegally as far as I am concerned. Also the names on the ballots were not properly rotated the way I understand they should be, a matter than I didn't even know about until this very thing occurred. They happen to be more precise in Seldovia; officials connected with the elections have been worried and bets have been put as to whether that very election would not be enjoined against for the fact that several things were not quite up to law; not enough notice given, notices not posted, etc. Well, nothing has happened. I don't see why, in a similar situation, if it should arise in our primary process, anything should happen either. I don't see any difference in the situation and, if something should happen, I think this plan would have the added advantage of getting the opposition out of the brush. Let them fire an injunction; let them stop that particular ballot. That won't stop the whole primary process for our Territorial legislature; that wouldn't stop the other ballot titles. It could possibly stop this little ballot that is limping a little bit behind the others. It might stop it from being printed, in which case we wouldn't lose so much money. It might stop it after it has been printed, in which case we might lose a couple of thousand, which is trivial, but it also might be possible that this ballot would go out. If there is passive resistance of the officials involved, let's point at them; if an injunction is brought forth, let's point at them; and, if the poor little ballot makes all the hurdles, which I think it could well make, we would have the primaries and you all seem to agree that would be a beautiful thing to have. Personally, I believe so myself. We have primary elections about a matter that is very important to all of us and we have agreed on the primary system. The primary system has not been attacked officially as far as I have heard. Our sole contention the last few weeks and today seems is it possible, not is it desirable. It may seem to some of the members to be undesirable, but this is not the official question on the floor, but, "Is it possible?". I think it is possible, and in case it should be technically impossible, administratively, or legal obstacles should be thrown in our way, which could be well exploited by the pro-Tennessee Plan, pro-statehood propaganda, if obstacles should be unsurmountable, we have provided for an alternative. The people then will know exactly why there are no primaries. We have honestly tried, and as far as one of the other minor arguments is concerned that the possible candidates will be taken by surprise, that is, I think, a slightly facetious argument to start with. It will be three weeks from tomorrow that the papers will report our action of today. It will be three weeks from tomorrow when these people in question can make up their minds to file. If they are sincere, and we only want sincere and serious people as our ambassadors to Washington,

D. C., then they will file and will gladly do so. As to the convention next summer a few things have been pointed out that I would like to go into. This party convention next summer, as Delegate Nordale has pointed out, could be and will probably be preceded by a precinct caucus. As we all know, the precinct caucus is taken part in by a small percentage of the people in the parties, by the active party members. Each party has five or ten times more actual voting members than are active on the precinct level -- we know that. And whereas this convention plan -- great interest is generated -- might be a good way of raising the interest in direct party work, we must also think that summer is a bad time for this added little spurt in political activities. Most of us are very busy in summer. Not only the people that everybody know are specifically busy, the farmers, construction workers, homesteaders, fishermen, even people in town haven't as much time in summer as they have in the winter, so that a caucus, even if people were very much interested, wouldn't be too much of a success. And those people that do not take active part in caucuses, as I tried to point out, are not necessarily independents. I think the independent in Alaska is more or less of a myth as far as its vast numbers are concerned. There are a lot of people who are party members, or rather party sympathizers. They belong in the heart of the party without making much fuss about it, and it is those who, at the primaries, play an important role. I might even say the primaries have been established for those, not so much for the independents, and I think the people of Alaska are watching us. They will read the papers tomorrow and if they realize that they are going to have a choice, the public officials involved in the machinery of the primaries know that they are watched. I think everybody will make as good an effort as possible; we will have successful primaries; we will have excellent candidates; and, if it should not work -- and I think there is a small possibility that it won't -- we will have a convention this summer and at least we will have tried.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, two of the delegates have suggested that the Tennessee Plan might have been brought on to the floor earlier. One of them went so far as to suggest that possibly there was some ulterior motive in holding it until this time instead of bringing it out before. I would like to suggest at this time that, in this as in all other things, first things come first. Now, until we have a constitution, there isn't any reason for a Tennessee Plan. There isn't any reason for electing Senators and a Representative. So far as I as an individual am concerned, it wasn't until 10:00 o'clock last night that I was convinced we were going to have a constitution. It now appears to me that we now, at least, are almost to the top of the hill, and that after tomorrow or the next day, we should be on the downgrade, and, for that reason, I think it is now proper to consider the Tennessee Plan. I think it would have been highly

inadvisable to do so before this time. Now I, personally, am in favor of party primaries as against conventions. I started out thinking that probably the Committee's plan of presenting alternatives here was the best way to do it and that we should keep both plans. After hearing the arguments that have been made on both sides, I am convinced that the chance of a primary being held is so small as not to be worth the effort, and so far as I am concerned I am going to vote for McLaughlin's amendment.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I think in either way we would vote on this that we would have the support of the press in giving the story as it is reported here on the floor. If we should vote for Mr. McLaughlin's plan, as I will vote for it, I do not believe that there will be a report come to the voters of Alaska that we have deliberately tried to scuttle any plan or any procedure that is authorized by our people. I think, too, that this shows the need of statehood. The thing that we have talked about today shows that we are politically immature because we have not had the responsibilities of statehood, and I believe we are stepping forward as we vote for this amendment. I believe that we are taking the direction of sending the men from a party to the Congress the way Congress would want us to do it.

PRESIDENT EGAN: Mr. McNees.

McNEES: I yield to Mr. Lee.

PRESIDENT EGAN: Mr. Lee.

LEE: I have little to say. I would like to explain my position on this. I happen to concur with Mr. Davis and Mr. Armstrong. It is against my lifelong convictions to deny people the primary elections. In this respect, I know the people who sent me to this convention will understand the situation when I explain it and I am not concerned -- I think they have faith in all of us here. There have been many instances when they have shown complete faith in our job, and I think that all the people respect us for it, and I think they are going to understand my vote.

PRESIDENT EGAN: Mr. McNees.

McNEES: Mr. President, I have not spoken on this before and I feel we are facing just two issues here where there might be others involved. I am a hearty supporter of the Tennessee Plan. I think it is American; I think it is Alaskan; and I think under the particular circumstances, it is very, very practical. This Convention is unanimous in their thinking that way, and I am certain that we will find a strong majority support in the Territory as a whole for it. I have heard a great deal of

support for the primary system; I want to add my support to that. I have also heard a great deal of argument for the caucus or convention plan of organization. I think it is pretty much a matter of grasping for straws if we go after it because of the time element involved. I have wondered if the Committee, or, perhaps, if this delegation here as a whole had given proper consideration that there might be an alternative plan available to us. This very Convention was brought about at the conclusion of the Territorial legislature last year. An election was held and this body evolved from that election. My suggestion is that we put the Tennessee Plan on the ballot and let them vote "yes" or "no" on it. Following their "yes" or "no" on the Tennessee Plan, we write in another block whereby we provide that the Governor of Alaska shall arrange for the selection of nominees' names to appear on the ballot at the general election by one of three methods: first, a primary or special election to be held; secondly, a party convention to be held; and, third, a nonpartisan convention to be held. I can see many merits in this system. We are not taking away at all from the value of the spotlight on the Tennessee Plan by such an arrangement. I don't think that, if any instance, under any given circumstance, should be a matter of issue, I think it should be set out where the people can vote "yes" or "no" on it, just as it has been prepared in the committee proposal, but I furthermore feel that the people have the prerogative of saying how those nominees will appear on the general election ballot in the fall, and I feel that this is the only fair way to present the question to the people. If Mr. McLaughlin's amendment does carry, I shall introduce and I shall support an amendment to strike the appearance of the mandatory caucus selection of nominees on the ballot and support a plan whereby that choice is left up to the people.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Point of inquiry. Are the questions that I answered counted against me on the privilege of speaking on this amendment?

PRESIDENT EGAN: The Chair does not recollect that you spoke to the amendment, Mr. McNealy. Questions were directed to you and would not be counted against your time.

McNEALY: Mr. President, I had hesitated and hoped it would not be necessary and didn't want to speak on the amendment because, both in the Committee and in the earlier presentation on the floor, I had endeavored, or thought I was endeavoring at least, to be as impartial as possible. Since there has been a divergence in the opinion of two or three of our Committee members, then at least as an individual I will just briefly express my views here, and one of the parties said he had no political aspiration or anything so could therefore vote against the amendment here --

KILCHER: Point of order. The party alluded to is no doubt myself and I made no such allegations.

PRESIDENT EGAN: Mr. McNealy has not -- your point of order is not well taken. Mr. McNealy, you may continue.

McNEALY: The point is I have been more or less in politics in a small way and I would like to have this direct primary system. I think a lot of the people that I know as voters in this Division might be somewhat opposed to my taking a stand on this, but the administrative difficulties and the legal difficulties are so great that I have been long convinced of the practical impossibility of holding this direct primary. Now, there never has been any intention of the Committee to hold up the advancement of this Tennessee Plan to the body, and Mr. Davis more ably stated it than I could. As you all know, the ordinances and those things connected with it come at the tag end of the constitution and the reason this Committee has been coming in here with 17/a and 17/b and 17/c and Revised is that ordinances that we had drawn prior to the recess we had to revise in order to fit the stable parts, the permanent parts of the constitution which you delegates have drawn. And in that connection, had the Tennessee Plan come out before this time, it would have come out as it was in the interim report that was sent to you at home or that came out before the recess, which contained only the convention plan because we were convinced at that time of the impossibility, and it has only been in the last few days that the Committee has dug in and tried to do everything we could. We were afraid that, if we came out of Committee or the majority of the Committee suggested only the convention plan to the floor, that this body would feel that our Committee had been unfaithful in the performance of its duties in not endeavoring to spread the full picture out upon the floor. I am seriously afraid here that, if a direct primary system is attempted here, and that it can fall on its face, and the discredit that will be given by failure to put the names on the ballots, or failure of the ballots to get out, or failure of getting the ballots out in one Division, or failure of the Director of Finance to certify the names, or even attacks as to legality by any taxpayer bringing an action to enjoin putting on the names, that the publicity out of that is going to hurt the whole of the Tennessee Plan and will discredit it to such a point that the convention system provided for as an alternate can very well fail or lose a great deal of its effect and, as Mr. Delegate Kilcher so ably stated that, at Seldovia in his area there, the ballots got there only seven days ahead of time in a well-planned and a well-organized election, and how possible, not only possible but how very probable it is going to be of Seldovia and the areas not getting any ballots at all under this type of an election. Now I don't want to belabor this point or take up the time of the Convention, but the important things that we have given such a great deal of study to, if an attempt were made or it was thought by any member of the body that an election can be held at a later date

then, if this body should say that there should be elections held later than at the general election to actually elect these men at a general election, then I, for one, would be the first one on the floor to move to strike the whole of the Tennessee Plan for this reason that, if it is going to have any effect, it must follow in logical sequence with the constitution, and our Senators and Representative must be back there at the opening of the new session of Congress. I know the delegates here understand that there is a chance and an opportunity that, when a new session of Congress opens up the first half of the session, that there is a period there of three or four months where it's a possibility of getting some work done and getting in new bills. If we have to go over into the second session in 1958 to have our parties back there, then each and every Senator and Congressman has his own measures carried over from the 1957 session and is going to be tied up, so we will get no consideration for statehood at all. In conclusion, the Committee at least did this much, ladies and gentlemen: we realize that the point here is the great difficulty -- the Director of Finance under the law and we tried to tie this in with the existing law -- certifies to the clerks of the court by June 25, I believe it is, of each year to these parties in the primary elections; and if there is any difficulty in the party machinery of the National Committee of the Republican party or the National Committee of the Democratic party, there is a question of whether a convention can be authorized between the dates of June 25 and the dates of July 1 or July 15. We have done one other thing that we thought would help out here. A suggestion came to us from political-minded persons, we'll put it, to say that the convention held earlier by the Democratic party and the convention to be held shortly by the Republican party would constitute the conventions to nominate these candidates, and our Committee felt that it would be very unfair because, if we require them under this convention plan to hold new conventions, it would certainly bring the interest up at a precinct level, and, as I believe Mr. Taylor so aptly stated here, the convention would be full of people there, and there would be great interest in that convention, and everyone interested would then have a chance to take part for the reason stated. I feel, and against my will, that I am going to have to support the amendment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: May I ask a question of Mr. McLaughlin?

PRESIDENT EGAN: You may ask your question.

HILSCHER: Should your amendment win and the primary election be eliminated, do you contemplate any further amendment, any outlet which might be helpful to those who are inclined to favor the primary system or the independent filing system?

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I do plan, tentatively, if the amendment carries, to move to strike on page 5, line 15, the "15" in July 15 and substitute the words "July 1"; my intent being, subject to more intelligent amendments, to allow -- authorize a 14-day period in which discontented candidates who were not nominated by their party could, in substance, file, secure 200 signatures, and file as independent candidates; and, upon recommendation of the Convention, possibly make an amendment authorizing any candidate to submit any party label under which he might desire to run except two specific party labels, to wit, Democratic or Republican.

PRESIDENT EGAN: Mr. Kilcher, you have already had the floor.

KILCHER: May I ask a question of Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection, you may ask a question.

KILCHER: Did you intend to reserve this 14-day period only for discontented party members?

McLAUGHLIN: Not for discontented party members; for discontented party members and all others so that there will never need be any assertion that any person didn't have the opportunity, with the assistance of 200 adherents and \$40, of being placed on the ballot.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McLaughlin be adopted by the Convention?"

SUNDBORG: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Armstrong, Awes, Barr, Boswell, Buckalew, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hilscher, Hinckel, Hurley, Johnson, King, Laws, Lee, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Taylor, White, Wien, Mr. President.

Nays: 14 - Collins, Cooper, Harris, Hermann, Kilcher, Knight, Londborg, McNees, Nolan, Reader, Robertson, Sweeney, VanderLeest, Walsh.

Absent: 2 - Coghill, R. Rivers.)

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CHIEF CLERK: 39 yeas, 14 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it, and the amendment is ordered adopted. Mr. McNees.

McNEES: Mr. President, I have an amendment.

PRESIDENT EGAN: You may submit your amendment, Mr. McNees.

McNEES: Beginning on line 7, page 5, I move to strike beginning with the word "party" all the material down to and including the word "election" on line 20.

PRESIDENT EGAN: Mr. McNees moves beginning on line 7, page 5, beginning with the word "party"...

McNEES: Again recognizing that some rearrangement will have to be made of the last six lines on page 5 in the body of the text so that the discontented party members, etc., might have room to file ahead of whatever deadline is set up for filing by the Governor's office, but I think that could well be done by moving it up and into the old Section 3 perhaps, or create a new section in there. Furthermore, I would like to add to that amendment that another bracket where a vote might be made be added following the old Section 8, with these words inserted --

PRESIDENT EGAN: Mr. McNees, what do you mean by the old section 8?

McNEES: Section 8 on page 7.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, if he is going to rewrite this thing, I think he ought to have it mimeographed.

PRESIDENT EGAN: Mr. McNees, that would be something that would be awfully confusing. It would be better if you would offer your amendments one at a time. That would be on page 5, the deletion of all the words beginning on line 7 with the word "party" through the word "election" on line 20.

McNEES: That is correct.

PRESIDENT EGAN: Miss Awes.

AWES: It is past the time when we usually adjourn. I move we adjourn until 7:00 o'clock and then Mr. McNees could get his amendment mimeographed.

PRESIDENT EGAN: Miss Awes moves that the Convention stand at recess until 7:00 p.m. Mr. Rosswog.

ROSSWOG: I have a committee announcement. There will be a Local Government Committee meeting immediately on recess in the gallery.

PRESIDENT EGAN: Local Government, if recess carries, in the gallery. Mr. Sundborg.

SUNDBORG: Meeting of the Style and Drafting Committee in the gallery immediately upon recess.

PRESIDENT EGAN: Style and Drafting Committee immediately upon recess in the gallery. Are there other committee announcements? Is there a second to the motion for recess? Do you ask unanimous consent, Miss Awes?

AWES: I do.

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the Convention stand at recess until 7:00 p.m. All those in favor of standing at recess until 7:00 p.m. will signify by saying "aye"; all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Awes, Barr, Buckalew, Collins, Doogan, Emberg, Johnson, Kilcher, Knight, Londborg, McLaughlin, McNees, Poulsen, Rosswog, Smith, Wien, Mr. President.

Nays: 36 - Armstrong, Boswell, Cooper, Cross, Davis, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Laws, Lee, McCutcheon, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Reader, Riley, V. Rivers, Robertson, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White.

Absent: 2 - Coghill, R. Rivers.)

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: So the "nays" have it and the Convention is still in session. The Chair would like to announce that it is the

understanding of the Chair that there is a bus scheduled to leave the University at 6:20. The Chair would stand corrected if that is not correct, and it might be that the delegates should decide whether or not they want to work tonight or attempt to catch that bus; or later at a time that would enable the delegates to catch the late bus. Mr. Sundborg.

SUNDBORG: I would like to inquire whether anyone has determined whether the cafeteria is in shape to feed this large group tonight in case we decide to recess through the dinner hour.

PRESIDENT EGAN: The Chairman of the Administration Committee is not here. The question is -- Mr. McNees, on your amendment -- it seems that Mr. McNees was -- are you speaking to your amendment?

CHIEF CLERK: It hasn't been seconded.

PRESIDENT EGAN: Did you move the adoption of your proposed amendment, Mr. McNees?

McNEES: I so move the adoption.

PRESIDENT EGAN: Mr. McNees moves the adoption of the proposed amendment. Is there a second?

BARR: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Barr. If there is no discussion --

UNIDENTIFIED DELEGATE: May we have it read again, please?

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 5, line 7, strike the material beginning with the word 'party' through the word 'election' on line 20."

PRESIDENT EGAN: Mr. McNees.

McNEES: The particular merits as I would see that this amendment would have, knowing full well that this present Convention was organized, the election for it was organized and carried through during a period of time equal to that that would be available following the April 24th ratification of the Tennessee Plan, that the time element would be present during which the Governor's office could carry forth, hold a special election for the nomination only, mind you, of candidates for these three very, very important offices. I furthermore feel that it is the voice of the people as a whole that should nominate and in turn elect these three candidates to the first United States Congress that the proposed State of Alaska would be permitted, either by

mandate of their own or by actual seating in that Congress, to participate in it. I therefore feel that the plan has merit. I would like the support of those on the floor that can see it as I see it. I will admit that this amendment alone stands for very little; that there will have to be some rearrangement; that there will have to be a new block on here providing where people may say in what way these candidates for these two offices as Senators to the United States Congress and Representative to the United States Congress shall be elected.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is. "Shall the proposed amendment as offered by Mr. McNees be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. The Chair has just received a note which says the cafeteria can handle the delegates -- it looks like fried chicken. Mr. Barr.

BARR: I move that we recess until 7:05.

PRESIDENT EGAN: Delegate Barr moves that the Convention stand at recess until 7:05. Is there a second?

HERMANN: I second the motion.

PRESIDENT EGAN: Seconded by Mrs. Hermann. The question is -- unless there are committee announcements --

HILSCHER: I wish to ask what the rest of the program is for the evening if they're able to tell.

PRESIDENT EGAN: Well, it would be the plan we have before us, Mr. Hilscher. Mr. Hellenthal.

HELLENTHAL: Is there any necessity of having an hour and a quarter -- such as the boiler room problems -- are they working today?

PRESIDENT EGAN: Yes, some of them are working upstairs. Mr. Rosswog.

ROSSWOG: Mr. President, the Local Government Committee meeting will be held in one of the committee rooms upstairs rather than downstairs.

PRESIDENT EGAN: Local Government in one of the committee rooms upstairs. Mr. Nolan.

NOLAN: Mr. President, couldn't we pass this plan by 6:15 and then adjourn until tomorrow morning at 9:00 o'clock. Most of the arguments are over now.

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PRESIDENT EGAN: The question before us, Mr. Nolan, is this motion for recess. Do you have a committee announcement, Mr. Doogan?

DOOGAN: No, I would like to ask Mr. Barr to change his recess time until 7:30. The Local Government Committee has a meeting that might take a good half-hour. For information, Mr. Chairman, we ...

BARR: I thought that the final vote was coming up on this right away. I withdraw my motion altogether.

PRESIDENT EGAN: What is your pleasure, Mr. Barr?

BARR: I ask unanimous consent for the withdrawal of my motion.

PRESIDENT EGAN: Mr. Barr asks unanimous consent that his motion be withdrawn. Is there objection? Hearing no objection, it is so ordered. Mr. Taylor.

TAYLOR: Mr. President, I move that we recess at 6:10.

PRESIDENT EGAN: At 6:10?

TAYLOR: Yes.

UNIDENTIFIED DELEGATE: Recess or adjourn?

TAYLOR: Adjourn, I mean, at 6:10.

PRESIDENT EGAN: Adjourn at 6:10 you mean, Mr. Taylor?

TAYLOR: Until 9:00 o'clock in the morning.

SUNDBORG: I think the motion should be that it will be the policy of the Convention to adjourn at 6:10 this evening until 9:00 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Taylor moves that it be the policy of the Convention that the Convention adjourn at 6:10 until 9:00 o'clock tomorrow morning (morning). Is there a second?

STEWART: I second.

PRESIDENT EGAN: Mr. Stewart seconds the motion.

KILCHER: Point of information, Mr. President.

PRESIDENT EGAN: Your point of information.

KILCHER: Isn't there any other work before us that we could do even if we --

PRESIDENT EGAN: Well, we could bring up 17/a if it was the wish of the Convention, but we have before us the motion to adjourn, that it be the policy for the Convention to adjourn. All in favor of the motion as offered by Mr. Taylor signify by saying "aye"; all opposed, by saying "no". The "noes" have it and the Convention is in session. Mr. Davis.

DAVIS: May I ask Mr. McNealy a question?

PRESIDENT EGAN: You may ask your question, Mr. Davis.

DAVIS: Mr. McNealy, will you tell us how it is planned that this Senator, or these Senators and this Representative will be paid if and when we elect them?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, that is an excellent question. If we are going on this matter historically, Mr. Davis, the best of information that the Committee has been able to find, those that had been elected in years past this way, were without compensation, and they had to work doubly hard to get themselves seated in Congress so they could get on the federal payroll. We had considered these and we believe that it is very questionable whether or not -- we doubt the legality of this very much whether the legislature could provide -- any future Territorial legislature could provide salaries for them. The only possible way would be for them to receive any compensation or their expenses, would be if the Territorial legislature should pass a bill appropriating money for their expenses.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to partially answer Mr. Davis' question there and at the same time bring something on the floor. Thought has been given this very question, Mr Davis, of that you may be certain. And personally, I think one of the plans might be, to solve this problem, that the Statehood Committee might even organize even a campaign to get the support of the people behind that and that might at the same time be added evidence of interest in statehood. That could be started before ratification in April too.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Another question, Mr. McNealy, if I may.

PRESIDENT EGAN: If no objection, Mr. Davis.

DAVIS: Mr. McNealy, in the original 17/c which was presented, the following language appeared: "The duties and emoluments of these offices shall be as provided by law". So far as I can see, that language does not appear in the revised 17/c, and I am

wondering if it was left out on purpose or whether it was an oversight in redrafting the Article?

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, we had it in the other Article, and out of that one was -- referring to the top of page 3 of the revised 17/c, it is stated there "...provided that such a person shall receive the compensation assigned to only one of the positions held". Now this was done rather hurriedly, Mr. Davis, and the reason the other was left out was, on rather hurried thinking, was that we didn't want to have too much in this plan as to compensation, but I believe, since you mention it, that your point is well taken there and should definitely be considered.

DAVIS: I would like to know whether the Committee would object to offering an amendment to place the same language in the revised 17/c. If we did it would, I believe, now come in Section, subsection 6 of Section 29, line 5, beginning with the sentence "The candidates receiving the largest number of votes cast for the office shall be elected". That same language appears in the original 17/c and immediately following it appears the sentence I just mentioned. I would like to know if the Committee would object to my offering an amendment to replace that language in the revised section?

McNEALY: Mr. President, after looking it over, and I think the Committee would agree with me, I believe that that language should be replaced and the Committee would support such an amendment.

DAVIS: I would like to state that I, too, have some doubt as to whether the legislature could provide for paying a senator and/or two senators and a representative if there wasn't any such office, but I would like to have it tied down that, unless provision is made, there won't be any compensation. Now I, then, Mr. President, would like to offer the proposed amendment.

BARR: Could I ask Mr. Davis a question before he offers the proposed amendment?

PRESIDENT EGAN: If there is no objection, Mr. Barr.

BARR: I would like to see that amendment worded so that the legislature is not the only one that can provide expenses or pay. For instance, I had in the back of my mind that perhaps these men could be employed by the Statehood Committee for the purpose of furthering the cause of statehood. In that case it wouldn't be provided -- well, it may be indirectly -- by law.

PRESIDENT EGAN: Mr. Davis, would you object to a two-minute recess? If there is no objection, the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, in the course of recess, I have talked to members of the Style and Drafting Committee and have learned from the Committee that they are hopeful, if given an opportunity this evening, of having the bulk of the remaining work in shape for return to the floor tomorrow afternoon. It has occurred to several of us discussing this matter during the recess that, if we were to stay in session this evening long enough to complete the second reading of the Article now before us, and then, if it is the will of the body to suspend the rules and advance to third reading, that there will be ample time left for Style and Drafting to do some work this evening; that the Convention may take up its regular order of business tomorrow morning; and in all likelihood considerable time will have been gained. Accordingly, at this time I should like to suggest that we pursue that course -- we continue now in second reading and defer any immediate action to adjourn until the matter before us is passed.

PRESIDENT EGAN: Is there objection to proceeding in that manner? If not, are there other amendments to be proposed to Committee Proposal No. 17/c as revised? Mr. Davis.

DAVIS: Mr. President, I ...

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Davis.

CHIEF CLERK: "Section 29, subsection 6, line 7, page 6, insert the following sentence after the word 'elected': 'The duties and emoluments of these offices shall be as provided by law'."

PRESIDENT EGAN: Mr. Davis, what is your pleasure?

DAVIS: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Davis moves the adoption of the amendment. Is there a second? Seconded by Mr. Kilcher.

PRESIDENT EGAN: The question is: "Shall Mr. Davis' proposed amendment be adopted?" Mr. Buckalew.

BUCKALEW: Mr. Davis, my thought on this amendment -- I think the legislature has got to have more leeway to your -- I wanted to offer an amendment. I think the legislature would be able to do something for these individuals if the amendment read, "The legislature may provide expenses for these offices". I don't know, I don't think we can probably -- it is just a thought.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I think it is highly undesirable to mention the legislature here at all. We are proceeding on the basis that these are United States Senators -- this is a member of the House of Representatives. When you say, "provided by law", we are hoping they are going to be paid for by Uncle Sam.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Davis be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying Aye; all opposed by saying No. The "Ayes" have it and the amendment is ordered adopted. Mr. Hurley.

HURLEY: Mr. President, I have a short amendment to subsection 5.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Page 5, subsection 5, line 8, after 'made' insert 'for this election only'."

PRESIDENT EGAN: Mr. Hurley, what is your pleasure?

HURLEY: Having cleared this with the Chairman of the Committee, I move its adoption.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed amendment, seconded by Mr. Riley. Do you ask unanimous consent Mr. Hurley?

HURLEY: I do.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection the amendment is ordered adopted. Mr. Sundborg.

SUNDBORG: I have an amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Page 2, line 12, strike 'the regular' and substitute 'an initial short'; and on line 13, strike '1963' and substitute '1959'."

PRESIDENT EGAN: Would the Chief Clerk please read that little portion there as it would read if the amendment as offered by Mr. Sundborg were adopted?

CHIEF CLERK: On line 12, "one for an initial short term expiring on Jan. 3, 1959".

PRESIDENT EGAN: That is how that portion of the section would read if the amendment were adopted; rather than "one for the regular term expiring on Jan. 3, 1963". Mr. Sundborg.

SUNDBORG: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment.

BARR: I second it.

PRESIDENT EGAN: Is there discussion?

SUNDBORG: My thought here is that, since these officers will be elected under an election procedure which is not the usual one in Alaska, it might be best not to elect a Senator for the whole six years at the very first election where there would not be a primary. This would provide that there would be one short term of two years and another short term of four years, and certainly by that time we would hope to be a State and could elect under our regular procedure.

PRESIDENT EGAN: The question is: "Shall the proposed amendment be adopted by the Convention?" All in favor of adopting the amendment signify by saying "Aye"; all opposed, "No". The Ayes have it and the amendment is ordered adopted. Are there other amendments? Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: From Mr. McLaughlin: "On page 5, line 15, strike the words 'July 15' and substitute the words 'June 30'."

PRESIDENT EGAN: Mr. McLaughlin, what is your pleasure?

McLAUGHLIN: I so move.

PRESIDENT EGAN: Mr. McLaughlin moves the adoption of the amendment. Is there a second?

McNEALY: I second the motion.

PRESIDENT EGAN: Unanimous consent is asked.

McNEES: I object.

PRESIDENT EGAN: Objection is heard. The motion is open for discussion. Mr. McNees.

McNEES: My objection was raised on this basis. I understand this amendment is being introduced, as Mr McLaughlin stated earlier, so that any disgruntled or left out candidates from the party caucus as might be given room to file between June 30 and July 15. My thinking on the subject is this: the provision is made for the introduction of independent candidates on the ticket as well as party nominees. Furthermore, I feel that this should be a matter where a man chooses between the party or maintaining his independent role and given the equal opportunity by the choice which he cares to make. If he decides to go with the party, he should accept party mandate; if he decides to file as an independent, he is given up until July 15 in which to file as

an independent. I do not feel that this extra 14 - or 15-day period should be allowed for the rejectees by the party caucus to be given time to turn coat and file as an independent.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I think Mr. McNees has spoken very wise words there. I think it goes against the whole theory of independent candidates' filing. The person desiring to run for office should make up his mind independently and decide to run for that office, and support himself for that office, and should not be -- the privilege should not be made available to those who have sought nominations through the channels of their political parties and failed to prevail. I think the amendment is ill-advised and should be voted down.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I am prepared to use my privilege of summing up.

PRESIDENT EGAN: Mr. McLaughlin, Mr. McNealy has been attempting to get the floor. Mr McNealy.

McNEALY: Mr. President, I second the amendment for this reason: In line 15, because July 15 is the date that the director of finance is required to certify candidates to the Clerk of Court, and I don't know just how necessary it is, possibly the conventions would go ahead and hold their conventions prior to July 15. However, since that is the required date it would require them to hold the convention by June 30, which falls on a Saturday. However, if this amendment should carry, I would propose, then, that on line 25 the same date be included, June 30.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: The reason I made this amendment is, first, that I assured this Convention I would do it, and, secondly, since we have in substance of necessity deprived the people of the right to enter their names in the primary, we prevent the injustice that many people say could exist through the use of the party convention. If this amendment is adopted, it means this: that the Chairman and Secretary of the Central Committee of each major political party, immediately upon such nominations being made, and in no case later than June 30, 1956, will have to file with the Clerk of the Court the names of the candidates who have been approved by the Convention. That means that, if any person feels he was unjustly deprived of his right to be nominated by the convention, he has substantially 15 days thereafter to secure the requisite number of signatures and file as an independent. As it stood, the convention could meet on July 14, designate its candidates, and then, in spite of popular clamor, the persons who felt they should have been designated, or who the public felt

should have been designated, would not have an opportunity to file. This merely -- it does no harm, and meets a lot of the criticism that we may have on the subject of the party convention. It's helpful because it gives 15 days in which anyone in substance rejected or not considered at the Convention will have an opportunity to secure support and file as an independent.

McNEES: I would like to ask a question through the Chair if I may.

PRESIDENT EGAN: There is no objection, Mr. McNees.

McNEES: Mr. McLaughlin, in the event, we will say, that the party caucus was pretty heavily contested and one man came out with a narrow margin behind the selected candidate, wouldn't there be real danger of this candidate who came close to, shall we say, being nominated by his party group turning and filing as an independent and thereby splitting the party vote in such case when it comes to the general election?

McLAUGHLIN: Yes, quite a possibility. But what of it? You have answered all of the objections then for the primary system. In substance, you have some way -- you have an opportunity to go in and file. One of the criticisms that would be directed against this article is that the convention might be unjust. Well, if it is unjust, then those people who have been unjustly deprived of one of their rights or privileges will have an opportunity to file. You are meeting criticism of the conventions.

McNEES: One more question, if I may. The thinking in my mind on this is that we would have a ticket in the general election, in November that would be cluttered perhaps with numerous names and none of them truly independent.

McLAUGHLIN: That's quite possible.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: It appears to me that this particular amendment serves no useful purpose, because the person who was to be a contender in a party convention for the office, were he astute enough in politics and otherwise to be a contender in such a thing, he would have secured prior to the time the convention ever met sufficient names to have his name placed on the ballot if he, in effect, was going to bolt the party and run as an independent or under some other banner. So, it's of no merit as far as I can see.

PRESIDENT EGAN: Are there other delegates who wish to be heard before Mr. McLaughlin closes. Mrs. Hermann.

HERMANN: I think the idea of providing for independents to run for the offices if they like is good, but I do not think it

should be tied in with the party conventions so that the people who failed to be nominated at a party convention become candidates, and by so doing, probably become branded by the party ever afterward and are in a bad state politically to the end of their days. I think the provision for independent candidates should be made entirely apart from the idea that disgruntled candidates who failed to make nomination by the party convention will then have an opportunity to run. If the party turns them down and they want to bolt the party, that is their own business. But they should do it -- if they are astute enough to know politics very well, they should know before the convention whether they are going to get turned down or not.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I have no objections to it because I don't think it is applicable to my party, and it might be helpful to the other party; I can see where they could use it. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenenthal.

HELLENENTHAL: I think the same logic that was so successfully applied to the use of the word "nonpartisan" should be applied to this amendment. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Are there others who wish to be heard? If not, the question is: "Shall the proposed amendment as offered by Mr. McLaughlin be adopted by the Convention?" All those in favor of adopting the proposed amendment signify by saying "Aye"; all opposed, by saying "No". The Noes have it and the amendment has failed of adoption. The Convention will come to order. Are there other amendments to Committee Proposal No. 17/c, as revised? Are there other amendments to be offered at this time? Mr. Fischer.

V. FISCHER: I would like to ask unanimous consent that on page 3, line 7, the words "primary and" be stricken.

PRESIDENT EGAN: Mr. Victor Fischer moves and asks unanimous consent that on page 3, line 7, the words "primary and" be stricken. Is there objection? Mr. Kilcher.

KILCHER: A question, Mr. Fischer. Would you consider, Mr. Fischer, to include into your unanimous consent request any similar possible inconsistencies that might be erased by the Committee on Style and Drafting, to save time that we should hunt through it now.

PRESIDENT EGAN: The Convention will come to order. Mr. Victor

Fischer has asked unanimous consent. Is there objection?

MCNEES: I object.

PRESIDENT EGAN: Mr. Fischer so moves, seconded by Mr. Metcalf, that the amendment be adopted. Mr. McNees.

McNEES: I wasn't objecting. I just wanted to ask a question here for clarification. Would it be your understanding, Mr. Fischer, that, in the event the party caucuses came up with three candidates for the three offices in each party and several independents would have filed also, that this \$40 filing fee to enter the general election would not be applicable?

V. FISCHER: I moved to strike "primary and" in line 7.

McNEES: I know, but doesn't that, if I may ask another question, come right back to the point whereby these candidates then would in turn be required to put up such a fee, and doesn't the word here "...governing primary and general elections applicable..." pertain to that point as well as others in the handling of that election?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer.

V. FISCHER: I move and ask unanimous consent to include the word "general" on line 7 in that motion.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that in his proposed amendment to include the word "general". Is there objection to that? If not, then you may quote it as part of the amendment.

V. FISCHER: I now renew my request for unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Fischer renews his request for unanimous consent for the adoption of the amendment. Is there objection? Mr. McNees.

McNEES: There is still, I believe, a question unanswered here. It will be necessary for anyone filing generally, outside the caucus group, to provide the \$40 fee and two hundred signatures. I do feel here, too, that any other candidate going up should be required to put up this fee. We struck it in section 4 here on page 3 along with some of the rest of the material. I do feel there are gaps in here that might well be referred to Style and Drafting. They could come back in their redraft of the copy and perhaps fill in those points that were lost that should be retained, so I am not objecting to the unanimous consent, but I am raising that question on the floor.

PRESIDENT EGAN: Unanimous consent is asked that this particular amendment be adopted. Is there objection? If there is no objection, it is so ordered. Are there other amendments to be offered at this time. Mr. Poulsen.

POULSEN: Mr. President, I also have an amendment and ask for unanimous consent that wherever the words "Tennessee Plan" occur in this Article be stricken and "Alaska Plan" be inserted.

PRESIDENT EGAN: Mr. Poulsen asks unanimous consent that where the words "Tennessee Plan" appear in this proposal, that they be stricken and the words "Alaska Plan" be inserted. Is there objection? Objection is heard. Do you so move, Mr. Poulsen? Mr. Poulsen so moves, seconded by Mr. Buckalew. The motion is open for discussion. Mr. Hurley.

HURLEY: Mr. President, I think the idea is very good, but the whole background of the proposal that we have -- that has been presented by the Ordinance Committee has used this name because undoubtedly the legal precedent for the thing is going to be put before us, and we felt that by using that terminology we would point the finger at previous actions of a similar nature. I certainly concur with Mr. Poulsen 100 per cent in his desire to make it our plan and not somebody else's plan, but unfortunately somebody else has already used it. And the fact that they have used it is extremely important in giving us precedent for the action, so in this particular case, I feel that it would be better to retain the present terminology.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: A great deal of work has already been done in Congress and with the newspapers of the country. They know the Tennessee Plan; they know that Alaska is interested in the Tennessee Plan; and I think that we will gain great favor if we continue the use of the words "Tennessee Plan".

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I will submit that the program as outlined here by the Committee is not the Tennessee Plan, period. And for us to label it as the Tennessee Plan is to be misleading our people. The people may possibly vote against this plan if we proceed here to adopt our two Senators and one Representative, because they may think that we are going to elect our whole state government to boot. So I feel we are not adopting the Tennessee Plan, because our approach has not been bold enough. We have a very, very watered-down version here and it has nothing to do with the Tennessee Plan, except that there was no better name to call it, and I am in hearty concurrence with Mr. Poulsen, because, if we offer it as the Alaska Plan, we are not only going to be misrepresenting things to our voters.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I hate to agree with Mr. McCutcheon. I was on the -- now that might sound funny, but I -- this isn't a Tennessee Plan. It's a watered-down version of the Tennessee Plan. I saw Mr. Poulsen last night, and I promised him on that occasion that I would support his proposal to change the name from "Tennessee" to "Alaska". I will give those hillbillies credit, they went all the way; and I am a little disappointed that we have elected to modify the plan, but I think we had no other choice. I think that we would probably be more honest with Congress and with the people in Alaska to call it the "Alaska Plan".

PRESIDENT EGAN: Mr. Barr.

BARR: If we adopt Mr. Poulsen's proposal, and especially if it should work, it will gain a little honor and glory for Alaska, but we are not in great need of honor or glory right now. We badly need good publicity and lots of it. That publicity has already been started and we have used the Tennessee Plan. A great many of our people yet are not fully acquainted with the Tennessee Plan or the one we are proposing, but, if they know that some other state has already had elected their Senators and Congressmen before being granted statehood, it will establish a precedent. It will show them we are not trying to do something that is too radical, and they will be willing to go along with it, no doubt. So, rather than gain a little honor and glory for Alaska, I think we should be able to take advantage of the publicity that we have.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Briefly, in spirit I agree very much with Mr. Poulsen. I certainly would like to support that. I would like to call this, however, the Alaska version of the Tennessee Plan. But I do want to point out in connection with Tennessee and the other states that used it that they had to go all the way and elect the state senate and house of representatives because in those days it was the legislature who appointed the two Senators, so they had no alternative. Whether or not they would have felt it necessary to go all the way is another question. But there has been such wide publicity given that we will have to agree with Mr. Barr, and neither have he and I agreed too often.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENENTHAL: Did the Committee give thought to calling it the Alaska-Tennessee Plan?

PRESIDENT EGAN: Mr. McNees.

MCNEES: Rather than adopt the name to suit a maverick plan here, I would rather see us perhaps go on a little bit stronger --

I wouldn't require too much -- and let these party caucuses, when they meet, and our independent would-be governors file their names at the same time and elect the governor and secretary of state. I don't see any reason why we shouldn't. Perhaps they could prevail upon Congress when they get back there, then, to name our governor as the appointed governor for the State of Alaska.

PRESIDENT EGAN: Mr. Buckalew, are you just asking a question?

BUCKALEW: I just wanted to ask ...

PRESIDENT EGAN: There is no objection if you wish to ask a question.

BUCKALEW: Mr. McNees, would you have any objection then to adopting an ordinance in which we repudiate the Organic Act?

McNEES: No, I wouldn't. That has occurred to a lot of us many times.

PRESIDENT EGAN: Is there further discussion? If not, the question is: "Shall the proposed amendment as offered by Mr. Poulsen be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "Aye"; all opposed, by saying "No". The Noes have it and the amendment has failed of adoption. Are there other amendments to proposal No. 17-c, revised? Mrs. Nordale.

NORDALE: Mr. President, may I ask Mr. McNealy a question?

PRESIDENT EGAN: You may ask a question. The Convention will come to order.

NORDALE: Mr. McNealy, do you think it would be advisable to insert, since we have stricken the portion of this ordinance that requires the \$40 fee -- do you think it would be wise to insert it somewhere, for the reason -- I believe that the Territorial law requires a percentage of the salary, but not less than \$10 nor more than \$40? Is that right?

McNEALY: I believe that is correct.

NORDALE: Yes. It seems to me that we should decide on a fixed amount since there is no fixed salary attached. We should either say it's \$10 or \$40 or somewhere in between. Don't you think?

McNEALY: It was the thought of the Committee that the filing fees for all candidates should be \$40.

NORDALE: I think it should be \$40 all right, but don't you think it should be in the body of the Constitution?

PRESIDENT EGAN: The Convention will be at recess while the amendment is prepared.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I believe there are a good many things in addition to the \$40 that will have to be worked into this by reason of the fact that we have stricken the procedure here for a primary election. There is some language in there as to what should be said on the ballot, and I believe it applies equally well to what should be said on the general election ballot. So I wonder if the Style and Drafting Committee could not have authority of the Convention to make such changes as are necessary to carry out the intention of the body so that this plan will be workable, since it will be without the primary election feature.

PRESIDENT EGAN: First, Mr. Sundborg, before you ask the Convention to do that, are there other amendments that you would like to offer from the floor? Mr. Kilcher.

KILCHER: I would like to move to rescind our action taken awhile ago on an amendment by Mr. Sundborg when we accepted the amendment that the terms should be shortened by two years. If I may, I would like to move that we rescind this action. I think the matter hasn't been given sufficient thought and is a very pertinent question that has not been debated. It has passed our attention and our study, and I think it should come on the floor once more in the form of debate on rescission.

PRESIDENT EGAN: Mr. Kilcher moves that the Convention rescind the action taken on Mr. Sundborg's motion wherein we shortened the term of office of one of the proposed Senators. Is there a second?

BUCKALEW: I second it.

PRESIDENT EGAN: Seconded by Mr. Buckalew. The motion is open for discussion.

KILCHER: My stand is this. I was on the point of debating the question when it was on the floor and decided against it. I expected others might do it. In other words, I slept at the controls. I would like to get the attention of the delegates and think this over carefully. I think Mr. Sundborg had a good intention in this respect, but possibly didn't give it enough thought as he might have if he had had more time or be conversant with the Committee's thinking of weeks past. As has been brought out by Delegate McCutcheon, our Alaska style Tennessee Plan is a watered-down version of the Tennessee Plan. I may say to you delegates that our Alaskan version of the Tennessee Plan has been even more watered down at a time past in the Committee than it is

now. The water has a little color to it now; maybe even a little substance. I think that the amendment of Mr. Sundborg's unintentionally has contributed to further water down our Alaskan adaptation of the Tennessee Plan. We must mean to quite an extent what we say in that Tennessee Plan idea. For me, the whole plan can't be bold enough. I am 100 per cent for it, and I think that the very fact that the plan, prima facie as it may be, has looked to be a 100 per cent bold action, is the reason why it has appealed to the people who normally are not very active or even lukewarm to statehood sentiment. It is a thing that catches the fancy of the people. The people will go for something if it is whole or as whole as possible and not a shadow of a substance only. I really think that in a little way to add a little bit more substance to our Tennessee Plan we should leave the terms full. We should leave the terms full as an added indication that we mean business.

PRESIDENT EGAN: Mr. Barr.

BARR: It may or may not interest you to know that I am hungry. I moved for recess a while ago, and then this policy was established that we would recess at 6:10; that was half an hour ago and I find now that they quit feeding in the cafeteria at 7:00 o'clock; so I am going to move for recess again and then go up and eat. I move that we recess until 20 minutes to eight.

PRESIDENT EGAN: Mr. Barr moves and asks unanimous consent that the Convention stand at recess until 20 minutes to eight. Is there objection?

SUNDBORG: I object.

PRESIDENT EGAN: Objection is heard. Do you so move?

BARR: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is: "Shall the convention stand at recess until 20 minutes of eight?" All in favor of recessing until 20 minutes of eight will signify by saying "Aye"; all opposed by saying "No". The noes have it and the Convention is still in session. Mr. Londborg.

LONDBORG: I think it is about time we either recess or adjourn or Mr. Kilcher will start sleeping at the controls. I really don't think that Mr. Sundborg's amendment in any way whatsoever waters down this plan we have here. That is merely, I believe, a well worthwhile amendment that puts our Senators and Representatives back on the primary basis a little sooner. I think that was the intent and I think we should vote down the rescinding action.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: As the only person who voted against Mr. Sundborg's amendment, I didn't bring the matter up again because I felt, if I had any logic, I could convey it to Mr. Sundborg at a recess and I still think I can. I think he is wrong, but I would just as soon not take up the time of the Convention telling him.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I think we should make some provision in this Article, either by Committee or perhaps giving Style and Drafting a little bit of license, and make these offices perpetual, at least provide for the re-election of the delegates to Congress and to the House in, respectively, 1958 and 1962.

PRESIDENT EGAN: Is there further discussion. Mr. McNealy.

MCNEALY: I believe there are so many things throughout this plan here that it should go to Style and Drafting with the authorization of this body to carry out -- in even such matters as Mr. Kilcher suggests. On reflection and word from off the floor, I believe that Mr. Kilcher's motion probably should carry, because there are a great many things to resolve there and, if the Style and Drafting Committee had the whole of the Article and, as was so ably shown the other day when Mr. Davis took a matter off the floor and came back with something we could unanimously agree on, and then we could bring our various ideas to that Committee and possibly Mr. Barr could go -- but I see he has already gone.

PRESIDENT EGAN: The question is, if there is no further discussion -- Mr. Kilcher.

KILCHER: I would like to conclude the debate by stating shortly that the whole basis and justification of the Tennessee Plan is this: that we assume that we are a state; we act as a state; we elect our two Senators and one Congressman for whatever term we think they have coming.

PRESIDENT EGAN: Now the Chair will state that if you vote yes on this rescinding motion, you will restore the regular term expiring on January 3, 1963, rather than the amendment that had been adopted changing it to January 3, 1959. The question is: "Shall the convention rescind its action taken in adopting Mr. Sundborg's amendment?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 29 - Armstrong, Buckalew, Davis, Doogan, Emberg, H. Fischer, Harris, Hermann, Hinckel, Hurley, Johnson, Kilcher, Lee, McCutcheon, McLaughlin, McNealy, McNees, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Robertson, Smith, Sweeney, White, Wien, Mr. President.

Nays: 19 - Boswell, Cooper, Cross, V. Fischer, Gray, Hellenthal, Hilscher, King, Knight, Laws, Londborg, Marston, Metcalf, Reader, V. Rivers, Rosswog, Stewart, Sundborg, Walsh.

Absent: 7 - Awes, Barr, Coghill, Collins, R. Rivers, Taylor, VanderLeest.)

PRESIDENT EGAN: Mr. McLaughlin changes his vote from no to yes. Mr. Kilcher.

KILCHER: Is it too late now to call for the rest of the house?

PRESIDENT EGAN: Yes, it is too late now for anything except if anyone wishes to change their vote before it's announced.

CHIEF CLERK: 29 Yeas, 19 Nays, and 7 absent.

PRESIDENT EGAN: So the yeas have it, and the action has been rescinded. Mr. Hellenthal.

HELLENTHAL: I move that this Proposal 17/c Revised be referred to the Committee on Style and Drafting with the power to suggest amendments of substance preserving the right to treat those matters of substance recommended by them by majority vote.

PRESIDENT EGAN: You have heard the unanimous consent request of

Mr. Hellenthal. Is there objection? Is there objection to the unanimous consent request to refer the proposal to the Style and Drafting Committee under the conditions stated? Hearing no objection, it is so ordered. Mr. Hellenthal.

HELLENTHAL: I move we adjourn until 9:00 or 9:01 a.m. tomorrow morning.

PRESIDENT EGAN: Mr. Hellenthal moves that the Convention stand adjourned until one minute after nine tomorrow morning. Is there objection? Objection is heard. Do you so move, Mr. Hellenthal?

HELLENTHAL: I so move.

PRESIDENT EGAN: Mr. Hellenthal so moves, seconded by Mr. Robertson, that the Convention stand adjourned until 9:01 a.m. tomorrow. All those in favor of adjourning until 9:01 tomorrow will signify by saying "Aye"; all opposed, by saying "No".

PRESIDENT EGAN: The "Ayes" have it and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

January 30, 1956

SIXTY-NINTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Chaplain Shaner of the Air Force of Ladd Air Force Base. Chaplain Shaner will give our daily invocation.

CHAPLAIN SHANER: Almighty and eternal God, we lift our hearts and our voices to Thee this day for all of Thy blessings and all of Thy privileges, and for the riches of Thy grace which Thou hast bestowed upon us in the past, and with the promise that Thou will continue to bestow it upon us in a special way this day in the few remaining days that lie before this Convention and these Thy servants. We invoke Thy blessings upon them. Give them continued strength, courage, and devotion; that the things which they have done in the past and will do today and they will do tomorrow may be to the glory of Thy holy name, and for guidance and for the direction not only of we of this generation but of the generations that will follow. And may there come from these halls that document which shall give to mankind that freedom and that right and that justice and that peace which we, Thy children, do greatly long for, and which has been instilled into us by Thy great love. And grant, O God, that this great land of ours may have unity and solidarity and that we may be fortified by Thy great power and those truths and those precepts that alone Thou dost give to us. Ever keep us in Thy grace. In Thy Name we humbly pray. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the Special Committee to read the Journal have a report to make at this time? Mr. Knight.

KNIGHT: Reading the Journal of the 63rd day, Tuesday, January

24, I make the following correction in the fourth line from the bottom: The word "Mirth" should be M-y-r-t-h instead of M-i-r-t-h. With that correction, I ask unanimous consent that the Journal be approved and passed unanimously -- the Journal for the 63rd day.

PRESIDENT EGAN: Mr. Knight asks unanimous consent that the Journal for the 63rd Convention Day be approved with the correction as noted by the Special Committee to read the Journal.

Is there objection? If there is no objection, the Journal for the 63rd day is ordered approved. Are there reports of standing committees? Of select committees? Mr. Sundborg.

SUNDBORG: Your Committee on Style and Drafting reports back to the Convention its redraft of the Article on Local Government. Copies will be down from the boiler room shortly. Mr. Boswell.

BOSWELL: Your Committee to prepare a reply to the communications of sportsmen has prepared a statement, which, together with the enrolled copy of the Resources Article, has been sent out under a covering letter by the President, and there will be copies of this statement for the delegates later in the day.

PRESIDENT EGAN: Are there other reports of Committees? If not, are there communications or petitions from outside the Convention? Are there any motions or resolutions to come before us at this time? Mr. Poulsen.

POULSEN: Mr. President, yesterday afternoon we turned over the Tennessee Plan to the Style and Drafting Committee and I tried to put a motion before this body to change the name to Alaska instead of Tennessee. I wonder if I am out of order to put in a new motion and add "Alaska-Tennessee Plan" instead at this time.

PRESIDENT EGAN: Mr. Poulsen, at this time the Tennessee Plan, the Proposal No. 17/c, Revised, has been referred to the Style and Drafting Committee. The only thing that could possibly be in order would be that, if unanimous consent was granted to -- if your motion included a unanimous consent request that the Committee be instructed to do such a thing -- Mr. Hurley?

HURLEY: I want to ask consent of the body to allow Mr. Poulsen to present his motion at this time.

PRESIDENT EGAN: Is there objection? Unanimous consent is asked that Mr. Poulsen be allowed to present his motion at this time, which would in effect instruct the Style and Drafting Committee to make that change if the motion were adopted. Is there objection to the unanimous consent request? If there is no objection, then, Mr. Poulsen, you have the permission of the body to make such a motion at this time.

POULSEN: Mr. President, I then move that the words "Alaska-Tennessee Plan" be adopted and ask unanimous consent.

PRESIDENT EGAN: Mr. Poulsen moves and asks unanimous consent that the words "Alaska-" be inserted before the word "Tennessee" wherever it might appear in the proposal. Is there objection?

R. RIVERS: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Poulsen?

POULSEN: I so move.

PRESIDENT EGAN: Seconded by Mr. White. The motion is open for discussion. Mr. Poulsen.

R. RIVERS: May I ask a question?

PRESIDENT EGAN: If there is no objection, Mr. Rivers.

R. RIVERS: Mr. Poulsen, we are relying on the precedent that Tennessee has given us, and I know that, having been followed by other states and now having been followed by Alaska, is what puts us in a fairly strong position -- by using Tennessee Plan. Is it going to help at the polls when we try to sell the plan at the polls, in regard to the publicity, to call it the "Alaska-Tennessee Plan"? Or would we be better off just to call it the "Tennessee Plan"?

POULSEN: Yesterday I asked to strike "Tennessee Plan", possibly not thinking it through too clearly. It is true the Tennessee Plan in the last two or three months had quite a bit of publicity. But, on the other hand, the word "Alaska" means a lot to us and it really is an Alaskan plan. This goes back maybe as much as 150 years when this first was adopted, and the last time it was used was maybe a little less than 100 years ago, and I think the old-timers -- if you had the word Alaska ahead of it would be a tremendous so-called sales plan, maybe, to get it over.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request of Mr. Poulsen? Hearing no objection...

METCALF: Yes, I object.

PRESIDENT EGAN: Mr. Metcalf objects. Then the motion is open for discussion. Mr. Marston.

MARSTON: I think Mr. Poulsen has a good idea here. I don't think it will hurt us at all to put "Alaska-Tennessee Plan" as a title on here. We will gain all Tennessee has for us and we will gain what Alaska has for us. I am going to vote for Mr. Poulsen's plan to call it the "Alaska-Tennessee Plan".

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to point out to the members here that, when most of us came to the Convention, we had heard of this idea; we had discussed it ourselves; but nobody to my knowledge called it the Tennessee Plan in those days. The name caught on within the last five or six weeks.

PRESIDENT EGAN: Is there further discussion? If not -- Mr. Barr?

BARR: I had heard it called the Tennessee Plan before I came here and I had objected yesterday to dispensing with that name because it had already received immense publicity. However, in adopting Mr. Poulsen's name "Alaska-Tennessee", we are not dispensing with it; we are just saying we approve of it and are a part of it. Now, actually it is more descriptive because we are using about 50% of the Tennessee Plan, and I believe it would be a good idea to call it the "Alaska-Tennessee Plan". And I would like to point out that it has been so long since it has been used and it has been revised, I think that the proper name is "Alaska-Tennessee".

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: A number of people still don't know how I feel about it. I am for "Alaska-Tennessee".

PRESIDENT EGAN: The question is -- Do you ask for a roll call. Mr. Robertson? The question is, Mr. Robertson, we have before us a motion by Mr. Poulsen to change, or to add the words "Alaska-Tennessee Plan" to the proposal wherever "Tennessee Plan" might appear. And the question is: "Shall the motion presented by Mr. Poulsen be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 50 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 1 - Mr. President.

Absent: 4 - Cooper, Doogan, Hilscher, McCutcheon.)

CHIEF CLERK: 50 ayes, 1 nay, and 4 absent.

PRESIDENT EGAN: So the Ayes have it and the amendment is ordered adopted by the Style and Drafting Committee. Mr. Sundborg, at this time we have nothing before us -- Mr. Riley.

RILEY: Mr. President, after a hasty consultation with Style and Drafting this morning, the calendar has gone to the boiler room. Perhaps, if we could have a few minutes recess ...

PRESIDENT EGAN: The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is it the desire of the Convention that we take up Committee Proposal No. 17/a, the ordinance that has to do with fish traps, and other matters at this time? Mr. Sundborg.

SUNDBORG: I don't see Mr. Riley, but I was told by him that that was the recommendation of the Rules Committee.

PRESIDENT EGAN: If there is no objection, we now have before us in second reading Committee Proposal No. 17/a. Mr. Buckalew.

BUCKALEW: The Committee had another amendment -- I think it was

PRESIDENT EGAN: Well, we have, Mr. Buckalew, Mr. McNees's reconsideration. He could bring it up if he so desired -- the vote on the proposed amendment, Committee Proposal 17/a. Mr. McNees.

McNEES: There is the probability, Mr. President, or at least the possibility that a committee amendment might be submitted and not make necessary my reconsideration.

PRESIDENT EGAN: Do you desire to wait, Mr. McNees?

McNEES: I would just as soon.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I move then, that the provisions pertaining to violations be stricken in its entirety -- "Violations of this section shall be punishable by", etc., be stricken, and ask unanimous consent.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent. Is there objection? Mr. Hellenthal.

HELLENTHAL: To which copy is the motion directed?

PRESIDENT EGAN: To which copy, Mr. Buckalew?

BUCKALEW: I have half a dozen here. The one I have in my hand -- is it 17/b?

CHIEF CLERK: No, it is 17/a. the January 25 amendment.

BUCKALEW: 17/a.

CHIEF CLERK: The last sentence. January 25. You changed yours, Mr. Hellenthal, to the 26th, but it is actually dated the 25th.

PRESIDENT EGAN: The one I have is dated the 24th.

BUCKALEW: If there is no objection then --

PRESIDENT EGAN: Mr. Buckalew, many of the delegates evidently haven't found their copy dated the 25th. There have been several amendments adopted as the Chair recalls the situation. Now where does your proposed amendment come in at?

BUCKALEW: Mr. President, looking at the first page, starting with the line next to the bottom, strike "violations", strike the bottom line, and then strike the rest of the sentence on the following page, page 2.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the amendment. Is there a second? Seconded by Mr. Knight. Unanimous consent is asked that the proposed amendment be adopted. Mr. Davis.

DAVIS: As I remember it, we have already stricken the second sentence on page 2 as well. Is that right?

PRESIDENT EGAN: That is correct, Mr. Davis. Mr. Fischer.

V. FISCHER: The other time when this -- a similar motion was made by Mr. Kilcher, I asked a question which I don't think was very thoroughly answered as to what does this leave in the ordinance to make it enforceable.

PRESIDENT EGAN: If this amendment is adopted? Mr. Buckalew, can you answer that?

BUCKALEW: Mr. President, we felt that it would be enforceable in the courts; if there would be a violation they would have to go by some civil action, by injunction. But, from the lawyers around here, we felt that the state, during that interim period, could probably turn an injunction out, and in that sense it would still be enforceable and serve its purpose.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would also like to ask Mr. Buckalew whether it would not be desirable then to provide a specific directive to the Governor to enforce this particular provision?

BUCKALEW: I think, Mr. Fischer, that the elected Governor would certainly see that the provisions were enforced, and he would have the authority without writing it in. It would be his duty, and he would discharge his duty.

PRESIDENT EGAN: The question is: shall the proposed amendment be adopted? All those in favor of adopting the proposed amendment will signify by saying Aye; all opposed by saying No. The Ayes have it and the motion -- the amendment is ordered adopted. Mr. Hellenthal.

HELLENTHAL: Point of information. I have before me this amendment to Committee Proposal No. 17/a, dated January 25. Am I right in assuming that the words "pending the establishment of the first state legislature" have already been stricken?

BUCKALEW: You are right, Mr. Hellenenthal.

HELLENTHAL: And further, that the words, "until otherwise provided by law", and then everything following the use of the words, "until otherwise provided by law"? Have there been others? Is the word "accepted" changed to "ratified" in the ...

PRESIDENT EGAN: Mr. Hellenenthal, if the Chief Clerk would read the proposed amendment as it has already been amended --

CHIEF CLERK: "Section 24. If this Constitution shall be accepted by the electors and a majority of all the votes cast for and against the ordinance to abolish fish traps shall be cast for adoption of the ordinance, then the following shall become effective upon the entry into force of this constitution: 'As a matter of immediate public necessity, to relieve economic distress among individual fishermen and those dependent upon them for a livelihood, to conserve the rapidly dwindling supply of salmon in Alaska, to ensure fair competition among those engaged in commercial fishing, and to make manifest the will of the people of Alaska, the use of fish traps for the taking of salmon for commercial purposes is hereby prohibited in all the coastal waters of the State'. Sec. 25. Each qualified voter who offers to vote upon this Constitution shall be given a ballot by the election judges which in substance shall contain the following proposition: Shall the constitutional ordinance prohibiting the use of fish traps for the taking of salmon for commercial purposes be adopted?"

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Could the Clerk read just the amendments in the first four lines?

CHIEF CLERK: Change "proposition" to "ordinance" in lines 3 and 4, and after "effective" add "upon the entry into force of this Constitution".

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: There was another amendment, "ratified by the voters". Did that fail? Instead of "accepted by the electors".

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I have a note on my copy saying that was offered, and then the person who made the motion asked unanimous consent that it be suggested to the Style and Drafting Committee that they

make the change, but it wasn't officially changed.

PRESIDENT EGAN: Are there other amendments to be proposed for Secs. 24 or 25? Mr. Sundborg.

SUNDBORG: My copy indicates that, at the end of Section 25 in the question, that the language "upon the entry into force of this Constitution" was added. I believe that it was a motion of Mr. Taylors; I'm not sure. Perhaps I put it in the wrong place.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Could I ask whether in Sec. 25, just before the colon, whether "proposition" was also changed to "ordinance"?

CHIEF CLERK: No, it wasn't. I have it in the question, but I don't have it in Section 25.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I ask unanimous consent that in line 3 of Sec. 25, "proposition" be changed to "ordinance".

JOHNSON: I object.

V. FISCHER: I withdraw my request.

PRESIDENT EGAN: The request is withdrawn.

BUCKALEW: Maybe I am mistaken, but I thought in the words "shall the proposed constitutional ordinance", I thought the word "constitutional" was stricken. I ask unanimous consent that the word "constitutional" be stricken, so then it would read "shall the ordinance prohibiting the use of fish traps" etc.

PRESIDENT EGAN: Mr. Buckalew moves and asks unanimous consent that the word "constitutional" be stricken in the provision that would provide for the referendum. Is there objection? Is there objection to the adoption of the proposed amendment? If there is no objection, the amendment is ordered adopted. Are there other amendments to be offered. Mr. Robertson.

ROBERTSON: We adopted -- in the question we struck out the word "proposed" -- we changed the word "provision" to "ordinance", we struck out the last two lines and said "be adopted".

CHIEF CLERK: That is the way I read it.

PRESIDENT EGAN: Are there other proposed amendments? Mr. McNees. Mr. Ralph Rivers.

R. RIVERS: I am unhappy about the expression "upon the entry into force of the Constitution". That sounds about as awkward, and out of the usual legislative expressions as I have heard and

I would -- does this take unanimous consent or, I should say, a suspension of the rules at this stage of the game?

PRESIDENT EGAN: No, it does not, Mr. Ralph Rivers.

R. RIVERS: I move that on the line, next to the bottom line of Sec. 24, the word "effective" be changed to the word "operative" and that the words "effective date" be substituted for "entry into force".

PRESIDENT EGAN: Will the Chief Clerk please read back the proposed amendment.

CHIEF CLERK: In Section 24, line 4, change the word "effective" to "operative" and change "entry into force" to "effective date".

R. RIVERS: May it be read as it would read?

PRESIDENT EGAN: Would the Chief Clerk please read that part of the Section as it would read if the amendment were adopted?

CHIEF CLERK: "The following shall become operative upon the effective date of this Constitution."

R. RIVERS: I so move.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the amendment. Is there a second.

GRAY: I second it.

PRESIDENT EGAN: Delegate Gray seconds the motion. Is there further discussion?

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Mr. Johnson.

JOHNSON: I don't think I'll object, but as I recall it, Mr. Ralph Rivers offered the original amendment which he now seeks to correct.

R. RIVERS: Point of order. I certainly never even dreamed of such a thing.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I rise to my own defense. Mr. Sundborg said that I had offered that amendment. I had never heard those words. In fact I objected to them at the time.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I will take full responsibility for that language. I have seen it in many other constitutions. It may seem strange to Delegate Rivers, but it is a very common expression.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment signify by saying Aye; all opposed by saying No. The Ayes have it and the amendment is ordered adopted. Mr. McNees.

MCNEES: Mr. President, at this time I would like to have the reconsideration of my vote taken.

PRESIDENT EGAN: Mr. McNees moves the reconsideration of his vote on the amendment that had been offered by Mr. Boswell. Is there a second to the motion?

DOOGAN: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Doogan. The question is open for discussion; the amendment is open for discussion. The Chief Clerk will read the proposed amendment that had been offered by Mr. Boswell.

CHIEF CLERK: Strike Sections 24 and 25.

MCNEES: The amendment, which was a motion to strike the Article, came up quite early in the assemblage and was voted down by a vote of 19 to 30 with 6 absent. During the course of the voting much hesitancy in the vote was noticeable on the floor. There are many other ramifications of this. There isn't a person on this floor, and very few people in Alaska who are Alaskans, who feel that fish traps should not be abolished at the earliest possible date. I do not feel seriously that it belongs in the Constitution, this particular Committee proposal. Neither do I feel that it will do any good particularly nor speed the abolishment of fish traps. There are many many other ramifications of this problem. I was in strong hopes that the amending process to strike, to strike, to strike, would go on and on to where I wouldn't have to bring up my reconsideration. But I feel obliged to do so after talking to many on the floor here and in informal discussions at numerous times since the 26th, and would like to hear further debate from the assemblage before the amendment is again put to a vote.

PRESIDENT EGAN: Is there further discussion? Mr. Davis.

DAVIS: Mr President, I am somewhat confused. At the time we voted on Mr. Boswell's amendment, we had two full sections. They have now been substantially amended, and I am quite certain that my vote now would be considerably different from what it might have been at the time the amendment was first offered. Now, voting on this reconsideration, are we talking about the

section as it existed at the time Mr. Boswell's motion was made or as it now exists?

PRESIDENT EGAN: That is correct, Mr. Davis. As the Chair recollects, Mr. McNees served his notice for reconsideration right near the end of the session that day. Now after that, we had adopted several other amendments, but what would happen to the amendments that had been made in between -- the Convention will be at recess for two or three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there is no objection, the Convention will now take its regular recess for other work that might be done. The Convention is at recess until ten minutes to eleven.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the communications that are before us at this time.

(The Chief Clerk thereupon read letters from Governors William G. Stratton of Illinois, Goodwin J. Knight of California, and Arthur B. Langlie of Washington, expressing thanks for the invitation to attend the closing ceremonies and regretting that they would not be able to attend. Such communications were ordered filed with Convention records.)

PRESIDENT EGAN: The communications will be filed. Mr. McNees, with relation to your move for reconsideration, there are obstacles in that we have gone ahead and adopted other amendments to that -- those particular sections of the proposal. Now, if there could be unanimous agreement that the motion for reconsideration would be on the question of these sections as they now appear before us, then it could be accomplished without too much difficulty. Mr. Hurley.

HURLEY: I would so move and ask unanimous consent that, if Mr. McNees' motion fails, that the material now before us be still before us.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that, if the move for reconsideration fails, that we would then have before us the proposed amendment as it now appears, as amended. Mr. McNees.

MCNEES: I would have no objection to that. The statement I would like to make in that connection is this, however. My feeling relative to the present sections as they have been amended finally are just as strong as they were to the original sections.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, it seems to me we might take care of this matter by having Mr. McNees withdraw his motion for reconsideration and letting somebody move to strike the sections as they now stand. It seems to me we would be getting to exactly the same place.

PRESIDENT EGAN: That could be accomplished in that manner if Mr. McNees would so agree. Mr. Buckalew.

BUCKALEW: I would go along with Mr. Davis' suggestion. I would like to get this matter out of the way and on to matters of the Convention. I think somebody should make a new motion and we will get it over with.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I will withdraw my motion momentarily, but ...

PRESIDENT EGAN: Mr. McNees will withdraw his motion temporarily, at least.

JOHNSON: Point of order. Unless the motion to reconsider is withdrawn, completely, no further action could be taken on this.

PRESIDENT EGAN: Mr. Johnson, your point of order would be well taken. We have arrived at this point in parliamentary red tape because of the fact that we allowed amendments after Mr. McNees served notice that he was going to reconsider his vote.

MCNEES: I will go a bit further then. I will place my trust in the floor with full confidence that such a motion will be made.

R. RIVERS: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Rivers?

R. RIVERS: If Mr. McNees withdrew his motion for reconsideration, could he not himself make a motion to strike the paragraph as it now stands?

PRESIDENT EGAN: That is right. He certainly could.

R. RIVERS: There is no trust required, Mr. McNees. You might be the one who would like to strike this particular amendment.

PRESIDENT EGAN: Mr. Victor Rivers -- you withdrew your motion, Mr. McNees, with the understanding that another motion would be made to strike this section? Mr. Victor Rivers, is this a proposed amendment to accomplish what -- the Chief Clerk will please read the proposed amendment.

CHIEF CLERK: Strike Sections 24 and 25 and insert in lieu thereof the following: "Section 24. Provision shall be made for the elimination of commercial fish traps operated in the coastal waters of the state by the first state legislature prior to its adjournment".

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the amendment; seconded by Mr. Metcalf. Mr. Davis.

DAVIS: I would like to know if that meets Mr. McNees' objections.

PRESIDENT EGAN: Mr. McNees assented to the move. The question is -- Mr. Victor Rivers.

V. RIVERS: This motion to amend goes straight to the heart of what I mentioned the other day. I do not think, by establishing within the Constitution itself, either by ordinance or provision, a direct mandate having the force of law and immediate operation, that the Congressmen would accept such a proposal or proposition. I do not believe that it would accomplish the purpose that this would accomplish. This is a mandate for the first Territorial Legislature that before they adjourn they shall abolish or eliminate fish traps, commercial fish traps, fishing in the coastal waters. I think it expresses the intent of this body to do away with fish traps as quickly as possible and in an orderly manner. It is my fixed conviction that, if we put in the Constitution, either as an ordinance or a section, the outright and immediate abolition of fish traps, that the least Congress will do will be to eliminate that from the section. I can foresee that they might do other things including substantial delay to getting statehood. I do not believe that, by putting the provision that is now before us, not the amendment but the unamended section, into the Constitution, that we will gain any time in the elimination of fish traps. I think we have a very good chance of losing substantially in the matter of time and in the matter of consideration of statehood by Congress. That is my firm opinion. I know there are others who do not agree with my thinking on that, but I cannot escape the idea that Congress is going to insist upon an orderly performance of our duties of government.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am somewhat bewildered by the position that Delegate Rivers has taken. I mean, there is nothing disorderly about a function of government by cutting off fish traps instantly, because the law is well-settled that there is no property right in the fish traps. It is an annual right, it's renewable each year.

And my second objection is that it is an improper method to approach the problem, because we don't have any authority. All that is is a referendum; that's outside the scope of our authority; that is not a constitutional function. In the first place, I think they can strike that referendum from the ballot. I don't believe -- and I am certain that they can't strike the ordinance in the form it is in because there is a reason for it; it's a proper subject. We are allowing people to vote on the ordinance to abolish traps. There is a reason for that. We don't have the authority to set out a referendum, and there is all kinds of precedents for similar ordinances. We have had them for prohibition and you have had them for women's voting, and they have all stood up, but I have never seen a constitutional convention that has been convened like this one that has the authority for a single referendum. Now, that's all that is. Now I would ask all of you to vote that down because it's meaningless. How could you enforce it? Can you mandamus the First Legislature to abolish fish traps? You cannot. You might as well forget it. You might as well do it by a memorial. It has the same effect -- none. You couldn't enforce legislation to do anything with a memorial. You can't force them to do anything with this proposal. We are wasting our time. We are either going to take a legal step and give the courts something to work on -- traps are abolished; the people vote on it; they exercise their sovereignty; and it's a proper subject. And I ask that this amendment be voted down. Now, Mr. Rivers said a couple of days ago that he didn't think traps were a proper subject in the Constitution. Well, the way he has it now they are certainly improper; there is no reason for it.

PRESIDENT EGAN: Mr. McNees.

McNEES: Mr. President, I would like to ask Mr. Buckalew a question.

PRESIDENT EGAN: There is no objection, Mr. McNees.

McNEES: Mr. Buckalew, is there any thinking, possibly, in your mind, that any legislature that would be elected by the people of Alaska would not put at least among the very first items taken up, and abolish them directly?

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I was hoping you wouldn't ask me that question directly. I haven't had much experience in Alaska; I was in one legislature. And I know that, when you get any legislation that has to do with fish traps and send it to the Senate, it's like sending a stick of dynamite with a short fuse. I am not convinced the First Legislature would abolish them.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I believe it would be wholly undignified to instruct the Legislature what they should do. Legislators, when they are elected and sent to the capital to serve in the Legislature have to vote on each question that comes before them in accordance with their own conscience and belief at the time, and, if we elect a bunch of people who do not believe in abolishing fish traps, how could they abolish them and vote to do it? They couldn't do it. So I agree with Mr. Buckalew that this is meaningless and is not the way to approach the problem.

PRESIDENT EGAN: Mrs. Awes.

AWES: I also agree with Mr. Buckalew. I think fish traps are one of the things which the Alaskan people feel most strongly about, and I don't think it is something we should straddle the fence on. Either we should state that it is not within our province and leave it alone, or we should do something that has some effect, and I think Mr. Rivers' resolution would not be effective because you couldn't force the Legislature to take action. And, as I said before, I think it is straddling the fence and I think it's an improper way to handle this problem.

PRESIDENT EGAN: Is there further discussion? Mr. Lee.

LEE: I would like to address a question to Mr. Rivers.

PRESIDENT EGAN: There is no objection, Mr. Lee.

LEE: You used the expression, I believe, "in the orderly performance of government". I was wondering how he feels about the calling of this session here, for a constitutional convention. and I was also wondering how he feels about the Tennessee Plan.

V. RIVERS: I think the record speaks plainly about how I feel about both. I think this is not pertinent to the question. I really feel -- I notice that Mr. Buckalew referred to my motion as a referendum, and I also notice that Miss Awes referred to it as a resolution. It is neither. It is an ordinance. We have a number of mandatory provisions in the Constitution mandating the Legislature to do certain things. This is another mandate from this body. And as far as how I feel about the orderly process of government, I think I have demonstrated how I feel about it. I would like to see it done in an orderly manner based on good judgment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have a question of Mr. Rivers. Perhaps I didn't hear the reading of the resolution too correctly, but is this a resolution, Mr. Rivers?

V. RIVERS: This would be an ordinance to go in the transitory provisions, or it could go in the body of the Constitution; it

wouldn't matter. It is a mandate to the First Territorial Legislature that before adjournment they shall take action to eliminate fish traps.

HELLENTHAL: And you propose it either as an ordinance or provision of the Constitution?

V. RIVERS: I don't care which, where it goes. I proposed it as an ordinance to Section 24.

HELLENTHAL: Then, how do you propose that there be a referendum on the ordinance?

V. RIVERS: Not a referendum; this is a mandate without a referendum. A referendum would merely be a mandate anyway.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I would like to speak against Mr. Rivers' position. As I stated before on this question, it is not a matter we can take very lightly, and I think it deserves a very careful, honest consideration, because I don't have to repeat here what others have stated already. It concerns the livelihood of people and I think it deserves fair consideration. For that reason, I think the ordinance that we have amended on the floor here takes care of the situation adequately, and I don't think my friend Mr. Rivers' amendment is the answer to it, because he said the Legislature will take care of it, and we have no guarantee that may pass a law to abolish traps, we don't know. The point is, the problem is here and it is very serious, and we have an opportunity to express our opinion in behalf of the people who are concerned, and I don't think we should pass up that opportunity. I am against the amendment, and I hope you folks vote it down.

PRESIDENT EGAN: Mr. Riley.

RILEY: It occurs to me, just on hearing the words "final adjournment" in the ordinance of Mr. Victor Fischer's [Rivers'], that the one advantage remaining in Mr. Buckalew's proposition is the 30-day feature which Mrs. Hermann touched on the other day. There is some certainty that there will be a thirty-day advantage under the Buckalew proposal. This refers to the Ordinance, Committee Proposal No. 17/a. Mrs. Hermann pointed out that that thirty days may come in the middle of winter, but, on the other hand, it may occur in the middle of the salmon fishing season. It might occur at the outset of the fishing season and be most effective. Now, in the ordinance just proposed, final adjournment would mean there is a 90-day lapse over the Buckalew proposal. In the one case, we are certain that action would be had immediately on attainment of statehood, thirty days prior to the Legislature's convening. The Legislature, it has been stated here by many, would probably consider the matter early in the

game, but it would not be obliged to, even though that ordinance obliged it to, do anything until the 60th day. So, for that reason, just a mechanical operation alone, the 90-day advantage enjoyed by the Buckalew amendment, I shall vote against the pending one.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I had intended to speak along the same vein as Mr. Riley did, and I have to correct some of his figures. By carefully going over the schedule here, section by section, I have arrived at entirely different figures, figures much more substantial than Mr. Riley has indicated. Within 30 days after approval, the Territorial Governor may call a primary election. These elections will be held within 40 to 90 days; that is, 30 and 90 at the outmost. Within 90 days, there may be general elections. The results would be in within 30 days and within 30 days after the certification of results, than the Legislature will convene, and the Legislature may well not pass a fisheries act for 2 or 3 or 4 or 5 months. So you would have a time lag of possibly 12 or 14 months after attainment of statehood before the necessary steps might be taken. That is taking a dimmer view, but all maximum figures are used. If you used the shortest possible figure, assuming that we might obtain statehood early in late winter and Congress convenes in D. C., let's say, February or March, the deal might go through, it still will be within 30 days after approval of the ballots or call for the primary election. Let's say after 10 days, 10 days instead of 30. Now within 40 to 90 days primary elections would be held. Let's take the minimum of 40. Already we have 50 days and then within 60, within 90 days, general elections will be held. You can safely assume there will be 60 days, two months. Yesterday we heard about the mechanics of elections. It is very improbable that it could possibly be done in less than two months. The general election has lagged 110 days and then the results couldn't be cut to less than a month. That would be 140 days, and then, if the Governor called the Legislature within 30 days, the Governor's call of the Legislature, let's say within 10 days instead of 30; it's the shortest possible term, and you get a minimum of five months elapsed by that time. And if we should attain statehood in May or June, the traps would be in that season; and if we take it longer, the longer possible terms, 12 to 14 months, they will be in two more seasons, and for certain one season -- a substantial difference. So, whether it is one or the other, I want you to be aware of the impact of these figures.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I haven't spoken on this. Mr. Kilcher, as I listened to your figures, to your time schedule, it occurred to me you were under the impression that the Constitution would become effective at the time Congress passes the enabling act. Is that your understanding?

KILCHER: No.

SUNDBORG: When do you think it becomes effective?

KILCHER: If this ordinance, this proposal as it is now were passed, the fish traps would be declared illegal the day the Constitution is approved by the President.

SUNDBORG: When is that, Mr. Kilcher?

KILCHER: I am no prophet, Mr. Sundborg.

SUNDBORG: Hasn't every enabling act always said that the Constitution becomes effective and statehood is granted only after we have elected all of our state officials and the First State Legislature? The answer is "yes".

HELLENTHAL: Point of order. I think it is a bit strange to ask questions and then answer them yourself.

SUNDBORG: May I address a question to Mr. Riley?

PRESIDENT EGAN: There is no objection, Mr. Sundborg.

SUNDBORG: Mr. Riley, you spoke of the 60 days of the session. Is there any provision in the Constitution for that?

RILEY: I stand corrected on that; I was pleased to stand corrected by Mr. Kilcher as a matter of fact.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I had planned to speak on this before, but after Mr. Peratrovich spoke, I felt that everything had been very well expressed. However, in discussing amendments, Mr. Riley referred to "Mr. Victor Fischer's amendment". I want to disown and disavow any connection with it. I am very much opposed to it. I think fish traps are one of the most important things in our fight for statehood. This means a tremendous amount to the people of Alaska. I think we can be honest about it; I think we can tackle the problem directly. I feel that this ordinance does that in part. I would go a step farther. I think the fish trap problem has been of such proportions in Alaska that I think it should be put into the body of the Constitution, because it is an expression of the people as to why they want statehood. I think it is important to have it become effective.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Point of order, Mr. President. Is Mr. Fischer discussing this thing on the floor now?

PRESIDENT EGAN: I believe Mr. Fischer is discussing it. He is explaining why he is supporting this proposed amendment, I believe.

V. FISCHER: I feel that we should vote this motion down, and I hope then we will face this issue squarely and put the provision in one sentence into the Constitution itself.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: If I remember correctly, and being on the Ordinance Committee, this whole matter started out on December 5 with Proposal No. 33 from Mr. Eldor Lee, and that proposal reads as follows: "Resolved that the following is agreed upon as a part of Alaska's State Constitution. The use of fish traps for the taking of fish for commercial purposes is hereby prohibited in the waters of the State of Alaska." We then come on to Mr. Buckalew's amendment. Am I correct, Mr. Buckalew? May I ask Mr. Buckalew a question? Do I understand, Mr. Buckalew, that you have removed the violations clause of your proposed amendment?

BUCKALEW: Sometimes I think I might be an effective delegate, but I don't have the authority to remove anything once it has been submitted. The Convention voted to remove the violations section and I voted in favor of it.

HILSCHER: Both for the \$5,000 and the confiscation of fish traps?

BUCKALEW: The Convention did, yes.

HILSCHER: Thank you. Now I have before me here a proposed amendment which has been signed by a considerable section of this group.

LONDBORG: Point of order. I believe that that is not before us at all. I believe there is another proposed amendment before us.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I am against putting anything in the Constitution regarding fish traps. I might say, in order not to confuse you, however, that I am against fish traps. In one place in our Resources Committee Article, it says we will manage our resources on the principle of conservation, and in another place it says we will manage our natural resources on the principle of conservation, and in another place it says we will manage our resources on the principle of sustained yield. In another place it says that all of the people shall have a common right to our resources. Now those three things cover fish traps. I think -- I know that the First Legislature will abolish fish traps, probably the first thing they do. I have been in several sessions of the Legislature and I am sure they will. The Senate has always had that feeling with the exception of perhaps one or two members, although the Senate never has become hysterical about anything, which doesn't agree with some people. They believe in

going about it in an orderly manner and, if it will help Mr. Buckalew any, I will give him my solemn promise that if I am there at that time I will vote for the immediate abolishment of fish traps, but I do not believe it has any place in our Constitution, that there is no need for a referendum whatever. We know how the people feel, and I do not believe we should have an ordinance here affecting fish traps. We want to become a state because by becoming a state we can correct a long list of grievances. Fish traps is one injustice under which we have suffered and when we become a state we can correct it immediately. If we go ahead and put it in the Constitution or enact an ordinance here to abolish fish traps even before we become a state, some people will think the only reason we want to be a state is to abolish fish traps. That is not correct. Now, when we were considering sport fishing or wildlife, there were certain people in the Territory concerned with those matters who wanted us to put it in the Constitution the way they wanted it, and have a commission to administer the affairs of sport fishing, and most of us didn't believe it had a proper place in the Constitution. The fishermen, as much as I sympathize with them, are another group of people, and I cannot blame them. If I were a fisherman, I would want it in the Constitution too; but they are another group of people, a little more important to them and to us, because it is an industry and a means of livelihood, for that matter. But it is still one group of people who want a better safeguard put in the Constitution, and it is a legislative matter. It is a matter which I believe the First Legislature will take care of and take care of in an orderly manner. I believe in first things first and last things last. First we must become a state and then we will immediately correct all these injustices.

PRESIDENT EGAN: Mr. Lee.

LEE: May I address a question to Mr. Barr.

PRESIDENT EGAN: If there is no objection, Mr. Lee.

LEE: The only reason I had risen before was to address a question. Mr Barr, in our Constitution we have one statement saying that debtors -- well, there will be no imprisonment for debt except in the case of absconding debtors. Do you think people will feel that is the only reason we want statehood -- to take care of that? And, also, we have the statement that the Legislature shall control lobbying. We have that in the Constitution. Do you feel that people will think the only reason we want statehood is to control lobbying?

BARR: No, I don't. I don't think so because that comes under the Bill of Rights, and that is the main reason for the Constitution, to protect the rights of the people, and in our Resources proposal we protect the rights of the people as far as fish are concerned, when we say all of the people will have a common right to fish.

PRESIDENT EGAN: Is there any further discussion? Does anyone wish the floor at this time? The question is: "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" The Chief Clerk will call the roll. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Strike Sections 24 and 25 and insert in lieu thereof the following: Section 24. Provision shall be made for the elimination of commercial fish traps operated in the Coastal waters of the State by the first State legislature prior to its adjournment."

PRESIDENT EGAN: The Chief Clerk will call the roll on the adoption of the amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 12 - Barr, Boswell, Collins, Cross, Hilscher, Johnson, McNealy, McNees, Reader, R. Rivers, V. Rivers, Robertson.

Nays: 42 - Armstrong, Awes, Buckalew, Coghill, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight. Laws, Lee, Londborg, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 1 - Cooper.)

CHIEF CLERK: 12 yeas, 42 nays, and 1 absent.

PRESIDENT EGAN: So the Nays have it and the proposed amendment has failed of adoption. Are there other amendments to be proposed for Sections 24 or 25?

CHIEF CLERK: There is one from Mr. White.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: Strike Sections 24 and 25 as amended.

PRESIDENT EGAN: Is there a second?

SUNDBORG: I second it.

PRESIDENT EGAN: Seconded by Mr. Sundborg. Mr. White.

WHITE: I approach this with the greatest reluctance. I have a feeling that perhaps it is something I cannot afford to do, but then I had the greater feeling that those who said we should face this issue squarely are right, and I think the issue before us is whether or not we should treat this matter in any way, shape or form in the Constitution, and, if we feel we should not, to have done with it; and, if we feel we should, to do it in the strongest way possible. The vote the other day was certainly the most reluctant vote that was taken, in any opinion, during the entire session. I voted the other day against striking this section, and I have been sorry ever since. I think we have faced this kind of problem time and time again during this Convention and, in my opinion, have solved it the right way in each instance. I think we come to it again here in its most serious form, because there is no question but what the fish trap question is very emotionally involved with all of us. It is probably Alaska's greatest grievance against the Territorial form of government, and it is a most difficult one for us to consider objectively because of those reasons. But I firmly feel that in taking an action here, which I really believe a large number of us feel is not a Constitutional matter, we do ourselves more harm than those we are trying to get at. Now I don't know if anyone in this body is for fish traps or not, but I do know it is next door to impossible to be for immediate statehood and the Tennessee Plan, and be for fish traps at the same time, and I think, if we leave the matter alone, we cannot be misunderstood by the Alaskan people. I think very few of us came here with any mandates from the people to write anything concerning abolishment of fish traps into the Constitution. The Resources Committee had this before it for a couple of months and after calm and deliberate consideration, the Resources Committee decided unanimously, as I recall it, with possibly one exception, against including this matter in the Constitution itself, and unanimously, I believe, with one exception, against treating it as an ordinance, and finally decided perhaps the best way to handle it was to treat it as a resolution to the First State Legislature. Now I agree with those who have said a resolution is a poor way out. I don't think that is facing the issue squarely, but I think, since it has come on the floor, it has become more difficult to decide; but if we had a chance to go through the same calm orderly process of reasoning on this matter as in others, we would eventually come to the same decision as the Resources Committee did. We have had advice more than once from prominent Alaskans, who have every reason to be as violently opposed to fish traps as any one of us here, that it would be better left unsaid as far as the Constitution is concerned. I would agree with Mr. Barr that this is only one of many grievances that the people of Alaska have against the Territorial form of government. It happens to be probably the most emotionally charged one. I think we do damage to ourselves by submitting in this case to our emotions. I don't know what more I can say, but I do feel strongly that we would be strictly in line with the kind of thinking and kind of action

that took place in this body over the past months. I do feel strongly that no single one of us here would be misunderstood by the Alaskan people.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I am among those who voted in favor of Mr. Boswell's amendment the other day. I voted in favor of that amendment not because I was in favor of fish traps, but because I felt the provision as it was was not the way to handle it. However, we have now spent considerable time in amending that provision and, so far as I am concerned, we now have it at a point that is, to my notion, workable, and to me it is acceptable. I am going to vote against Mr. White's amendment. Mr. White's motion to strike, and that doesn't mean I am in favor of fish traps. I think they should be abolished, and I believe the overwhelming majority of Alaskans feel the same way. It is just a matter of how to get at it. And, so far as I am concerned, I think the proper way to handle it is by constitutional ordinance and not by placing it in the body of the Constitution.

PRESIDENT EGAN: The Chair would like to state at this time, before further discussion, that this is the third time that the Chair has been placed in the position of allowing the body, through their -- if this question is put -- through their willingness to act on the policy that the Convention wants to put such a question. Now when Mr. Boswell offered the amendment striking these sections, on Saturday, I believe it was, or Friday, it was indicated at that time that the body wished an expression of what the policy of this Convention was going to be, and in the mind of the Chair, striking these sections without -- and not offering amendments or new sections in their place, was, from a parliamentary standpoint, was out of order in that it completely kills the proposal. Yesterday, when Mr. McLaughlin offered his amendment to the other proposal, 17/c, Revised, it was definitely the understanding of the Chair that it was the wish of the body that at that time they be allowed to vote on the policy as to whether we desired some type of Tennessee Plan. Now we are in the same position again. From a parliamentary standpoint, it is not in order to completely destroy an Article or proposal in second reading. Amendments can be offered substantially changing the meaning, but you cannot kill a proposal in second reading unless by suspension of all rules of procedure, it can be done and that, in the two previous instances, was indicated was what the body wanted to do. They wanted a statement of policy at that time. The Chair makes that statement only to let the body know that this has been allowed in these two instances previous to this time because it seemed to be, without objection, the wish of the body that they desired to make that as a statement of policy. Mr. Fischer.

V. FISCHER. Mr. White referred to the deliberations of one Committee. I think we are 55 members here who have all been thinking in

terms of fish traps. We have been discussing this matter for days. I don't think it is right to imply that if we act on this now it would not be on our considered judgment, if we do include something in the Constitution, even though one Committee early in the session felt it should not be included. I personally know that many members of that Committee now feel otherwise. I would further like to refer to just one other statement Mr. White made. He referred to this as probably the most emotionally charged grievance that we have. It probably is, and that in itself makes it worth including in the Constitution. We have a good example of similar action. Take a look at the United States Constitution. There are items in there which were included because those were grievances at the time this Nation was founded. Let me read you just one -- "No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law". At that time that was a real grievance. That was included in Article III in the Bill of Rights. I think we have the same right to include statements like this in our Constitution.

PRESIDENT EGAN: Mr. Hilscher, are you asking a question? Have you spoken before?

HILSCHER: Yes, I didn't speak before. I spoke on the previous amendment.

PRESIDENT EGAN: Mr. Hilscher, you have the floor.

HILSCHER: I believe that this body should be entirely aware and cognizant of some points which Mr. Lehleitner pointed out to us -- where the cells of opposition to Alaskan statehood come from, and the bearing that highly controversial issues such as this will have on the possible effect of our statehood aspirations in Congress. He pointed out that 25% of the control of Congress is in the South; that, between the southern Senators and Representatives and those from New England, there are two hard cores that we are going to have a hard time to bust. We know that a good deal of the financial interest of canneries -- of the industry -- comes out of New England and, with the effective lobby we have seen in Congress for the past 25 years or longer, and if we place this in the Constitution, we are just adding fuel to the anti-statehood fires. I am just as much opposed to statehood (laughter) as the fishermen represented here or anyone else.

McCUTCHEON: If Mr. Hilscher is opposed to statehood, I think he should resign from the Convention. (laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Hilscher.

HILSCHER: I am just as much opposed to fish traps as is everyone in this entire organization and I just hate to see something go in here which can be handled in an orderly manner. I hate to see it go in, because it is going to add fuel to those who oppose our efforts.

PRESIDENT EGAN: Miss Awes.

AWES: I'd like to ask a question. You said that it was the purpose of this amendment or motion to give the body a chance to vote on policy. I don't know who I should ask, but I would like to know what particular policy we are voting on. Are we voting against fish traps or are we voting against handling it in this way?

PRESIDENT EGAN: Miss Awes, it would be -- the only way such an amendment could be considered, is if there is, without objection, it is handled in the vein that it is an attempt of the body to determine whether it shall be the policy to handle the fish trap question through an ordinance of this Convention, would be the feeling of the Chair. Mr. Fischer.

V. FISCHER: Well, our policy in the past has been to approve Articles as a whole in third reading. Therefore, unless we do have the possibility of striking individual sections as we go along in second reading, we would never have a chance to strike again, and it seems to me this would be the proper time to strike sections.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I voted with Mr. Boswell the other day on his amendment to strike the section. I think I explained as we amended the Article why I voted the way I did. I have seen the abuses. Some of you who have not lived close to the water are not aware of how serious some of these abuses may be. But I believe this is no time in the white heat of something that seems to be one that you can get some great support on to place this in the Constitution. It isn't that any one of us are fudging on it. It's a case that we feel we are marking a milestone here of having clear heads, and I ask that everyone of us will approach it from that basis. This is highly emotional, and you can go on record if that is what you want. You can have your name down as being against fish traps, but that doesn't make for a good Constitution, and I feel that it's an injustice to the total program we are pursuing here to keep this in, and so I will vote with Mr. White. I hope you will remember that, too, Mr. White.

PRESIDENT EGAN: In answering Mr. Fischer's suggestion, the Chair realizes the Chair has this committee amendment before it known as i7/a. However, there are other sections relating to many different things in the Proposal 17/a. In particular, the Chair has been worried about this all morning, thinking the Chair had been allowing something that wasn't right to go on here, on the floor, but the Chair forgot that this was merely a portion of the ordinance that includes many, many things and which is not an Article. If this were completely deleted, then the motion is in order and an objection would not take the motion off the floor. The Chair stands corrected. Miss Awes.

AWES: Mr. Davis, in your opinion, now that all reference to the enforcement provision has been stricken from this section, do you think this ordinance is enforceable by injunction or any other way?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, in my opinion, it is. I think it can certainly be supplemented by the Legislature if anything further is needed. So far as I am concerned, I do have some doubts as to whether we even ought to have an ordinance, but, if we are going to have anything at all, I think an ordinance is the proper way to do it, and I intend to vote against Mr. White's amendment.

AWES: Do you think it is enforceable as it stands right now?

DAVIS: I feel it is.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, I don't agree with apparently the majority of the members of this body. As far as I am concerned, I favor fish traps. I think fish traps have been one of the greatest sources of our tax money for many years. There has been a fight on fish traps, to my personal knowledge, since the First Session of the Legislature in 1913, and I think, as a matter of fact, that it would be just as successful to put in an ordinance of prohibition against mobile power boats that are ruining the industry down in Cook Inlet. They are ruining the industry in Bristol Bay because there are too many of them. They are too mobile and they can come up, as I stated the other day, in spite of Delegate Peratrovich's statement, the boats coming up from Puget Sound and the coast of California are one of the most serious menaces to our fishing industry there is. It isn't the fish trap. I presume I have been involved in more fish trap litigation, or as much as any lawyer in Alaska. I attended the hearings that were held in Hydaburg, Klawock, and Kake in the fall of 1944 before Judge Hanna. I submit it didn't show that fish traps were destroying the salmon at all. Mr. Taylor spoke of 400 traps in the waters of Alaska. I have known when there were over 800 traps, and even after we had 800 traps our total catch totaled eight million cases. In fact, we produced regularly in the First Division for years over several million cases, and the fish traps have been lowered all the time. They are diminishing. The Secretary of the Interior right now has some kind of a new proposition before him to cut them down another 50 per cent. And that doesn't restore the salmon. The fact is that the salmon being used today -- the greater part of the salmon that is being used today are being used for fresh fish purposes. Much of it is being shipped out frozen. It is being taken by the freezer ships and canned down in the States. Now you ought to have a prohibition against all of those. I submit to you that Mr. Victor Rivers suggestion and my view of this is it ought to be left to the

Legislature. I have no doubt what the Legislature will do -- I probably wouldn't be a member of it -- but I realize the Legislature will probably immediately abolish fish traps. But they will make some provision so that, if it is in the middle of the season and a person is operating a fish trap, there will be some definite date; it will either be cut off before the commencement of the season or at the end of the season and not under this provision. As I understand the proponents of it, they would say that, if we became a state on the first of August of this year, or next year, that the minute you put a fish trap in, you should have taken cognizance of this threat here, and not knowing when we would become a state, and not put in your trap and I submit we ought to support Mr. Barrie White's amendment.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: I would like to direct a question to Mr. Robertson through the Chair.

PRESIDENT EGAN: If no objection, you may.

McCUTCHEON: As a matter of fact, Mr. Robertson, the year we packed over eight million cases, isn't it a fact that there were over five million packed in Bristol Bay and there are no fish traps in Bristol Bay?

ROBERTSON: There have been no fish traps in Bristol Bay since 1912, it is my recollection, but they do have staked gill nets along the shore.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I move the previous question.

BUCKALEW: I second.

PRESIDENT EGAN: Mr. Hellenthal moves the previous question, seconded by Mr. Buckalew. The question is: "Shall the previous question be ordered?"

BUCKALEW: I'd like to withdraw my second, I forgot that Mr. White hadn't an opportunity to close.

HINCKEL: I second the motion.

PRESIDENT EGAN: Mr. Hinckel seconds the motion.

V. FISCHER: I move and ask unanimous consent that Mr. White be permitted to close.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I think this motion is out of order. It's actually the same motion as putting the previous question.

PRESIDENT EGAN: The question is at this time: "Shall the previous question be ordered?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Awes, Barr, Coghill, Gray, Hellenthal, Hinckel, King, Lee, McCutcheon, McLaughlin, Metcalf, Peratrovich, Poulsen, Sundborg, Taylor, and White.

Nays: 38 - Armstrong, Boswell, Buckalew, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, Knight, Laws, Londborg, McNealy, McNees, Marston, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, VanderLeest, Walsh, Wien, and Mr. President.

Absent: 1 - Cooper.)

CHIEF CLERK: 16 yeas, 38 nays, and 1 absent.

PRESIDENT EGAN: So the Nays have it and the previous question has not been ordered. Is there anyone else -- Mr. Peratrovich has been attempting to get the floor. Mr. Peratrovich.

PERATROVICH: I just wanted to clarify a statement -- a reference Mr. Robertson made about the boats coming to Alaska. I think he stated that there were boats coming up, but they don't find it profitable for the simple reason our fish are depleted to the point where they can do better down on the Sound. That is my answer. And his explanation implied that we had an over-run of boats coming up, and I don't want that opinion conveyed to the delegates. Now, there has been mention made here of the taxation angle, that we have to lose should we eliminate fish traps. But I would like to remind those of you that share that opinion that the individuals and families of those that are involved are also taxpayers. Some of them own property. They have boats and seines they have to pay taxes on and, if you don't give them an opportunity by replenishing this resource, you are going to lose that tax also, and perhaps the families, perhaps. They'll move elsewhere. Now that is the thing you have to consider. As far as having a fear that we may have dissenting votes on our proposed Constitution on account of our language regarding the traps, I have no fear of that. I was under the impression when I was elected to this Convention that one of the more important subjects would be our resources. I still feel that way. I felt that way about mining and timber and I certainly put the fisheries question in that classification. I don't feel that we should

try to evade this question and, as I stated before, the problem is here. You know the people that are involved and it is up to the delegates to do something in our Constitution so we can remedy this. That's my opinion and that is the reason I am supporting an expression from this Convention. At the present time our Delegate has a bill pending in Congress -- I understand it is in Committee now -- that seeks to eliminate fish traps, and -- this is my own opinion -- perhaps an expression from this Convention would strengthen his position. I don't know, but that certainly is my opinion, and I am going to use that for an argument. And, furthermore, it is the first time in the history of the question of traps that we have some sort of expression from one agency of our National Government. It is not very favorable, but, nevertheless, it is an expression recognizing the fact that there is a serious problem. In the past they always told us the only concern the Department had was the conservation of fisheries. On that grounds they didn't want to air any question, any hearing, on any traps at all. The minute you invoked the economic side of it, you were ruled out of order. I am very much impressed now that they finally recognized the fact that that angle has to be considered. It seems to me we are going to lose an opportune time to have an expression from the body of this sort if we were to pass it up and disregard even the mention of the traps. For that reason I think this ordinance will cover the thing, and I am sure it will be satisfactory, and I don't think any real Alaskan will vote against our Constitution on that grounds.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I am going to vote against Mr. White's amendment, but I want to say I know Mr. White is sincere in his feelings on this subject. As he said, it was discussed in Committee and, again, I know that there was a dissenting vote within the Committee. The main thing I wanted to call attention to was, in contrast to the eight million case pack referred to by Mr. Robertson, I noticed just the day before yesterday in one of the newspapers that the salmon pack on the entire Pacific Coast during the past year was the smallest in 50 years. That includes all fish packed in freezer ships in Alaska and Puget Sound and everywhere else, and actually that is all I have to say.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: I am against Delegate White's motion; and I would like to make a remark in regard to the Bristol Bay situation, which was mentioned by Delegate Robertson. In 1946 an Assistant Secretary of the Interior, a Mr. Gardner, appeared before the House Insular Affairs Committee on Merchant Marine and Fisheries, reported in H.R. 38, part 1, and he made the following statement in regard to Bristol Bay: "There are valuable salmon runs and

real conservation problems in that area. The system that has grown up there is very nearly equivalent to the trap system". I have been shutting my eyes to it because I have had the feeling it is perhaps more than I could swallow now. Certainly, mobile gear has contributed to the problem of conservation in Bristol Bay. But I will point out this: that in Bristol Bay it was these large fleets operated by these same corporations that are operating the large trap aggregates and in other areas that have led to the depletion of the fish. No one here has said that this trap abolition is going to be the sole answer, but we have to start somewhere on the problem of conservation of our fisheries, and that is the place to start. I don't believe we can afford to or should be silent on the matter by striking this section. Not only in regard to our problems here in Alaska, but presently there are two bills now pending in Congress, one for the abolition of fish traps, and one for the transfer of the fisheries to Alaska. Both of those are tied up with the trap question and the question of trap regulation. If we are silent on this matter, what if this Constitution doesn't go into effect for 10 or 15 or 20 years? I think this is the time to talk across these thousands of miles to Congress and tell them that as Alaskans we want fish traps abolished, and that is why I think in this Constitution, whether by ordinance or in the body, it is perfectly proper that we deal with it.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I just have a few thoughts to leave with the delegates. In my estimation, one of the important things of this Convention is to prove to the United States, to the Congress, that we are politically mature. I think they are looking at that very thing. I believe this is one of the first immature actions that has been taken, and it has been taken because the voting has been on an emotional basis and for expediency. I would like to have everyone to consider the effects that the inclusion of anything in our Constitution may have in regard to statehood. We have heard Mr. Hilscher's comments on this. We know he is a public relations man. It is his business to analyze the impact of this sort of thing, and I think he has hit the nail squarely on the head when he says this may very materially delay statehood. And I would say to the people from the fishing districts, who are close to this problem, that they should realize we are not going to get rid of fish traps until we get statehood, and anything that we do here that will delay statehood is going to delay the abolition of fish traps. I would much rather see Mr. Buckalew's ordinance than something in the body of the Constitution, but I would much rather see nothing said about it, and I will support Mr. White's amendment.

PRESIDENT EGAN: Mr. Johnson

JOHNSON: May I direct a question to Mr. Emberg through the Chair?

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: Mr. Emberg, you referred to a report of some Committee hearing before the Congress, I believe, and read from that report. Do you believe from what you have read and what you stated afterward that it would be also advisable for this Convention to take some action on the mobile gear situation that exists in Bristol Bay?

EMBERG: I would be perfectly willing, if this Convention were willing, to establish a basis of industrial regulation in the Constitution to deal with the situation. In answer to that question I may go a little afield. It has been said here that the Territory -- the people of the Territory have lots of grievances against the federal administration, against the Territorial setup. I believe that it is true. But most of the discrimination has some basis in law. We are excluded from certain benefits under the Merchant Marine and Fisheries Act because it has been held by the courts that the Congress of the United States can discriminate against the Territory. Therefore, it's legal. But the basic thing about fisheries is that they are open to all, and under underlying philosophy should be that no one should have a greater right to reduce these fish from the status of public property to private property than any other citizen. That is what we are getting into here, and that is why I believe it is a matter of philosophy that we can treat with here. If you had a parallel case in the game court that you have in the commercial fisheries, you'd have a setup or a set of regulations about moose hunting that said that I could hunt moose with a BB gun and someone else could use a 50-calibre machine gun and a tank if they wished. That is the thing we are getting at. You are getting at something that is definitely un-American; it's a perversion of the law. Actually, the way I feel about it, and I don't care whether I am speaking with any immunity here as a delegate, I feel it is a question of fraud. That is what I believe. I don't believe this system of regulation that we have is American. I don't think it's even legal under the delegation of authority to the Secretary of the Interior and the Department of the Interior to regulate these things. Two years ago, in 1954, in Bristol Bay again, the Fish and Wildlife Service, the administrator, Mr. Farley, met with the operators of the canneries in Bristol Bay, in Seattle, and they divided up the amount of gear that was going to go into the fisheries in Bristol Bay for that season. They decided on 350 units or boats for the Naknek-Kvichak. The companies divided that quota up among themselves, and they brought in nonresidents from the coast of the United States to fish them. I personally know of over 100 resident fishermen, Natives most of them, from the Illiamna area who, when they came down to fish that season in a fishery in the maritime public domain where the right of fishing was supposed to be extended to every citizen of the United States, and they were told by these companies, "We don't want your fish at any price". I

tell you, the manipulation that is going on in fisheries is something that we will have to get away from and eliminate as soon as possible. I think we are on the right track to start here on the elimination of fish traps.

BARR: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Barr.

BARR: Actually, Mr. Emberg hasn't been debating the question here; he has been debating fish traps. The reason I didn't interrupt him was because I agree with him, but I don't believe we should have any more debate on the matter.

PRESIDENT EGAN: Mr. Emberg was answering a question. Mr. Johnson.

JOHNSON: I haven't spoken on the matter before. May I have the floor? I just wanted to point out that there seems to me to be a little bit of inconsistency in the arguments that have been presented, particularly on the question of whether or not the subject before us is a matter of legislative concern and whether or not it is properly included in the Constitution. I note that a statement was issued this morning by the Resources Committee concerning what should properly be included in the Constitution, and they start out by saying that the Constitution shall be a document of basic principles and fundamental law, and go on to support their position that any mention of commissions to regulate the fisheries thereby was not properly included in the Constitution. Now, I believe that argument applies just as well to the question before us. Now, I am not trying to cry in my beer, so to speak, because I happen to support that fisheries commission amendment, but I would like to say that not only on that occasion but on one other occasion when I suggested that we ought to have something in the Local Government Article about protecting the present school system and school districts, and I recall very clearly at that time, the amendment which I had offered was overwhelmingly defeated, and I took it to mean that the people in this Convention felt that it was a matter for the Legislature. Well, I feel the same way about this fish trap business. I think it is strictly a matter for the Legislature, and certainly, for that reason alone, I am in favor of Mr. White's amendment. I do feel, however, that, if there is any attempt later to include this prohibition in the body of the Constitution, that that would be a complete about-face on the part of the members of this organization who have heretofore ruled out such matters as fish commissions and school districts, because then we would certainly be taking an anomalous position to what we have in the past. I believe if we are going to handle the situation at all, as Mr. Davis has said, it is best handled by way of ordinance, but I believe it should not be mentioned at all and, therefore, I feel that Mr. White's motion is good.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: There has been mention of emotionalism here, and it often comes up when we are faced with a problem with which one does not agree, or secondly, a difficult problem. It's immediately characterized as a problem that we cannot consider except on an emotional basis, and, therefore, whatever one is opposed to should be voted down. Now, life is emotional. When some of the gentlemen who cast disparaging remarks about emotions chose their wives, I imagine they did it on an objective basis. They look at their children somewhat emotionally. I see nothing wrong with living with our emotions. Like Mr. Fischer suggests, I would hate to read a Constitution that did not have some emotional consideration in it. It would be a pretty dull document. I know people that get pretty emotional about the price of gold, and about the freezing of production, some war production orders during the war, and I don't think we, let alone any human beings, can just divorce these disagreeable emotions from our consideration. I think Mr. Davis, who believes that this ordinance should be passed and that the referendum should be held, has solved this proposition soundly, logically, and perhaps somewhat emotionally, but sensibly.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I am talking now because I made an understanding with a group of people awhile ago and I want to get it clear now. I don't want to go along with that agreement I made here on the floor -- a group of us. All great documents that have been written in the world met the problems of the day; they met the issues; they divided the people. We are now up against a problem of the day. The ills of the people of Alaska are right here and now, and I want to tell the gentlemen here who have gotten along so fine together that we are coming to the crossroads, that we either put it in the body of the Constitution or put it as an ordinance and leave it up to the people, and I think your voting should be governed on that basis now. We are coming to it, and I don't see anything wrong about meeting the problems of the day by putting it up to the people, and I prefer to go along with this ordinance the way it is written now, the so-called Buckalew or Committee Proposal, and I am going along with that because I see it as the better way of the two.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: I am going to raise the point of order that this motion to strike is not valid, and I predicate my remarks on the fact that the arguments that have been presented so far this morning have been in exact point to the arguments that were made several days ago on the same matter. Consequently, I feel that, while there have been a couple of amendments to this matter, we are arguing on the same point that was brought to issue previously.

PRESIDENT EGAN: Mr. McCutcheon, you have a point, and the Chair will leave that ruling to the Rules Committee, even though there have been amendments made to these sections. The Convention will be at recess until 1:30 p.m. Mr. Sundborg, you may make a committee announcement.

SUNDBORG: Committee on Style and Drafting immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: Committee on Style and Drafting will meet immediately upon recess at the rear of the gallery.

WHITE: Point of order on a subject for reconsideration by the Rules Committee.

PRESIDENT EGAN: A point of order on the subject that you would like to have the Rules Committee consider, Mr. White?

WHITE: Yes.

PRESIDENT EGAN: Well, it is the duty of the Chair when a point of order is raised to have that point of order determined. Mr. White.

WHITE: My point of order, Mr. President, is that Mr. McNees gave notice of reconsideration of his vote the other day at the proper time and in the proper manner. By general consent the reconsideration was carried along until this Article came before us again. When the situation arose this morning as to what situation we were in because amendments had been allowed subsequent to his notice of reconsideration, general agreement was granted Mr. McNees that he would be allowed, if he withdraw his motion --

MCCUTCHEON: Point of order.

WHITE: I have a point of order and I am not through.

PRESIDENT EGAN: The Chair will have to rule that Mr. McCutcheon raised the point of order. If there are other points of order, Mr. White, you will be allowed to present another point of order, but it is the duty of the Chair to have the original point of order determined, and the Chair thought that you were raising an additional point of order on this question to be determined to be presented to the Rules Committee. Any member may appear before the Rules Committee when they have this particular point of order under discussion.

MCCUTCHEON: The question of privilege is this: a motion has been made for recess, and Mr. White's point of order is not a valid consideration predicated on the motion for recess.

PRESIDENT EGAN: Well, Mr. McCutcheon, it is the remembrance of the Chair that someone asked unanimous consent that the Convention stand at recess until 1:30 p.m. Are there Committee announcements? Mr. Hellenthal.

HELLENTHAL: Would Mr. Rivers have any objection to changing his motion to recess to 1:00 rather than 1:30?

WHITE: I object to a unanimous consent to recess and raise a point of order.

PRESIDENT EGAN: Mr. White, a point of order is already on the floor. It is the duty of the Chair to have that point of order resolved before any other business can come before the Chair. Mr. Rosswog.

ROSSWOG: Local Government Committee will meet exactly at 1:00 in the rear of the gallery.

PRESIDENT EGAN: Local Government at exactly 1:00. Mr. Riley.

RILEY: Rules Committee will meet immediately upon recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: According to the Rules Committee in respect to the matter referred to it, the point of order raised by Mr. McCutcheon, it is the view of the Rules Committee that the point of order was not well-taken in view of the fact that the matter sought to be stricken by Mr. White's amendment has changed substantially over that in consideration last week.

PRESIDENT EGAN: The ruling of the Rules Committee will be the ruling of the Chair. We have before us Committee Proposal No. 17/a, Sections 24 and 25, an amendment seeking to delete those sections from the proposal. If there is no further discussion -- is there anyone else? Mr. Buckalew.

BUCKALEW: What is the effect of -- what's the interpretation of the ruling now?

PRESIDENT EGAN: That the amendment is in order, the proposed amendment as it is now before us, the amendment we have been debating.

BUCKALEW: Then this will settle the question once and for all?

PRESIDENT EGAN: Mr. Knight.

KNIGHT: I would like to say a few words on this question. In 1938 the salmon pack for Alaska was roughly nine million cases; in 1955 it had decreased to less than three million cases. I can recall in 1923 at Ketchikan when large scows came up the coast and about 12 inches of crushed ice would be put on the floor of the scows, and truck tenders would come up and unload their fish, probably three feet deep, and an additional 12 or 18 inches of ice would be placed on top of the fish, and they moved up to the cannery site waiting to unload. In 1941 at Sitka, I can recall the 12 seine boats operating at that time for the canneries were ordered to take their gear ashore, as the story went, because the traps were supplying the canneries with more fish than they could handle. In 1954, I have been told, that there were 11 million fish caught in the Fraser River where there are no traps. Now, I also have been told that in the last 5 years about two hundred people have been compelled to leave Petersburg because they could not make a living fishing; also that some families have been compelled to leave Ketchikan and Metlakatla for the same reason. The families have gone to Seattle and the Puget Sound country where they do have a chance to make a living. So, there is no doubt in my mind that this is a very serious economic condition we have to face, so I am compelled to vote against Mr. White's amendment.

METCALF: May I speak a little on this subject?

PRESIDENT EGAN: You may, Mr. Metcalf.

METCALF: I believe the fish trap subject is a very important one, very important, and just as important to us and to large segments of our population as the subject of quartering troops during the revolution in private homes. I believe, therefore, that something should be put into the Constitution. I believe that it is a cancer upon our economy and because it deprives the small fellow of a chance of making a living, it creates a monopoly with the assistance of the government, whereas the big operator competes on unfair terms with the little fellow, and I think again that something should be put into our Constitution. Now referring back to the Declaration of Rights, in this first paragraph, your inherent rights -- it talks about the rights of the people. Now, whether this is a declaration or something to be talked about just on patriotic occasions, I don't know, but let's read it over and especially the last section. It says, "...all persons are equal and entitled to equal rights...". Now, if you give a fish trap to every fisherman, I am all for it, but if you can't, why, just cut them out. It says, "...all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State". I feel this is a serious problem, especially to a large segment of our population, and some mention should be made of it in our Constitution, especially in the matter of eliminating traps.

PRESIDENT EGAN: Mr. Barr, have you had the floor on this question yet?

BARR: Mr. President, we have been talking on this so long I can't remember. I would like to ask Mr. Metcalf a question.

PRESIDENT EGAN: If there is no objection, Mr. Barr.

BARR: Mr. Metcalf, you quoted from the Constitution there. Don't you believe that quotation covers fish traps, and that, if we carry out that provision in the Constitution, we will abolish fish traps?

METCALF: It doesn't work that way though, Mr. Barr. Only a few have fish traps.

BARR: We haven't had this Constitution in effect though. I mean that, when this Constitution goes into effect, there is sufficient in it so that it will be mandatory upon the Legislature to abolish fish traps?

METCALF: No, I don't think so, Mr. Barr. I don't like to take a chance on it.

PRESIDENT EGAN: Mr. McNees.

MCNEES: May I ask Mr. Metcalf a question through the Chair? You do not fear that the Legislature, when established, will not abolish fish traps, do you, Mr. Metcalf?

METCALF: I like to deal in certainties. I would like to have it in the Constitution. This is a serious cancer on our economy. Just remember, it not only affects the little fellow who fishes out in the bay; it affects the little business man up here in the country, too, you know. It affects the Welfare Department we all have to support.

MCNEES: One other question, Mr. President, if I may. Do you not feel there might be some general jeopardization to the Constitution itself if we make an issue of this in the Constitution and thereby forestall the opportunity of abolishing them at an earlier date even yet?

METCALF: It might, a little, but, if you have a serious ailment, you might as well tell people about it.

PRESIDENT EGAN: Is there anyone else who hasn't been heard on this amendment? Mr. Victor Rivers.

V. RIVERS: I have just two observations. I have stated in essence before that I feel that, if this is included in the Constitution, we have a very good chance of having it stricken

by Congress, and if it should come back to us, we would then have to strike it ourselves and would have to again resubmit it to amendment -- I mean resubmit it to the people for ratification. As I said, I can see a possibility, a great possibility of a major delay. Now, we realize, and I agree with the previous speaker, that we have a cancer, a malignant growth on our economy here. The only question in my mind is whether we should use a meat axe, as we are doing here, or a scalpel on it.

PRESIDENT EGAN: Is there anyone else who has not been heard as yet? Mr. Buckalew.

BUCKALEW: I haven't been heard on it this time. I want to bring to the body's attention -- I have a letter dated October 7, 1955, and signed by Douglas McKay, Secretary of the Interior, and the letter is written to the Honorable Herbert C. Bonner, Chairman of the Committee on Merchant Marine and Fisheries. Now, I will read from the letter. In the body of his letter he says, "For example, it is sometimes argued that the traps should be abolished as a conservation measure. Years of experience give no support to this argument. The basic conservation problem is one of permitting escapement of sufficient salmon to maintain runs" and so forth. Then, he says the reason he thinks that fish traps should be abolished is an economic argument. It is an unreasonable burden to force the Alaska fishermen to compete with traps. Later on in his letter he says that the situation is critical and that we have had relief areas, emergency areas, and emergencies declared; but later on he says we ought to extend the life of the traps ten years. We'll let them suffer along for ten years. Then, I have a letter signed by Mr. McKay on the third of January, 1956, and in this letter he takes this position, "As you know we have had very fine cooperation under our program of conservation by which many of the trap owners in the interests of conservation have voluntarily closed down many of their traps for the last year or more". Now we see the position that the Secretary takes and it is an inconsistent position. I believe that the ordinance is a proper ordinance and citizen Peratrovich, Delegate Emberg, Delegate Smith, and Delegate Lee have convinced me this is a real emergency and, if this ordinance will eliminate the traps 30 days -- if it only eliminates them during a 30-day period -- if we can get at them 30 days sooner, we have a duty to do it. Now, these gentlemen tell me that even that 30 days might mean the difference between not having a salmon industry or having a salmon industry. For that reason, I think that the amendment should be voted down, and we should stick by this thing; adopt it and send it out and let the people vote on it.

PRESIDENT EGAN: Is there anyone else who wishes to be heard before Mr. White closes the argument? Mr. Taylor.

TAYLOR: I just wanted to comment on some of the comparisons that have been made here, particularly one by Mr. Robertson, who,

I think he said something about he was in favor of abolishing fish traps although he felt the failure of the salmon run was entirely caused by other fishermen, men with big boats coming up, and also he mentioned, I believe, that the set nets on Bristol Bay, which are usually a net out a hundred feet or more in the Bay and usually tended by one woman who goes along the net after the tide goes out and picks the fish out -- that they have depleted the run to the point where it is now an emergency in Alaska! I think we all realize the problem, and, as Mr. Victor Rivers says, it is a question of whether we are going to use a meat axe or a scalpel to cure this festering sore. I don't believe that that comparison is well-taken because the matter before us attempts to ignore the existence of an emergency. Now, Mr. White's amendment would more or less give us the ostrich's view of the situation. We can't see it because it's buried in the sand -- our heads are buried in the sand. But I think from the remarks of all of the members here that talked on this matter are cognizant of the situation that exists throughout the entire coastal area of Alaska, and it is something we can't stick our heads in the sand and ignore. We have got to bring it out in the open, and I think the way it is out in the open now and in the Constitution as an ordinance is the only way for us to recognize the problem and also to make that problem known to every person that reads the Constitution, and I believe we should not make any changes in that ordinance and should vote Mr. White's amendment down.

PRESIDENT EGAN: Is there anyone else who wishes to be heard before Mr. White closes the argument? Mr. White, you may close.

WHITE: Mr. President, if I were an ostrich with my head buried in the sand, and couldn't see the problem, I also couldn't hear it, and I have heard quite a bit about it in the last couple of hours. One thing I haven't heard, Mr. Taylor, is one single letter, telegram, or any other communication to this body suggesting that this action be taken. I think the issues here pretty well outlined by Mr. Armstrong, Mr. Boswell, and other people. I would like to say to Mr. Armstrong that I am glad to have his support on this amendment, but I have never felt at any time that we were operating on other than the same team. I can't claim any first-hand acquaintance with the problem; I haven't been a fisherman or lived in a fishing community; but I think I understand the problem and sympathize with it. But I think the issue here transcends whether it is a problem or not, or whether we can correct it or not, and whether this is the time and place to correct it. And, I think that there is a greater issue here than just the correction of one problem. Moreover, taking the action of putting in this ordinance does not solve the whole problem. Mr. Emberg's problem in Bristol Bay is entirely outside of the issue. There are no fish traps in Bristol Bay and there haven't been for a long time. Mr. Poulsen is connected with the fishing industry and pointed out that there are other problems this ordinance wouldn't correct.

It just goes to one part of the problem. I just can't conceive of the first Legislature doing anything other than taking proper action to correct the over-all problem and get Alaska on its way towards reasonable management of its fisheries in all its phases. The situation is going to exist in the first Legislature. For the first time they will have the opportunity to do something about it. I can't conceive of a majority, or anything close to a majority, in any first State Legislature doing anything other than correcting the problem as it exists because their political lives would be at stake, and if the problem is not corrected they will never get elected to office again. Moreover, I think the Resources Article, contrary to Mr. Metcalf's opinion, as it stands now provides every needed basis for abolishing fish traps and correcting any other problem that may occur, and I think the framers of that Article will bear me out. Now, I wanted so badly the other day to put my name on record as opposing fish traps that I voted against the motion to strike. Since then, I wrestled with the problem, and I have decided in this instance that it is more important for me to be able to live with myself than it is to vote on the popular side of this particular question. Now, I don't intimate or suggest for one moment that anyone who votes against my amendment would be doing so for reasons other than those of deep conviction. But I do suggest that, if you feel that this action might bring this Convention and this Constitution down off the high plane on which it has been to date, if you feel that this is not the time nor the place to correct the problem, and if you feel this action does not correct both problems, we have done with it here and now.

PRESIDENT EGAN: The question is: shall the proposed amendment as offered by Mr. White be adopted by the Convention. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 16 - Armstrong, Barr, Boswell, Collins, Cross, Harris, Hilscher, Johnson, Laws, McNees, Reader, R. Rivers, V. Rivers, Robertson, Stewart, White.

Nays: 38 - Awes, Buckalew, Coghill, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, Wien, Mr. President.

Absent: 1 - Cooper.)

CHIEF CLERK: 16 yeas, 38 nays, and 1 absent.

PRESIDENT EGAN: The Nays have it and the proposed amendment has failed of adoption. Are there other amendments? Mr. Fischer.

V. FISCHER: Mr. President, I would like the privilege of the floor for a few minutes.

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you are granted the privilege of the floor.

(Mr. Fischer spoke on a point of personal privilege.)

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce that there is a photographer who will be here around 2:00 p.m. He would like to have pictures of all the Committees and all the employees of the Convention. Does that meet with the approval of the Convention that that be taken care of at this time -- that those photos be taken? Mr. Hellenthal.

HELLENTHAL: Could we take one Committee at a time and continue with the debate?

PRESIDENT EGAN: Well, it would be pretty hard, Mr. Hellenthal, to take a whole Committee out and continue with the debate, but it all depends on whether the delegates desire to have pictures of the delegates in committees at this time. Mr. Johnson.

JOHNSON: I move and ask unanimous consent that we follow the suggestion you have just made.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that we arrange at this time to have the committee pictures taken, and also that the employees get together in order that their photographs may be taken. It might be well if each Committee Chairman would see that his committee members are available for those pictures after each photograph has been taken. Mr. Sundborg.

SUNDBORG: There will be a meeting of the Style and Drafting Committee at the rear of the gallery, and I ask you to leave us till last and as you need members of our Committee...

PRESIDENT EGAN: Well, Mr. Sundborg, would you watch the photographer then, and see that your members come each time? Of course, that would be pretty hard --

SUNDBORG: I wonder if some other member of the Convention would do that?

PRESIDENT EGAN: The Sergeant at Arms could do that. Mr. Coghill.

COGHILL: It might be well to suggest that the Committees be taken by number; that way you wouldn't be missing out on any Committees in order for their pictures to be taken by number.

PRESIDENT EGAN: First, then, you might arrange to have the Rules Committee be the first on the list, and Style and Drafting Committee next, Preamble and Bill of Rights, Legislative, Administration, Ordinances, Suffrage, Executive, Judiciary, Finance, Direct Legislation, Resources, Local Government, and then Resolutions. The President will stand out then and call the name of the Committee after each photograph is taken. The Convention will be at recess.

RECESS

PRESIDENT EGAN: The convention will come to order. Mr. Hilscher.

HILSCHER: I believe that the members of the Constitutional Convention would be pleased to meet Mr. Lawrence Davies of the New Your Times, who is here to cover the remaining days of the Convention, and his stories will appear in the New York Times, as well as other newspapers covering it. Mr. Davies.

PRESIDENT EGAN: Mr. Davies, we are pleased to meet you and happy to have you with us. We have before us Committee Proposal No. 17/a. Are there other amendments to be proposed for Committee Proposal No. 17/a? Mr. Riley?

RILEY: I believe I anticipated the Chair.

PRESIDENT EGAN: If there are no other amendments for Committee Proposal No. 17/a. it will be referred to the Committee on Engrossment and Enrollment; and if no amendment, it is referred to the Committee on Engrossment and Enrollment. We now have the -- Mr. Hilscher.

HILSCHER: I would like to rise to a point of personal privilege and just say one word about 17/a...

PRESIDENT EGAN: Mr. Riley.

RILEY: Not as a point of order, but I think the reference is a little premature. It's just out of second reading.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: The subcommittee on fish traps has been firing grapeshot for three days now. (laughter)

PRESIDENT EGAN: The Convention will come to order. We have

before us Committee Proposal No. 10, the report of the Style and Drafting Committee on the Proposal relating to Local Government. Mr. Peratrovich, would you take the Chair at this time.

FIRST VICE PRESIDENT: We have the Committee Report on No. 10 before us. Would the Chief Clerk please read it?

(The Chief Clerk read the report, dated January 30, 1956.)

FIRST VICE PRESIDENT: Does the Chairman of the Style and Drafting Committee have a statement?

SUNDBORG: This Committee redraft was prepared initially by a subcommittee consisting of Mr. McLaughlin, Mrs. Nordale, and Mr. Johnson. We have asked Mr. McLaughlin to explain it to you and to answer any questions by the delegates.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: Point of information. Mr. President. I ask that a Committee of three or five with plenary powers be appointed to look into the matter of arranging for a present for the President of the Convention.

FIRST VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: I believe the suggestion is a very good one and I believe we should authorize the Administration Committee to take care of it.

FIRST VICE PRESIDENT: You would have to do that in the form of a motion.

(The Convention unanimously agreed that further action in regard to the matter just preceding be not included in the record.)

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: Mr. McLaughlin was about to seek recognition, Mr. President.

McLAUGHLIN: Mr. President, I would like to -- if the members of the Convention would pick up their copies, I would like to make certain insertions which will expedite this proceeding and I will explain them as I go along. First, I request that at the end of Section 6, bottom of page 2, that you insert, subject to your objections later, the following words: "It may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough". So that you have an additional sentence now to Section 6 which reads, "It

may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough." I request, additionally, that on page 3, line 3, the first word "borough", that one "r" be stricken. I request that on line 5 of page 3, after the word "classified", a comma be inserted and the word "reclassified comma", so that the line will read, "They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law." On page 5, I request on line 1, that the words "At the time a borough is organized", be stricken. Then, on line 2, the words "performing local functions" be stricken. Then, on line 2, capitalize the first letter of "special", we're starting a new sentence, and substitute for the stricken words "performing local functions", "existing at the time a borough is organized", so that section now reads, "Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law." And on page 1, Section 3, line 12, at the end of line 12, after "economy comma", add the word "population comma". Mr. Chairman, prior to the asking of questions on the sections, I desire to point out what are substantive changes, whence they came, and what may not be substantive changes but might be subject to that interpretation. What may be, although the Committee says no, a substantive change, are the words we have just added to Section 6 at the bottom of page 2. Those may be: the Committee says no. The reason Style and Drafting presents them is in order to expedite the discussion, and the debate if there should be any. That is the sentence which I have just added, at the end of Section 6 on page 2. There is a substantive change on page 4, commencing on line 5. We have inserted a sentence which is a substantive change: "The change shall become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house." I think the necessity for the change is patent. It arose on another matter. It became necessary, since we may have year-long sessions, to make the proposed changes effective some time possibly before the termination of the session. So we have substituted, with the consent of the Local Government Committee, those words. Section 15 -- I shall read you the original Section 15 from the enrolled copy so you may determine whether or not it is a substantive change. The original language in Section 15 as it was enrolled reads, "The Legislature shall provide for the integration, consistent with the provisions of this article, of special districts performing local government functions with the government of a borough at the time a borough is organized." The credit for the punctuation, Mr. Chairman, although never mentioned by or overlooked by the Chairman of Style and Drafting, and the work that is done on these, is attributable to those people in the boiler room, Mrs. Betty Jean Miles, Carolyn Oakley, Louise Gooch, Charlotte Taylor, Bernice Black, Sherry Hoopes, Doris Ann Bartlett, and Willou Bickel. They haven't received recognition

for the work they have done. All of the changes in here which may have been substantive and the style changes have been consented to by the Local Government Committee in full.

FIRST VICE PRESIDENT: Mr. Johnson.

JOHNSON: I should like to point out, I think Mr. McLaughlin meant to do it but he hasn't, that as a member of the Style and Drafting Committee, while I signed the report, I did not concur in the changes in Section 15, on the grounds that they were substantive.

FIRST VICE PRESIDENT: Mr. McLaughlin.

McLAUGHLIN: Mr. Johnson's statement is correct. As a matter of fact, Style and Drafting did not author any substantive changes insofar as is known, but they put them in there, approved them only as to style, not as to substance. Do you desire that we go down section by section? Do you want me to call the sections?

FIRST VICE PRESIDENT: You may proceed right along, Mr. McLaughlin.

McLAUGHLIN: Are there any questions on Section 1? Section 2? Section 3? Section 4? Section 5? Section 6? Section 7? Section 8? Section 9? Section 10? Section 11? Section 12? Section 13?

HERMANN: Section 12, I'd like to ask a question.

FIRST VICE PRESIDENT: You may ask the question, Mrs. Hermann.

HERMANN: Line 9, the last part of the word at the end of the sentence, does that have to appear in the Constitution with a hyphen after the double "m"? If it does, I want to object. I move that the hyphen appear after the first "m".

McLAUGHLIN: And where do you desire the hyphen, Mrs. ...

HERMANN: After the first "m" instead of the second.

McLAUGHLIN: After what, Mrs. Hermann?

HERMANN: After the first "m" in the word "commission".

FIRST VICE PRESIDENT: The second word in the last sentence in that paragraph.

McLAUGHLIN: Line 9, the hyphen after the "c-o-m-m"?

HERMAN: That is what I am objecting to; after the "c-o-m" I want it.

McLAUGHLIN: I am sure that by unanimous consent, Mr. Chairman, that the Convention will consent to the deletion of the hyphen. Something tells me that this is going to be reprinted and that "commission" will be made whole again.

FIRST VICE PRESIDENT: Hearing no objections, the request will be granted.

BUCKALEW: Mr. President, I don't think Mr. McLaughlin has the point yet, have you, George?

McLAUGHLIN: I don't know what the point is.

HERMANN: The point is that the syllable should be c-o-m and you don't put a hyphen in the middle of a syllable; you put it after a syllable.

McLAUGHLIN: Mr. President, I am sure the Convention consents to inserting the hyphen, moving the last "m" down from line 9 to line 10, and inserting the hyphen after the first "m".

TAYLOR: May I rise to a point of information? Now, in the printed copy of this, if "commission" happened to be in the middle of the line, would they leave the hyphen in there?

FIRST VICE PRESIDENT: Mr. McLaughlin, would you care to answer this question?

McLAUGHLIN: I am sure that the Committee on Style and Drafting will pick up such a notable error at the time we review the whole Constitution.

UNIDENTIFIED DELEGATE: The Committee on Local Government has no objection. (laughter)

FIRST VICE PRESIDENT: Are there any other questions? You may proceed.

McLAUGHLIN: Section 14?

FIRST VICE PRESIDENT: Mr. Smith.

SMITH: In reading the first sentence in Section 14, just previously here, it says, "An agency shall be established by law in the executive branch of the state government." Of course, if you go on and read the rest of the section, then you get the idea, but by setting this sentence apart don't you think that "an agency" might feel just a little lonesome, Mr. McLaughlin?

McLAUGHLIN: That is in terms of style that you feel that we should combine the first and second sentences?

SMITH: It just occurred to me that it would make the meaning a little more clear merely in the matter of style, and I merely raise the question and call it to the attention of the Committee Chairman.

FIRST VICE PRESIDENT: Mr. McLaughlin, could you answer that question?

McLAUGHLIN: It's purely a matter of taste Mr. Smith, I agree, and possibly yours is superior to mine, but if you would yield on that one point, I think it would expedite the passage of this. Do you feel it's grammatically bad?

FIRST VICE PRESIDENT: Mr. Armstrong.

ARMSTRONG: I just wanted to call attention to Section 12 -- we have the same situation and I thought that Style and Drafting had made Section 14...

McLAUGHLIN: We had in the past, Mr. Smith. It is true we had the establishment of these two agencies and we conformed the language; that is Section 12 sets up the local boundary commission or board which shall be established by law in the executive branch of the state government, and we carried on down the form at least down to Section 14 and we added the words "of the state government" for fear there might be some confusion with the executive branch of the local government or some such thing.

SMITH: I am completely satisfied, Mr. President.

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: I would like to say I think there is a slight difference at least between the first sentence of Section 14 and the first sentence of Section 12. Looking at the one in Section 12 it makes pretty good sense, "A local boundary commission or board shall be established by law in the executive branch of the state government". There is some description of what it is all about. In Section 14 it says "an agency shall be established by law" and there is no reference within that sentence as to what kind of agency. I would ask unanimous consent that in line 21 after "government" strike the period, strike the word "it"; on line 22, strike the first word "shall" and in its place insert the word "to".

V. FISCHER: Mr. President, may we have a two-minute recess.

FIRST VICE PRESIDENT: Without objection, it is so ordered.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Sundborg.

SUNDBORG: If I had the floor -- I am making the same unanimous consent request, which I renew, and add to it the following: on line 22 change the comma to a period after the word "government" and insert after it "It shall" starting a new sentence. The section then would read: "An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information and perform other duties prescribed by law". I ask unanimous consent.

FIRST VICE PRESIDENT: Do I hear any objections; if not, it is so ordered.

McLAUGHLIN: Are there any further questions now, as to Section 14? Are there questions as to Section 15?

FIRST VICE PRESIDENT: Mr. Coghill.

COGHILL: May I ask Mr. McLaughlin a question?

McLAUGHLIN: May I inquire of Mr. Coghill whether this is a question as to existing style or a change in substance.

COGHILL: That was the question I was going to ask you. What do you consider a substantive change in that section?

McLAUGHLIN: I have not said, Mr. Coghill, that there is a substantive change. I have pointed it out as a possible substantive change. If, through the Chair, you will withhold your question, I am prepared to ask an acceptance of the report of the Style and Drafting Committee, so that the necessary amendments or remarks addressed to the Chairman of the Local Government Committee Chairman would be in order. I would like to inquire if there are any questions as to style on Section 15, Mr. Chairman, since there are no further questions, I ask unanimous consent that the report of the Style and Drafting Committee be accepted as to style only.

FIRST VICE PRESIDENT: Did you ask unanimous consent?

McLAUGHLIN: I do.

FIRST VICE PRESIDENT: You have heard the request; do I hear any objections? If not, it is so ordered.

BUCKALEW: Mr. President, is this the proper time for amendments.

FIRST VICE PRESIDENT: It depends on what type of amendment it is. I understand one is by two-thirds, the other is by majority.

BUCKALEW: I don't know whether this is -- I think it is an amendment to form probably.

FIRST VICE PRESIDENT: You may offer your amendment and determination will be made.

BUCKALEW: That is just a rough guess. Will the Clerk be kind enough to read it?

CHIEF CLERK: Change "borough" wherever it appears in the article and insert the word "county".

DOOGAN: Point of order. This has already been decided.

JOHNSON: Point of order.

FIRST VICE PRESIDENT: Mr. Johnson, would you state your point of order, please.

JOHNSON: Under suspension of the rules it would be perfectly proper.

BUCKALEW: Is it proper now to ask that the rules be suspended? I ask unanimous consent that the rules be suspended for that particular amendment.

FIRST VICE PRESIDENT: You have heard the motion for the suspension of the rules. All in favor signify by saying Aye...

HERMANN: Point of order.

FIRST VICE PRESIDENT: What is your point of order?

HERMANN: My point of order is that you can't suspend the rules by a voice vote.

FIRST VICE PRESIDENT: Sometimes that is left to the Chair, Mrs. Hermann. In this case we will order it. Will you call the roll, please.

(The roll was called with the following result:

Yeas: 20 - Barr, Buckalew, Coghill, Collins, Cooper, Emberg, H. Fischer, Gray, Harris, Johnson, Kilcher, King, Laws, Londborg, Metcalf, Nolan, Peratrovich, Poulsen, Reader, Wien.

Nays: 31 - Armstrong, Awes, Boswell, Cross, Davis, Doogan, V. Fischer, Hellenthal, Hermann, Hinckel, Hurley, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White.

Absent: 4 - Hilscher, McNealy, Riley, and Mr. President.)

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CHIEF CLERK: 20 yeas, 31 nays, and 4 absent.

FIRST VICE PRESIDENT: The motion has been lost. Are there other amendments? Mr. Kilcher.

KILCHER: I move that we stand at recess until five minutes to four.

FIRST VICE PRESIDENT: Is there a second to that?

COGHILL: I second the motion.

SUNDBORG: Mr. President, if we do recess, I want to announce a meeting of the Style and Drafting Committee immediately at the rear of the gallery.

FIRST VICE PRESIDENT: Are there any other announcements? All in favor of recessing say Aye; contrary? We stand at recess until ten to four.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr.

BARR: May I have the privilege of the floor, not a personal privilege, for a moment. An amendment has just failed changing the word "borough" to "county" in your absence. I would like to say on this subject: during the hearings it was brought out by the people in some places that they disapproved of the word "borough" and I, in speaking to my friends around Fairbanks, have never known anyone who favored it except those on this floor. Now, we took a vote the other day and the word "borough" got the highest number of votes, but I still don't think it is really indicative of what this body wishes and for this reason. There were several words offered and the vote was divided. The word "county" came second and I know there were lots of people who had a second choice second to the choice of "county", and who thoroughly detested the word "borough". The vote on borough was 27, which is not a majority in this body. Now I am going to submit another amendment. I don't know whether it will pass, in fact, I doubt it very much, but I am willing to go to any length to keep from living in a "borough" the rest of my life; and I am sure my constituents who sent me here, if this should succeed, will figure I earned my money for the entire Convention if I can get that passed because they don't want to live in a "borough" either. This word "borough" is foreign to Alaska; it has no connection with Alaska. It is used as a division of a big city; it is used in England. It has nothing to do with Alaska; and I am going to ask for a suspension of the rules and submit the word "Division", because that is Alaskan and that is a simple word that everybody knows and it doesn't conflict with anything like District does. District conflicts with election

district and so on, but Division is a good word and I think a lot of people who voted for county would vote for that. Now I would like to ask a question of the Chair. When we change the name "borough" to something else, it seems to me it is merely a change in styling because we are not changing the form of government or anything else. We are changing the word to describe it so it should only take a majority vote. I should like to have a ruling of the Chair on it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I make a point of order in reference to that. We have already had an amendment that submitted the word "District" or "Division" or whatever it was, and we voted it down, so it is subject to that point of order.

PRESIDENT EGAN: Mr. Barr.

BARR: That name was one of several that were submitted and was not voted on according to this system. In other words, the votes were badly divided at that time; now we would be voting between two names.

PRESIDENT EGAN: Mr. Barr, the Chair does not -- it is not entirely clear in the Chair's mind whether changing the name would be a matter of substance or a matter of phraseology, but the point raised by Mr. Sundborg, that we have voted as individual delegates on every one of these names, if a new name were submitted, then, different than the ones we had actually voted upon, the Chair would be in a position that it would have to rule one way or the other on the substance or phraseology, but we have already voted on county, district, borough, province, and division. We actually voted on those names, Mr. Barr, the Chair could not go along with seeing that an amendment offering one of those names would be in order.

SUNDBORG: I raise another point of order and that is that we, I think by unanimous consent or at least nearly that, adopted a special rule which provided the manner of choosing the name of this unit of government, and it would require a suspension of that rule by a two-thirds vote to choose any other name since we have made our decision.

PRESIDENT EGAN: Mr. Barr.

BARR: That is correct, Mr. President. That special rule applied to that vote. We have passed that point and are in another stage of the game, and it doesn't apply any more.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr, the Chair has no other alternative but to rule that, in any event, the Convention has already voted on using the word "Division" that you offer, and it would take a suspension of the rules in order to offer that amendment because we have already voted upon it.

BARR: If a different word was submitted which had not been submitted before, is it then a style and drafting matter?

PRESIDENT EGAN: Well the Chair would have to hold that, if an amendment proposing that a different word be used, that it wouldn't be substance; it would be phraseology; and the Chair understands from the record that the phraseology changes or the substantive changes have not as yet been adopted; so a phraseology change would take a majority vote, yes.

BARR: I would now relinquish the floor on my privilege, and I would like to move an amendment which is simply this: strike the word "borough" wherever it may appear in the Article and substitute therefore the word "area". I ask unanimous consent.

PRESIDENT EGAN: Mr. Barr moves and asks unanimous consent that the word "area" be inserted wherever the word borough appears in the Article. Is there objection? Objection is heard. Is there a second?

KILCHER: I second.

PRESIDENT EGAN: Seconded by Mr. Kilcher that the word "area" be used wherever the word "borough" appears.

HERMANN: Musn't we ask for suspension of the rules?

PRESIDENT EGAN: Mrs. Hermann, the report of the Style and Drafting Committee has not yet been adopted. It has been accepted, but has not been adopted by the Convention.

HERMANN: That is a style amendment then?

PRESIDENT EGAN: The Chair cannot see that it is possible to rule otherwise, because it doesn't change the make-up of the particular entity of government. Miss Awes.

AWES: Mr. President, I think it is, and under these circumstances a change in substance -- it is not just picking the best word for the purpose. The Committee, and then the Convention worked on a name. It is not just a word; it's a name for a unit. Logically, if it were just a matter of style, then it would have been up to the Style and Drafting Committee, and I can imagine how that Committee would have liked it if it had all been left up to that one Committee without our say-so. I think it is a matter of substance, because I think it is a name and not just a word or phrase.

PRESIDENT EGAN: The Chair cannot see where it is a matter of substance and has so ruled. Mr. Fischer.

V. FISCHER: I would like to point out further -- I happen to have the Style and Drafting report open to page 2 -- and the first sentence I looked at would read, "Service areas to provide special services within an organized area may be established". What would it mean?

PRESIDENT EGAN: Mr. Fischer, what was your question?

V. FISCHER: What I am trying to point out is the substitution of the word "area" could very well disrupt the operation of the whole Article.

PRESIDENT EGAN: In using that particular word, you mean?

V. FISCHER: That is right. Therefore, it can be a substantive change.

PRESIDENT EGAN: Because of the particular word. Mr. Barr.

BARR: This word "area" I believe is a good one to apply here. A "division", for instance, as we now have it in Alaska means a particular division of the government, or the area of the country. Of course, the word "division" in its broader sense means just a part of anything as the word "area" Mr. Fischer is speaking of means. It means any area. But if we used this word "Area" capitalized in this Article, we would know what we were speaking of as we use the word Judicial Division capitalized at the present time. An "Area" wouldn't be confused with any other division of government, and it is well-known what area means. It would be applied, say, to the "Juneau Area" and "Fairbanks Area". We would not be saying "Eagle Borough" or "Beaver Borough", and the people outside of Alaska, when they come here, they will know it is an area of Alaska -- a certain area -- whereas, if we speak of "borough", they don't know whether it is south Fairbanks we are speaking of or a larger political subdivision. They are used several ways. And they might think they were back in jolly old England for that matter.

PRESIDENT EGAN: Mr. Barr, the Chair is not withdrawing from the ruling that a proper wording change would be a substance change. However, Mr. Fischer has raised a point of order with relation to the particular word that you have chosen -- that because of the particular word you have chosen, a very serious difficulty could be encountered. Now, for that reason, the Chair could see that using that particular word that you have offered could become a matter of substance, because it could conflict throughout the Article with any mention of other service areas by using that word.

BARR: Mr. President, if the word I am using were capitalized wherever it was used in the Article, wouldn't it be the same as

the word "Division" now, when it is capitalized? It doesn't mean anything else.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I might say that the style we have adopted and used consistently throughout this Constitution with reference to capitalization is that nothing in this Constitution is capitalized except the first letters of first words in a sentence, the word "God", the word "State", and the words "United States". We don't capitalize "congress"; we don't capitalize "legislature"; we don't capitalize "governor"; we don't capitalize anything, and I would certainly resist capitalizing the word "area". I have a couple of other dandy things that would happen if we were to use this. It would say, "An entire area of the state shall be divided into areas", and "Each area shall embrace an area".

BARR: You wouldn't say that Mr. President. You would say, "The entire area of the State will be divided into political subdivisions called areas".

PRESIDENT EGAN: Mr. Barr, the Chair would have to rule that that particular amendment that you offer as of now is out of order because that particular word would create confusion and cause undoubtedly substantive difficulties.

BARR: Mr. President, I don't exactly agree with the Chair. It seems to me instead of a ruling, that is part of the debate. However, I ask for unanimous consent for the withdrawal of the amendment.

PRESIDENT EGAN: If there is no objection, you may withdraw it.

PRESIDENT EGAN: Are there other amendments to be proposed for Sections 1 or 2? Mr. Barr.

BARR: Mr. President, I have an amendment, but it will take just a little while to write it out.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a little while.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Barr, if it is all right with you, we will proceed with other amendments which might be proposed...

BARR: That is all right, but first I would like to make a motion that we rescind our action when we voted for the word "borough", and ask unanimous consent.

PRESIDENT EGAN: Mr. Borough -- Barr (laughter) -- Mr. Barr moves and asks unanimous consent that the Convention rescind the

action taken in voting upon the motion that eventuated the use of the word "borough" throughout this Article. Is there a second to the amendment?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the proposed motion. Mr. Barr.

BARR: The reason I believe we should rescind this is because a lot of us would like to change our selection from the word -from the one word that we voted for and that failed at that time to a second choice. Since the word "borough" only passed by a vote of 27, we may very well vote for a different word the next time.

PRESIDENT EGAN: The question is: "Shall the Convention rescind its action taken in adopting the word 'borough' throughout this Article?" The Chief Clerk will call the roll. Now if you vote "yes" you will be voting to rescind the action taken with relation to the word "borough", and would then throw before the Convention a vote on the same question we had at that time; that is, whether or not it should be "borough", "county", "division", "province", and so forth. If you vote "No", you are voting to retain the word "borough" throughout the Article. Mr. Cooper.

COOPER: May I ask a question before we vote on this? In the event the action were rescinded and the names put before us again for a vote, would the Chair give us a ruling as to a person who has voted for a particular name getting up and changing his vote to another name, without going through another vote, such as happened last time? I do not think that that was exactly what was intended in the beginning.

PRESIDENT EGAN: Mr. Cooper, anyone may change his or her vote prior to the time the vote is announced. That is the right of any delegate or any person in any assembly, that prior to the time the vote is announced, they may change their vote if they so desire.

COOPER: I realize that, but on this particular vote it was not really a vote "aye" or "nay"; it was a vote for a name, and the change -- of course I understand the name would be in a sense a vote, but the change of their vote was a change from a name to another name.

PRESIDENT EGAN: The Chair cannot see that there would be a difference. Mr. Boswell.

BOSWELL: I questioned that voting the other day, too, because we drew up some rules that we would follow a certain order and drop off the low name each time and continue on. And it seemed to me at the time that we didn't follow our rule as we laid it out.

PRESIDENT EGAN: Mr. Boswell, on the other hand, the rule is that anyone has a right to change before it is announced. If it had been announced, then after that no one could have legally changed the manner in which they voted. Actually, their vote is not counted or tallied until it is announced by the Chief Clerk, and it takes some time to tally any ballot. The question is: "Shall the Convention rescind its action?"

(The roll was called with the following result:

Yeas: 20 - Barr, Boswell, Coghill, Collins, Cooper, H. Fischer, Johnson, Kilcher, Knight, Laws, Londborg, Metcalf, Nolan, Poulsen, Reader, Wien.

Nays: 35 - Armstrong, Awes, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, King, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Mr. President.

Absent: 4 - Buckalew, Hilscher, McNealy, and Robertson.)

CHIEF CLERK: 16 yeas, 35 nays, and 4 absent.

PRESIDENT EGAN: So the nays have it and the Convention has failed to rescind its action. Are there other amendments? Mr. Barr.

BARR: I still would like to put in an amendment, but, as I say, it will take a little time to write it out. I suggest the house continue with its business and that I be allowed to submit it a little later.

PRESIDENT EGAN: Are there proposed amendments to Sections 1 or 2? Mr. Londborg.

LONDBORG: In Section 2 we have a reference here to the name we have just been voting on. How would you put in an amendment as to pronunciation?

PRESIDENT EGAN: Mr. Londborg, in the opinion of the Chair it isn't necessary to put in such an amendment.

LONDBORG: I was just wondering, because remember when the proposal was before us, it was said the official pronunciation was bor-o, or something, Now I have this letter before me and it's very confusing. "Borough" has gone out in newspapers all over the world, no doubt, and now we have this as official. I thought Mr. Doogan was certain about it, and now he has this letter and

I am wondering if it shouldn't be officially changed to what it should be.

PRESIDENT EGAN: In the opinion of the Chair, the majority or plurality had the right idea when they called it "burro". (laughter) The Convention will come to order. Are there amendments to be offered for Sections 1 or 2? Section 3? Are there amendments to be proposed for Section 4? Or for Section 5? Mr. Ralph Rivers.

R. RIVERS: May I ask Mr. McLaughlin a question regarding Section 4? He got a little ahead of me. Section 3, at the top of page 2, line 2. Here we again refer to boroughs organized, incorporated, merged, consolidated, dissolved, or classified. Do you want to get the word "reclassified" in there?

McLAUGHLIN: Mr. Rivers, just to expedite the amendment, I am sure the Committee would have no objection if you struck the word "merged" and left merely "consolidated", and I am sure the Convention would unanimously consent to removal of the duplication.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I believe we went over that in Committee, and "merged" has a definite meaning in there. It's different from "consolidated".

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I withdraw. I overlooked the fact that on line 1 the legislature classifies them in the first place, and classify doesn't have to be in on lines 2 or 3, so I back up.

PRESIDENT EGAN: Are there any questions with relation to Sections 3 or 4? If not, are there questions relating to Section 5 or amendments to be offered? Are there amendments for Section 6? Mr. Hinckel.

HINCKEL: I have a question I would like to ask before I make an amendment. It states here that the Legislature shall provide funds for services in unorganized boroughs. Before this was rewritten, it stated that the Legislature shall provide those services deemed necessary. To me that makes a difference. It looks to me now as though people in unorganized boroughs could demand services such as garbage collection and so on that might be rather expensive, whereas before, it was discretionary on the part of the Legislature whether they would furnish these services.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: The Committee did strike "it deems necessary or advisable" -
- "The legislature shall provide for the performance

of services it deems necessary or advisable in unorganized boroughs". It was believed by the Committee when we struck that, that the Legislature in its wisdom could determine what was necessary or what was advisable. As I understand it, your objection is it makes it mandatory that they provide all services...

HINCKEL: I thought possibly it would be all right to strike the words they did -- but I think we could possibly substitute "may" for "shall", so there would be some discretion permitted.

McLAUGHLIN: I am sure the Committee would have no objection to striking the word "shall" and substituting the word "may", subject to objections from the Committee.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. McLaughlin, isn't it a fact that that would possibly mean that the legislature would provide a manner in which unorganized boroughs could provide their people in that borough with these certain services? The legislature is not going to provide the services or performance of services, are they?

McLAUGHLIN: When they say they "shall provide for the performance of services", it means they shall make provision for them.

TAYLOR: Then in an unorganized borough then, if they were in need of garbage services, the legislature would hire garbage men? Is that right?

McLAUGHLIN: It doesn't necessarily mean that. There are two possible meanings. If we said the legislature "shall" provide the services, that would be one thing; but if we say the legislature shall provide for the performance of services, I think that that means another thing. That is, they can set up the rules and conditions and circumstances under which the services will be provided.

TAYLOR: Would that mean there is some way in which the unorganized boroughs could enter into a contract for the building of a power plant or light plant, or garbage service, or whatever was needed in the line of a public utility?

McLAUGHLIN: No, I don't think it does mean that.

TAYLOR: You gave two different meanings you could impute to it. Which one are we adopting?

McLAUGHLIN: You are adopting the one which is before you; that is, "The legislature shall provide for the performance of services in unorganized boroughs, allowing for maximum local participation and responsibility".

TAYLOR: Well, your definition a few moments ago was that you could impute two meanings to that. Which one do we have here?

McLAUGHLIN: The same meaning that they had in the enrolled copy, because the language is identical.

PRESIDENT EGAN: Mr. McLaughlin and Mr. Taylor, Mr. Rosswog has been attempting to get the floor. As Chairman of the Committee, do you have the answer, Mr. Rosswog?

ROSSWOG: Well, maybe I can clarify it a little bit. It wasn't our intention that the unorganized boroughs could demand services of the State, but that the State could supply those services. If they were unorganized, they would not have an organization to demand it. But that is one of the reasons we wanted to go on and make the addition to that paragraph, so that it would be possible for the State to allow the setting up of special service areas. But the first sentence there as it was in the copy, I don't think it would make much difference whether it was qualified by putting "necessary services" or not in there. There would be no way to demand services if you were an unorganized area.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Rosswog, in the Style and Drafting Committee proposal, Section 6, line 23, do you know whether your Committee would have any objection to substituting the word may" for "shall"?

PRESIDENT EGAN: Mr. Rosswog, could you answer that?

ROSSWOG: I believe we did discuss that in the Committee. We -- it may change the meaning of it there a little. We felt it would be necessary in an unorganized area, such as outside of a city today, the Territory has to supply some services, and if we placed it "may", it might leave it that they would supply none at all.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, unless possibly Mr. Taylor might possibly want to amend and insert the word "necessary" before services on line 24, then he would raise the issue as to whether or not this was a substantial change by Style and Drafting -- a change in intent.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I think I am about to propose an amendment. I think our trouble stems from the fact that the words "it deems necessary or advisable" were stricken. Mr. Rosswog says if you simply say "may", you are leaving a void as to whether or not

the Territory or State government will perform any services. Presently the Territory performs -- renders school -- complete school services outside of organized districts, the state Health Department exercises some jurisdiction in regard to health control, and in regard to highways and things like that. We should leave the word "shall" if we don't want to change the meaning, but then we don't want to say "services" without any modification, because we don't know what kind of services are being referred to or how detailed the services would be. We are saying "shall" so we have to limit what it is we're telling them that they shall do. So I move the restoration of the words on line 24, Section 2, after the word services, "it deems necessary or advisable".

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: Insert the words "it deems necessary or advisable" after "services" on line 24.

PRESIDENT EGAN: Is there a second to the motion?

McLAUGHLIN: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection?

DAVIS: I object.

PRESIDENT EGAN: Objection is heard. Seconded by Mr. White. Is there further discussion? Mr. Coghill.

COGHILL: I would like to ask a question of the Style and Drafting subcommittee on this. Would it not take care of it in the amendment you just offered a while ago where it says it "may exercise any powers"? Wouldn't that be within the scope of the legislature then?

McLAUGHLIN: I think that Mr. Rivers' language and the Committee's original language -- this is my personal opinion -- is better; that "it deems necessary or advisable" will put the intent unquestionably exactly where it was when we first approved this when it was enrolled. That is the only reason why I do it, to clarify any question.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "Aye"; all opposed, by saying "No". The Ayes have it and the amendment is ordered adopted. Are there other amendments to be proposed for Section 5 or 6? Mr. Coghill.

COGHILL: Mr. President, may I ask a question of the Local Government Committee? Mr. Rosswog, in going over the report of the Style and Drafting Committee, I haven't found where the intent of the Committee lies as far as organized taxing authority not within organized boroughs. Would you point that out to me, where that language is, whether a health district or a school district could be organized and have taxing powers outside of an organized borough?

ROSSWOG: I believe that would be shown in the amendment that we have for Section 6. Mr. McLaughlin, were you going to propose that amendment?

McLAUGHLIN: Yes. I was prepared to propose one. I inserted for convenience in the sentence following Section 6 on page 2, "It may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough". Is that the one?

ROSSWOG: Yes, that is the one.

McLAUGHLIN: Mr. Chairman, I move the addition of the sentence quoted to Section 6.

PRESIDENT EGAN: It is moved, seconded by Mr. Doogan, that the amendment be adopted. Is there discussion? Mr. Rosswog.

ROSSWOG: This amendment has the approval of the Local Government Committee. It clarifies this section, and I would like to ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection, it is so ordered, and the amendment has been adopted. Are there other amendments to be proposed for these sections? Mr. Coghill.

COGHILL: No amendment, but another question. It is still not clear in my mind that this would extend taxing powers to a service area inside of an organized borough.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Maybe I can answer that. It is felt here that all powers of local government are established in organized boroughs and cities, and stating here that the legislature may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough would place it right there.

COGHILL: If I may carry on the question -- this allows the legislature to do it, but we don't want the legislature to do the taxing, or we don't want the new state to do the administering of this particular special district. Now let's

just take for an example a health district set up in an unorganized borough. They should have some sort of fiscal and administrative values to their organization and that wouldn't do it; that would be providing that the legislature would do it for them.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, if you will look at this section, at the last sentence, and insert the word "legislature" for assembly, you would have it, that they would authorize the levying of taxes. They can give that power then to a service area as I understand.

PRESIDENT EGAN: Are there amendments to be offered for Sections 5 or 6? Mr. Victor Rivers.

V. RIVERS: The answer to Mr. Coghill's question in part. I think will be found in Article 17/c, a provision there for transitory activities of existing districts of which you speak.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I don't wish to continue this on. I thought there might have been an intent here that I had not interpreted. It's not my concern with the districts we now have, Mr. President, it's the districts that might be formed in an unorganized area. It's not provided for in this article as far as I can see, and I thought we had provided for it. Mr. Fischer might be able to enlighten me on it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: All I can do is restate what Mr. Londborg just said that by putting the legislature in the same position as the assembly in Section 5, they could establish service areas or provide for the establishment of such service areas and grant them taxing powers.

COGHILL: That is not in the Article right now.

V. FISCHER: Yes it is. It is on page 2, line 20.

COGHILL: Yes, but that says the assembly may. The assembly is not the legislature; the assembly is the governing body of the borough.

V. FISCHER: Well, we are saying in the sentence that was just unanimously added that it, the legislature, may exercise any powers or functions in an unorganized borough which the assembly may exercise in an organized borough.

PRESIDENT EGAN: That is an amendment that has been adopted. Maybe you don't have that written down.

COGHILL: I have it written down, but it seems to me it is kind of backwards. You are allowing the legislature to do something which the local government could do. I see the intent now.

PRESIDENT EGAN: Are there other questions or proposed amendments to those two sections? If not, are there amendments or questions relating to Section 7 or Section 8? If there are no other amendments to Sections 7 or 8, are there amendments to be proposed for Section 9? For Sections 10 or 11? Are there amendments for Section 12? Mr. Rosswog.

ROSSWOG: I wonder if it was ruled under the Style and Drafting that the change shall become effective within 45 days, if it was accepted, or would that be a new amendment?

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: To clarify that, I move that the assembly adopt the substantive change made by the Style and Drafting Committee, commencing on line 5 of page 4, and reading "The change shall become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house". I so move, and ask unanimous consent.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that the change made by the Style and Drafting Committee be adopted. Mr. Taylor.

TAYLOR: I am going to make an objection for the time being.

PRESIDENT EGAN: Is there a second?

DOOGAN: I second.

TAYLOR: I guess I will withdraw this. There is a question I wanted to ask, but I assume they mean that the presentation -- I see. I will withdraw my objection.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection, the change is ordered adopted. Are there other questions or amendments for Section 12. Are there amendments for Section 13? Section 14? Mr. Hinckel.

HINCKEL: I have a question. Section 14 originally stated that provision shall be made by law for an agency in the executive branch of the government to render assistance and advice to local governments and charter drafting agencies. During the discussion it was particularly brought out that cities or boroughs would probably need assistance in charter drafting. It was expressly stated that they would be able to get that assistance, and I just wonder if Style and Drafting feels that their language covers that fully so that there will be no question about their being able to get that assistance.

McLAUGHLIN: That specific question arose, and we consulted with the Local Government Committee and it was the consensus of the Committee, with no one objecting that there was no point in mentioning any specific agency of the local government, such as a charter drafting agency, and that the advice and assistance would automatically be advice and assistance to any subordinate boards, commissions, or agencies of the cities.

HINCKEL: Just as long as it is in the record, then, I am satisfied.

PRESIDENT EGAN: Are there other questions relating to Section 14, or amendments? Are there amendments to be proposed for Section 15? Mr. Johnson.

JOHNSON: I move that the original language reported by the Style and Drafting Committee as to Section 15 be restored.

PRESIDENT EGAN: The original language as reported by the Local Government Committee, you mean, Mr. Johnson?

JOHNSON: No. I meant as it appeared in Section 15 of the Style and Drafting Committee report. There was a change made.

PRESIDENT EGAN: You move that the...

JOHNSON: I move that Section 15 be changed to read: "At the time a borough is organized special service districts performing local functions shall be integrated with the government of the borough as provided by law".

PRESIDENT EGAN: It would only take a majority vote to reject the Committee's report as to that section. Is there a second to the motion?

COGHILL: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Coghill; moved by Mr. Johnson. Mr. White.

WHITE: Point of order, Mr. Chairman. I don't think we have adopted that change in Section 15.

JOHNSON: It was adopted as to style but...

PRESIDENT EGAN: It has been accepted...

WHITE: There is some question. We have been using the words, "accept the report of the Committee on Style and Drafting and adopt the changes". That language has not been used here today. There is a question in the minds of some of us as to just where we stand. We have so far only accepted the report of the Committee on Style and Drafting.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I wonder if Mr. Johnson would consent to withdraw his motion while I put the usual motion that the changes be adopted.

PRESIDENT EGAN: Probably, Mr. Sundborg, that would be proper, inasmuch as Mr. McLaughlin has offered some of the other Committee proposals -- already offered the amendments -- the adoption individually, that Mr. Johnson withdraw his motion, and then Mr. Sundborg move that this Committee change be adopted.

JOHNSON: I will withdraw.

PRESIDENT EGAN: Then it wouldn't create any confusion in the minds of the delegates. If there is no objection, Mr. Johnson's amendment is withdrawn.

SUNDBORG: It is understood then that Mr. Johnson's amendment would still be subject only to a majority vote? Is that correct?

PRESIDENT EGAN: That is correct.

SUNDBORG: I move now, then, Mr. President, that the amendments or changes represented in the report of the Style and Drafting Committee on the Article on Local Government be adopted. I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg, that isn't what the Chair meant. The Chair meant that now we have already adopted some of those changes by individual motions. It would be better if you would ask that this particular substantive change asked for in Section 15 be adopted at this time -- that alone.

SUNDBORG: Mr. President, there are probably a thousand or more changes which have been made since the enrolled copy was passed upon by the Convention, and usually what happens here is that a motion is made at the proper time that the report of the Committee be accepted, and that the changes represented in that report be adopted, and then the Convention takes on the work from there.

PRESIDENT EGAN: Mr. Sundborg, the Chair erred a moment ago when you asked a question, would it then only take a majority vote. If we adopt your motion now, any changes after that would take a two-thirds vote. So the Chair didn't realize that that's what you were asking -- for the adoption of the entire report of the Style and Drafting Committee.

SUNDBORG: Mr. President, I ask unanimous consent to withdraw the motion I just made, and I will ask that the changes in language --

PRESIDENT EGAN: If there is no objection, the motion is withdrawn.

SUNDBORG: ...the changes in language noted by Mr. McLaughlin when he was presenting this Article, in Section 15, be adopted by the Convention. I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent.

JOHNSON: I object.

SUNDBORG: I so move.

PRESIDENT EGAN: It is so moved by Mr. Sundborg, seconded by Mrs. Hermann. The motion is open for discussion. Mr. Johnson.

JOHNSON: I don't wish to belabor the point too much, but I feel a decided substantive change has been made by this proposed language, because as the section read originally, not only the enrolled copy, but Section 15 as originally proposed by the Style and Drafting Committee, the special service districts performing local functions should be integrated with the government. Now, it is conceivable there might be within a borough, an organized borough, special service districts which were performing state functions, and if you change the language to read as they want to "existing at the time a borough is organized", instead of "special service districts performing local functions", you are changing the meaning, the original intent, and I feel it should be left as it was when it went off the floor after second reading, and that only special service districts performing local functions should be integrated with the government of the borough as provided by law.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: We approved this change as it has been proposed because it plugged a loophole which the Committee originally intended to plug, but we found we didn't have exactly the right language. The argument that could be construed if we left the language as it is: Is a school district a local function or isn't it? And our purpose was that all districts be under the jurisdiction of a borough. So that was the reason for the change, and that's the reason we approved it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I should state here that this change, while offered by the Style and Drafting Committee, was not the invention of the Style and Drafting Committee. It was proposed to us and urged by the substantive committee, the Committee on Local Government. We reviewed it as to language and phraseology only and agreed to offer it in connection with our report, but it is their suggestion and not our suggestion, and I have no feelings about it myself and I am sure no member of the Style and Drafting Committee does.

PRESIDENT EGAN: Mr. Sundborg, it will be necessary to carry your motion that it be carried by a two-thirds vote, because it is a substantive change.

SUNDBORG: And you rule then, that it is a matter of substance?

PRESIDENT EGAN: It seems to the Chair that it is a matter of substance. Would the Chief Clerk please read the proposed amendment again?

CHIEF CLERK: "Delete 'at the time a borough is organized', and start the sentence with 'Special' on line 2, 'Special service districts', and insert 'existing at the time a borough is organized, shall be integrated with the government of the borough as provided by law'."

PRESIDENT EGAN: Of course, it originally would have meant that any borough, regardless of when it came into existence, would come under this section. Now, it means just those boroughs that existed at the time. Mr. Doogan.

DOOGAN: I am going to raise a point of order on the question. It was the intention of the substantive committee and it was explained on the floor that any districts existing at the time a borough was organized would come under the jurisdiction of the borough, and I think if you will look in the record you will find that that is so. So I maintain it is not a substantive change. It is a change in wording to carry out the intent of this body.

PRESIDENT EGAN: Mr. Doogan, if we can go back to the record -- now the Chair does not recall, naturally, exactly what was stated for the record on this proposal. If it was made clear at that time and is on the record, then it could be classified as a clarifying phrase, but in the absence of the record, it is, in this wording, a change in meaning if the delegates feel that there is a change -- the Chair can see by reading the section that there is a definite change in meaning, right off-hand. Unless you ask that we go back to the record, the Chair would have to rule that it is a substantive change. Mr. Sundborg.

SUNDBORG: If that is the ruling of the Chair, then I will withdraw my motion, and the motion should be phrased, "I move to suspend the rules and to submit an amendment which would be as has already been read by the Chief Clerk".

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended -- unanimous consent is asked that the rules be suspended for the purpose of submitting this proposed amendment. Is there objection?

COGHILL: I object.

PRESIDENT EGAN: Objection is heard. Mr. Sundborg so moves, seconded by Mr. White, that the rules be suspended. Mr. Smith.

SMITH: Would it be possible to ask a question of the Chairman of the Local Government Committee before this vote is taken?

PRESIDENT EGAN: If there is no objection, Mr. Smith.

SMITH: I just wanted to know whether special service districts includes school districts.

ROSSWOG: We did feel that special service districts would cover all special districts, and that the wording "performing local functions" -- it was our intention, I believe, to cover all districts. We felt they were doing local functions and should be covered, but in reading it, why -- it may limit or be a question there, and so we thought those words should be deleted and rewritten.

SMITH: The question in my mind, Mr. Rosswog, was that even with the new wording where you say "special service districts", do you mean school districts along with all the other service districts?

ROSSWOG: Yes, we do. We mean school districts, health districts, or anything along that line.

PRESIDENT EGAN: Mr. Gray.

GRAY: My understanding is this article is on local government, and to me this isn't a change in substance. It is exactly the same thing. It's a change in phraseology. Local functions is local government functions; it is not city. It is rural functions.

JOHNSON: Point of order. There is a motion before the house that is not debatable.

PRESIDENT EGAN: The question is: "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 43 - Armstrong, Awes, Barr, Boswell, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Londborg, McCutcheon, McLaughlin, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 8 - Coghill, Cooper, Hurley, Johnson, Laws, Lee, Marston and Peratrovich.

Absent: 4 - Buckalew, McNealy, McNees, and Robertson.)

CHIEF CLERK: 43 yeas, 8 nays, and 4 absent.

PRESIDENT EGAN: The Yeas have it and the rules are ordered suspended. Mr. Sundborg.

SUNDBORG: I now move the adoption of the amendment.

GRAY: I second the motion.

PRESIDENT EGAN: Mr Sundborg moves the adoption of the amendment, seconded by Mr. Gray. The question is: "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" Mr. Johnson.

JOHNSON: Mr. President, reference has been made to what transpired before. My notes indicate that when Section 15 was considered by the Convention before, the only amendment that was offered and passed had reference to the addition of some wording which says, "consistent with the provisions of this Article". Those words were added to the original Committee report. Otherwise it remained unchanged, and I have no recollection that the point as raised now by the Local Government Committee was ever considered at any time. I believe that the language as adopted in the original instance and as was reported by the Style and Drafting Committee is the proper language in this section, and that this motion should be defeated.

PRESIDENT EGAN: The question is: "Shall the proposed amendment be adopted?" All those in favor of adopting the amendment as offered by Mr. Sundborg will signify by saying "Aye"; all opposed by saying "No". The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 36 - Awes, Barr, Collins, Cross, Doogan, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, Metcalf, Nerland, Nordale, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 15 - Armstrong, Boswell, Coghill, Cooper, Davis, Emberg, Hurley, Johnson, Laws, Londborg, Marston, Nolan, Peratrovich, Reader, Stewart.

Absent: 4 - Buckalew, McNealy, McNees, and Robertson.)

CHIEF CLERK: 36 yeas, 15 nays, and 4 absent.

PRESIDENT EGAN: The Yeas have it and the amendment is ordered adopted. Are there other amendments for Section 15? Mr. Coghill.

COGHILL: Could I ask a question on Section No. 14 of the Committee Chairman? In the agency to be established by law in the executive branch of the state government to assist and advise the local governments, would that include the unorganized boroughs, the unorganized cities, the unorganized districts that wish to become organized?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I believe it could come under that. It states, "and can perform other duties prescribed by law".

COGHILL: It would be "yes", wouldn't it?

ROSSWOG: Yes.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I now ask unanimous consent that the amendments and changes made by the Style and Drafting Committee in the Article on Local Government in connection with this report back to the Convention, so far as they pertain to phraseology, be adopted.

BARR: Point of order. I have an amendment to make which was put off so that the business could be carried on. I would like to submit that.

PRESIDENT EGAN: This morning it was more or less the general feeling that Mr. Barr, rather than having us recess, would be working on any amendment he might have.

SUNDBORG: If it is not an amendment of substance, this is the time for it; if it is an amendment of substance, I would like to have my motion acted on first.

PRESIDENT EGAN: If it is an amendment of substance, it doesn't make any difference, Mr. Barr.

BARR: It is not an amendment of substance.

SUNDBORG: I then defer my motion.

BARR: The Secretary has my motion.

PRESIDENT EGAN: Would the secretary please read the amendment, that Mr. Barr would offer?

CHIEF CLERK: "Section 2, page 1, line 7, strike the word 'borough' and substitute therefor the word 'section', and take like action .wherever the word 'borough' may appear throughout the Article."

BARR: Mr. President, I move the adoption of the amendment.

SUNDBORG: I second the motion.

PRESIDENT EGAN: The question is -- Mr. Barr?

BARR: Mr. President, this word "section" doesn't conflict with anything. It is recognized political subdivision. The dictionary gives it as "a division or part of a people or political division". It is used throughout the United States, usually to designate an area of the countryside, a section of land. All states of the Union, 47 of them, use county. I don't know why we have such antipathy here toward the word county, although some of us don't like the government. Louisiana, of course, uses the word "parish" to designate its political subdivisions. To this point we have adopted "borough". New York City is divided into boroughs, and I suppose maybe some other cities. I don't know which ones they are. Most of them are divided into wards. There is no reason we shouldn't have adopted the word "ward". Now, I will admit that New York City has some points, but really, as far as I am concerned, it's just a big overgrown stone prison that is overcrowded and noisy. I never did go there, although I have been in New York State, because I don't like to be in that kind of place. That is why I came to Alaska. Alaska is just the opposite; it's the opposite in every way, so I don't see why we have to adopt New York City's boroughs. "Section" is easily understandable and there is no mistake in what it means. It is a good solid American word and won't give us any trouble at all. I propose that we adopt the word "section". It will sound good; we will be speaking of the Fairbanks Section, Anchorage Section, and the Klawock Section, and when we say that, we will know what we mean.

PRESIDENT EGAN: Mr. Davis.

DAVIS: the first time this matter came up I voted for county. I was overwhelmingly voted down. It's true that some of the other folks changed over to borough, and we finally got the name of borough. Now, this is the fourth time, I think, this afternoon that we have taken this matter up on different names, and I think there are several thousand names in the dictionary, a good many of which could be applied. I want to know how long we are going to go on offering different names and bringing up this same question.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I want to call to the attention of the body that the word section is a term very generally used in the rectangular system of surveys used by the United States Survey and Land Office. There are 36 sections in a township, and a section is six miles square, and it is a very common term used in land descriptions, and would be very confusing to find that you had Section 36 in Township 13 North, Range 2 West, lying in the

Section of Anchorage or the Section of Fairbanks. It's part of the problem that the committee ran into. Both of the words that the delegate has submitted, both area and section -- both came into drastic conflict with other very common uses.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to congratulate Mr. Barr on his ingenuity in groping for a word to describe local government -- just any old word, as long as it isn't borough; but I think there is another score against section, and that is that it is a word that is used throughout our Constitution, referring to a part of the Constitution. We say, "As used in this section", or "In referring to Section so and so". I think it would be most confusing if we used it to describe a unit of local government.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I would confuse it with the Caesarean section. (laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Barr.

BARR: That was just my point, Mr. President. You can find arguments against anything if you look long enough, but the arguments against borough are better than any of these that have been brought up. It is true that there are many words in the dictionary that could be adopted, and any one of them would be better than borough. That's my point. (laughter)

PRESIDENT EGAN: The Convention will come to order.

BARR: I am trying to get rid of the word "borough" because I want to be able to walk down the streets without having people throw rocks at me. I am not the only one who doesn't want to live in a borough. There are nine-tenths of them here. If people wonder why I am sticking to this and trying to get something else adopted, that is the reason. I think it is important to the people what we call these political subdivisions. It seems that a great many of you here don't think it is important, but the people in Alaska do. I doubt that this will pass. I am beginning to have my doubts, but it is a more serious problem than most of you think, and you will hear of it when you get home.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Barr be adopted by the Convention? All those in favor of adopting the proposed amendment will signify by saying "Aye"; all opposed, by "No". The Noes have it and the amendment has failed of adoption. Are there other amendments for Article No. 10? Mr. Kilcher.

KILCHER: I have a very small amendment and will make it orally. It is the same subject and might have a chance to go through. I suggest that as a last compromise, a small compromise with the bigger ones we have made, that we at least change the spelling of this borough to b-o-r-o. I don't see any reason at all why we should stick to this u-g-h spelling. It hasn't changed since Chaucer used it. It has a nostalgic reference looking back towards New York and further beyond the ocean towards England. The spelling of b-o-r-o is commonly used in connection with and affixed to town names. I don't want to reiterate --

SUNDBORG: Point of order.

KILCHER: I am making a motion, Mr. President.

PRESIDENT EGAN: Did you move and ask unanimous consent?

KILCHER: Yes.

BUCKALEW: I second the motion.

PRESIDENT EGAN: Moved by Mr. Kilcher, seconded by Mr. Buckalew, that the amendment be adopted. The Convention will come to order. Mr. Kilcher.

KILCHER: Mr. President, I realize that this matter has been stretched out slightly too much. And nonetheless, I am sure the problem is a little more serious than it appears, and I am sorry that "borough" has been actually adopted. It is a stop gap probably, from the Committee, and has been handed along as a dark horse choice, and there we are, we have it, and in order to alleviate the school children's spelling in the future, and in order to some extent undo the damage that we have done by adopting this "borough", a change of spelling I think would be welcome. It is George Bernard Shaw himself who said that if all the u-g-h's in the English language were cut out, the amount of secretarial work, print, ink, and paper that would be saved would amount to half of the English war debt in ten years. Of course, the problem is not as great with us, but certainly we could be modern in this respect. America has always been modern in changing the English spelling wherever it could, and this little amendment I think would clear up the air to some extent and it wouldn't harm nobody, and...

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of adopting it will signify by saying "Aye"; opposed by saying "No".

PRESIDENT EGAN: The Noes have it and the amendment has failed of adoption. Mr. Sundborg.

SUNDBORG: I move that the rules be suspended and that there be no further consideration given to the names of the local government units as given in the local government article.

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended. Is unanimous consent asked?

LONDBORG: How can that be possible? We can always reach it by a two-thirds vote later. (laughter)

PRESIDENT EGAN: The Convention will come to order. Is there objection to the suspension of the rules in order that no more amendments can be offered on this subject.

PRESIDENT EGAN: Objection is heard. The question is: "Shall the rules be suspended in order that no more amendments can be offered upon this subject of the change in name of the Government entity?" The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 18 - Awes, Barr, Boswell, Davis, V. Fischer, Hilscher, Hinckel, Hurley, Lee, McCutcheon, McLaughlin, Marston, Nerland, Nordale, Rosswog, Sundborg, Taylor, and Mr. President.

Nays: 34 - Armstrong, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Johnson, Kilcher, King, Knight, Laws, Londborg, Metcalf, Nolan, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sweeney, VanderLeest, Walsh, White, and Wien.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 18 yeas, 34 nays, and 3 absent.

PRESIDENT EGAN: So the Nays have it and the rules have not been suspended. But on a question like this, the Chair does not feel it necessary to ask for a suspension of the rules and then -- what would be the question after that? Because it would take -- you would carry the meaning with your suspension of the rules and it isn't necessary -- it isn't a compound motion in a sense, but a compound motion is meant. Mr. Doogan.

DOOGAN: I move that the report of the Style and Drafting Committee as we have it before us now, be accepted, be adopted.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that Article X, the Article on Local Government, the report of the Committee on Style and Drafting with relation to that Article, be adopted. Mr. White.

WHITE: I object, but only for a question.

PRESIDENT EGAN: Your question, Mr. White, if there is no objection.

WHITE: Mr. McLaughlin, you pointed out only one change in substance in the mimeographed copy, that is on page 4. Is that the only change of substance made by the Committee on Style and Drafting in the mimeographed material?

McLAUGHLIN: That, to my knowledge, is the only change of substance made by the Style and Drafting Committee.

WHITE: Mr. President, I remove my objection.

PRESIDENT EGAN: Is there objection to adopting the report of the Committee on Style and Drafting with relation to Article X on Local Government?

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Doogan moves, seconded by Mr. Victor Rivers, that the report of the Committee on Style and Drafting in relation to Article X, the Article on Local Government, be adopted. The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 49 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 3 - Barr, Johnson, and Laws.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 49 yeas, 3 nays, and 3 absent.

PRESIDENT EGAN: So the report of the Committee on Style and Drafting on Article X has been adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that the rules be suspended, that Article X be advanced to third reading, be read by title only, and placed on final passage.

JOHNSON: I object.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Sundborg moves, seconded by Mr. Doogan, that the rules be suspended, that Article X, the Article on Local Government, be advanced to third reading, read the third time by title only, and placed upon final passage. The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 47 - Armstrong, Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 5 - Barr, Coghill, Johnson, Laws, and Londborg.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 47 yeas, 5 nays, and 3 absent.

PRESIDENT EGAN: So the Yeas have it, the rules have been suspended, and Article X, the Article on Local Government, is now before us in third reading and up for final passage. The Chief Clerk will read the title of the Article.

CHIEF CLERK: Article X, Local Government.

PRESIDENT EGAN: Mr Barr.

BARR: I would like to explain my vote. I believe that the system of government as outlined in this Article is very good. I believe the Committee did very good work. I voted "No" because I believe that the people who sent me here -- it is not acceptable to them with that word "borough" in it. Now, that may not be very important, but I believe it is important to them, and I just wanted it on record that I voted no. Perhaps you think I am stubborn. I will agree with you.

PRESIDENT EGAN: Is there further debate or discussion of Article X, the Article on Local Government? Mr. Coghill.

COGHILL: I also believe that the Local Government Committee did a wonderful job here. However, I will be constrained to vote

against the Article because the provisions outlined do not provide for an equitable system of fiscal school operation within the Territory, and I believe, as it has been stated on the floor before, that our biggest resource is our children, and that we should provide for them through a system that will be nondiscriminate upon the administrators of that system. Therefore, I will be constrained to vote against this Article.

PRESIDENT EGAN: Is there further discussion? If not, the question is: "Shall Article X, the Article on Local Government, be adopted as a part of Alaska's State Constitution? The Chief Clerk will call the roll.

(The roll was called with the following result:

Yeas: 47 - Armstrong, Awes, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, Marston, Metcalf, Nerland, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 5 - Barr, Coghill, Johnson, Laws, and Nolan.

Absent: 3 - McNealy, McNees, and Robertson.)

CHIEF CLERK: 47 yeas, 5 nays, and 3 absent.

PRESIDENT EGAN: The Yeas have it, and Article X, the Article on Local Government, has been adopted as a part of Alaska's State Constitution. Mr. Doogan.

DOOGAN: Mr. President, I move and ask unanimous consent that we stand at recess until 7:00.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that we stand at recess until 7:00. Are there Committee announcements? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet immediately upon recess at the rear of the gallery.

PRESIDENT EGAN: The Committee on Style and Drafting immediately upon recess at the rear of the gallery. Mr. Hellenthal.

HELLENTHAL: Point of information. I wonder if the President of the Rules Committee, or the Chairman or someone informed, could tell us what work is ready for us to work on tonight so we will

have an idea whether we will be able to work tonight, or whether we will have to wait tonight?

PRESIDENT EGAN: We have the calendar -- the Chair has lost its calendar. Mr. Riley.

RILEY: I think an expression from the Style and Drafting Committee would perhaps be appropriate as to what is out or soon will be out of the boiler room.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe that by 7:00, the Article on Natural Resources will be out of the boiler room and on your desks so we can consider it tonight, and that, I think, will be the only one which we will have for tonight.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I seem to be in some doubt. There is a long calendar in front of us. Isn't there some of this material?

PRESIDENT EGAN: It's in the making, Mr. Ralph Rivers, and whether or not some more of that might be completed by the time we might possibly complete the Article on Natural Resources -- if there is no objection the Convention will stand at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Your Committee on Engrossment and Enrollment to whom were referred Committee Proposals No. 14 and 17/b have compared the same with the original and find them correctly engrossed. On the first enrolled copy of Committee Proposal No. 14, there was one error by the Engrossing Committee we did not catch, and that correction has been made in ink rather than running it over again. It is a simple word. As concerns Committee Proposal No. 17/b, I hope the delegates will understand that the sections will necessarily have to be renumbered when all the sections are considered as a whole, so that they won't be too worried about the wrong numbers on there. Mr. President, I ask unanimous consent that the report of the Committee be adopted.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the report of the Committee on Engrossment and Enrollment with relation to Committee Proposal No. 14 and Committee Proposal No. 17/b be adopted by the Convention -- supplemental 14 -- be adopted by the Convention. Is there objection? Hearing no objection, the report is ordered adopted. Mr. Sundborg.

SUNDBORG: Mr. President, we have already, I believe -- no, I guess we have not. I would now like to report from the Style

and Drafting Committee the return to the Convention of the Article on Natural Resources, Article VIII, copies of which have been distributed to delegates. Although this is not according to our calendar the next order of business, it is the next one which we have ready for consideration by the Convention, and I ask unanimous consent that it be considered at this time.

PRESIDENT EGAN: Hearing no objection, Article No. VIII, the Article on Natural Resources, will be -- the report of the Committee on Style and Drafting with relation to Article VIII, will be considered at this time. The Chief Clerk will please read the report of the Style and Drafting Committee.

(The Chief Clerk read Article VIII in its entirety.)

PRESIDENT EGAN: Would the Sergeant at Arms please determine whether there are any other delegates in the building? Mr. Sundborg, does your Committee have a report to make in explanation of any changes that might have been made by your Committee?

SUNDBORG: Mr. President, we believe that no substantive changes have been made in this report. It was worked over, first of all by a subcommittee of our Committee, which consisted of Mr. Hurley, Mrs. Hermann, and Mr. Armstrong. It has been discussed with and reviewed by members of the Committee on Resources, and I believe that they agree with us that no substantive changes have been made. We have asked Mr. Hurley to explain the changes incorporated in the Article and to answer the questions of delegates.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like first to call attention, which you probably already noted, to a typographical error on line 15, page 2, in which "of" should be "or"; line 15, page 2.

PRESIDENT EGAN: Is that "recreational or scientific"; is that right?

HURLEY: Yes, Mr. President.

PRESIDENT EGAN: You ask that unanimous consent be given that that change be made at this time?

HURLEY: I do, Mr. President.

PRESIDENT EGAN: Is there objection to the unanimous consent request that the word "of" be changed to "or"? Hearing no objection, the change is ordered. Mr. Hurley.

HURLEY: Mr. President, I also call attention to line 7 on that same page and the first word in line 8, we have an extra "the"

in there. One of them may be stricken. It's immaterial to me which one you strike.

PRESIDENT EGAN: You ask unanimous consent to strike the last word on line 7?

HURLEY: I do, Mr. President.

PRESIDENT EGAN: Is there objection? Hearing no objection, it is so ordered.

HURLEY: To the best of my knowledge, Mr. President, that is all the typographical errors I have found. I would like, however, to call your attention to an exception to the statement by our chairman, which is sort of in between a substantive change and not a substantive change, and that is the matter on line 3 of page 4, which reads as follows: "necessary for the extraction and basic processing of mineral deposits." That change was not made as a substantive change, but was made at the request of the members of the committee who were working with us who indicated that that was what they intended for it to be. However, it may be that their minds have been changed in the meantime, so I would call that to their attention in case they wish to make some change in that particular item. It is no particular concern as far as style is concerned. Very few changes were necessary in this Article. I might say that very few changes in style could be made because of the predominance of technical terms in the article, and it was very difficult to try to make them readable to a person who was not conversant with the terms. In fact, we felt it impossible so we did not even try after a while. There was some change in the arrangement of the sections, which may necessitate the delegates going from one part to the other in following us, but it was felt they were more logically grouped the way we have them. I will start out with the report of the Style and Drafting Committee and, in going through the sections, tell you where a particular section came from. Section 1 is a condensation of the preamble which was not labeled as such but what amounted to such in the enrolled copy. We think we have clarified it without changing the substance or leaving out any item which was part of it. It follows our general policy of not having preambles to articles in the Constitution, and it did seem to us to say something of sufficient importance to incorporate it in a section. Section 2 is the same as Section 2 of the enrolled copy. The only change was the state to the legislature. Section 3 of the report comes from Section 4 of the enrolled copy and again is worded practically identically with the other one. The words "administered, utilized and maintained" have been "utilized, developed and conserved" in line with previous sections where they have used those words in the same context. Section 5 came from Section 5 of the enrolled copy; it is practically identical. Section 6 came from Section 8 of the enrolled copy. It is the same except for the last paragraph,

which has been shortened some to cut down repetition. If I am going too fast, someone can stop me; if I am not going fast enough, I will be glad to go faster. Section 7 of the report came from Section 7 of the enrolled copy. Section 8 came from Section 9 of the enrolled copy. There was some change in wording of the last half of that, but we agreed it says the same thing. Section 9 came from Section 10 of the enrolled copy. Section 10 came from Section 11, and Section 11 of the report comes from Section 12 of the enrolled copy down through line 9 on page 4 of the enrolled copy. There are considerable changes in phrasing but no changes in substance.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask a question. Line 22, page 3, Mr. Hurley, does the word "transferable" refer both to licenses and leases, or is it...

HURLEY: It did not in the enrolled copy. It only referred to licenses.

NORDALE: Leases are not transferable?

HURLEY: I would have to refer that to the substantive committee. It was my thought, anyway.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: May I inquire, Mr. Hurley, if you, don't think that, without the comma after the word "licenses", that the transfer both modifies licenses and leases?

HURLEY: You please me no end, because I had a comma in there and my Committee struck it out.

R. RIVERS: Your Committee changed the meaning then. I submit without the comma that the word "transferable modifies "leases" as well as "licenses".

HURLEY: I think that possibly the leases, too, would be transferable, so I submit the question to Mr. Riley, if he would care to answer it.

PRESIDENT EGAN: Mr. Riley, could you answer the question?

RILEY: Subject to correction from any of the Committee, I would say that "transferable licenses" went in as a committee amendment, perhaps, in which the Committee had gone along with a floor suggestion. Earlier leases as mentioned had not been intended to be transferable. I think perhaps it would be clarified by transposing "leases" and "transferable licenses".

R. RIVERS: I agree with that.

PRESIDENT EGAN: Mr. Ralph Rivers agrees.

HURLEY: Can we accept that as a motion on the part of Mr. Riley?

RILEY: I ask unanimous consent.

PRESIDENT EGAN: You ask unanimous consent that that change be made at this time, Mr. Riley?

RILEY: I think it is a matter of style and, while we are on it, it would speed things up.

PRESIDENT EGAN: What is the change then?

RILEY: Line 22, following the word "permits", add "leases, and transferable licenses"; striking "and leases" later in the line.

PRESIDENT EGAN: Does the Chief Clerk have that proposed amendment? Is there objection to the unanimous consent request for the adoption of the amendment?

HERMANN: I don't think it needs the comma myself.

R. RIVERS: With that transposition it does not need the comma.

PRESIDENT EGAN: The Convention will come to order. Is that correct, Mr. Riley?

RILEY: I would have a comma after "permits"; "permits, leases and transferable licenses".

PRESIDENT EGAN: Without the comma -- then the amendment would strike the comma you had asked for after "leases"?

RILEY: I don't think I asked for one, but in any event there should be none there.

PRESIDENT EGAN: If there is no objection the Chief Clerk will strike the comma that was originally asked to appear after the word "leases". Is there objection to adopting the amendment as offered by Mr. Riley -- the unanimous consent request? Hearing no objection, the amendment is ordered adopted. Mr. Hurley.

HURLEY: Section 12 comes from line 9 on page 5 at the end of the old Section 12. We did some damage to the repetition of these various minerals, but took care of the proposition by referring to "these minerals", so there seems to be no dissent from the committee on that. Section 14 comes from Section 14 of the enrolled copy; Section 15, from Section 15 of the enrolled copy; Section 16, from Section 16 of the enrolled copy. Section 17

comes from Section 6 of the enrolled copy. Section 18 comes from Section 17 of the enrolled copy. Section 19 comes from Section 18 of the enrolled copy. Section 20 comes from Section 1 verbatim of the enrolled copy.

PRESIDENT EGAN: Are there questions to be directed to Mr. Hurley with relation to the Committee's report on Article No. VIII? Mr. Doogan.

DOOGAN: I might ask for his remarks again on Section 11, where in the enrolled copy it says "extraction or basic processing", and here they have changed it to "extraction and basic processing".

HURLEY: That is what I mentioned before, and I feel that it could be construed as a substantive change which -- I understand the Committee may have some remarks concerning it. If we don't have any remarks concerning it from the Committee, I will then move that this change be adopted. I give them the opportunity to object to it first if they want to. They may have changed their minds. Hearing nothing from them, Mr. Chairman, I would at this time move that the rules be suspended and that the insertion of "and" for "either" and "or" on line 3 of page 4 be accepted.

PRESIDENT EGAN: Line 3 of page 4. What was your amendment, Mr. Hurley?

HURLEY: That the word "and" after the word "extraction" be approved as a substantive amendment to the enrolled copy, which said "either the extraction or basic processing".

PRESIDENT EGAN: You have heard Mr. Hurley's -- did you move, Mr. Hurley? Or ask unanimous consent.

HURLEY: I move and ask unanimous consent.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that that proposed amendment be adopted.

KNIGHT: I will object for the moment.

PRESIDENT EGAN: Objection is heard. Is there a second?

HERMANN: I second the motion.

PRESIDENT EGAN: Mrs. Hermann seconds the motion. Mr. Doogan.

DOOGAN: Well, I have not heard from the substantive committee on this yet. I would like to hear from them. I consider that a substantive change, and I would like to hear what they have to say about it.

HURLEY: Mr. President, I might suggest that their silence is more eloquent than words.

PRESIDENT EGAN: Then the question is at this time: "Shall the rules be suspended?" Is there objection to suspending the rules in order that this amendment be considered? Unanimous consent is asked that the rules be suspended. Is there objection? Hearing no objection, it is so ordered, and you move the adoption, Mr. Hurley?

HURLEY: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Hurley moves the adoption of the proposed amendment, seconded by Mrs. Hermann. Mr. Riley.

RILEY: With respect to the question raised by Mr. Doogan, if he has the enrolled copy nearby, on page 5, lines 6 and 7, it will show the problem. The first word on line 7, the word "either" was thrown in in the process of some hasty floor amendment, and we felt that it arrived at a situation that was not desirable by imposing unnecessary restrictions. Now, in discussing the matter with Style and Drafting, we proposed that "either" be removed, and there was some difference within the Committee a few minutes ago as we read this over for the first time in final form as to whether the word "and" or the word "or" was preferable in the completed copy -- "extraction and basic processing" or "extraction or basic processing". Personally, I favored "or", but I believe it was the consensus of the Committee that it be left alone, and for that reason I would not question Mr. Hurley's proposed substantive change.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I direct a question to Mr. Riley?

PRESIDENT EGAN: You may. Mr. Johnson.

JOHNSON: Mr. Riley, what is the practical effect of the change?

RILEY: Well, reading first, Mr. Johnson, from the enrolled copy, "Surface use of such lands, by the mineral claimant, shall be limited to those necessary to either the extraction or basic processing of mineral deposits." I think that is clear enough, that assuming that one is operating on one claim, it would suggest that he could either extract or he could do his basic processing on that claim. It might be language of limitation. The same thought might be carried over as to the two adjoining claims -- that the employment of the word "either" in that passage is a little narrower than without it, and we did not seek to be restrictive. Now, in the language of Style and Drafting, "Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction and basic processing of the mineral deposits", we escape the limitation of the word "either", but I personally think there is still limitation in the use of the word "and" which I would prefer to see "or", but speaking

for the Committee, the Committee did not demur to "and".

JOHNSON: Then may I ask this: if the word "and" were changed to "or", that would be less restricting?

RILEY: I would be pleased.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: May I just say that the Style and Drafting Committee has no compunctions on this one way or another? We only put it in like we were told to put it in by members of the Committee.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I might remind the Convention that in the first form brought out by the Committee it was "and" and the Convention amended the first form to strike the "and" and insert an "or".

RILEY: Well, I have not my earlier copy right at hand as to the "or", but the complication did occur with the "either", and the "or" may have gone in at that time or may not have, but in any event, speaking for myself alone, I think the whole situation could be cured now if the amendment sought by Mr. Hurley were changed to substitute "or" for "and".

PRESIDENT EGAN: Mr. Riley, if the Chair may, the Chair would like to ask a question. Supposing a person was out on a quartz deposit and he extracted the ore, that if you used the word "or", would that keep him from milling that ore at that site on his own right?

RILEY: I rather doubt that this language, using the word "or", "o-r" in this case, would, I think, give you the utmost opportunity for the use of your surface. I don't think that the other would ever be construed against a mineral claimant, but I think that there is likelihood that it could be.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, a point of inquiry. Is it permissible under a suspension of the rules at this time to offer an amendment to the amendment?

PRESIDENT EGAN: Amendment to the amendment? Well, the previous manner in which we have considered that, Mr. Johnson, unless there was further unanimous consent, that it could not be done. That has been the manner in which we proceeded previously.

HURLEY: I would ask unanimous consent that my amendment be withdrawn.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that the amendment he had offered be withdrawn at this time. Is there objection?

HURLEY: I ask a two-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess before we act on this.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, Mr. Hurley has just delegated his prerogative of asking for suspension of the rules for purposes of making a specific substantive amendment. A huddle of about fifty-four people (laughter) has come up with this language in line 3: "extraction or basic processing or both".

PRESIDENT EGAN: Mr. Riley, do you move the adoption of the amendment?

RILEY: I do. That means striking the word "and", substituting for "and" the word "or", and after "processing", inserting "or both".

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the amendment be adopted. Is there objection?

R. RIVERS: I object just for the moment. My understanding was it would read, "extraction or basic processing of the mineral deposits or both". Put the words "or both" on the end of the line.

RILEY: I will refer that to Style and Drafting.

R. RIVERS: Does that go to Style and Drafting?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for one minute. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: At the risk of muddying up the record, Mr. President, I will withdraw my request for suspension of the rules on that specific amendment and try another one for size. I will ask unanimous consent that the rules be suspended to amend the passage as follows...

PRESIDENT EGAN: Mr. Riley has asked unanimous consent that he be allowed to withdraw his previous request. If there is no

objection, it is so ordered. Mr. Riley.

RILEY: Lines 3 and 4 to read under this amendment, "necessary for the extraction or basic processing of the mineral deposits, or for both".

PRESIDENT EGAN: You ask unanimous consent that the rules be suspended in order that you might submit that amendment?

RILEY: I do.

PRESIDENT EGAN: Is there objection? Hearing no objection, it is so ordered.

RILEY: I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed amendment and asks unanimous consent. Is there objection? Mr. Kilcher.

KILCHER: Point of information. Mr. Riley, I would like to ask a question, if I may, about the implications of this thing. There are certain types of mineral clays, for instance, to take an example, that are considered minerals for certain purposes, and the processing of these mineral clays takes acres of land for sheds, piles, and so on. Now, assuming that somebody files a mineral claim on two different pieces of property belonging to somebody else -- let's say two farms, for instance -- and he's extracting -- he files a claim on each. Let's assume this mineral deposit is underlying both places. He is extracting the mineral in one, and he prefers the location further down for processing purposes. Will he be allowed to get the use of the second parcel of land, possibly a wheat field or a pasture, to build himself five or six acres of sheds under this construction?

RILEY: In the first place, Mr. Kilcher, I doubt that your illustration would amount to basic processing -- the five or six acres of shed. I would expect also that when the question arose, the matter of concurrent use would come in, the matter of which was the highest beneficial use of the land, and whether the mineralization of the second area, the second claim, was actually established, or whether it was simply staked as a more convenient spot for processing, perhaps, closer to water or closer to the highway. There are a number of questions there of a hypothetical nature that I would not pretend to answer. I think basic processing is the key to this.

KILCHER: I overlooked that angle of basic processing. Thank you.

PRESIDENT EGAN: Is there objection to the adoption of the proposed amendment? Hearing no objection, the amendment is ordered

adopted. Does the Committee have other amendments they would like to offer? Mr. Hurley.

HURLEY: No, Mr. President, we have no further amendments. If there are no further questions...

R. RIVERS: There are. I would like to refer to Section 14 and ask Mr. Hurley a question.

PRESIDENT EGAN: If there is no objection, Mr. Ralph Rivers.

R. RIVERS: Line 3 says, "Free access to the navigable or public waters of the State, as defined by law, shall not be denied any citizen of the United States". Is it your impression, Mr. Hurley, that the legislature could define "navigable waters" as not including the smaller lakes that are within the boundaries of the homesteads?

HURLEY: May I submit that the wording except for changing "legislature" to "law" is identical with the enrolled copy, and I would refer the question to the substantive committee.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Rivers, the answer to your question is "yes", and the language was inserted pursuant to a request from Mr. Poulsen and others that conceivably the legislature might set a minimum area, shall we say on back yard ponds, to which free access would be afforded.

R. RIVERS: Do you agree with me that there is a great deal of case law on the subject of navigability, and that there is great diversity of opinion of the courts as to what is meant by "navigability"? Do you think the reference here "by law" could possibly refer to that big jumble of case law?

RILEY: That is what bothers me. "Public waters of the state" is what was intended to be defined by law. Your calling it to our attention in terms of "navigable waters" is one point which should have further consideration.

R. RIVERS: I also wanted to ask you if the "navigable" -- I thought we were avoiding that term and sticking to "public waters as defined by law" -- and I am wondering how "navigable" got in there.

RILEY: It has been there from the outset.

R. RIVERS: Don't you think it would be better to use the word "legislature" to define "navigable waters" so all this case law won't get all balled up in it?

RILEY: I don't think you can escape judicial determination from time to time.

R. RIVERS: We were going to define it by the legislature, were we not?

RILEY: We were going to insert legislative definition to accommodate such instances as that described by Mr. Poulsen. I think that you are getting into hot water when you start making legislative determination of navigable waters in view of the libraries full of decisions on navigability of waters.

R. RIVERS: Then why are we about to do it then?

RILEY: Your point is well taken, and, as I say, we should have further consideration before this goes into third reading, only because of the use of the word "navigable".

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I can see the problem of which they speak, and I might suggest that the striking of the comma after the word "State" would probably make it clear that the definition refers to public waters and not "navigable", if that would be possible.

PRESIDENT EGAN: If there is no objection, do you think it would be wise to have a recess at this time so the Committee and Mr. Rivers and other delegates could get together on that question?

HURLEY: In view of the fact, Mr. President, that it might be well taken care of by a style change, it might be well to have a one- or two-minute recess.

PRESIDENT EGAN: If there is no objection the Convention is at recess for two or three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hurley.

HURLEY: Mr. President, I move and ask unanimous consent that the word "law" on line 4 be stricken and the words "the legislature" be substituted in its place.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that the word "law" on page 5, line 4, be stricken and the word "the legislature" be inserted in its place. Mr. Johnson.

JOHNSON: I object for a question.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Hurley?

HURLEY: I so move.

POULSEN: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Poulsen. Your question, Mr. Johnson.

JOHNSON: Mr. Hurley, is this amendment intended to eliminate the possibility of any definition of free access, and so on, by means of the initiative as against the legislature?

HURLEY: No, Mr. Johnson, it is not, and I think it is covered by the final article in the miscellaneous provisions which we will have before us tomorrow.

JOHNSON: What is the purpose of the change?

HURLEY: The purpose is to put it back the way it was before we got it in Style and Drafting.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Question, Mr. Hurley. As I read this article now, then the legislature could define "navigable waters"?

HURLEY: That is correct, Mr. Buckalew.

BUCKALEW: Was that the intention of the Committee?

RILEY: I don't think that was the intention of the Committee, Mr. President. If I conveyed that idea, Jim, I am sorry. It seems to me that restoration of the word "legislature" for "law" is one that developed the thought that legislative law as distinct from case law should have the stress, but, as I stated earlier, I am not entirely satisfied with the situation we find ourselves in, and I am not content with an offhand settling of it here. We had decided earlier in the Committee that it would be desirable to hold this out of third reading tonight for such questions as might arise in seeing for the first time the finished draft. Now, this language did not change substantially, but I think I know the point that Mr. Buckalew is on, and I share his views that navigability is not one that should be handled lightly or hastily.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, could I ask Mr. Riley a question? I am not trying to hold things up, Mr. Riley, but it seems to me if, after the word "navigable", we inserted the word "waters" and then inserted a comma, that would probably cure it.

RILEY: We were virtually at that point once, Mr. Buckalew, here in the last few minutes, and then Style and Drafting decided to return to the "legislature" to cure the one proposition so far as it would, and that was the pending amendment. I think that your point could be picked up properly from that.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, may I address a question to Mr. Buckalew?

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: I am not a lawyer so perhaps I should not get too involved in this subject, but as a member of the committee, I am interested in the general subject and am particularly interested in this wording here. Would you contend that any action, in view of the fact that there appear to be libraries full of definitions of navigable waters, would you contend that the action of a state legislature could possibly have no effect on the definition of navigable waters if it affected that state?

BUCKALEW: That is not my position at all, Mr. White. I think that if the state legislature got into the proposition of defining navigable waters, we would have a pyramid of -- another series of cases. I think it would just cloud the issue. Certainly, the legislature could define navigable waters and it would be controlling if the courts could understand the definition.

WHITE: How do you arrive at a situation as mentioned here earlier where in the state of Washington navigable waters was defined as something that would float a shingle boat? Possibly other definitions in other states. How do you arrive at the different definitions of navigable waters if some attempts by state legislatures have been made to define navigable waters?

BUCKALEW: Mr. White, that is about a five-thousand dollar question, and it would take three weeks' research. I am not in any position to give you an opinion.

PRESIDENT EGAN: Mr. Gray.

GRAY: I would like to ask the Chairman of the Committee a question. It is my understanding that navigable waters are under the jurisdiction of the United States Government, and is this "navigable necessary? As long as waters are determined as being navigable, they are immediately beyond the jurisdiction of the state. I am not sure. I am just asking.

PRESIDENT EGAN: Mr. Smith.

SMITH: It is with the greatest pleasure I refer that question to Mr. Riley.

PRESIDENT EGAN: Mr. Riley.

RILEY: I thought that Mr. Buckalew's remark was most felicitous about the five-thousand dollar question. There is a large area

of federal jurisdiction over navigable waters. At the same time, the state courts have defined "navigability" of waters time and again. The one referred to here this evening was one of literally thousands. This particular problem arises by our having inserted the amendment the other evening "as defined by the legislature". I think that in returning to the legislature we make a partial -- from "by law", we make a partial step toward correction. I don't think that here on the floor this evening we are going to correct the thing altogether. But my own thought would be to proceed, and to hold this point in abeyance, perhaps for the first recess, when thoughts can be organized, and we might come up with something yet tonight.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Could I ask Mr. Riley a question on this? In your opinion, Mr. Riley, does the new state acquire the rivers and harbors area of the new state, or does that still stay under the jurisdiction of the River and Harbor Bureau of the Army?

RILEY: Navigability for purposes of commerce is still a federal jurisdiction.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Point of order. I think a motion was made to change "by law" to "by the legislature". I don't think the discussion has been pertinent at all to that request. The request would put this in line with the enrolled copy, and I think the only discussion should be on should this be "by law", or should it be "by the legislature".

PRESIDENT EGAN: We have a motion that has been made and seconded before us to change the word -- delete the word "law" and insert in lieu thereof the words "the legislature". Is there further discussion? Mr. Metcalf.

METCALF: Mr. Riley, that does not include initiative law, does it? The legislature?

RILEY: Subject to interpretation of the so-called idiot rule by Style and Drafting, I only wish to say that the amendment -- that Style and Drafting is going back to the word "legislature" which the Committee had used initially, and it is my impression that our use of the word "legislature", if it is adopted, is to confine it to the legislative law as against case law.

PRESIDENT EGAN: Mr. Victor Rivers.

RIVERS: It seems to me -- has the motion been adopted here now -- on the legislature?

PRESIDENT EGAN: It has not been adopted yet.

V. RIVERS: I will hold my comments then.

PRESIDENT EGAN: Is there further discussion on the proposed amendment? The question is: "Shall the proposed amendment as offered by Mr. Hurley be adopted by the Convention?" All those in favor of adoption of the amendment will signify by saying "Aye"; all opposed by saying "No". The "Ayes have it and the amendment is ordered adopted. Mr. Hurley.

HURLEY: Mr. President, I have no more.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I rise to a question. We are talking here not about navigability as I see it; we're talking about free access. So it would seem to me, if we struck the comma after "state", we would accomplish what we want. We would discriminate between the public waters and navigable waters. The sentence would then read, "Free access to the navigable, or public waters of the State as defined by the legislature shall not be denied any citizen of the state. Then, regardless of the amount of case law you have pertinent to navigable or whatever the legislature may pass which is pertinent to the state law, it would still be a matter in this section at least only of the free access to those waters.

PRESIDENT EGAN: Mr. Riley.

RILEY: I don't think this is before us, but just to clear the air a bit, four or five of us were pretty much in harmony with the thought expressed on the floor by Mr. Buckalew during the previous recess. We would carry it a little farther than Delegate Rivers has just suggested. Perhaps a recess at this time for about two minutes would put the show on the road again.

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hurley.

HURLEY: Mr. President, I have another slight phraseology amendment on page 1, line 10. Strike the comma after "wildlife". I ask unanimous consent.

PRESIDENT EGAN: Mr. Hurley asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted.

HURLEY: Now, Mr. President, if there are no further questions as to Style and Drafting...

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I feel an amendment coming on, but I am going to try to forestall it here by a little question. In Section 8, Mr. Hurley, it says, "The legislature may provide for the leasing of and the issuance of exploration permits". We hashed over the word "exploration" before and there is no doubt what that means when we are speaking of mining, or anything of that sort. But if you picked up a magazine and read an article on some subject and came down to the middle of the article and it said that a permit could be issued for exploration, you might assume that somebody was outfitting an expedition to explore the Arctic, or anything else. That has a very broad meaning. This is just a matter of styling. In this article, we read all the way through it down to this Section 8, you are speaking of lands, of fisheries, of objects of natural beauty, of historic or cultural value, etc. Then you say, a permit may be provided for exploration. Of course, if you read clear on down to the tail end of it, you find out that exploration there pertains to mining. It seems to me another word could go better in here. Do you know if it was the intent of the Resources Committee to provide this permit only for exploration as we know it, or did that include development? Could development replace that word? Or do you know of another word that would be better.

HURLEY: Mr. Barr, I have failed on many occasions to be able to grasp the intent of the Resources Committee, so I waive the question to Mr. Riley.

PRESIDENT EGAN: Mr. Riley or Mr. Smith, Mr. Barr's question?

BARR: In that particular section it does not mention minerals or anything else.

RILEY: Mr. Barr, I am just looking for my pre-enrolled copy which I don't spot readily. I recall that you expressed interest -- perhaps it was your amendment in the first instance.

BARR: That had to do with mining, and in my mind there was no doubt then what "exploration" meant because it dealt with mining, but in this, when you first stumble on to it, you naturally take it in its broadest meaning.

RILEY: I suggest -- I was looking for an earlier edition which may be coming up. I had in mind that possibly this represented some reorganization on the part of Style and Drafting. I do not know that this is the case. It would appear to me that one word, perhaps "mineral exploration", would satisfy your objection.

BARR: I don't have any particular objection except that it sounds awkward to me. I would say "mineral exploration", or if you are speaking of other things as I think you are here, such

as forestry and fisheries, you could say "exploration and development", or just plain "development" if the intent went that far. I am not going to offer an amendment, but I wish somebody would look into it the next time you have a recess.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: That was put in at the time they were talking about exploration regarding burial grounds, etc., that they did not want the public digging up promiscuously. That sort of exploration was the subject of conversation at the time it was put in.

PRESIDENT EGAN: Mr. Davis.

DAVIS: So far as I can see, the language here used is identical with the enrolled copy, and it is outside of the scope of the inquiry at this time.

PRESIDENT EGAN: You are correct, Mr. Davis, if it is identical with the enrolled copy.

HURLEY: It is.

PRESIDENT EGAN: Are there other questions with relation to the report of the Style and Drafting Committee? Mr. Hurley.

HURLEY: I have no questions. (laughter)

PRESIDENT EGAN: It is hard to tell...

HURLEY: If there are no further questions, I would move that the report of the Style and Drafting Committee on the Resources Article be adopted as to phraseology only.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that the report of the Committee on Style and Drafting with relation to the Natural Resources Article be adopted with relation to phraseology only. Is there objection? Hearing no objection, it is so ordered and the report has been adopted. Are there proposed amendments for Section 1? Mr. Sundborg.

SUNDBORG: I wonder about this procedure in third reading of going through and requesting amendments section by section. We did not do that until the very last article considered, I do believe. It requires a suspension of the rules any time an amendment is offered, and I believe that anybody who has a substantive amendment should have the burden of coming forward with his motion to suspend the rules and offer it. This thing has been through second reading which is when amendments should be made. I don't believe it is proper to call off here section by section and in essence here invite amendments.

PRESIDENT EGAN: Mr Sundborg, it is the recollection of the Chair that we have done that after the Convention has accepted your report, that that has been the procedure right along. Because it actually is not in third reading; it is some sort of in-between. But we have been doing that.

SUNDBORG: The point I want to make is that we should not lightly be considering amendments here. The time to make amendments was when this was on the floor and really in second reading and subject to amendments. Any amendment now requires a suspension of the rules and should not be offered unless there is some very good reason for offering it.

PRESIDENT EGAN: That is right, but that has been the procedure under which we have entertained this matter right on through. Mr. McNees.

MCNEES: I would have a feeling that this is very proper to go through it this way inasmuch as these articles returning from Style and Drafting have only so recently come in our hands. We have waived the factor of having it in our hands for 24 hours prior to consideration at this time. I do feel that going through it section by section is very advisable.

PRESIDENT EGAN: Are there amendments for the article for any of the sections at this time? Mr. Kilcher.

KILCHER: Has Section 14 now been settled? The question of Section 14 as to phraseology or substance?

PRESIDENT EGAN: Has that been settled so far as the Committee is concerned, Mr. Riley?

RILEY: The Committee has nothing else to submit on Section 14 Mr. President. We have a couple of other one-word amendments to submit.

PRESIDENT EGAN: I think what Mr. Kilcher was getting at is it your feeling that Section 14 is in good shape now?

RILEY: Section 14 reads as printed with the exception of the return to the word "legislature" instead of "law on line 4, page 5.

PRESIDENT EGAN: Are there other amendments to be proposed? Does the Committee, the substantive Committee have an amendment to offer?

RILEY: Mr. President, on page 3, Section 9, line 8, at one point this was discussed on the floor, apparently without action. It reads, "Reservation of access shall not impair the owners' use,"; the Committee feels that the word "unnecessarily" should be

inserted between "not" and "impair". Obviously, any access will represent some impairment, and we feel that the use of the word "unnecessarily" will in part correct that. Accordingly, the Committee requests a suspension of the rules, and will thereupon move the adoption of the amendment.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Riley that the rules be suspended for that purpose. Is there objection? Hearing no objection, Mr. Riley, the rules have been suspended and you might offer your amendment.

RILEY: The Committee asks on line 8, page 3, the word "unnecessarily" be inserted after the word "no". We ask unanimous consent.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of the proposed amendment. Is there objection? Hearing no objection the amendment is ordered adopted.

RILEY: Next, Mr. President, on line 1 of page 6.

PRESIDENT EGAN: Line 1, page 6.

RILEY: The sentence starts on the preceding page and reads as follows: "Just compensation shall be made for property taken or for damages to other property rights." We feel that the word "damages should be qualified, and I ask unanimous consent for suspension of the rules in order to make the specific amendment, "resultant damages".

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the rules be suspended. Is there objection? Hearing no objection, the rules have been suspended.

RILEY: Now, Mr. President, the Committee asks unanimous consent that line 1 of page 6 be amended by inserting after the third word, the word "resultant".

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted.

RILEY: The Committee has no further amendments at this time. Mr. President, but we specifically do not ask that the rules be suspended for advancing the article into third reading.

PRESIDENT EGAN: You desire that this article be held and let take its normal course? If there is no objection the article is referred to the Rules Committee for assignment to the calendar in third reading. Mr. Victor Rivers.

V. RIVERS: I rise to ask a question again in connection with the article, of the matter brought up by Mr. Barr. I can see leases

and sales and grants here, but this leases and issuance of permits for exploration seems to limit the field of leasing. I see sales and grants of public lands, but for instance, I am thinking in terms of a headquarters site or trade and manufacturing site or some other area in which you might possibly want a development lease. Do you feel we have development leases for different things other than exploration for mineral purposes and oil?

RILEY: The question raised by Mr. Barr, Mr. Rivers, is specifically why we do not ask that the matter be advanced tonight under suspension of the rules.

V. RIVERS: You think it does not cover that type of lease...

RILEY: We think a question exists which merits attention.

PRESIDENT EGAN: If there is no objection, the article is referred to the Rules Committee for assignment to the calendar for third reading. Mr. Doogan.

DOOGAN: May I ask a question? It is on page 4, lines 3 and 4, we made a change and put in "extraction or basic processing, or both". I noticed on page 3, line 23, we run into the same question again, and it looks again to me like the word "and" is a limiting word.

RILEY: Is that a question addressed to me? My quick reading of that sentence would suggest to me that the question is not there as significant as it is on the next page. There again we will make a marginal check.

PRESIDENT EGAN: Are there other questions before this article is definitely taken off the calendar for today? If there are no other questions, it is referred to the Rules Committee. Mr. Riley, as Chairman of the Rules Committee -- the next bus does not leave here until ten minutes until 10:00; is that correct? Mr. Coghill.

COGHILL: The next bus leaves the University at 9:50.

PRESIDENT EGAN: Mr. Riley, is there anything that could be brought before us that might -- Mr. Sundborg.

SUNDBORG: Mr. President, I have just been advised that the article on General and Miscellaneous Provisions has been completed in the boiler room and is on its way down here.

PRESIDENT EGAN: If there is no objection then, the Convention will be at recess and we might consider that article until time for adjournment.

McNEES: Before recess, inasmuch as I was inadvertently absent from the floor when the final roll call was taken on the Article

on Local Government, I would like to have the record show that if I had been present on the floor I would have voted "Yes".

PRESIDENT EGAN: If there is no objection, the record will show that if Mr. McNees had been present he would have voted "Yes" on the Local Government Article. If there is no objection, it is so ordered. Another item that the Chair would like to bring to the attention of the delegates before we recess is that it will be necessary after the Constitution is in its final form, it will then be necessary to vote on the complete document in its final form and have at least 28 votes in favor of it in order to adopt the final complete document. Now the question is: is it the intention of the Convention that that final vote be held at the signing ceremonies which will just take a few minutes? It has arisen in the mind of the Chair that it might be an impressive part of that ceremony if that final vote on the document is taken over at the gymnasium that afternoon. Mr. White.

WHITE: I so move.

DOOGAN: Would that entail the reading of the final document over there too?

PRESIDENT EGAN: That is another question now -- that's a good question, Mr. Doogan, and inasmuch as we might as well decide here -- would it be in order that the final document be read by article only down through, or what is the intention of the body as to that final document and how it will be read? Mr. Kilcher.

KILCHER: Has anybody an estimate ready how long it would take to read it, slightly slower than our Chief Clerk usually reads?

SUNDBORG: We estimate it will contain about thirteen thousand words. I would guess it would take the Chief Clerk a good hour, maybe an hour and one-half to read it, all of it.

PRESIDENT EGAN: There is nothing in the rules that would prevent. We have read it in its entirety more than once, we will have read it in its entirety more than once, and there is nothing in the rules that the Chair can see that would keep it from being in order to read it article by article with such a motion being offered. I don't mean in its entirety, but just each separate article.

KILCHER: I think it should be looked into. If it were technically possible at all, I think it could be an impressive part of the ceremony for everybody present and concerned to hear it, to have it read.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Is it not possible that we might circumnavigate this technicality by taking care of the reading of the document, if that is necessary, on Saturday, and on Sunday read it by title and use the preamble as part of that ceremony, and at that time it will be made public as part of our ceremony?

PRESIDENT EGAN: That could be done. There is plenty of precedent for the legality of such action. Mr. Coghill.

COGHILL: If it was read over there, maybe somebody might have the bright idea of amending it. (laughter)

PRESIDENT EGAN: It does not seem to the Chair that it would be possible to read it over there. Mr. McNees.

MCNEES: The thought occurs to me that possibly the tape recording equipment and the Stenotypist record would not be available at the gymnasium that day. It's just a question. Possibly they will be available, I don't know.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: They will be. They will be taking the proceedings of our signing ceremonies on tape at the station that day.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Inasmuch as according to the rules it is open for amendment until final passage, it might be well to preclude an amendment on Saturday. Somebody might want to change something at the last minute. We could get into a long argument.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I would like to ask unanimous consent to revert to the matter of motions, and would like to make a motion on this thing.

PRESIDENT EGAN: If there is no objection, you may offer a motion at this time.

HURLEY: Mr. President, I move that the final reading and vote on the Constitution for the State of Alaska take place in this hall on or before Saturday.

CROSS: I second the motion.

PRESIDENT EGAN: Mr. Hurley moves, seconded by Mr. Coghill and Mr. Cross, that the final reading and vote on the Constitution be taken in this hall not later than Saturday afternoon. The motion is open for discussion. Mr. Victor Rivers.

V. RIVERS: I would like to make a motion that we read the Constitution by title -- preamble and title of each article just prior to signing. Mr. Hurley.

HURLEY: Just by word of explanation, is it on the floor?

PRESIDENT EGAN: It is on the floor.

HURLEY: What I had in mind is that I think it would be fine to read the title and preamble and vote on it over there, too, but I would like to get the thing finished up so that if somebody had an amendment at the last minute he could not say he was precluded from making that amendment because of the circumstances.

PRESIDENT EGAN: You mean, Mr. Hurley, that the intent of your motion is that we do the necessary legal work right here, but over there we call the roll on the adoption again and have the preamble read and the title of each article read, and then call the roll adopting it again as part of the ceremonies?

HURLEY: Yes, with the understanding that the Rules Committee would provide that no amendments would be offered. Mr. Boswell.

BOSWELL: I was wondering if we could not still take the final vote over there if we read it here and got up to that point where there were no amendments.

PRESIDENT EGAN: The Chair is certain, Mr. Boswell, that there would be no delegate who would attempt to offer a specific amendment to move it back into second reading on that day. Also, if such a move were made, that it certainly could not get the two-thirds vote at that time. Mr. Londborg.

LONDBORG: It might be a good time to make a change on "borough". You would get the feeling of the people.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, should not the final reading and the vote go on this tape and on the stenotypist's record? Are we going to move everything over there and continue this particular tape?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, the feeling of the Committee on Administration is, and we are going to discuss that tomorrow, that the Chief Clerk, the Secretary, and the stenotypist will be sitting just forward of the President's chair, but the tape recording will be done at the KFAR studio, because they are going to broadcast the whole program and they will in turn dub the tape from the broadcast.

PRESIDENT EGAN: It will be recorded. Mr. Cross seconded the motion as the Chair remembers it. The question is: "Shall the Convention adopt the motion presented by Mr. Hurley and amended by Mr. Victor Rivers?" All those in favor of adopting the motion as amended will signify by saying "Aye"; all opposed, by saying "No". The "Ayes" have it and the motion is adopted. If there is no objection, the Convention -- Mr. Sundborg.

SUNDBORG: Could we revert to the order of business of committee reports?

PRESIDENT EGAN: Yes, Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting reports back to the Convention Article XII, General and Miscellaneous. Copies have been distributed to delegates and a copy is on the Chief Clerk's desk.

PRESIDENT EGAN: The Chief Clerk will proceed with the reading of the committee report.

(The Chief Clerk read the report on the Article in full.)

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, there is one additional miscellaneous provision, which has passed through second reading and is not included in this draft. It is the provision pertaining to the disclaimer as to Native rights. It is still being redrafted in the Style and Drafting Committee and being considered by our consultants, and will be brought on the floor just as soon as it is ready. I would like to inquire whether any of the substantive committees, and particularly Mr. McNealy's committee, have additional general and miscellaneous provisions which they intend to introduce to be included in the Constitution.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, we have none in the Ordinance Committee.

SUNDBORG: If any other committee chairman knows of miscellaneous provisions to be presented, we would like to know about it in Style and Drafting.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Well, you probably are aware of it, in Resources the last two are supposed to be added to this section. One is already in, but I can't find the other one. Section 19 in Resources, there is the enumeration of specific powers, which is taken care of in Section 7, and then the state boundaries. which was No. 20 in Resources. I do not find that in this one.

SUNDBORG: We are aware of those two, and we will take care of them appropriately here. I was just wondering if there may be some others that in the course of the Convention have been given to some committee or have been assigned for further study and have not come before us again.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I do not recall seeing the one in regard to suffrage and elections, which referred to the election of 1924. Does that belong here or in Ordinances?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I believe it has been passed in third reading, and will be among the provisions in the schedule of transitional measures and ordinances. I believe it was reported out again by Mr. McNealy's committee along with the Alaska-Tennessee Plan.

PRESIDENT EGAN: Mr. Rivers had one he was working on. Mr. Rivers.

V. RIVERS: Well, I have in mind what I consider to be a problem of omission, and that is the question of financing in the transition period. I mentioned that the other day. I also have in mind as to whether or not we should have a sort of a severability or savings clause in here, so that if the Congress should find they are not able to accept certain clauses, such specifically as the fish trap clause, that we would not lose the balance. I was just thinking about that and I mentioned that before dinner. I have talked it over with a few. I wonder if it might not be well to have it.

PRESIDENT EGAN: Mr. Sundborg, do you have a Committee explanation to make in relation to this article?

SUNDBORG: Mr. President, the general and miscellaneous provisions have been gathered from all points here in the Convention and collected in the Engrossment and Enrollment Committee and turned over to our Committee. Some of them have been drafted in the first instance by Style and Drafting, and we gave those just as critical a going-over as we did the others as to language. The redraft was prepared by a subcommittee consisting of Mr. Davis, Mr. Fischer, and myself. And we have asked Mr. Fischer to explain the changes that have been made and to answer any questions by delegates.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, there are no basic changes in the various sections as they are before you. There is an additional section inserted, as you will note, Section 9, that is a clari-

fication of the use of the terms "by law" and "by the legislature" as they are used in this Constitution. It was deemed desirable to include this provision to make sure that the courts do follow the intent of this Convention in deciding upon various questions that may come up. We will ask for a suspension of the rules to consider this matter.

PRESIDENT EGAN: Are you asking for that suspension at this time? You mean for the inclusion of this section?

V. FISCHER: Yes, I think it properly should come after the language has been approved. If you would like me to, I can just run through quickly and advise the members where the various sections came from. Section 1 is Section 1 in the enrolled copy; 2 and 2 are the same; 3 comes from 3; 4 is the same as No. 4 was before -- in most cases they are practically the same wording; 5 has the same number as previously. Section 6 is composed of what were Section 7 as well as Section 8 in the enrolled draft. We combined those into one section. What is Section 7 now previously was Section 9. What is Section 8 previously was Section 10. Section 9, as I mentioned, is new. Section 10 comes from Section 11; Section 11 comes from 13; Section 12 comes from 6; Section 13 comes from 6; and as Mr. Sundborg mentioned, Section 12 of the enrolled copy is not as yet ready for presentation and will be brought in as an addendum to this report at a future time for separate approval. I will be glad to answer any questions.

PRESIDENT EGAN: Are there any questions to be directed to Mr. Fischer on any of the sections? Mr. Cooper.

COOPER: Mr. President, in line 21, page 2, Section 6, should not the words "persons of" be stricken?

V. FISCHER: They probably could be. I don't think that they add very much to the language as it stands here.

PRESIDENT EGAN: Are there other questions relating to Article XII? If not, are there any committee amendments to be offered at this time? Mr. Fischer.

V. FISCHER: Mr. President, I would like to ask unanimous consent that the rules be suspended for the purpose of considering the inclusion of Section 9.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that the rules be suspended for the purpose explained. Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, the objection is merely a technicality, but on page 2, line 21, "including persons of both sexes.", should not that read, "shall be construed as including either

sex."? (laughter)

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I think I would rather not answer that question while we are in the middle of a request for the suspension of the rules.

McLAUGHLIN: I will withdraw that objection.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that the rules be suspended in order that he might offer Section 9 as an amendment to this article. Is there objection? Hearing no objection the rules are suspended. Mr. Fischer, you might offer your proposed amendment.

V. FISCHER: Mr. President, I move that Section 9 be approved for inclusion in Article XII of this Constitution. I ask unanimous consent.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that Section 9 be adopted as a part of Article XII, the Article on General and Miscellaneous provisions. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other committee amendments, Mr. Fischer?

FISCHER: Mr. President, on page 2, line 7, change the word "dischage" to "discharge".

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended. Hearing no objection, it is so ordered. Mr. Fischer, you ask unanimous consent for the adoption of that change? Hearing no objection, it is so ordered.

V. FISCHER: I would like to ask the grammarian of the Convention whether "construing" is properly spelled on line 19 of page 2.

HERMANN: Yes.

V. FISCHER: The committee has no further amendments, Mr. President.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: I think that the Committee on Style and Drafting is avoiding the issue, and it may cause some embarrassment in future generations. I move that the word "both" on line 21, page 2, be stricken, and in lieu thereof the word "either" be inserted.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I ask a question of Mr. McLaughlin? And use the singular for "sex"?

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McLAUGHLIN: And strike "es" from the word "sexes".

PRESIDENT EGAN: That is a phraseology change. Do you move and ask unanimous consent?

McLAUGHLIN: I do.

PRESIDENT EGAN: Is there objection?

SUNDBORG: I object.

PRESIDENT EGAN: Objection is heard, Mr. Sundborg. Do you move, Mr. McLaughlin?

McLAUGHLIN: I so move.

PRESIDENT EGAN: Mr. McLaughlin moves the adoption of the amendment. Is there a second? Mr. Kilcher seconds the motion.

V. FISCHER: I ask for a one-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, Mr. McLaughlin and I have during the recess exchanged our thoughts with respect to "sex". I understand that Mr. McLaughlin has a motion to offer.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. Chairman, I am in doubt as to the procedure, but I shall presume it rather than cause any embarrassment. I shall ask suspension of the rules and ask unanimous consent to strike on line 21, page 2, the words "persons of both sexes" and substitute the words "either sex".

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent that the rules be suspended. Does the Chief Clerk already have that?

CHIEF CLERK: What happened to his other motion?

PRESIDENT EGAN: What happened to the other motion?

McLAUGHLIN: It is entirely withdrawn.

PRESIDENT EGAN: If there is no objection, it is entirely withdrawn. Is there objection to the suspension of the rules? Hearing no objection the rules have been suspended. Mr. McLaughlin, you might offer your proposed amendment.

McLAUGHLIN: I now move to insert on line 21, page 2, to strike "persons of both sexes", and substitute the words "either sex".

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other amendments to be offered? Mr. Victor Rivers.

V. RIVERS: I have an amendment.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment as offered by Mr. Victor Rivers.

CHIEF CLERK: "A new Section 14. 'Should the Congress of the United States invalidate any ordinance or transitory provision attached to this constitution the balance of the constitution and its attached ordinances and transitory provisions shall not be impaired thereby.'"

V. FISCHER: Point of order. It seems to me that should be in the article on Transitional Measures and Ordinances.

PRESIDENT EGAN: Mr. Victor Rivers, would that be your feeling, too? Now where is that, Mr. Fischer?

V. FISCHER: Part of that is still in second reading and is supposed to be out late tomorrow or Wednesday morning.

PRESIDENT EGAN: Mr. Rivers, could you hold your amendment until such time as that article is before us?

V. RIVERS: I shall be glad to do so.

PRESIDENT EGAN: If there is no objection, the proposed amendment will be held until the article on transitional measures is before us. Are there other proposed amendments to Article No. XII? If not -- Mr. Sundborg.

SUNDBORG: Mr. President, if there are no amendments as to phraseology, I ask unanimous consent that the report of the Committee on Style and Drafting as to the first thirteen sections of Article XII, General and Miscellaneous provisions, be accepted, and that the amendments and changes therein made by the Committee on Style and Drafting be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the phraseology changes made to Article XII by the Style and Drafting Committee be accepted, and that the substantive changes made by the Style and Drafting Committee be adopted. Is there objection? Mr. Lee.

LEE: I don't object. I would like to have something clarified here which was pointed out to me. In line 8 page 3, Section 9 -- Oh, I am sorry, I have been fighting over another article.

PRESIDENT EGAN: Is there objection to the adoption of Mr. Sundborg's motion? Hearing no objection, the report is ordered accepted and adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I will not ask for a suspension of the rules to advance this article in view of the fact there is at least one other section to be added to it before it goes into the Constitution. Mr. President, I have been asked by several of the delegates what article number should be assigned to the article on the Judiciary which went through third reading and was adopted before our Committee began its practice of putting the article number on the committee report, and for the information of delegates I will state that the article on the Judiciary should have the number, Article IV, Roman numeral IV.

PRESIDENT EGAN: You ask unanimous consent that it have the Article No. Roman numeral IV?

SUNDBORG: I do, Mr. President.

PRESIDENT EGAN: Is there objection to giving the article on the Judiciary the number, Roman numeral IV? Hearing no objection, the number Roman numeral IV will be given to the article on the Judiciary. What would the Style and Drafting Committee desire now as to the Convention procedure?

SUNDBORG: We have now put before you everything that has been referred to our committee with the exception of the apportionment schedule, and I have just been informed that that will not be ready for consideration tonight, but will be, tomorrow, and the part of the schedule of ordinances containing the Alaska-Tennessee Plan and several other sections, which was referred to us last night in second reading for some additional drafting. We have not had a chance within our committee to do a great deal on that as yet, and would require several hours of work before we would be able to bring it on the Convention floor. So it would be our suggestion that the Convention adjourn until possibly tomorrow afternoon to give us the morning in which to finish that work. I think there is nothing else on the calendar or ready to go on the calendar except the resolution on friendly relations with Canada.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I want to correct Mr. Sundborg. 17/b does not include the Alaska-Tennessee Plan. That is 17/a and that has not come out yet. All you have is 17/b right now. 17/a is enroute to Engrossment and Enrollment, and 17/c is, I believe, in Style and Drafting.

PRESIDENT EGAN: 17/c Revised is the Tennessee Plan, as the Chair recalls it. Is that right? And it was referred directly to the Committee on Style and Drafting?

SWEENEY: That is right. 17/c.

PRESIDENT EGAN: It would seem to me that the suggestion of the Style and Drafting Committee Chairman would be well taken at this time inasmuch as the work is pretty well along and it would enable that committee and the Committee on Resources to really more or less clean everything up if we did adjourn until 1:30 p.m. tomorrow, at the time that we do adjourn. Mr. Boswell.

BOSWELL: I will move and ask unanimous consent, subject to committee announcements, that we stand adjourned until 1:30 tomorrow.

PRESIDENT EGAN: Mr. Boswell moves and asks unanimous consent, subject to committee announcements, that the Convention stand adjourned until 1:30 tomorrow. Mr. Davis.

DAVIS: Mr. President, before adjourning, I think it might be helpful if anybody who might have proposed amendments on the Resources Article meet with the Resources Committee sometime before 1:30. I think that would expedite the work tomorrow afternoon.

PRESIDENT EGAN: The Chair feels if anyone has any suggestions to Style and Drafting with relation to the Tennessee Plan, for instance, the Committee Proposal No. 17/c Revised, that they also report to the Style and Drafting Committee meeting tomorrow morning. Mr. Smith.

SMITH: Mr. President, I would like to ask the Resources Committee to meet for just a few moments immediately after recess, and I am sure that we will meet again tomorrow.

PRESIDENT EGAN: Mr. Smith announces that the Resources Committee will meet immediately upon adjournment in the gallery. Are there other Committee announcements? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting will meet at 9:00 in the morning in one of the large committee rooms upstairs.

PRESIDENT EGAN: Miss Awes.

AWES: Will the bus be at the Nordale at 1 o'clock tomorrow?

PRESIDENT EGAN: Mr. Coghill, will you arrange for the bus calling at the Nordale Hotel at 1:00 p.m. tomorrow?

COGHILL: 1:00 special bus. All right. The Committee on Administration would like to have a meeting in town tomorrow at 11:00 a.m. in the Polaris Building. I hope we can get Tom Stewart's Apartment No. 1012.

PRESIDENT EGAN: The Chair would like to mention this one thing that has been mentioned several times and was brought to the attention of the Chair today. That is the one question we might overlook, could possibly overlook, and that is the signing on Sunday of the final document or documents. It would seem that it might be best that we just sign the first original document at the gymnasium, that we come back here and sign all the rest of the copies in this building. It has been suggested that all the copies be laid out upstairs on tables in order to facilitate the expeditious signing of the documents. Is that agreeable to all the delegates? Mr. Victor Rivers.

V. RIVERS: You want them all signed in the same order, no doubt.

PRESIDENT EGAN: That is right, Mr. Victor Rivers, and if that could be the general understanding of all delegates that after the ceremony on next Sunday afternoon is completed, they will come back here for the purpose at that time of signing all the documents.

DOOGAN: You mean clear upstairs?

PRESIDENT EGAN: Mr. Sundborg, did you have some idea as to...

SUNDBORG: I don't believe it was my suggestion, but I did overhear it. I believe the suggestion was that we line up a bunch of tables in the cafeteria and lay out the 100 or 104 documents, or whatever it is, and the delegates file by and sign each document.

PRESIDENT EGAN: Why couldn't they be laid out right here on the tables that are available? Somewhere in this building. Mr. Hurley.

HURLEY: I would suggest that the details be worked out to expedite that function and it would seem to me the prerogative of the Administration Committee to arrange for that.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, one thing we will have to decide tomorrow is that we have one hundred copies being printed of the printed copies of the constitution, of the original. We can have the plate that we signed the other day for the newspaper to fix on the remaining copies or we can have the delegates try to have their original copies that they wish to keep, the 55. We have to have five copies for the record officially, according to Rule 51, and then we figured 55 of them, one for each one of the delegates. Is it the wish of the delegates that they have those signed individually by the delegates, or should be affix the printed signatures on them?

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: It was the recommendation of the Administration Committee the other day that we sign the official copies and we sign 55 for the delegates, and the balance of 40 would be signed by name plates; that report was adopted by the Convention, and I think we should hold to that.

COGHILL: We have these other 40, and we are going to have to dispose of those someplace and so, if anyone has any thoughts of where they wanted to take those, if they would filter through the Committee -- should we have those signed by name plate, all of them?

PRESIDENT EGAN: It might be, so long as we are going to sign 55 copies, that we sign enough additional so that we can give the employees all one of them.

SWEENEY: It was a very strong opinion in the Administration Committee that 55 be signed outside of the official copies, and the balance by name plate.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: That was also mentioned specifically in the report that was adopted on the floor that the official five documents, or 6, would be signed, the one in parchment and the other 5 for the various records, universities, and museums, and the 55 documents hand-signed for each delegate, and no other duplication of that process of hand-signed document, but 40 extra ones available for distribution with printed plates.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: I just got off the phone from talking with a prominent man down in Anchorage and he said he had heard much criticism of the fact that we were not having enough of the large size copies of the Constitution printed. We are talking about the one-hundred size now. He stated that he felt every school in Alaska would like to have one of those, not to hand-sign them but with the plate signatures on them. He says he sees no reason why we should not have five hundred of them printed. They would be willing to buy them. Everyone would be willing to buy them to have a facsimile of the original copy. It would be something for the Administration Committee to work out.

PRESIDENT EGAN: Mr. Knight.

KNIGHT: Mr. President, I really think we should present a copy to each one of the clerical staff or employees.

PRESIDENT EGAN: Mr. Knight, you are on the Administration Committee, are you not? Mr. Buckalew.

BUCKALEW: Before we give all these away, I would suggest that

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the various four district judges have a copy of the Constitution.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: What I want to know is do we have to supply our own pens or are there pens -- a common pen?

COGHILL: Pens will be supplied.

PRESIDENT EGAN: If there is nothing else to come before the Convention, the Convention stands adjourned until 1:30 p.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

January 31, 1956

SEVENTIETH DAY

PRESIDENT EGAN: The Convention will come to order. Mr. Robertson.

ROBERTSON: Mr. President, today I understand Alaska has lost a very good friend and many of us a close personal friend -- a man who I knew since he first came to Alaska as a young man, who I think was a very loyal American and a very loyal Alaskan. I ask that when the Chaplain gives the invocation, it be in honor of General Noyes and that we all stand in honor of General Noyes at that time.

PRESIDENT EGAN: We have with us today Chaplain Henderson of Ladd Air Force Base who will deliver our daily invocation. Today's invocation will be spread upon the Journal in memory of the passing of General John Noyes.

REV. HENDERSON: Let us pray: Our heavenly Father, we thank Thee that in all the occasions of life Thou has told us to come unto Thee in prayer. So on this day as we would pause to honor and pay tribute to one who has served loyally in this Territory, we would pause for a moment of silence in honor and in the memory of General Noyes. Bless, O God, our Heavenly Father, all who are serving Thee and serving our country and this Territory. Bless these members of the convention in the progress which they have made and in the duties of completion that are now near at hand, that in all things Thy divine guidance may be evidenced. Through Christ, our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: All present.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Mr. Barr.

BARR: Mr. President, yesterday I tried to put through a certain measure, which was a marked failure, and Mrs. Barr was very much concerned about my lack of success, and in order to secure a little better support next time she whipped up a big batch of fudge, and you will see two boxes on the Secretary's desk there for the members.

PRESIDENT EGAN: You may tell Mrs. Barr that the Convention really appreciates the thought, Mr. Barr. Mr. Hilscher.

HILSCHER: As a result of this gesture I propose that at the proper time the name of "barr-boro" be considered. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

UNIDENTIFIED DELEGATE: We might consent to change the name to "barr-o". (Laughter)

PRESIDENT EGAN: The Convention will come to order. Are there communications or petitions from outside the Convention? Are there reports of standing committees? Mr. Sundborg.

SUNDBORG: Your Committee on Style and Drafting reports back to the Convention Article XV, Apportionment Schedule.

PRESIDENT EGAN: The Chief Clerk may read the report.

SUNDBORG: I believe the report is only to be assigned to the Rules Committee at this time for a place on the calendar.

PRESIDENT EGAN: If there is no objection, the report is assigned to the Rules Committee for its place on the calendar. Are there other reports of standing committees? If not, are there reports of special committees? Are there motions or resolutions to be presented at this time? Mr. Marston.

MARSTON: I have one on the docket, Mr. President.

PRESIDENT EGAN: We have -- the calendar shows the resolution "Friendly Relations with Canada" before us in second reading. Is that correct, Mr. Riley? That is your calendar?

RILEY: It is, Mr. President. I might add for the information of the members that, while this calendar may appear to take daily adjustment, the adjustment is dictated only by the output of the boiler room and the pressure on Style and Drafting, and it represents pretty much their convenience.

PRESIDENT EGAN: The Chief Clerk will please read the resolution "Friendly Relations with Canada". It has to be read by the Chief Clerk.

(The Chief Clerk read the resolution in full.)

PRESIDENT EGAN: Are there proposed amendments for the resolution? Or is there a report of any committee with relation to the resolution? Mr. Marston.

MARSTON: Could I make a little talk on this?

PRESIDENT EGAN: Mr. Marston, the proper thing to do, if there are no amendments, would be to suspend the rules and advance the resolution to third reading. At that time you may talk or any person

may talk. Is there an amendment? Mr. Marston, do you have an amendment?

MARSTON: I have an amendment.

PRESIDENT EGAN: If it is an amendment you might present it at this time. The Chief Clerk will please read the proposed amendment. Mr. Marston, this is a new resolution -- is that correct?

MARSTON: There is a little change -- a very small change.

PRESIDENT EGAN: Well, you might ask unanimous consent that the original resolution be withdrawn, and then after that is accomplished you might ask unanimous consent to introduce this.

MARSTON: I ask unanimous consent to withdraw the first resolution and introduce this new one on Friendly Relations with Canada.

PRESIDENT EGAN: Is there objection? If there is no objection, it is so ordered; the original resolution is ordered withdrawn. Now, Mr. Marston, you might offer the new one. You might ask unanimous consent.

MARSTON: I ask unanimous consent to offer this new resolution on Friendly Relations with Canada.

PRESIDENT EGAN: Mr. Marston asks unanimous consent that this substitute resolution be offered to the Convention at this time. Is there objection? Hearing no objection the Chief Clerk may read the resolution for the first time.

CHIEF CLERK: Resolution, Friendly Relations with Canada.

PRESIDENT EGAN: Do you ask unanimous consent that it be advanced to second reading at this time, Mr. Marston?

MARSTON: Mr. President, I ask unanimous consent that it be advanced to second reading at this time.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing none, it is so ordered, and the Chief Clerk may read the resolution for the second time.

(The Chief Clerk read the resolution in full.)

PRESIDENT EGAN: Are there amendments to the resolution? If there are no amendments to be offered, Mr. Marston, it would be in order, if you so desire, to move to suspend the rules and ask that the resolution be advanced to third reading, be read by "resolve" only, and placed in final passage.

MARSTON: I move and ask unanimous consent that the rules be suspended and this be advanced to third reading.

PRESIDENT EGAN: Mr. Marston moves and asks unanimous consent that the rules be suspended as to the resolution "Friendly Relations with Canada", that the resolution be advanced to third reading, read the third time by "resolve" only, and placed on final passage. Is there objection?

HERMANN: I object.

PRESIDENT EGAN: Objection is heard. Mrs. Hermann.

HERMANN: I am not sure about this, but has this been in Style and Drafting?

PRESIDENT EGAN: The new resolution, as far as the Chair knows, Mrs. Hermann, has not been to Style and Drafting. But by unanimous consent, if the unanimous consent request carries, it would not be necessary to send it back to Style and Drafting unless Mr. Marston would like to see that it be further styled.

HERMANN: Well, in the absence of the Chairman of the Style and Drafting Committee, I think I will have to continue to object to the unanimous consent request.

PRESIDENT EGAN: Do you so move, Mr. Marston?

MARSTON: I do.

PRESIDENT EGAN: Mr. Marston so moves. Mrs. Fischer seconds the motion, that the rules be suspended, the resolution be advanced to third reading, read the third time by "resolve" only, and placed in final passage. The question is -- Mr. Barr.

BARR: I think it is rather important that Style and Drafting does look this over. After all, it's -- you might call it social correspondence between this country and Canada, and style is fairly important.

PRESIDENT EGAN: Mr. Barr, it would be -- under the rules with relation to resolutions, it probably would not be out of order even after it had passed the body for it to go to Style and Drafting for phraseology changes. Mr. White.

WHITE: I feel the same way as Mr. Barr. I have nothing against the wording of this resolution as it stands. But there will undoubtedly be lots of other resolutions, and I see no reason why they all shouldn't follow the usual course of committee proposals.

PRESIDENT EGAN: Well, that is up to the body. The question is, "Shall the rules be suspended and the resolution advanced to third reading?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, H. Fischer, Harris, Hellenthal, Hilscher, Hurley, Kilcher, King, Lee, Londborg, McCutcheon, McNees, Marston, Nerland, Nolan, Peratrovich, Poulsen, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, VanderLeest, Walsh, Mr. President.

Nays: 14 - Barr, Cooper, Emberg, Gray, Hermann, Hinckel, Knight, Laws, Metcalf, Reader, R. Rivers, Sweeney, White, Wien.

Absent: 7 - Davis, V. Fischer, Johnson, McLaughlin, McNealy, Nordale, Sundborg.)

CHIEF CLERK: 34 yeas, 14 nays, and 7 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Mr. Hurley.

HURLEY: I move that the resolution be submitted to the Style and Drafting Committee for consideration and report to the Convention.

PRESIDENT EGAN: Mr. Hurley moves that the resolution be referred to the Style and Drafting Committee for consideration and report to the Convention. Is there objection? Mr. Peratrovich.

PERATROVICH: On this motion that we just took, was it two-thirds of the membership or two-thirds of the members present?

PRESIDENT EGAN: It was two-thirds of the membership to which the body is entitled, Mr. Peratrovich, under the rules. So it would take 37 votes to suspend the rules. If there is no objection, the resolution is referred to the Style and Drafting Committee. Mr. Marston.

MARSTON: I should talk a little on this because it has more than a social correspondence her, as suggested here, so Style and Drafting could get the moment back of this.

PRESIDENT EGAN: Mr. Marston, it would probably be well, and the Chair knows that the Style and Drafting Committee would welcome your appearance before the Committee at the time they consider this, and you will get an opportunity to speak fully on the subject when it comes up again in third reading, but you can be heard before the Style and Drafting Committee at the time it is before them.

MARSTON: I have some things that this body ought to have now.

PRESIDENT EGAN: Is there objection to hearing Mr. Marston at this time? Mr. Buckalew.

BUCKALEW: Mr. President, would it be in order to suspend the rules

again and consider this resolution, and then after it has passed refer it to Style and Drafting and polish it up if necessary?

PRESIDENT EGAN: Mr. Buckalew, it seems we just voted on a motion to suspend and until another meeting the suspension of the rules for that purpose would be out of order, but if there is no objection, Mr. Marston, you might -- if there is objection, of course, you would have to be heard before Style and Drafting Committee. If there is no objection you might speak your words.

MARSTON: I appreciate it. I think you should have it. This is more than friendly relations -- it is friendly relations, but we are becoming a sovereign people here. We have made the first step and there is no return. It's a chain action, and we are going forward, and this has relation to all of what I say right here, this friendly relations with Canada. We have a great land here with billions of dollars of wealth in pulp and timber and oil and coal -- hundreds of billions of dollars, and it's a bigger piece of land than most countries in the world, and we are sending three men down to Washington, D. C., to see if we can't join up with those people there and become a sovereign people as we should be. We are tired of the colonialism we have had here. We have made the effort; we have made the first move; and I am very proud of this group of people here. They have moved forward and they have taken the first step. Now, these three men who are going down will meet a problem down there. I was down there one time with a group of business people. I saw a fellow named Joe Martin, who was sitting on the lid, and we tried to get to the Senate, and they would have taken our deal then, but we couldn't get to the Senate. He sat on the lid. We saw the President, but somebody was cramping his style and we didn't get beyond that. They didn't roll out the red carpet and play the band and music to us, and our fellows are going to meet the same thing when we send them down. We have got a piece of ground here that is worth hundreds of billions of dollars, and I want them to come back, if they don't make a success of the deal there, by way of Canada and talk to the Canadian people there. They have a great land and they adjoin us here, and this is just a gesture to them. And if we don't make a deal in Washington, D. C., our boys will come back, our salesmen, by way of Canada, and talk to them. Maybe we can join up with them; if we don't we can make a treaty with them, and they will be our neighbors. You know, when I was in Washington, D.C., I met some other people down there -- some Hawaiians -- and they were in there trying to join up with the United States also -- a fine bunch of fellows. They got only lip service, and I saw them last winter after five years and they were a very much discouraged people; they had given up; they couldn't make it; they are in worse shape than we are. Well, here we are a big piece of land. We have got land bigger than most nations, and we can make friendly relations if we don't make a success of it, by joining with Canada. We can make friendly relations with them and have a treaty with them and we can have the greatest nation in the world and the people will come from all over the world -- hundreds of thousands of people -- and

join us. We will be bordered on the east by the great land of Canada, and we will make friendly relations with them; bordered on the south by the Pacific Ocean; bordered on the west by the Bering Sea; and on the north by the Arctic Ocean and the aurora borealis -- a great big land that can stand out by itself. That is the third course we can take. I am just giving the courses so we can think it through. The time has come to think it through as a sovereign people. We have tried to succeed with the United States. We have complied with all requirements to join them and we have completely complied, but somehow we haven't made the deal with them yet. If they don't want a deal -- well, all right. Then we have got a piece of land that is wealthy, and hundreds of thousands of people will come and join us if we open the gate and let them come in. We can be a sovereign people, and I say "Give us men to match our mountains, and we will be a sovereign people, an independent nation." I really prefer the third course. Let's try the first way if we can, and that is what this little thing means -- a gesture to Canada. We will follow it up. I am going to Canada after the Convention is over and I'm going to talk to the folks there. I used to live up there. They are much interested in what happens across the line; more so than people in Washington, D. C., are interested in what happens up here, those Canadians are. It's a big land, and we are going to keep friendly relations and we are going to be a sovereign people and this little document is the first leader on that. We are on the way and there is no return; we are going to be a sovereign people. Thank you.

PRESIDENT EGAN: Thank you, Mr. Marston. (Applause) We now have before us Article No. XV, the Style and Drafting Committee's report on the Apportionment Schedule. Do we have the report available for every delegate at this time, Mr. Sundborg?

SUNDBORG: Mr. President, it might be advisable to read this. It would serve, I think, to pick up errors since there are a lot of proper names with which many of the delegates would be familiar.

PRESIDENT EGAN: The Chief Clerk will please read the report of the Style and Drafting Committee in relation to Article XV.

(The Chief Clerk read the report in full.)

PRESIDENT EGAN: Does the Chairman of the Style and Drafting Committee have any reports to make at this time?

SUNDBORG: As the delegates will notice, there has been almost no style and drafting involved in our reporting the Apportionment Schedule. The only portion of this that is new or changed is that appearing at the top of page 3, which is the section heading, the subhead under section -- the introduction saying, "The election districts set forth in Section 1 shall include the following territory:" is all that is new. We have corrected from the enrolled copy several typographical errors and other errors in spelling which had not been caught on the floor in second reading. If you

would like, I could call attention to each of those in case any of the delegates might have different versions of what should have been done. There are only very few of them.

PRESIDENT EGAN: You might, Mr. Sundborg.

SUNDBORG: On page 3, we changed the spelling of Kosciusko, which was incorrect in the enrolled copy, having contained an extra "e". It may be that has been corrected by the Engrossment Committee before it came on the floor. In any event, there was an "e" in Kosciusko, which was purely a boiler room error and did not belong. And then, in the next line we, instead of Kashevarof Islands as in the enrolled copy -- we have been assured by the chairman of the Apportionment Committee that it should be Kashevarof Island without the "s". In four places we have dropped the capital "M" down to a small "m" in the word "mainland", since that is in accordance with our policy on capitalization. In Election District No. 16, the Bethel District, on page 7, in the last line, we have corrected the spelling of Saint Matthew which in the enrolled copy had been Saint Matthews, M-a-t-t-h-e-w-s, which is, we are assured, incorrect. The greatest change was made in the Election District No. 21, Barrow District, where the enrolled copy said "The area drained by all streams flowing into the Chuckchi Sea and the Arctic Ocean" and so on, and this was done on the advice of geographers as the Chuckchi Sea is a part of the territory of Soviet Russia, and no streams flow into it, speaking in the exact sense, from any part of Alaska. We have changed that to say "The area drained by all streams flowing into the Arctic Ocean". It is, of course, exactly the same boundary line but a slightly different expression. Those are the only changes, Mr. President, from the enrolled copy.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Mr. Sundborg, in Section 24, Wade Hampton, I notice "The area drained by the lower Yukon River and its tributaries from Tuckers Slough to the mouth of the Bering Sea..." I don't know what the mouth of a sea is, really. Doesn't it mean the mouth of the Yukon at Bering Sea.

SUNDBORG: That is a mistake in typing, apparently. The enrolled copy said "to the mouth at the Bering Sea". That would be correct, and I would ask unanimous consent that the Style and Drafting Committee Report with respect to Election District No. 24, on page 8, on the second line of the description of Election District No. 24, be made to read "at the Bering Sea" instead of "of the Bering Sea".

PRESIDENT EGAN: You have heard Mr. Sundborg's unanimous consent request. Is there objection?

ROBERTSON: Which one is that -- what page?

PRESIDENT EGAN: Page 8, Section 24, second line in the section. Mr. Robertson, change the word "of" to read the word "at". Is there objection to the adoption of the amendment? Hearing none it is so ordered. Mr. Cross.

CROSS: May I call the Committee's attention to a spelling? The Goodhope River is one word; it is written here as two words. That is in Section 22, next to the last line.

PRESIDENT EGAN: It appears both in Sections 22 and 23.

SUNDBORG: It was in that same form in the enrolled copy, but if Mr. Cross is certain that it should be one word --

CROSS: Yes. It should be one word instead of two.

SUNDBORG: It would be satisfactory to the Chairman of the Apportionment Committee, Mr. Hellenthal?

HELLENTHAL: Mr. Cross is dead right. The book which is used as a guide is the Geographic Dictionary of Alaska, United States Geological Survey, Department of the Interior, prepared by Marcus Baker, and it shows it as the Goodhope, one word, River.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I ask unanimous consent, Mr. President, that on line 8 of the report, or page 8 of the report of the Style and Drafting Committee, in the description of Election District No. 22, the Kobuk Election District, next to the last line of that description, the words "Good Hope" be stricken and a single word "Goodhope" be inserted in their place, and that the same change be made on the fourth line of the description, of Election District No. 23, the Nome Election District; make "Goodhope" one word instead of two.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: I just wanted to ask Mr. Sundborg -- on that Suemez Island, there, Section 1 --

PRESIDENT EGAN: Mr. Cross, did you have another question before we adopt this?

CROSS: I see we have overlooked this Chamisso Island.

PRESIDENT EGAN: We will have to act on this request first, Mr. Cross. Mr. Sundborg has asked unanimous consent that the changes changing Good Hope in both cases to read as one word be adopted. Is there objection? Hearing no objection the change is ordered adopted. Mr. Coghill.

COGHILL: I notice the other day we had made a change and I had it in my copy that Section No. 18 and Section No. 19, in describing

the east boundaries of Section 18 and the west boundaries of Section 19, the Clear Creek question was brought up. In Section 19 we had it near Blair Lake, but on the other copy we didn't. In Section No. 18, it is not; it just says "including Clear Creek on the east". Was that intended to be that way?

SUNDBORG: I am sure it should be carried into both sections, so I will ask unanimous consent that in the description of Election District No. 18, the Yukon-Koyukuk Election District, on the fifth line of the description. after the words "Clear Creek" that there be inserted ", near Blair Lakes,".

PREISIDENT EGAN: Mr. Sundborg asks unanimous consent that those words and the commas be added to Section 18. Is there objection? Hearing no objection, the change is ordered adopted. Are there other questions? Mr. Cross.

CROSS: Chamisso Islands is a collection of about three small, rocky islands less than a mile off from the land that is included in the Kobuk area. The way it is here, it is in the Nome area; that is in Section 23, enumerated among the islands. That could be stricken from Section 23 and the words "and Chamisso Islands" added to the Kobuk area. That would be a substantive change. That is a small bird refuge of only a few acres altogether, and less than a mile off from the Kobuk area.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Undoubtedly Mr. Cross is right. However, we have had the map posted and repeatedly asked people to go over to Room 404 of the Mines Building to bring these matters to the attention of the Committee. Oftentimes what appears to be a very innocuous change develops into a free-for-all. I doubt very much if this is that type of change, but I think we should leave something for this redistricting board to do. I know they have a few other problems, and I think no harm would be done in leaving it as it is.

PRESIDENT EGAN: Mr. Cross.

CROSS: This is really unimportant; it's a bird refuge. No one is allowed to live on it. It's largely a matter of technical drafting.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: On that same question, I must say I tried to check the spelling of that because there was a change made there, and I couldn't find it on the map at all anywhere in the Nome District where it should have been.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Chamisso - it's spelled correctly. Chamisso Island,

231 feet high, named after Dr. Louis Adelbert von Chamisso in 1816. The native name is E-ow-ick.

SUNDBORG: Where is it?

MCNEES: On the north shore of Kotzebue Sound; the northeast shore of Kotzebue Sound.

SUNDBORG: Mr. President, in view of the fact that it is uninhabited and certainly of no importance here, I would like to ask unanimous consent to strike it entirely from the description of Election District No. 23 and not put it anywhere else.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am going to object and go along with Mr. Cross and get the birds in the right district. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

SUNDBORG: I withdraw my unanimous consent request then.

PRESIDENT EGAN: Mr. Gray, did you have a question?

GRAY: I have no question, but I have an explanation which might help the Committee on these things. In the apportionment there, we felt that the islands belonged to the closest mainland group. Because there are islands from one end -- and if you start in, where are you going to stop? Now Chamisso lies right in the heart of Kotzebue Sound; it couldn't belong anyplace but in Kotzebue Sound. We have Nunivak Island, we have the Pribilofs, and we have the Aleutian Islands, and around the Kenai -- they all belong to the mainland right across from them. There is Chamisso only about a mile off shore; it couldn't be anyplace else. It becomes quite a problem to Southeastern, and actually a lot of names could be left out. For instance, in my own district, there is no particular point in including Douglas, Shelter, and Benjamin Islands; they could not possibly be anyplace else; they are only a half-mile to a mile off the mainland. I don't believe there should be any confusion about these islands. You could name islands until -- until -- well, I couldn't figure out the exact number. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

GRAY: But I believe if there is any question on these they just be stricken from the record. They would not go anyplace else -- and the birds will be in the right place.

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to renew my unanimous consent request that the word Chamisso in the next to last line of the

description of Election District No. 23, the Nome Election District, be stricken.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the word Chamisso be deleted from Section 23. Is there objection? Hearing no objection, it is so ordered. Mr. Peratrovich.

PERATROVICH: Mine is very minor. I just want to ask Mr. Sundborg about Suemez in Section 1. Did you check the spelling on that? I notice on the local charts it is spelled S-u-m-e-z.

SUNDBORG: I defer to Mr. Hellenthal who has the geographical dictionary in hand.

HELLENTHAL: "Suemez; Island, in Bucareli Bay, Prince of Wales Archipelago. So named by the Spaniards, 1775 - 1792"; and it's S-u-e-m-e-z according to this book.

PERATROVICH: It must be correct then. I am just going by the charts we have.

HELLENTHAL: I might suggest this: where there is a variance between this book and the charts, we have taken the further precaution of checking the amendments to this that have been made by the Coast and Geodetic Survey, and perhaps Mr. Sundborg could ask unanimous consent to do that, and ask permission to correct it if there is an amendment changing this.

SUNDBORG: Mr. President, I ask unanimous consent that if the word "Suemez" in the description of Election District No. 1, Prince of Wales District, is found to be incorrectly spelled here, that the Style and Drafting Committee be authorized to correct it before it goes into the constitution.

PRESIDENT EGAN: You have heard Mr. Sundborg's unanimous consent request relative to the spelling of "Suemez". Is there objection? Hearing no objection, the Style and Drafting Committee is ordered to make the change if it is necessary. Are there other questions relating to the schedule? Mr. Robertson.

ROBERTSON: Mr. President. I would like to ask the Apportionment Committee about Sections 4 and 6; I don't make a point of it, but Chichagof -- of course there are very few people there at the present time but it again may become populated -- is on Klag Bay and my recollection is that Klag Bay empties into Lisianski Strait and I don't think Lisianski Strait empties into either --

GRAY: Point of order. It does not empty into Lisianski Strait; it is south. It empties into Chichagof Bay, but I think Mr. Stewart can take care of that for you, Mr. Robertson.

ROBERTSON: I was just wondering which district it comes in.

GRAY: It is in the Sitka District. Mr. President, if I may have the floor for a few minutes. When we froze the lines last night, we ran into something that I would really like to have a little consideration on. We have frozen the lines and moved Hoonah completely out of the Sitka District. That didn't give me too much concern before, because in the redistricting we felt they would be able to get in their own district. Hoonah is sitting in a place that might be in the Sitka District, it might be in the Juneau District, and it might be in the Yakutat-Skagway District. Now when we froze those lines -- there are good points with every one -- but it doesn't take much of a change and doesn't make any difference to the apportionment of the schedule on whether we include in the Sitka District all of Chichagof Island, or all of Chichagof Island except that flowing into Icy Straits. I hesitate -- I would like to request five minutes' recess, and I'll see Mr. Knight from Sitka. Mr. B. D. Stewart from Sitka, and Mr. Frank Peratrovich who is interested in that area because they are his people, and with what we have here and as long as Hoonah is not represented -- what we have -- we delegates here well, the point is, let's put Hoonah in the right district, because it is going to be solidified.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May we also take up the matter of Livengood at the same time? I feel that an injustice might possibly have been done there, and I would like to be able to deliberate that during the recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for five or six minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Gray.

GRAY: I beg the indulgence of the members here, but we feel that we have Hoonah in the right place. Now, the main concern I had, I was on the Apportionment Board that placed Hoonah where it was and I just wanted to be assured that the other members interested in that area had had a last-minute opportunity to say where Hoonah was, and we all agreed that under our system of watershed apportionment we have Hoonah in the same place and I am pleased to announce that there will be no change.

PRESIDENT EGAN: Are there other questions? Mr. Kilcher?

KILCHER: I would like to ask a question of Mr. Sundborg about in Section 12 on page 6. That was a section that was considerably changed in many small ways, and the picture wasn't clear on the hand-amended copy. Now, I know what should be in this article, but I wonder if a person that 's not acquainted with the area could offhand see what it means, so I will try it on you, Mr.

Sundborg. If you are reading actually the whole article, in the center of it, in line 4, there is mentioned "to but not including Resurrection Creek on the north and the area east of the confluence of the Kenai and Russian Rivers and that area west of Cook Inlet". What is qualified by "not including"?

SUNDBORG: On line 4?

KILCHER: Lines 4, 5, and 6. I have a hunch that maybe a comma or something is needed.

SUNDBORG: May I be given a moment to read it? I am sorry, Mr. Kilcher, I can't help you out; I don't know. Of course, we didn't change any of these descriptions; we took them from the geographers and assumed they are correct.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I believe no one could describe, or could follow the description of these unless they had a quadrangle description placed by the Geophysics Institute or the Geological Institute over here, that "not including Resurrection Creek", it would show where Resurrection Creek was coming in -- the line would be drawn so (indicating). I don't think you could offhand describe it; it would have to be a map.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: It's one of the amendments we have written in there and just wondered if -- the fact is that "not including" refers to "Resurrection Creek ... and the area east of the confluence". That was the way it was understood to be if these two areas should be included, but then, unless there is a comma after Russian Rivers, it might also be assumed that the area west of Cook Inlet comes in -- it might be assumed that would also be included.

PRESIDENT EGAN: Mr. Kilcher, if there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, in line with the conference I had with the Chairman of the Committee on Apportionment during the recess, and with Mr. Kilcher, I ask unanimous consent that in the description of Election District No. 12 on page 6, this being the Kenai Cook Inlet Election District, that, on the sixth line of the description, after Russian Rivers, a semicolon be inserted.

PRESIDENT EGAN: Do you ask unanimous consent that that change be adopted?

SUNDBORG: I do, Mr. President.

PRESIDENT EGAN: Is there objection to the unanimous consent request? If not, the change is ordered adopted. Mr. Sundborg.

SUNDBORG: I have two other minor changes which I would like to ask unanimous consent to have made. On page 7 in the description of Election District No. 16, the Bethel Election District, in the next to last line, the word "Saint" in "Saint Matthew" be changed in form to the abbreviation "St." I ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent for the adoption of the proposed change. Is there objection? If there is no objection the change is ordered adopted.

SUNDBORG: In the description of Election District No. 23, the Nome Election District, page 8, in the next to last line of that description, I ask that a similar change be made in the name "Saint Lawrence"; change it from "S-a-i-n-t" to "S-t-." I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the change be adopted. Is there objection? Hearing no objection the change is ordered adopted. Are there other questions relating to the apportionment schedule and description of the election districts? Mr. Sundborg.

SUNDBORG: If there are no questions, I ask unanimous consent that the report of the Style and Drafting Committee with respect to Article XV, the Apportionment Schedule, be accepted, and that the amendments made in the article be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Committee on Style and Drafting with relation to Article XV, the Apportionment Schedule, be accepted, and that the changes made therein be adopted. Is there objection? Hearing no objection, the report is ordered accepted and the changes have been adopted. Mr. Sundborg.

SUNDBORG: I now ask unanimous consent that the rules be suspended, that Article XV, the Apportionment Schedule, be advanced to third reading. that it be read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the rules be suspended as to the Article XV, Apportionment Schedule, that the article be advanced to third reading, be read the third time by title only, and placed in final passage. Is there objection? Hearing no objection, the rules have been suspended and Article XV is now before us in third reading. The Chief Clerk will read the title of the article.

CHIEF CLERK: Article XV, Apportionment Schedule.

PRESIDENT EGAN: The article is now before us for discussion or debate. If there is no debate the question is: "Shall Article XV, the Apportionment Schedule, be adopted as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 48 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nerland, Peratrovich, Poulsen, Reader, Riley, R. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 5 - Barr, McCutcheon, Nolan, V. Rivers, Robertson.

Absent: 2 - McNealy, Nordale.)

CHIEF CLERK: 48 yeas, 5 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and Article XV, the Apportionment Schedule, has become a part of the Alaska state constitution, has been adopted as part of the Alaska state constitution. Mr. Sundborg.

SUNDBORG: May we revert to the order of business, committee reports?

PRESIDENT EGAN: If there is no objection, we will revert to the order of business.

SUNDBORG: Mr. President, the Style and Drafting Committee reports back to the Convention that portion of Article XIV, Schedule, which contains the Alaska-Tennessee Plan. This was recommitted to the Style and Drafting Committee or was referred --

PRESIDENT EGAN: Article 17/c, Revised.

SUNDBORG: -- was committed to the Style and Drafting Committee in order to make some changes in language. I would like to report that most of the work in effecting those changes was done by the Ordinance Committee with which we conferred in coming up with a new draft, a copy of which is on the desk of each delegate. It is now designated in the upper righthand corner as Committee Proposal 17/c, S.R., which means second revision, I am told by the boiler room, and it carries the title Article XIV, Schedule. I should say that we have held back in the Style and Drafting Committee what were Sections 27 and 28, which dealt with entirely different subjects, and we have combined and confined this to the Alaska-Tennessee

Plan alone, the material which is now before you.

PRESIDENT EGAN: Mr. Sundborg, is it the Committee's pleasure that the article be placed before us in second reading at this time?

SUNDBORG: I believe it has been assigned to that place by the Rules Committee.

PRESIDENT EGAN: The Chief Clerk may read the report of the Style and Drafting Committee as it relates to Article XIV, Schedule.

(The Chief Clerk read Committee Proposal 17/c, S.R., Report of the Style and Drafting Committee, in full.)

PRESIDENT EGAN: Mr. Sundborg, does the Style and Drafting Committee have a report to make on their work on this schedule?

SUNDBORG: Actually, Mr. President, while we might make a brief report, I believe that the questions should really be handled by Mr. McNealy or some member of the Ordinance Committee since in substance this is their work, and this is really second reading where substance is what we are concerned with. I might say that what our Committee has done to it is change the order somewhat. As we got it from the Ordinance Committee, they provided for the ballot form and for the election, referendum election, on the Tennessee Plan itself at the end of the section, and we have brought that up right after the statement of what the Alaska-Tennessee Plan is about. That appears as subsection 1 on page 1. I would like to ask unanimous consent that on lines 10 and 11 on page 1, parentheses be placed around the term "Alaska-Tennessee Plan", so it will read, "Shall Ordinance No. _____ (Alaska-Tennessee Plan) of the Alaska Constitutional Convention" and so on.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that that change be made. Is there objection? Hearing no objection, the change is ordered adopted. Mr. Sundborg.

SUNDBORG: Our Committee has added to the to the draft as we got it from the Ordinance Committee the provision in subsection 2 that the balance of the ordinance becomes effective if there is favorable vote upon it at the referendum and if, in addition to that, the Alaska state constitution is ratified by the people. Aside from that, the changes we have made are, I think, wholly with respect to phraseology except, if you will turn to Section 8, we have provided a section there requiring that all candidates for senators and representative must file declarations of candidacy by a certain time and pay the same prescribed filing fee. That differs slightly from the treatment given this by the Ordinance Committee, which would not have required the candidates of the major political parties to file such declaration. We felt it was desirable and probably the intent of the Convention that every candidate should file a declaration in which he has to state that he is a qualified

voter and meets the qualifications for the office, and that then, as provided in Section 10 of this draft, the party conventions would certify that he is the nominee of that party. It is our thought, of course, that the person nominated at a party convention would not file his declaration of candidacy until after he had been nominated by the party. We have put the provision on filing of independent candidates ahead of that for major parties just as a matter of style, and I believe subject to further comment by Mr. Davis and Mr. Fischer who served with me on the subcommittee and who worked with me this morning, that that is all our Committee has to report or explain about it.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I would like to ask Mr. Sundborg a question. Section 1, or subsection 1, whatever it is, isn't that a Roman numeral I? My copy is blurred.

SUNDBORG: Mrs. Hermann, I believe that is just purely a typographical blurring or something there and wasn't intended. It is an Arabic 1 inside of parentheses on line 6 -- or it should be.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I ask Mr. Sundborg a question?

PRESIDENT EGAN: There is no objection.

METCALF: Will this entire schedule be printed on the ballot and be given to each voter on April 24?

SUNDBORG: May I ask Mr. Metcalf, would this entire ordinance?

METCALF: The whole thing -- yes.

SUNDBORG: My understanding, Mr. Metcalf, is that nothing would be printed on the ballot except the wording which occurs in lines 10 through 12 of the first page and lines 1 and 2 of the second page.

METCALF: Is every voter presumed to know what is contained in the balance of the ordinance when they vote? I wonder -- is that legal?

SUNDBORG: I am sure that most questions that are put to voters by referendum are put in a very simple form like that and, yes, they are presumed to know.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: In Section 12 I think Style and Drafting failed to clarify when it speaks of "regular" or "short" terms. There is no regular

term; we have changed it, you know. I wonder if he figured the present language covered the situation.

SUNDBORG: If I may answer Mr. Hinckel -- we did here on the floor the other evening provide for two short terms. Then, on motion of Mr. Kilcher, we rescinded the action and put back one full term and one short term, and we have done the same thing. While we are on that section, Mr. President, I would ask unanimous consent on line 14 to strike the word "of" at the end of the line. It's repeated as the first word of line 15.

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection, the word "of" has been stricken. Mr. Hellenthal.

HELLENTHAL: May I address a question to Mr. Sundborg or anyone else concerned? I note that the qualifications for senators and representatives in paragraph 5 of page 2 are such that the qualification for being elected governor of Alaska is more strict than the qualification for becoming a United States Senator. Was that the intention?

SUNDBORG: Mr. Hellenthal, yes. And so are the qualifications for being elected a senator or representative of the Alaska state legislature, where a three-year residence requirement is applicable. But this is in the very words -- I think that we got it from the Ordinance Committee, and maybe Mr. McNealy would like to answer that.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, the language there is based upon the Constitution of the United States which prescribes the qualifications, and so nothing we could say in here would have any effect on the qualifications set out -- I forget what article of the constitution -- for senators and representatives to the federal congress.

PRESIDENT EGAN: Are there other questions to be directed to the Chairman of the Style and Drafting Committee or to the Chairman of the Ordinance Committee. Mr. White.

WHITE: May I address a question to Mr. McNealy? In section 4 the following words appear: "unless when they are seated the senate prescribes other expiration dates". Would you give us an explanation on that?

MCNEALY: Mr. White, the reason for including that wording is that the rules of the senate now provide that one-third of their body be elected every two years, and by adding in two additional senators, it will possibly upset the normal schedule, the normal rule of the senate, and it was the thought of the Committee that the senate of

the United States might provide some different terms and this would leave it open so they could.

PRESIDENT EGAN: Mr. White.

WHITE: The last section, Section 15, I am not quite clear on the necessity for that section at all, because Section 1 is referred to which I think says, "This constitution shall be in force immediately upon the admission of Alaska into the Union as a state". Now, in any event, regardless of what precedes our admission, won't a proclamation by the President be necessary for the admission of Alaska into the Union, and won't that, in any event, be the time that we will be admitted?

MCNEALY: This Section 15 has taken a lot of -- there has been a lot of thought and a lot of argument in the Committee on this particular section, because the courts are not in agreement when a state actually becomes admitted. We know positively that a state is admitted when the President of the United States gives his final proclamation. But should these senators be seated, and the representative, which has happened in a couple of the other states that went into the Union under this plan, then we would have our foot partly in the door and the Committee felt we would be partially admitted, that is, we would be admitted up to the point then of the election of senators. And in the instances where the senators have been recognized by the Congress, the enabling acts have been spelled out a little differently. It has been a very difficult one there, and we can only hope we have arrived at the steps, and the next step would be the election of officers and then the balance of the constitution would take effect after that date, but to say when the elected governor takes office, we assume at or about the time that the President would issue his proclamation, if in this instance one were necessary.

WHITE: If I understand you correctly, there have been instances when states have come into the Union under the Tennessee Plan where their senators have been seated and no proclamation by the President has been necessary?

MCNEALY: To my knowledge, I believe there were a couple of those states.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Might I direct a question to Mr. McNealy?

PRESIDENT EGAN: You may, Mr. Davis.

DAVIS: Mr. McNealy, please look at Section 9 of the Style and Drafting Report. That has to do with the filing by independent candidates, and it says that independent candidates who are qualified according to the provisions of 38-5-10 may file. I suspect

that the section also sets forth how the filing is done, but I am not familiar with it. Are you familiar with that section without looking it up?

MCNEALY: Yes, Mr. Davis, that is the section which sets out the requirements they must meet. I made a statement the other evening here in which I was in error and I would like to correct. I believe I said that on a territorial-wide basis an independent candidate must have 200 signatures, but it requires a petition of 250 signatures which, together with the filing fee, must be filed with the director of finance.

DAVIS: I think, as close as I can tell by comparing the two, while we have turned the language around some in the proposed Section 9, it says the same thing as the equivalent section said in the rough draft copy that you prepared, but it seems to me that we ought to make it clear that the independent candidate is filing under the provisions of that section as well as being qualified under those provisions. I wonder if you would agree with that.

MCNEALY: I hadn't thought that before, Mr. President, but I believe you are correct, Mr. Davis. This apparently -- the section before, I see, provides for the declaration of candidacy, but the --

DAVIS: Well, I guess we had better amplify that a little bit then; get the code and make sure what section we are talking about then, if it isn't the same section.

PRESIDENT EGAN: Mr. McNealy, if the Chair might ask a question, do you know whether or not there was an amendment to 38-5-10 in 1953 when there was an election revision, or perhaps that could be --

MCNEALY: I don't believe it was amended, Mr. President.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I would like to ask Mr. McNealy a question. Does Section 38-5-10 of the compiled laws give a deadline for independents to file that is compatible with the dates set here for nomination by conventions?

MCNEALY: I believe the section does. It requires -- candidates filing for the primary must file by February 1 and independent candidates must also file their petitions by February 1 in order to have their name on the ballot for the general election; that's in the use of the direct primary.

HERMANN: It seems to me, Mr. President, that in order to forestall any difficulty the independent candidate might run into, that there should be a deadline set for his filing, an actual date such as has been set for the Convention.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I checked 38-5-10 and it has not been amended.

PRESIDENT EGAN: Mr. Riley.

RILEY: May I address a question to Mr. McNealy? On page 3, subsection 10, line 17, the remainder of that sentence is on lines 17 and 18, unless that is the language of the statute, would you not consider it clearer if the word "made" were substituted for the word "occurring"? I see the word "made" is used in the same sense on the second line of that paragraph. As I read it, just to continue, there is a little doubt as to where vacancy -- the relationship between vacancy and occurring might be, for filling a vacancy in a party nomination occurring in a primary election.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I might explain in going over this the "in" should be changed to "after".

PRESIDENT EGAN: If there is no objection, Mr. Fischer, would you object to a recess for a few minutes? The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer.

V. FISCHER: On behalf of the Style and Drafting Committee. I request unanimous consent to change, on page 3, subsection 10, line 18, the second word "in" be changed to "after".

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent for the adoption of the amendment. Is there objection? Would you repeat it again, Mr. Fischer?

V. FISCHER: Page 3, subsection 10, line 18, change "in" to read "after", "a-f-t-e-r".

PRESIDENT EGAN: Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other questions? Mr. Kilcher.

KILCHER: In Section 9 where it is a question of requirements as set forth and so on, I wonder if we might have to add additional requirement referring to section blank of our own constitution? I wonder whether it is understood automatically or whether we should state it that the residence or other requirements -- whether they would have to apply or whether only the voters' residence requirement under the Territorial act should apply to those who file. I wonder if this has been given any thought; I haven't.

PRESIDENT EGAN: Mr. Davis.

DAVIS: So far as I know, up to the present time, we don't have any qualifications listed for senators or representatives. Actually, the qualifications are set by the United States Constitution.

PRESIDENT EGAN: Are there other questions with relation to the article - the Style and Drafting Committee's report? If not, if there are no other questions -- Mr. Sundborg.

SUNDBORG: This is in second reading, and I believe it would be subject to calling it section by section for amendment.

PRESIDENT EGAN: This was sent as a special case to Style and Drafting. Are there amendments to Section 1 of Article XIV? Mr. Rosswog.

ROSSWOG: Mr. President, at this time I would like to speak on a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Rosswog.

(Mr. Rosswog spoke upon a point of personal privilege.)

PRESIDENT EGAN: Mr. Rosswog you are not under personal privilege now; you have withdrawn from that, but the question as to whether that could not be the question at this time, Mr. Rosswog. You might offer amendments. Now, the other day when Mr. McLaughlin offered an amendment the first thing, that was substantially the same motion that you are making now, the Chair knew at that time that it was actually out of order from parliamentary procedure because it was, in effect, an amendment that killed the whole article or the whole proposal, but by unanimous consent, as the Chair remembers it, the amendment was accepted and no question was raised. In other words, it had become the wish of the body that, in effect, the rules were suspended and they desired to hold on that policy at that time, but unless you could first have a suspension of all the rules, such a motion would be out of order. I mean you would have to have a suspension of the rules to make such a motion.

ROSSWOG: I do feel that unless there is a further discussion on the whole thing, I would have to vote against the ordinance, so I will move now that we strike Section 1.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Rosswog moves that Section -- Mr. Rosswog, do you mean the little subsection 1 be deleted from the proposal or the whole section?

ROSSWOG: Mr. Chairman, I would like to withdraw my motion. I would like to ask unanimous consent that my motion be withdrawn.

PRESIDENT EGAN: Mr. Rosswog asks unanimous consent that his motion be withdrawn. Is there objection? Hearing no objection, it is so ordered. Mr. Rosswog.

ROSSWOG: Now I would like to propose that Section 29 of Schedule 17/c be stricken. That is the original number of this section.

COOPER: I second the motion.

PRESIDENT EGAN: Mr. Cooper seconds the motion. Mr. Fischer.

FISCHER: Point of information. I would just like to point out that the Alaska-Tennessee Plan as it appears here is Section 29 according to our previously numbered schedule.

PRESIDENT EGAN: The motion is open for discussion. Mr. Rosswog.

ROSSWOG: Well, I would like to tell the delegates that when Mr. McLaughlin's motion came up I felt that we had, as a courtesy to Mr. Lehleitner and the Committee, to hear the proposal through, although at that time I did have some doubts and reservations on the proposal. Now as it has been changed, I feel I could not vote for it. The thing is, by deleting the primary, I do not feel that we would have true representation from the people of Alaska. I did not want to see the primary as proposed in this ordinance, because we would be just fooling the people to tell them that an unworkable primary was going to be tried. There is one other thing in there that I do not like, and that is that the legislature shall provide money for this plan. We are directing the legislature to do that, and we open the way -- we do not know what the plan is going to cost, and we are opening the way for accusations that we are using money of the Territory, that we have money to use on these purposes. We right today have men from these cities back in Washington requesting increased appropriations, and for money that is very necessary for the Territory, and yet we are willing to go along blind and say we are proposing a plan of this type and we still do not know what it is going to cost. I believe it will cost quite a bit to properly put it through. Another thing, we are setting up such a plan. There are people I know that would run for it, but we have lots of men in the Territory who are working and trying to get Alaska ahead right now. I am sure they would be competent, but they would not take the chance of running for some office that has no authority and is still not set up. I admit this plan is very good publicity. It is a very fine publicity plan, and it also may help us to get statehood, and that is in favor of it. But on the other hand, there is harm that could be done with it. I still have my doubts about it, and without the use of the primary -- that is the main point -- also not knowing what it will cost.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: May I have the privilege of the floor for a minute?

(Mrs. Hermann then spoke upon a point of personal privilege.)

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I move that we recess until 4:00 and all of us go up and drink a cup of something -- for tonic.

PRESIDENT EGAN: Hearing no objection, the Convention is at recess until 4:00.

RECESS

PRESIDENT EGAN: The Convention will come to order. Will the Chief Clerk please read the communication that is now before us.

(The Chief Clerk read an invitation from the Department of History and Political Science to an informal coffee hour at 3:30 Thursday, February 2, 1956.)

PRESIDENT EGAN: What is the pleasure of the delegates? The request is that the delegates are invited to be the guests of the History Department at our regular recess at 3:30 tomorrow afternoon -- Thursday afternoon. Mrs. Sweeney.

SWEENEY: Mr. President, I move and ask unanimous consent that we accept the invitation.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the Convention accept the invitation. Hearing no objection, it is so ordered and Mr. Moberg will be notified. We have before us Mr. Rosswog's proposed amendment to Article XIV. Is there further discussion of the motion that is before us? Mr. White.

WHITE: Mr. President, the amendment before us is to strike this section, so the question before us is: "Shall we or shall we not have the Tennessee Plan?" I think we have all found that anything we do is subject to question as to detail. I think the procedure we have arrived at is to work out the details to the best of our ability, and then to decide the question on its merits. In my mind there is no question as to the merits of the Tennessee Plan or to the advisability of our following it. I think Sunday afternoon it was clear -- amply clear that possibly all 55 of us would prefer to have a primary if possible, and Mr. Rosswog in making his presentation of this amendment rightfully said, to my mind, that the reason we could not adopt the primary system is because it would be fooling the Alaska people into thinking that we felt something would be practicable and workable that we knew very well would not be workable, and the only other alternative to go through a primary is to have a separate primary, and there is no question but that this Convention does not have the funds to pay for and organize a separate primary. There is only one other alternative, and that is to delay this whole business for another two years, which I think we're all agreed would defeat its very purpose. Now, as to the cost of this plan, we have not said anywhere that I can find in this Revised Schedule that the legislature shall do anything. The cost of the two senators and a representative at the

full salary they receive under the federal government is \$22,500 apiece per year. We haven't said that the legislature will have to appropriate that amount. Possibly they would. There is also, of course, the possibility that these people will be seated and paid by the federal government in the normal manner. But, in any event, and also in Section 14, we have provided that the unexpended funds of this Convention be applied to the increased costs of the general election or the increased costs of holding a referendum. That is perfectly proper. These funds were given to us under the authority of the act passed by the legislature to do everything necessary to prepare Alaska for statehood, and we are doing no more or no less than that. But I submit that whatever the cost might be, and I cannot see that it would be excessive, it is well worth paying. Alaska has certainly never gone overboard in throwing money around in its fight to gain statehood. The Hawaii Statehood Commission, by contrast, has spent several millions of dollars. The 1949 appropriation, I believe, was \$500,000 for the Hawaii Statehood Commission. I recall that when we took a trip to Washington in the spring of 1954 and paid our own way, Hawaii called a special session of the legislature and appropriated, if memory serves me correctly, \$150,000 for that purpose. I feel that any money that this costs us will be well worth spending, and I would remind the delegates that we have -- the people of Alaska have deliberately decided to hold a constitutional (constitutional) convention in advance of the passage of an enabling act and have appropriated for that purpose the sum of \$300,000. Apparently the overwhelming majority of the people of Alaska felt that that expenditure was well worth while, because if we had waited for passage of an enabling act, the Congress would then have paid the expenses of our constitutional convention. Now I submit that the next logical step is to go after statehood. Else why have we spent \$300,000 and come here to write our constitution at the earliest possible date? The only logical answer is that we should go on from here and do everything we can to enhance the day when we get statehood, and I think a consideration that possibly Mr. Rosswog is overlooking is that what small sum is necessary to carry out the Tennessee Plan will be many times repaid to the State of Alaska by gaining statehood at an earlier date. We could go on all afternoon, but under the enabling act we immediately become eligible to receive half the proceeds of the Pribilof Islands. That amounts to well over a million dollars a year. We become eligible to participate in the Federal Highway Aid Act. That will be a considerable advantage to the state. We get control of our resources. We'll get control of our fisheries. Who can say what the advantage to Alaska in terms of dollars would be for each day that we hurry the admission of Alaska to statehood? I see no indication here that anyone in this party is opposed to statehood at the earliest possible moment, and I submit that the way to get it at the earliest possible moment is to go after it with every tool at our command.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I have had a very deep admiration for Mr.

Rosswog up to the time he made his statement, and I will say that admiration has increased since he made his statement. I think that he has brought something out that should have been brought out. Otherwise, we would not have heard the fine statement made by Mr. White, and I think every one of us knows we are going to face difficulties; we are going to face opposition; we are going to face criticism. That can all be taken as a part of carrying forward the Alaska-Tennessee Plan, and I am sure that the majority of the delegates and all of the people of Alaska -- I should say a majority of the people of Alaska will feel exactly the same way.

PRESIDENT EGAN: Is there further discussion? If not -- Mr. Victor Rivers.

V. RIVERS: Mr. President, I think that a few words are in order on this subject. In the earlier days of the statehood movement, back in '47 and '49, this problem of having an election and senators and representatives being chosen and sent to Washington came up. At that time I was one who opposed it, mainly on the grounds that we did not have a suitable enabling act. The enabling act at that time was patterned after that of states that had been admitted 50 years before, and did not allow us proper assistance to make the transition from the present stage to the stage of government which we had reached. However, in considering this matter at this time, my main thought was: What good can it do? Will it do us any harm? I have thought along with the balance of the majority of this Convention that this would be a substantial step toward statehood. In considering the possibility as to whether or not it might do harm, I wondered if it might affect the enabling act or any of the provisions of the enabling act, because we do need certain assistance in transition from a territorial to a statehood status, especially when government has assumed the proportions in our everyday lives that it has at this date. But I made the decision at that time and I said nothing during the debate on the floor. I made the decision that this was good for Alaska. I also wanted to see the primary, but in losing the primary it was a matter of the time element and workability. I also accepted the fact that we lost the primary, but in putting the program up to the people, they have the choice of rejecting or accepting the plan if they have any objection to the type of nominations. As far as the cost goes, I don't think we can afford to be without statehood. From the many, many problems that have arisen on this floor from our everyday considerations of them, we must view statehood not only as a right to exercise the privileges of voting citizens to elect our senators and our congressman and our Presidents, but also I think we must view it as a vast economic advance. It has been my observation in a long time of reading that those territories that got statehood immediately began to make economic progress. It has been my further observation that if we have statehood we are bound and sure to have greater amounts of private capital seeking investment in the territory for the long pull at lower rates of interest. We are bound to bring into production some of the vast resources which those of us who have lived here for a long time know exist, and

which are waiting to be brought into the service of mankind. I do not see how we can afford to overlook any step which would delay us achieving the goal of self-government that we hope to achieve, and will achieve when we get statehood. I also believe that, while it will not solve all of our problems all of the time or immediately, it will help us solve a great many of them, and we can then go forward on the basis of a democratic government on the free enterprise system, which has proven so successful throughout the whole United States. I favor pushing through with the Tennessee Plan to the ultimate end, the achievement of statehood.

PRESIDENT EGAN: Mr. McNees.

MCNEES: Sourdough Jack says in his column tonight, "I vowed to let my whiskers grow until Alaska is a state. When we finally get statehood, I am going to stand in Nome and have the end of my beard trimmed by a Ketchikan barber." I feel that he, along with many others of us feel, that the cause of statehood is pretty hopeless unless we act pretty drastically. I am heartily in favor myself of the Alaska-Tennessee Plan, feeling that it is our only recourse as a colonial empire to go ahead and act with a positive forthrightness that will attract some attention. For the sake of the record, I am going to invite this Jack to Nome on the day statehood is finally declared, and I will guarantee that he can at least have his beard trimmed in the borough that surrounds Nome.
(Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, I was not here when we argued -- the Convention argued the Tennessee Plan the other day, and I feel that Mr. Lehleitner is very conscientious in his efforts towards admitting Alaska through this particular plan. However, I have some of the same concerns that Mr. Rosswog has as to the primary plan. I feel that the people of Alaska are individuals and are not acceptable to compromises, and that some sort of an equitable primary plan should be worked out by this Convention. I don't believe that the party convention form of selecting these particular candidates is going to work out. I believe that that is the largest question in my mind. However, there are several other questions in my mind, and one is the legality of the ballot as to when it goes on the ballot in the October election. Have we got provisions in our statutes to take care of that? Not being an attorney, I am not familiar with that form. However, I believe there would be some question of legality as to whether this Convention here can put such an ordinance to the people without having a legal clearance to get the official ballot and title on the October or the general election. The third question that comes to my mind is: Where is the money going to come from? Now as far as running the election or the prorated part of the election, we will without a doubt have \$25,000 or \$26,000 -- we don't know yet. We still have an awful lot of commitments to make to the Alaska Statehood Committee, to the P.S.A., and other things that the Convention is going to have to handle, and although in our last financial

statement that we and the Committee on Administration brought out, we had around \$12,000 in miscellaneous. However, this is going to be reduced tremendously this week because we have so many commitments to the Statehood Committee which are legal and binding commitments. Now, as to the question of money as far as the candidates themselves are concerned, if we elect two senators and a representative to go back there we are certainly not going to expect them to go back and pound the floors of congress for a flag for Alaska statehood on their own money. Otherwise, you will find they will be suffering financially from their outlay of money as well as their business that they have left behind in Alaska. I believe that if it is provided by law we would have to have a special session of the legislature or such measures as that. I believe that this thing needs a lot of consideration; we have flown through it. We have listened to an argument for it; we have heard of letters commending the Tennessee Plan; but we haven't seen anything saying to the other side of it, and I believe the delegates here should act wisely on this as they have on all the other articles of this constitution. We have scrutinized everything well before we have acted upon them, and I believe the fears that are expressed by Mr. Rosswog and other delegates should be held at this Convention.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I mentioned Sunday that I think we are victims of circumstances, and it looks like we find ourselves in the same situation today. Some of the arguments that were used against the primary system Sunday seem to hold out just as well against the election next fall. For instance, they said, "How can you have men run on a primary and not have any assurances that the clerk of court will handle it because they don't have to?" I don't know what different status they would have next fall. Would they have to handle it for us then? If they will handle it then, why won't they handle it now? It seems like there are so many, many arguments that you can put in there that if you throw them out you can throw the other one out; that is, if you weigh the two of them equally. I believe that the thing should be given a little more consideration -- the possibility as far as having these first men selected for this important post to be selected on a territory-wide basis in the proper manner.

KILCHER: Point of order.

PRESIDENT EGAN: Mr. Londborg was speaking. Mr. Hilcher, your point of order?

KILCHER: I would like to retort to both delegates Coghill and Londborg. Mr. Coghill, I fully share some of your fears that arise when we consider the implications of the Tennessee Plan. I don't think there is any man who has not some fears when he treads untrod territory. It would not be normal if this were not the case. However, in life -- sometimes in the life of the individual, and in this case in the life of a political body, we have to take a step

into the unknown, and these steps always are coupled with some amount of fear. There is no such a thing as a guarantee. We cannot go to a crystal ball gazer or to a lawyer or to a title trust company and tell these fellows, "Now you are bonded -- you guarantee us this thing will work." Nothing in this world has ever been gained without some amount of gambling, without some willingness to risk something, and I think the risks should be weighed that what we are doing, but ultimately we have to make a decision, and I, for one, am supporting the plan. I would have preferred primaries; I still think it might have worked. It might have been a little added risk, that is true. But as things stand, considering all points in question, I think we have only one course to take and that is to walk on.

PRESIDENT EGAN: Delegate Davis has been attempting to get the floor, Mr. Barr.

DAVIS: Mr. Chairman, I would just like to rebut the inference that was made here a minute ago that this matter hadn't been thoroughly considered. After all, we considered it for five hours Sunday afternoon, and if anybody thinks it wasn't thoroughly considered he is wrong. Now I realize Mr. Coghill wasn't here; but that is the fact. It was thoroughly considered.

PRESIDENT EGAN: Mr. Barr.

BARR: I want to speak mainly on Mr. Coghill's objections. No one here has abandoned the principle of the primary election. We all agree it should be used if possible, but in this case it is utterly impossible. In my business I get around to the outlying sections quite a bit, and during election, just before election time I am kept busy checking to see whether the different precincts have obtained their ballots and election material. Many of them obtain it just at the last minute, and sometimes one or two of them miss. We would have even a shorter time on this occasion, and we could not hold such an election and be within the law in this case because the Territorial law says that the notice of election shall be posted at the precincts 30 days before election day, which would be impossible. Mr. Coghill doubts that we would have the authority to place this question on the ballot. The law authorizing this Convention says we shall write a constitution and any necessary transitory measures or ordinances connected thereto. In other words, the authority is delegated to us to do what is necessary to bring this constitution into being and to advance statehood. So we do have that authority, I believe. As far as the pay for the senators and congressman is concerned, the people who will run for these positions, I believe, will be willing to make some sacrifice to go there. There may be some who are not independently wealthy, but if we can arrange for some method of paying their expenses, I know there would be a great many people who would be willing to take on that job, and there are several ways to do it. The Statehood Committee, of course, has authority to hire assistants, public relations people, or anybody for advancing the cause of statehood, and

if a man goes to Washington to serve us as a congressman or senator he could certainly come under that and perhaps get his expenses paid. That is by law too, by the way. Now, if you want to save money, of course, there is one man in Washington who is already on the federal payroll and if he is elected we will save quite a bit. As for the necessity of this Alaska-Tennessee Plan, we have been told by people who know, including delegate Bartlett, that our position right now is not very secure. The outlook is pretty dark for statehood. We should use any method available to us. Alaska in the present day is in the same position as a turtle; it just won't get anywhere unless it sticks its neck out.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: I wonder if I can read a paragraph of a letter to Mr. Rosswog before he makes his closing statement. It's from Kirkley S. Coulter, who is the acting director of the Office of Territories, Department of the Interior. In a letter to me that was dated in December he said, "The holding of a convention to draft a constitution prior to the enactment of an enabling for statehood legislation by the Congress has several precedents. The latest is the Territory of Hawaii which, some years ago, held a constitutional convention. However, neither Hawaii nor Alaska can be admitted to the Union as a state until the Congress enacts the necessary legislation." And then this sentence stands out: "There is, of course, no assurance that the Congress will accept the constitution (constitution) that may be written at the Alaska convention. You may be assured that the President is entirely sympathetic to the political aspirations of the people of Alaska. He is also keenly aware of the obstacles which must be surmounted." And I offer this suggestion to all of you: I don't think he is keenly aware of all of the obstacles, and I think we need someone to interpret to not only the President but to the Congress our feeling of how desperately we want statehood now.

PRESIDENT EGAN: Mr. Rosswog, you may close.

ROSSWOG: If I may just say a few words. I don't think any of the delegates would think that I was doing this to -- that I didn't wish to have statehood or would want to delay it in any way. I haven't spent my life in Alaska and not want statehood. I do feel, though, that we may not agree on the ways we go about it. And it had been my feeling that the Tennessee Plan -- we were given the choice of taking it at any price, and up to now I did not feel I was willing to pay that price. I hope you will vote as you wish.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Rosswog be adopted by the Convention? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 6 - Coghill, Laws, Londborg, Reader, Robertson, Rosswog.

Nays: 48 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wein, Mr. President.

Absent: 1 - Taylor.)

CHIEF CLERK: 6 yeas, 48 nays, and 1 absent.

PRESIDENT EGAN: So the nays have it and the proposed amendment has failed of adoption. Are there other amendments to subsection 1 of Section 29? Or subsection 2? Subsection 3? Or 4? Subsection 5? Subsection 6? Subsection 7? Subsection 8? Subsection 9? Are there amendments to be proposed for subsection 10? For subsection 11? For subsection 12? Are there amendments to be proposed for subsection 13? Mr. Londborg.

LONDBORG: I don't have an amendment right now, and I don't know if one is necessary, but I would like to ask a question if I may. What date are these two senators and representative supposed to start their work in the capital?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: If elected at the fall election they would take office, I believe, the third of January or the fourth of January next year.

LONDBORG: What date does the legislature meet here in the Territory next?

MCNEALY: I believe on the fourth Monday.

LONDBORG: Somebody said January 20. I want to ask a question. It doesn't make a great deal of difference to me but who is to tell these men what to do between January 3 and January 20, when the duties are to be prescribed by the legislature or by law? Are they going out there with nothing to do, or just do what they please, or are we going to have a special session to write a law for them to give them a job?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I suggest that the duties of senators and representatives are prescribed by the laws of the United States, and that is the only law we can mean in that case.

LONDBORG: Is it necessary, then, that we have here duties for them to do from our end?

PRESIDENT EGAN: Can anyone answer that question? The question was: Is it necessary, I believe, to have Section 13 in the ordinance? Is that your intent, Mr. Londborg?

LONDBORG: Yes. I was wondering. Now I am informed that they get their duties from the United States; then why do we prescribe duties for them?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I think it is reasonably conceivable that the people of the State of Alaska, through their representatives, might insist that they do additional work on behalf of the Territory of Alaska, or possibly even on behalf of the state if they are successful. I know -- with very limited experience I know that there has been some tendency for some time on the part of many people from both major political parties of the Territory to request that the Territory set up a publicity or public relations department in the District of Columbia, and they might have those additional duties imposed on them.

LONDBORG: Well, Mr. President, what I am getting at is this: If they go out there on January 3 without any specific authorization by law, whatever they do they are acting on their own. It might be the wishes of the people but not an official task as far as specifically telling them what to do. Who is going to be liable then for anything they do or say? In other words, if a person has a specific job prescribed by law, if he is elected to it and serves in that capacity, then he has something to fall back on. But here we have a lapse of some several days that they are going to be acting without anything specific for them to do.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Londborg a question? Are these oratorical questions?

LONDBORG: Well, I don't know the meaning of the word "oratorical" so I can't answer that.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to say that it seems to me that the people who are elected under this ordinance will have a job. Their job will be to get statehood for Alaska. Anybody who runs for this position, anyone who is elected will have a full and complete meaning and knowledge of what his tasks are, and it is not only to get statehood for Alaska but to do everything possible to assume their rightful seats as United States senators and representative, and I don't think any of us, or even the legislature, could proscribe the best way for them to accomplish that. Possibly the legislature may assign additional duties if they are not seated, but in any case, they will have a job to do as of January 3, 1957

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I make a brief comment. It seems to me that the senators and representative have a very definite job to do. It's laid out for them. They have to get an official entrance into the halls of Congress, and that is a big job; just that alone.

PRESIDENT EGAN: The Convention will come to order. Mr. Harris.

HARRIS: I would like to ask a question of Mr. McNealy, if I may. Mr. McNealy, when you say "as prescribed by law", who are you referring to here? The legislature of the Territory or what?

MCNEALY: Mr. President, that refers mainly to the laws of the United States but also includes such laws as the Territory might pass. It was written that way so it would be all-inclusive.

HARRIS: I would like to ask you one more question, if I may. As I understand it, you cannot legally hire a man, no matter who he is, without paying him some type of salary. Is that correct? Whether it's a dollar a year or a hundred thousand dollars a year, you still have to pay him something?

MCNEALY: Well, we have quite often in court cases come up against this, and the defense is that they were working gratuitously. There have been a good many cases that have supported that if a man wants to work for nothing, why that's his privilege.

HARRIS: Well, the question in my mind is whether he is actually an employee of the Territory of Alaska unless he is being paid something, and if he is not being paid anything, if he can work these 20-odd days for the Territory of Alaska. That is the point I want cleared up.

MCNEALY: Well, I would say he would be working. Going back again, Mr. President, to the historical precedent, the man is not only working for the Territory from which he came, but he is also working for himself to get on the federal payroll. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Robertson.

ROBERTSON: The other day we put this in by specific amendment and it was inadvertently omitted before, under the previous discussions of this system.

PRESIDENT EGAN: Are there other amendments to be proposed for Section 13? or for Section 14? For Section 15? Mr. Coghill.

COGHILL: May I ask a question of Mr. McNealy?

PRESIDENT EGAN: If there is no objection. Mr. Coghill.

COGHILL: Mr. McNealy, could you point out to myself and the other delegates under what legal portion of the Alaska laws would allow

this Convention to pass ordinances and have an election placed on the official ballots of the general election?

MCNEALY: The provisions of the Enabling Act calling this Convention would be the one authority which gives the Convention power to make ordinances, which has been mentioned here on the floor a great number of times. Secondly, the number of court decisions which set out the inherent powers of the Convention to order elections, and which I would be glad at recess to show any of the delegates, and third, and what I consider most important, is the fact that this very Convention, there was a question in the halls of the legislature whether or not this would be on the ballot, and the delegates be on the ballot, and whether the governor would see that they were put on. There was no hitch there, and with the cooperation that we have had before from the governor, I think we have reason to expect this cooperation.

COGHILL: Mr. McNealy, is it then true that the ordinances that we pass out of this Convention and are voted and are ratified at the primary election, are they considered statutory law?

MCNEALY: They are considered, in the language of the courts, as fundamental law.

COGHILL: Fundamental law passed by the people?

MCNEALY: Yes, because the people by putting their stamp of approval on them are higher of course than even the legislature.

COGHILL: In Section 13, then, of the Enabling Act or the act providing for this Convention, I notice it says shall have the power to make ordinances or to take all measures necessary or proper in preparation for the admission of Alaska as a state of the Union". Would that then hold over, this being a part of the statutory law of Alaska, then, would allow this Convention to make an ordinance which, if it is ratified at the primary election, would then become a law of the land and the people would abide by it?

MCNEALY: It would become a fundamental law for the purposes for which it is granted.

COGHILL: For which it is granted? In other words, then the ballot going on the general election would then be legal through that channel?

MCNEALY: That is definitely my opinion. It is a mandate of the people then to place it on the ballot.

COGHILL: That would be the legal procedure to go through. That was one of the big questions that I had in my mind. Thank you.

PRESIDENT EGAN: Are there other questions or proposed amendments for Article XIV? If not, the article is referred to the Committee

on Engrossment and Enrollment. Mrs. Sweeney.

SWEENEY: Mr. President, since there have been no amendments or anything to it, I would like to move and ask unanimous consent that this Proposal 17/c, S.R., be referred directly to Style and Drafting without going through Engrossment and Enrollment, to save time and since there is so little to do on this.

PRESIDENT EGAN: Is there objection to Mrs. Sweeney's unanimous consent request? Mr. Victor Rivers.

V. RIVERS: I have no objection, Mr. President, but it seems to me that in outlining here what we consider to be our powers as a constitutional body, I would like to read into the record a couple of comments. It relates to the work of a Judge Story. Judge Story, in his work on the constitution, Volume 1, Fifth Edition, 338, declares "The true view to be taken of our state constitutions is that they are forms of government ordained and established by the people in their original sovereign capacity to promote their own happiness and permanently secure their rights to property, independence, and common welfare." Under that clause I feel we are proceeding along the path we are now following in adopting the Alaska-Tennessee Plan. In the case of Sproule vs. Fredericks, 11 So. 472, 69 Miss 898, the Supreme Court of Mississippi in discussing the powers of the Convention says, "It is the highest legislative body known to free men in a representative government. It is supreme in its sphere. It wields the powers of sovereignty, specially delegated to it for the purpose and the occasion by the whole electoral body, for the good of the whole commonwealth. The sole limitation upon its powers is that no change in the form of government shall be done or attempted." I will finish that quotation: "The spirit of republicanism must breathe through every part of the framework, but the particular fashioning of the parts of this framework is confided to the wisdom, the faithfulness, and the patriotism of this great convocation, representing the people in their sovereignty."

PRESIDENT EGAN: If there is no objection, Article XIV is referred to the Committee on Style and Drafting. We have -- Mr. Sundborg, the Chair notices on the calendar Article XII, the General and Miscellaneous Provisions section. Are you ready to have that report?

SUNDBORG: I will have to report to the Convention that the Style and Drafting Committee has nothing else in shape to report to the Convention at this time.

PRESIDENT EGAN: And the three items that appear on the calendar, Mr. Sundborg, are not available to the body for action as yet?

SUNDBORG: That is true, Mr. President.

PRESIDENT EGAN: We have here a communication. If there is no objection, the Chief Clerk will read the communication at this time.

(The Chief Clerk read a letter from Olaf Halverson of Nome regarding the application of a percentage of the resources income to educational purposes.)

PRESIDENT EGAN: If there is no objection, the communication will be referred to Mr. Coghill. Is there anything else to come before the Convention at this time? Mr. Riley.

RILEY: If you desire to fill in at this point until our usual recess time, Resources could come on at this time.

PRESIDENT EGAN: Was Resources sent to Style and Drafting?

RILEY: No, it was not.

PRESIDENT EGAN: Then, if there is no objection, we will bring before us the article on Resources, Article No. VIII, at this time. Mr. Barr.

BARR: Do we propose to work this evening, and possibly could you tell me about how long?

PRESIDENT EGAN: Mr. Barr, it is the feeling of the Chair, if the Chair might state, that we probably will not work this evening, but the Rules Committee chairman might have something to say.

RILEY: In that event we could perhaps get this out of the way in the next half hour, Mr. Barr, and not carry it over on the calendar tomorrow.

BARR: That is the extent of our work, you think?

RILEY: I don't believe it should take any longer, if that long.

BARR: There is nothing after this, you mean?

RILEY: Not on Resources, and Style and Drafting just advised us they had nothing further on the calendar.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: May I ask the Style and Drafting Committee a question? This Article XIV which we have just been working on -- I note this is headed up as a report of the Committee on Style and Drafting. Has this or has it not been through the Style and Drafting Committee, or does it have to go back again?

PRESIDENT EGAN: Mr. Hinckel, it would seem to the Chair that Mrs. Sweeney included that in her motion for unanimous consent -- the unanimous consent request that it be referred back to Style and Drafting. It is the feeling of the Chair only that the Style and Drafting Committee might look it over again and then refer it to the Rules Committee for assignment to the calendar in the morning. Mr. Sundborg.

SUNDBORG: Mr. President, we do feel there are several places in it where it does need some work.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Point of clarification. Mr. Sundborg, are there only three articles left to work on, to come out of Style and Drafting?

SUNDBORG: Mr. President, Mr. Coghill, we have left, really, only parts of two articles; namely, part of the General and Miscellaneous Provisions, and part of the Schedule of Ordinances and Transition Measures. All that we have in our committee at the present time on which we are working is one section of the General and Miscellaneous Provisions, that is the section dealing with the Native lands disclaimer, and several portions of the Schedule of Ordinances and Transitional Measures of which the Alaska-Tennessee Plan is one, and the other ordinances, the fish trap ordinance, the capital provision, and so on, and that is all we have in our committee.

COGHILL: This chart, in other words, is up to date?

SUNDBORG: I would have to ask Mr. Hurley who is in charge of keeping up the chart.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: The chart, as far as I know, is up to date.

PRESIDENT EGAN: Mrs. Sweeney, does the Engrossment and Enrollment Committee have anything at this time?

SWEENEY: No sir, although we have some scheduled for engrossment.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, may I direct a question? I don't know how else to discuss the matter for a little bit except by directing a question to Mr. McNealy.

PRESIDENT EGAN: If there is no objection, Mr. Johnson.

JOHNSON: There is one thing that I have seen no evidence of in our proposed constitution and that is any provision for filling vacancies in the United States Senate and the United States Congress. I am not sure whether it is necessary, but I don't know whether any thought has been given to that matter or not?

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: As I remember, it has been some little time since I have read the federal constitution on that particular point, but I can't remember whether it states that vacancies in office shall be filled

by the state legislature, as provided by the state legislature, or as provided by law, and the mention of that brings this thing to mind, that we might mention, with permission of the President, to the Style and Drafting Committee, that there certainly is no provisions for vacancies in case these interim appointees are elected.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: It has been a matter of some concern to the Style and Drafting Committee whether there might not be a provision required in our constitution about the election of members of the Congress, not just in connection with the Alaska-Tennessee Plan, but permanently, so we have had our consultants look into that, and they report that, I think, there is only one constitution, or there may be a handful that mention the subject at all, and the reason for that is that there is a specific provision in the United States Constitution which says that a vacancy shall be filled -- Mrs. Nordale, do you have the reference? It says, "When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies". Now in most states, we are advised, the legislature does provide methods by which vacancies will be filled, but this is back-stop provision. When there is no provision of law the federal constitution provides that the governor, in effect, fills the vacancy.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Would that apply also then to a vacancy under one elected under the Alaska-Tennessee Plan?

SUNDBORG: That is one I can't field, Mr. Londborg.

LONDBORG: I was just wondering.

SUNDBORG: I think Mr. McNealy would be your man on that.

PRESIDENT EGAN: Mr. McNealy, could you answer that question?

MCNEALY: Mr. President, on that I believe under the present wording of the plan, we can only hope these officers will live. It is very likely that there should be some provision made for filling that office. However, it would take a little mechanics to work it out, I would say.

HELLENTHAL: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal.

HELLENTHAL: Do we not have before us the article on natural resources?

PRESIDENT EGAN: That is the next article to come before us, Mr.

Hellenthal. The Chair would like to state at this time, though, that this is the time when each delegate should be thinking of any

questions he or she might have with relation to anything that may have been overlooked, and if any question arises in anyone's mind, they should appear before the Ordinance Committee or notify the chairman of the Ordinance Committee and bring their subject matter before that committee. Mr. Coghill.

COGHILL: Mr. President, in other words, it would be my position to go before the Ordinance Committee to fill the ramifications of the letter referred to me?

PRESIDENT EGAN: That might be well and good, Mr. Coghill; you might let the Ordinance Committee have a look at it. Mr. Sundborg.

SUNDBORG: With further reference to the question asked by Mr. Londborg, Mrs. Nordale has pointed out to me that the 17th Amendment to the United States Constitution provides in greater detail about vacancies in the offices of senators and representatives. It says "When vacancies happen in the representation of any state in the senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct. This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the constitution." It has occurred to some of us, Mr. President, that if the governor of Alaska were sufficiently energetic and were of a mind to do so, he might proceed on the assumption that, upon the ratification of the ordinance on the Alaska-Tennessee Plan, a vacancy would be created in the office of senators and representative, and he might fill the offices by appointment until such time as we would have an election in October; it's a possibility.

PRESIDENT EGAN: We now have Article VIII, the article on natural resources -- Mr. Londborg.

LONDBORG: I don't want to belabor the point any more, but all of those references were to a state and I was wondering if -- say now next spring, if one of the men should die before we are granted statehood, would there be any way to fill that vacancy? These references are to a state and we would not be a state until -- or are we going to worry about that if we lose a man?

PRESIDENT EGAN: The Chair would like to state that that might be a matter for the interested parties to take up with the Style and Drafting Committee and with the chairman of the Ordinance Committee before the article comes back on the floor again. Mr. Sundborg.

SUNDBORG: I would like to announce that it is the intention of the Style and Drafting Committee to bring this particular matter, the Alaska-Tennessee Plan, back on the floor first thing tomorrow morning, and we will be meeting immediately upon adjournment to work on it, so anyone interested we would advise to meet with us at that time.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I was going to ask unanimous consent that we delegate the authority to Style and Drafting and they confer with Mr. McNealy, and they take care of the case if something happens to one of our senators.

PRESIDENT EGAN: If there is no objection it is so ordered. We have Article VIII, the article on natural resources before us. What was its position at the time it was -- was it in second reading, Mr. Riley?

RILEY: Yes, it's still in second reading. The Style and Drafting report has been accepted, and the Committee has some substantive material yet to be considered.

PRESIDENT EGAN: Now then, are there any amendments or questions with relation to the article? Mr. Riley.

RILEY: Mr. President, I would like to present the committee amendments, and in each case will ask for unanimous consent for suspension of the rules to consider a specific amendment. The first would be on line 14 of page 1, where the Committee seeks to restore the word "maintained" instead of "conserved", which was introduced by Style and Drafting. Originally, the word "maintained" appeared on line 14 and had been changed by Style and Drafting to "conserved", and the Resources Committee felt that the word "maintained" gave far greater meaning with relation to sustained yield than did "conserved". I ask unanimous consent for suspension of the rules.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the rules be suspended for that purpose. Is there objection? Hearing no objection, Mr. Riley, you may offer your amendment.

RILEY: I now ask unanimous consent, Mr. President, that the word "conserved" on line 14 of page 1 be stricken and that the word "maintained" be substituted.

PRESIDENT EGAN: Unanimous consent is asked that the proposed committee amendment be adopted. Is there objection? Mr. Sundborg.

SUNDBORG: Only temporarily, to state that Style and Drafting didn't change that just to be changing something, but if you will look at line 6, there is a parallel construction where it says "utilization, development and conservation of all natural resources". We attempted to carry out the same thought here by saying "utilized, developed and conserved" and we certainly have no objection to the amendment which Mr. Riley suggests.

RILEY: We appreciate the reasoning employed by Style and Drafting and I should have touched upon that.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the

amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Riley.

RILEY: On line 20 of page 2, the Committee wishes to change the wording slightly so as to read in this manner "Leasing of, and the issuance of permits for exploration of, any". I ask unanimous consent for suspension of the rules to submit that proposed amendment.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the rules be suspended for that purpose. Is there objection? Mr. Riley, will you read the amendment again?

RILEY: The Committee proposes to change the language of line 20 to read as follows: "leasing of, and the issuance of permits for exploration of, any".

PRESIDENT EGAN: Would the Chief Clerk please read that sentence then, as it would read if the amendment were adopted.

CHIEF CLERK: "The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses."

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent that the rules be suspended for that purpose. Is there objection? Hearing no objection the rules have been suspended. Mr. Riley.

RILEY: Now, Mr. President, I submit the Committee amendment as read by the clerk. I might add that this amendment has been cleared by those delegates who raised the question yesterday. I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: As read by the clerk -- I didn't understand the amendment. The amendment will insert a comma after the words "leasing of" in line 20 and involves deletion of the word "exploration" in line 20 and the further deletion of the words "to any"?

RILEY: It involves this, Mr. Hellenthal: the comma after the word "of", the insertion of the word "permits" between the next "of" and "exploration", "permits for" goes in at that point, and striking of "permits to" later in the sentence in the line, and insertion of the word "of", so that it reads "and the issuance of permits for exploration of,".

HELLENTHAL: "any part"?

RILEY: Right.

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of this amendment? If there is no objection, the amendment is ordered adopted. Are there other Committee amendments?

RILEY: Mr. President, on page 3, the sentence commencing on line 19 and ending on line 23, the Committee asks suspension of the rules for purposes of deleting the last two words of that sentence on line 23. Those words are "and processing". Those words, I believe, were inserted while the matter was under consideration by Style and Drafting, perhaps for purposes of paralleling as mentioned later, but the Committee does not feel they are essential, and accordingly I ask unanimous consent for suspension of the rules for submitting that amendment.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the rules be suspended for that purpose. Is there objection? Hearing no objection, the rules have been suspended. Mr. Riley.

RILEY: Mr. President, I ask unanimous consent that on line 23 of page 3 the two words "and processing" be stricken and that a period be placed after the word "extraction".

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Are there other committee amendments?

RILEY: On line 24, same page, Mr. President, I ask unanimous consent that the rules be suspended for purposes of inserting the word "or" before the last word of the sentence, so that it reads "shall depend upon the performance of annual labor, or the payment of fees" and so on.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended. Is there objection? Hearing no objection, Mr. Riley, you may offer your amendment.

RILEY: I now offer the amendment for the Committee, that the word "or" be inserted just ahead of the last word on line 23.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Riley --

RILEY: Line 24 -- excuse me.

PRESIDENT EGAN: -- that the Committee amendment be adopted. Is there objection? If there is no objection, the amendment is ordered adopted.

RILEY: Mr. President, on page 4, I will ask unanimous consent that the rules be suspended for the introduction of an amendment which the Committee believes necessary by reason of rather a major overhaul of this particular section -- Section 11, I refer to. In the process of organizing this section -- and I do feel that the section was in many respects improved as to structure by Style and Drafting -- the Resources Committee feels that one gap was inadvertently created, and accordingly, the sentence which starts on line 4 of page 4 will, under this amendment as offered, be stricken, and in its place will be substituted this sentence: "Discovery and

appropriation shall initiate a right, subject to further requirements of law, to patent of mineral lands if authorized by the state and not prohibited by Congress."

PRESIDENT EGAN: Will the Chief Clerk please read that proposed amendment back?

METCALF: May we have it read very slowly so it can be copied?

(The Chief Clerk slowly read the amendment as requested.)

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the rules be suspended in order that the Committee might submit that amendment. Is there objection to suspension of the rules? If there is no objection Mr. Kilcher.

KILCHER: Just a second while we digest that. Might I ask a question of Mr. Riley, what the exact intent or effect of the amendment is?

RILEY: In earlier drafts, Mr. Kilcher, referring now to page 3, the language which starts on line 19, "Prior discovery, location, and filing" and so on shall establish a prior right to lease and in the minerals and the rest of the series included the initiation of a right to patent if not prohibited by the Congress or if authorized by the Congress. In other words "prior discovery and appropriation" would lead to any of those possibilities. The reference to patent was stricken during the last revision, and while it may by implication be picked up in this sentence, starting on line 4, page 4, we don't feel that it is positive or that it's clear, and for that reason only, to restore the earlier intent, we suggest this substitution.

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules? Hearing no objection the rules have been suspended. Mr. Riley, you may offer the Committee amendment.

RILEY: I submit the Committee amendment as read by the clerk and ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley offers the committee amendment that has previously been read. Is there objection to the unanimous consent request for adopting the amendment? Hearing no objection, the amendment is ordered adopted. Mr. Riley.

RILEY: I will next ask unanimous consent for suspension of the rules for offering a further Committee amendment to Section 13. The sentence commences on page 4, line 23, and has to do with the appropriation of water. Now earlier, when in second reading, before this article went to Style and Drafting, the end of the sentence which is now on line 2, page 5, was made subject to the general reservation of fish and wildlife. That was stricken by floor amendment, that general reservation of fish and wildlife, and the Committee has

since given the matter further consideration and has cleared with the delegate who offered the amendment to strike that language, and I understand he has no objection to its restoration, and our amendment will read as follows, when offered: that on line 2 of page 5, a comma be substituted for the period and this language added: "and to the general reservation of fish and wildlife".

PRESIDENT EGAN: Do you ask unanimous consent that the rules be suspended in order that the Committee might offer that amendment?

RILEY: I have, Mr. President.

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules? Hearing no objection, the rules have been suspended.

RILEY: I now offer the amendment and ask unanimous consent for its adoption, Mr. President, that the period on line 2 of page 5 be stricken, a comma substituted, and the following language added: "and to the general reservation of fish and wildlife."

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the Committee amendment be adopted. Mr. Kilcher.

KILCHER: A question, Mr. Riley. It appears that -- isn't that one of the concurrent uses that actually doesn't need specific mentioning? Is it a substantive matter in your opinion, or is it just a further explanation or a securing of an interpretation or something?

RILEY: We felt that for the purpose of clarity that that general reservation should have mention in that particular section having to do specifically with the appropriation of water; that such appropriations are subject, nevertheless, to the general reservation of fish and wildlife when occurring in natural state.

KILCHER: Wouldn't that be self-evident under the general clause of general concurrent uses?

RILEY: I shouldn't say that concurrent uses has application there. The general provision for concurrent uses has. It might be held the general reservation would cover it, but we are in doubt, and some of the consultants who initially assisted the Committee recommended its restoration.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I have one question. Where a small lake is entirely surrounded by land in private ownership, owned by one owner, would the legislature be able, under the wording as now appears, would the legislature be able to keep the general public out of that lake?

RILEY: Well, it is getting right back to matters earlier discussed -- I don't know that they are specially resolved in anyone's mind. The

legislature has, under another section, been given authority to define what waters access should be given to. By long-established doctrine, the general reservation of fish and wildlife in its natural state is maintained in this article, and the matter of the actual ownership of waters is not upset -- I should say the age-old doctrine is not upset -- except as we have given power to the legislature to define where access shall be allowed.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I don't think that quite answers my question. I know we attempted once by adding two words to take care of this pond surrounded by single ownership. Then we changed that and used some other language. Now we have changed it again. Can you tell me where the legislature -- just point to me the section or the wording --

RILEY: It's not in this section, Mr. Hellenthal.

HELLENTHAL: Anywhere in here?

RILEY: Section 9 is the section.

PRESIDENT EGAN: Your question relates to this section we are on now, Mr. Hellenthal?

RILEY: Section 14, Mr. Hellenthal.

HELLENTHAL: Yes, it does, Mr. Egan. That the legislature may by general law regulate and limit such access?

RILEY: You weren't here last evening, I believe, Mr. Hellenthal, when in Section 14 the word "legislature" was restored on line 4 in place of the word "law".

HELLENTHAL: Oh. I am happy now.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: May I direct a question to Mr. Riley?

PRESIDENT EGAN: You may, Mr. Rosswog.

ROSSWOG: This wording, "general reservation", does that mean that fish and wildlife will be given first consideration among beneficial users?

RILEY: No, I should say not. But I would say that the general reservation which applies, I believe, is set forth in Section 3. Section 3 states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." This reiterates that, as concerns the appropriation of waters, "appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and

wildlife". This doesn't set up an order of beneficial uses. The legislature in its wisdom may some day do that.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: May I ask Mr. Riley a question?

PRESIDENT EGAN: You may, Mr. Hurley.

HURLEY: Mr. Riley, if a city were to appropriate a water supply for domestic use, and for purposes of public health and welfare and for protection of the water supply to regulate the trespass on the watershed, would the fish and game that were within the area be available to the public for hunting and fishing?

RILEY: Well, I should say that we make that exception; that might perhaps be implemented by the legislature as to your whole drainage area -- your whole watershed -- that the legislature could, under this language, forbid fishing, we will say, in a reservoir for public water supply.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Another question, Mr. Riley. I have two specific inquiries from my home district; one from a man for whom three years ago I drained a lake a 16-acre lake within a 40 subdivision, and another man had a seven-acre homesite near Homer with a three-acre lake on it. There are no creeks going in or out but strangely enough there's fair fish in there. Now, in order to understand the possible impact of this amendment and illustrating this case, I would like to ask you if either one of the two men could possibly be stopped by future legislation or stopped automatically by this amendment here, if it passes, from draining his lake for agricultural purposes, or any purpose. It's shallow land, very little work, and can make seven easy acres available where normally land is hard to clear. It would make fine agricultural land. That is a question that will come up hundreds and thousands of times on the Kenai Peninsula where this practice will become popular, of acquiring cheap farm land by draining shallow lakes.

RILEY: I won't undertake, Mr. Kilcher, to anticipate what the legislature may prescribe, but there is considerable law to the effect that ownership of lakes does not vest in the property owner. That isn't necessarily uniform across the country, but I should say that the question you propound is one which the legislature is going to have to meet.

KILCHER: That's what I am driving at, Mr. Riley. I have asked a similar question before -- I don't want to repeat it myself -- that is weeks ago, but this amendment here if it passes will it tend to make it harder, is it capable of putting more obstacles in a man's way, to give fish and wildlife interests more of a chance to restrict that man's specific uses? Would this amendment have an effect,

in other words, in law, as you see it, making it more specifically difficult to achieve what I was driving at?

RILEY: I would say as concerns your own illustration of the drainage proposition that this language will not pose any difficulties there beyond what the article already does in the general reservation. Section 3 contains a general reservation. Now, I would not consider the draining of a lake to be an appropriation of water because there would be no continuing use.

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of the amendment? Hearing no objection the Committee amendment is ordered adopted.

RILEY: Mr. President, the only other point which the Committee wishes to bring up is that the Committee, responsive to a suggestion made last evening by, I believe, Style and Drafting -- maybe not -- wishes to go on record for the retention of Section 19 which spells out residual powers which are drafted in terms of natural resources. There will be another provision in the constitution much the same and with general effect concerning the residual powers of the state, but it is the Committee's wish that this particular expression of residual powers bearing on natural resources alone remain in the article. That concludes the Committee's amendments.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I have an amendment which I would like to propose under a suspension of the rules.

PRESIDENT EGAN: Would you state the amendment -- what the amendment would be, Mr. Johnson?

JOHNSON: If the rules are suspended, I shall submit the following amendment: Add a new section, "Regulation and administration of wildlife, including game fish, shall be delegated to a commission under such terms as the legislature shall prescribe."

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the rules be suspended in order that he might offer this amendment.

BUCKALEW: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Johnson?

JOHNSON: I so move.

KNIGHT: I second it.

PRESIDENT EGAN: Seconded by Mr. Knight, that the rules be suspended. The question is: "Shall the rules be suspended?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 18 - Armstrong, Boswell, Coghill, Cooper, Davis, H. Fischer, Hurley, Johnson, King, Knight, Laws, Londborg, McNealy, Marston, Metcalf, Nolan, Peratrovich, Sweeney.

Nays: 36 - Awes, Barr, Buckalew, Collins, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, Lee, McCutcheon, McLaughlin, McNees, Nerland, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 1 - Taylor.)

CHIEF CLERK: 18 yeas, 36 nays, and 1 absent.

PRESIDENT EGAN: So the nays have it and the rules have not been suspended. Mr. Smith.

SMITH: I was going to wait and see if there were further amendments or questions.

PRESIDENT EGAN: Are there other amendments or questions to be offered for Article VIII, the article on natural resources? Mr. King.

KING: Mr. Chairman or Mr. Riley, am I to understand that pollution isn't mentioned anywhere in the resources article? Is that a general police duty of the state? I understand there is a law now.

RILEY: Mr. King, the Committee has gone on the assumption that the general police powers of the state can be invoked to provide whatever supplementary legislation is necessary beyond what the Territory now follows, its own statutes.

KING: And you don't think there is any necessity to mention it in these provisions?

RILEY: No further necessity, no.

PRESIDENT EGAN: Are there other questions or proposed amendments? Mr. Smith.

SMITH: If not, Mr. President, I move and ask unanimous consent that the rules be suspended and that Article No. VIII, Natural Resources, be advanced to third reading, read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Smith moves and asks unanimous consent that the rules be suspended as to Article No. VIII, the article on natural resources, that the article be advanced to third reading, be read the third time by title only, and placed in final passage. Is there

objection? Hearing no objection, the rules have been suspended and Article No. VIII is now before us in third reading. The Chief Clerk will read the title of the article.

CHIEF CLERK: Article VIII, Natural Resources.

PRESIDENT EGAN: The article is now before us and open for discussion and debate. Mr. Hurley.

HURLEY: Delegates, sometimes during this Convention it is a very difficult thing to speak what a person feels in his heart. I have had occasion to watch this resources article develop over the many weeks prior to our recess and subsequent thereto. I know there has not been a harder working or more dedicated committee than the one that has been devoted to natural resources. I know that in their hearts and in their minds they have had one goal in mind and that was to allow the opening up and the use of the natural resources of the state to be. And yet, in my own mind, I feel that inadvertently they have, instead of opening it up, placed a great many padlocks on the resources which will, in the future, offer stumbling blocks to their development. I think that the efforts to satisfy the ills which have been thrust upon us by the federal government had caused the pendulum to swing to such an extent as to defeat the purpose which we sought. I feel in going over this article, as I have had occasion to do in a very precise and detailed manner, that much of the material that is included in the resource article is properly matters of legislation. Many things that are of great importance to the future State of Alaska have been disposed of with a short phrase. Other things which are of perhaps equal importance to the State of Alaska have been put forth in much detail. Each word is said to have a specific meaning, to have only one construction, and I feel that is a very bad thing for a constitution. A constitution to my mind is a framework for a government, not a complete structure of government. I sincerely hope that this article will provide the ends which are sought. I am not going to vote against the article because I feel it is the best effort of the Convention, but I am, in my own heart, sorry that the words could not have been put down in a manner in which they could have been construed to fit the needs of the state as it develops.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I think several of us feel the same way, and it just goes to show one more reason why we should have statehood. Those people three thousand miles away have laid down rules that aren't too workable. We have had to take it and we're taking it and we are going ahead. We want statehood and we can develop the country a whole lot better if they leave it to us, and we wouldn't have done a lot of things in that resources committee if it hadn't been for restrictions from Washington, D. C.

PRESIDENT EGAN: Mr. White.

WHITE: Perhaps I shouldn't say anything because I know every

member of the resources committee would like to speak on the subject. It is their last opportunity. When this committee proposal came on the floor and the chairman of the committee, Mr. Smith, introduced the members and outlined their special interests or skills and he came to me and he could not think of any special skill, he referred to me as the member of the committee to represent the public interest. I don't know how well I have done that, but that has been my interest and my endeavor in this committee, and throughout our work which has been long and detailed -- I won't say longer or more detailed than any other committee -- I have often had the same feeling, the same fears, the same thoughts, perhaps, as expressed by Mr. Hurley. I have always had in the back of my mind that emphasis should be placed on our opportunities and duties to open up the natural resources of the State of Alaska to development and use by and for all the people, and that we must constantly guard against overreacting against abuses that have taken place in the past. We have had a basic framework in mind. I have tried, and others of the Committee have tried, I am sure, as we have gone along with our work, to do what was set out in Section 2, to "provide for the utilization, development, and conservation of all natural resources belonging to the state, including land and waters, for the maximum benefit of its people." I sincerely believe, and the Committee can fully testify to the fact that I have been a sniper, perhaps, above all else, but I sincerely believe that that intent can be carried out under this article of the constitution. I think all of us are aware that the article itself could have been shortened, could possibly be less detailed, but balanced against that we have always kept in mind the newness of the subject to Alaska, the newness of the opportunity to deal with the subject, and the great problems that will evolve and the great opportunities that will evolve when we gain statehood. I think, in the final analysis that this section provides the framework and the opportunity for the state legislature, the people by the kind of representatives we hope to have, to carry out the intent expressed in Sections 1 and 2 of this article.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I certainly am not opposed to this article in any way except in one point. However, that is not sufficient now to make me vote against it. I do want to point out, however, that I feel that the article in its present form overlooks the wishes -- or ignores the wishes, let us say, of a large segment of our population who happen to like to hunt and fish; and I don't believe, in that respect, if we pass the article in its present form, that we are exactly making friends for the article, but I do believe that the resources committee has by and large done an excellent job, and I think that the resources of the State of Alaska will be properly taken care of with that one exception.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I just want to remind the delegates of one remark that Dr. Gabrielson said, I think it was in committee meeting

rather than before the Convention, but, as he saw our article, he said that we had things in it, principles in it, that the states had worked for 45 years the hard way to get, and that is what we were trying to accomplish.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I have felt throughout the Committee deliberations that we probably might not be able to see the results that will come from this article, but I have felt that if my children and my grandchildren say that it was a good article, that is what will count.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, Mr. President, I want to say a few words on this. My first choice of committees fell with resources. I withdrew from that committee because there were a number of others who were keenly interested. I have not spoken on the resources article except on the very basic amendments. I realize that some of the more impatient and, perhaps, the more irascible and dyspeptic members would like to have the question called. However, it does not seem to me that on this matter, which is the basic wealth of our whole territory and upon which the well-being and success of our people depend, that we should pass it over too lightly. We have seen in the Territory of Alaska under the guise and the name of conservation an outright reservation and withholding of practically all of our natural resources and wealth by our national government. We have followed through the history of that, and I believe it is probably best outlined in a book by the uncle of one of our delegates, old Jack Hellenthal, in which he points out the abuse of the term "conservation" in which we hold out and actually the resources have been withheld in the guise of outright reservation. It seems to me that here we have the foundation and the framework for a real orderly development and utilization of our resources, and I, for one, feel we have laid the foundation here for the future success and well-being of all of our citizens. I realize that it must be implemented by the thoughts and the efforts and the energies of men and manpower and by their honesty and sincerity of purpose, but I, for one, in watching this article, feel that we have laid here the foundation and the groundwork for the great success of the future state.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I move the previous question.

PRESIDENT EGAN: Delegate Buckalew moves the previous question. Is there a second?

COLLINS: I second it.

PRESIDENT EGAN: Seconded by Mr. Collins that the previous question

be ordered. The question is: "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye"; all opposed, by saying "no". The "ayes" have it and the previous question is ordered. It's a majority vote question. The question is: "Shall Article VIII, the article on natural resources, be adopted as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 53 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 0 -

Absent: 2 - Taylor, VanderLeest.)

CHIEF CLERK: 53 yeas and 2 absent.

PRESIDENT EGAN: The "yeas" have it and Article VIII, the article on natural resources, has been adopted as a part of the Alaska state constitution. Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Sundborg a question?

PRESIDENT EGAN: If there is no objection.

HELLENTHAL: Do you feel we could properly recess until 1:30 tomorrow afternoon without neglecting any portions of our work remaining unfinished and allowing maximum utilization of time?

SUNDBORG: Mr. President, I wonder if I could ask unanimous consent for a one-minute recess before answering Mr. Hellenthal?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state that, in the opinion of the Chair and if the delegates agree, that it might be better that we adjourn at this time until 9:00 in the morning and possibly work until noon and then adjourn, and it will give the substantive committees the afternoon and also delegates who might want to take care of some things in the

afternoon; but if we came in the morning it might be better for the committees that might have other work to do. Mr. Johnson.

JOHNSON: Mr. President, in view of the statement of the Chair, I move that the Convention stand adjourned until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, in all innocence, may I ask a question? After this beautiful flow of oratory, when is the last day we can file for the legislature?

PRESIDENT EGAN: February 1. Are there committee announcements?

SUNDBORG: Mr. President, I announce a meeting of the Style and Drafting Committee immediately upon adjournment at the rear of the gallery.

PRESIDENT EGAN: Style and Drafting immediately upon adjournment at the rear of the gallery. Are there other committee announcements? The Convention will come to order. Are there other committee announcements? Mr. Coghill.

COGHILL: May I direct a question to Mr. McNees? Are you willing to have an Administration Committee meeting tonight or would you prefer tomorrow afternoon?

MCNEES: Tomorrow afternoon.

PRESIDENT EGAN: Administration tomorrow afternoon. Mr. McNealy.

MCNEALY: Mr. President, I would like to announce a meeting of the Ordinance Committee around the desk here immediately upon adjournment.

PRESIDENT EGAN: Ordinance Committee right here immediately upon adjournment. If there are no other committee announcements, unanimous consent is asked that the Convention stand adjourned until 9:00 a.m. tomorrow. Is there objection? Hearing no objection, the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

February 1, 1956

SEVENTY-FIRST DAY

PRESIDENT EGAN: The Convention will come to order. Chaplain Henry A. Foss of Ladd Air Force Base is with us to give our daily invocation.

REVEREND FOSS: Eternal God and everlasting Father, Who has been our sustaining power in our lives during the past generations, we look up to Thee for guidance and direction of our minds and hearts in the preparation of these great plans; that may contribute to the welfare of our lives in the generations to come and the strengthening of our Nation. In His Name we pray. Amen.

PRESIDENT EGAN: Thank you. The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Five absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Does the special Committee to read the journal have a report to make at this time? Mr. White.

WHITE: No, Mr. President, not yet.

PRESIDENT EGAN: That report will be held in abeyance until later in the day. Will the Chief Clerk please read the communications before us.

CHIEF CLERK: A telegram from Governor Averill Harriman expressing regrets that he could not attend the signing of the constitution and expressing his continued support for statehood for Alaska.

PRESIDENT EGAN: The communication will be filed. Are there reports of standing committees? Reports of select committees? Are there motions or resolutions to come before the Convention at this time? Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances has a resolution to introduce and it was presented in the Committee by Delegate Victor Rivers and it has been approved by the Committee.

PRESIDENT EGAN: If there is no objection the resolution may be introduced at this time. The Convention will be at ease while the resolution is distributed.

(The Convention was at ease for a few moments.)

PRESIDENT EGAN: The Chief Clerk may read the resolution for the first time.

CHIEF CLERK: "Resolution: Orderly Transition from Territorial to Statehood Status; addressed to the House of Representatives, the United States Senate, the Committee on Territories and Insular Possessions of the House and Senate, the Honorable E. L. Bartlett, Delegate in Congress from Alaska.

"NOW, THEREFORE; Be it resolved that, we the people of Alaska, through our Delegates in Constitutional Convention Assembled respectfully request and urge: That the Congressional Act admitting Alaska as a State of the Union provide and allow for the continued use of Federal appropriations for payment of the costs of these normal functions of government during the Federal fiscal year in which admission of Alaska as a State of the Union is granted, or until the operation of such functions is earlier assumed by the State."

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I will ask unanimous consent that the rules be suspended and that the resolution be placed in second reading for Committee amendments.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the rules be suspended and that the resolution be placed in second reading. Is there objection? Hearing no objection, the resolution is now in second reading and the Chief Clerk may read the resolution for the second time.

(The Chief Clerk read the resolution entitled "Orderly Transition from Territorial to Statehood Status" for the second time.)

PRESIDENT EGAN: Are there amendments to be proposed to the resolution? Mr. Stewart.

STEWART: Mr. President, I have just noticed something here that ought to be called to attention. It refers to H.R. 2535 and S. B. 50 as the pending bills. Would that not be H.R. 2535 and S. B. 49, which are both in the same session of Congress? S. B. 50 is the previous session.

V. RIVERS: I will certainly accept the amendment if that is the case. I had only "50" before me; I thought it was the last one.

PRESIDENT EGAN: Mr. Stewart, do you ask unanimous consent that S. B. 50 be changed to read S.B. 49?

STEWART: I do.

PRESIDENT EGAN: If there is no objection it is so ordered and the amendment has been adopted. Are there other amendments to the resolution? Mr. Boswell.

BOSWELL: Mr. President, I just wondered about that word "pending", if these are actually pending bills or if they are just proposed bills and if there may not be another bill that may be introduced.

V. RIVERS: While we mention those two bills in the "whereas" in the body matter of the resolution, in the "resolve" part we say that any bill admitting Alaska to statehood contain these provisions, so those happen to be the two that are pending before the body for consideration. If you read before "consideration" -- "the pending bills presently under consideration by Congress " I think that covers the point. We are not necessarily implying that those will be the ones passed. Any one that is passed should, I believe, take consideration of this short time transition period which has been entirely overlooked. I might say that they have done a very good job in providing for the long range transition.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I would like to ask Mr. McNealy a few questions.

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal.

HELLENTHAL: How many resolutions have been passed on by the Committee on Resolutions?

MCNEALY: Mr. President, this resolution was handed to our Committee by Mr. Rivers, and we thought it was in the nature of a transitional measure, and in fact, it is the only resolution offered from our Committee.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Would there be any other committee that would have jurisdiction over the resolutions?

MCNEALY: Mr. Cross's committee. Mr. Cross is Chairman of the Committee on Resolutions and Recommendations.

HELLENTHAL: Perhaps I could direct my question to Mr. Cross. Do you know of resolutions other than this one and the one about Canada that will be presented here?

CROSS: No, we have none in Committee.

HELLENTHAL: One more question. Were these resolutions, in

case our resolutions are printed like Hawaii's Constitution. will they be printed with the constitution?

CROSS: It is my understanding that they will, although I am not certain.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: May I add a word for Mr. Hellenthal's information?

PRESIDENT EGAN: If there is no objection, Mr. Rivers.

V. RIVERS: At the committee chairmen's meeting, Mr. McNealy and I were requested to discuss and cover this subject; that is how it happened to be passed into the Ordinance Committee, Mr. Hellenthal.

HELLENTHAL: All right, thank you. Does anyone know the answer to the question of whether these resolutions will be part of our printed constitution?

PRESIDENT EGAN: There hasn't been any definite understanding. so far as the Chair knows, to that question as yet. Mr. Victor Rivers.

V. RIVERS: My observation on the other constitutions that have had resolutions is that they have been in the form of the appendix. Mr. Hellenthal.

HELLENTHAL: Then they will be a part of the little printed book then?

V. RIVERS: I understand so, but then they are not actually a part of it, they are an appendix -- subsequent.

PRESIDENT EGAN: Are there other proposed amendments for the resolution? If not, is it the desire of the Committee that it be -- Mr. Victor Rivers.

V. RIVERS: I will ask unanimous consent that this amendment be allowed to follow the usual channel to Style and Drafting. Is that correct?

PRESIDENT EGAN: Under the ordinary procedure, Mr. Rivers, it would go to Engrossment and Enrollment, first. Mrs. Sweeney?

SWEENEY: Mr. President, I would suggest that it bypass Engrossment and Enrollment.

PRESIDENT EGAN: If there is no objection -- Mr. Buckalew.

BUCKALEW: Maybe I am a little confused here. What are we doing? Has this thing been passed already?

PRESIDENT EGAN: No. It hasn't been passed as yet. It has been read the second time; amendments have been offered.

BUCKALEW: I thought somebody asked unanimous consent. I wanted to have an opportunity to vote against it.

PRESIDENT EGAN: If there is no objection, Mr. Buckalew, the Chair will refer the resolution to the Style and Drafting Committee. If there is no objection, it is so ordered.

SUNDBORG: May we revert to the order of committee reports?

PRESIDENT EGAN: If there is no objection, Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee reports to the Convention its redraft of the first 24 sections of the Schedules of Ordinances and Transitional Measures. It also reports to the Convention its redraft of Section 25, the Alaska-Tennessee Plan of the Schedule of Ordinances and Transitional Measures.

PRESIDENT EGAN: If there is no objection, Article XIV, Section 25 of the schedule will be read before the Convention and the report of the Style and Drafting Committee will be read at this time.

CHIEF CLERK: "Article XIV. Schedule.

"Section 25. The election of senators and a representative to serve in the Congress of the United States being necessary and proper to prepare for the admission of Alaska as a State of the Union, the following is hereby ordained, pursuant to Chapter 46, SLA 1955:

(1) Each elector who offers to vote upon this constitution at the ratification election shall be given a separate ballot by the election judges which shall contain the following proposition:

'Shall ordinance No.____ (Alaska-Tennessee Plan) of	_____
the Alaska Constitutional Convention, calling for	Yes
the immediate election of two United State Senators	_____
and one United States Representative, be adopted?'	No

(2) Upon ratification of the constitution by the people of Alaska and separate approval of this ordinance by a majority of all votes cast for and against it, the remainder of this ordinance shall become effective.

(3) Two persons to serve as members of the senate of the United States and one person to serve as a member of the house of representatives of the United States shall be chosen at the

1956 general election.

(4) One senator shall be chosen for the regular term expiring on January 3, 1963, and the other for an initial short term expiring on January 3, 1961, unless when they are seated the senate prescribes other expiration dates. The representative shall be chosen for the regular term of two years expiring January 3, 1959.

(5) Candidates for senators and representative shall have the qualifications prescribed in the constitution of the United States and shall be qualified voters of Alaska.

(6) Until the admission of Alaska as a state, the senators and representative may also hold or be nominated and elected to other offices of the United States or of the Territory of Alaska, provided that no person may receive compensation for more than one office.

(7) Except as provided herein, the laws of the Territory governing elections to the office of delegate to congress shall, to the extent applicable, govern the election of the senators and representative. Territorial and other officials shall perform their duties with reference to this election accordingly.

(8) Persons not representing any political party may become independent candidates for the offices of senator or representative by filing applications in the manner provided in Section 38-5-10, ACLA 1949, insofar as applicable. Applications must be filed in the office of the director of finance of the Territory on or before June 30, 1956.

(9) Party nominations for senators and representative shall, for this election only, be made by party conventions in the manner prescribed in Section 38-4-11, ACLA 1949, for filling a vacancy in a party nomination occurring in a primary election. The names of the candidates nominated shall be certified by the chairman and secretary of the central committee of each political party to the director of finance of the Territory on or before June 30, 1956.

(10) The director of finance shall certify the names of all candidates for senators and representative to the clerks of court by July 15, 1956. The clerks of court shall cause the names to be printed on the official ballot for the general election. Independent candidates shall be identified as provided in Section 38-5-10, ACLA 1949. Candidates nominated at party conventions shall be identified with appropriate party designations as is provided by law for nominations at primary elections.

(11) The ballot form shall group separately the candidates seeking the regular senate term, those seeking the short senate term

and candidates for representative. The candidate for each office receiving the largest number of votes cast for that office shall be elected.

(12) The duties and emoluments of the offices of senator and representative shall be as prescribed by law.

(13) The president of the Alaska Constitutional Convention, or person designated by him, may assist in carrying out the purposes of this ordinance. The unexpended and unobligated funds appropriated to the Alaska Constitutional Convention by Chapter 46, SLA 1955, may be used to defray expenses attributable to the referendum and the election required by this ordinance.

(14) If the Congress of the United States seats the senators and representative elected pursuant to this ordinance and approves the constitution before the first election of state officers, then Section 1 of Article XIV shall be void and shall be replaced by the following:

'The provisions of the constitution applicable to the first election of state officers shall take effect immediately upon the admission of Alaska into the Union as a State. The remainder of the constitution shall take effect when the elected governor takes office.'

PRESIDENT EGAN: Mr. Sundborg, does your Committee have a report to make on this matter at this time?

SUNDBORG: Mr. President, Style and Drafting had already worked to some extent on this section prior to the time it was before the Convention yesterday. It was given another going over at a very late hour last night. I notice that on page 3, line 3, there is a typographical error. I ask unanimous consent to correct the spelling of the word "provided".

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection, the change is ordered.

SUNDBORG: Mr. President, the last time this was before us it was identified as Article XIV, Schedule, and the section number was blank. It is what has been known to the Convention as Committee Proposal No. 17/c, Revised, and later as Committee Proposal 17/c, Second Revised. It is now given Section No. 25, which may prove to be tentative in the final arrangement of the constitution, but we do have every number filled now -- one through 25 of the Schedule of Ordinances and Transitional measures. Very few changes have been made in the draft since we received it last night. I call your attention to one change on the first page, on line 7. Previously the section said "each qualified voter". It has now been changed to "each elector". Throughout our constitution we have used the term

"qualified voter" and we described that in the constitution so there is no doubt what it means, but since that is a provision which if ratified will go into effect prior to the time our constitution will, we thought it best to use the terminology of the present Organic Act and the Alaska statutes, and they use the term "elector", so we used the term "elector". On lines 9 and 10, page 1, we have reinserted a phrase which was in the original form of the section as it came to us from the Ordinance Committee. That phrase is "by the election judges", the provision being that each elector will be given a separate ballot "by the election judges", which we believe is probably necessary as something of a mandate to those conducting the election. On page 3, the most important change in the redraft will be noted. What was Section 8 has been dropped entirely. I will read Section 8 as it was in the draft that was reported to you yesterday. It was the section dealing with filing -- rather the subsection. This is all one section and these numbers are subsections. Subsection 8 said: "All candidates for senators and representatives must file declarations of candidacy with the Director of Finance of the Territory on or before June 30, 1956. Each candidate shall pay a filing fee of \$40." After a great deal of discussion and consultation with our advisers, the Style and Drafting Committee decided to drop any requirement that persons desiring to become candidates for these three offices would have to file declarations of candidacy. This was done in line with the present Territorial law which does not require a declaration of any candidate except those who desire to run in the primary on party ballots. The requirement, further, that a \$40 filing fee be posted has been dropped and this also is in line with present Territorial law. The filing fee is required only of candidates who desire to have their names on the primary election ballot and we are advised that the theory is that the federal government, which conducts the elections, runs the primary rather as a matter of convenience to the Territory, and in view of that, it is advisable or appropriate for the candidates who desire to have their names on that ballot to pay a filing fee. At the present time, anyone who wants to run as an independent on the general election ballot need not pay a filing fee, and that is the same provision which we think should govern this election of senators and a representative for Congress, so what was Subsection No. 8 has been dropped entirely. I am sure some of you will have questions about that, but if I may go on and tell you what else we have done to the draft, we will be available to answer questions after that presentation. What is now Section 8 is almost identical with what was Section 9 of the former draft. The thing that is new about it is that we have provided in this section for a date by which the application for getting a man's name on the ballot must be filed with the Director of Finance. That was formerly in the old Section 8 which has been dropped. Section 9, again, is practically identical with what was Section 10 of the former draft and again we have added the date by which the application must be filed. What is now Section 11

is changed very slightly from what was Section 12 of the former draft. Section 12 formerly had a first sentence which said, "Each declaration of candidacy shall clearly indicate whether the candidate for senator is seeking the regular or the short term." And since we are proposing to drop the requirement that there be a declaration of candidacy, we have dropped that sentence. Mr. President, I believe those are the only changes except for minor changes in phraseology which have been made in this redraft.

PRESIDENT EGAN: Are there questions? Mr. Davis.

DAVIS: Mr. President, I would like to ask Mr. Sundborg a question. Mr. Sundborg, line 23, page 3, Section 9, my notes indicate that we had "as amended" following the reference to the statutes. I think that section has been amended and I think we should put in the words "as amended" which seem to have been left out of the new redraft.

SUNDBORG: Mr. President, it is true that we did have that in one of our working papers, but I had understood from a remark by Mr. Johnson that he had checked the matter and that section had not been amended. I would like to ask Mr. Johnson if that was his understanding.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President and Mr. Sundborg, I believe that is correct as to Sec. 38-4-11, ACLA 1949. In checking that section last night we found that that particular section had not been amended. However, the section in the previous article or previous subparagraph (a) which is designated as 38-5-10, ACLA 1949, I believe that one was amended. However, I am not in a position to state definitely. I only checked the one section.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: I checked 38-5-10 yesterday and it had not been amended if the little slipsheet in the code prepared by the Legislative Council is correct. I checked the other reference that was made yesterday. I don't remember it being 38-4-11. Is that a new reference that came in last night?

JOHNSON: It is the same one.

HELLENTHAL: Well, then it has not been amended either, because, as this appeared in yesterday's version, it was not amended according to the Legislative Council pamphlet, and I cannot vouch for its accuracy.

SUNDBORG: We checked it in the same place, Mr. President, and that was the reference. Now in order to check it thoroughly, it would be necessary to look at each volume of the session laws

since 1949 and we do recommend very strongly that that be done, and that all references to sections of the statutes be checked before this is finally printed. We will do that as a matter of course.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, yesterday, I think it was Mr. Riley, in former Section 10, line 18, page 3, he changed the word "in", as I recall, to the word "after". There was some explanation given. I notice that you use "in" again now. I was just wondering why you went back to the "in".

SUNDBORG: That is an error if we used "in", Mr. Robertson. What line was that in the new draft?

ROBERTSON: In yesterday's draft it was on line 18, page 3, and in today's, it's line 24, page 3.

V. FISCHER: In the new draft it's on line 3, page 25.

SUNDBORG: Mr. President, I ask unanimous consent that on the report you have before you in Section on page 3, line 24, the word "in" after the word "vacancy" be stricken and the word "after" inserted in its place.

UNIDENTIFIED DELEGATE: That's the wrong one.

SUNDBORG: Is that the wrong one?

DAVIS: That is the second "in".

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: In the "in" near the end of the line after the word "occurring".

SUNDBORG: Mr. President, I withdraw my unanimous consent request, and ask that the word "in" after the word "occurring" be changed to the word "after".

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection the change is as ordered.

R. RIVERS: Mr. President, "nominations occurring 'after' a primary election"? It means after the party conventions have made the nominations. What primary is involved here?

SUNDBORG: Mr. President, maybe if we read the whole sentence we can get the idea. It says "Party nominations for senators and representative shall, for this election only, be made by party conventions in the manner prescribed in Section 38-4-11,

ACLA 1949, for filling a vacancy in a party nomination occurring after a primary election."

R. RIVERS: Thank you, Mr. Sundborg.

SUNDBORG: In other words, under the present statutes, if a candidate's name which was to go on the ballot following a primary cannot go because he has resigned or died or something, the parties do, by conventions, propose somebody for that place, and it is in the same manner that the party conventions would operate here.

PRESIDENT EGAN: Is there objection to the proposed change? If there is no objection the change is so ordered. Mr. White.

WHITE: Mr. President, may I address a question to Mr. Sundborg? Mr. Sundborg, don't I recall that yesterday the Style and Drafting Committee was given authority to look into and deal with the matter of providing for filling of vacancies that might occur in these offices after elections thereto?

SUNDBORG: Mr. President, I do remember a comment to that effect. I don't think we were actually by action of the Convention given that authority and I would have to report that we haven't given it any particular attention.

PRESIDENT EGAN: It is not the recollection of the Chair that the Committee was so instructed. Mr. Buckalew.

BUCKALEW: My best recollection was that I made a motion and asked unanimous consent to that effect.

PRESIDENT EGAN: The Convention will be at recess while the Chief Clerk checks the record.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read from the record with relation to this subject.

CHIEF CLERK: "Mr. Buckalew moved and asked unanimous consent that the Style and Drafting Committee be authorized to take care of the matter that had been presented by Mr. Londborg and to confer with the Ordinance Committee." The question had been raised by Mr. Londborg.

PRESIDENT EGAN: Are there other questions relating to the report of the Style and Drafting Committee?

V. RIVERS: Mr. President, I thought I had this straight in my mind. The Committee introduced 17, they then withdrew it and introduced 17/a, and then they introduced 17/b and 17/c at a

later date. I am trying to get straightened out on the resolve clause. I notice on this 17/c we have, it says "Resolved, that the following sections be adopted as a part of the schedule of the Alaska State Constitution." That has to do with the Tennessee Plan. Now on the 17/b I notice it says, "Resolved that the following be agreed upon as apart of the Alaska State Constitution." And the word "schedule" again appears there. The enacting clause here is somewhat different. I am trying to follow the chronology of this thing.

PRESIDENT EGAN: Will the Chief Clerk please explain what happened.

CHIEF CLERK: What happened was that 17 was withdrawn and 17/b takes the place of 17. 17/a and 17/c were presented later for action, but 17/b is what takes the place of 17.

V. RIVERS: Well, now are they all schedules? Do they all have the same enacting clause or is there some difference between a, b, and c?

CHIEF CLERK: They all go under Article 14, part of this schedule.

V. RIVERS: I want to understand that because in the Executive we withdrew an article and then we marked it "a" to show that it was a substitute it had been replaced for. I am wondering about the difference in the enacting clause here of these two.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, that is a question which arose in our Committee last night. The rules of the Convention provide that all proposals must carry an enacting clause and the wording of that enacting clause is set forth in our rules. Now one of our members brought up the question, "Are these actually a part of our constitution -- these ordinances?" If they are not, probably our standard enacting clause which says -- I don't seem to have it. I believe the standard enacting clause says, "Resolved, that the following be agreed upon as part of the Alaska State Constitution." And the question was raised, is that really correct? Of course that is the only thing provided in our rules. Now I can't explain when these words a part of the schedule of" got into the enacting clause on the schedule. They weren't put in by our Committee, I believe. It may be they were in that form when we received them from the Ordinance Committee.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, the Ordinance Committee may have -- in some little haste I believe, I think the correct manner is that it should be -- of course they possibly will have to

confine with the rules. I believe the wording "the following sections be adopted as a part of the schedule of the Alaska State Constitution" is the correct language that should be used because all of the court decisions refer to the schedule of ordinances as being appended to the constitution. They are not considered a part of the main body, and I believe there should be that little differentiation.

PRESIDENT EGAN: Would it be wise at this time to take a brief recess? The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other questions to be directed to the Committee? Mr. McNealy.

MCNEALY: At this time, Mr. President, I move and ask unanimous consent that the rule of the Convention concerning the resolve clause be amended in respect to the schedule to the constitution so that the words: "Resolved, that the following sections be adopted as a part of the schedule of the Alaska State Constitution," rather than saying that "the following sections be adopted as part of the constitution".

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, the Rules Committee took it upon itself to meet during recess and we haven't as yet gotten in touch with Mr. McNealy, but his thinking parallels ours and we should just like to throw this out just for his views of it. We thought we should pursue the same course but include ordinances, transitional measures, schedules, in proposing a rule to cover the situation. Our language would be of this nature: "For purposes of schedules, ordinances, and transitional measures, the enacting clause shall be: 'Resolved, that the following be agreed upon as part of the schedule accompanying the Alaska State Constitution.'" I might ask Mr. McNealy through the Chair, if I may, if that would be agreeable to him?

PRESIDENT EGAN: Do you have objection to that wording, Mr. McNealy?

MCNEALY: I wonder if Mr. Riley would consent to using the word "appended" rather than "accompanying".

RILEY: Without objection from the Committee it is agreeable.

MCNEALY: In that event then, Mr. President, I will withdraw my motion for unanimous consent.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed unanimous consent request then, with the change being the words "appended to".

RILEY: "As part of the schedule appended to the Alaska State Constitution."

CHIEF CLERK: "For purposes of schedules, ordinances, and transitional measures, the enacting clause shall be 'Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution.'" "Schedule, ordinances and transitional measures" would go in there?

RILEY: I did not hear your last question.

CHIEF CLERK: Well, "For purposes of schedules, ordinances and transitional measures, the enacting clause shall be 'Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution.'"

RILEY: Yes, and I ask unanimous consent, Mr. President.

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. Riley. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, in line with the action just taken, I now ask unanimous consent that in the schedule now before you, Section 25 of Article XIV" on the first page, in the enacting clause, we drop the word "A" before "part" on the second line, and after the word "the" before "Alaska" we insert "schedule appended to the" so that it would read: "Resolved, that the following..." I also ask unanimous consent to include in the request the dropping of the word "sections" from the first line of the enacting clause as it appears, so that it would read "Resolved that the following..." I see that this differs in several respects. I also want to include striking "adopted" in the first line and substituting "agreed upon" so that it would read, "Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution".

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the change be adopted. Is there objection? Hearing no objection, it is so ordered. Mr. McNeese.

MCNEESE: May we have that read again.

PRESIDENT EGAN: Would the Chief Clerk please read the resolve clause as it would read now.

CHIEF CLERK: "Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution."

PRESIDENT EGAN: Are there other questions relating to Article XIV? If not, what is the pleasure of the Chairman of the Style and Drafting Committee?

SUNDBORG: Mr. President, to handle the question of filling vacancies which I had overlooked and which was assigned to us yesterday by unanimous consent, I would like to request a brief recess during which the Ordinance Committee and Style and Drafting Committee can meet to consider this. I do not think it would take us more than a very few minutes.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Perhaps we could combine it with the normal morning recess so we wouldn't be playing musical chairs.

PRESIDENT EGAN: If there is no objection the Convention will be at recess until 10:25 a.m. Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment will meet, also, at this time.

PRESIDENT EGAN: Engrossment and Enrollment Committee will meet at this time in the gallery. Are there other committee announcements? If not, the Convention is at recess until 10:25.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal 17/a, has compared same with the original and find it correctly engrossed and the first enrolled copies will be placed on the delegates' desks immediately. I ask unanimous consent that the report be adopted.

PRESIDENT EGAN: Mrs. Sweeney asks unanimous consent that the report of the Committee on Engrossment and Enrollment be accepted and adopted. If there is no objection, it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, reporting for the Committee on Style and Drafting, we have considered together with the Ordinances Committee during recess the problem of whether the section about the Tennessee Plan should contain any provision with respect to vacancies in office and we desire to present a Committee amendment. Since it is substantive I would first ask that the rules be suspended and that the Committee on Style and Drafting be permitted to present an amendment, which would be as follows: on page 2, line 19, that is in Section 4, at the end of the line, add a new sentence as follows: "Any vacancy in these offices may be filled as prescribed by law."

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended in order that this amendment might be offered. Is there objection? Hearing no objection, the

rules have been suspended. Mr. Sundborg, you may present the amendment.

SUNDBORG: Mr. President, I now, on behalf of the Style and Drafting Committee, offer the amendment. I wonder if the Chief Clerk would read it, to be sure.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment as offered by Mr. Sundborg.

CHIEF CLERK: "Page 2, line 19, in Sec. 4, at the end of the line, add a new sentence as follows: 'Any vacancy in these offices may be filled as prescribed by law.'"

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent for the adoption of the amendment. Is there objection? Mr. Cooper.

COOPER: I do not object, but shouldn't it say, "shall be filled as prescribed by law" rather than "may"? This is mandatory that the office "shall" be filled.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, it was our feeling and also that of the Ordinance Committee and I believe it was unanimous that there should not be a mandate that the office had to be filled. We wanted to leave that to the judgment of the legislature in view of the situation at the time a vacancy might occur.

COOPER: I realize that, Mr. President, but the people of Alaska will elect two senators and one representative and certainly we shouldn't have a job being done by two-thirds or in case where it might be possibly a third. Mr. President, I move that the word "shall" be inserted for the word "may".

PRESIDENT EGAN: Mr. Sundborg, do you so move the adoption of the amendment?

SUNDBORG: I do move, Mr. President.

PRESIDENT EGAN: Is there a second?

HERMANN: I second it.

PRESIDENT EGAN: Seconded by Mrs. Hermann. Mr. Cooper.

COOPER: I'm sorry, I was out of order. Mr. President, I have an amendment.

SUNDBORG: Mr. President, could I suggest that we first vote this one into the article, then if Mr. Cooper wants to change "may" to "shall", to do it after that, just to keep from getting it balled up here. I renew my unanimous consent request that this sentence be added.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Cooper.

COOPER: Mr. President, I have an amendment. I propose to strike the word "may" and insert the word "shall".

PRESIDENT EGAN: Mr. Cooper moves that the word "shall" be substituted for the word "may" in the amendment just adopted.

KILCHER: I second it.

PRESIDENT EGAN: Seconded by Mr. Kilcher. Mr. Cooper.

COOPER: Mr. President, I feel that the word "shall" should be in there inasmuch as these men are going to, these representatives of Alaska are going to Washington D. C., theoretically, and they have a battle. They have a big battle and they certainly should be there in force.

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Johnson.

JOHNSON: Should not the rules be suspended?

PRESIDENT EGAN: Mr. Johnson, you are correct, and that is why we had to go on with the adoption of the amendment. Mr. Cooper, first you would have to ask that the rules be suspended.

SUNDBORG: I ask unanimous consent, Mr. President, that the rules be suspended for the offering of this amendment.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended in order that Mr. Cooper might offer his amendment. Hearing no objection, the rules are ordered suspended. Mr. Cooper.

COOPER: May I offer an amendment, that the word "shall" be inserted for the word "may"?

PRESIDENT EGAN: You may offer it, Mr. Cooper.

KILCHER: I'll second it.

PRESIDENT EGAN: Mr. Cooper offers an amendment changing the word "may" to "shall"; the motion has been seconded by Mr.

Kilcher. Is there discussion? Mr. Kilcher.

KILCHER: Mr. President, I don't think if we insert the word "shall" for "may" that it is a mandate that these men should have to be replaced. It is a mandate only to follow the law. If the legislature should make a law pertaining to this question, then the law should be observed. If the law that the legislature enacts says we don't want them there any more, then that law shall be observed. "Shall" has only a bearing on the observation of the law and not on the substantive question of whether there shall be any future senators sent to Washington, or their successors.

PRESIDENT EGAN: Is there further discussion? Mr. Cooper.

COOPER: I want to close by saying that I interpret it as any vacancy "shall" be filled as prescribed by law. I don't interpret it as Mr. Kilcher interprets it.

SUNDBORG: Mr. President, I ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection the amendment is ordered adopted. Are there other questions or amendments to be offered? Mr. Sundborg.

SUNDBORG: Mr. President, I have another Committee amendment. I ask unanimous consent that the rules be suspended to permit the Style and Drafting Committee to submit an amendment which would be an amendment to Subsection 1, page 1, line 9, to strike the word "separate". I ask unanimous consent that the rules be suspended.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent.

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Sundborg?

SUNDBORG: I so move.

PRESIDENT EGAN: Mr. Sundborg moves that the rules be suspended.

HERMANN: I second.

PRESIDENT EGAN: Seconded by Mrs. Hermann that the rules be suspended. The question is, "Shall the rules be suspended in order that the amendment might be offered?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 42 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nordale, Riley, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 7 - Laws, McCutcheon, Nolan, Poulsen, Reader, Rosswog, Taylor.

Absent: 6 - Coghill, Doogan, V. Fischer, Marston, Peratrovich, R. Rivers.)

CHIEF CLERK: 42 yeas, 7 nays and 6 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Mr. Sundborg.

SUNDBORG: Mr. President, I move on behalf of the Style and Drafting Committee that in Subsection 1, page 1, line 9, the word "separate" be stricken.

PRESIDENT EGAN: Mr. Sundborg moves on behalf of the Style and Drafting Committee in subsection 1, page 1, line 9, the word "separate" be stricken.

KILCHER: I second.

PRESIDENT EGAN: Seconded by Mr. Kilcher. Mr. Sundborg.

SUNDBORG: Mr. President, if I may? The Style and Drafting Committee together with the Ordinance Committee gave quite a bit of thought to this during the recess and our thought is that we feel that each of the propositions to be presented to the voters in connection with the Alaska State Constitution should be on a ballot which is separate from the ballot which will contain the names of the primary election candidates, but we believe that each of these questions, and we are assuming that there are three of them, should be on the one ballot so that the election officials won't have the task of sorting and getting out to the precincts all over this Territory three separate slips of paper; one on "shall the constitution be ratified," one on shall the fish trap ordinance be ratified," and one on the Tennessee Plan. We just thought that would be more confusing to all concerned than if the three propositions could be set forth on a single piece of paper, and that was our purpose in striking the word "separate" here. We would want to propose an amendment when we get to Article XIV, the first 24 sections of the schedule, which would specifically set forth that there should be a ballot separate from the primary election

ballot, but that all propositions dealing with the constitution be on that ballot.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I might also add that the conservation of costs was involved. It might make a difference of two or three thousand dollars.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask Mr. Sundborg a question?

PRESIDENT EGAN: If there is no objection, Mr. Hellenthal.

HELLENTHAL: Mr. Sundborg, I know is much more familiar with printing than I am. Would it save two or three thousand dollars?

SUNDBORG: It would cost considerably more, Mr. Hellenthal, I know, to print them on separate ballots than it would on a single ballot, but I couldn't say how much without knowing how many ballots would be printed.

HELLENTHAL: Would it be more than \$100?

SUNDBORG: Oh, much more than that.

HELLENTHAL: How much more?

SUNDBORG: I couldn't say without knowing --

KILCHER: Mr. President, may I ask Mr. Hellenthal a question?

PRESIDENT EGAN: If there is no objection, Mr. Kilcher.

KILCHER: We dealt with this question in the Administration Committee a couple of months ago and the proportionate share of a ballot of this kind involved, the Convention's share of the printing would be several thousand dollars and we arrived at the difference there. It is not only the cost in printing but also the cost in the election. It would take more time, it would take more time involved for the election judges. The accrued total costs involved would possibly be two or three thousand dollars.

HELLENTHAL: Are election judges paid by the hour now?

UNIDENTIFIED DELEGATE: Yes.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify

by saying "aye"; all opposed by "no". The "ayes" have it and the amendment is ordered adopted. Are there other questions or proposed amendments for Article XIV of the schedule? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no further questions, I would like to ask unanimous consent that the rules be suspended, that Section 25 of Article XIV, the section dealing with the Alaska-Tennessee Plan, be advanced to third reading, be read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg, before the Chair puts that, have you moved to accept the report yet?

SUNDBORG: I'm sorry. I withdraw the motion just offered and ask unanimous consent that the report of the Style and Drafting Committee with respect to Section 25 of Article XIV, the schedule, dealing with the Alaska-Tennessee Plan, be accepted and that the amendments therein be adopted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee with relation to Article XIV, the schedule, be accepted and that the changes therein be adopted. Is there objection? Your question, Mr. Buckalew?

BUCKALEW: Did you have another amendment, Mr. Sundborg?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I am not aware of one, but I would ask Mr. Buckalew to call one to my attention if he thinks we do.

BUCKALEW: I thought you had some additional language that Mr. Davis had prepared with reference to a separate ballot for the question pertaining to the constitution, the three propositions and the candidates for congressional offices?

SUNDBORG: Mr. Buckalew, our proposal was that that be inserted, not in Section 25 but in one of the first 24 sections of the schedule which we are going to consider next on the calendar.

PRESIDENT EGAN: The report of the Committee on Style and Drafting is ordered accepted and the changes adopted. Mr. Sundborg.

SUNDBORG: I now ask unanimous consent that the rules be suspended, that Section 25 of Article XIV, the section dealing with the Alaska-Tennessee Plan, be advanced to third reading, be read by title only and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the rules be suspended, that Section 25 of Article XIV, the section

dealing with the Alaska-Tennessee Plan, be advanced to third reading, read by title only and placed on final passage. Is there objection? Hearing no objection, the rules have been suspended and Article XIV, Schedule, Section 25, is now before us in third reading. The Chief Clerk will read the title.

CHIEF CLERK: "Article XIV, Schedule, Section 25."

LONDBORG: Mr. President, are the other sections of Article XIV going to be taken individually, or is this the only one?

PRESIDENT EGAN: Mr. Londborg, as the Chair recalls it, there is a long list in one of the schedules that will be known as Article XIV. They will all go together in the appendix of the constitution, though. The question is open for discussion. Mr. Nolan.

NOLAN: May I ask the Chairman of the Committee a question on Section 12?

PRESIDENT EGAN: If there is no objection, Mr. Nolan.

NOLAN: Where the duties and emoluments of the offices of senators and representative shall be as prescribed by law, was it the thinking of the Committee that this would be a moral obligation on the part of the Territory to pay the full senatorial and congressional salaries and expenses and so forth, or is this asking the Territorial legislature to set up a certain sum to take care of that?

MCNEALY: Mr. Nolan, there may be others on the Style and Drafting Committee that could add further to what I might say here, but it was the thought of the Ordinance Committee that the legislature might do as they see fit regarding the prescribing of duties and emoluments of office. However, our primary thought in this was referring -- it may be a little ambiguous here but possibly purposely so -- that the federal government when they were seated, this was also tossed in to take care of that; their duties and pay would be prescribed by federal law and it actually is no directive in one sense of the word to the legislature, because the feeling of the Ordinance Committee was that, in our opinion, that the legislature has no power to provide salaries for these men. Mr. Davis expressed it very well in a joint meeting here, I think, in that regard when he said that, if the legislature hadn't passed such a law providing salaries and other expense that he thought the members of the house and members of the senate would go into the law at that time to see if they had the power to do so.

NOLAN: Does the Committee feel that Congress would, or has there been any precedent established that Congress would make it retroactive? Suppose it takes three or four years for us to achieve statehood?

MCNEALY: Mr. President, in the precedents to this, the senators and representatives selected were only paid from the time they were seated and I assume that would be the same here.

NOLAN: Well, that is one thing I would like to have made clear for the record here so that maybe the next legislature would have something to go on. I have always been in favor of our Delegate having an assistant, at least one assistant back in Washington, and quite substantial help with money appropriated from the Territorial legislature and I was wondering whether it was the intent of the Committee to have the next legislature probably increase the appropriation to the Statehood Committee and let the Statehood Committee pay these people; or whether the Committee actually felt that these three people going back to Congress should receive the \$22,500 plus their expenses, or whether it would be up to the legislature. The legislature could turn over a certain amount of money to the Statehood Committee to see that these people's expenses are paid. If they only get paid by Congress from the date they are seated, and it might be three years and someone is going to have to take care of that, and I think the people of the Territory should know whether this is going to cost a full Congressional salary at the time these people are sent back by the legislature.

MCNEALY: Mr. President, I believe that Mr. Nolan, in fact, answered what was the majority, at least the majority opinion of the Ordinance Committee that we felt that possibly the better and safer way for the legislature to handle it would be to make an appropriation to the Statehood Committee who could in turn possibly provide them with per diem and their expenses in Washington.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, the Section 12 that Mr. Nolan has been talking about is in this article by action that I initiated Sunday here. I wanted to make it clear that these senators and representatives were only going to be paid as provided by law. I didn't want to leave it hanging that anybody was going to pay them their salaries as such from the Territory. I look at it this way: if and when these folks are seated as members of Congress they will be paid by the federal government as other senators and congressmen are paid and until that time they won't get anything at all from the federal government, and in my opinion, certainly any action by Congress will not be retroactive; it will only run from the time they are seated. Second, if the Territory sees its way clear to make some provision for these folks, then that will be according to what provision they make, but in making the motion Sunday it wasn't my intention that we were making any obligation on the Territory, moral or otherwise. These folks, as I see it, are strictly on their own as far as salary or expenses go until and unless some

provision is made by law for them, and I think that is the way it should be, and I just wanted to make it clear that we are not obligating anybody by this action to pay these folks either salary or per diem until and unless the legislature provides for it by one manner or another, whatever may seem wise or until they are seated as members of Congress, in which case they will receive their regular pay and expenses as members of Congress.

PRESIDENT EGAN: Is there a debate on the question? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to say a few words, and a very few only, on behalf of the Alaska-Tennessee Plan itself. I think all of us have become well aware of just what is involved here. I think it is a plan which has captured the imagination of this Convention. I am sure that it will capture the imagination of Alaskans to just about the same extent and that it will be adopted by them at the ratification election in April and I am very hopeful that it will similarly capture the imagination of the people of the United States. I feel that it is a bold plan, a forward-looking plan, which is in the best traditions of Alaska and also in the best traditions of the Nation and I hope it will be the avenue to statehood for Alaska.

PRESIDENT EGAN: Mr. Cooper?

COOPER: May I ask Mr. Davis a question?

PRESIDENT EGAN: If there is no objection, Mr. Cooper.

I know that this Subsection 12 has been discussed several times on the floor but I can't possibly see how a representative -- three representatives of the people of Alaska that are going to go to the expense, or be put to the expense of going to Washington, D. C. for an unknown amount of time, duration of time, to be subjected to considerable expenses, I cannot see how the men, or the representatives could possibly seek the positions without some form, shall we say, of guaranteed reimbursement for expenses or for salary and certainly the candidates that will be put up by the parties should have some remuneration for the contract that exists between the people of the Territory of Alaska and their representatives at the Congress. Couldn't this possibly be explained, even if it has to be in detail, so that there can be some allowance or some provision made by the legislature for salaries or expenses for these representatives that we are sending to Washington, D. C.?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President and Mr. Cooper, to begin with I do not envision that we are making a contract with anybody. These

folks who desire to be senators and representatives are strictly on their own. They will know when they run exactly what they are up against. They may or may not be paid expenses and they may or may not be paid a salary depending on what develops. In the second place, I think that we are not proceeding any different here from the proceeding that has taken place in the other states that have used this same plan. The parties go in hopes that through their efforts their territory may be granted statehood. If their hopes are fulfilled and statehood is granted by Congress, they are seated as full-fledged senators and representatives. If their hopes are not fulfilled, then, of course, they are ambassadors of good will. Now, it would be my belief that, whatever may happen on the Tennessee Plan, that the folks of Alaska would be well served by having additional men in Washington and I am assuming that we are going to send the very best men that we may have to do the job. To my notion, almost anytime that a congressman or a senator has come to Alaska, has met our people, has seen our problems, he has gone away a friend of Alaska. I know of no exceptions to that. I think the same thing is true of senators and representatives who have met our people in Washington and have taken time to talk with them. Almost without exception they have been our friends. Our problem in Washington comes because people do not understand us. I think we have to realize that many, many people in the states still think that this is a barren land of ice and snow and people up here are somehow different from other Americans, and whatever it may cost, in my opinion, will be well worth the cost to have senators and representatives back there with, so far as we are concerned at least, the titles of senators and representatives; back there meeting the national figures, meeting the senators and representatives and presenting our problems and our points of view to these folks. I think that when they are back there the folks in Congress are going to find that after all we are just like anybody else. But as far as pinning it down now and saying we are going to pay the senators and representatives any stated amount, or any amount at all, for compensation or for salary, in my opinion, would be unwise, beside the fact that we certainly don't have any money and we certainly don't have any authority to bind the legislature one way or another. For that reason I think we should go no farther than we have here, to say that their compensation shall be as provided by law.

PRESIDENT EGAN: Mr. Marston.

MARSTON: May I elucidate on that answer?

PRESIDENT EGAN: You may, Mr. Marston.

MARSTON: The Federal Constitution had this same problem, Mr. Cooper, and some of the states were unable to send their delegates to the Constitution because they didn't have the money,

but in one case a wealthy merchant put up the money and they finally arrived, late, at the Federal Convention. There are enough men with enough enthusiasm in the Territory of Alaska to find the money to pay the expenses, at least, of these men down there if necessary, much like the missionaries raise lots of money from the public to come to this land, we are in turn going to send missionaries back there and tell them we eat meat and wear clothes just like they do.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Mr. President, I just want to say a few words. I think this is a very good publicity plan but I still cannot give it my wholehearted support and I will have to vote against it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I'd just like to bring in a thought or two here as

I see it. The first consideration we gave this plan was two or three days ago and I went in support of it then because I hoped as we had it presented it could have been amended to make it more workable, but it went the other way and yesterday I deviated from the support of the plan. There are still some things that I think we are asking for that may lead into trouble just because we want to sidestep the issue, or whatever the reason it may be, as far as taking time to work it out. With no guarantee at all, it has also been more or less mentioned here that these three men that go out there will be on their own. They may not be supported at all as far as we know if the law does not guarantee it or the law does not provide: that is going to leave it up to the ones who can see their way clear financially unless they have a friend or group of friends that will do as Mr. Marston said, sort of get back of them and say, "Well, if you get back there and don't get the support, we will back you up." I don't know if that is best. This selection of candidates will take place in a very short time, within about three months and these men that volunteer their services will be doing that without any guarantee whatsoever. Now, anyone that would be willing to do that and spend their money or time with nothing definite -- well, I will say we will have to give them a lot of credit for that and I hope they will be successful within a few days after arriving there so that they can be seated and be on the federal payroll the same as the rest of them. But looking at the other side, if that is not the case, then we have a situation where these men will be volunteering, one for a period of two years, one for a period of four years, and one for a period of six years with no guarantee whatsoever of support, and our people are not going to know when they vote on this how much they are going to be obligated. Also, as I mentioned yesterday, in Section 12, regarding the duties, there is a period of time when these men will be out there and they will have no prescribed duties; they

will be on their own. The Statehood Committee cannot prescribe their duties and neither can anyone else. It will have to be as prescribed by law and they will be out there and I don't know who they will be legally responsible to one way or another. I think we could have clarified some of these points. Now, I bring them out just for the matter of the record, that this plan isn't as complete as I believe it should be. However, as I voted Sunday, I am in favor of the Alaska-Tennessee Plan, and I think we should have one. I am going to vote in support of this one although my better judgment tells me that there are certain portions very unsatisfactory and very unworkable, but, if this is the best we can do, I will give it my support.

PRESIDENT EGAN: Mr. Cooper.

COOPER: May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection.

UNIDENTIFIED DELEGATE: Object.

PRESIDENT EGAN: Objection is heard. Do you so move?

MCNEES: May we extend that a few minutes, Mr. President, and call a short Administration Committee meeting during recess?

UNIDENTIFIED DELEGATE: I object.

PRESIDENT EGAN: There is no motion for recess. Mr. McLaughlin.

MCLAUGHLIN: Is there a question of recess?

PRESIDENT EGAN: Well, Mr. Cooper didn't move.

MCLAUGHLIN: Mr. President, I move the previous question.

PRESIDENT EGAN: Mr. McLaughlin moves the previous question.

BUCKALEW: Second.

PRESIDENT EGAN: Seconded by Mr. Buckalew. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the previous question has been ordered. The question is, "Shall Section 25 of Article XIV, Schedule, be adopted as a part of the Alaska State Constitution?" No, that is not the question -- the Chair stands corrected. "Shall Section 25 of Article XIV, the schedule, be agreed upon as part of the schedule appended to the Alaska State Constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Buckalew, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Riley, V. Rivers, Robertson, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 5 - Collins, Cooper, Laws, Reader, Rosswog.

Absent: 3 - Coghill, Peratrovich, R. Rivers.)

CHIEF CLERK: 47 yeas, 5 nays and 3 absent.

PRESIDENT EGAN: And so Section 25, the Alaska-Tennessee Plan, has been agreed upon as a part of the schedule appended to the Alaska State Constitution. Is it the wish of the Style and Drafting Committee or Rules Committee that we proceed with Article XIV, Sections 1 to 24 of the Schedule of Ordinances, at this time?

SUNDBORG: Mr. President, we are prepared to go ahead.

PRESIDENT EGAN: Then we have before us Article XIV, the Schedule, Sections 1 through 24. The Chief Clerk may read the report of the Committee on Style and Drafting. The Convention will come to order.

CHIEF CLERK: "Article XIV. Schedule. To provide an orderly transition from a territorial to a state form of government, it is declared and ordained:

Section 1. This constitution shall take effect immediately upon the admission of Alaska into the Union as a State.

Section 2. The capital of the State of Alaska shall be at Juneau.

Section 3. All laws in force in the Territory of Alaska on the effective date of this constitution and consistent therewith shall continue in force until they expire by their own limitation, are amended or repealed.

Section 4. Except as otherwise provided in this constitution, all rights, titles, actions, suits, contracts, liabilities and civil, criminal or administrative proceedings shall continue unaffected by the change from territorial to state government, and the state shall be the legal successor to the Territory in these matters.

Section 5. Cities, school districts, health districts. public utility districts and other local subdivisions of government existing on the effective date of this constitution shall continue to exercise their powers and functions under existing law pending enactment of laws to carry out the provisions of this constitution. New local subdivisions of government shall be created only in accordance with this constitution.

Section 6. All officers of the Territory, or under its laws, on the effective date of this constitution shall continue to perform the duties of their offices in a manner consistent with this constitution until they are superseded by officers of the State.

Section 7. Residence or other qualifications prescribed by this constitution shall be satisfied by corresponding qualifications under the Territory.

Section 8. The seal of the Territory, substituting the word "State" for "Territory", shall be the seal of the State.

Section 9. The flag of the Territory shall be the flag of the State.

Section 10. This constitution shall be submitted to the voters of Alaska for ratification or rejection at the territorial primary election to be held on April 24, 1956. The election shall be conducted according to existing laws regulating primary elections so far as applicable.

Section 11. Each elector who offers to vote upon this constitution shall be given a ballot by the election judges which in substance shall contain the following proposition:

'Shall the Constitution for the State of Alaska prepared and agreed upon by the Alaska Constitutional Convention be adopted?'	_____
	Yes

	No

Section 12. The returns of this election shall be made to the governor of the Territory of Alaska, and shall be canvassed in substantially the same manner provided by law for territorial elections.

Section 13. If a majority of the votes cast on the proposition favor the constitution, then the constitution shall be deemed to be ratified by the people of Alaska. The governor of the Territory shall forthwith submit a certified copy of the constitution through the President of the United States to the Congress for approval, together with a statement of the votes cast thereon.

Section 14. When the people of the Territory ratify this

constitution and it is approved by the duly constituted authority of the United States, the governor of the Territory shall, within thirty days after receipt of the official notification of such approval, issue a proclamation and take necessary measures to hold primary and general elections for all state elective offices provided for by this constitution.

Section 15. The primary election shall take place not less than forty nor more than ninety days after the proclamation by the governor of the Territory. The general election shall take place not less than ninety days after the primary election. The elections shall be governed by this constitution and by applicable territorial laws.

Section 16. The officers to be elected at the first general election shall include two senators and one representative to serve in the Congress of the United States, unless senators and a representative have been previously elected and seated. One senator shall be elected for the long term and one senator for the short term, each term to expire on the third day of January in an odd-numbered year to be determined by authority of the United States. The term of the representative shall expire on the third day of January in the odd-numbered year immediately following his assuming office. If the first representative is elected in an even-numbered year to take office in that year, a representative shall be elected at the same time to fill the full term commencing on the third day of January of the following year, and the same person may be elected for both terms.

Section 17. The first governor and secretary of state shall hold office for a term beginning with the day on which they qualify and ending at noon on the first Monday in December of the even-numbered year following the next presidential election. This term shall count as a full term for purposes of determining eligibility for reelection only if it is four years or more in duration.

Section 18. The returns of the first general election shall be made, canvassed and certified in the manner prescribed by law. The governor of the Territory shall certify the results to the President of the United States.

Section 19. When the President of the United States issues a proclamation announcing the results of the election, and the State has been admitted into the Union, the officers elected and qualified shall assume office.

Section 20. The governor shall call a special session of the first state legislature within thirty days after the presidential proclamation unless a regular session of the legislature falls within that period. The special session shall not be limited as to duration.

Section 21. The first members of the judicial council shall, notwithstanding Section 8 of Article IV, be appointed for terms as follows: three attorney members for one, three and five years respectively, and three non-attorney members for two, four and six years respectively. The six members so appointed shall, in accordance with Section 5 of Article IV, submit to the governor nominations to fill the initial vacancies on the supreme court, including the office of chief justice. Once the chief justice is appointed, he shall assume his seat on the judicial council.

Section 22. Until the courts provided for in Article IV are organized, the courts, their jurisdiction and the judicial system shall remain as constituted on the date of admission unless otherwise provided by law. When the state courts are organized, new actions shall be commenced and filed therein, and all causes, other than those under the jurisdiction of the United States, pending in the courts existing on the date of admission shall be transferred to the proper state court as though commenced, filed or lodged in those courts in the first instance, subject to applicable acts of congress.

Section 23. The provisions of Section 5 of Article II shall not prohibit any member of the first state legislature from holding any office or position created during his first term.

Section 24. Citizens who legally voted in the general election of November 4, 1924, and who meet the residence requirements for voting, shall be entitled to vote notwithstanding the provisions of Section 1 of Article V."

V. RIVERS: We have adopted a rule that ordinances shall be headed with that particular type of enacting clause, and the point of order is that it is automatically adopted.

PRESIDENT EGAN: Your point of order would be well taken, Mr. Victor Rivers, inasmuch as we adopted a rule by unanimous consent this morning when it was discussed. Mr. Robertson, do you recall if it was adopted? That question came up.

ROBERTSON: I would like to know what Mr. Riley's position is on that.

PRESIDENT EGAN: Mr. Riley, was it your recollection that we adopted such a rule?

RILEY: The Rules Committee wasn't instructed to act but it did act during the first recess, I believe, this morning, anticipating the question would be referred to it. Then when ordinances came in, Mr. McNealy proposed language very similar to that which the Rules Committee had arrived at, as an amendment to the rules covering this particular feature, and I believe

it was adopted on the floor by unanimous consent.

PRESIDENT EGAN: The question was adopted without objection, so is there still objection to it? If there is no objection and inasmuch as it is a rule, it would take a two-thirds vote to do away with the rule. Hearing no objection the change is ordered. Mr. Barr.

BARR: Mr. President, I would like to ask either Mrs. Hermann or Mr. Sundborg about a little punctuation on line 13, page 1. It just seems to me that there should be a couple of more commas in there to make it more interesting. For instance, after the word "liabilities" and after "criminal" would that be better? It would be for me.

PRESIDENT EGAN: With the word "or" following "criminal" would it be necessary?

BARR: After "liabilities" and after "criminal" there should be commas, I believe.

SUNDBORG: I might just say that the Style and Drafting Committee is breaking up now that we have gone through all the material before us, into three subcommittees. One will be a subcommittee on punctuation; one will be a subcommittee on arrangement; and one will be a subcommittee on uniform use of language throughout the constitution; and we will be going over every article, looking at them from a uniform point of view, and there may be some changes in punctuation for which we will ask unanimous consent before the constitution is adopted as a whole. Now as to the particular question Mr. Barr asks, I am not prepared to answer it. Maybe Mrs. Hermann is.

PRESIDENT EGAN: Mr. Hurley has been attempting to get the floor. Mr. Hurley.

HURLEY: Mr. President, I am prepared to answer it and the answer as far as I am concerned is "no". There are two things we are talking about in here; one is rights, titles, actions, suits, contracts, liabilities and civil and criminal liabilities; and the other is civil, criminal or administrative proceedings, and that is why the "and" separates the two types of things. Now perhaps the punctuation isn't proper but it wouldn't be improved by putting a comma after the word "criminal".

BARR: Mr. Hurley, that is what I am objecting to. It is not separated, those two ideas there. Unless there is something put after "liabilities", I would prefer a semicolon.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I can give Mr. Barr the rule of punctuation that is followed on these. There are two sets of two series there.

The first one consists of the words up to "liabilities" and the second consists of the words up to "administrative". Now the rule of punctuation is to have a comma except between the first and last; the next to last and the last of the series that is connected. Because of the fact that we have omitted an "and" and put commas in all the way through here, and any time you omit a word you replace it with a comma. Now I don't know if this is very clear to him or not, or to anybody else, but the series is what we are working on. Now we come here to "liabilities and"; then we have "civil, criminal or administrative proceedings". Whenever the conjunction is added we do not put a comma in, also. That is the rule we have adopted and it is a sound rule of punctuation.

PRESIDENT EGAN: Are there other questions? Mr. Gray.

GRAY: Mr. President, it might be just my own

HELLENTHAL: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal?

HELLENTHAL: Didn't we kind of get off before the report was completed here? I think the Committee was in the process of making an amendment.

PRESIDENT EGAN: Mr. Sundborg, were you still reporting?

SUNDBORG: Mr. President, I take it the addition on the mimeographed copies of the words "schedule appended to" in the resolving clause was agreed to?

PRESIDENT EGAN: That is correct.

SUNDBORG: I will say for the Style and Drafting Committee that these sections were redrafted by a subcommittee consisting of Mrs. Nordale, Mr. McLaughlin and Mr. Johnson, and that we have asked Mr. McLaughlin to explain what changes have been made and to answer any questions from delegates.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, insofar as I can recall, there weren't any substantive changes made by the Committee on it. If the Chair desires to ask section by section, if there are any questions, I shall attempt to answer them.

PRESIDENT EGAN: Are there questions? Mr. Gray.

GRAY: I would like to ask a question of Mr. McLaughlin. On page 2 on the section on local government, in the enrolled copy you start out "pending adoption of measures to carry out the provisions" and so on "of local government there shall

be instituted..." Now in our Style and Drafting copy, Section 5, you have two sentences there. The first is very apparent. Now beginning with line 12, "New local subdivisions of government shall be created only in accordance with this Constitution." Now if this is an ordinance, would that have any effect until after the constitution was adopted?

MCLAUGHLIN: This would have no effect until after the constitution is adopted.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I have a question in connection with page 6, Section 20. Now it says there, "The Governor shall call a special session of the first state legislature unless it is already in session." How could the legislature be in session if it is the first one? In the first place, this clause could apply to a state that was already a state in adopting amendments to a constitution where a state legislature might be in session. But under the system we have set up the first state legislature will be elected and if the Territorial legislature were already in session, the first state legislature would undoubtedly have a different composition, so I wonder if that is substance matter, Mr. McLaughlin, or whether it was the arrangement worked out this way in Style and Drafting Committee?

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: I am rather hazy as to what took place last night, Mr. Rivers, but my recollection was that the discussion was that unless a regular session of the legislature falls within that period, it was the intent of the governor --

V. RIVERS: We have got no state so there couldn't be a state legislature in session and there would be a new legislature if it is a state, so what would it matter? He would still have to call the first session period, wouldn't he, Mr. McLaughlin?

MCLAUGHLIN: This refers to the governor of the state, Mr. Rivers.

V. RIVERS: Yes, I see that.

MCLAUGHLIN: He "shall call a special session of the first state legislature" only unless a regular session of the legislature falls within that period; that is 30 days after the Presidential proclamation declaring Alaska as a state and its officers have been elected, then the governor shall call it.

V. RIVERS: I think that clarifies it; in other words, if he has called it previously while it is in session, or if it is a regular session under the constitution --

MCLAUGHLIN: Another matter on that, incidentally, that the Committee considered was the following sentence: "A special session shall not be limited as to duration." My recollection is that special sessions or the recollection of the Committee was that a special session would have to be limited in the call, that is, as to the subject matter; but we didn't attempt to change it and in substance, as it stands now, the governor can call it and limit the subjects which are to be discussed by it.

V. RIVERS: That answers my question, Mr. President.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I wonder if I may direct a question to Mr. McLaughlin? My question is with reference to Section 21 and I believe I shall direct it to you as Chairman of the Judiciary Committee rather than Style and Drafting because I believe it involves what I believe is a substantive change necessary in Section 21. On lines 13, 14, and 15, etc., do you recall in the discussion of the Judiciary Committee whether or not it was the belief of the Committee that the first court system should be set up before the chief justice of the supreme court was appointed and seated?

MCLAUGHLIN: My recollection of that is so, and in fact Mr. White has asked me several times whether or not we were prepared to propose an amendment making sure that the superior court, the vacancies then existing, should be filled. The first vacancy should be filled and vacancies on the supreme court filled before the chief justice is authorized to cast a vote, that is, participate in the proceedings of the judicial council. That is my recollection and, if you propose it, as I know you are, as an individual, it will be a substantive change.

JOHNSON: Well, I am prepared to propose such an amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, the transitional measures with regard to the election of the state senators and representatives, Mr. McLaughlin, my mind is hazy on those. Are they somewhere else in the constitution?

MCLAUGHLIN: Those, Mr. Hellenthal, were knocked out because they appear in the article on apportionment.

HELLENTHAL: Will they later be inserted in these transitional measures?

MCLAUGHLIN: They will be, Mr. Hellenthal.

HELLENTHAL: That will come before us again as a supplement?

MCLAUGHLIN: That won't be necessary, will it, Mr. Sundborg, because of the fact it has been adopted?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, our rules provide that after all of the articles, schedules, etc., have been adopted separately, that they are referred to the Style and Drafting Committee who shall arrange them according to an order which it suggests to the Convention and then all of that material, that is, the finished constitution as we suggest it as to order will be brought back before the Convention and the Convention will pass upon our suggestions as to the arrangement before adopting the constitution as a whole.

HELLENTHAL: That answers my question. One more I notice on the last page -- it's extremely minor but style has been departed from there in referring to the applicable "acts of congress" and the "A" in "Acts should be capitalized and the word Congress" should begin with a capital "C", I should think.

V. RIVERS: I have one further question, Mr. President, and I would direct it through the Chair, and that is in the first two lines, "To provide an orderly transition from a territorial to a state form of government, it is declared and ordained..." I notice that is somewhat different from some of the words that have been used in that similar clause in other state constitutions and I wonder if that follows now the wording that we originally acted upon, Mr. McLaughlin?

MCLAUGHLIN: No, the wording that we originally acted upon, Mr. Rivers, the original preamble if you want to call it that, read "that no inconvenience may result because of change from a territorial to a state form of government, it is declared and ordained..." We substituted "To provide an orderly transition from a territorial to a state form of government..." It was not the belief of the Committee that that was a substantive change and it was concurred in by the Committee on Ordinances and Transitional Measures through its Chairman, Mr. McNealy.

V. RIVERS: I notice there is considerable change and I cite from Oklahoma in that matter. "In order that no inconvenience may arise by reason of a change from the forms of government now existing in Indian territory and in the Territory of Oklahoma, it is hereby declared as follows." I am wondering as to the interpretation of this wording here now. You feel that the Ordinance Committee has said there was no substantive change -- is that correct?

MCLAUGHLIN: That is my understanding: if Mr. McNealy desires. to contradict me. We kept it in, incidentally, in the preamble because Mr. McNealy said it was essential under the decisions of many courts; it would be helpful to have it in there, that

is, the preamble itself. Mr. McNealy might be able to answer whether or not the Committee completely concurs.

V. RIVERS: I would like to ask Mr. McNealy what his opinion is in relation to the present preamble in regards to the one originally brought in by his Committee.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Rather early in the proceedings here, the Ordinance Committee thought we would have that matter come up before Style and Drafting and they didn't want to use the double negative, but we, however, probably would have preferred to keep the old language in but in checking up on it, I liked the words "that no inconvenience" and it was the same wording as other constitutions, as used by other courts, but in the checking up we did we found no indication but that the words "to provide for an orderly transition" were substantially the same as the use of the word "inconvenience".

V. RIVERS: And there have been legal interpretations of the other wording, is that correct?

MCNEALY: The other wording as occurred originally, of course, has been determined many, many times by the courts. The purpose behind it though, if the President will permit, that so no inconvenience may result, it conveyed, in effect, the words that it would provide then for orderly transition. I don't believe necessarily that this present wording would be subject to any other interpretation.

V. RIVERS: You think the words "orderly transition" essentially mean the same as "no inconvenience"?

MCNEALY: That was the opinion of the Ordinance Committee.

V. RIVERS: Do you think the words "declared and ordained" mean the same thing as "declared"?

MCLAUGHLIN: If I may interrupt, "declared and ordained" is identical. We are using the identical language from the enrolled copy.

V. RIVERS: I wanted the record to show his answer on that "declared and ordained", Mr. McLaughlin.

MCNEALY: Mr. President, we felt that it was necessary to include the words "declared and ordained" because those have been specifically passed upon.

V. RIVERS: They have been interpreted?

MCNEALY: Which, in effect, makes all of the provisions of the

schedule as ordinances. The words "transitional measures" have been used in some of the court decisions but only in referring to ordinances and in this manner, just in a byline, they might mention an ordinance as a transitional measure, and we felt we were much safer to keep the thought of ordinances in the foreground, and transitional measures as sort of a secondary interpretation.

V. RIVERS: It is true, is it, that transitional measures, ordinances, and schedules have all been interpreted to mean the same thing legally?

MCNEALY: That is substantially true. The use of the words "transitional measures" is one interpretation of an ordinance, but it is not so all-inclusive as the word "ordinance".

V. RIVERS: "Schedule" -- what about that?

MCNEALY: The words "schedules and ordinances" have been, Mr. President, connected together in a majority of the court decisions on matters arising under the schedules of constitutions. Its a very fixed meaning in the decisions of the court.

V. RIVERS: That answers my question for the moment.

PRESIDENT EGAN: Are there other questions to be directed to the Committee in relation to Sections 1 through 24? Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, for the information of the Convention, Section 23 and Section 24 -- in the copies before you, Section 23 is taken from Section 26 which was Proposal 17/c, of the second revision, and Section 24 was taken from Section 27, which was the proposal in 17/c, second revision.

PRESIDENT EGAN: Are there questions to be directed to Mr. McLaughlin? If not, does the Committee have any proposed amendments? Mr. Sundborg.

SUNDBORG: Mr. President, we will have an amendment to, I believe, Section 11, and I believe we are pretty well agreed on what it will be, but if we could have a five-minute recess so that Style and Drafting Committee could meet, I believe we could present that to you.

PRESIDENT EGAN: If there is no objection the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. It is the feeling of the Chair, if it is agreeable to the delegates, that we might proceed with this ordinance and complete it.

SUNDBORG: And then adjourn for the day?

PRESIDENT EGAN: And then adjourn for the day if that would be the wish of the body. Mr. Sundborg.

SUNDBORG: Mr. President, the Style and Drafting Committee has agreed on some language it wants to submit in the form of an amendment to Section 11. It contains several sentences and we have sent it upstairs to be mimeographed. We would be perfectly willing to submit that, since it is a matter of substance, after our report as a whole has been accepted, and along with any other amendments as to substance, so we would like now to know if there are any other suggested amendments or questions as to phraseology, and then I will move the acceptance of our report and get on to amendments as to substance.

PRESIDENT EGAN: Are there any other questions or proposed amendments as to phraseology to be offered? Mr. Londborg?

LONDBORG: Did Style and Drafting Committee work on that one sentence that Mr. Barr mentioned? I surely can't make it out.

SUNDBORG: We will.

PRESIDENT EGAN: Are there other questions? If not -- Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent that the report of the Style and Drafting Committee as to the first 24 sections of Article XIV, Schedule, be accepted and that the amendments therein be adopted.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the report of the Style and Drafting Committee as to the first 24 sections of Article XIV, Schedule, be accepted and that the amendments therein be adopted. Is there objection? Mr. Victor Rivers.

V. RIVERS: I rise for a momentary objection and I, the other day, under the resolutions tried to submit an amendment for an additional section. At that time I was told that it should be placed in ordinances, as you recall. I still have that amendment; I submitted it to the Ordinance Committee and I haven't heard any further report on it. It's a separability clause which I mentioned previously.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I hadn't risen because Mr. Sundborg asked only as to style and drafting matters. Just a few minutes ago an amendment proposing eight lines of substance and also Mr. Rivers' amendment was presented to the Committee and I think on both of those it is going to -
- the one came up just the last

few minutes, and I think the Committee should pass on it.

V. RIVERS: If this is not the right time, I will withhold my request then, but when I submitted this I understood the article I submitted it on was in second reading. Was that correct?

PRESIDENT EGAN: What was the situation?

V. RIVERS: I will withhold that question and we can look it up.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent for acceptance and adoption? If not, the first 24 sections of the report of the Style and Drafting Committee is ordered accepted and the amendments contained therein are ordered adopted. Mr. Johnson.

JOHNSON: Mr. President, if it is in order, I have an amendment as to substance regarding Section 21. I move that the rules be suspended for the purpose of submitting a specific amendment.

PRESIDENT EGAN: Would you state the amendment, Mr. Johnson.

JOHNSON: The Chief Clerk has it.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment that would be offered.

CHIEF CLERK: "Section 21, page 7, line 13, after the first 'the', add 'superior court and the'; line 14, strike the word 'once' and insert the following: 'After the initial vacancies on the superior and supreme court are filled'; line 15, strike the comma and insert the word 'and'."

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the rules be suspended in order that he might offer this amendment. Is there objection to the suspension of the rules? The Chief Clerk will please read the proposed amendment before the rules are suspended.

(The Chief Clerk read the proposed amendment by Mr. Johnson again.)

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended. Is there objection?

DAVIS: I haven't got all of that down, would you mind repeating it.

(The Chief Clerk then read the amendment again.)

PRESIDENT EGAN: Would the Chief Clerk please read, beginning

at the comma on line 11, how that would read then.

CHIEF CLERK: "The six members so appointed shall, in accordance with Section 5 of Article IV, submit to the governor nominations to fill the initial vacancies on the superior court and the supreme court including the office of chief justice. After the initial vacancies on the superior court and supreme court are filled, the chief justice is appointed and he shall assume his seat on the judicial council.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: May I ask a question of Mr. Johnson?

PRESIDENT EGAN: You may, Mr. Rivers.

V. RIVERS: Mr. Johnson, does this improve the matter and to your way of thinking remove a situation that might otherwise be difficult?

JOHNSON: Yes, Mr. Rivers, it does.

PRESIDENT EGAN: Mr. Johnson, the Chair does not mean to interrupt, but is there objection to the suspension of the rules? Hearing no objection, the rules are ordered suspended. Mr. Johnson.

JOHNSON: I now move that the amendment be adopted as read.

PRESIDENT EGAN: Mr. Johnson moves the amendment be adopted as read.

ROBERTSON: I second it.

PRESIDENT EGAN: Seconded by Mr. Robertson. Is there objection to it?

DAVIS: I would like to have Mr. Johnson explain what he has in mind here and why he thinks this is desirable.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Well, during discussions of this matter in the Judiciary Committee, the question came up on a number of occasions as to whether or not, in setting up the first court, the superior and the supreme court, with the chief justice a member of the judicial council and voting on the appointments or the nominations of members on the superior and supreme courts. that he might, if he were appointed first and sat in his capacity as a member of the judicial council and did vote on nominations presented, that it might create a situation where some of the judges of the superior court and justices of the supreme court might be obligated to him in some way; and in order to obviate

any chance of that situation arising, we felt, I have felt all along, that something like this should be inserted in this transitory provision in order that all of the vacancies on the superior court shall be filled by the first six members appointed to the judicial council, and also the two vacancies on the supreme court other than the chief justice could be filled, and then the appointment of the chief justice made and he then take his seat on the judicial council. In that way, the entire initial court system would be set up without the chief justice having participated in any way either in the appointments or the selection of the members of the bench, freeing the chief justice and the members themselves of any possible political or other obligations.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: If I may ask Mr. Johnson a question. Doesn't this make it twice as likely that the six-man board will become deadlocked?

JOHNSON: I don't believe so.

HELLENTHAL: You don't think the three attorney members will square off against the three nonattorney members?

JOHNSON: No, I do not.

HELLENTHAL: Like the ESC?

JOHNSON: No, I really don't. I don't think that is a problem at all. Does that answer your question?

HELLENTHAL: That will, yes.

PRESIDENT EGAN: Is there further discussion? Mr. White.

WHITE: Mr. President, may I address a question to Mr. Johnson?

PRESIDENT EGAN: You may. Mr. White.

WHITE: As you know, Mr. Johnson, I have been very much interested in some correction here, too, all along. The only problem I see with your amendment is one that was pointed out to me by Mr. McLaughlin, I think, sometime ago, and that is with two or more nominations for the chief justice having to go to the governor eventually, it means that the judicial council will have to save out from selection on the initial court system at least two names, and presumably they should be the two best names available, and with all the other positions filled first, it means that one of those two best candidates will not be eligible to fill any initial vacancy in the entire court system. Do you think that your amendment to correct the problem that might arise transcends the difficulty that I pointed out here?

JOHNSON: I believe that is a matter of a practical application of the system and if the judicial council goes ahead and attempts to fill these vacancies, certainly they are going to screen the entire Bar Association in Alaska and right now I understand we have about 125 or 150 members, so I see no real objection to the amendment on that basis, because I am quite sure the first judicial council will do everything they can to get the best men and will save back two of the best for the chief justice position.

MCLAUGHLIN: May I request a half-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, I have a parliamentary inquiry. Under this suspension of the rules, will it be permissible to offer a slight amendment to the amendment or must I --

PRESIDENT EGAN: Under the manner in which we have been proceeding, Mr. Johnson, no. But by unanimous consent, of course, which would be a further suspension of the rules, if there is no objection, it would be possible because it would be a further suspension of the rules for that purpose, to offer an amendment. If there would be no objection to offering a further amendment, by unanimous consent, we could allow you to do so.

JOHNSON: Then, Mr. President, I ask unanimous consent to suspend the rules for the purpose of offering an amendment to the amendment that is now before us.

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules? Would you state what the proposed amendment would be to the amendment, Mr. Johnson.

JOHNSON: Mr. President, the present amendment which is on the Chief Clerk's desk says, "line 15, strike the comma and insert the word 'and'". In lieu of that, in line 15, I would ask to change the original amendment by striking the words "is appointed, he", so that the sentence then would read beginning on line 14 : "After the initial vacancies in the superior and supreme courts are filled the chief justice shall assume his seat on the judicial council."

PRESIDENT EGAN: Is there objection to the unanimous consent request for suspension of the rules in order that Mr. Johnson may offer the amendment to the amendment? Hearing no objection, the rules have been suspended for that purpose.

JOHNSON: I move that the original amendment now be amended so that in line 15 the words "is appointed, he" are stricken from line 15.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent for adoption of the proposed amendment to the amendment. Is there objection? Hearing no objection, the amendment to the amendment is ordered adopted. Mr. Johnson.

JOHNSON: Now I ask that the amendment as amended be adopted.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the amendment as amended be adopted. Mr. Londborg.

LONDBORG: Mr. President, I would appreciate having it read in its entirety as it now reads.

PRESIDENT EGAN: Would the Chief Clerk please read that sentence again, please.

CHIEF CLERK: Starting on line 9, "The six members so appointed shall, in accordance with Section 5 of Article IV, submit to the governor nominations to fill the initial vacancies on the superior and the supreme court, including the office of chief justice. After the initial vacancies on the superior and supreme court are filled the chief justice shall assume his seat on the judicial council."

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of the amendment as amended?

KILCHER: A question, Mr. President. Mr. Johnson, shouldn't you possibly have said in the beginning of your amendment "the initial vacancies on the superior courts and supreme court"? Both courts are in the singular there. Is that correct in accordance with our judicial article?

JOHNSON: Well, I thought that later the Style and Drafting Committee could correct the variance between the original article and this.

PRESIDENT EGAN: Is there objection to the adoption of the amendment as amended? Mr. Sundborg.

SUNDBORG: I would like to hear from Mr. McLaughlin as to what he thinks about it as to the standpoint of the Judiciary Committee.

MCLAUGHLIN: I think we discussed this in the Judiciary Committee and we added various interpretations on the floor. I personally believe that it is a good amendment because it prevents this situation from arising. As it stood, if the judicial council is formed and they submit names to the governor

for all the superior court judges and all the supreme court judges, the first thing a wise governor might do would be to designate the chief justice immediately. Then he would have a weighted council where he had two appointees plus a chief justice who had been appointed by him and he could repudiate all other nominations and then he would have control of the judicial council. The net effect of it would be that most of the appointments on the superior and the supreme court bench would be determined by the chief justice designated by the governor, and the only way you could possibly avoid it would be to designate all your superior court judges first and then designate your supreme court judges, but there is a possibility that you would have exhausted all your good men. Your best man whom you desired as chief justice might be repudiated at the last by the governor. So, under those circumstances, we feel that this is the adequate solution for those first appointments; that is, there would be little likelihood of a complete control by the chief justice, or indirectly, by the governor. I believe it is a good amendment.

PRESIDENT EGAN: Mr. McLaughlin.

SUNDBORG: May I direct a question to Mr. McLaughlin? Mr. McLaughlin, as I read it, as it would be after being amended, the eventuality that Mr. White assumed here, or suggested, would not arise? Do you agree with me?

MCLAUGHLIN: No, it would not, and I believe that Mr. White is quite happy now about the amendment.

PRESIDENT EGAN: Is there objection to the adoption of the amendment, as amended? Hearing no objection, it is so ordered and the amendment as amended has been adopted. At this time the Chair does not recollect having referred the Committee Proposal No. 17/a as it was reported out of the Committee on Engrossment and Enrollment to the Style and Drafting Committee. That Proposal No. 17/a is referred to the Style and Drafting Committee. Are there other amendments for this proposal? Mr. Sundborg.

SUNDBORG: The Committee on Style and Drafting has a substantive amendment. I ask unanimous consent that the rules be suspended to permit the Committee on Style and Drafting to offer an amendment, the text of which has been placed on the desk of each delegate. It's an amendment to Section 11.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended in order that this proposed amendment might be offered. The Chair might state at this time, too, that perhaps it would not be in order to leave here without eating. Undoubtedly the people upstairs have prepared lunch for the delegates and it would not be a very good move to leave without having eaten. Mr. Sundborg.

SUNDBORG: Mr. President, was unanimous consent given to suspend the rules?

PRESIDENT EGAN: Is there objection to the suspension of the rules? Hearing no objection the rules are ordered suspended. Mr. Sundborg.

SUNDBORG: Mr. President, I now offer the amendment. The Chief Clerk has a copy.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 11, page 3, line 14, strike 'in substance' and all of line 15, and insert: 'will be separate from the ballot on which candidates in the primary election are listed. Each of the propositions offered by the Alaska Constitutional Convention shall be set forth separately, but on the same ballot form. The first proposition shall be as follows: '"

PRESIDENT EGAN: Mr. Sundborg, what is your pleasure?

SUNDBORG: I move the adoption of the amendment and ask unanimous consent.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment and asks unanimous consent. Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. Johnson.

JOHNSON: I move the Convention stand at recess until 1:30 p.m.

PRESIDENT EGAN: Mr. Johnson moves that the Convention stand at recess until 1:30. Is there objection? Mr. Sundborg.

SUNDBORG: I object.

BARR: I second.

PRESIDENT EGAN: Seconded by Mr. Barr that the Convention stand at recess until 1:30. Are there Committee announcements to be made if we do recess? Mr. McNealy.

MCNEALY: In the event of recess the Ordinance Committee will meet immediately upon recess.

PRESIDENT EGAN: In the event of recess the Ordinance Committee will meet immediately upon recess. Mr. Sundborg.

SUNDBORG: Mr. President, Style and Drafting Committee has nothing further for the Committee to work on. It might be there is some other work that some of the other committees want to do at 1:30. It was my thought that we would adjourn now until tomorrow.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess until 1:30? All those in favor of recessing until 1:30 will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the Convention is still in session. Are there other proposed amendments for this proposal, Article XIV? Mr. Sundborg.

SUNDBORG: If there are no other amendments, I ask unanimous consent that the rules be suspended and that the first 24 sections of Article XIV, Schedule, be advanced to third reading, be read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended as to the first 24 sections of Article XIV, the schedule, that those sections be advanced to third reading, read the third time by title only, and placed on final passage. Is there objection? Hearing no objection, the rules have been suspended and the first 24 sections of Article XIV, the schedule, are now before us in third reading. The Chief Clerk will please read the title.

CHIEF CLERK: "Resolved, that the following be agreed upon as part of the schedule appended to the Alaska State Constitution. Article XIV, Schedule, Sections 1 through 24."

PRESIDENT EGAN: Is there any discussion? The Convention will come to order. Is there any discussion with relation to these 24 sections? Mr. Victor Rivers.

V. RIVERS: Mr. President, I believe it is the opinion of all of the members here that in adopting these ordinances and transitory provisions under the title "Schedule" that they are all subject to being self-executed and finishing themselves off in that manner, or subject to change by law, meaning either the legislature or the initiative. Is that correct in your opinion?

PRESIDENT EGAN: That would be the opinion of the Chair with relation to the interpretations given on the floor, yes, Mr. Victor Rivers. Is there further discussion? Mr. Johnson.

JOHNSON: I do not believe the Chair correctly stated the question. You used the phraseology appearing above which has been corrected by new rules, has it not?

PRESIDENT EGAN: Yes, Mr. Johnson, you mean in advancing this article?

JOHNSON: Yes, you stated that the question before us, as I understood you, was: "Resolved, that the following be agreed upon as a part of the Alaska State Constitution."

PRESIDENT EGAN: I hadn't stated that yet, Mr. Johnson. We

haven't put the question because it is still open for discussion if any delegate wishes to discuss the article.

JOHNSON: I beg your pardon.

PRESIDENT EGAN: Is there any discussion? Mr. Sundborg.

SUNDBORG: If I may comment on the question addressed to the Chair a few moments ago by Mr. Rivers, he asked you, as I recall it, sort of a double-barreled question. First of all, are these provisions self-executing, and then, are they subject to being changed by the legislature? I think you answered that it was your understanding that it was "yes" on both counts.

PRESIDENT EGAN: They are self-executing. It is the opinion of the Chair that they are self-executing, Mr. Sundborg, and they are subject to change by the legislature wherever any provision by law is made in a section.

SUNDBORG: In the section itself?

PRESIDENT EGAN: Yes. It would be the opinion of the Chair in answering that, that they are not bound by the constitutional provisions forever as the provisions in the constitution are. That was the intent of the Chair in answering the question. Mr. Riley.

RILEY: Mr. President, as I recall it the question was to this effect: Did not the body feel this situation as described by Mr. Rivers to exist, and I think it should be pointed out that the Chair in replying said, "in the opinion of the Chair", and that is as far as it has gone.

PRESIDENT EGAN: The question is, "Shall the first 24 sections of Article XIV, the schedule, be agreed upon as part of the schedule appended to the Alaska State Constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 51 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fisher, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 2 - Laws, Robertson.

Absent: 2 - Peratrovich, R. Rivers.)

CHIEF CLERK: 51 yeas, 2 nays and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the first 24 sections of Article XIV have been agreed upon as part of the schedule appended to the Alaska State Constitution.

JOHNSON: What was the result again?

PRESIDENT EGAN: 51 yeas, 2 nays and 2 absent. At this time the Chair would like to remind the delegates that we have accepted an invitation of the History Class of the University to have our coffee with them tomorrow afternoon at 3:30. Mr. Sundborg.

SUNDBORG: Mr. President, I now move we adjourn, subject to committee announcements, until 1:30 o'clock tomorrow afternoon.

PRESIDENT EGAN: Mr. Sundborg moves that the Convention stand adjourned, subject to committee announcements, until 1:30 o'clock tomorrow afternoon. Mr. Hilscher.

HILSCHER: On the dollar apiece that we collected the other day for the "cokes" and that stuff, we will declare a dividend of \$15.80 and that probably will be at the Oasis of the Traveler's Inn on Saturday night, should there be an entertainment or a general clambake there.

HERMANN: I move we apply it to our senators' salaries. (Laughter)

DAVIS: Mr. President, this is not a committee announcement but I would like to know what this paper is that is going around here.

UNIDENTIFIED DELEGATE: The paper is for delegates' signatures to be used on souvenir tablecloths.

PRESIDENT EGAN: The Convention will come to order. The Chair would like to ask: Do you write "tablecloth" every time you sign your signature under it? (Laughter) Mr. Coghill.

COGHILL: Committee on Administration will meet at 5:00 o'clock in Apartment 1012 of the Polaris Building, this evening.

PRESIDENT EGAN: Committee on Administration at 5:00 o'clock this evening in Apartment 1012 of the Polaris Building. Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances will meet in the gallery immediately upon adjournment.

PRESIDENT EGAN: Committee on Ordinances will meet in the gallery immediately upon adjournment. Mr. Sundborg.

SUNDBORG: Mr. President, Committee on Style and Drafting will meet in one of the large committee rooms upstairs at 1:30 o'clock.

PRESIDENT EGAN: Style and Drafting Committee in one of the large committee rooms upstairs at 1:30 o'clock. Mr. Coghill.

COGHILL: For the information of the delegates, there are more invitations on hand upstairs in the message center room and if anyone has requested them, they can pick them up.

PRESIDENT EGAN: If there are no other committee announcements and if there is no objection, the Convention stands adjourned until 1:30 p.m. tomorrow.

ALASKA CONSTITUTIONAL CONVENTION

February 2, 1956

SEVENTY-SECOND DAY

PRESIDENT EGAN: The Convention will come to order. We have with us today Reverend Powers of the Totem Park Church of the Nazarene. Reverend Powers will give our daily invocation.

REVEREND POWERS: Our Heavenly Father, once again we come to the meeting at this time; once again we come in the name of good government. We pray at this time that Thou will give our delegates guidance from Heaven; that Thou will give them the necessary help from above that we might have a good constitution. We thank Thee for the work they have done in these past months. We pray that Thy blessings will be upon them, and may we have a state, Lord, that will lift up God and the things that are of righteousness. Be with us at this time. Bless every family that is represented. In Thy name we ask it. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: 2 absent. Mr. Taylor is ill.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with the regular order of business. The Chair would like to announce at this time that we are very pleased to have with us today the eighth grade class of Main School of the Fairbanks public schools. We regret that the loud speaker system has been taken out of the gallery in order to facilitate plans for the signing ceremony on Sunday, and we hope that it will be possible that the people in the gallery can somewhat understand what is taking place here on the floor this afternoon. Mr. Lee.

LEE: At this time I would like to have the privilege of introducing an eminent legislator from the first division, Mr. Ed Locken of Petersburg, in the gallery. (Applause)

PRESIDENT EGAN: The Chair and delegates are happy that Mr. Locken has seen fit to come all the way from Petersburg to Fairbanks, Alaska, to witness the Constitution of the State of Alaska in the making. Mr. Locken, we are happy to have you with us. Does the special committee to read the Journal have a report to make at this time? Mr. White.

WHITE: No report at this time.

PRESIDENT EGAN: That report will be held in abeyance. Are there reports of standing committees? The Chief Clerk will proceed with the reading of communications.

(The Chief Clerk read the following communications: Telegrams from Senator Warren G. Magnuson and Hon. Samuel W. King, Governor of Hawaii, expressing regrets at not being able to attend the signing ceremony; letters from Governor J. Bracken Lee of Utah, Governor Charles H. Russel of Nevada, Governor Lane Dwinell of New Hampshire, Governor Phil M. Donnelly of Missouri, Governor G. Mennen Williams of Michigan, Douglas Fisher, Executive Counsel for Governor Frank Clement of Tennessee, and Phillip T. Drotning, Executive Secretary for Governor Walter J. Kohler of Wisconsin expressing regrets at not being able to attend the signing of the constitution. The communications were ordered filed. A letter from Delegate E. L. Bartlett expressing gratitude for the invitation and regrets at not being able to attend was also read and ordered filed. A letter from Ancil H. Payne, President of Operation Statehood of Anchorage, endorsing the Tennessee Plan was read and ordered filed. A telegram from Walter J. Hickel and Alex Miller, Republican and Democratic National Committeemen, inviting the delegates to a no-host dinner Saturday evening at the Travelers Inn was read.)

PRESIDENT EGAN: The communications will be filed. The Chair has just been handed a note in which it is stated that the matters on the floor cannot be heard at all in the gallery, and if there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there reports of standing committees? Mr. Davis.

DAVIS: Mr. President, in the absence of Mr. Sundborg, the chairman, and on behalf of the Style and Drafting Committee, I would like at this time to introduce a Style and Drafting Report concerning Article XIV, Section 26 of the Schedule. That has to do with the Fish Trap Ordinance. I also would like to report the Style and Drafting Report on Section 14 of Article XII, General and Miscellaneous. Now on the calendar as set up, Section 14 of Article XII is listed as the second order of business. Due to a matter which has come up since noon, I would like to request that consideration of that matter be held over until after the second reading of Ordinance 17/Z. We may or may not be ready to take it up later this afternoon, to take up this Section 14.

PRESIDENT EGAN: Would the Chief Clerk please read the Style and Drafting Committee's Report on Article XIV, Section 26.

(The Chief Clerk read the report as requested.)

PRESIDENT EGAN: Mr. Davis, do you have a report to make on the work that the Style and Drafting Committee has done on this?

DAVIS: Mr. President, on behalf of the Style and Drafting Committee, I would like to call on Mr. Fischer to make explanations and to

answer such questions as there may be on this article.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, the Style and Drafting Committee made no substantive changes in the rewrite of Section 26. The format has been somewhat changed since the enrolled copy was before you. The Committee has made this uniform with the other ordinances that will be coming up before the voters; in other words, stating the proposition first and then what the result of it will be. We have designated in the whole of the ordinance itself, in the proposition, we have numbered it Ordinance No. 3, with the adoption of the constitution being Ordinance No. 1, and the Alaska-Tennessee Plan being Ordinance No. 2, and Fish Traps being Ordinance No. 3. You will also note that in the proposition itself we have inserted the words on line 3, "in the coastal waters of the state". That is not a substantive change. It puts it in line with the ordaining clause. The purpose of this was to make sure that no one who votes on this particular proposition does so with the impression that this will automatically abolish fish traps, even before we become a state. It's just a matter of clarification. Otherwise, Mr. President, the resolution -- the section is the same as before.

PRESIDENT EGAN: Are there any questions to be directed to Mr. Fischer with relation to the work the Style and Drafting Committee has done on this section? If there is no question -- Mr. Davis.

DAVIS: If there are no questions, Mr. President, I move at this time that the Style and Drafting Report on Section 26 of Article XIV may be accepted. There were no changes so I won't ask for any adoption of changes.

PRESIDENT EGAN: Mr. Davis moves and asks unanimous consent that the report of the Style and Drafting Committee with relation to Article XIV, the Schedule, Section 26, be accepted by the Convention. Is there objection?

ROBERTSON: I object.

PRESIDENT EGAN: Mr. Robertson objects. Mr. Davis, do you so move?

DAVIS: I do.

PRESIDENT EGAN: Seconded by Mr. Knight, that the report of the Style and Drafting Committee be accepted by the Convention. Is there discussion? If there is no discussion, the question is: "Shall the report of the Committee on Style and Drafting with reference to Article XIV, Schedule, Section 26, be accepted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 50 - Armstrong, Awes, Barr, Boswell, Buckalew,

Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 3 - Laws, Reader, Robertson.

Absent: 2 - Sundborg, Taylor.)

CHIEF CLERK: 50 yeas, 3 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the report has been accepted by the Convention. Mr. Davis.

DAVIS: At this time, Mr. President, I would move that the rules be suspended, that Section 26 of Article XIV be advanced to third reading, and placed on final passage.

PRESIDENT EGAN: Mr. Davis moves and asks unanimous consent -- or did you, Mr. Davis?

DAVIS: I forgot to ask that it be read by title only.

PRESIDENT EGAN: -- that the rules be suspended as to Section 26 of Article XIV, Schedule, that it be advanced to third reading, read by title only, and placed in final passage. Is there objection? Hearing no objection, the rules have been suspended and Section 26 of Article XIV of the schedule is now before us in third reading. The Chief Clerk will please read the title of the matter before us.

CHIEF CLERK: "Article XIV, Schedule, Section 26, ordinance to abolish fish traps."

PRESIDENT EGAN: The section is now before us and open for debate. Mr. Robertson.

ROBERTSON: Mr. President, my remarks will be very few and in consequent with my statement on the floor of the Convention a few days ago. In my opinion this schedule is penal in nature; it is legislative in nature; it's based upon fallacious premises; it violates the first policy resolution adopted by the Convention, that our constitution should consist of a framework of government and not of legislative law; and I think it does a disservice to the people of Alaska and to the industry of Alaska; and I shall vote "no" against the adoption of it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I move the previous question.

PRESIDENT EGAN: Mr. Buckalew moves the previous question. Is there a second?

POULSEN: I second it.

PRESIDENT EGAN: The question is: "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye"; all opposed, "no".

PRESIDENT EGAN: The "noes" have it and the previous question has not been ordered. Is there further discussion or debate? If not, the question is: "Shall Section 26 of Article XIV, the schedule, be agreed upon as a part of the schedule appended to the Alaska state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Ayes: 46 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Smith, Stewart, Sweeney, VanderLeest, Walsh, Wien, White, Mr. President.

Nays: 7 - Boswell, Johnson, Laws, Reader, R. Rivers, V. Rivers, Robertson.

Absent: 2 - Sundborg, Taylor.)

CHIEF CLERK: 46 yeas, 7 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and Section 26 of Article XIV, the schedule, has been agreed upon as a part of the schedule appended to the Alaska state constitution. Mr. Davis.

DAVIS: In accordance with what I said a while ago, I would ask that you pass Section 14 of Article XII at this time.

PRESIDENT EGAN: If there is no objection, we will pass that. At this time the Chair would like to bring to the attention of the delegates that we have this invitation from Mr. Hickel and Mr. Miller requesting that the delegates be their guests at the Travelers' Inn on Saturday evening, and of course we should dispose of that in one manner or another. The delegates should decide whether or not they wish to attend the invitation, inasmuch as Saturday is not far off and the Chair would -- Mr. Hellenthal.

HELLENTHAL: I move that the invitation be accepted.

R. RIVERS: Point of clarification. That was a no-host invitation?

PRESIDENT EGAN: Yes, Mr. Rivers.

RIVERS: They did not indicate what hour we were to be there for dinner, but I think if a few did not show up it is not strictly the kind of an invitation that you are obligated to no-host yourself at. Now I intend to go and pay for my own dinner, and appreciate their organizing the affair, but I am not sure that this is just a straight-across social invitation that we have to all accept and bind ourselves to. I think we ought to have a show of hands, though, as to how many intend to go.

PRESIDENT EGAN: Was there a second to Mr. Hellenthal's motion?

HILSCHER: I second it.

PRESIDENT EGAN: Seconded by Mr. Hilscher. Is there a discussion of the matter?

HILSCHER: To help out this matter, it was the thought that we might pass around a piece of paper to see who would like to attend that evening. Would that be satisfactory?

PRESIDENT EGAN: Well, could that be done at the recess, Mr. Hilscher, this afternoon, the 3:30 recess? The Chair would also like to remind the delegates that the delegates are to be the guests of the history class of the University at coffee time at 3:30 this afternoon upstairs in the cafeteria. Dr. Patty also would like to know how many delegates and their wives will be present Sunday evening at the buffet supper upstairs, and perhaps that could be accomplished some time later this afternoon by having a sheet prepared in which the delegates might signify whether they will be present. Mr. Hellenthal.

HELLENTHAL: Could inquiry be made by some of the secretaries for us to determine if this dinner is, in fact, a no-host dinner? I would assume from the invitation that the contrary was true.

PRESIDENT EGAN: It said in the invitation, Mr. Hellenthal, that it was a no-host dinner. Mrs. Hermann.

HERMANN: In view of the President's statement a few days ago that we probably would work all night Saturday, I just wondered if he would like to amend that before we decide.

PRESIDENT EGAN: Well, Mrs. Hermann, at that time it appeared that we definitely would very likely be working Saturday night. At the present time, unless there are delegates who feel to the contrary, it does not appear that it will be necessary for the Convention to be convened on Saturday evening, and it seems, then, that it is the desire of the delegates -- is that correct -- that we do accept the no-host invitation? Of course, as Mr. Ralph Rivers said, on the no-host invitation it is up to the delegates whether they can attend and we will at some time later in the day have each delegate indicate

as to whether or not he will attend on Saturday evening. Mr. Harris.

HARRIS: I was wondering if you have any idea what time this signing ceremony will be over and how much time will be left Sunday evening.

PRESIDENT EGAN: Mr. Harris, it probably in every likelihood would be before 4:00 in the afternoon. Mr. Coghill.

COGHILL: The Committee on Administration figures that the signing ceremony will take about an hour and a half to two hours, and it was the feeling of the Committee that we would recommend to the Convention that, upon the adjourning over at the signing ceremony, that we group here at the Convention hall in plenary session and sign the remaining copies, and we will have a report tomorrow for you on the full proceedings for the consideration of the Convention. However, we had held Sunday afternoon after the signing ceremony we would sign the remaining copies of the constitution in this hall.

PRESIDENT EGAN: Another question that has to be definitely decided -- there was a motion the other evening, as the Chair recalls it, that we actually approve the document in its final form here, and then go over for the signing. Now, many delegates have made the question since that time as to just what we have decided to do, or will decide to do, in relation to that matter. The secretary would like to know for certain in order that the programs can be sent to the printer this afternoon for printing. Mr. White.

WHITE: Mr. President, if this is the time to take that up, I have a motion prepared to bring the issue before us in terms in which we can decide. Now I went back to the record yesterday and got the motion as offered by Mr. Hurley and amended by Mr. Victor Rivers and passed by this body, and it appears to kind of leave the question up in the air. The motion was that final reading and vote on the constitution for the State of Alaska take place in this hall on or before Saturday, amended by Mr. Rivers to read that the constitution would be read by title and preamble prior to signing. In that motion there was nothing definite about taking the final vote over in the gymnasium. If it is the wish of the body, Mr. President, I would like to move that we rescind our action on that motion in order to offer another one. Would it be in order to read the one I wanted to submit if we rescind the action?

PRESIDENT EGAN: That would be in order, Mr. White, in order to allow the delegates to know what the subject is going to be -- brought before us if the action is rescinded.

WHITE: Mr. President, the motion to be submitted if the action is rescinded on the previous motion is as follows: that it be the policy of the Convention to have final reading, debate, and amendment of the constitution in this hall at such time prior to 2:00 p.m., February 5, as the Convention may decide. We then move and

vote upon the calling of the previous question, and that following this vote, the Convention adjourn until 2:00 p.m., February 5, at which time the final roll call vote will be taken.

PRESIDENT EGAN: Mr. White, in that motion did you intend that the motion mean that the final draft of the constitution would have been advanced to third reading and then open for debate, that the debate be completed here, and then the motion for the previous question be made, and to hold over until the question be put at the gymnasium? "Shall the final draft of the Constitution of the State of Alaska be adopted?"

WHITE: Yes.

PRESIDENT EGAN: Well, the motion does not state that it be in the position in third reading, if that was your intention. Will the Chief Clerk please read the motion as Mr. White would offer it.

CHIEF CLERK: "That it be the policy of the Convention to have final reading, debate, and amendment of the constitution in this hall at such time prior to 2:00 p.m., February 5, as the Convention may decide; to then move and vote upon the calling of the previous question and that, following this vote, the Convention adjourn until 2:00 p.m., February 5, at which time the final roll call vote will be taken."

PRESIDENT EGAN: Those two words would probably clarify the matter. Do you move, Mr. White, that the Convention rescind its action in adopting the policy motion that was adopted the other evening?

WHITE: I do. Mr. President.

PRESIDENT EGAN: Is there a second to the motion?

R. RIVERS: I'll second.

PRESIDENT EGAN: Seconded by Ralph Rivers that the Convention rescind

F. FISCHER: I'll ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the previous action with relation to this policy be rescinded. Is there objection?

LONDBORG: I object.

PRESIDENT EGAN: The Chief Clerk will call the roll. It will take 28 votes to rescind the action.

(The Chief Clerk called the roll with the following result:

Yeas: 52 - Armstrong, Awes, Barr, Boswell, Buckalew,

Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 1 - Londborg.

Absent: 2 - Sundborg, Taylor.)

CHIEF CLERK: 52 yeas, 1 nay, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it, and the action has been rescinded. Mr. White.

WHITE: Mr. President, I move the adoption of the motion that is now on the Chief Clerk's desk.

PRESIDENT EGAN: Is there a second?

R. RIVERS: I'll second it.

V. RIVERS: Mr. President, I ask unanimous consent to change the word "adjourn" in that motion to "recess".

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the word "adjourn" in the motion be changed to read "recess" and, in order to clarify that matter, undoubtedly this proposed amendment is offered because it might be necessary that that time might be made known to us that it wouldn't be wise to adjourn. We might just recess until 8:00 Monday morning in order to be certain that we have accomplished everything. Well, Yes, Mr. Victor Rivers, you had the same identical opinion as to the motion that the Chair had, but it refers to the adjournment on Saturday until 2:00 p.m. on February 5, so it would not interfere with the other final adjournment.

V. RIVERS: I will withdraw.

PRESIDENT EGAN: It has been moved and seconded that the motion be adopted. Mr. Victor Rivers asks unanimous consent that the motion be adopted as a policy of the Convention. Is there objection? Mr. Ralph Rivers seconded the motion; it was the understanding of the Chair that Mr. Victor Rivers asked unanimous consent with the one change ordered. Is there objection? Would you please read the motion again?

CHIEF CLERK: "That it be the policy of the Convention to have final reading, debate, and amendment of the constitution in this

hall at such time prior to 2:00 p.m., February 5, as the Convention may decide; to then move and vote upon the calling of the previous question and that, following this vote, the Convention adjourn until 2:00 p.m., February 5, at which time the final roll call vote will be taken."

PRESIDENT EGAN: Of course, the Chair feels -- unanimous consent is asked. Is there objection?

COGHILL: May I request a two-minute recess before the vote is taken?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Is there objection to adopting the motion as made by Mr. White as a matter of policy? Hearing no objection, the motion has been adopted. Mr. Davis.

DAVIS: Mr. President, the Style and Drafting Committee is now ready to go ahead with Section 14 of Article XII.

PRESIDENT EGAN: If there is no objection, the Chief Clerk will read the Style and Drafting Committee's report of Section 14, Article XII.

(The Chief Clerk read the Committee's report in full.)

PRESIDENT EGAN: Mr. Davis, do you have a report to make at this time?

DAVIS: Yes, Mr. President. The delegates will remember that the two pending enabling acts, one for the House and one for the Senate, require the insertion of language in the constitution concerning lands held and owned by the United States and lands held and owned by the United States for the trust and benefit of Native Alaskans, and concerning taxing of such lands, both the lands of the United States and the lands of the Native Alaskans. We ran into several problems there. In the first place, the section in either of the proposed bills is quite lengthy and actually rather confusing. In the second place, the House bill differs quite seriously from the Senate bill and of course we have no way of knowing which one might finally be adopted. In reading both of the proposed bills, we find that there is no suggestion that we follow the exact language they have used. But they are each quite specific that certain thoughts shall be included in the Alaska state constitution. With all of those things in mind, we took the two bills and broke them down as to what they said, and the rewrite which we have here, we believe, includes all of the salient points in both bills in language that we believe is understandable to everybody concerned, and for that reason, we believe that the Section 14, which we

present here, will meet the requirements of either bill if it were to be passed. At this time, then, I will attempt to answer such questions as there may be and, since I didn't personally do the job on this, if there are other questions, I will pass them over to Mr. Fischer who did most of the work on it.

PRESIDENT EGAN: Are there questions to be directed to Mr. Davis? Does any delegate have a question? If not, Mr. Davis --

DAVIS: If not, well, at this time, then, I will move that the report of the Style and Drafting Committee on Section 14 of Article XII be accepted. There were no changes made in that report. I ask unanimous consent.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that the Style and Drafting Committee's report as to Section 14, Article XII, the general and miscellaneous provisions, be accepted by the Convention. Is there objection? Hearing no objection, it is so ordered.

EMBERG: Objection

PRESIDENT EGAN: Objection is heard. Mr. Emborg.

EMBERG: This came a little quickly and I haven't been able to find the draft here that I was going to compare this with, but I do notice one thing, that in the previous draft that we have had before us, there was a reference to the property rights and also the inclusion of fishing rights. I would like a few minutes of recess.

DAVIS: I think it would be wise to take a recess. We want everybody to be sure that everything is in here. I might state for Mr. Emborg's benefit that we are satisfied that the general word "property" we have here also includes the fishing rights, but we want to be certain that we get everything in here that the Congress has required.

PRESIDENT EGAN: If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Davis has asked unanimous consent that the rules be -- Mr. Emborg.

EMBERG: I will withdraw my objection I have made.

PRESIDENT EGAN: Mr. Emborg withdraws his objection. Mr. Davis.

DAVIS: Mr. Emborg has withdrawn, but there are other delegates who feel that it should be in there and certainly we don't want any mistake on it, so we would like at this time to offer a Committee amendment.

PRESIDENT EGAN: Do you withdraw your unanimous consent request at this time?

DAVIS: Yes, at this time. On line 8, after "property", insert "including fishing rights".

PRESIDENT EGAN: That could be interpreted as a phraseology change inasmuch as it is the opinion of the Committee that it means that, Mr. Davis?

DAVIS: Incidentally, Mr. President, it has been called to my attention that this is more phraseology here. Actually, we have rewritten the whole section so when it comes time I will make a motion to include the changes.

PRESIDENT EGAN: Now as to this motion, Mr. Davis, it's merely a clarification clause that you are asking to be adopted.

DAVIS: I did not add the word "and". Does somebody want the word "and" in there?

PRESIDENT EGAN: The Chief Clerk will please read the motion. Did you make it as a motion, Mr. Davis?

DAVIS: I did.

PRESIDENT EGAN: As made by Mr. Davis.

CHIEF CLERK: "on line 8, Section 14, insert after the word 'property' the words 'including fishing rights,'".

PRESIDENT EGAN: Mr. Davis moves the adoption of the amendment. Is there a second?

METCALF: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Metcalf.

DAVIS: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

DAVIS: Now, Mr. President, on behalf of the Style and Drafting Committee, I would ask that the report of that Committee as to Section 14, Article XII, General and Miscellaneous Provisions, be adopted and the changes in the language be approved, and I ask unanimous consent for the adoption and approval.

PRESIDENT EGAN: Mr. Davis moves and asks unanimous consent that the report of the Style and Drafting Committee as to Section 14,

Article XII, the article on general and miscellaneous provisions, be accepted and the changes therein be adopted by the Convention. Is there objection? Hearing no objection, it is so ordered and the report has been accepted and adopted.

DAVIS: Possibly later this day, Mr. President, we may ask that this be moved to third reading but at this time we want to hold it.

PRESIDENT EGAN: The Chief Clerk, then, at this time may read the report of the Committee as to the Ordinance No. 17/z.

(The Chief Clerk read the Committee's report dated February 2, 1956, in full.)

PRESIDENT EGAN: Does the Committee on Style and Drafting have an explanation? Are there amendments? Mr. Riley.

RILEY: Mr. President, point of order -- that was the first reading was it not?

PRESIDENT EGAN: Well, the Chief Clerk will then read it -- Mr. Riley, would you like to have this referred?

RILEY: I don't recall that it was done so formally. Was it by the Committee?

PRESIDENT EGAN: The Chair had been of the understanding that the proposal had been previously offered and that the number had been changed. The Chair stands corrected. The proposal, then, is referred to the Rules Committee for assignment to the calendar.

RILEY: I am sure it would be in order at this time to undertake second reading.

PRESIDENT EGAN: The chairman of the Rules Committee asks unanimous consent that the rules be suspended and that the Convention consider Committee Proposal No. 17/z in second reading at this time. Is there objection? Hearing no objection, the Chief Clerk will read Committee Proposal No. 17/z for the second time.

(The Chief Clerk then read Committee Proposal No. 17/z for the second time.)

PRESIDENT EGAN: Are there amendments to be proposed for Section 30? Mr. Ralph Rivers.

R. RIVERS: I have an amendment which can be made orally because it is short. On line 9, the last word on the line, change the word "shall" to the word "may" on line 9. Oh! I am sorry, Section 31 is where I happen to be now. Are we taking it section by section?

HELLENTHAL: Point of order. We have never heard from the Committee on Section 31 or 32. I am very anxious to find out the thought that went into these.

R. RIVERS: I would like to withdraw my motion until we go through the preliminaries.

PRESIDENT EGAN: Does the Committee chairman wish to make a report in relation to these sections of the proposal? Mr. McNealy.

MCNEALY: Mr. President, I can report in part and then that part I cannot furnish I am going to ask Mr. Hurley, the vice chairman of the Committee, who spent considerable time on this, possibly, to amplify it. Section 30 had been referred to the Committee by some of the delegates. The first paragraph of Section 30, the Committee felt that it would not mean a great deal, that if the Congress simply rejected a part of it, it would not impair the rest of it, but they still might send some ordinance or provision of the schedule back for the people to vote upon or possibly might even force a compromise. But if it were merely a matter of changing something in the schedule or some transitory provision thereof, that this body might like to go on record as trusting the legislature to make that change in order that it would not be necessary, then, for a Territorial wide referendum, or it would not be necessary to call another constitutional convention in the event that it was only affecting the schedule. The further thought was that in the event some material part might be required in the constitution -- that what would normally be in the constitution that Congress could go so far, if they wanted to be lenient about the matter, is to state that it could be changed and could be put into an ordinance provision here if there was some additional thought or requirement of Congress that we haven't seen in any of the enabling acts that have been before this body. As to Section 31, it wasn't in the committee room at the time that one was worked over. I would rather leave that to Mr. Hurley. As to Section 32 and a proposed Section 33, I might state that the purpose there is that we have adopted the Tennessee Plan and this appears that it gives a little stronger force to the plan. In effect, we haven't gone all the way through with the Tennessee Plan. As you all know, we have just provided for the senators and representative, but, in the event that in two years Congress had seen fit not to give us statehood, this would be sort of a directive to Congress of what the Territorial legislature might do. I use the word "might", certainly, and to provide for the officers and proclaim the date on which the constitution shall become effective. In conclusion, there has been a little laughter about the Proposal 17/z because we wanted that to be known as the last proposal, we trust, from the Ordinance Committee, and we didn't want to put in another proposed ordinance that, if we were not granted statehood within a period of two years, that a plebiscite should be made to the United Nations to declare us a sovereign nation. We thought that might be just a step too far and we had better close the ordinances at this point.

PRESIDENT EGAN: Are there questions to be directed to the chairman of the Committee? Mr. Hellenenthal.

HELLENTHAL: I wonder if, as a substitute for Section 32, the

Committee gave thought, perhaps, to providing for a hunger strike?

PRESIDENT EGAN: Are there amendments for Section 30? Mr. Ralph Rivers.

R. RIVERS: I would like to hear from Mr. Hurley on Section 31.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, Section 31 was at one time in a similar form in the transitional measures which were offered by the Committee. I could never find out what happened to it, but on looking over the transitional ordinances that we had, it appeared that there were many gaps that could arise, and it was suggested by a number of people that some provision be made for giving the authority of the Constitutional Convention to the various people who might be in a position to facilitate the change-over from territorial to state government. Now, we recognize that we are in no position to point our finger at federal officials or territorial officials and say "you shall do this", but we also think that the acknowledgement of the importance of the transitional period is a desirable thing to include in our constitution. The wording that has been used here has been purposely kept broad and as to -- speaking a little closer to Mr. Rivers' question, he had reference undoubtedly as to whether it should be "shall take necessary action" or "may take necessary action". It is really rather immaterial to me, because we can't tell them to do it anyway, and whether or not they do will depend to a great extent on their own desire to cooperate, and that was the reason why it was included.

PRESIDENT EGAN: Are there proposed amendments or questions to be directed to Mr. Hurley at this time? Mr. Hurley.

HURLEY: May I make some remarks on behalf of the Committee on Section 32?

PRESIDENT EGAN: You may if you so desire.

HURLEY: Mr. Chairman, it is undoubtedly a feeling of general humor, there has been throughout in consideration of this proposal. I think that, if we stop to consider that we have spent some 3,725 man-days and \$300,000 in writing a constitution for the State of Alaska, that we ought to give a little bit of consideration as to why we are doing it. We have adopted by a vote of some 53 or 52 to 2, or some tremendous majority, the Alaska-Tennessee Plan. We have said we want to become a state. We want to send two senators and a representative to represent us in the United States Congress, and then we have stopped. Then what are we going to do? The Tennessee Plan is doomed to failure if we don't send those people back there as representatives of the State of Alaska. If we send them back there as missionaries or as public relations agents, they are going to be completely ineffective. Unless we think in our own minds that we are a state, we will not be as effective. Who has the answer? What

are we going to do if these people are not seated, if we don't become a state? Forget the whole thing? Or are we going to have another punch ready to pull if it is necessary? I don't think this is revolutionary; I think it is sensible. The idea isn't my own; the idea was unanimously passed in Committee. The proposal was made to us by a great many other people who feel the same way. I think we should give serious thought to the possibility that our first blow may not result in statehood. We should keep in the back of our minds what our next move is going to be, and I think this move would be very desirable.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may I address a question to Mr. Hurley?

PRESIDENT EGAN: If there is no objection, Mr. Rivers.

R. RIVERS: Mr. Hurley, when you first read this it sounded as though we were going to proclaim ourselves a state, but I see in the last four lines, the "legislature shall provide for the election of officers under this constitution and for proclaiming the date on which the constitution shall become effective". Does that mean that they might provide that the President of the United States shall proclaim Alaska to be a state, or what are you getting at there?

PRESIDENT EGAN: Mr. Hurley.

HURLEY: In the first place, we have to recognize the same thing I said about Section 31, that we as -- the Convention has no authority to tell the Territorial legislature what do to at all. In the second place, what we had in mind particularly there was that the legislature would have authority, if they so desire, to provide for the election of officers of the state and, depending upon the timing, procedures, and the situation that existed at the time, to say, in effect, that upon election of the officers they shall operate under the constitution as prepared for the State of Alaska. It has nothing to do with the President of the United States.

R. RIVERS: Would the word "may" on line 15 --

HURLEY: To answer that question, wherever you want to put the word "may" in here, I am sure the Committee will have no objection.

R. RIVERS: Thank you.

PRESIDENT EGAN: Are there other amendments to be proposed for Section 30? Mr. Ralph Rivers.

R. RIVERS: I move that the word "shall" on line 9 of that page be changed to "may", in Section 31.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the word "shall" on

line 9 be changed to read "may". Is there a second to the motion?

MCNEALY: I second it.

PRESIDENT EGAN: Seconded by Mr. McNealy. Mr. Ralph Rivers.

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Is there objection?

MCCUTCHEON: I object.

PRESIDENT EGAN: Objection is heard.

R. RIVERS: I so move.

PRESIDENT EGAN: It's been moved by Mr. Ralph Rivers, seconded by Mr. McNealy, that the amendment be adopted. Mr. Ralph Rivers.

R. RIVERS: Mr. President, Mr. Hurley has put it clearly enough when he said that we can't point our fingers at federal officials and tell them they "shall" do something. Neither is the Territorial legislature under our thumbs so that we can point to them and say they "shall" do something. I think it is a good idea to have Section 31 and flag the point that we are going to have cooperation from both the federal officials and Territorial officials to attain an orderly transition, but I don't believe in the discourtesy, we will say, or the presumptuousness of saying "shall" when Mr. Hurley and Mr. McNealy and the Committee members apparently are entirely favorable to the word "may", and when we have no jurisdiction to say "shall", but where we do actually make a polite request when we say they "may" cooperate with us. Now I have reserved making a comparable motion to Section 32 because I don't want any compounding here. I want a good clear point. So now we are on Section 31 and that is where I'd like to see the word "shall" changed to "may".

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I'm afraid I have to be at least slightly out of order here in making reference to the word "shall" in Section 32.

PRESIDENT EGAN: Mr. Kilcher, we have before us the proposed amendment to Section 31.

KILCHER: Mr. President, I am aware of that in connection with the word "shall" in Section 31. The word "shall" in Section 31 has been alluded to the word "shall" in Section 32 by Mr. Rivers himself. He says he would refrain from mentioning it because it would be compound. I disagree that these two words "shall" could be compared at all in any way. In Section 31 the word "shall" expresses a mandate and should express a mandate. It is perfectly legitimate within the conventional language of other constitutions. It is an ordinary transitional measure. The transitional

government, whatever it may be, has a duty to insure the orderly transition from one type of government to the other. It is not optional at all; it is mandatory. Whereas, in Section 32, this word "shall" could be argued. It is definitely a "may", but in Section 31 the word "shall" is mandatory. It means exactly what it says. It should stay.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I'd like to explain to Mr. Kilcher that this Convention was created by the Territorial legislature and they prescribed our duties and told us what we could and could not do. We cannot turn around and tell them what they can do. This section refers to the territorial and federal officials. We can't tell the federal people what to do and neither can our Territorial legislature because they come under the federal officials. Now it is true this constitution we are writing here is the basic law for the state. The state legislature will have to do what we say here, but not the Territorial legislature.

PRESIDENT EGAN: Is there further discussion? Mr. Sundborg.

SUNDBORG: I would just like to say, with respect to Section 31, we should make it just as strong as we can, and I don't feel we are going too far in using the word "shall" here since it is modified by the word "necessary". As I read it, I read it to mean they shall take action which they deem necessary to insure the orderly transition. If it were necessary, they will take it; if it is not necessary in their judgment, and they are the only people who will have the judgment, they won't do it. I know the Territorial legislature, time and again, have told federal officials such as United States Commissioners, election officials, and so on that they should do certain things; they should register the property of everybody in Alaska that owns any property, and things of that kind. And they always do it even though they don't have to. So I would favor retaining "shall".

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. Sundborg, you are aware that the United States Commissioners act in a dual capacity? Sometimes they put on their federal cap, other times they put their Territorial cap on, and, if -- when they are acting in the Territorial sphere the legislature may properly tell them what to do.

SUNDBORG: May I address a question to Mr. Hellenthal?

PRESIDENT EGAN: You may, if there is no objection.

SUNDBORG: Similarly, do the election officials in the general elections act for the Territory or are they always federal? Do they always wear only a federal cap?

HELLENTHAL: Generally only federal.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I only have one comment to make and it's sort of directed at Delegate Barr. This Convention is not telling the Territorial legislature to do anything. The people of Alaska are going to adopt this constitution and adopt this schedule, and the people of Alaska are directing the legislature to take this action and I think it's certainly proper. I have always gone on the theory that we are sovereign, whether Congress agrees with me or not.

PRESIDENT EGAN: The question is: "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment the Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 20 - Coghill, Collins, Cooper, Cross, Gray, Johnson, Laws, Londborg, McNealy, Metcalf, Nerland, Nolan, Peratrovich, Reader, R. Rivers, V. Rivers, Rosswog, Sweeney, VanderLeest, Walsh.

Nays: 34 - Armstrong, Awes, Barr, Boswell, Buckalew, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nordale, Poulsen, Riley, Robertson, Smith, Stewart, Sundborg, White, Wien, Mr. President.

Absent: 1 - Taylor.)

NORDALE: Mr. President, I would like to change my vote to "no".

PRESIDENT EGAN: Mrs. Nordale changes her vote to "no". The Convention will come to order.

CHIEF CLERK: 20 yeas, 34 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it, and the proposed amendment has failed of adoption. Are there other amendments proposed for Sections 30 or 32? Mr. Emberg.

EMBERG: Mr. President, I would like to ask a question in regard to Section 30. I will read the first sentence here, "If the Congress of the United States rejects any provision in the schedule of this constitution, the constitution and the remainder of the schedule shall not be impaired thereby." What would happen, for instance, if the Congress of the United States rejected our Alaska-Tennessee Plan and the delegates that are there representing us elected under that schedule?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may I have the privilege of answering that question?

PRESIDENT EGAN: If you so desire.

R. RIVERS: I helped draft this so-called separability clause for the reasons that the Committee stated, so if some minor point arose they couldn't just throw the whole constitution back at us and force us to have another convention. The Tennessee Plan will be an executed affair by the time the enabling law is passed or is about to be passed. We will have already elected these people. Our senators and representative will have been back there working to get an enabling law through Congress so that that is a fait accompli before Congress ever gets a chance to reject one of our particular clauses. If they reject the Tennessee Plan two years hence and are so close to passing an enabling act, we have already accomplished our purpose with the Tennessee Plan.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Won't the Congress have to consider the constitution, the schedule, and all of that before they can seat these representatives?

R. RIVERS: Yes. They could even send them back home to be reelected. They did that in one other state. But you can see that, if they are about to give us an enabling law, and they say "we reject the Tennessee Plan", then we would have to re-elect them, I suppose, but I feel that we are accomplishing practically every purpose of the Tennessee Plan in promoting statehood even if after two years hence, or at the time they are about to pass an enabling law, they do reject it. It is already over the wheel by then. You see, Mr. Emberg, that is why the Tennessee Plan is not jeopardized by this savings clause.

EMBERG: Well, I am not so sure, myself, and I would like to make a few remarks in regard to this. I notice in Section 11 of the general and miscellaneous provisions we have a general clause for consent to the enabling act in which we apply this whole thing to any rights or powers that are reserved to the United States. That is backstopped by the federal constitution in adopting it, as I understand it, that all the states will be as equals. But here in this -- frankly, in this whole field of ordinances and in the schedules, it seems to me that these ordinances are provided as a way that we can legislate legally. And, if some of the things in the schedule like the Tennessee Plan, the Alaska-Tennessee Plan, like the fish trap referendum, further go to the people separately for ratification, it doesn't seem to me wise to set up a procedure that says we don't mean some of these things we have done. I will, at the proper time, move to strike this section.

PRESIDENT EGAN: Are there any amendments for Section 30?

V. RIVERS: I have an amendment for Section 31.

PRESIDENT EGAN: If there are no amendments to Section 30 -- Mr. Emberg, do you realize that we are in the amendment procedure right now? If you so chose to offer an amendment to Section 30, it can be offered at this time. It is your privilege.

EMBERG: Well, I thought perhaps there might be some amendment offered that would meet some of my objections to it and, in that case, I would hold my amendment.

PRESIDENT EGAN: Well, your right will not disappear by passing that section. Would the Chief Clerk please read the proposed amendment as offered by Mr. Victor Rivers.

CHIEF CLERK: "On line 8, after Section 31, insert the following: 'To provide an orderly transition from a territorial to a state form of government it is declared and ordained that any ordinance or provision of the schedule appended to this constitution remain in effect until changed by law or, if the nature of the provision requires, until other action or lapse of time renders it inoperative.'"

PRESIDENT EGAN: Then, Mr. Rivers, your amendment did not strike anything in Section 31?

V. RIVERS: It was an addition, Mr. President.

HELLENTHAL: Point of order. I request that the amendment be reduced to writing and distributed.

V. RIVERS: I have no objection, Mr. President.

PRESIDENT EGAN: If there is no objection, then, the Convention will be at recess. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: I now offer the amendment and so move, Mr. President.

PRESIDENT EGAN: Mr. Victor Rivers offers the amendment and moves its adoption. Is there a second?

V. FISCHER: I second it.

PRESIDENT EGAN: Mr. Fischer seconds the motion. The Convention will be at recess while the mimeographed copies are being prepared. Mr. Johnson.

JOHNSON: Are we going to continue the recess through this Department of History invitation?

PRESIDENT EGAN: Well, if it doesn't take -- that would mean then that the Convention would stand at recess until possibly 4:00 p.m.

DOOGAN: Couldn't we possibly go on and consider other sections for a little while, while this amendment is being mimeographed?

PRESIDENT EGAN: Well, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has some business to attend to at this time. Mr. McCutcheon, would you take the Chair?

MCCUTCHEON: Why don't you ask Mr. Peratrovich? He is the vice president.

PRESIDENT EGAN: Mr. Peratrovich, would you take the chair?

FIRST VICE PRESIDENT: I believe that we were recessed for the purpose of framing an amendment.

COGHILL: Are we continuing into Section 32?

FIRST VICE PRESIDENT: As far as the Chair known, we are, Mr. Coghill.

COGHILL: I would like to offer an amendment. Strike Section 32. I so move.

MCLAUGHLIN: I second the motion.

FIRST VICE PRESIDENT: You have heard the motion. Are you ready for the question? Mr. Sundborg.

SUNDBORG: Mr. President, I heard Mr. Hurley say that this was recommended unanimously by the Ordinances Committee and I rather liked his explanation of their purpose. I think it doesn't demean this Convention at all to include something of this nature in the schedule of our constitution, which consists entirely of transition measures. I think if we contain in the bill of rights a section which Mr. Hellenthal can read to his children to the tune of the "Battle Hymn of the Republic", we ought to at least have one in the miscellaneous provisions which Mr. Buckalew can read to his grandchildren to the tune of "Dixie".

FIRST VICE PRESIDENT: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the opportunity has finally come in this Convention to give the full expression of the will of the people of the Territory of Alaska for their desire for statehood, and this section expresses it very nicely. Actually, this Convention should have gone on record as favoring a full Tennessee Plan. Now it has

been advanced many times on this floor that this Convention cannot direct a Territorial legislature. I cannot agree with that. The Territorial legislature merely set up the means and set up the money. It has been reiterated time after time on this floor that the constitutional convention has the ability to create the highest law of the land. Because this constitutional convention is unlike a legislature in the fact that sections of our Territory that have never had representation, in this Convention have representation, so that we do have the will of more people in this Convention floor than has ever been expressed in any legislature, it is my firm conviction that, if the Congress of the United States does not see fit to extend us statehood in view of the fact that we send back our duly elected officials to the United States Congress, then we just have to take some other act which is more forceful and carries yet again the further will of the people of Alaska for statehood. Hawaii some six years ago adopted their constitution, and what have they? Virtually nothing yet. And yet Hawaii spent nearly a million dollars in prosecuting their desire for statehood, but they have yet to take the bold steps that the other states have taken and sent their duly elected officials to Congress. By sending our two senators and one representative to, in effect, lobby for the admission of statehood, we give a pleading, so to speak, that we want statehood now, and certainly it appears to mean that the plan has worked for other states; that time is not to be lost. If we do not get it by January 1959, we must take another step, go further, set up our own statehood constitution, set up our own judiciary, anything that isn't in absolute conflict with the laws of the United States, and proceed as if we were a state; elect again new members to go to Congress; and by that time I am sure the will of the people of the whole United States will properly have expressed itself so that Alaska will become the 49th state of the Union.

FIRST VICE PRESIDENT: Mr. McLaughlin.

MCLAUGHLIN: Well, Mr. President, I have been quite pleased that this Convention all during its sessions has maintained a high level of maturity, and without a great deal of emotionalism on the subject. I am fearful now that, having exhibited that maturity, we are now in the position of school children and, having beseeched Congress and made preparations to send our representatives before that august body, we are now sticking out our tongue at them like small children and telling them what we are going to do. There is no validity; there is no assurance of anything under this Section 32. It, in substance, can make us the laughing stock of the Territory. I think that this matter was once before attempted in the legislature when certain people hotheadedly made the assertion that we should become a republic. If we are so indignant, we should declare our independence now. But, if we look at it with intelligence and maturity, we should vote down Section 32 and strike it as an insult to all Alaskans. Everything we have done here will be negative by passing upon this article, and regrettably, even now we are negating a lot of our good work by even discussing the matter. It is painful that the matter had to come up, but

personally I am violently opposed to it; it means nothing, and it can be a constant and unceasing source of embarrassment to this Convention and to the very people that we send to Congress, whose laws we subscribe to. Frankly, it is an insult to the people of the Territory of Alaska, and I request that you strike it from the schedule.

FIRST VICE PRESIDENT: Mr. Buckalew.

BUCKALEW: It seems like every time we start to really express ourselves that we are acting like children. Now we have several Biblical scholars here, and I am sure that Delegate Londborg will agree with me that one time a fellow by the name of Paul of Tarsus was traveling through the province of Palestine, and he got arrested for some infraction of one of the local rules and they called him before the Jewish Tribunal on this specific charge, and Paul got up and told the judge, he said, "I am a citizen of Rome." Because he was a citizen of Rome, the Jewish Tribunal didn't have any jurisdiction. Now, even the Ceasars gave to their citizens, no matter where they were, all the privileges and immunities of the citizens of the Roman Empire that were living right in Rome itself. That was many, many years ago. I think the Ceasars were wise, and I think it's time now that we really expressed ourselves. I don't think you could read this section and play "Dixie" because it's not strong enough. We are just asking the legislature to again reaffirm our position. I don't think Congress or anybody else will look startled at such a section. I think the people in Alaska ought to fully realize that the United States would be privileged to take us in as full citizens. We can look at the citizens of the State of Mississippi. They must be a bunch of degenerates from the way they have acted, and yet they deny the same privilege to us that the people of the state of Mississippi already have. I think it is high time we get up on our feet and act like we are real Americans. There is nothing distasteful about this; there is nothing radical about it. I think we ought to adopt in unanimously.

FIRST VICE PRESIDENT: Mr. McNealy.

MCNEALY: Mr. President, Delegate McLaughlin spoke about maturity of the thoughts and voting and talks of the various members of the Convention here right up to this moment. There have been many other delegates here who spoke about the immaturity of action heretofore taken. Delegate McLaughlin spoke about the emotionalism that now causes to arise. I agree that it does with me and I think with many of the delegates here that Mr. McCutcheon amply spoke upon it. It does cause a certain emotionalism to arise, but I want to state that I felt similar to what Mr. McLaughlin says he thinks on the matter of the fish traps. Yet the fish trap proposal was one of a double-barreled deal, something like if you stop beating your wife, when you come to vote on it. And I think we are all in favor of the abolition of fish traps, and I am, but thought that possibly the long fight to abolish fish traps shouldn't be in the constitution, but when I saw the sincerity here of the members, that even if it was on the legislative side, and even if it was a

little emotional, and even if it might not be the best proposition in the constitution as far as form or wording is concerned, if it is the view of these delegates here in the long fight for rights which we as citizens of the United States are entitled to, then that was the reason I voted for the ordinance here to abolish fish traps and to submit that to the people. That is the reason I think we are being mature in considering and in leaving in this Section 32 and leaving the words in there that the legislature "shall" do this. I tell you, my friends, that in the convention of the legislature in Virginia when Patrick Henry was speaking, and in speeches throughout the United States in 1775 and 1776, if the emotionalism was immaturity in those people or if they hadn't been emotional and immature, we wouldn't have been citizens of the United States today, and I, for one, am willing to go on record this way, and this is not a speech for the record -- I wish there wasn't a tape recording to record it as far as going down for the record -- but I do want to say this, and with all my heart, if I am a member of the legislature in 1959 and we haven't achieved statehood, you will hear some Patrick Henry speeches on the floor, and I, for one, will vote that, if we can't get in this way, I am willing to go along with that former legislature and declare ourselves a republic. We have got a right to it; and we have got to get behind it; and this is one way to back it up, to back up the Tennessee Plan and to fight for it. If we are going to go along wishy-washy and hope that Congress admits us, we may as well give up right now. Every person in the Territory of Alaska has got to fight and fight continuously, and let the Congress and the people of the United States know that we are sincere. I only regret the wording couldn't be made stronger in Section 32.

FIRST VICE PRESIDENT: Mr. Doogan.

DOOGAN: Mr. Chairman, I was the leg man that introduced this to the Committee on Ordinances. However, I have no pride of authorship in it because I found, much to my surprise, that many people had thought about the same thing. I approach it from the point that we would elect these congressmen to go back to the Congress of the United States and they can knock on the doors, but supposing that that group of southern senators that we have been told about doesn't choose to do anything about it. What can they do, actually, outside of act as salesmen and missionaries as has been pointed out? I got to considering the problem from the position of, what could a future legislature do about it? And I found that as we had written our constitution -- nothing. A group of us were out to dinner one night and I happened to bring up the subject and, as I say, much to my surprise, I found that the other members of the Convention who were at dinner with me had somewhat the same ideas although they were approaching it in a more logical manner than I was. They were approaching it in the manner that we, or this Convention, would fix it so that the future legislators might put themselves in a position, looking at the problem two or three years from now, where they might be able to do something about it. Maybe they won't choose to; that I don't know; and we can't direct

them to. I have been accused of trying to start the Irish Republican Army here. I am not trying to create an insurrection. That isn't my point. I think the main thing that this does as we realize that we of Alaska are not going out and declare a shooting war on the United States -- there are too many people to get on the other side -- but the main thing that this does, I think, is point up to those people in Congress that we want statehood as our right. There is no reason why we should be any different than the rest of the people of the United States. As it has been pointed out, we have watched Hawaii who, some six years ago, adopted their constitution. They didn't adopt the Tennessee Plan or anything that went with it because they were so certain that the minute they adopted their constitution they were going to be admitted as a state of the Union, and you see what has happened. We are in exactly the same position. In essence, this Section 32 doesn't make our position any stronger, but it does one thing. It points up to the congressmen of the United States that, when we send our congressmen back to knock on the doors to be admitted, they are not going to be there for about a year and then somebody pull the rug out from under them and then they are going back home again, defeated. It points out to them that we in Alaska want and demand statehood, and we are going to keep rapping on their doors until they get so tired of seeing us that they are going to admit us.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: I never thought that we would have to express our views on this subject before this body, and I am rather embarrassed that at the eleventh hour the occasion arises. We have heard Biblical quotations. I never regarded Christ as an anarchist or a revolutionist and I think that Christ said we should give unto Caesar what properly belongs to Caesar, and I don't recall that he took the path of the wild man. I was taught that we belonged to a government of laws and not to a government of men, and I am proud of Alaskans because we respect the laws and we follow the orderly intelligent route in attaining our ends, not the part of the wild revolutionary or the immature person that Mr. McLaughlin so aptly described. Hawaii can adopt the Tennessee Plan, if it cares to, later. There is nothing in its path to prevent it from so doing. We have many other avenues ahead of us if this fails, and I don't think we should threaten or hold a pistol or a club over Congress. I don't think we should make damn fools out of ourselves. Now the South once threatened to secede from the Union and we fought the bloody war of the States. I can't see that anything can be gained by adopting this wild course of conduct, nothing whatsoever. Now don't forget that the statehood movement in Alaska is a comparatively young movement. Now some of the younger people that want to be leaders in the statehood movement and always a little bit ahead of the pack, they may not want to hear that but it is the truth. Governor Ernest Gruening, who I regard as the foremost exponent of statehood, never once in a public utterance or in a message or in a report to the people of Alaska or in his reports to the Interior Department, never once mentioned statehood until 1946. I have read every

message and every report he ever gave, and statehood is mentioned for the first time in 1946. Now ask yourselves why. It was inconceivable that any intelligent man could advocate statehood immediately for Alaska, until the advent of sufficient population to make the demand sensible. We only experienced a proper population growth at the close of the war. We couldn't have done it during the war, and it was only during the war that we gained the people. Don't forget that in 1940 there were only 70,000 people in Alaska -- of every type -- 70,000, and it was with the advent of the war and the settlement of the Territory that it became a practical possibility, and Governor Gruening's record so shows. Now, if we had been under the iron heel of a tyrant -- it seems strange that we should have to distinguish our government from the government of a tyrant -- but had we been under the iron heel of a tyrant and had been held back for years and years and years, then a revolutionary language might properly be used but it certainly is out of place at this time. So I ask you here in the eleventh hour -- and it is the eleventh hour -- to give this thing deep and continued thought. Don't try to please someone or say, "He is a nice kid; I'll go along with him. And after all, there are going to be enough votes on the other side to take care of it anyway." You have never done that before, and I know you won't do it now. Give this your mature, deliberate consideration and consider it as a good citizen. Consider it as a mature, grown-up Alaskan. And when we send our people back under the Alaska-Tennessee Plan to make a proper demand -- I don't even like to use that word -- a proper petition for statehood, don't arm them like gangsters. Send back intelligent, reasonable men, and let's act reasonably and intelligently here this afternoon.

FIRST VICE PRESIDENT: Just a moment. The Chair wants to announce that the body has a commitment at 3:30. Now I think you all know what that is for, and I just want to ask the body what is your pleasure at this time? Mr. Riley.

RILEY: Prior to moving for a recess and while Delegate Peratrovich is in the Chair, I would like to suggest that we defer further amendments on the matter now before us just for a few moments to being out another matter as a special order of business.

FIRST VICE PRESIDENT: Do you ask unanimous consent?

RILEY: I do.

FIRST VICE PRESIDENT: Is there any objection? If not, it is so ordered. Mr. Doogan.

DOOGAN: We as a body here a few days ago when the President wasn't in the Chair --

KILCHER: Point of order. Is it possible that you go into a committee of the whole for that purpose and cut the record off?

FIRST VICE PRESIDENT: Your point of order is not well-taken. We have already voted on this thing.

(Mr. Doogan requested and received permission to speak off the record for a few moments.)

FIRST VICE PRESIDENT: Mr. Riley.

RILEY: I move that we recess for the time requisite to fulfill our engagement.

FIRST VICE PRESIDENT: Do you ask unanimous consent?

RILEY: I do.

FIRST VICE PRESIDENT: Are there any objections? If not it is so ordered.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Coghill.

COGHILL: The chairman of the subcommittee on the Committee on Administration, Mr. John McNeese, will be making the collection from the individual delegates this afternoon -- \$10 apiece -- for the painting of the portrait for President Egan.

FIRST VICE PRESIDENT: All delegates will please take notice of this announcement by the chairman of the Administration Committee. If there are no further announcements we will proceed with the article before us, Mr. Coghill's amendment, I believe. Will you read that amendment, please, Secretary?

CHIEF CLERK: Strike Section 32.

FIRST VICE PRESIDENT: That is before us now for discussion. Mr. Rivers.

R. RIVERS: Mr. President, I am not going to call the proponents of Section 32 immature or emotional, but I think this is important enough that most of us should stand up and be counted. I think that even wise men can be foolish. Sometimes you can get an overemphasis on a particular approach. Now, this section would state that, if Alaska is not admitted to the state before the fourth Monday in January 1959, the Territorial legislature shall provide for the election of officers under this constitution and for proclaiming the date on which the constitution shall become effective. In order not to look foolish ladies and gentlemen, in the eyes of the public and in the eyes of the editors who are going to be commenting on this for public consumption, and in the eyes of Congress, who is going to gauge our understanding of our law and our proper province, let's analyze and see what could the Alaska

legislature do in 1949 or in 1950, as the case may be. Our constitution provides for the election of a governor and a secretary of state. Are those the state officers that our legislature shall provide for the election of in 1949 -- I should say in 1959 or 1960? You will have under the existing Organic Act -- we are talking about a time now when we wouldn't be a state; they haven't given us an enabling law by January of 1959. We have got an appointed governor in the mansion and in the federal governor's office. We have a secretary of Alaska, also appointed federally. I suppose we are going to tell our legislature that it must provide for the election of a state governor and at that point, provide for the election of a secretary of state who would be secretary of Alaska. What are they going to do? Are they going to move in, and move out the federally appointed governor and take over his office? What purpose can they serve or perform? We can't reconstitute the courts because the courts are created by Congress. We have to become a state before we can create the courts. We cannot create any courts that detract from the jurisdiction of the courts now established by Congress. We certainly are not going to be able to do anything except perhaps elect a state legislature. Well, is that state legislature which our Alaska Territorial legislature will provide for the election of going to go down there and take the place of the duly constituted Alaska Territorial legislature? Or are they just going to run around and look foolish? We are asking our Territorial legislature -- we say it shall provide for the election of state officers, and all it could do at that stage of the game would be to elect a governor and secretary of state who cannot even move in and take their desks, and there are no other state officers elected except the members of the legislature, and our Territorial legislature must provide that we shall go ahead and elect a state legislature which can't take the seats of the Territorial legislature until we get to be a state. Now the question is: How foolish can we make ourselves look? And that is not based on immaturity or emotion. That's only based on the proposition that wise men can make mistakes. So, I am giving the proponent of this Section 32 the advantage of that classification.

FIRST VICE PRESIDENT: Mr. Marston.

MARSTON: There is no question but that the people of Alaska have complied with all requirements to being a member of the United States of America. We have complied with their agreements that they have made, a contractual agreement has been put up, we have complied with all the agreements and we should be admitted. And we will be admitted. I don't know when, but we will be. I know one thing, that we have got to stand all together. Right or wrong, we have to be together as a solid block or I am not moving from any place from here. We are together now and we are going to stay together for right or wrong, and we are going to ride the throne or the gallows together all of us -- and that is why we are going to get some place. We can't do it by dividing our forces, and I would like to leave this to the two, three people we elect to send down there. They'll tell us what to do and they will know what to do. We cannot tie their hands now. We want them to do something

more drastic than this thing calls for maybe, but I would leave it to our three men, the two senators and the congressman we elect to send down there to tell us what to do at the end of one year, not two years. That is my thinking on it, but we are all going to stay together. I am going with the group.

FIRST VICE PRESIDENT: Mr. Rivers.

V. RIVERS: I want to speak on this briefly. It seems to me that, at the time we entered upon the study of these and transitory provisions, I asked the chairman of the Committee for some information which he very generously furnished. It seems to me there are a number of cases in point here that seem to indicate that we wouldn't be able to take the step in addition to the things Mr. Ralph Rivers, Mr. Hellenthal and Mr. McLaughlin have said. We couldn't take the step that is set up here, and quoting from this matter I received from Delegate McNealy, it reads as follows: "Under all circumstances it seems to be the unanimity of authorities that it is absolutely necessary that Congress expresses its assent before a state can enter the Union and a state does not come into existence until such assent is given." It says, "There was some early authority which held to the effect that when a state was admitted to the Union upon the approval of Congress its constitution took effect from the date of ratification by the people. The later cases however held that such principle was not applicable to the territories which are deemed to be under control of Congress until their admission to the Union and that the time of taking effect of their constitution is ascertained from the construction of the enabling act." Quoting from other parts -- this is a decision rendered back by one of the other courts for which the reference is here: "While the territorial condition continues, whatever political power its people exercise must be by authority of Congress. In all governmental affairs, whatever the people of a territory do must be authorized, and they must abstain from doing what is forbidden.... In the compact for statehood, the people of the territory act for themselves and their successor, the people of the future state, and the latter are bound by the conditions accepted by the former...." There are a great many more instances that cite similar material, but it seems to me that in taking this step we would be doing something that would be very unwise in the face of existing legal opinions and decisions in similar matters. There were states after the Civil War which were readmitted. They had been states previously. They seceded and were readmitted. However, we don't fall in that category. We fall in the category of a territory, and as such we have accepted certain powers from Congress and we cannot exercise beyond those powers until such time as we actually become a state. It is beyond our power and authority to set up and constitute some of the things we say we are going to do in here. I believe we could elect a governor and a secretary of state. I don't believe, however, we could set up a system of courts as the constitution provides. As has been previously pointed out to you, I don't believe we could constitute another legislature that would have anything in its doings of the effect or force of law. Therefore, I must oppose this provision No. 32.

FIRST VICE PRESIDENT: Mr. Boswell.

BOSWELL: I feel that the people of Alaska sent us here to write a constitution and not take this sort of action as proposed by Section 32. We have passed the Alaska-Tennessee Plan, and one of the saving things about that is the fact that we have given the people a chance to pass on that by referendum. Now here we are taking an action entirely on our own. We are speaking to the people of Alaska on something that I feel goes away beyond the Alaska-Tennessee Plan, and I certainly agree with Mr. McLaughlin and all the others who have spoken against this Section 32, and I certainly don't think it should be in here.

FIRST VICE PRESIDENT: Mr. White.

WHITE: Mr. President, this doesn't go way beyond the Alaska-Tennessee Plan. This is the Alaska-Tennessee Plan. In every instance that the Alaska-Tennessee Plan has been used formerly, according to my understanding, this procedure has been followed. The only difference is that they did it right away, and a number of us have been bothered by the fact that the Alaska-Tennessee Plan as we have adopted it is a highly watered down Alaska-Tennessee Plan. To my own mind, when the full plan was proposed, I cast it aside because I couldn't see that we could go ahead and elect our full state legislature and state officers now without incurring a great additional expense, the money for which we didn't have, and without having to bypass the primaries in that respect too, and I felt that that was going too far in bypassing the primaries. I like to look at this as the Alaska-Tennessee Plan pursued in an orderly fashion. Now the statehood movement may or may not be of recent vintage, and Mr. Hellenthal says. As a matter of fact, the first statehood bill was presented in Congress by Delegate Wickersham, I believe, in 1916. The statehood movement has been a series of progressions. Now, I haven't been in the Territory here as long as Mr. Hellenthal or a lot of the rest of you. I have been here since 1947, but I have experienced in that time a series of progressions in the statehood movement, from one in which a lot of people who perhaps wanted statehood were opposed to it under various enabling bills that were then current, to gradual acceptance by the vast majority of the people under -- as the statehood bills, enabling acts improved and became more generous. I think it is fair to say that not too many years ago you would have been hard put to find too many people in favor of holding a constitutional convention in advance of the passage of a statehood enabling act. Now we have come to the point where the vast majority of the people are in favor of such a thing, and we are here today. You would have been hard put not too many years ago to find very many people in favor of even the position of the Alaska-Tennessee Plan that we have here adopted. We have now come to the point where we are virtually certain of overwhelming acceptance. This additional section provides that should nothing happen by 1959 the legislature shall then in effect consider what additional steps might be necessary, and it backstops the national representatives that we seek to send to Congress asking to be admitted through the Alaska-

Tennessee Plan, with the knowledge and with the message being broadcast to the people of the United States and to the Congress that we are serious about this; that this isn't a publicity gimmick or anything else. And Mr. Hellenthal said we are operating under a government of laws; I like rather to think of it as a government of consent by the governed, and the amazing thing to me is that the people of Alaska have been patient so long. I have in the past acted as chairman of a group when we were referred to as acting as something other than ladies and gentlemen, and I have been told that we should approach Congress with our hats in our hands. The truth of the matter is that Alaskans have always approached Congress with hats in hands, and they have always acted as ladies and gentlemen, and I deny anyone to prove differently at any time on any floor, and the amazing thing is that the people of Alaska have been patient for so long. I think that this section is no more than a suggestion that we have finally faced the facts and we have come to the decision that should we want statehood we must proceed step by step, acting as ladies and gentlemen in an orderly fashion at each step, but that we don't intend to back down. I didn't come here to sit for 75 days as an academic exercise. Now, I think that if it is disorderly to hold a Constitutional Convention at this time, that we had better give up the idea of asking for statehood, but if it is not disorderly I would suggest that sometime in the future an additional step should be taken. Now this section can be amended if the people feel it is a little too strong, but I am highly in favor of leaving its essence in the body of our ordinance.

FIRST VICE PRESIDENT: Mr. Londborg.

LONDBORG: There have been a number of things come to my mind as I read this section over. It's too bad that we didn't have it a few days ago to study and get it before Style and Drafting had to spend too much time on it. There are some things here that I think we ought to consider. We have the Tennessee Plan as outlined. It will be before the people and if they adopt it we will send our two senators and the representative out to Washington. Now, if they succeed in getting us statehood before this date, January 1959, then certainly we don't need Section 32. They will have accomplished their purpose. But if they fail, if we have not been granted statehood by that time, then it seems like we have wasted a lot of money sending them out there for one thing, instead of working this double-punch business, sending first the three out there and then holding this threat behind them and behind Congress. It would seem a lot better than if we say that in January 1959 we're going to elect officers and declare a full statehood and in the meantime give Congress a couple of years to make up their minds if they are going to let us go in or not. It seems like that would be the better thing to do and save a lot of money. But what if the United States Congress doesn't grant us statehood at that time? What are we going to do then? I think we are lining ourselves up to look awfully foolish. We say, "Well, here we have our whole set of officers; the constitution is going into effect." I think that Ralph Rivers brought out some of the roles that will be played here then. We will have two sets of legislators. We will have a double

court system. We will have a lot of other things. Actually we wouldn't because, as Mr. Victor Rivers brought out, the United States Congress must act before certain things go into motion. This Section 32 is as much as saying that, if they don't give us statehood by that time, we are going to set up our own sovereign state and if they want to let us in, all right; if not, we are going to go elsewhere, probably to Canada as was suggested the other day, or maybe just all by ourselves. What if the United States doesn't let us do that? I'd like to know how in the world we are going to back up Section 32 when the time comes. Are we going to mobilize or start building jets or something like that? This is dynamite in here, and I think Section 32 should be dealt with wisely right now and be voted out of this portion of the constitution.

FIRST VICE PRESIDENT: Mr. Hilscher.

HILSCHER: Mr. President, I think we have overlooked a very important fact. The Library of Congress has supplied us with a great deal of background material, and I would suggest that -- I hate to suggest that possibly some of our members haven't even read this. Just as a matter for the record, may we look and see what Tennessee did? On page 5 of this report is said --

FIRST VICE PRESIDENT: Just a minute. Does that have any relation to what is before us?

HILSCHER: Yes, it has. It has a very complete bearing on it, because I want to point out that Tennessee, Michigan, Iowa, California, Oregon, and Kansas went the whole way on the Tennessee Plan. They didn't chicken out at the last hour on this thing. They went the whole way. They established their state government. So that we have this clearly in mind, may I please refer to the record in a couple of places? Tennessee: "The sixth section of the first article will inform you that the first General Assembly to be held under this constitution is to commence on the last Monday in March next. The object of the Convention, in determining on this early day, is a representation in the Congress of the United States... and that same convention arranged for the election of state officers. Michigan: At the same time a governor and a state legislature were elected they elected representatives to the national Congress. All we have here in Alaska is a watered-down version of the Tennessee Plan, and I would just like to say in all sincerity that one of our good members here whose life is built entirely upon faith, and I think the future of Alaska can be built of faith just as well. Iowa: "In this election, the Governor and two Representatives to Congress (as well as other officials) were chosen. California: "...the same year a general election was held to ratify or reject the newly drafted constitution, and to elect a governor, lieutenant governor, two congressmen, and members of the state legislature." Oregon: "The Constitution itself provided that, once the instrument had been ratified, another special election was to be held in June 1858 for election of members of the legislative assembly, of state and county officers..." as well as representatives for

Congress. Kansas: "...an election was held for State officers, a State legislature, and a Representative in Congress.' Thus was made ready a State Government for Kansas'." I submit, Mr. President, that this Section 32 is simply a declaration of our intent. We are desirous of having statehood, and we are going to declare ourselves a state, and I am in favor of Section 32.

FIRST VICE PRESIDENT: I think you spoke twice on the subject, Mr. Hellenenthal.

HELLENTHAL: I want to ask a question.

FIRST VICE PRESIDENT: Confine it to a question, please.

HELLENTHAL: Mr. Hilscher, are you aware that it was only with the enactment of Amendment 17 to the United States Constitution that United States senators were first elected by direct popular vote, and prior to that they had to be chosen by the legislatures of the states?

FIRST VICE PRESIDENT: Do you care to answer that, Mr. Hilscher?

HILSCHER: I will refer that to my legal counsel to answer.

FIRST VICE PRESIDENT: Mr. Hinckel, you have the floor.

HINCKEL: I would like to make the statement that I think that most of us did read the material that Mr. Hilscher mentioned and I think most of us decided that we did not care to take those steps right no. We didn't care to elect our governor and other state officials and, had we decided to do that, I might have gone along with it. I might have approved it. I might have approved of some such drastic step in the future, but I disapprove of threatening to do it in the future, and I don't think anybody likes to be threatened and I don't like to threaten people. If I am going to do something I just go ahead and do it. I think people admire that sort of aggression, but they don't admire threats; and, therefore, I disapprove of this section and would like to see it stricken.

FIRST VICE PRESIDENT: Mr. Nerland.

NERLAND: Like Delegate McLaughlin, I deplore the fact that this subject even had to come before us on the convention floor here, and I sincerely hope that our constituents and the people who sent us here will not question other acts that we might have taken when they learn that we considered such a proposal as this. A few days ago, yesterday perhaps, when we took final action on the Alaska-Tennessee Plan, I think we took bold action at that time. I think the action was proper; it was an orderly action, and it was an action, I think, that will bring results. If we should take the action as suggested in Section 32, it would be a defiant action, and I don't believe statehood will ever be acquired for Alaska in a defiant manner and I urge

the delegates not only to vote this down but to vote it down unanimously or as close to unanimously as possible to show the people that we have no intention of taking such a defiant and out-of-order action. I shall certainly vote for the striking of this section.

FIRST VICE PRESIDENT: Mr. Lee.

LEE: I haven't been influenced by any of the arguments that have been presented this afternoon. I am going to have to vote to strike that section because in my mind I feel that, from the people that I represent, I have had no expression that they would endorse me to authorize favoring any action such as this. I discussed the proposed Tennessee Plan with the people and they were willing to go along with that, but I don't think that I could take the responsibility of going this far without some indication from the people. If we had had this before us at an earlier date so we could have had an expression of the people, then I would feel, perhaps, I could vote to retain this section, but I am going to have to vote to strike it.

FIRST VICE PRESIDENT: Mr. Harris.

HARRIS: Mr. President, I have often wondered in studying history how revolutions get started. I think this would be a good way to start one. In the first place, we are not talking about something we would like to have here; we are talking about mutiny. The legislature that we have is set up by the Congress of the United States of America. If we set up a legislature alongside that and say, "This is what is going to rule Alaska", it would be nothing less than mutiny. I urge that we vote against it.

FIRST VICE PRESIDENT: Mr. Barr.

BARR: I can't speak emotionally, but as I look at the situation here objectively and try to weigh the advantages against the disadvantages, it seems to me that we should not strike this section. It should be amended, however. The way it reads now, it does sound like we are getting a little too big for our breaches. But what it seeks to do is all right. We are all American citizens in Alaska and we believe we have the rights of citizens. Now, when you want a privilege, you go ask for it, but you are entitled to rights. If you don't get them, you are entitled to insist, and that is all we are doing. Some mention has been made here of mutiny or secession. Why, I think it is ridiculous to even bring that up. We are doing exactly the opposite. We are not insisting on separating ourselves from the government. We are insisting on the Union of States taking us into the family where we belong, and, if they don't want to do it, we insist on it as a right, to be included in that family. I don't see how anyone could consider that disloyal. We want to become full-fledged American citizens, not half-and-half. This section says that "the legislature shall" etcetera. Of course we cannot tell the legislature what to do. The only government organization that comes under us is the future state government. I

think that the legislature has the authority to do anything regarding statehood that they may wish, but I do think it is in proper order for us to make a suggestion or to signify what our wishes may be. I would not like to see this section stricken; I would like to see it amended. Of course, I have an amendment on my desk, like several others have, no doubt, and it seems to me that, if we don't have statehood within two or three years, that the legislature should then take some other steps, such steps as they may deem necessary to hasten statehood, and that doesn't include any revolution or anything of that sort. But by that time, with our three representatives in Washington, they may have enough information then that they can suggest to the legislature what to do to help matters out.

FIRST VICE PRESIDENT: Is there any further discussion? Mr. Fischer.

V. FISCHER: I agree very much, 100 per cent with what Mr. Barr just said. We are not talking about secession. There is a big difference between a man and a woman getting married or being divorced. That is what we are talking about. I think that this is a good provision. I think it can be improved. I think that we should not put in an automatic clause or make it sound like an automatic clause. Let's put it on the basis of asking the legislature to take appropriate steps two years hence, but let's not vote this down and say, "We are going to elect two senators; we are going to elect a representative; if that doesn't get us statehood, we don't really care about statehood." We are all here because we believe in statehood. I think we should not only tell the legislature, but also tell the people of Alaska that we aren't going to lie down and die when this is all over; that we want to keep striving for statehood; and I think this section lends itself to improvement in that direction.

FIRST VICE PRESIDENT: Mr. Davis.

DAVIS: Mr. Chairman, I would like the floor for a minute on personal privilege if I may have it.

FIRST VICE PRESIDENT: Hearing no objection, you may have it.

(At this point, Mr. Davis spoke for a few minutes under personal privilege.)

FIRST VICE PRESIDENT: The secretary may read the amendment before taking a vote on it.

CHIEF CLERK: "Strike Section 32."

COGHILL: As mover of the motion, I reserve the last argument. I feel that this Section 32 is very important to this whole Convention. I feel that we 55 delegates came here on November 8 and we had a great task to do, and I believe that each and every one of us are very much concerned with the passage of statehood for Alaska. I

don't believe that there are any of the delegate here that are opposed to statehood. I think the statehood movement will get into high gear as soon as this fine constitution that we, the delegates to the Alaska constitutional convention, have slaved over for many weeks, and I think that this would be a fatal blow to the Alaska constitution. I see the Tennessee Plan which the delegates passed here the other day, and they say that this Section 32 was a part of that that had been watered down from the Tennessee Plan. However, the delegates will have to agree that the Tennessee Plan was set forth to be ratified by the people on a separate ballot. We have here stuffed Section 32 into the transitory measures and are going to make it mandatory that, if the people don't like this section, they are going to have to vote against the full constitution. Now we know there are certain sections of the constitution that certain segments of the population are not going to agree on, and we here as delegates have not agreed upon all of those sections. However, compromise has been the keynote of this Convention and we have come out, in my mind, with a very good constitution. I think that by setting this section in here we are also admitting defeat to the Alaska-Tennessee Plan. We are saying that it will not work; we have a doubt in our minds. In order to push something and be 100 per cent behind something, you cannot have any doubt. You have got to go straight forward, and I think the pressure that we can bear on the Congress of the United States with our two senators and our representative and with a good constitution behind it and with the full faith of Alaskan people we will be able to obtain statehood at an earlier date without putting a gun behind their backs such as we have done in Section 32. We have a vast country here and we have a very small population, but this is the 20th Century, delegates, and we shouldn't take a 17th Century action towards obtaining statehood. Let's look at it sensibly; let's look at it with an intelligent and open mind. Let's win them over with friendship and not with threats. I think that Alaska, under the laws, the enabling acts -- the acts that provide for the legislature are somewhat unfair. I was born and raised under them, I have done business under them, and I think we would be violating a very sacred trust that the American people have bestowed upon themselves by trying to overthrow any, or any part of it. I think that we, as delegates to this constitutional convention, should keep our feet squarely on the ground and vote this thing on our conscience. I think if we passed this section that we would be doing just exactly what Sourdough Jack said the other day. He said the next meeting of the constitutional convention delegates will be when the Department of the Interior lines us up to shoot us for treason. Remember that this is in the transitory provisions. If the people don't like it, they will be voting against the whole constitution. I move the previous question.

UNIDENTIFIED DELEGATE: Question.

FIRST VICE PRESIDENT: Let the Chair make a ruling. Under our rules, I believe, the maker of the motion has the last say. For that reason I shall put the question. The question is, "Shall we

strike Section 32?" The secretary will call the roll.

MARSTON: Mr. Chairman, can't we comply with Mr. Davis's request and hold this over until tomorrow? I am not ready to vote on it yet.

UNIDENTIFIED DELEGATE: No.

FIRST VICE PRESIDENT: I have to be fair in the matter. As much as I would like to allow him to talk, it is the rule so I have to enforce them. You will call the roll please.

(The Chief Clerk called the roll with the following result:

Yeas: 37 - Armstrong, Awes, Boswell, Coghill, Collins, Cooper, Cross, Davis, Emberg, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, King, Laws, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sundborg, Sweeney, Walsh, Wien.

Nays: 16 - Barr, Buckalew, Doogan, H. Fischer, V. Fischer, Hilscher, Hurley, Kilcher, Knight, McCutcheon, McNealy, Nordale, Riley, Stewart, VanderLeest, White.

Absent: 2 - Taylor, Mr. President.)

MCNEES: May I change my vote to "yes", Mr. President?

FIRST VICE PRESIDENT: Mr. McNees changes his vote to "yes".

CHIEF CLERK: 37 yeas, 16 nays, and 2 absent.

FIRST VICE PRESIDENT: So the "yeas" have it and the motion is lost. Mr. Davis.

COGHILL: Mr. President, you called the vote wrong. You said the motion lost.

FIRST VICE PRESIDENT: Oh, I'm sorry; it was just the other way around. Mr. Davis.

DAVIS: At this time, Mr. President, I move that the Convention stand adjourned until tomorrow at 1:30, subject to committee announcements.

MCNEES: Prior to adjournment I would like to give notice of reconsideration of my vote on Proposal No. 17/z for tomorrow.

HERMANN: A point of inquiry. What Convention day is this?

FIRST VICE PRESIDENT: Will you give that information, Mr. Coghill.

COGHILL: The 72nd day.

HERMANN: A motion to reconsider cannot be given after the 72nd day according to our rules.

MCNEES: I believe I am in order on this, Mr. President. The reconsideration will be on Section 32 of 17/z.

FIRST VICE PRESIDENT: According to the explanation here the motion is in order, so the secretary will make a record of this notice.

HERMANN: I think we ought to refer it to the Rules Committee.

FIRST VICE PRESIDENT: You can appeal the decision if you want to, but to satisfy everyone we will call a minute recess and refer it to the Rules Committee.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. I will ask the chairman of the Rules Committee to interpret the rules in that respect. Mr. Riley.

RILEY: Mr. President, I don't recall the number of the rule we just verified. The fact is, however, that the motion for reconsideration would not be entertained after the 72nd day, which would mean that, unless the motion were allowed today, that there would not be an opportunity to do so tomorrow or after today.

FIRST VICE PRESIDENT: Mr. McNees, do you understand the explanation of the Rules Committee chairman? As far as your notice is concerned, it is all right, but, since your motion would be outmoded by tomorrow, the deadline is today.

MCNEES: I see, I thought it was notice of reconsideration couldn't be given after the 72nd day. It could not be reconsidered tomorrow?

FIRST VICE PRESIDENT: No it can't.

MCNEES: Could rescission?

FIRST VICE PRESIDENT: You would have to ask for suspension of the rules.

MCNEES: All right. At this time I would like to give notice of rescission of our vote on the morrow. Twenty-four hours' notice then will require tomorrow suspension of the rules for reconsideration of our vote tomorrow.

FIRST VICE PRESIDENT: You give notice now?

MCNEES: I give notice now, and that will require a majority vote on the morrow, and for purposes of specific amendment to Section 32.

COGHILL: Mr. President, I rise to a point of information. If Mr. McNees wishes to water down this section with his amendments, if this section was voted out and they resubmitted a new section tomorrow, that would take care of it without a two-thirds vote.

MCNEES: That is what I stated.

COGHILL: Then why have the rescission? Why not let the section go out and resubmit a new section tomorrow?

MCNEES: That is right as long as it is not assigned to Committee, that would be true. But I would like to correct Mr. Coghill. I don't care to water this down. I want to leave some teeth in it.

FIRST VICE PRESIDENT: Do you still maintain that you give notice of rescinding? That's in order because you cannot reach it with reconsideration due to the fact that the deadline is past. Are there any other amendments?

UNIDENTIFIED DELEGATE: I thought there was a motion to adjourn.

FIRST VICE PRESIDENT: There was no second to it as I recall it.

SUNDBORG: I'll second it if it is still on the floor.

FIRST VICE PRESIDENT: Do you wish to renew it, Mr. Davis?

DAVIS: I will renew it, but I don't think it is still on the floor because we have done other business. I move that the Convention stand adjourned until 1:30 tomorrow afternoon.

SUNDBORG: I second it.

FIRST VICE PRESIDENT: You have heard the motion. Are you ready for the question? All those in favor signify by saying "aye"; opposed "no". So ordered.

ALASKA CONSTITUTIONAL CONVENTION

February 3, 1956

SEVENTY-THIRD DAY

PRESIDENT EGAN: The Convention will come to order. We have with us today Chaplain Swaffer of Ladd Air Force Base. Chaplain Swaffer will give our daily invocation.

CHAPLAIN SWAFFER: Almighty God, Creator of our great universe, we invoke the richness of Thy blessing upon this assembly today. Would Thou bless each individual with clarity of thought and each action that is manifested today with purpose for the future. We pray in Jesus' name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The roll was called by the Chief Clerk.)

CHIEF CLERK: Seven absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Mr. Kilcher.

KILCHER: Mr. President, I note in the gallery an outstanding Alaskan, a person who has done more than most to bring the Kenai Cook Inlet Election District's major fraction close to the full quotient my wife. (Laughter and applause)

PRESIDENT EGAN: The Convention will come to order. Mrs. Kilcher, we are happy to have you here with us. Does the Special Committee to Read the Journal have a report to make at this time? Mr. White.

WHITE: Mr. President, reporting on the Journal for the 64th Convention day, Wednesday. January 25, there is one correction on page 6, the second paragraph from the bottom, where it says "If there be no objection it is so ordered." Strike "it is so ordered" and insert in lieu thereof "the amendment was adopted". Mr. President, with that correction we ask unanimous consent for the approval of the Journal for the 64th day.

PRESIDENT EGAN: Mr. White asks unanimous consent that the Journal of the 64th day be adopted along with the suggested corrections as offered by the Special Committee to Read the Journal. Is there objection? Hearing no objection, the Journal of the 64th day is ordered adopted.

HERMANN: May I make an additional correction to the Journal? On line 19, it reads, "Mrs. Hermann requested permission to abstain since she had been absent during the debate." I wish to have stricken "since she had been absent during the debate". I was here all the time.

PRESIDENT EGAN: If there is no objection the additional change is ordered in the Journal of the 64th day. Is there objection? Hearing no objection, it is so ordered. Mr. White.

WHITE: Mr. President, reporting on the Journal for the 65th Convention day, Thursday, January 26, the following changes are requested: on page 1, the third paragraph from the bottom, second line, where it says "Mr. Harris --"

DAVIS: I don't believe it is here, Mr. President.

PRESIDENT EGAN: Isn't the Journal of the 65th day available for all the delegates? Perhaps we could hold that in abeyance, Mr. White, until later in the afternoon.

WHITE: Has the 66th day been distributed?

UNIDENTIFIED DELEGATE: No.

WHITE: Well, we will hold them both until later in the day.

PRESIDENT EGAN: They will be held until later in the day if there is no objection. Are there reports of standing committees? Reports of special committees? Are there any motions or resolutions? Mrs. Sweeney.

SWEENEY: I have a resolution. May the Chief Clerk please read it?

PRESIDENT EGAN: Is there objection to reading the resolution? Is it offered by the Engrossment Committee, Mrs. Sweeney?

SWEENEY: No, it is offered by Mr. King and myself.

PRESIDENT EGAN: It is offered by Mr. King and Mrs. Sweeney. Hearing no objection, the Chief Clerk may read the resolution.

(The Chief Clerk read the resolution offering the thanks of the delegates to the people of Fairbanks and the Tanana Valley for making their stay so enjoyable.)

SWEENEY: Mr. President, Mr. King and I would like to ask that all rules of the Convention be suspended at this time, that the resolution be read a second time, that it not be sent to Engrossment and Enrollment, or even to Style and Drafting. We feel that whatever changes are made it will still come out the same. It's an indication of appreciation to the people of Fairbanks, so I would like to move at this time for a suspension of the rules and the advancing of the resolution to third reading and final passage, and I ask for unanimous consent.

PRESIDENT EGAN: Mrs. Sweeney asks that all rules be suspended, and that the resolution be considered in third reading, be read by "resolve" only, and placed in final passage. If there is no

objection, all rules have been suspended and the Chief Clerk will read the resolution for the third time.

(The Chief Clerk then read the resolution by "resolve" only.)

PRESIDENT EGAN: The question is: "Shall the resolution be adopted by the Convention." The Chief Clerk will call the roll.

R. RIVERS: Wouldn't a voice vote suffice?

PRESIDENT EGAN: If there is no objection.

DAVIS: I would ask unanimous consent, Mr. President, and then we won't have to call the roll.

PRESIDENT EGAN: Unanimous consent is asked that this resolution be adopted by the Convention. Is there objection? Hearing no objection, it is so ordered and the resolution has been adopted by the Convention, and the copies that are to be made are ordered reproduced and mailed to the proper individuals. Mr. Cooper.

COOPER: Mr. President, I ask unanimous consent that we revert to the order of business of communications from without the Convention.

PRESIDENT EGAN: If there is no objection the Convention will revert to the order of business of communications and petitions. Mr. Cooper.

COOPER: I now ask for unanimous consent that the Convention extend to the messenger, Mr. Ben Potter, the courtesy of the floor for presenting a proclamation to the President.

PRESIDENT EGAN: If there is no objection, Mr. Potter, you have been granted the courtesy of the floor in order that the resolution may be presented.

MR. POTTER: Mr. President, on behalf of the City of Fairbanks and its people I wish to have this proclamation from the Mayor read.

PRESIDENT EGAN: Thank you, Mr. Potter. The Chief Clerk may read the proclamation as offered by the City of Fairbanks through Mr. Potter.

(The Chief Clerk read the City of Fairbanks Proclamation designating Sunday, February 5, 1956 as Alaska Constitution Day in the City of Fairbanks and conveying appreciation and congratulations to the delegate for a job well done".)

PRESIDENT EGAN: The resolution will become a part of the records of the Convention. Mr. Hellenthal.

HELLENTHAL: Mr. President, I move and ask that the following resolution be submitted to the appropriate committee for adjusting as to substance, to wit: that the Fairbanks Daily News-Miner

and its president and publisher, C. W. Snedden, and its staff and all other papers or agencies that reported the progress of the Constitutional Convention be commended for their honest, scholarly, objective, and courteous reporting of matters dealing with the progress of the Convention.

COGHILL: A point of information. It was directed by the President that the Committee on Administration would set out a set of resolutions to be passed on by the Convention Monday morning in an orderly manner so that there would be no parties left out. It is the feeling that, if any one has any ideas on resolutions of thanks that they can contact the Administration Committee.

PRESIDENT EGAN: The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Hellenthal, your proposed resolution is referred to the Committee on Administration. The Chair would like to state that, if delegates have particular resolutions they they are interested in, that they confer with the Committee on Administration as the Committee on Administration has this matter before them and is diligently working on it. The Chief Clerk will read the communications that are now before the body.

(The Chief Clerk read the following communications: a telegram from Robert F. Kennon, Governor of Louisiana, appointing Professor J. Kimbrough Owen to serve as his personal representative at the signing ceremonies; a telegram from G. Mennen Williams, Governor of Michigan, extending best wishes to the delegates on the occasion of the signing of the constitution and expressing hope that the occasion may speed the day when Alaska becomes a state; a letter from Congressman Olin E. Teague of Texas expressing regret at not being able to attend the signing ceremony; a letter from Luis Munoz Marin, Governor of Puerto Rico, expressing regrets at being unable to attend the signing ceremony; a letter from E. L. Rankin, Jr., secretary to Governor Luther H. Hodges of North Carolina expressing regrets at the governor's being unable to attend the signing ceremony; a telegram to George Sundborg from Joseph T. Flakne, Programming Director, Arctic Institute of North America, congratulating the delegates, thanking them for writing the constitution, and expressing hope that soon Alaska would be a state; a telegram to Mr. VanderLeest from Louis Middleton of Grand Rapids, Michigan, stating he would be arriving to attend the signing ceremonies.)

PRESIDENT EGAN: Mr. VanderLeest.

VANDERLEEST: Mr. President, I would like to state that this young fellow, at that time in 1908, took over my job as a pharmacist in Grand Rapids, Michigan, and we have been friends all of these

years. I sent him one of those cards and that is what I get. I sent him a telegram 20 minutes ago with a hotel reservation if he can make it.

PRESIDENT EGAN: Thank you, Mr. VanderLeest. (Applause)

(The Chief Clerk read a telegram from Mrs. Buckalew to Delegate Buckalew stating that the Dallas [Texas] Democratic Women's Club had passed a resolution for immediate statehood for Alaska as a result of a speech she had made.)

PRESIDENT EGAN: Are there any other communications to come before the Convention at this time? If not, is there any other unfinished business? We have before us then Article XII, Section 14, of the general provisions. This article, Mr. Riley, took its regular course into third reading, is that correct?

RILEY: I believe all that is required is just assignment to the calendar for third reading.

PRESIDENT EGAN: The Chief Clerk may read Article XII, General and Miscellaneous Provisions, Section 14, for the third time.

CHIEF CLERK: Section 14? It's the whole thing.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I think a motion is perhaps in order that it be advanced to third reading at this time, read by title only, and placed on final passage.

PRESIDENT EGAN: Mr. Riley, did it not take its normal course into third reading?

RILEY: I don't recall that it has ever been assigned in so many words or that a motion has been entertained.

PRESIDENT EGAN: Well, it doesn't take any motion if it goes to another meeting. The Rules Committee just assigns it to the calendar as in --

RILEY: Referring to rules is what I have reference to here.

PRESIDENT EGAN: If there is no objection -- Mr. Ralph Rivers.

R. RIVERS: When we adjourned yesterday, we were on No. 17/z. Now I haven't got it clearly in my mind yet what we are about to start on.

PRESIDENT EGAN: Well, the calendar shows, Mr. Ralph Rivers, that 17/z is still in second reading but it shows Article XII, Section 14 of Article XII -- the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair regrets that the Chair just had that part of Article XII which dealt with Section 14 before it. We have before us Article XII, General and Miscellaneous Provisions, in third reading. The Chief Clerk will read the title of the article.

CHIEF CLERK: "Article XII, General and Miscellaneous Provisions."

PRESIDENT EGAN: The article is open for discussion and debate. Mr. Ralph Rivers.

R. RIVERS: Mr. President, the members were asked the other day if they had any thought on points that might have been omitted to bring them forward. I have a point which I can put in the form of a question to Mr. Davis, if I may.

PRESIDENT EGAN: If there is no objection, Mr. Rivers.

R. RIVERS: Mr. Davis, the expression, "a two-thirds vote of each house" is used in many places in this constitution and I was wondering if it would be advisable to insert under miscellaneous provisions the following: "The expression ' a two-thirds vote of each house' wherever used in this constitution means a two-thirds vote of the membership to which each house is entitled."

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. Fischer, I think, can field that one better than I can.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, as we explained when the Style and Drafting Committee reported back the legislative article, the reference to "the members of each house or a two-thirds vote of each house" means two-thirds of those present and voting upon a particular issue. When the term "two-thirds of the membership of each house" is used, that means two-thirds of the number of members to which the house is entitled. There is a difference between those two terms, and when it is used as "two-thirds of each house" it is not the total membership to which the house is entitled.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to ask Mr. Fischer if we should simply rely on the record explanation or if we shouldn't put an extra section in the miscellaneous and define those two terms for clarity's sake.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I doubt if it is necessary because the term "membership" is specifically defined in the first section of the article on the legislature. In that article it starts out that the legislative powers shall be vested in a legislature which

shall consist of a senate with a membership of 20 and a house of representatives with a membership of 40. In other words, the term "membership" is defined right there, and I think that the uniform differentiation between those two terms as you go through the constitution is a pretty obvious sign of the different intent all the way through.

PRESIDENT EGAN: Is there further discussion? Mr. Davis.

DAVIS: Mr. President, I would like to clarify one point. We brought in Article XII in two or more different sections. We now have Article XII that we presented some time back and then one portion of Article XII which yesterday, I believe, we called Section 14 of Article XII. Now I presume we are considering the entire matter including what was Section 14 yesterday. Is that right?

PRESIDENT EGAN: Mr. Davis, as we have it here before us, it does not show Section 14 within it. Is that the wish of the body, that this Section 14 be included at this time as a part of Article XII in its entirety?

DAVIS: Mr. President, we have previously accepted both the body of Article XII and Section 14 so far as the Style and Drafting report was concerned, and I would suggest and, if necessary, will move and ask unanimous consent that the Article XII as originally presented and Section 14 of Article XII be considered together at this time.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that Section 14 become a part of Article XII, General and Miscellaneous Provisions, as we are considering Article XII at this time. Is there objection, in third reading? Hearing no objection it is so ordered, and we have the entire article before us open for debate and discussion. Mr. Hellenenthal.

HELLENTHAL: May I address a question to Mr. Sundborg?

PRESIDENT EGAN: You may, Mr. Hellenenthal.

HELLENTHAL: Mr. Sundborg, I understand there were some amendments, not particularly of substance, to be made in Sections 4 and 5 with relation to the word "affirm", and with relation to omitting the last sentence of Section 5. Would it not be a good time to take those up now?

SUNDBORG: Mr. President, with relation to Section 4, the Style and Drafting Committee, purely as a matter of form, will -- when we bring the final constitution before you, we'll show the words "or affirm" in brackets rather than in commas, and I don't believe it would require any particular action by the body; it is just a matter of punctuation. On Section 5, my understanding is that the chairman of the Committee on the Executive is going to make a

motion to strike that final sentence. It is not our Committee.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have Article XII before us in third reading, the General and Miscellaneous Provisions. Is there a discussion? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, in the Committee chairman's meeting this noon or this morning, we talked about the advisability of retaining, on page 2, certain lines as follows: "The governor shall act as the agent of the state in all intergovernmental relations involving the state." I have polled the Executive Committee on that and out of six members polled, five agree that it would be just as well to strike it. The other member had not yet decided. In view of that fact, if we are in the proper order of business, on page 2, I will recommend that on lines 15, 16, and 17, those words be stricken, starting with "The governor".

PRESIDENT EGAN: Mr. Rivers, it would be necessary that you ask unanimous consent that the rules be suspended in order that the proposal be placed back in second reading for specific amendment.

V. RIVERS: I will ask unanimous consent for suspension of the rules.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that the rules be suspended in order that Committee Proposal No. XII be placed before us in second reading for specific amendment. Is there objection? Hearing no objection, the rules have been suspended and Committee Proposal No. XII is now before us in second reading for specific amendment. Mr. Rivers.

V. RIVERS: I will now restate my motion that lines 15, 16, and 17, page 2, the sentence beginning with "The governor shall act as agent of the state..." be stricken in its entirety.

PRESIDENT EGAN: Mr. Victor Rivers moves and asks unanimous consent for the adoption of the amendment. Is there objection? Mr. Robertson.

ROBERTSON: I object for a matter of information. What is the purpose of striking this, not having the governor as agent?

PRESIDENT EGAN: Mr. Victor Rivers, would you explain that?

V. RIVERS: The general discussion was some what along this line: that by putting that section in it made everything in the way of activities with other governmental agencies funnel through the governor or his delegated representatives. Some of us had the

thought that he could delegate his authority, and I brought that out the other day on the floor in our discussion. Discussing it with our committee chairmen and consultants, it was pointed out that the governor could not and should not act as the agent of the state in such intergovernmental relations as those carried on by the National Association of Legislative Service Agencies, the Conference of Chief Justices, and other similar related matters, and that this clause might have a restrictive effect, and that, in any event the strong executive as we have him set up could and would have all the powers of a full agency for the people of the State of Alaska, so for that reason it was felt that they limited somewhat his ability to function by leaving it in, and it was more effective to leave it out. Those are the points.

PRESIDENT EGAN: Is there objection to the unanimous consent request for adoption of the amendment? If there is no objection the amendment is ordered adopted. Mr. Victor Rivers, do you now ask that the rules be suspended and that the proposal be placed back in third reading?

V. RIVERS: It automatically goes back, does it not, Mr. President? It was suspended for specific amendment only. I will ask unanimous consent that we now place the measure back to third reading if the record should show it.

PRESIDENT EGAN: Unanimous consent is asked that Article No. XII, General and Miscellaneous Provisions, be advanced to third reading, and placed in final passage. Is there objection? Hearing no objection, it is so ordered, and the article is now before us in third reading.

ROBERTSON: Does that include Section 14?

PRESIDENT EGAN: That includes Section 14, Mr. Robertson. The Chief Clerk will please read the title once more.

CHIEF CLERK: "Article XII, General and Miscellaneous."

PRESIDENT EGAN: Is there discussion or debate? If not, the question is: "Shall Article XII, the article on general and miscellaneous provisions, be agreed upon to be appended to the Alaska constitution?" Mr. Robertson.

ROBERTSON: Mr. President, is it too late to make an amendment?

PRESIDENT EGAN: At this time, Mr. Robertson, it would be necessary again, if an amendment is proposed, to ask that the rules be suspended and that the article be placed back in second reading for specific amendment. While we are waiting, the Chair would like to ask of the chairman of the Rules Committee that on this question relating to general and miscellaneous provisions, should it show that it was adopted as a part of the Alaska state constitution, or should it also be an appendage?

RILEY: As you stated first, Mr. President; no, not appended, as a part of.

PRESIDENT EGAN: As a part of the constitution? As differentiated from the matters relative to the schedule?

RILEY: Part of the body of the constitution, as most articles.

PRESIDENT EGAN: Mr. Robertson, did you have a question? Then, the question is -- Mr. Coghill.

COGHILL: I have a question I would like to ask anybody that could answer it for me. On Section 11, we have discussed this in great detail on the floor. However, there is still a doubt in my mind and I might clarify it before asking a question of whoever might wish to answer. It is my understanding that this section was left out of the Hawaiian state constitution because they were quite confident that they were going to be admitted into the States right away. However, it is on the grants of land or other properties of Alaska, and we are consenting to fully, by the state and people, to any kind of a proposition that the Congress of the United States might give us. Now, Hawaii, under their state constitution, by leaving it out, were provided for in the enabling act of H.R. 2535 that all of the lands that belonged to the state at the time of admittance were theirs, and under our section we might very well lose the lands that the University already has under their land grant and we might also lose Sections 16 and 33 under our school land grant. Now, if I am wrong on that, I wish somebody would correct me, but it seems to me that if we left this section out and had the Congress of the United States provide for our disposition of lands as they have under the Hawaiian constitution that we would be better off.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: I might try to answer that in a way. The situation regarding Hawaii was very different than Alaska. Hawaii was taken in under a different situation, a different treaty arrangement than Alaska. They had their homelands which belonged to Hawaii, much the same as Texas lands belonged to Texas when they came into the Union, so I don't believe you need have any fears, because it's what will be in the enabling act and it won't have anything to do with what we have already been granted; I think it's two different situations and that is why it's different in the two enabling acts.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I don't know the motives that the people of Hawaii had in leaving this section out of their constitution; however, they did leave it out. But I think, in answer to your question, the question as to whether or not we should leave it out has more pertinence for Alaskans because we are dealing with much more land that we do not now have. Therefore, Congress could change our

enabling act more radically in that respect some time in the future than they could have changed or could yet change Hawaii's.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I might say, Mr. President, insofar as the school lands, sections 16 and 36 of surveyed sections have been granted to the Territory and are now administered by the Territory for the benefit of the schools. So far as the University land is concerned, it is my understanding that the same thing is true of them except insofar as what is known as "in lieu" lands where the federal government has taken back or used some land for some other purpose, and given the right to the Territory or University to choose other lands in lieu of those that have been taken. Whether or not that could be abrogated or not I do not know. Those sections that are surveyed that are presently administered by the Territory will continue to do so.

PRESIDENT EGAN: If there is no further discussion, the question is: "Shall Article XII, the article on general and miscellaneous provisions, be agreed upon as a part of Alaska's state constitution?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 51 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 0 -

Absent: 4 - H. Fischer, King, Londborg, Taylor.)

CHIEF CLERK: 51 yeas and 4 absent.

PRESIDENT EGAN: The "yeas" have it and Article XII, the article on general and miscellaneous provisions, has been agreed upon as a part of the Alaska state constitution. We now have before us in second reading Ordinance 17/z, additional transition measure. Mr. Riley.

RILEY: Mr. President, a point of inquiry and possibly a point of order. Although the Rules Committee has placed 17/z on the calendar and shown it in second reading today, I should like to address a question to the Chair for a ruling as to whether 17/z was ever properly before the Convention? Was it ever offered by the Committee as a Committee Proposal, and in that event, when?

PRESIDENT EGAN: You mean, Mr. Riley, was Ordinance 17/z ever offered officially from the Committee to the floor?

RILEY: Yes. Would the journal reflect such an offering by the Committee?

PRESIDENT EGAN: If there is no objection, the Chief Clerk will refer to the record and, if necessary, have a short recess to accomplish that.

V. RIVERS: Mr. President, didn't the chairman of the Ordinance Committee get up and say it was No. 17/z because of the fact that it would be the last one, and he asked that it be considered?

PRESIDENT EGAN: That is the recollection of the Chair, but did the chairman make that statement after the ordinance was before us or at the time we were discussing the ordinance? Mr. McNealy.

MCNEALY: Mr. President, that was made upon the matter of discussion of amendment or in talking in regard to particular proposals. I do not recollect having offered the proposal formally on the floor.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The record shows as to Article 17/z that it was never formally offered to the Convention by the Committee. Now, what happened was that the calendar showed 17/z on it yesterday. The Chair thought when it saw the letter "z" that it was a typographical error that might have occurred somewhere along the process of mimeographing the calendar, and it wasn't until Mr. McNealy explained the reason for having the "z" later as we were discussing the article, that the Chair realized that the "z" was really meant. However, at the time we took this matter up, it was read twice in its entirety. The Chair recalls that because at that time it was recognized that the first complete reading was actually that, the first complete reading instead of the second reading, but in order that the record be cleared, that the chairman of the Committee introduce the article at this time. Mr. McNealy.

MCNEALY: Mr. President, at this time, if this is the order, the Committee will now report and introduce Proposal 17/z, except that it is requested that Section 32 appearing in the copy of Section 17/z be deleted and in lieu thereof, for purposes of discussion, that the Committee amendment which is on the desk to insert a new Section 32 be considered in place of the present Section 32. Mr. President, it might be a point of order. Possibly I should introduce the proposal and then later ask unanimous consent. I will introduce at this time Proposal 17/z.

PRESIDENT EGAN: Mr. McNealy, the chairman of the Committee on

Ordinances asks at this time that the Committee Proposal 17/z be placed before the Convention for its consideration. Is there objection? Mr. Johnson.

JOHNSON: Mr. President, a point of inquiry. Is it permissible at this date in the proceedings to introduce a proposal of this kind without a suspension of the rules?

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I will have to refresh myself on the rule, but I don't believe we have such a limitation on a committee proposal, have we? I might be in error.

PRESIDENT EGAN: Mr. Johnson, it is the recollection of the Chair that the motion that was adopted with relation to committee proposals, that stopped the introduction of committee proposals on January 8 from the floor, that it was delegate proposals specifically stated in that motion. Mr. Coghill.

COGHILL: Mr. President, seeing that there was a parliamentary slip up here, would it be in order to move that actions taken on this Committee Proposal No. 17/z be referred to as an action of today? Otherwise we would have to expunge the record of yesterday because we did have two amendments. Would it be in order to move and ask unanimous consent?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Johnson, the two-thirds rule would not apply to committee proposals, that has been determined. Mr. Coghill.

COGHILL: Mr. President, I move and ask unanimous consent that the actions taken on Committee Proposal No. 17/z of yesterday be confirmed by the body as actions taken today.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the actions taken relating to Proposal No. 17/z yesterday be confirmed as actions that were taken today under the same proposal. That would bring the proposal, if the motion of Mr. Coghill's was adopted, it would mean that the proposal would be brought before us in the same position that it was when it left the body yesterday afternoon. Is there objection to the unanimous consent request?

RILEY: I object.

COGHILL: I so move.

COOPER: I second.

PRESIDENT EGAN: Mr. Coghill so moves, seconded by Mr. Cooper, that the actions of yesterday with relation to Committee Proposal No. 17/z be confirmed as though the actions up until that point were taken today.

R. RIVERS: A point of information. Does that involve suspension of the rules?

PRESIDENT EGAN: It does, Mr. Rivers. It would take a two-thirds vote to carry that particular motion. Mr. Coghill.

COGHILL: Mr. President, an inquiry. If we don't take such an action, would it then not have to be possible for this group to expunge the record of yesterday?

PRESIDENT EGAN: Mr. Coghill, it would not be necessary to expunge the record it probably would be desirable -- but it would mean then that, if this motion fails, that we would have the Committee Proposal No. 17/z before us in first reading as it was originally introduced.

COGHILL: As it was yesterday?

PRESIDENT EGAN: That is correct.

COGHILL: It would seem to me that the motion that I made would save time of the Convention floor and we could start just where we left off last night, because we had two amendments to it and they were adopted, and that is why I presented the motion.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: A point of inquiry. Under Mr. Coghill's motion, then would that, in effect, validate an invalid action, the fact that the proposal was never properly before the body?

PRESIDENT EGAN: Mr. McNealy, it would validate an action that was taken, and by suspension of the rules, which is included in the motion made by Mr. Coghill, the action that is taken on anything is taken under the rules that we are operating under, and it would be the opinion of the Chair that it could be accomplished. It wouldn't be validating an invalid action; it would just be validating an action that had been taken by suspending the rules. It is within the province of the body to do so. The Chief Clerk will call the roll on Mr. Coghill's motion. If you vote "yes", you vote that we consider Committee Proposal 17/z today at exactly the same point that it was left here before the body last night. If you vote "no", you vote to receive Committee Proposal 17/z as it was originally introduced today. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Awes, Boswell, Coghill, Cooper, Cross, Davis,

Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, McLaughlin, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Rovertson, Rosswog, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays: 17 - Armstrong, Barr, Buckalew, Collins, Doogan, Hilscher, Knight, McCutcheon, McNealy, McNees, Marston, Nordale, Riley, Smith, Stewart, VanderLeest, White.

Absent: 4 - H. Fischer, King, Londborg, Taylor.)

CHIEF CLERK: 34 yeas, 17 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the motion has failed of adoption. We now have Committee Proposal No. 17/z. Mr. Coghill.

COGHILL: Mr. President, I move that we strike Section 32.

PRESIDENT EGAN: Mr. Coghill, the proposal will have to be read for its first time. The Chief Clerk will please read Committee Proposal No. 17/z for the first time.

CHIEF CLERK: "Committee Proposal No. 17/z, introduced by Committee on Ordinances and Transitional Measures, Schedule, Sections 30 to 32."

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I move and ask unanimous consent that Committee Proposal No. 17/z be advanced to second reading and open for amendment.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent that Committee Proposal No. 17/z be advanced to second reading at this time, and that the rules be suspended. Mr. White.

WHITE: Mr. President, there is an amendment to 17/z on the --

PRESIDENT EGAN: Well, Mr. White, first we have this motion for suspension of the rules in an attempt to get the proposal before us in second reading. Is there objection to Mr. McNealy's unanimous consent request?

JOHNSON: I object.

PRESIDENT EGAN: Objection is heard. Do you so move Mr. McNealy?

MCNEALY: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. McNealy so moves, seconded by Mr. Knight, that the rules be suspended and that Committee Proposal No. 17/z be placed before us in second reading at this time. Mr. White.

WHITE: Mr. President, are we now in second reading?

PRESIDENT EGAN: We are not in second reading, we have to vote on this motion to suspend the rules and place it before us in second reading. Mr. Victor Rivers.

V. RIVERS: Mr. President, it says 17/z on our calendar is in second reading. I can't quite follow why we haven't got it there.

PRESIDENT EGAN: That is what we had all this confusion over. Mr. Victor Rivers. It had never been introduced by the Committee properly in the first place. The question is: "Shall the rules be suspended and Committee Proposal No. 17/z be placed before us in second reading at this time?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 31 - Awes, Barr, Buckalew, Coghill, Cross, Davis, Doogan, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Laws, McCutcheon, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, VanderLeest, White, Mr. President.

Nays: 20 - Armstrong, Boswell, Collins, Cooper, Emberg, Hellenthal, Hinckel, Johnson, Lee, McLaughlin, Nerland, Nolan, Poulsen, Reader, Robertson, Rosswog, Sundborg, Sweeney, Walsh, Wien.

Absent: 4 - H Fischer, King, Londborg, Taylor.)

WIEN: Mr. President, may I change my vote to "no"?

PRESIDENT EGAN: Mrs. Wien changes her vote to "no".

ARMSTRONG: I would like to change my vote to "no".

PRESIDENT EGAN: Mr. Armstrong changes his vote to "no". The Convention will come to order while the Chief Clerk tallies the ballot.

CHIEF CLERK: 31 yeas, 20 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it and the rules have not been suspended. Committee Proposal No. 17/z is referred to the Committee on Rules for assignment to the calendar. Mr. Victor Fischer.

V. FISCHER: I was just going to ask, Mr. President, whether the Rules Committee can advance 18/z to second reading today or whether

it has to carry over in second reading tomorrow, and third reading on Sunday to take its proper place?

PRESIDENT EGAN: That is a question that the Rules Committee is probably more familiar with under the circumstances. Mr. Riley.

RILEY: Mr. President, the matter isn't covered fully in the rules. As the body will recall, the Rules Committee happens to have the calendar assignment by delegation from the Chair. It goes back to the period when the secretary was absent, prerecess.

PRESIDENT EGAN: There is nothing in the rules, so far as the Chair recollects, that covers the question as to whether or not the Rules Committee can put anything on the calendar during the day, and, in the absence of a specific rule, it would seem they can and have the authority to put anything on the calendar that they wish to go on that calendar at any time they say so. Mr. Cooper.

COOPER: Mr. President, a point of inquiry for the Chair. Would it be in order to move that Committee Proposal No. 17/z, under suspension of the rules, Sections 30 and 31 be advanced to second reading at this time?

PRESIDENT EGAN: Mr. Cooper, the Chair would feel that that would not be a proper procedure under suspension of the rules or anything else. Mr. Victor Rivers.

V. RIVERS: Mr. President, to resolve this question, we have had the Rules Committee arrange a calendar a number of times for the same day on which we were operating. I would ask unanimous consent that we recess for the purpose of allowing the Rules Committee to arrange a calendar.

PRESIDENT EGAN: Mr. Victor Rivers moves that the Convention stand at recess in order that the Rules Committee might arrange a calendar, seconded by Mr. Victor Fischer. The question is: "Shall the Convention stand at recess for that purpose?" All those in favor of recessing signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

RILEY: The Rules Committee has met and placed Ordinance 17/z in second reading for today.

PRESIDENT EGAN: The Rules Committee has met and placed Ordinance 17/z in second reading for today. The Chief Clerk will please read the proposal for the second time.

(The Chief Clerk read Committee Proposal 17/z for the second time.)

PRESIDENT EGAN: Are there amendments for Committee Proposal No. 17/z? Mr. Victor Fischer.

V. FISCHER: A point of order. The proper order and procedure is for the chairman of the Committee to give an explanation of the proposal.

PRESIDENT EGAN: Mr. McNealy isn't here.

COGHILL: I believe that 17/z has plenty of explanation over the past two days so I move --

PRESIDENT EGAN: Mr. Coghill, the point of order was raised and so long as the point of order is before us, the Chair will have to rule that, if the chairman of the Committee desires to give an explanation prior to the time amendments are received, it is in line with the rules. Mr. McNealy.

MCNEALY: Mr. President, the only explanation the Committee chairman has to make is that Section 32 as it is written should be stricken and appropriate amendments made therefor.

PRESIDENT EGAN: Mr. Coghill.

WHITE: Mr. President, point of order.

PRESIDENT EGAN: Your point of order.

WHITE: Hasn't it been the procedure in the past that committee amendments to any committee proposal would be accepted first?

PRESIDENT EGAN: That is correct. Mr. Hellenthal.

HELLENTHAL: A point of information. We have two amendments on our desks; which one is the Committee amendment?

PRESIDENT EGAN: Mr. Coghill, the point of order has been again raised and the Chair will have to hold that the point of order is well taken, for the time being at least. Does the Committee have an amendment that the Committee would like to bring up? Which amendment is it?

MCNEALY: It would be the longer amendment, Mr. President.

PRESIDENT EGAN: The one striking the word "shall"?

COGHILL: A point of information. If my motion deals with the whole section, will that supersede an amendment?

PRESIDENT EGAN: Mr. Coghill, the Committee does have the right, if they choose to exercise it, of offering an amendment before an individual delegate does. The Chief Clerk will please read the proposed Committee amendment.

CHIEF CLERK: "Strike Section 32 and insert a new Section 32 as follows: 'If the Alaska-Tennessee Plan is approved by the voters of Alaska and Alaska has not subsequently been admitted as a state of the Union, the Territorial Legislature shall enact such additional measures as in its judgment are necessary and proper to assure attainment of that end.'"

PRESIDENT EGAN: What is your pleasure, Mr. McNealy?

MCNEALY: I move the adoption of the amendment.

VANDERLEEST: I second the motion.

PRESIDENT EGAN: Mr. McNealy moves the adoption of the amendment, seconded by Mr. VanderLeest. The motion is open for discussion. Is there discussion of the proposed amendment? Mr. Victor Fischer.

V. FISCHER: I would like to say that yesterday I got up and spoke about the need of some provision to show the people of Alaska that we do intend that this constitution not just be adopted and put on the shelves in the library, but that we hope that our action will be followed up, not only by the Tennessee Plan but that the people of Alaska do continue to take steps toward statehood. I also pointed out that the Section 32 that we had before us yesterday, the one that is proposed to be amended, is not the best thing for us. I think the amendment proposed by the Committee is the kind of a thing that deals with this in temperate terms; it shows our intent; I don't think it will be offensive to anyone; and I certainly hope that the Committee amendment will be adopted.

PRESIDENT EGAN: Is there further discussion? If not -- Mr. White.

WHITE: Mr. President, I won't discuss this in detail because I think that we all understand it. I would like to point out one difference, however, between this and the original section and that is that the original section contained the words "fourth Monday in January, 1959". Now, under the Tennessee Plan as we have adopted it, a representative from the State of Alaska to the United States House of Representatives will be elected. His re-election, if thought proper, will be necessary in 1958, October of 1958, so that, if that is thought proper to keep his position in being coincident with the terms of the two senators, action by the next Territorial legislature will be necessary. This new section, if adopted, would make that allowance. I would also say that there certainly is nothing defiant or improper or unusual or different in what is contained in this new section.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: May I ask a question of the Committee? Isn't it within the power of the legislature at any time to take such an action without having it put in the constitution? We have been trying to cut down on words and phrases and paragraphs and make the number of

words in our constitution as short as possible. I think this is unnecessary because the Territorial legislature has that power at any time.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I should like at this time to offer an amendment to the amendment.

PRESIDENT EGAN: Mr. Johnson offers an amendment to the amendment.

JOHNSON: The amendment to the amendment is to strike all the matter that is enclosed in the quotes of the amendment.

PRESIDENT EGAN: The proposed amendment to the amendment would be out of order at this time, Mr. Johnson. It is not an amendment to the amendment, Mr. Johnson; it is a complete obliteration of the proposed amendment, and it is out of order to offer such an amendment to any amendment. The Chair will have to rule that.

JOHNSON: A point of inquiry. Doesn't the Committee amendment amount to the same thing? They are obliterating the entire Section 32 as it stands.

PRESIDENT EGAN: That is correct, Mr. Johnson. This is an amendment to the amendment -- to any amendment cannot take that kind of a classification. Mr. Boswell.

BOSWELL: I would just like to point out one effect I think this section now has, particularly to the proponents of the Alaska-Tennessee Plan, that you are asking the people of Alaska to take this along with the Alaska-Tennessee Plan. As it was before, you were asking them to take the Alaska-Tennessee Plan and I think this is going to bring a lot of votes against the Alaska-Tennessee Plan as it originally stood before us, but when people see this tacked on to the Alaska-Tennessee Plan, I can't help but think that there are going to be a lot of negative votes just because of this addition.

WHITE: May I address a question to Mr. Boswell?

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: Mr. Boswell, could you explain to me just what in this new paragraph, in your opinion, would cause the defeat or the lessening of the number of votes for the Alaska-Tennessee Plan?

BOSWELL: Well, I noticed in last night's paper a letter to the editor criticizing our action in proposing the Alaska-Tennessee Plan. I expect that is just a beginning, and I expect there will be considerable opposition to it, maybe. Now, as it stands I think the Alaska-Tennessee Plan is all right. I am all for it and I hope the

people of Alaska pass on it, but I do feel that when they have to pass on further action such as this proposes, if they approve the Alaska-Tennessee Plan, I can't help but think there will be a number more that will take that same point of view. They might take the Alaska-Tennessee Plan, but they wouldn't take it with this additional proviso.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: It doesn't appear to me that this amendment is radical in any respect. It would appear to me that it says nothing more than, if statehood is not granted, that a subsequent legislature may provide by law such necessary further measures to attain statehood. Now to me, that could mean nothing more, necessarily, than the appropriation of additional funds for the prosecution of statehood. It may be that the legislature would see fit under those circumstances to set up a consulting bureau in Washington with the proper funds and with the proper type of personnel, as Hawaii has done for a number of years in an endeavor to bring facts to various congressmen and senators. It doesn't appear to me that there is anything in here that would cause anyone to vote against the Tennessee Plan, because it leaves everything in the judgment of the legislature. It doesn't advocate any revolutionary measures. It isn't inciting anyone to rebellion or anything of that nature. I can't possibly see how it could affect anyone adversely. It merely suggests to the legislature that they shall take even further measures than they have already. So far they have set up the laws which provided for this constitution as one measure in prosecuting statehood as far as we could. This Convention has suggested that we send our congressmen and senators back to Washington in order to get statehood for us. If that fails, then this item right here states that we shall do something else. It may mean that we will implement the delegate from Alaska with more funds and personnel in an endeavor to prosecute our desire for statehood. I can't see why this should be tied together with the Tennessee Plan as such and be detrimental to it in any respect.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I am a bit puzzled. Now, either it means something and, if it does, what does it mean? Does it mean the legislature shall do that which it can do anyway and, if it doesn't mean anything, why should it be in the constitution? Now the previous speaker said that the legislature "may". The words here are "shall" in the mandatory sense that the legislature must do something, and I am a bit puzzled in light of our vote yesterday as to what is intended by this thing. If it intends nothing, if it merely instructs the legislature to do that which it can do anyway, then it is thoroughly pointless, and, if it instructs the legislature to do something that it has no power to do now, then what is it that it's instructing the legislature to do? There is complete confusion on it.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think Mr. McLaughlin is belaboring the question. It points out to the legislature what, in our opinion, they should do, and the people of Alaska will then point out to the legislature that they want them to act on the subject. There is nothing improper about it; it just brings to their attention. I don't see anything novel or unusual about it and I think it is probably necessary.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed Committee amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 23 - Awes, Barr, Buckalew, Davis, Doogan, Emberg, V. Fischer, Hilscher, Hurley, Kilcher, Knight, Lee, McCutcheon, McNealy, McNees, Marston, Nordale, Riley, V. Rivers, Stewart, VanderLeest, White, Mr. President.

Nays: 26 - Armstrong, Boswell, Coghill, Collins, Cooper, Cross, Gray, Harris, Hellenthal, Hermann, Hinckel, Johnson, Laws, McLaughlin, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, Robertson, Rosswog, Sundborg, Sweeney, Walsh, Wien.

Absent: 6 - H. Fischer, King, Londborg, R. Rivers, Smith, Taylor.)

CHIEF CLERK: 23 yeas, 26 nays and 6 absent.

PRESIDENT EGAN: So the "nays" have it and the amendment has failed of adoption. Mr. White.

WHITE: Mr. President, may I address a question to Mr. McNealy, chairman of the Ordinance Committee?

PRESIDENT EGAN: You may if there is no objection, Mr. White.

WHITE: Mr. McNealy, in your opinion would the next Territorial legislature have authority to provide for the re-election of the representative called for under the Tennessee Plan in the general election of 1958?

PRESIDENT EGAN: Mr. McNealy, can you answer that?

MCNEALY: Mr. President, in answer to Mr. White's question, it strictly would be my opinion, and it's only a personal opinion,

that I would -- putting it this way -- that if I were a member of that legislature, I would very likely hesitate to take any action of that kind that hadn't been in some manner approved by the people.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I move that Committee Proposal No. 17/z be laid on the table.

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. Coghill moves. Mr. McNealy seconds the motion, that Committee Proposal No. 17/z be laid on the table.

V. RIVERS: Mr. President, I'll ask for a call of the house.

PRESIDENT EGAN: Mr. Victor Rivers asks for a call of the house.

JOHNSON: Point of order, Mr. President.

PRESIDENT EGAN: Your point of order, Mr. Johnson?

JOHNSON: I believe that under our rules a call of the house is only permissible in accordance with Robert's Rules of Order, and no one delegate can request a call of the house. It must be acted upon by motion.

PRESIDENT EGAN: Mr. Johnson, in the absence of a rule, the Chair recalls that one night we acted on an amendment that would have made a rule of that kind but it was not adopted, so your point of order is probably well taken, that we will have to have a motion adopted by a majority vote. The Convention will be at ease for a moment.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: In order not to hold up the proceedings and after discussing the matter with the mover of the previous motion, I will now ask to withdraw my request for a call of the house.

PRESIDENT EGAN: Mr. Victor Rivers serves notice that he is withdrawing his call of the house. The call is ordered withdrawn.

KILCHER: I move that we take our regular afternoon recess.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard.

KILCHER: I so move.

PRESIDENT EGAN: Mr. Kilcher so moves.

V. RIVERS: Point of order, Mr. President. There was another order of business on the floor.

PRESIDENT EGAN: A motion for recess is in order, Mr. Victor Rivers. Is there a second?

POULSEN: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Poulsen that the Convention stand at recess for its regular recess. The question is, "Shall the Convention stand at recess?" All those in favor of standing at recess at this time will signify by saying "aye"; all opposed by saying "no". The "noes" have it and the Convention is still in session. Mr. Coghill.

COGHILL: Mr. President, with the consent of my second, I would like to withdraw my motion to lay Committee Proposal No. 17/z on the table.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent with the consent of his second that his motion to lay on the table be withdrawn. Is there objection?

BUCKALEW: I object.

PRESIDENT EGAN: Do you so move, Mr. Coghill?

COGHILL: I so move.

COOPER: Second.

PRESIDENT EGAN: Mr. Coghill moves, seconded by Mr. Cooper, that the motion to lay on the table be withdrawn. The question is: "Shall Mr. Coghill's motion to lay on the table be withdrawn?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 35 - Boswell, Coghill, Cooper, Cross, Davis, Doogan, V. Fischer, Gray, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Knight, McLaughlin, McNees, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, VanderLeest, Walsh, White, Mr. President.

Nays: 16 - Armstrong, Awes, Barr, Buckalew, Collins, Emberg, Harris, Hellenthal, Laws, Lee, McCutcheon, McNealy, Marston, Robertson, Sundborg, Wien.

Absent: 4 - H. Fischer, King, Londborg, Taylor.)

WHITE: May I change my vote to "yes"?

PRESIDENT EGAN: Mr. White changes his vote to "yes".

ROBERTSON: Mr. President, I change my vote to "no".

PRESIDENT EGAN: Mr. Robertson changes his vote to "no".

MCNEES: I'll change mine to "yes".

PRESIDENT EGAN: Mr. McNees changes his vote to "yes".

CHIEF CLERK: 35 yeas, 16 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the motion is ordered withdrawn. Mr. Coghill.

COGHILL: Mr. President, now I move and ask unanimous consent to strike Section 32.

SUNDBORG: A point of order. The point of order, we have a rule that says that no amendment may be offered unless it has been cleared with the Committee involved, on second reading. Mr. President, on second reading any amendment must be cleared with the Committee involved before it may be offered, under a special rule adopted by this body.

PRESIDENT EGAN: That was after it comes from Style and Drafting, wasn't it, Mr. Sundborg?

SUNDBORG: Mr. President, I will --

PRESIDENT EGAN: The Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there amendments to Section 1 of Committee Proposal No. 17/z?

CHIEF CLERK: It is Section 30.

PRESIDENT EGAN: Oh, the Chair does not have a copy. Mr. McNealy.

MCNEALY: I move on behalf of the Committee to strike Section 30.

PRESIDENT EGAN: Mr. McNealy moves on behalf of the Committee that Section 30 be deleted from the proposal. Is there a second?

COGHILL: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Coghill. The question is, "Shall

Section 30 be deleted from Committee Proposal No. 17/z?" Mr. Victor Fischer.

V. FISCHER: Mr. President, I have assumed in advance that there has been a reason for every proposal and section that has been brought before the Convention, and I certainly couldn't support a motion like this without an explanation.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, the reason that I and other members of the Committee were favorable to this Section 30 was because of Section 32 and, if Congress thought necessary to strike Section 32 or it should be off, then we'd have the means to do it under Section 30. Section 32 is not going to be, certainly, I can see, adopted as is or in any milder form, so I can see no reason or purpose. And I might further add as to Section 30 that the only constitution which has anything in it of that particular nature, a somewhat similar provisions, is that of Puerto Rico. We haven't copied after the Puerto Rican constitution to any great extent here, and I feel that with Section 32 out, it was advanced by one or two parties to the Committee that possibly Congress would look with jaundiced eye upon the fish trap ordinance, and that it might be a good thing to have it in so the fish trap ordinance could be struck out, and others have said, possibly as to the Tennessee Plan. However, I submit on both of those that they will go to a referendum of the people and I don't think that Congress would insist or even mention the fact that the legislature should attempt to override something that had been passed by the people, and based upon those reasons and especially in anticipation of Section 32 being out of here, there is no reason whatsoever for Section 30 to remain in. In fact, I think it is meaningless and very likely is an improper matter to retain. Otherwise, other constitutions would surely have contained provisions of this kind, except that instance stated of Puerto Rico.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I move the previous question.

PRESIDENT EGAN: Mr. Hellenthal moves the previous question.

BUCKALEW: Second the motion.

PRESIDENT EGAN: Seconded by Mr. Buckalew. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question signify by saying "aye"; all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Awes, Barr, Boswell, Buckalew, Coghill,

Collins, Cross, Doogan, Emberg, Gray, Harris, Hellenthal, Hinckel, Hurley, Knight, McCutcheon, McLaughlin, McNealy, Peratrovich, Poulsen, Reader, Riley, Rosswog, Sweeney, VanderLeest, Walsh, Wien.

Nays: 24 - Armstrong, Cooper, Davis, V. Fischer, Hermann, Hilscher, Johnson, Kilcher, Laws, Lee, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, White, Mr. President.

Absent: 4 - H. Fischer, King, Londborg, Taylor.)

CHIEF CLERK: 27 yeas, 24 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the previous question has been ordered. The question is, "Shall the proposed amendment as offered by Mr. McNealy for the Committee be adopted by the Convention? The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 36 - Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, Gray, Harris, Hellenthal, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Knight, Laws, Lee, McLaughlin, McNealy, Marston, Nordale, Poulsen, Reader, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Nays: 15 - Armstrong, Buckalew, V. Fischer, Hermann, McCutcheon, McNees, Metcalf, Nerland, Nolan, Peratrovich, Riley, R. Rivers, V. Rivers, Robertson, White.

Absent: 4 - H. Fischer, King, Londborg, Taylor.)

CHIEF CLERK: 36 yeas, 15 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the amendment has been adopted. Are there amendments for Section 31? Does the Committee have an amendment? Mr. McNealy.

MCNEALY: Mr. President, the Committee has an amendment for Section 31. The amendment is to delete Section 31, and I so move the adoption of the amendment.

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Mr. McNealy moves, seconded by Mr. Hellenthal, that the proposed amendment be adopted. Mr. Victor Fischer.

V. FISCHER: Mr. President, I didn't realize that all of these sections were brought in as a guise to cover up Section 32, and I don't think that's proper if that is what was done. It was my impression that Section 31 was brought in with a specific purpose of authorizing the legislature by vote of the people upon ratification of this constitution to provide for the transition period to accomplish such things as continuing the welfare program, continuing the health program, paying teachers, and everything else after the Territory as such has ceased to exist and before the first state legislature has appropriated the funds. If I am wrong I would like to hear so from the Committee chairman, but I certainly don't think that if there was no more reason than to cover up 32 that it was very good to bring in all these extra sections.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, frankly, Section 31 there which I may have possibly -- I was out of the committee room when it was considered because I have no recollection of it until it came on the floor and I was in and out of the committee. However, we do point out that going back in the schedule we have made provisions to continue the former laws in force, and to continue our Territorial officers in office until the state takes over, to continue school districts and health districts and all of those things are provided for already in the schedule, and this is, in effect, meaningless because the combination of what we have already provided in the schedule for the orderly transition plus that that will be written into any enabling act of Congress makes this Section 31 totally useless and of no avail. And I apologize to the Convention at this time for bringing 17/z out at all, and I think since it is meaningless and since others have expressed the thought here about taking up wordage in the constitution, it certainly should not be included, and the committee amendment should be adopted.

PRESIDENT EGAN: Mr. Barr.

BARR: We have already provided for the orderly transition of government from Territorial to the state government. We have stated that the Territorial laws will carry over into the state government and those Territorial laws take care of practically everything, the payment of teachers, the work of the commissioners, and each department within the Territory. That will continue, so I don't see any reason for restating it in this section.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. McNealy for the Committee be adopted?" The Chief Clerk will call the roll. The amendment is to strike Section 31 from the proposal.

(The Chief Clerk called the roll with the following result:

Yeas: 39 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Doogan, Emberg, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, Knight, Laws, Lee, McLaughlin, McNealy, Marston, Nerland, Nolan, Nordale, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Nays: 12 - Davis, V. Fischer, Harris, Hurley, Kilcher, McCutcheon, McNees, Metcalf, Peratrovich, Poulsen, V. Rivers, White.

Absent: 4 - H. Fischer, King, Londborg, Taylor.)

CHIEF CLERK: 39 yeas, 12 nays, and 4 absent.

PRESIDENT EGAN: So the "yeas" have it and the amendment has been adopted. Mr. Barr.

BARR: Mr. President, I move that we recess until 4:05 p.m.

PRESIDENT EGAN: Mr. Barr moves that the Convention stand at recess until 4:05. Is there a second?

KILCHER: I'll second it.

PRESIDENT EGAN: Seconded by Mr. Kilcher. The question is, "Shall the Convention stand at recess until 4:05?"

MCLAUGHLIN: Mr. President, if there is a recess, there will be a meeting of the Judiciary Committee in the rear.

PRESIDENT EGAN: If there is a recess, there will be a meeting of the Judiciary Committee in the rear. Mr. Sundborg.

SUNDBORG: There will be a meeting of the Style and Drafting Committee also in the rear of the gallery if there is a recess.

PRESIDENT EGAN: A meeting of the Style and Drafting Committee in the rear of the gallery if there is a recess. The question is, "Shall the Convention stand at recess until 4:05?" All in favor signify by saying "aye"; all opposed by saying "no". The "noes" have it and the Convention is still in session. Are there committee amendments for the proposal? Mr. Johnson.

JOHNSON: I move that the Committee Proposal No. 17/z, as amended, be indefinitely postponed.

PRESIDENT EGAN: Mr. Johnson moves that Committee Proposal No. 17/z, as amended, be indefinitely postponed. Is there a second?

MCNEALY: I second the motion.

PRESIDENT EGAN: Seconded by Mr. McNealy. The question is -- Mr. Fischer.

V. FISCHER: A point of information. Does that mean that the proposal can be brought before the Convention by motion or does that kill it permanently and indefinitely?

PRESIDENT EGAN: It could be brought before the Convention by a motion, Mr. Fischer. The Chair's recollection is that it takes two-thirds to bring it back, but the Chair wouldn't state that as a definite statement at this time, but it is the recollection of the Chair that, if the matter is indefinitely postponed, then it just takes a majority to bring it back. Mr. White.

WHITE: Is the motion debatable?

PRESIDENT EGAN: The motion for indefinite postponement is debatable, that is correct. Mrs. Hermann.

HERMANN: A vote to indefinitely postpone is a vote to kill.

PRESIDENT EGAN: Well, it would be if you didn't bring it back from indefinite postponement.

HERMANN: If you didn't rescind your action.

PRESIDENT EGAN: The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. It has been moved and seconded that Committee Proposal No. 17/z, as amended, be indefinitely postponed. The question is open for debate if there is any. Mr. White.

WHITE: I don't like to pursue this too far. I realize that people are getting tired of all this, but I want to raise one question -- I have raised it partially before -- to be answered by anyone who is able to answer it. It appears to me that, if the Territorial legislature is unable, without further action by this body, to provide for an election of a United States representatives in the fall of 1958, we will then find ourselves in the ridiculous position, under the Tennessee Plan as we have adopted it, of having a senator until 1961 or 1963 and no representative. Now if the Territorial legislature is unable to provide --

COGHILL: Point of order, Mr. President.

PRESIDENT EGAN: State your point of order, Mr. Coghill.

COGHILL: The point of order is that under a motion to postpone

indefinitely, you can't discuss and debate the merits of the main question.

WHITE: This has bearing on the main question.

PRESIDENT EGAN: You are in order, Mr. White. You may have the floor. The Convention will come to order.

WHITE: If somebody can satisfy me that the Territorial legislature can so provide, I am perfectly willing to drop the matter. But, if we can't I submit that it will be a ridiculous situation under the Tennessee Plan to have two senators and no representative.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. White invited anybody who could answer that to answer. I would like to give what I think is the answer. If Congress seats our senators and representative, there is no problem because then we are granted statehood. If Congress doesn't seat them, the senators aren't sitting either, and I don't think there would be any particular reason to have a representative re-elected who wouldn't be recognized by Congress. That would be three years from now. If they are not seated by then, I don't think we need any, including the representative.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Committee Proposal No. 17/z, as amended, be indefinitely postponed?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 42 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McLaughlin, McNealy, Marston, Nerland, Nolan, Peratrovich, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Nays: 10 - Buckalew, Doogan, Kilcher, McCutcheon, McNees, Metcalf, Nordale, Riley, V. Rivers, White.

Absent: 3 - H. Fischer, Londborg, Taylor.)

CHIEF CLERK: 42 yeas, 10 nays, and 3 absent.

PRESIDENT EGAN: So the "yeas" have it and Section 32 has been indefinitely postponed. Mr. Victor Fischer

V. FISCHER: I would like to rise to ask a question, if I may.

PRESIDENT EGAN: If there is no objection. Mr. Fischer, you may ask your question.

V. FISCHER: We have just taken action that would preclude any indication on the part of this Convention that we desire that further steps be taken by the legislature to advance statehood. I wonder if, among the resolutions, some of which seem quite unessential, whether we have any resolution in the works calling upon Congress to grant us statehood or calling upon the legislature to take whatever action it deems necessary to advance statehood as an expression that this body does want further action by someone.

PRESIDENT EGAN: Well, we have the Tennessee Plan in the ordinances, Mr. Fischer.

V. FISCHER: No, I mean, Mr. President, as a resolution that the elected senators could take to Congress or that someone could present to the legislature. I am just asking a question whether there is any statehood resolution going to come out of this Convention.

PRESIDENT EGAN: Mr. Coghill, do you have the resolutions in your committee? Do you care to answer that?

COGHILL: It doesn't go to that extent, Mr. President, I don't believe.

GRAY: I move that we recess until 4:20.

PRESIDENT EGAN: Mr. Gray moves and asks unanimous consent that the Convention stand at recess until 4:20. Are there committee announcements? Style and Drafting at the rear of the gallery; Judiciary Committee at the rear of the gallery immediately upon recess. The question is. "Shall the Convention stand at recess until 4:20?" All in favor signify by saying "aye"; all opposed by saying "no". The "ayes have it and the Convention is in recess.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Before we proceed with our regular business, I think the Convention has some communications. Will the Clerk please read them.

(The Chief Clerk read a telegram from Ernest F. McFarland, Governor of Arizona, expressing regret at being unable to attend the signing ceremonies, and a telegram from Congressman John P. Saylor of New York also expressing regret and sending congratulations for taking another step toward statehood.)

FIRST VICE PRESIDENT: The Secretary will file the communications. On our calendar we have come to the point where I think a report from the Committee on Style and Drafting is in order. Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting reports to the Convention the complete constitution in the order which we recommend for its printing in the final document, and copies of our report, which have been struck off from the type set by the printer who is preparing the actual constitution for signing, have been placed on every delegate's desk. I might say, Mr. President, that members of the Style and Drafting Committee worked practically all night last night getting the final copy out and into the hands of the printer, and that the people at the News-Miner also worked through the night in order to have this available today. There will be several Committee changes in this document which we will ask to have made when it is considered.

FIRST VICE PRESIDENT: Mr. Sundborg, would you care to make those recommendations now or how would you wish to proceed?

SUNDBORG: Yes, Mr. President. On behalf of the Committee on Style and Drafting, I ask that, on page 38 of our report, that the sections which appear as Section 18 and Section 19 be stricken from the report and that the succeeding sections to the end of that article be renumbered accordingly. This was in accordance with floor action taken here today deleting those two sections after we had assumed they would be going into the constitution and were printed up in this form.

FIRST VICE PRESIDENT: Do you ask unanimous consent that that be done?

SUNDBORG: I do, Mr. President.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered. Do you have any other corrections?

SUNDBORG: Mr. President, there is a typographical correction on page 39, Section 26, next to last line of that section. There is a word that says "voter"; it should be "voters", plural. It's the new Section 24, yes, in accordance with the renumbering we just did, page 39. I ask unanimous consent for that correction, Mr. President.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered.

SUNDBORG: Mr. President, on page 28 at the top of the page, Section 2, I ask unanimous consent that the last sentence of that section be stricken from the report. This also was in accordance with floor action taken today by the Convention. It's the

sentence reading "The governor shall act as the agent of the state in all intergrovermental relations involving the state." We ask that that be stricken.

FIRST VICE PRESIDENT: Do you ask unanimous consent?

SUNDBORG: Yes, Mr. President.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: Mr. President, if you desire, our Committee can explain to the delegates the very few changes we have made in phraseology in putting together this final report of our Committee. There have been a few changes and then of course there also have been some changes in rearrangement of sections and we would be glad to point all those out if the delegates would like to have us do so.

FIRST VICE PRESIDENT: The Chair feels that the delegates should decide that question. What is the pleasure of the delegates? Do you wish to have that done?

HILSCHER: I so move.

FIRST VICE PRESIDENT: Do I hear any second to that?

R. RIVERS: I second the motion.

FIRST VICE PRESIDENT: You have heard the motion. Are you ready for the question? All those in favor signify by saying aye"; contrary "no". The motion carried. You may proceed, Mr. Sundborg.

SUNDBORG: We have incorporated in the report all the changes which were made on the floor in second reading in language and approved by the Convention. We have in numerous places reinserted the word "shall" to change slightly the form of expression which we used in many places. For instance, I am looking at one now where it says "The grand jury consists of at least twelve citizens." We are using that kind of sentence structure, and we have changed and in places such as that we say: "The grand jury shall consist of at least twelve citizens." It is just a change of phraseology, and I believe one that most delegates will welcome. It does not change the meaning in any case. In Section 16 of Article I, Declaration of Rights, that appears on page 3, there is one change which has been made by our Committee since the article left the floor and that will be found in the third line of this section where the words "a jury of twelve" have been added. It formerly said "In civil cases where the amount in controversy exceeds \$250 the right of trail by jury is preserved to the same extent as it existed at common law. We have made it read now: "The right of trial by a jury of twelve is preserved to the same extent as it existed..." etc. That was done, Mr. President, at

the suggestion of the consultants and, I believe, many of the lawyers from the body suggested that that be inserted. It is not a change in substance because a "jury of twelve" is what was meant here by the Convention and I believe is what has applied in Alaska, but we thought for clarity's sake we should mention the number at that point because later on in the sentence we speak of juries which might be of as few as six members, and so I would like to ask unanimous consent that the addition of the words "of twelve" be approved by the Convention.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: Mr. President, in Section 14 of the article on the legislature, which appears on page 6 in the fourth line of that section, you will find that it reads "No bill may become law unless it has passed three readings in each house on three separate days." Formerly it read "No bill may become law unless it has passed three readings in each house on separate days." We have inserted the word "three" before the word "separate" to carry out what we are sure was the intention of the body, that is, that there should be only one reading each day, and it was pointed out to us by the consultants that it was ambiguous in that there might have been three readings in two days under the language, because two days are separate days, and I am sure that it was the intention here that the readings be on three separate days, so we have inserted the word "three" and I will ask unanimous consent for that change.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered.

SUNDBORG: Mr. President, in the article on legislative apportionment, Article VI, in Section 1, page 15, the reference formerly was to Section 1 of Article XV, and we have changed the order of the articles slightly at the end so that the apportionment schedule is now Article XIV, so we have changed the wording both in Section 1 and Section 2 on page 15 to read Article XIV, which is just harmonious with the order of the articles as they now appear. I will ask unanimous consent for approval of that change at this time.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: On the next page, page 16, the same change has been made in Section 7. It now speaks of the senate districts described in Section 2 of Article XIV, where it formerly said Article XV. I will ask unanimous consent for the adoption of that change.

FIRST VICE PRESIDENT: Hearing no objection, it is so ordered.

SUNDBORG: Mr. President, in the article on finance, Section 8, page 22, in the third from last line of the section, it formerly read "meeting natural catastrophes". We have changed the word "catastrophes" to "disasters" in accordance with the suggestion from the consultants. We don't feel that it is substantive and it's probably a better description of what was intended by the Convention. I will ask unanimous consent for the adoption of that change.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered.

SUNDBORG: In the apportionment schedule, on page 35, in the description of the Nome Election District, formerly the section started: "All of the Seward Peninsula..." etc. It was pointed out to us after this passed third reading that it was incorrect to say "All of the Seward Peninsula". That had been correct at one time, but the Committee on Apportionment had changed slightly the boundaries of the election district so that not all of Seward Peninsula was included. So we have changed the first part of the description to say "That part of the Seward Peninsula", and then there is a description of the exact part. The only words we have changed have been the substitution of the words "That part" for the word "All" and this was made particularly at the request of Mr. Walsh. I might say that it has also been cleared with the chairman of the Apportionment Committee and with the geographers who agree that it is now correct where it was not fully correct formerly. I will ask unanimous consent for the adoption of that change.

FIRST VICE PRESIDENT: Hearing no objection, it is so ordered.

SUNDBORG: In the article on initiative, referendum, and recall, it starts on page 26, in Section 6, which is on page 27 -- previously, I believe it said that "a majority of the votes cast are required for the adoption or rejection of an act referred", and at the request of the Committee chairman and of the consultant, we have dropped the reference to the "approval of the act referred" and have now made it read: "If the majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected."

DAVIS: That would also change the language on the approval.

SUNDBORG: Perhaps Mr. Davis is more familiar with just exactly what was done there.

FIRST VICE PRESIDENT: Mr. Davis.

DAVIS: I don't have the exact language in front of me, but it did read, "If a majority of the votes cast on a proposition favor the initiative, it is adopted, or the rejection, it is

rejected." We broke that down into two sentences to make it clear. "If a majority of the votes cast on the proposition favor its adoption the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected."

SUNDBORG: I am sure that this was always the intent of the body. Mr. President, and it is just the language which clarifies, and I will ask unanimous consent for adoption of the change.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered.

SUNDBORG: In the general provisions, Section 5, that is on page 30, which is a form of oath, we have supplanted the commas which formerly set off the words "or affirm" in the fourth line of that section by parentheses, which is a standard form of oath and was suggested to us by many delegates and also by the consultants. It is not a substantive change and I ask unanimous consent for its adoption.

FIRST VICE PRESIDENT: Hearing no objection, it is so ordered.

SUNDBORG: Mr. President, in the article on amendment and revision, page 30, Section 2, Section 2 previously read "The legislature may provide for constitutional conventions." I believe it was always intended by the Convention that what was meant was that the legislature could call conventions and set them up. But some of the people who read this, particularly the consultants, said that our language was somewhat ambiguous and it could be argued that they could only provide for such constitutional conventions as had been called for by the people through the referendum provisions of the amendment and revision article. But I am sure it was always the intention of the body that the legislature itself could actually call constitutional conventions. So we have proposed changing the language to "The legislature may call constitutional conventions at any time." I ask unanimous consent for the adoption of that change.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: In the transitional measures, Schedule of Transitional Measures, page 37, Section 10, there is again a reference to Article XIV. Previously this said "Article XV" because the schedule on apportionment was Article XV. But it is now Article XIV, so in two places in Section 10 on page 37 we have changed it to Article XIV, which is the correct reference. I will ask unanimous consent for the adoption of that change.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: Mr. President, in Section 17 of the transitional measures, on page 38, the section previously ended "subject to applicable Acts of Congress." We propose changing that to "except as otherwise provided by law." This again was a change which was recommended by our consultants, and today at the meeting of committee chairmen it was unanimously endorsed by the committee chairmen. We believe it makes more clear the intent of the body that the arrangements on transfer of court jurisdiction would be accomplished not only by acts of Congress but also by some acts of the Territorial legislature or the state, and we feel that the term "unless otherwise provided by law" covers both federal law and Territorial law and is a better description of what is needed in this place. So I will ask unanimous consent for adoption of that change.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: Mr. President, on page 39, the new Section 24, which appeared on the printed copy as Section 26 of the Schedule of Transitional Measures, that is a wholly new section which was introduced at this point by the Style and Drafting Committee, and it refers to the fact that three ordinances appearing after the signatures on the constitution will become effective if the people ratify each of them. It was pointed out to us by the consultants that, unless we had a section such as this ahead of the signatures in the constitution, that there would be no provision for those ordinances, even if adopted by the people, to go into effect, including the ordinance on ratification of the constitution itself. And so the section which we propose be inserted at this place reads as follows: "Section 24. Ordinance No. 1 on ratification of the constitution, Ordinance No. 2 on the Alaska-Tennessee Plan, and Ordinance No. 3 on the abolition of fish traps, adopted by the Alaska Constitutional Convention and appended to this constitution, shall be submitted to the voters and if ratified shall become effective as provided in each ordinance." Mr. President, since this is, I feel, substantive to introduce this section, although it is necessary to be introduced, I ask that the rules be suspended so that the Style and Drafting Committee may submit that amendment. I ask unanimous consent.

FIRST VICE PRESIDENT: You have heard the request for suspension of the rules. Are there any objections?

R. RIVERS: A point of inquiry. Mr. Sundborg, these three are coupled here and I was wondering if, on the last three lines, we should say "shall be submitted to the voters and if ratified respectively" or something like that. Now there is a slight hint, a slight suggestion here that they all three have got to be ratified. I would like to hear either from you or Mr. Davis. I just want to be sure.

SUNDBORG: Mr. Davis wasn't responsible for this language. It

was put in about 3:30 this morning. Mr. Fischer, would you care to comment on that?

V. FISCHER: I would say, if I may, in reply to Mr. Ralph Rivers, that the language would seem explanatory since it refers to the particular ordinances. In each ordinance a separate ratification and effective clause is contained, so that simply by reference to the ordinance one can see that there is no relationship between them, necessarily, except for one thing, and this would involve very complicated language if we tried to clarify it here. Both the fish trap and the Tennessee plan ordinances will become effective only if the constitution is ratified, but not the other way around, so that the clearest way is to leave it just as it is and leave the reference within each ordinance.

FIRST VICE PRESIDENT: Mr. Rivers, does that clarify it?

R. RIVERS: Yes, that satisfies me.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: Mr. Sundborg, I notice what might be an inconsistency in style. In Section 27, I think it is now Section 25, page 39, you said "admission of Alaska into the Union as a State", capitalizing the "S". However, on page 41 in Section 7, you refer to "state" in the same sense and do not capitalize the "s".

SUNDBORG: You caught us, Mr. Hellenthal. As used in Section 27 the word "state" should not be capitalized. The "State" or reference to the "State of Alaska" when speaking only of this state according to our rules of punctuation calls for a capital. But if we are speaking of "a state", any old state, it is down style.

HELLENTHAL: The common variety.

SUNDBORG: The common garden variety of state. So I ask unanimous consent that on page 39 -- excuse me, I think I had another unanimous consent request pending.

MCNEALY: Mr. President, I would like permission, before passing on the unanimous consent, to ask a question of Mr. Sundborg.

FIRST VICE PRESIDENT: You may, Mr. McNealy.

MCNEALY: Mr. Sundborg, what was the thought behind listing ordinances as numbers 1, 2, and 3, rather than just leaving them in sections? I ask this in all sincerity because, when going back to the other constitutions and similar matters, they are listed just as sections, not as separate ordinances. I might add further that the Committee's legal interpretation is that everything down to and including Section 27 is an ordinance.

SUNDBORG: Mr. McNealy and Mr. President, we have had the same theory explained to us by Mr. Hurley who was a member of our Committee as well as of the Ordinance Committee, and I have no doubt that you are correct and I am sure you must be and I know you have given it a lot of study, that each of these matters mentioned in the transitional measures is an ordinance. But we desired to set off the three ordinances which would be voted upon by the people of Alaska so that they could clearly see, at the very end of the constitution and after the signatures, what the three separate propositions would be. Our proposal is that in the constitution which is signed, the signatures would come at a point which occurs here on page 39. It would be after what is now Section 27 of the Schedule of Transitional Measures -- excuse me, renumbered Section 25 -- and before any of the ordinances. And our reason for suggesting that is that the ordinances are not a part of the constitution and will not become a part unless and until they are acted upon favorably by the voters at referendum elections. And so we felt they should be set out clearly afterwards so we have set them up as Ordinance No. 1, and since it was -- especially the second ordinance, that on the Alaska-Tennessee Plan, rather long and complicated, we felt it was preferable to refer to it as an ordinance and to the various parts under it as sections so we could set it apart more clearly, for the citizens of Alaska to understand than would be possible if we ran it all into one section. It's just a matter of style and arrangement, I believe, and has no bearing on the legal standing of the ordinances or of the transition measures.

MCNEALY: Has there been any precedent in other constitutions for any of the ordinances appearing after the signatures rather than before? I recognize that this Convention I know this would be a legal fact -- that we can adopt ordinances outside of the constitution itself and they can be submitted to the voters. I wondered in ordinances of this kind if there had been any precedent for -- if they're to be considered set apart, or is it the opinion of the Committee that Section 26 does bring them within the purview of the signing?

SUNDBORG: Mr. McNealy, that, of course, was our purpose for inserting Section 24 ahead of the signatures, so that we could incorporate the three ordinances which will be subject to referendum by reference and, if they are approved by referendum or after referendum, they will become a part of the constitution. They will go into effect as each of them states. But we just felt it was a matter of clarity. Now, as to your question of what is the precedent for arrangement in this way, I can't answer you. I can only say that it is quite unusual, and we haven't found any cases where ordinances as long as these, particularly the one on the Alaska-Tennessee Plan, have ever been written up at the time that a constitution has been drafted. Most of the ordinances we have seen have been very brief and usually dealing only with the fact of ratification. I just haven't seen ordinances of this kind.

FIRST VICE PRESIDENT: Mr. Kilcher.

KILCHER: Mr. President, may I ask a question of the Chair? What is the unanimous consent question before the Chair at this moment?

FIRST VICE PRESIDENT: Suspension of the rules, Mr. Kilcher.

KILCHER: For what purpose?

FIRST VICE PRESIDENT: In order to sanction the Committee's action.

KILCHER: Mr. President, I would like to ask for a two-minute recess to talk over some matters with the Committee on Ordinances.

FIRST VICE PRESIDENT: Well, Mr. Kilcher, we are in a stage here where you can ask questions. You can't amend yet. If you care to draw up an amendment, you can do that after we hear the Committee report.

KILCHER: But since we have arrived at the point where the Committee report is asked to be accepted by unanimous consent --

FIRST VICE PRESIDENT: We haven't suspended the rules yet. You are free to ask any question you want. But you can amend later on if you care to.

KILCHER: Can't you amend under a majority rule?

FIRST VICE PRESIDENT: We will have a two-minute recess.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Kilcher, you have a question to ask?

KILCHER: Yes. Mr. Sundborg, am I right -- If I remember that in our enacting clause of transitional measures and ordinances we had the words "appended hereto" included in the enacting clause and I wondered why it had been omitted now ahead of the schedule.

SUNDBORG: Mr. President, the enacting clause does not appear in the text of any constitution. As you remember, we had an enacting clause required by our rules at the head of every committee proposal that came in. There is a provision saying that every proposal must have an enacting clause saying so and so, and they aren't in here in any of the articles. And I have never seen a constitution that kept putting in enacting clauses. The thing speaks for itself. It's enacted by us. It is ratified by the people.

KILCHER: Ordinances 1, 2, and 3, are they part of Article XV?

SUNDBORG: They are by reference, by virtue of the language of Section 24, but they will become part of Article XV only if they are ratified by vote of the people of Alaska.

KILCHER: Thank you.

R. RIVERS: Mr. President, may I bring out another point? Mr. Sundborg, will there be something inserted on page 39 after the schedules to the effect "We, the undersigned delegates, adopt and establish this constitution." Will we have some enacting language stuck in at that point when we sign tomorrow?

SUNDBORG: Mr. President and Mr. Rivers, that is correct. We have been looking over the constitutions of various states to get some appropriate language that will say "agreed upon and signed this fifth day of February, 1956, at the University of Alaska" etc., just ahead of the signatures.

FIRST VICE PRESIDENT: The suspension of the rules has been requested by the chairman of the Style and Drafting Committee. Do I hear any objections?

KILCHER: Mr. President, I would like to ask a question of Mr. Sundborg.

FIRST VICE PRESIDENT: You may proceed. Go ahead.

KILCHER: Mr. Sundborg, in your opinion is the arrangement of the schedule of transitional measures and ordinances -- has in no way changed the legal position of Section 22 dealing with the capital of Alaska? In other words, that Section 22 dealing with the capital of Alaska still is understood to be a transitional measure and as such to be changeable by law as we have stated formerly on the record?

SUNDBORG: Mr. President, Mr. Kilcher, the section you refer to, I believe has been renumbered Section 20, is the one on the capital and it appears in the schedule of transitional measures and the heading on that is to provide an orderly transition from a territorial to a state form of government. It is "declared and ordained" and then we have each of these things which is transitional in nature. The arrangement here is exactly in the place where it was as it passed on the floor and there has been no change in its legal standing by reason of where it is placed in the constitution.

KILCHER: In other words the legal standing is the same as previously stated on the record?

SUNDBORG: It is just exactly as it has always been when passed by the Convention.

FIRST VICE PRESIDENT: Do I hear any objections to the request for

suspension of the rules? If not, it is so ordered. What is your pleasure, Mr. Sundborg?

SUNDBORG: Mr. President, I now offer on behalf of the Style and Drafting Committee an amendment consisting of the insertion of Section 24. I ask the Chief Clerk to read that section.

CHIEF CLERK: "Section 24. Ordinance No. 1 on ratification of the constitution, Ordinance No. 2 on the Alaska-Tennessee Plan, and Ordinance No. 3 on the abolition of fish traps, adopted by the Alaska Constitutional Convention and appended to this constitution, shall be submitted to the voters and if ratified shall become effective as provided in each ordinance."

BOSWELL: In my copy it is Section 26, not Section 24.

CHIEF CLERK: It has been changed.

SUNDBORG: Mr. Boswell, a little earlier, unanimous consent was given to delete what was printed as Section 18 and Section 19, which were rejected this afternoon on the floor, and we renumbered those subsequent sections. I ask unanimous consent, Mr. President, for the adoption of the amendment submitted by the Style and Drafting Committee.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered. You may proceed, Mr. Sundborg.

SUNDBORG: Mr. President, in the language dealing with the Alaska-Tennessee Plan, which is Ordinance No. 2, on page 41, Section 4, previously the section read: "Two persons to serve as members of the Senate of the United States and one person to serve as a member of the House of Representatives of the United States shall be chosen at the 1956 general election." This seemed to raise the question in the minds of some whether these persons were actually United States Senators and a United States Representative in the view of this Convention, and since we feel that that is our view, we wanted to make it stronger by changing the language to what now appears, "Two United States Senators and one United States Representative shall be chosen at the 1956 general election", not just three person who would serve in those positions. And so we suggested making that change in Section 4 on page 41, and I ask unanimous consent for the adoption of the change.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered. Mr. Sundborg, the Chair would interrupt you for a little while. Do you have very many more amendments?

SUNDBORG: No, sir. I am almost finished.

FIRST VICE PRESIDENT: Well, you may proceed then.

SUNDBORG: On page 42, Section 15, previously the reference to an

article number at the fifth from the bottom line was to Article XIV. We have changed that to Article XV because of the change in the arrangement of the articles making the transitional measures Article XV instead of Article XIV as previously. We ask unanimous consent for adoption of that change.

FIRST VICE PRESIDENT: Do I hear any objection?

CHIEF CLERK: Was that XV?

SUNDBORG: It should be Article XV as it appears in the printed copies. Excuse me. That is in Section 15 of the Ordinance No. 2 on the Alaska-Tennessee Plan appearing on page 42.

FIRST VICE PRESIDENT: Hearing no objection it is so ordered.

SUNDBORG: Mr. President, I have another change to request unanimous consent for adoption and that is that, on page 42 in that same section, Section 15, where it now says Section 27, by virtue of the fact that we have renumbered the sections in the transitional measures, the correct reference is now Section 25, and that should be changed on the copies of delegates, and I ask unanimous consent for the adoption of that change.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: Mr. President, there is one additional amendment which does not appear on the printed copies and for which I would like to ask unanimous consent. This has to do with Article XIII dealing with constitutional amendment and revision on page 30, Section 1. In the second sentence it now reads, "The secretary of state shall prepare a ballot title and proposition summarizing each proposed amendment and shall place them on the ballot for the next general election." At the suggestion of the consultants and by unanimous endorsement of the committee chairmen, we striking the word "general" and inserting the word "statewide" so that it would read "shall place them on the ballot for the next statewide election". The reason for this is that when the "legislature shall by two-thirds vote of each house propose a constitutional amendment" we don't like to require that the people wait for what may be a period as long as two years before they can vote upon the matter if it is that far to the next general election. We feel that it is necessary that they be voted upon at a statewide election, and we think it might be desirable to leave it open for the legislature, if it desires, to provide for a special statewide election at which the proposed amendment to the constitution could be considered or at the primary election if it should fall within a time when that would be a practical way to handle it. So, Mr. President, I ask unanimous consent for adoption of the amendment which would strike the word "general" and insert in its place the word "statewide" in Section 1, page 30.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered.

SUNDBORG: Mr. President, this is purely typographical. The delegates may wish to make a correction on page 40. The final section in the question which will go on the ballot with respect to the Alaska-Tennessee Plan, the word "ordinance", the second word of the question or proposition should be capitalized, "Shall Ordinance No. 2" should be capital "O". Mr. President, those are the only changes in our report and if the delegates have other questions we will attempt to answer them, but those are the only requests we have to make for changes.

FIRST VICE PRESIDENT: Before we proceed further, we have a problem here to take care of while our President is absent. You will recall that we had a special nominating committee appointed yesterday to come in with nominees to make presentation to our President and, in his absence, I feel that we should settle the matter now. If it is agreeable with the delegates, we can call for the report of the nominating committee. Hearing no objections, we will proceed in that manner. The chairman of the nominating committee --

V. FISCHER: I ask unanimous consent that no recording be made of the proceedings now to take place.

FIRST VICE PRESIDENT: Hearing no objection, it is so ordered.

(The Convention heard the report of the nominating committee at his time.)

FIRST VICE PRESIDENT: Mr. Davis.

DAVIS: I don't have an announcement, I have another matter.

FIRST VICE PRESIDENT: We will stand at recess for two minutes.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Davis has the floor.

DAVIS: Mr. President, I would like to call attention to another change that was made that Mr. Sundborg overlooked in making his report. I would like to refer you to page 36 of the printed copy, Section 5 at the top of the page. Now that section as it originally read in the draft said Residence or other qualifications prescribed by this constitution shall be satisfied by corresponding qualifications under the Territory." Our consultants felt that that probably did not say exactly what we wanted it to say and did not cover the ground it was intended to cover. For that reason we took language from the Hawaiian constitution which we thought would cover, added to it a little bit to cover what we thought the Convention wanted done in this place, and made it read Residence, citizenship, or other qualifications under the Territory may be used toward the fulfillment of corresponding qualifications required by this constitution." In other words, if a

person has to have a residence requirement of seven years to be governor and he has been five years a resident of the Territory, then after two years under statehood he would be eligible to be governor without being seven years under the state. That is what I am sure was meant by the thing as adopted and I believe that the language we have used probably makes it a little more clear. With that in mind, I would like at this time to ask unanimous consent approving the action we took in amending the wording of that section.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered. Mr. Sundborg.

SUNDBORG: During recess two errors in typography, purely mechanical errors, were pointed out to me. On page 20, the article on natural resources, Section 11, occurring at the top of the page. This is not a change. It was just an error that the words "leases, and" were inadvertently dropped; the top line on page 20 after the word "permits", this should be inserted, "leases, and". Those words appeared in that place in the enrolled copy and in our former Style and Drafting Committee report and they were just omitted by the printer, apparently. I ask unanimous consent that they be inserted here where they belong.

FIRST VICE PRESIDENT: Do I hear any objections? If not, it is so ordered.

SUNDBORG: In the same section, Mr. President, in the fifth line from the bottom, the line begins "to patents". The "s" should be stricken on the word "patents" so it would read "patent of mineral lands". This again is a typographical error and I ask unanimous consent for adoption of the correction.

FIRST VICE PRESIDENT: Hearing no objection, it is so ordered. Are there any questions the delegates would like to ask the chairman of the Style and Drafting Committee? Any further questions?

SUNDBORG: Mr. President, there have been a good many changes in the rearrangement of some of the sections, particularly in the sections dealing with the miscellaneous provisions. We put them in a slightly different order. We have moved into the transitional measures a few things from the articles themselves which were transitional, purely transitional in nature, and we have put back in the general and miscellaneous provisions a few provisions from the separate articles which we felt more properly belonged there. I woulder if I could ask Mr. Fischer of our Committee to explain such changes as have been made of that kind.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: Mr. President, in Article I, the Declaration of Rights, a number of sections were changed in sequence only. The

sequence was changed to follow a pattern of going from criminal actions to civil actions that were covered in that article, rather than having criminal actions, then some miscellaneous sections, and then going into civil action. In the judiciary two sections were deleted. They were already covered in transitional measures, those dealing with offices of profit and with the first judicial council. The provision in Article V on suffrage and elections dealing with special voting provisions for those who voted in 1924 was transferred to the transitional measures article. Similar transfer was made of three sections from the legislative apportionment article, those sections dealing with the election of the first senators, the election of first representatives, and the first reapportionment. In Article VII on health, education, and welfare, we brought in two new sections that were previously in General and Miscellaneous. Those were the sections dealing with the state university and the board of regents. It was felt that this would be a more proper place for those two sections rather than in the general and miscellaneous. We placed those two after public education and before public health and welfare. In the article on natural resources, Article VIII, we deleted Section 19 covering residual powers, as that was covered in the section on residual powers in the article on general provisions. The section in the natural resource article referred to the residual powers dealing with, if I remember correctly, the utilization, development, and something else of natural resources. The residual powers section in the general provisions deals with all residual powers and, therefore, would include those in the natural resource article. We also transferred Section 20 out of the resource article and made it Section 1 of Article XII on the general provisions, since that is a provision that deals with the general aspect of the state. The provision in Article IX on finance and taxation dealing with Territorial assets and liabilities which was amended also to include records of the Territory, was moved into the transitional measures since that is a provision that deals only with the transition from the Territory to the state, no matter how long such transition might take. It was further felt that any obligations or assets covered by that particular section would be contractual obligations in any case. There were no further changes in the next several articles. In Article XII on general and miscellaneous, there was some rearrangement of sections to take into account the subject matter of each section. Previously the sections had just been tagged on, one after the other, and as I mentioned previously, the sections on the state university and the board of regents were transferred out. On Article XV, Transitional Measures, there was a substantial amount of rearranging again to follow a logical sequence of sections. There were no further changes aside from those that I have mentioned in connection with moving certain provisions from specific articles into Transitional Measures, except for the removal of the four sections dealing with the ratification of the constitution and putting those into a separate ordinance, subject to adoption by the people of Alaska.

FIRST VICE PRESIDENT: What is the wish of the Committee in regard to these changes?

SUNDBORG: Mr. President, I ask unanimous consent for approval of the order or the arrangement of the constitution as suggested by the Style and Drafting Committee.

FIRST VICE PRESIDENT: Do I hear any objections?

HINCKEL: I object, temporarily. I would like to ask a question. It isn't a change exactly in there by Style and Drafting, but it hadn't occurred to me to ask it before. But we have always referred to these transitional measures as being "appended to" the constitution and not considered as part of it, but the way the final arrangement has come out, we still have it as Article XV of the constitution and it appears to me that is setting up substantial grounds for the people questioning in the future the fact that those things are a part of the constitution. Therefore, we would not be able to change them. There are some things in these transitional measures which I know it is not the will of the majority of the body that they shall always remain unchanged. I would like an explanation on that.

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: Mr. Chairman and Mr. Hinckel, the fact that article numbers are given to the transitional measures is not changed. That was formerly always called Article XIV and we have put it back to become Article XV, and what we have done, we have switched the order between the transitional measures and the apportionment schedule. The apportionment schedule was previously referred to and went through the Convention as Article XV and it now becomes Article XIV as we felt it should be a little farther ahead in the constitution than the transitional measures, which will drop out of effectiveness as time goes on as the limits of each are reached by just the workings of time. Now the words here, "appended to the constitution", I believe, didn't come up at all until yesterday. I don't think it was ever before the body until we brought up the matter of just what we should say in the enacting clause having to do with the transitional measures and with the ordinances.

HINCKEL: I realize the statement you just made is true, but is it customary in the other constitutions for these transitional measures to be handled as an article of the constitution or are they headed up in a little different manner? I haven't studied that myself and I imagine you already know and you can answer it yes or no.

SUNDBORG: I would say, Mr. President, in answer to that that they are handled both ways. They are sometimes given an article number and then sometimes just referred to as the schedule. But in either case, they appear before the signatures in the constitution

and the only thing that appears after the signatures of the delegates is the material which is subject to further and separate ratification by the people, as is the case with the three ordinances which we suggest be after the signatures.

FIRST VICE PRESIDENT: Mr. McNealy.

MCNEALY: Mr. President, I believe I might clarify that one point with the Chair's permission, as to the wording of "appended". It's a language of the court and we had never used it here. It has been the common usage of all the courts to refer to the schedule as being appended to the constitution and regardless had we never used that language here, since we do call this a schedule and since it is a schedule of ordinances, the courts will always refer to this as being appended to the constitution even though it is assigned an article number. That is the law since the earlier state constitutions had that.

FIRST VICE PRESIDENT: Does that explain it, Mr. Hinckel, to your satisfaction?

HINCKEL: I am satisfied.

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: May I direct a question to Mr. McNealy?

FIRST VICE PRESIDENT: You may.

R. RIVERS: I agree that when we enacted these transitional measures we said that we were enacting them to be appended to the constitution. Would it not be better then, if we struck the designation "Article XV" and just don't call it an article, and then the schedule of transitional measures positively show it is appended. Striking "Article XV" here would be consistent with the enacting language which we used when we said "appended to".

MCNEALY: Mr. President, we used mainly the western states which had comparable situations or conditions with ours in the Ordinance Committee, and they had used the word "schedule" and also "articles" and we considered the language of those particular states, and I would very much fear to upset the balance any further by any indication that this schedule wasn't considered a part of the constitution because the Ordinance Committee relied entirely on court decisions. The decisions of all these courts where they have been given an article number, as offhand, in Oregon the schedule is Article XVIII, and there are a large number of court decisions there which hold that that is a schedule of transitory ordinances appended to the constitution, and we have already a great number of decisions along that particular line. To not call it an article might not have such great effect but it would require me, at least, to go back to the law books to be satisfied that we didn't somehow endanger the transitional ordinances.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: The arrangement here was worked out in the first instance by a subcommittee composed of Mr. Armstrong, Mr. Johnson and myself, and we looked into this matter of should these be called schedules, should they be called articles, or what not. Now, if you will note on page 29, Section 10, Article XII, there is a specific instruction: "Titles and subtitles shall not be used in construing this constitution." From that standpoint it wouldn't matter too much, then, in terms of the actual arrangement. We did for a while consider calling the apportionment schedule "Schedule 1" and the transitional measures "Schedule 2", and the ordinances "Schedule 3". However, the effect would not really matter. We, last night, went through the same process as Mr. McNealy described, with Mr. Owen, checking through a number of constitutions and found that, generally, these provisions are included before the signatures and are called all sorts of things. But the legal effect is the same. They are transitional measures. The important thing here is the preamble to Article XV, page 35, which reads, "To provide an orderly transition from a Territorial to a state form of government, it is declared and ordained:", and that is a lot more important than the terminology of whether it's an article or schedule or whether you call it a transitional measure or transitional ordinances. That is the major thing. Now, while I am on the subject, also I will refer to a question previously asked about the separation of the three ordinances. By reference they are included in the constitution through Section 24 of Article XV. That reference will also serve as a historical marker. However, once they have been ratified and most of their provisions almost fall out of effect since they deal primarily with the election and what takes place immediately; from that standpoint they are part of the constitution and at the same time they can fall off without affecting any other part of the constitution. The transitional measures are incorporated above the signatures as I think they are in most, if not every constitution, because in some of these cases their effect may be lasting for quite a while and is properly included, but these three substantial ordinances are incorporated by reference only.

FIRST VICE PRESIDENT: Mr. McNees.

MCNEES: May I ask Mr. Fischer a question?

FIRST VICE PRESIDENT: You may.

MCNEES: Did you consider the possibility of the use of the word "addendum" there in place of "Article XV."

V. FISCHER: No, that was not considered. Frankly, I never saw that in any of the constitutions.

MCNEES: It means a part of but added to, to be deleted later.

V. FISCHER: No, we did not consider that.

MCNEES: May I further ask my question of Mr. McNealy? Do you think that word might satisfy the floor, as long as there is some question there of wanting to set it apart; if that word in place of the words "Article XV might be added, it might set it further apart?

FIRST VICE PRESIDENT: Mr. McNealy, do you care to answer that?

MCNEALY: Well, Mr. President, regardless of what we called it, it wouldn't be set apart any more than it is, and when it comes to my reading and interpreting court decisions the old language that has been used time after time, I think, would be preferable rather than attempting to use entirely new language at this period out here without knowing what -- unless we would go on record here, we might say that we on record here by saying that "addendum" would mean a "schedule"; if we wanted to go through that. I believe that all of the particular points -- if any of the delegates have any questions as to the schedule and want to read any of the law that I have available here, I would be glad to furnish it here at the desk.

MCNEES: I would like to give a correction though to a mis-impression I might have given. I didn't mean to change the words "Schedule of Transitional Measures" at all, just change the article -- strike the article number and put in the word "addendum".

FIRST VICE PRESIDENT: Do I hear objection to the unanimous consent for the adoption of this change as made by the Style and Drafting Committee? If not, it is so ordered. Mr. Sundborg.

SUNDBORG: Before asking that our report as a whole be accepted, I would like to say in order that the finished constitution can be printed and ready for signing on Sunday, we have to have finished proofs in the hands of the printers tonight; and there is a crew working at the print shop waiting for corrections from the Convention. I think it would be highly desirable, before we ask that our report be accepted, that the constitution be read through, word for word, by every delegate, preferably that it be read here on the floor of the Convention by the Chief Clerk or some others who would like to spell her at that task, so that we could, all of us, look at it and make sure it says just exactly what we want it to say, because this will probably be our last chance to make corrections.

FIRST VICE PRESIDENT: Do you request that?

SUNDBORG: I do request that we read the constitution all the way through tonight.

FIRST VICE PRESIDENT: Do I hear any objections?

R. RIVERS: I object for the moment. I am a little concerned about the boiler-room work on the rest of the journals which I guess are fairly far behind and whether or not we could read this tomorrow instead -- work out something -- anyway stop and think for the moment...

SUNDBORG: The print shop tells us very definitely that unless we get these corrections to them tonight so they can print this material on the parchment paper which is going to be used for the signing, that paper will not be dry enough to handle and put together in the form of the finished constitution for signing Sunday afternoon. If we don't read it tonight and get all the corrections in, we will just have to sign blank sheets of parchment paper. So I recommend strongly that if we are going to make any further corrections in this, we do it tonight.

FIRST VICE PRESIDENT: Mr. Rivers, your objection?

RIVERS: I have no objection.

FIRST VICE PRESIDENT: Mr. White.

WHITE: I think it would be a good procedure but it also occurs to me that each committee member going over his or her own section of the constitution in some detail, comparing it to the enrolled copy, I mean the report of the Style and Drafting Committee, might also be of some benefit, and since this is going to be a long procedure and we have to eat anyway, I wonder if we might not recess for the purpose of eating and for the purposes of committee members going over their own articles in some detail and then when we come back read it all through on the floor. Would that suit your purpose, Mr. Sundborg?

SUNDBORG: Mr. President and Mr. White, we are certainly agreeable to that.

FIRST VICE PRESIDENT: Would you put that in the form of a motion then?

WHITE: I move and ask unanimous consent that the Convention stand at recess until 7:30 p.m.

FIRST VICE PRESIDENT: Are there any objections?

KILCHER: I object.

FIRST VICE PRESIDENT: Do you so move, Mr. White?

WHITE: I so move.

HERMANN: I second the motion.

FIRST VICE PRESIDENT: You have heard the motion. Are you ready

for the question? Before we vote on this I would like to announce that some of the ladies have some tablecloths that some of the delegates have failed to sign, and they are very anxious for them to come back in the rear and sign these tablecloths. I wish you would take note of that at recess. Mr. Hurley, do you have an announcement?

HURLEY: I would like for the special presidential and nominating committee to meet immediately upon recess.

FIRST VICE PRESIDENT: Mr. Coghill.

COGHILL: I don't have a committee announcement at the time, but there was a pair of black zipper galoshes or rubbers taken from the cloakroom last night, size 9. If anybody has taken a pair, will they please return them to the Administration Committee and I will return them to their rightful owner.

KILCHER: May I ask a question of Mr. White?

FIRST VICE PRESIDENT: This is just an announcement period. However I would grant you that time.

KILCHER: I would like to ask Mr. White if he would object to advancing the time a half hour in a new motion for we have nothing else to do but eat lunch, and no committee work.

(Objection is heard.)

FIRST VICE PRESIDENT: All those in favor of the motion signify by saying "aye"; contrary "no". So ordered.

RECESS

FIRST VICE PRESIDENT: Will the delegates take their seats, please? Sergeant at Arms, will you see if there are any delegates around.

CHIEF CLERK: We don't even have a quorum.

FIRST VICE PRESIDENT: The Convention will be at ease. We don't seem to have a quorum. Does the special committee on the minutes have a report to make at this time?

WHITE: Mr. President, reporting on the journal for the 65th Convention day, we ask the following changes be made. The journals are on the delegates' desks in new folders, starting with the 65th day, I believe. There should be new folders on your desks starting with the 65th day. In the journal for the 65th day on the first page, third paragraph from the bottom, the middle line, where it says "was Mr. Harris' consideration", change that to read "reconsideration". On page 10, paragraph 4, reference to "Mr. Kilcher", strike the "s". Page 11, fifth paragraph from the bottom, the paragraph beginning "Mrs. Sweeney", in the next to

last line after "be adopted." insert "Without objection it was so ordered". Page 13, second paragraph, beginning "Miss Awes", second line between "substantive" and "phraseology" insert the word "or". On the journal for the 66th Convention day, Friday, January 27, we ask the following changes be made: Page 1, third paragraph from the bottom where it says "Mr. Rivers", it should be "Mr. R. Rivers." Page 3, paragraph 1, second line, "Miss Sweeney" should be "Mrs. Sweeney". Page 13, paragraph 5, beginning "Mr. V. Rivers", second line, after the word "amendment" insert "to Article III". Mr. President, with those corrections, we move and ask unanimous consent for approval of the journals of the 65th and 66th Convention days.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered. Mr. Knight.

KNIGHT: May we have a recess for about 30 seconds?

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. Mr. Knight, did you accomplish your objective?

KNIGHT: Yes, sir.

FIRST VICE PRESIDENT: We have the constitution before us, and the Secretary, I believe, will proceed to reading it as requested prior to recess.

SUNDBORG: I would like to suggest as we read this, we pause at the end of each article to give the clerk a chance to get her breath, and also ask that the delegates who have found any errors or what they consider to be errors in that article call them to the attention of the Committee at that time.

FIRST VICE PRESIDENT: Do you mean as to punctuation, Mr. Sundborg?

SUNDBORG: Yes, anything at all

FIRST VICE PRESIDENT: No amendments though?

SUNDBORG: No amendments.

FIRST VICE PRESIDENT: Secretary, will you please read.

(The Chief Clerk read the Preamble to the constitution and Article I of the constitution as contained in the Report of the Committee on Style and Drafting dated February 3, 1956.)

FIRST VICE PRESIDENT: Are there any questions on Article I? Mr. Boswell.

BOSWELL: Section 1, should there be a comma after "opportunities" in that series? "equal rights, opportunities and protection"?

SUNDBORG: Mr. President, Mrs. Nordale, who is a member of the subcommittee which has been attending to punctuation, tells me that it would be proper to have a comma after "opportunities". That is page 1, Section 1, after the word "opportunities", on the third from last line, insert a comma.

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: The word "equal" I think should apply to "protection under the law" as well as to "rights and opportunities". I don't like to see "and protection under the law" separated from the word "equal"; "equal rights and opportunities". What is the "and" for?

SUNDBORG: Our style in this, I might say, is that we do use a comma before the "and" in a series throughout the constitution and this is one place we seemed to have missed.

FIRST VICE PRESIDENT: You do recommend the change then?

SUNDBORG: Yes. I would ask unanimous consent to place a comma after "opportunities". It is also called to my attention that in the Preamble after the word "civil" in the third line there should be a comma - "civil and religious liberty within the Union of States". I would ask consent to put a comma there.

FIRST VICE PRESIDENT: Would the delegates please make that correction. I don't think it needs a motion there. Any other questions? Mr. Hellenenthal.

HELLENTHAL: Is that consistent now, throughout the constitution? I don't think much of that rule.

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: Mr. President, that is a rule that our subcommittee on punctuation did accept and adopt; this style of punctuation, to put a comma before the final "and" or "or" in a series, not when there are only two things like if there were only "civil and religious" there wouldn't be a comma with the "and", but if there are three like "political civil, and religious liberties" there would be a comma before and". Are there any other questions?

FIRST VICE PRESIDENT: Mrs. Wien.

WIEN: I would like to ask Mr. Sundborg a question - perhaps I missed - was a comma just put in after "opportunities" :

SUNDBORG: I asked permission to, Mrs. Wien.

WIEN: Was that for the reason that it does not mean equal rights,

opportunities, and protection under the law?

SUNDBORG: It means all three.

WIEN: Even with the comma it means that?

SUNDBORG: That would be my thought, Mrs. Wien.

HURLEY: I think the Bill of Rights Committee is the one that should answer that question. If they mean that all persons are entitled to equal rights and opportunities and protection under the law, and "opportunities" is not a separate item, why I think we should know it now. I don't know what they mean, but it makes a lot of difference.

FIRST VICE PRESIDENT: Chairman of the Preamble Committee, would you care to answer that?

AWES: We do mean all three. I think that means they are entitled to equal rights, equal opportunities, and equal protection under the law.

FIRST VICE PRESIDENT: Mr. Hurley, does that answer your question?

HURLEY: Yes.

FIRST VICE PRESIDENT: Any other questions?

HURLEY: Mr. President, I noticed something that may have been a result of printing. In Section 9, the subtitle, I ask Mr. Sundborg, is self-incrimination a hyphenated word and if it is should incrimination be capitalized?

SUNDBORG: It is a hyphenated word. I would say that it should be a capital "I" in incrimination occurring in that form.

HURLEY: I notice in other subtitles where hyphenated words are used, the second half of the hyphenated word is not capitalized.

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: I wonder if in those other cases though, the hyphen came between two parts of a hyphenated pair of words. I know in lots of places here where the word is so long that it must be continued on the second line, then of course the second line doesn't start with a capital. If it's a new word -- page 23, I am told, there is one. Oh, well, it's only when it's the first letter in a line that it's capitalized. I mean if self-incrimination could all have gone on one line, incrimination would not have been capitalized, but since it does start the second line -- page 21, in "nondiscrimination" I would say if that was all one word, it would be as it's shown here. It's a hyphenated word "discrimination" should be a capital "D". Maybe the Committee can tell me if that is used as one word or a hyphenated (hyphenated) word.

COGHILL: In the finance article I do think "nondiscrimination" is a single word.

FIRST VICE PRESIDENT: Mr. Nerland, would you care to answer that?

NERLAND: I'm sorry, I wasn't following the discussion.

FIRST VICE PRESIDENT: Would you repeat that, Mr. Sundborg?

SUNDBORG: I don't blame Mr. Nerland a bit. (Laughter) On page 21 it was pointed out that in Section 2, the subhead "nondiscrimination", that the "d" in discrimination is not capitalized and I was asking if "nondiscrimination" is not a single word, and it's only hyphenated in this way because it's too long to go on a single line. If it is one word it is used correctly here, and if it is a hyphenated word there would (would) be a capital "D".

NERLAND: Well, Mr. Sundborg, I think this is one of the finest compliments that has ever been paid me. (Laughter) Thank you very much.

SUNDBORG: Mr. President, the Chief Clerk tells me that the dictionary says that nondiscrimination is a single word and so it is used correctly here. And I would say that the question that was asked in regard to Section 9. page 2, it is correct as shown, "self-incrimination". It is two words.

FIRST VICE PRESIDENT: Are there any other questions? If not, the Secretary will proceed with the next article, Article II, The Legislature.

(The Chief Clerk read Article II of the constitution as contained in the record of the Committee on Style and Drafting dated February 3, 1956.)

FIRST VICE PRESIDENT: Are there any questions on Article II? Mr. Hurley.

HURLEY: With permission of the chairman of the Style and Drafting Committee, I find that the comma committee has a bag left over here. I might say that this debatable process of putting commas before "and" in a series was not finally agreed upon before we got up to Article IV, so in the first three articles undoubtedly, to save people from jumping up and saying "You are inconsistent", I will call your attention to some commas. I do not personally care whether they are put in or not, but we should do so to be consistent, I guess. On page 4, fourth line from the bottom, after "elected"; page 5 Section 6, third line from the bottom of the section, after "to"; page 6, Section 13, third line from the top, after "revising".

FIRST VICE PRESIDENT: Mrs. Nordale.

NORDALE: In concurrence with Mr. Hurley, I will point out one more

that we have overlooked. At the top of page 5, after the words "secretary of state", second line.

FIRST VICE PRESIDENT: The delegates will please make the corrections. I don't think it's necessary to make a motion on that. Mr. Hinckel.

HINCKEL: I would like to ask a question of Mr. Sundborg. Would you care to consider the suggestion I made regarding line 1, page 5, or do you think it is all right?

SUNDBORG: Mr. Hinckel wondered -- if you will turn to the first line of page 5 -- Mr. Hinckel suggested that it might sound better instead of saying "or holding the office of governor, secretary of state, or member of Congress", if we said "holding office as governor, secretary of state, or member of Congress". I must say I don't have any strong feeling one way or the other myself.

FIRST VICE PRESIDENT: Do you wish to give your reasons, Mr. Hinckel?

HINCKEL: Well, if you read it without -- leave out the governor and secretary of state and say "seeking or holding the office of member of Congress", it just struck me as sounding rather odd. I am not a grammarian, but it just didn't sound right to me and I thought possibly it might be worthy of consideration.

SUNDBORG: Mr. President, I really think that if it were only holding "of" office, it would sound equally good to say holding office "as", but since it also includes "seeking" I don't think we could say "seeking office 'as' governor or seeking office 'as' secretary of state". They are seeking the office "of". I really believe it is better the way it is.

FIRST VICE PRESIDENT: Are there any other questions or corrections? If not, the Secretary will proceed with Article III, The Executive.

(The Chief Clerk read Article III of the constitution as contained in the report of the Committee on Style and Drafting dated February 3, 1956.)

FIRST VICE PRESIDENT: Are there any questions in regard to Article III? Let's have order, please. Mr. Hurley, do you wish --

HURLEY: Mr. President, in these series did the body desire that we make the official corrections or that the proof readers make them. I am asking the chairman of the Style and Drafting Committee.

SUNDBORG: Mr. President, I just think that if they were pointed out here, maybe some of the delegates would like to correct their copies so they would all be alike.

HURLEY: Well, Mr. President, if I can correct them I am sure anybody can, but I will point them out. Page 9, Section 10, first line, after the word "resigns"; same page, Section 14, third line, after "duties"; Section 16, next to last line, after "department"; excuse me, on also the third from last line, after "duty". I ask the indulgence of the Convention when we come to the next article. I think we have taken care of these. Page 10, Section 21, after "commutations" on line 2; Section 22, line 3, after "powers"; same section, third line from the bottom, after "quasi-judicial". It has been called to my attention that there is one in Section 6, page 8, after the word "State" in the last line of the section. Mr. President, I ask that these be accepted.

FIRST VICE PRESIDENT: Delegates please make that correction. It does not require a motion. Are there any other corrections or questions? Mr. Hellenenthal.

HELLENTHAL: May I address a question to Mr. Sundborg? Mr. Sundborg, perhaps this is unnecessary, but I notice that there is more space between sections than there is following the last section and the designations of the Article IV, and that seems to be pretty consistently followed. Is that the intention in the final printing, that that narrow spacing be used?

SUNDBORG: No. There will be greater space between the articles in the final printing than is shown here, and the one you pointed out on page 11, I am sure that is just a mistake in spacing, that there is a greater space between Section 26 and Section 27. I think that the extra spacing there should have been inserted after Section 27 and before Article IV.

HELLENTHAL: Then, if anything, you will provide for more spacing to separate articles off?

SUNDBORG: That is true, Mr. President.

FIRST VICE PRESIDENT: Are there any other questions or corrections? Mr. Rivers.

V. RIVERS: I think it is appropriate to say a word or two in regard to an item of omission on this. A number of the delegates asked about a clause that they think should have been inserted in this article and I want to say that that was a conflict of interest clause. However, it was decided in discussions by a lot of us and some members of the Committee that that should be left for legislative matters. They felt that heads of the principal departments -- suppose the head of a principal department, the head of the Purchasing Department should not also be the head of a wholesale firm. But those things we feel, and I want the record to show, we feel should be handled by the legislature.

FIRST VICE PRESIDENT: Mr. Sundborg.

SUNDBORG: Mr. Rivers, will your Committee have a committee

amendment to request in this section in line with the recommendation made in today's meeting of committee chairmen?

V. RIVERS: That was to remove from the article "The governor shall be the agent of". We have already done that. We have changed the words "general election" to "statewide election".

SUNDBORG: Was that the only one?

V. RIVERS: Those were the only two.

SUNDBORG: How about absence from office?

V. RIVERS: Oh yes. Absence from office. I understood that you were going to handle that in Style and Drafting. I will have to ask for a few moments on that, Mr. President, a minute or two.

SUNDBORG: While we are doing that I would like to ask Mr. McCutcheon whether his Committee had a brief amendment to request on the preceding section, the one on the legislature.

FIRST VICE PRESIDENT: Mr. McCutcheon.

MCCUTCHEON: Our Committee met and seems to be about evenly split on whether it's necessary or not. We could propose the amendment, give the background of thinking by the experts, and let the body make their decision. Mr. President, before I request a suspension of the rules for offering this amendment, I am going to give some of the background on it. In the final checking of the whole article of the constitution, a number of items were brought to our attention. The one that concerns the legislative branch is that on page 6, Section 12, our article provides that each house may choose its officers and employees and so forth, and goes on to set out that the houses may be the judges of their elections and qualifications. It has been pointed out to us that our article here does not make specific rule for the ejection of any member of either the house or the senate by that body, their expulsion. In our Committee it was our thinking that in the process of establishing the rules for each of the houses, that the houses could provide for the expulsion of a member for certain causes. It has been brought to our attention that if we leave this silent, the courts may hold that the houses could not set up their own rules to expel a member. We have had a brief Committee meeting here and it seems that our Committee is about split on the matter of whether it should be in there or not. Some of us felt in the Committee that there was ample provision in here in various houses, setting up rules that they could expel a member for cause and could establish the causes for which a member could be expelled from the body. And some others felt that it would be necessary for us to specifically state in the constitution that a member could be expelled before a court would hold the expulsion could take place. Therefore, Mr. President, in order to present this matter fairly before the group, I will ask unanimous consent that

the rules be suspended, that the constitution be referred to third reading, and then to second reading for the purpose of specific amendment, which we will offer at this time.

FIRST VICE PRESIDENT: In other words, you want --

MCCUTCHEON: You will have to suspend the rules and move it clear back to second reading before we can offer this amendment. That will require probably unanimous consent.

FIRST VICE PRESIDENT: Do you ask unanimous consent?

MCCUTCHEON: Yes, Mr. President, I do ask unanimous consent.

FIRST VICE PRESIDENT: Do I hear any objection? If not, it is so ordered.

MCCUTCHEON: On page 6, Section 12 of the legislative article, at the end of line 4, delete the period after the word "members" and add "and may expel a member with the concurrence of two-thirds of its members". That line will then read "Each is the judge of the election and qualifications of its members, and may expel a member with the concurrence of two-thirds of its members". For the sake of presenting this matter for the consideration of the body, I will move that the amendment be adopted.

NORDALE: Second the motion

FIRST VICE PRESIDENT: You have heard the motion. Is there any discussion? Mr. Johnson.

JOHNSON: May I direct a question to Mr. McCutcheon?

FIRST VICE PRESIDENT: You may.

JOHNSON: I believe in the course of your discussion you mentioned the fact that as it stood now the section did not permit either house to expel a member for cause. Yet, the amendment which you have just proposed does not say "may expel a member for cause". I wonder if you had intended that?

MCCUTCHEON: The amendment which was just offered, Mr. President, in answer to Mr. Johnson's question, was drafted by the Style and Drafting Committee in conference with the consultants that we have. I am not going to ask unanimous consent. Mr. President, because I wish to leave the matter up to the body.

FIRST VICE PRESIDENT: Mr. Gray.

GRAY: If I may ask a question of the chairman of the Legislative Committee? What circumstance did you give as a theoretical circumstance where such an act would be necessary?

MCCUTCHEON: It is not practical to impeach a member of the legislature, but it may be that a legislator may have been taking some consideration from a lobbyist, or he could have been particularly and consistently obstreperous on the floor to the point where he is no longer a desirable member of the body. He may be a user of narcotics, or a habitual drunkard, and not attending for other reasons. It's possible the body could expel him for that. They could expel him, I think, as the rules provide now for moral turpitude, as Mr. Rivers says, or conduct unbecoming a member of the legislature. It could take into consideration a number of things. It could be, if he had committed a murder, they might feel it was necessary to expel him.

FIRST VICE PRESIDENT: Mr. Gray.

GRAY: May I ask a further question, Mr. President? Do you think there is anything that could not be reached by Section 8 on page 27, recall of elected public officials?

MCCUTCHEON: The only -- no, I don't think there is; I think that recall could reach him. The only thing is that the expulsion of a member by the legislature would certainly be a good deal more immediate, and it might not come to the attention of the public as soon as it would by expelling a member themselves. As I say, the Committee felt that we had the matter amply covered, but it was felt that for legal reasons that the matter should be in there. And, as I say, at this particular point our Committee is about evenly split as to whether it should be in or whether it has been covered.

FIRST VICE PRESIDENT; Mr. Doogan.

DOOGAN: May I ask a question of Mr. McCutcheon? Wouldn't you consider that where each is the judge of the election and the qualifications, that that judge of their qualifications would be a continuing purpose and that a person may be qualified when they entered upon the body to do the work of the body, but if some of the things that you speak of happened during the course of a session, that by judging his qualifications, you could disqualify him then from serving?

FIRST VICE PRESIDENT: Mr. McCutcheon.

MCCUTCHEON: Mr. President, I believe it is the feeling of the Committee that this matter of qualifications here applies here only to the fact of whether he is of proper age, sufficient residence, and meets the other necessary qualifications to actually sit in a legislature.

FIRST VICE PRESIDENT: Mr. Coghill.

COGHILL: Mr. McCutcheon, couldn't the qualifications Mr. Doogan has brought out here have a dual meaning?

MCCUTCHEON: It's my personal opinion that it could not.

COGHILL: It could not have a dual meaning?

MCCUTCHEON: Not in the fashion in which this sentence is constructed, I don't believe it could.

FIRST VICE PRESIDENT: Mr. Rivers.

V. RIVERS: Through you, Mr. President, I would like to ask a question of Mr. McCutcheon. In checking with the other state constitutions have you found that there has ever been any abuse of this clause, under those that did have it, in any manner whatsoever?

MCCUTCHEON: I am not aware that it has been. Of course, it is difficult to look behind all legislative acts over a period of years that have been predicated on each constitution. I don't know if it has. It's my understanding that this matter has not been abused. It's pretty difficult to throw a person out of a legislative session, as I can personally testify to. (Laughter)

FIRST VICE PRESIDENT: Mrs. Nordale.

NORDALE: Mr. President, I just wanted to ask Mr. McCutcheon if it is not true that most state constitutions do have a provision of this kind?

MCCUTCHEON: Yes, Mr. President, it is true that most state constitutions do have this provision in them.

FIRST VICE PRESIDENT: Mr. Johnson.

JOHNSON: It occurs to me that from what Mr. McCutcheon has said that the intent of the Committee was to provide for some means of expulsion for cause. Now, if that is the case I think the wording should be clear in that respect, because otherwise it's conceivable that this "cause" business could be stretched to the point where, let's say, the situation might arise where the Republicans would expel a Democrat because of his party affiliation. I think if any language is to be added to this section that it ought to be clear, and I do not believe the proposed amendment is in that respect.

FIRST VICE PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: Mr. President. I would like to ask Mr. McCutcheon a question. Would you not agree to having the words "for cause" inserted in your proposed amendment?

MCCUTCHEON: I have no objection to it. The only thing is that it would appear to me, and I think it would probably appear to the rest of our Committee, that in establishing uniform rules for the

legislature, that that cause would be established in those rules. Now, as I say, personally I have no objection to adding that term on there.

FIRST VICE PRESIDENT: Mr. Hellenthal.

HELLENTHAL: I just checked the federal constitution in this regard, and clause 2 of Section 5 of Article I, the Legislative Department of the United States Constitution, contains the following language, "Each House may determine the rules of its proceedings, punish its members for disorderly behavior", and here is the important part, "and with the concurrence of two-thirds, expel a member". They have no qualifications in it, apparently.

MCCUTCHEON: The language of our proposed amendment appears to be exactly in point with the United States Constitution.

FIRST VICE PRESIDENT: Will the Secretary please read the amendment?

CHIEF CLERK: "Page 6, Section 12, at the end of line 4, delete the period after members' and insert 'and expel a member with the concurrence of two-thirds of its members'."

FIRST VICE PRESIDENT: You have a motion for adoption before you. Is there any further discussion on that? Mr. Kilcher.

KILCHER: I would like to ask a question of Mr. McCutcheon. An expulsion under this amendment -- can it be appealed in court?

MCCUTCHEON: I can't answer that question.

KILCHER: Who could answer that question?

BUCKALEW: I think you have had it once they have expelled you.

KILCHER: Pardon me?

BUCKALEW: You have had it; you don't have any appeal. It wouldn't do you any good. The legislative body is the final authority. If they expel you, you are expelled. You wouldn't have the right of appeal to anybody.

MCCUTCHEON: Mr. President, it would appear to me that, in the event of an expulsion, the chances of a legislator, if he attempted to be seated again, would be that recall would likely overtake him.

KILCHER: I am not satisfied with the answer, Mr. President, I would like to have some of the other legal capacities here answer the question.
(Laughter)

FIRST VICE PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: I concur with Mr. Buckalew. Under the theory of the co-equal powers of the three principal branches of government, the legislature would be the final authority. There would not be an appeal to the courts on that.

FIRST VICE PRESIDENT: Mr. Barr.

BARR: Mr. McCutcheon, when this amendment was written, or when you were considering it, was it thought that a two-thirds vote was proper? Was a three-fourths vote considered, for instance? Of course we do not take our politics up here as seriously as they do in some South American countries, perhaps, but it occurred to me that sometime in the dim, distant future, if one party was in power and they wanted to expel some other member because they didn't agree with him because of some reason or perhaps some party -- not the Communist party, but some like party -- would want to expel some member so that they would maintain more of a majority. It would seem that it should be more than a two-thirds vote to me to take care of an eventuality like that. We have provided for some things here that would require a three-fourths vote. It seems to me that this is about the most serious question that could come up in the legislature.

MCCUTCHEON: Technically, I think it would be more than a two-thirds vote, because the man under consideration probably would not be able to vote on it, but in any event, Hawaii has set up exactly the same quantity provision in expelling a member, and two things I have here at hand is Hawaii and New Jersey -- use the same number; the State of Missouri shows the same two-thirds group, so I assume that the consideration was predicated on what the bulk of the other states have.

FIRST VICE PRESIDENT: Mr. Cooper.

COOPER: Mr. President, in regard to the Hawaiian constitution, I notice that for "qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty by any member, power to punish such member by censure or, upon a two-thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member". So, it is further qualified in the Hawaiian state constitution.

FIRST VICE PRESIDENT: The Secretary will call the roll, please, on the question. Mr. Kilcher, do you have a question to ask?

KILCHER: I would like to speak on the question.

FIRST VICE PRESIDENT: You may go ahead.

KILCHER: And I have a question to ask also. I assume it is out of order to make an amendment to this amendment? Am I correct in that?

FIRST VICE PRESIDENT: I think we have a ruling that you cannot amend a Committee amendment. I don't know if I am correct on that. It would be out of order, Mr. Kilcher, because this is for specific amendment under suspension of the rules.

KILCHER: Mr. President, I am still not convinced by the answers I have had from the lawyers here that such an expulsion could possibly not be appealed in superior court or in any court. I don't think our three branches of government are so independent. For instance, the laws that are made by the very legislature - they are not the supreme law; they are subject to the constitution; to the interpretation of the supreme court if attacked as such, and I don't see that possibly the rules of the legislature could be set arbitrarily and could not be contested in the supreme court. That I personally feel is not quite right, but since there is a doubt I feel obliged to speak against this amendment coming at such a late hour. I cannot feel but that the thought must have been among the Committee members and other members before, and it should have been brought on the floor sooner, so that more debate, more deliberate debate could have been heard on the subject, and also under the rule where only a specific amendment is permitted, where in order to amend this amendment a lot of suspension of the rules would be necessary, seeing we are so tired and we want to see the end of our labors here. It is unlikely that due consideration for further amendments that might be necessary would be forthcoming. Consequently, I think for one reason that it takes two-thirds only, I think it should be more than that - three-fourths, four-fifths, something akin to a jury. It takes 12 men on a jury to condemn a man. I don't think that nine should do it - that would be, rather, eight, that would be two-thirds. I think two-thirds is not enough specifically because it doesn't state here for what causes like in the constitution of Hawaii. There it is specified. Here it just says "may expel". It doesn't say for what cause. It doesn't even specify causes. It "may expel" period, and two-thirds may do so, which I think is by far not enough. It is giving the legislature too great a power. We have a strong executive and I think we shouldn't have an equally strong and potentially overbearing legislature. We don't know what in 10, 20, or 30 year what the times will bring and I can see that this clause might bring very undesirable results, and we should think it over very carefully, and vote it down.

FIRST VICE PRESIDENT: Is there any further discussion? Mrs. Sweeney.

SWEENEY: I want to say just one word and that is, when this proposal was first brought out of the Committee - I am a member of that Committee - we had a section in there with fancy words to take care of those who were not able to take care of their work, either through senility or drunkenness or some other things, and that was put out. Now this insert that we are talking about now, I believe, is to cover those same things. Now if there is anything stronger

than that, I believe it should come under impeachment or recall. I am very much opposed to this because there is no definite statement as to what will be the cause, and I think if we put it in as it is now and the house sets it into their rules, they will also use vague terms. I am very much opposed to allowing the legislature to have quite that much power over their members.

FIRST VICE PRESIDENT: Is there any further discussion? Mr. Lee.

LEE: I have been going through as many constitutions as I can find, and I find that every one of them has this language in it, and this is what we had in mind with our original proposal, but we neglected to get it back in. This oversight was pointed out to us by the consultants, and they advised that it's the only way we can take care of this problem of people being senile or alcoholic or in some manner unfit for office without being criminal, and we were very definitely advised that it should be in.

FIRST VICE PRESIDENT: Does the chairman of the Committee wish to close the argument?

MCCUTCHEON: No. I don't propose to close the argument.

FIRST VICE PRESIDENT: Will the secretary please read the amendment again?

HELLENTHAL: Point of information. Does this take a majority vote or two-thirds?

FIRST VICE PRESIDENT: As I understand it takes a majority vote.

CHIEF CLERK: "Sec. 12, page 6, delete period and add at the end of line 4, the following: 'and may expel a member with the concurrence of two-thirds of its members.'"

FIRST VICE PRESIDENT: The secretary will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 27 - Armstrong, Awes, Boswell, Buckalew, Coghill, Doogan, Emberg, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Laws, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Sundborg, Walsh.

Nays: 18 - Barr, Cooper, Gray, Harris, Hurley, Johnson, Kilcher, Knight, McLaughlin, Nerland, Nolan, Poulsen, Rosswog, Stewart, Sweeney, VanderLeest, White, Wien.

Absent: 10 - Collins, Cross, Davis, H. Fischer, King,

Londborg, Reader, Robertson, Taylor, Mr. President.)

CHIEF CLERK: 27 yeas, 18 nays, and 10 absent.

FIRST VICE PRESIDENT: So the amendment has been adopted. Are there any further questions? Mr. Barr.

BARR: For a moment there I thought three of us had already been expelled. (Laughter)

FIRST VICE PRESIDENT: Mr. Riley.

RILEY: In fairness to the chairman of the Legislative Committee who was so impersonal in his recital of the matter and yet took no position, I think he should be allowed the opportunity to strike from the record every reference to the obstreperous legislator. (Laughter)

FIRST VICE PRESIDENT: Are there any other amendments or questions? Mr. Emberg.

EMBERG: I have a question. Are we returning to the Executive article?

FIRST VICE PRESIDENT: Yes we are.

EMBERG: I have a question in regard to Section 5, Limit on Tenure. It is on page 8 - just a question of phraseology. I wonder if "has intervened" is the best term. I don't know whether that is a transitive or intransitive verb or can be used as either, but it seems to me that the word "elapsed" would be preferable.

FIRST VICE PRESIDENT: Mr. Sundborg, could you answer that?

SUNDBORG: I really believe that "intervened" is more nearly the correct meaning. "Elapsed" would just mean passed. Intervened means that it has come between, but will not again be eligible to hold the office until one full term has come between the time he was last in office and the time he is again seeking office.

EMBERG: I thought the "again" covered that. I am not - if no one else has any feeling with regard to that, I withdraw.

SUNDBORG: I don't feel strongly, Mr. Emberg.

FIRST VICE PRESIDENT: Any other questions or amendments? Mr. Victor Rivers.

V. RIVERS: Mr. President, in regard to the mention a few moments ago in regard to the amendment discussed in the Committee chairmen's meeting this afternoon, I would ask unanimous consent that

the rules be suspended and pass this back through third reading, back to second reading for the purpose of specific amendment as follows: Page 9, Section 12, it reads now "whenever for a period of six months, a governor has been continuously absent from the state...." Now it was thought that the words "from the state" should be changed to the words "from office", so if the rules are suspended without objection, I will submit that amendment.

FIRST VICE PRESIDENT: Do you ask unanimous consent?

V. RIVERS: I ask unanimous consent.

FIRST VICE PRESIDENT: Do I hear any objection? If not it is so ordered. You may proceed, Mr. Rivers.

V. RIVERS: The secretary has a copy of the amendment.

CHIEF CLERK: "Section 12, substitute the phrase 'from office' for the phrase 'from the state' in the first sentence, so as to read 'Whenever for a period of six months, a governor has been continuously absent from office....'"

V. RIVERS: I will ask unanimous consent, Mr. President, for adoption of the amendment as submitted. I move and ask unanimous consent.

HARRIS: I think I am going to object.

FIRST VICE PRESIDENT: Do you so move. Mr. Rivers?

RIVERS: I so move.

BUCKALEW: Second the motion.

FIRST VICE PRESIDENT: Mr. Harris, you may have the floor.

HARRIS: What would be the definition of "office" here, Vic? Say if his office was in Washington, D.C., if he worked, for example if he was working there?

V. RIVERS: Well, that was not the intent. The intent was here that he might well be absent from office and not discharging his duties and still be within the state. So if we put the qualification that he is absent from office outside of the state, why he could still be absent from office and not performing his duties, so this amendment would correct that; whether he was in or without the state, if he were absent from office and not performing his duties, he would then be deemed, after six months, to have left the office. I might apologize to Mr. Harris who is a member of the Committee. He is the only one I did not get to discuss this with.

HARRIS: I withdraw my objection.

MCNEES: May I ask the Chair a question? Mr. Rivers, would it not also be true that he could be absent from the state for a period of six months or more and still complete the duties of his office indirectly?

V. RIVERS: Yes, that is true. So this would eliminate that objection also.

FIRST VICE PRESIDENT: Is there further discussion? Unanimous consent has been requested. Do I hear any objection? If not, it is so ordered. Are there any other amendments or questions? If not, the secretary may proceed with the next article, Article IV, The Judiciary.

(The Chief Clerk read Article IV of the constitution as contained in the report of the Style and Drafting Committee dated February 3, 1956.)

FIRST VICE PRESIDENT: Are there any questions? Mr. Buckalew.

BUCKALEW: I would like to ask "Judge" McLaughlin a question through the Chair, if I may. On page 13, Mr. McLaughlin, Section 8, will you explain this sentence to me: "No member of the judicial council, except the chief justice, may hold any other office or position of profit under the United States or the state."

MCLAUGHLIN: That was specifically put in there because if you didn't you would be contradicting yourself right in the paragraph there. The chief justice couldn't hold the office in the judicial council if you didn't except it.

FIRST VICE PRESIDENT: Does that answer your question, Mr. Buckalew?

MCLAUGHLIN: Whether it accomplishes the purpose or not is open to question.

BUCKALEW: What does it do to the other members of the council though? That eliminates them from holding any positions at all. For example, if one of the members, attorneys or nonattorneys, was on the judicial council, he couldn't hold any position with the state or the United States.

MCLAUGHLIN: That is true, that is true, Mr. Buckalew.

BUCKALEW: Is that what you intended?

MCLAUGHLIN: That is what we intended, yes.

FIRST VICE PRESIDENT: Are there any other questions? Mrs. Hermann.

HERMANN: There is a comma missing in Section 14, page 14. Of

course, I think they ought to all be missing in that category.

FIRST VICE PRESIDENT: Any other corrections or questions to be asked: Mr. Sundborg.

SUNDBORG: I would like to inquire of Mr. McLaughlin as chairman of the Judiciary Committee, if his Committee or he as an individual has any amendments to propose to this excellent article?

MCLAUGHLIN: That is an indirect method, I presume, Mr. Sundborg, of inquiring what the Committee recommends on the recommendation of the Committee chairmen. There were two proposed to them. One was the suggestion which was made by the consultant to the Committee chairmen that in this article the only place where a citizen - the residency - one of the requirements of office holders, of judges is the requirement in here that they be citizens of the state. That is in line 3 of Section 4, and I think a similar requirement was stricken from the legislative or executive article, that is, citizenship of the state, on the grounds that it is confusing. The other recommended change by the Committee of chairmen was the recommendation that in the rule-making power as set forth in Section 15, these rules may be changed by the legislature by two-thirds vote of the members elected to the house. It was the belief of the Committee of chairmen that that was too stringent. They believe that the rules -- the amendment in substance should be that these rules may be changed by law, meaning that by passage of a law the legislature could revoke any rule put into force by the supreme court, instead of by two-thirds vote of the members elected to each house. I shall report, individually, that we called a meeting of the Judiciary Committee, and the Judiciary Committee unanimously is opposed to any amendment to Section 15. They say that is the way they intended it, and that is the way they would like to keep it. That was unanimous, but Mr. Warren Taylor was absent and he is a member of the Committee and he did not vote. I don't know his views on the subject. On the subject of state citizenship, the Committee, with one exception, and that is Mr. Ralph Rivers, wanted to keep the requirement of citizenship of the state. Otherwise, the Committee unanimously rejected a recommendation that they change the rule-making power because they intended it to be that way and they felt the Convention felt it should be that way, and on the citizen of the state requirement, we were opposed to it with the exception of Mr. Rivers. I think, Mr. Rivers, I fairly state that, do I not?

R. RIVERS: I will modify that when I get up.

MCLAUGHLIN: That is the report.

FIRST VICE PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: I am going to ask for unanimous consent to suspend the rules to put this back through third reading, to second reading

for a specific amendment. I will tell you what that proposed amendment is. It is on line 3 of Section 4 on page 12. It reads now "Supreme court justices and superior court judges shall be citizens of the United States and of the state. I am going to move that the word "residents" be inserted between the words "and" and "of" so that it will read "citizens of the United States and residents of the state", if the rule is suspended, Mr. President.

FIRST VICE PRESIDENT: Do you ask unanimous consent?

R. RIVERS: I ask unanimous consent to present this.

FIRST VICE PRESIDENT: Do I hear any objections?

HARRIS: I object.

FIRST VICE PRESIDENT: Do you so move?

R. RIVERS: I so move.

FIRST VICE PRESIDENT: Is there a second.

V. RIVERS: I second the motion.

FIRST VICE PRESIDENT: Do you wish to speak further on it?

R. RIVERS: I am only asking now for suspension of the rules.

FIRST VICE PRESIDENT: The secretary will call the roll on that.

(The Chief Clerk called the roll with the following result:

Yeas: 34 - Awes, Barr, Boswell, Buckalew, Coghill, Cooper, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hilscher, Hinckel, Hurley, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, VanderLeest, Walsh, White.

Nays: 11 - Armstrong, Harris, Hermann, Johnson, Kilcher, Knight, Laws, Lee, Metcalf, Sweeney, Wien.

Absent: 10 - Collins, Cross, Davis, H. Fischer, King, Londborg, Reader, Robertson, Taylor, Mr. President.)

CHIEF CLERK: 34 yeas, 11 nays, and 10 absent.

FIRST VICE PRESIDENT: The motion has failed of passage. Are there any other amendments? Mr. Hinckel.

HINCKEL: Mr. President, I have a question I would like to ask Mr.

McLaughlin for the purpose of clarity of the record. I brought the subject up once before but in the meantime the language has been juggled around until to me it's no longer clear. In Section 6 on page 12 it says a supreme court justice would not have to be confirmed by all of the voters of the state, and I know that the intent is that he would only have to be confirmed by those voters in his jurisdiction. If I am correct, I would like to have it in the record again so that it would be clear.

MCLAUGHLIN: Mr. Hinckel, for your purposes and for the benefit of some who are listening, you have already been quoted this day, and it is the intent of the judiciary article, specifically, that judges -- that the legislature may create districts and judges may be appointed for those districts, and that, thereafter, they will stand for election or for approval or rejection in those same districts. That is specifically understood. That was the intent and it has been so interpreted.

FIRST VICE PRESIDENT: Are there any further amendments?

HELLENTHAL: Is there a section that says that?

FIRST VICE PRESIDENT: Mr. McLaughlin.

MCLAUGHLIN: Yes. I am about to show it to Mr. Hellenthal.

JOHNSON: May we have a short recess?

FIRST VICE PRESIDENT: We'll have a two-minute recess.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order, please. Are you ready, Mr. McLaughlin?

MCLAUGHLIN: Mr. Chairman, I request that Mr. Rivers make the motion.

FIRST VICE PRESIDENT: Mr. Rivers.

R. RIVERS: I decline the honor.

MCLAUGHLIN: Mr. Chairman, I move and ask unanimous consent to suspend the rules and bring the article on the judiciary back to second reading for the purpose of making a specific amendment in line 3, Section 6: inserting after the word "ballot" on that line "in the manner provided by law", so it will satisfy the substance of the requirement that heretofore had been made and would assure Mr. Hinckel and the Convention. And I ask unanimous consent for that purpose.

FIRST VICE PRESIDENT: Do I hear an objection?

MCLAUGHLIN: The amendment would be, inserting after the word "ballot" on line 3 of Section 6 of the judiciary article as it appears on page 12 the words "in the manner provided by law".

FIRST VICE PRESIDENT: Are there any objections? If not, it is so ordered. You may proceed, Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I now move that Section 6, Judiciary Article, be amended on line 3 by inserting after the word "ballot" the words "in the manner provided by law".

FIRST VICE PRESIDENT: Do you ask unanimous consent?

MCLAUGHLIN: I ask unanimous consent.

JOHNSON: I object to unanimous consent.

FIRST VICE PRESIDENT: Do you so move?

MCLAUGHLIN: I so move.

METCALF: I second.

MCLAUGHLIN: Mr. Chairman, the purpose of that is that heretofore we had assured Mr. Hinckel and the Convention as it appeared in the original enrolled copy, that the legislature could provide that these judges appointed in the superior court would run in their districts. In substance, their names would appear on a district ballot in the district where they were appointed for retention or rejection, and in the course of style and drafting some of the words disappeared. And in order to restore Kodiak to its rightful position, and Nome, in the judicial system, we would like to have that back in. It was our intent all the while that that be done.

FIRST VICE PRESIDENT: Mr. Fischer.

V. FISCHER: May I ask Mr. McLaughlin to drop his hat as chairman of the Judiciary Committee and pick up his hat as a member of the Style and Drafting and read that sentence as it would appear with that insertion.

MCLAUGHLIN: I am wearing neither hat at this time.

V. FISCHER: Well, I would like to suggest that that sentence be read with that insertion. I am somewhat concerned about how the meaning of it would be if amended.

MCLAUGHLIN: "Each supreme court justice and superior court judge shall be subject to approval or rejection on a nonpartisan ballot in the manner provided by law at the first general election held more than three years after his appointment."

V. FISCHER: The way it would sound, unless you insert some commas or rearrange it somehow, some other way, it would be "in the manner provided by law at the first general election".

MCLAUGHLIN: We can insert, and I am sure this will have the approval of Mr. Hurley, ", or in the manner provided by law" and a comma after "manner provided by law".

FIRST VICE PRESIDENT: Does that answer your question, Mr. Fischer?

FISCHER: It does in part.

FIRST VICE PRESIDENT: Mr. Hurley.

HURLEY: I would like to ask Mr. McLaughlin a question, if I may. As I recall there is a provision in the judiciary article for the transfer of judges from court to court. Wouldn't it be rather difficult to decide which particular court is going to vote on the retention of a particular judge?

MCLAUGHLIN: It would not. As a matter of fact, that transfer, as you recall, it says "temporary", and temporary was inserted there specifically with the intent that the chief justice, as I said before, couldn't remove a judge who was appointed in the Nome District to Ketchikan for two and a half years, and then return him to Nome the day before his name appeared on the ballot for rejection or retention. And that was the purpose of it.

FIRST VICE PRESIDENT: Are there any further questions or amendments? Mr. Cooper

COOPER: May we have a 30-second recess?

FIRST VICE PRESIDENT: A 30-second recess is in order.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin, your motion is for suspension of the rules, is that right?

MCLAUGHLIN: I think I secured them, but I think I will attempt to secure them again. Mr. Chairman, I asked unanimous consent, but since there has been an objection, I will withdraw my motion to amend, and I again move that the rules be suspended and that the article on the judiciary be withdrawn to second reading.

PRESIDENT EGAN: Mr. McLaughlin moves that the rules be suspended for the purpose -- Mr. McLaughlin, first, the proper procedure would be that you move to rescind the action on final passage of the article and then get it back into third reading and then move to suspend the rules to get it back into second reading for specific amendment. Isn't that correct?

SUNDBORG: Mr. President, I think this could be simplified if we

just asked to suspend the rule that requires that the article can be amended only in second reading. We could suspend that rule and then we could amend it right here in final form.

PRESIDENT EGAN: Actually, Mr. Sundborg, in its final form we have adopted that article in third reading, so it would be necessary to rescind the action and then that would bring it back into third reading, and then move to suspend the rules and take it back into second reading for specific amendment. If there is no objection the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I ask unanimous consent of the over thirty-seven members present to revert the article on the Judiciary back to second reading for the purpose of a specific amendment to wit: to insert on line 2 of Section 6, after the word "shall", the words ", in the manner provided by law,".

PRESIDENT EGAN: You have heard Mr. McLaughlin's unanimous consent request for referring the article back to second reading for specific amendment. Is there objection? Hearing no objection, the article on the Judiciary is now before us in second reading for the specific amendment as stated by Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I move that on line 2, Section 6, after the word "shall", the following words be inserted ", in the manner provided by law,". I ask unanimous consent.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted. The Chief Clerk will please continue with the reading of the constitution.

(The Chief Clerk read Article V, Suffrage and Elections, as contained in the report of the Style and Drafting Committee dated February 3, 1956.)

PRESIDENT EGAN: Are there questions or proposed amendments for the suffrage and elections article? Mr. Hellenthal.

HELLENTHAL: I can't understand the comma in Section 4. I address that question to the chairman of the Style and Drafting Committee. Mr. Sundborg, could you answer that?

SUNDBORG: Mr. President, I defer to Mrs. Nordale.

NORDALE: Well, it was our feeling that there are two separate and distinct thoughts in the sentence and, therefore, they should be separated.

HELLENTHAL: Would a semicolon be consistent with the book?

NORDALE: No. I think if you had a semicolon you would have to have -- follow it with another subject and have a complete clause.

HELLENTHAL: What rule other than the series rule permits a comma to precede an "and" or any conjunctive article?

NORDALE: I would have to refer you to the book. I am sure you would find many, many examples of cases where a comma precedes an "and", Mr. Hellenthal.

PRESIDENT EGAN: Are there other questions in relation to this article? Mr. Boswell.

BOSWELL: I notice in this article we use the term "as prescribed by law" several times, and Mr. McLaughlin just put in an amendment "in the manner provided by law", and in the previous section it is "as prescribed by law". I just wanted to call attention to Style and Drafting, if they couldn't change that "in the manner provided by law" to fit the rest of it. Would that be within their right to do that?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I believe there is quite a distinct difference between "as prescribed by law" and "as provided by law", and I believe it is used correctly in each case here. There is a distinction. I see Mr. McLaughlin champing at the bit.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Well, Mr. Sundborg, I don't think a "manner prescribed" and "manner provided", I don't think it means a whit of difference.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I think when we were working on these various and sundry expressions in the Style and Drafting Committee, we decided we ought to have a little variety now and then, so part of the time we used one and part of the time we used the other. They mean exactly the same.

PRESIDENT EGAN: The Convention will come to order. Are there other questions with relation to this article? If not, the Chief Clerk may proceed with the reading of Article VI.

(The Chief Clerk read Article VI, Legislative Apportionment, as contained in the report of the Style and Drafting Committee dated February 3, 1956.)

PRESIDENT EGAN: Are there any questions? Mr. Sundborg.

SUNDBORG: There is a serious typographical error on page 15, Section 1, the third line, the first word in the new sentence which appears as "Under" should be "Until", "Until reapportionment". It's purely a typographical error and I will ask the delegates to correct their copies and I don't believe it requires consent, page 15, Section 1, third line.

PRESIDENT EGAN: Are there any questions? Mr. Ralph Rivers.

R. RIVERS: May I direct a question to Mr. Hellenenthal? Mr. Hellenenthal, I call your attention to Section 10, the last three lines. The last sentence reads, "The reapportionment and redistricting shall be effective for the election of members of the legislature until after the official reporting of the next decennial census." Now, don't you mean "and thereafter until changed"? You don't want those people to be disfranchised 10 years later, do you?

HELLENTHAL: I think that is implicit in the article -- reading the entire article as a whole.

R. RIVERS: It doesn't say so.

HELLENTHAL: Perhaps it doesn't in that one sentence, but in reading the entire article I think it is clear.

PRESIDENT EGAN: Mr. Hellenenthal, do you think a one - or two-minute recess so you might talk that over would be important?

HELLENTHAL: Yes.

PRESIDENT EGAN: The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: I am going to ask suspension of the rules, putting this back to second reading, under our rule 50, for the purpose of a specific amendment which would be as follows: at the end of Section 10, page 17, change the period after the word "census", change it to a comma, and add "and thereafter until changed".

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent that the rules be suspended, that Article VI, the article on Legislative Apportionment, be referred back to second reading for specific amendment.

V. FISCHER: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to Mr. River's motion? Mr. Metcalf seconds the motion. The question

would be: "Shall the rules be suspended?" The Chair notes that there are quite a number of delegates not present; there might not be 37 here.

HELLENTHAL: I have no objection at all to making it very clear that there shall be only one reapportionment between the official reporting of each decennial census. I hardly think that this proposed amendment does that.

R. RIVERS: I would like to explain it, Mr. President, but I understand a motion to suspend the rules is not debatable.

PRESIDENT EGAN: If there is no objection, you might explain it, Mr. Ralph Rivers, if there is no objection.

R. RIVERS: It is simply this: that at the end of 10 years within 90 days following the official reporting of a decennial census, the board shall submit to the governor a plan for reapportionment and redistricting. Now, at the end of one 10 years the board may find that there are some changes required in a particular district or as to the boundaries between a couple of districts, and then the next 10 years may go by and that particular change may never be touched. That may remain for two or three census periods. Maybe the next time the board meets they will change some other boundary affecting some other district. What I am getting at here is that if the last sentence in Section 10 simply said that when the change is made that change shall be effective until the next decennial census. Well, what happens at the end of that time, when the next decennial census comes along? Those people are either going to be disfranchised or you have got the suggestion that something else has to be done in order to keep them afloat as to that particular change after that 10-year period has gone by, and I cannot seem to get this thing to penetrate the minds of a couple of members of the Committee.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: May I have permission to point out the reasons for my objections?

PRESIDENT EGAN: If there is no objection. Mr. Victor Fischer.

V. FISCHER: I would like to point out that in the next to last line it says "until after the official reporting", which says exactly the same thing that Mr. Rivers would try to accomplish in his amendment. It says "until after". That may be effective for a hundred years after, but the main point is that during that 10 year period there may be no change.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am assured that every 10 years the governor will recertify every election district in the territory, and then all of them will be good for another 10 years; and that will be done every 10 years, so with my apologies to the members of the Committee who know more than I did, it finally penetrated my mind. (Laughter)

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that his request for suspension of the rules be withdrawn. Is there objection? Hearing no objection it is so ordered and the motion for suspension is withdrawn. Are there other questions relating to Article VI? Mr. Victor Rivers.

V. RIVERS: In Section 7 of Article VI, I would like to have an explanation of the wording from anyone who would like to answer. It reads "The senate districts described in Section 2 of Article XIV may be modified to reflect changes in election districts. A district, although modified, shall retain its total number of senators and its approximate perimeter." Now, I am trying to figure out just what that means. It says they "may be modified", and I can see considerable changes in the election districts. In the next sentence it says it is to retain its approximate perimeter. Can somebody explain what that means?

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, in the event that the election districts will be redistricted at a later date through the apportionment board it's very possible that the senate districts which are comprised of the two election districts, shall be modified to a minor extent. This clause is in there so that the boundaries of these election districts are not frozen absolutely as is right at this date. It does allow a little modification in the future and, therefore, the words "approximate perimeter".

PRESIDENT EGAN: Are there other questions relating to Article VI? Mr. Poulson.

POULSON: I move we recess for 15 minutes.

PRESIDENT EGAN: Mr. Poulson moves and asks unanimous consent that the Convention stand at recess for 15 or 20 minutes. The Convention will come to order. The question is: "Shall the Convention stand at recess?" All those in favor of standing at recess until 10:10 will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the Convention is at recess.

RECESS

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PRESIDENT EGAN: The Convention will come to order. Mr. Knight.

KNIGHT: May we revert back to committee reports?

PRESIDENT EGAN: If there is no objection, the Convention will revert back to committee reports at this time.

KNIGHT: I would like to report back for the Journal Committee. I move that due to the fact that Committee Proposal No. 17/z was never formally introduced last night and the subsequent action was therefore out of order, that all reference to Committee Proposal No. 17/z from that time until -- from the time it came before us last night until the time it was correctly introduced this morning, be expunged from the record. I ask unanimous consent.

PRESIDENT EGAN: Mr. Knight is asking that due to the fact that Committee Proposal No. 17/z had not been properly presented to the Convention yesterday, that all reference to Committee Proposal No. 17/z up to the time we considered it today be expunged from the record. Mr. Knight asks unanimous consent. Is there objection?

HELLENTHAL: I object.

PRESIDENT EGAN: Do you so move, Mr. Knight?

KNIGHT: I so move.

PRESIDENT EGAN: Mr. Buckalew seconds the motion that the reference -- now, actually, it was all out of order and there shouldn't have been anything in the record, so this motion -- Mr. Helleenthal.

HELLENTHAL: I don't think anyone here....

PRESIDENT EGAN: It has been moved and seconded that all reference to it be stricken from the record.

HELLENTHAL: I don't think there is anyone here would be more anxious to see this accomplished, because of my feelings that have been made well-known on this section. However, we have never yet expunged the record of anything. If so, I certainly want it brought to my attention. We have not expunged the record of anything. Furthermore, it is a very dangerous thing to do. We have taken improper action before, and we have not expunged the record of that improper action.

PRESIDENT EGAN: Your point of order, Mr. White.

WHITE: If improper action was taken before, when a vote was incorrectly announced, then all subsequent action was out of order and was expunged from the record.

HELLENTHAL: No, sir, it was not.

PRESIDENT EGAN: The Convention will come to order. The motion is in order, but Mr. Hellenthal has the floor.

HELLENTHAL: And my point is that we have kept our record intact. We will be suspect if we expunge the record. There are two sides to every question. Although I didn't disagree with the proponents of this measure, I don't think that they should be banished because they mentioned it. Their position is reasonable. Now you will recall that this came up in the opening days of the session when there was some business about having secret meetings. It all ties in. We are up here, as we said earlier in the session, we're up here to stand up and be counted, to express our opinions. Expunging the record is foreign; it is not a democratic thing to do; and I think we would be making a grievous error if we were to do it, and we would be suspect to the people of Alaska if they thought we had expunged the record or altered the record or tried to cover up something. They would look askance at us and I think it is a very, very dangerous thing to do and not warranted.

KILCHER: Is that motion debatable?

PRESIDENT EGAN: It is debatable.

KILCHER: Well, I personally would not mind if some of the things and errors that were made in the last few days were not on the record. On the other hand, I have to agree with Mr. Hellenthal that good actions or possibly bad or erroneous actions that we have taken should be on the record. There was nothing particularly regrettable done; there were no bad actions taken. There were actions taken partly in error and possibly unwisely. They were reputed today but the newspapers have taken notice of these actions. We can't expunge the record in libraries and newspapers and so on. It would be just as well, in order to avoid making a mystery, to leave the record as it is.

PRESIDENT EGAN: Is there further discussion? Mr. Rosswog.

ROSSWOG: I think I will have to agree with Mr. Hellenthal and Mr. Kilcher. I think it would look worse for us to expunge a whole day's session than if we left it in the record.

PRESIDENT EGAN: Is there further discussion? Mr. McNees.

MCNEES: Speaking as one of the minority on practically the whole measure -- Article 17/z -- I would dislike very much to see the record expunged.

PRESIDENT EGAN: Is there further discussion? Mr. Ralph Rivers.

R. RIVERS: Is this a suspension of the rules or....

PRESIDENT EGAN: No, it's just a majority vote, Mr. Rivers. Is

there any other discussion? If not, the question is: "Shall all reference to Committee Proposal No. 17/z taken yesterday be expunged from the record?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 7 - Awes, Buckalew, Knight, Nordale, Riley, Smith, White.

Nays: 38 - Armstrong, Barr, Boswell, Coghill, Cooper, Doogan, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, R. Rivers, V. Rivers, Rosswog, Stewart, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Absent: 10 - Collins, Cross, Davis, H. Fischer, King, Londborg, Reader, Robertson, Taylor, VanderLeest.

CHIEF CLERK: 7 yeas, 38 nays, and 10 absent.

PRESIDENT EGAN: So the nays have it and the motion has failed of adoption. Mr. Marston.

MARSTON: While we are in this position I have news for you. "University of Alaska, Office of the President, November 30, a meeting of the regents, this is officially Constitution Hall, so named by the regents". (Applause)

PRESIDENT EGAN: Let the communication as read by Mr. Marston become a part of the record. The Chief Clerk may proceed with the reading of Article VII, the article on Education, Health, and Welfare.

(The Chief Clerk read in its entirety Article VII of the constitution as contained in Style and Drafting Committee Report dated February 3, 1956.)

PRESIDENT EGAN: Are there questions with relation to Article II? Mr. Kilcher.

KILCHER: I have a question with relation to Style and Drafting. Mr. Sundborg might be able to answer it. On page 18, the first two words at the top of the page "body corporate"; that strikes me as slightly redundant. It sounds to me like "body embodied", corporate meaning a body. I wonder if there couldn't be a more lucky version of this idea to express it.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, it's a common legal term, I know, and its exact language is contained in the Hawaii constitution about the University of Hawaii. We would certainly be open to suggestions from anyone who might want to use a more lucky word, but I can't think of one myself.

KILCHER: Well, I admit that it would take more than a moment's hesitation to find something better, but it only strikes me now that it actually is superfluous and redundant language. Even if it is common legal usage, that is no excuse because legal verbiage is known not to be too good in style very often.

SUNDBORG: Mr. President, I don't think it is redundant. If it were redundant you could leave out one of them and it would be the same. You wouldn't want to say "it is constiuted a body" or on the other hand you wouldn't want to say "it is constituted a corporate".

KILCHER: Mr. President, if it is in order I would suggest that it simply be called a corporation.

SUNDBORG: Constituted a corporation? I will have to ask somebody else to comment on that. I don't like the sound of it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would only like to comment on the fact that this went through first, second, and third readings in exactly the same state.

PRESIDENT EGAN: Are there other questions relating to Article VII? If not, the Chief Clerk will read Article VIII.

(The Chief Clerk read in its entirety Article VIII as contained in Style and Drafting Committee Report dated February 3, 1956.)

PRESIDENT EGAN: Are there any questions to be directed to the Style and Drafting Committee with relation to Article VIII? Mr. Sundborg.

SUNDBORG: Mr. President, we have noted a place where a comma should have been inserted: page 18, Section 3, after the word "wildlife".

PRESIDENT EGAN: Before "and", Mr. Sundborg?

SUNDBORG: Mr. President, before "and".

PRESIDENT EGAN: Do you ask that the rules be suspended and....

SUNDBORG: I think it was already taken care of.

PRESIDENT EGAN: Are there questions relating to Article VIII? If not, the Chief Clerk may proceed with the reading of Article IX,

the article on Finance and Taxation. If there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will proceed with the reading of Article IX, the article on Finance and Taxation.

(The Chief Clerk read in its entirety Article IX as contained in Style and Drafting Committee Report dated February 3, 1956.)

PRESIDENT EGAN: Are there questions to be directed to the Committee on Style and Drafting with relation to the article on Finance and Taxation? Does any delegate have a question? Mr. Barr.

BARR: I would like to ask the grammarian in the Style and Drafting Committee about Section 11. It seems to me that there is one comma in the first sentence which doesn't seem to be placed right. If so, there should be a couple ahead of it, "The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the state or a political subdivision, when the only security is the revenues of the enterprise or corporation."

PRESIDENT EGAN: Who is the grammarian, Mrs. Nordale?

SUNDBORG: Mrs. Nordale.

NORDALE: Well, actually, if you put commas in there you would change the meaning of it, at least our understanding of it. They do not apply to debts incurred through the issuance of revenue bonds by a public enterprise or public corporation of the state or political subdivision. You see the whole thing is tied together. It could be either a public enterprise of the state or a political subdivision, or public corporation of the state or a political subdivision.

BARR: Why is the comma before the word "when"? What does it separate?

NORDALE: That just separates a clause that applies to the whole sentence.

BARR: Yes, but there is no separation of thought there.

NORDALE: Well, restrictions do not apply when the only security is the revenues of the enterprise or corporation.

BARR: Then you wouldn't have a comma. I wouldn't.

NORDALE: Well, wouldn't you like to stop to take a breath?

PRESIDENT EGAN: Are there other questions relating to the article? Mr. Victor Rivers.

V. RIVERS: That same question bothers me a little, when it says, "when the only security is the revenues". Would it be "is the revenues" or "are the revenues" or what?

NORDALE: Mr. Rivers, the subject is singular, "security is".

PRESIDENT EGAN: Are there other questions? If not, the Chief Clerk will proceed with the reading of Article X, Local Government, Article X.

(The Chief Clerk read in its entirety Article X as contained in Style and Drafting Committee report dated February 3, 1956.)

PRESIDENT EGAN: Are there questions to be directed to the Style and Drafting Committee with relation to Article X? If not, the Chief Clerk may proceed with the reading of Article XI, Initiative, Referendum and Recall.

(The Chief Clerk read in its entirety Article XI as contained in Style and Drafting Committee report dated February 3, 1956.)

PRESIDENT EGAN: Are there questions to be directed to the Style and Drafting Committee with relation to Article XI? If not, the Chief Clerk may proceed with the reading of Article XII, General Provisions.

(The Chief Clerk read in its entirety Article XII as contained in Style and Drafting Committee report dated February 3, 1956.)

PRESIDENT EGAN: Are there questions with relation to Article XII? Mr. Metcalf.

METCALF: May I ask Mr. Sundborg, in Section 4, on line 3, after the word "advocates" that comma isn't necessary, is it?

SUNDBORG: What page, Mr. Metcalf?

METCALF: Page 28, Section 4.

SUNDBORG: It is our belief that that is necessary. If you will notice. there is one after "advocates" on the first line and one after "advocates" on the third line. Now if we just left out the material in between the two commas, this section would read "no person who advocates the overthrow by force or violence" and so on. We set off the material in between those places off by commas because it is equivalent to the word advocates, "no person who advocates or who aids or belongs to any party or association which

advocates". I believe it is necessary and I know it is the standard way of punctuating this identical phrase which is used in many state constitutions and in the federal document. I wonder if that satisfies Mr. Metcalf?

METCALF: Well, looking at it that way, I believe it does.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: In Article XI will there be a comma placed in the title following the word "Referendum"? Article XI, I revert somewhat.

PRESIDENT EGAN: After the word "Referendum"? Mrs. Nordale.

NORDALE: There could very well be.

PRESIDENT EGAN: Are there other questions relating to Articles XI or XII? Mr. Sundborg.

SUNDBORG: I wonder if we could have a brief recess. A problem has come up which Style and Drafting needs to take care of.

PRESIDENT EGAN: If there is no objection, we will have a brief recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. If there are no questions, the Chief Clerk may proceed with the reading of Article XIII, Amendment and Revision.

(The Chief Clerk read in its entirety Article XIII as contained in Style and Drafting Committee Report dated February 3, 1956.)

PRESIDENT EGAN: Are there questions with relation to Article XIII? Mr. Metcalf.

METCALF: In the last part of line 6, Section 1, how did you read that?

CHIEF CLERK: "Unless otherwise provided"?

METCALF: No, "for the next general election".

CHIEF CLERK: That was "statewide" election. That was changed this morning by motion of Mr. Sundborg.

PRESIDENT EGAN: Are there other questions? If not the Chief Clerk may proceed with the reading of Article XIV, Apportionment Schedule.

(The Chief Clerk read Article XIV in its entirety as contained

in Style and Drafting Committee Report dated February 3, 1956.)

PRESIDENT EGAN: Are there questions relating to the article on Apportionment Schedule, Article XIV? Mr. Boswell.

BOSWELL: I notice in the description of the Upper Yukon on page 34, in speaking of the Alaska-Canada boundary in both 19 and the first sentence of 20, it is called the Alaska-Canada boundary and then in the last line just the Alaska boundary. I wonder if we should keep that uniform.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: It's a violation of the principle of consistency but not that of clarity.

PRESIDENT EGAN: Does that answer it?

BOSWELL: Yes, it does.

PRESIDENT EGAN: Are there other questions relating to Article XIV, Apportionment Schedule? Mr. Hellenthal.

HELLENTHAL: I would just like to call to Mr. Sundborg's attention that in Section 1 there is a slug, or whatever the printers call it, between "Number of" and "District" and "Number of" and "Representatives" which is not present in the bold face type there in Section 2. It violates the principle of consistency and, furthermore, I think there was something wrong with the linotype machine because when the "o", consistently through Section 3, and "Kosciusko" is the first illustration of it, the "o" is dropped. There are about 8 or 9 different places where the "o" does not line up correctly, and when they redo it for punctuation I think they should fix the machine in that respect.

SUNDBORG: It appears that a wrong font "o" somehow got into that machine. It occurs here at regular intervals and we will see that it is taken out.

PRESIDENT EGAN: Are there other questions relating to Article XIV, the Apportionment Schedule? If not, the Chief Clerk may proceed with the reading of Article XV, Schedule of Transitional Measures.

(The Chief Clerk read in its entirety Article XV as contained in the Report of the Style and Drafting Committee dated February 3, 1956, and the three ordinances.)

PRESIDENT EGAN: The Chair notes that the Style and Drafting Committee has some amendments. Mr. Sundborg.

SUNDBORG: I didn't hear the observation of the Chair.

PRESIDENT EGAN: Well, the Chair noted there are mimeographed....

SUNDBORG: Oh yes. I was about to submit a committee amendment or to ask that the rules be suspended so that we may do so, Mr. President.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the rules be suspended in order that Article XV. Schedule of Transitional Measures, be referred back to second reading for specific amendment, and the proposed amendments by a further suspension of the rules. If there is no objection, we might consider the amendments that are mimeographed and before us. Is there objection to that procedure? If not, is there objection to the unanimous consent request? Mr. Kilcher.

KILCHER: Is this substantial, or does it only have to go back to third reading?

PRESIDENT EGAN: Well, it has to go back to second reading in any event now, Mr. Kilcher. Is there objection to the suspension of the rules? If there is none then the article is now back in second reading and open for specific amendment. Mr. Sundborg.

SUNDBORG: We submit the committee amendment, and I will ask Mr. Fischer to explain the necessity for it. I do submit the amendment which I will ask the Chief Clerk to read.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "That Article XV be amended as follows: Page 37, Section 10, strike last sentence; page 37, Section 11, strike section and substitute the following: 'Terms of First State Legislators. Section 11. The first state legislators shall hold office for a term beginning with the day on which they assume office and ending at noon on the fourth Monday in January after the next general election, except that senators elected for four-year terms shall serve an additional two years thereafter. If the first general election is held in an even-numbered year, it shall be deemed to be the general election for that year.'"

SUNDBORG: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg moves the adoption of the amendment. Is there a second to the motion?

V. RIVERS: I second.

SUNDBORG: Now I would like to ask that Mr. Fischer explain for our committee the necessity for submitting this amendment.

V. FISCHER: Mr. President, in considering the transitional

provisions on the election of first legislators, the Style and Drafting Committee took the two sections that you see here numbered as Sections 10 and 11 out of the article on apportionment. At the same time, without very thorough study, a section was deleted from a proposal of the Committee on Ordinances. It was Section No. 16 dealing with the terms of first legislators, which appeared to cover approximately the same ground. However, it has just been brought to our attention tonight, and after further review, it seems like a very serious problem could be created. As the sections now stand, with the omission of the section as originally proposed by the Ordinance Committee, taking the last sentence of Section 10, which reads "If the first state general election is held in an odd-numbered year, the terms set forth in this section shall be increased by one year." That means, for example, if we are granted statehood by 1959 and the first election is held in February, that will be an odd-numbered year. Then, a two-year senator, for example, will have a term of three years; that term would carry him to February of 1962, but the election in 1962 will not take place until October of that year, so that from February through October you would have a gap without any state legislature. The problem is a very serious one and the Committee has therefore reverted to the language proposed by the Ordinance Committee, which is contained in the proposed substitution for Section 11. That takes care of both the deletion of the last sentence in Section 10 as well as Section 11, and provides for the termination date of the first terms. I will be glad to answer any additional questions.

PRESIDENT EGAN: Are there questions to be directed to Mr. Fischer with relation to this matter? Does any delegate have a question? If not, the question is....

V. FISCHER: I would like to ask unanimous consent for the adoption of this amendment.

PRESIDENT EGAN: Mr. Fischer asks unanimous consent that the proposed committee amendment be adopted. Is there objection? Hearing no objection, it is so ordered and the amendment has been adopted. Mr. Sundborg.

SUNDBORG: I have another committee amendment to offer. I will ask unanimous consent to suspend the rules and place this article in a position where a specific amendment can be offered. The amendment would be on page 36, Section 9, the third line, strike the word "qualify" and substitute the words "assume office"; third line on page 36, Section 9, so it would read "with the day on which they assume office and ending at noon".

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the article again be -- that the rules be suspended and the article again be referred back to second reading for specific amendment. Is there objection? Hearing no objection it is so ordered and the article is now before us in second reading for specific amendment.

SUNDBORG: Mr. President, I offer the amendment to strike the word "qualify" and insert in its place "assume office" on the third line of Section 9 of page 36. Mr. President, this is to make this section uniform with the usage throughout the transitional measures and particularly to make it uniform with Section 13.

PRESIDENT EGAN: Mr. Sundborg, you moved and asked unanimous consent, is that right?

SUNDBORG: Yes. In Section 13 you will notice that there is a provision that the officers elected and qualified shall assume office at the time the President of the United States issues a proclamation announcing the results of the election, and we don't want the first officials to have their terms begin from the date they qualify but rather from the day on which they assume office. I ask unanimous consent for adoption of the amendment.

PRESIDENT EGAN: Mr. Sundborg requests unanimous consent that the amendment be adopted. Is there objection? Hearing no objection, the amendment is ordered adopted.

SUNDBORG: I have another....

PRESIDENT EGAN: Mr. Sundborg, before we proceed, the chair has been wondering about the manner in which we have been proceeding. The Chair mentioned it earlier in the day when this first came up -- referring back to second reading -- that, in order to get it back into the final reading form, a motion would have to be made that it be advanced again. It just doesn't go back automatically into final reading after you've suspended the rules and sent it back to second reading. But if that has been the procedure this evening, if there is no objection, by unanimous consent I guess it could be inferred that the rules were suspended without objection and without a statement. The Chair would just want to be sure that the record is straight on that so there would be no objection to it later. Do you at this time, then, Mr. Sundborg....

SUNDBORG: I wish to submit another committee (committee) amendment. This one actually is simply to correct a typographical error on page 38. In the section at the top of the page, which is Section 16, in the next to last line of the section some erroneous language has been inserted by the printer, and the line should read -- after the word "filled" in the next to last line, a comma should be inserted and the word "and" stricken, and then, after the word "justice" in that same line, the words "is appointed he" should be stricken, so that it would read "After the initial vacancies on the superior and supreme courts are filled, the chief justice shall assume his seat on the judicial council."

PRESIDENT EGAN: Mr. Sundborg, if there is no objection the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: I was calling attention to an error in printing on page 38 in Section 16. This is not an amendment, because we just want to reproduce the language which was agreed upon here, and it has just been printed with a couple of extra words in there. So I ask unanimous consent that the correction be made on the copies before the delegates. The line should read, that's the next to bottom line of Section 16 on page 38, "are filled, the chief justice shall assume his seat on the judicial council".

PRESIDENT EGAN: Mr. Sundborg, that had already been adopted, is that correct?

SUNDBORG: It was adopted by the Convention yesterday, I believe, and just printed wrong here.

PRESIDENT EGAN: Does everyone have that correction?

SUNDBORG: Mr. President, there is a purely typographical error on page 40 in Section 1 of the Alaska-Tennessee Plan. At the very end of the section, after "1955", a colon instead of a period should appear "pursuant to Chapter 46, SLA 1955:". I just point this out so the delegates may correct their copies. Mr. President, those are all the corrections which the committee has. There is another matter which I think the delegates may want to consider. On the first page of the constitution the type used for the line "Constitution of the State of Alaska" has been criticized by some delegates as being too old-fashioned in the style of type, and I just thought the Convention might want to consider: Do they like it or would they like a more modern face. The proposal of the printer is just to use that style of type on the official document which we would sign, and we could have a different type face if that is the desire of the body.

PRESIDENT EGAN: Mr. Sundborg, that will appear differently -- or will it appear? It won't appear "Report of the Committee on Style and Drafting" in any....

SUNDBORG: Mr. President there will be nothing at all above it, above the large line saying "Constitution of the State of Alaska".

PRESIDENT EGAN: That would make it appear quite differently to anyone if they were considering that. It would make the type take a different appearance, even that old-fashioned type, with that removal.

HERMANN: Mr. President, I move that we keep it.

PRESIDENT EGAN: Mrs. Hermann moves that the type remain as is. All in favor will signify by saying "aye"; all opposed by saying "no". The "ayes" have it. Mr. Sundborg.

SUNDBORG: Mr. President, another problem. You will notice the heading of each article, both the article number and title are centered on the entire width of the type, including the subheads. You will notice, for instance, Article I, Declaration of Rights, it is not over the center of the text, but it is over the center of the text plus the subhead, and some delegates have suggested that it be centered over the text only.

PRESIDENT EGAN: With regard to that suggestion, does anyone have a motion in order to clear the question? Mr. Fischer.

V. FISCHER: I move that it be centered on the column of type.

PRESIDENT EGAN: Rather than on the center of the page?

BARR: I second it.

V. FISCHER: Yes.

PRESIDENT EGAN: It's been moved and seconded that it be centered on the column rather than on the center of the page. Mr. Fischer.

V. FISCHER: I might only suggest that those delegates who might not fully agree, not only look at the first heading of "Declaration of Rights", but look at some of the longer ones like "Initiative, Referendum, and Recall" which look very much askew.

PRESIDENT EGAN: The question is: "Shall the motion as offered by Mr. Fischer be adopted by the Convention?" All those in favor of adopting the motion will signify by saying "aye"; all opposed by saying no". The "noes" have it and the motion has failed of adoption. Mr. Fischer.

V. FISCHER: Mr. President, I am going back to my own seat. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, we have one other problem. The constitution will require some language which will appear immediately preceding the signatures, and the Style and Drafting Committee has been studying a number of state constitutions trying to devise such language and we have several alternative suggestions which we would like to consider in our committee for a moment if we might have a brief recess before suggesting some language to the floor.

PRESIDENT EGAN: Mr. Sundborg, before we do have that recess, the Chair might forget to ask it, but suppose that a delegate or delegates decide not to sign the constitution in its final form. Just say that such a case would arise. Do they just say "Not signing" when they are voting, or do they sign as not agreeing

with the constitution? Mr. Hurley, if that should occur....

HURLEY: I had occasion, for no particular good reason, to check on that.

PRESIDENT EGAN: It is better to know than to be thinking about it on that day.

HURLEY: And from what I can find out -- most of these were old constitutions, matters of historical value -- that, as far as the vote is concerned, it was recorded on the journal whatever the vote was, and anyone who didn't care to sign the document, just didn't sign the document. That's all there was to it and I think that is the way we should proceed.

PRESIDENT EGAN: That is the way the Chair felt it should be, but we wanted it to be clear now rather than have any circumstances arise at a later -- Mr. Coghill.

COGHILL: In the federal constitution the men who did not agree did not sign it.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for three minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Does the Style and Drafting Committee have any other report to make?

SUNDBORG: I have a report to the Convention. This is on the subject of the enacting clause or, at any rate, of the language which would immediately precede the signatures of the delegates. First, I will mention where that would appear. If you turn to page 39, following Section 27, now renumbered Section 25, it says this constitution shall take effect immediately upon admission of Alaska into the Union as a state. The Style and Drafting Committee suggests that the following language be used, and I would like to ask each delegate to write this down. I will read it very slowly. It's one rather long sentence. You might just write it on a blank piece of paper because it may not be agreed upon. Here it is: "Agreed upon by the delegates to the Alaska Constitutional Convention at the University of Alaska, this fifth day of Feburary (February), in the year of our Lord one thousand nine hundred and fifty-six, and of the Independence of the United States, the one hundred and eightieth." Mr. President, this is the suggestion of the Style and Drafting Committee. It is a compromise between the standard language of the old constitutions, all of which use the language such as "year of our Lord" and "of the independence of the United States", but practically all of which start out with the word "Done" instead of "Agreed upon", and it was the feeling of our committee

that in the modern times it sounds a little more felicitous to say "Agreed upon". This is our recommendation, Mr. President.

PRESIDENT EGAN: What do you wish to do with your recommendation?
(Laughter)

HERMANN: I move that the recommendation of the Style and Drafting Committee be accepted.

PRESIDENT EGAN: Mrs. Hermann moves that the recommendation of the Style and Drafting Committee be accepted. Unanimous consent is asked that the recommendation of the -- objection is heard. Mrs. Hermann moves, seconded by Mr. Hilscher, that the recommendation of the committee on Style and Drafting be accepted by the Convention. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I can appreciate the sentiments of Mr. Johnson and Miss Awes. They would like to say "Agreed upon and done", or I think maybe they would. That is what I would like. "Agreed upon" sounds kind of vague and indefinite; we are signing on a particular date so it is agreed upon and done upon a particular date. I would like to hear what other objectors have to say.

AWES: I don't particularly care for "Agreed upon and done". I don't admit that "done" is an old-fashioned word. I think it's a word that goes back to Anglo-Saxon times, but some of the strongest words in the English language go back to Anglo-Saxon times, and I think it is a word that takes in everything we have done from the first day we met until we put our signatures on it, and I don't think we could find a more all-inclusive word.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I think that the words "Agreed upon" should be stricken out of this proposal and the word "Done" substituted in favor of it. Certainly it is all-inclusive and describes exactly what we have been doing and will accomplish.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: If Mr. Johnson would make an amendment to that effect I would like to second it.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Before Mr. Johnson makes a motion, which I suspect he is going to do, I would like to explain why I, at least, thought

"Agreed upon" was the better expression. If you will go back and look at our rules that we adopted early in the session and we have followed with reasonable diligence ever since, you will find that we again and again use the expression when the proposal is agreed upon or when they are in agreement on the proposal. Now

this completed document, which we will certainly read by title only and agree upon, I hope, as we have agreed upon entering all these other separate articles into the constitution, will be agreed upon. Now maybe "done" is all right. I stick it on practically every legal paper I write, but this constitution means to me a great deal more than any legal paper I ever drafted for myself or for anyone else, and I would like to use phraseology that would be consistent with the words we have used as we went through the 75 days that we have been here, and finish on a note of agreement because, after all, that is the most important thing that we have done -- is that we have agreed almost unanimously on the major things that have come up.

PRESIDENT EGAN: Mr. Barr.

BARR: I don't know, but I have a feeling that this word "done" is just a habit with some of the attorneys. It is true we have been doing this for 75 days and on the 5th of February it is done. However, on the 5th of February the last act when we vote to accept this constitution, then is when it is agreed upon, and that is what we are speaking of. That's what happens on the 5th we all agree to what we have done.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I would like to move that the motion here be amended to incorporate Mr. Ralph Rivers' suggestion that it be "Agreed upon and done" for a specific reason, that I would like to collaborate on the amendment.

R. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. Kilcher moves, seconded by Mr. Ralph Rivers, that the words "and done" be added after the word "upon".

KILCHER: Yes, Mr. President, the reason being the following: "Agreed upon", I think, would be sufficient if we didn't have the Tennessee Plan, but I think we have definitely done something in adopting the Tennessee Plan and personally I think we didn't do quite enough, but without wanting to seem facetious in this matter, I really think that the word "done" in its simplicity is a powerful word and it means what it says. We have, in adopting the Tennessee Plan, not only agreed to certain things, but we have committed an act; we have done something; we have stated something; and I think in view of that fact the word "done" would have its rightful place.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would only like to point out that page 39, Ordinance No. 1 is ratification of the constitution, and Section 1 starts out, "The Constitution for the State of Alaska agreed upon by the

delegates to the Alaska Constitutional Convention on February 5, 1956, shall be submitted" and so on and so forth.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I have risen once before, but that was on the main motion. I would like to comment just briefly on this amendment to the motion. I appreciate very much Mr. Kilcher's support for the idea that I had, and if he had included in his motion the striking of the words "Agreed upon" substituting the word "done", I certainly would have gone along with it because I think that it's exactly what we want. But putting the words "and done" after "Agreed upon" is simply adding phraseology that doesn't need to be there. It's just redundant. And I am a little bit surprised to hear one of my colleagues on the Style and Drafting Committee object to using one word for two, because most of the time during our deliberations he has always been in favor of using one word in place of two. Now that's the point; if we could substitute the word "done" instead of "Agreed upon" we would have accomplished the whole matter with just one word, so I am opposed to Mr. Kilcher's amendment because it doesn't go quite far enough.

PRESIDENT EGAN: Does the word "prepared" appear in this proposed amendment? It doesn't? The question is: "Shall the amendment to the motion as offered by Mr. Kilcher be adopted by the Convention?" All those in favor of adopting the proposed amendment to the motion will signify by saying "aye". The Convention will come to order. All opposed by saying "no". The "noes" have it and the amendment to the motion has failed of adoption. Mr. Johnson.

JOHNSON: I should like to offer an amendment, and strike the words "Agreed upon" and substitute the word "Done".

MCNEALY: I second.

PRESIDENT EGAN: It is moved by Mr. Johnson, seconded by Mr. McNealy, that the words "Agreed upon" be deleted and the word "Done" be inserted in lieu thereof. Mr. Coghill.

COGHILL: May I ask Mr. Sundborg a question? By placing the words "Agreed upon" starting in the front of the closing sentence there, that would in turn infer that this Constitution was prepared by the delegates and all the work that has gone into it in the last 75 days has been done by us - - and we're not just coming here on the 5th day of February and agreeing upon it, are we?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: We were conscious of some difficulties here because, of course, everything isn't done on the fifth day. It is just the day on which the document is executed, and we do feel that it is the day on which it is finally agreed upon. Of course, "done" does

mean executed, concluded, adopted, agreed upon. I do agree it means the very same thing. We have tried for a while in our Committee to work in the terminology "Constitution Hall", but it was a little difficult in view of the fact that the actual signing which will take place on the 5th of February will not occur here but in another building. But, to answer your question, I think that either "done or agreed upon" would carry out the thought of what we will be doing on the 5th of February.

PRESIDENT EGAN: The question is: "Shall the proposed amendment to the motion as offered by Mr. Johnson be adopted by the Convention?" All those in favor of adopting the proposed amendment to the motion signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Mr. Nerland.

NERLAND: In my new role as grammarian, I would like to submit an amendment. Earlier this evening you posed a hypothetical question which was answered by Delegate Harris regarding the possibility of what would happen if all the delegates didn't sign, and to take that possibility into consideration in this wording, I think we might perhaps add something to the sound of it, too. I would like to make an amendment to the motion that the fourth word "the" be stricken and in its place we substitute the word "these", so that the sentence would read then "Agreed upon by these delegates to the Alaska Constitutional Convention", so that any delegates who might not sign still would not be included in the original wording; only those who signed would be included in that sentence.

PRESIDENT EGAN: Do you move the adoption of that amendment?

NERLAND: Yes.

PRESIDENT EGAN: Delegate Nerland moves the adoption. Is there a second?

MCCUTCHEON: I second.

PRESIDENT EGAN: Seconded by Mr. McCutcheon. Mr. Hellenenthal.

HELLENTHAL: I think this is kind of like an invitation to people not to sign, and, secondly, an agreement of a group like this doesn't have to be unanimous. Nobody assumes that this need be unanimous, and the word "agreed" leaves room for a recalcitrant delegate. I would hesitate to issue that invitation to people or indicate it. What if everybody did sign? It would look then like someone had been omitted or hadn't signed.

PRESIDENT EGAN: Mr. Hinckel, we have Mr. Nerland's amendment before us at the present time. Mrs. Hermann.

HERMANN: I find myself in a position of disagreement with Mr.

Nerland in spite of his recently acquired status as grammarian and my demotion from that same position, but I don't believe that that word expresses what we want expressed. If you say "these" delegates, you don't even have an idea of how many delegates there were. It might be that only half of the delegates sign, that is as this document may appear to people in the future who don't know the full, the history of the case, and I think if you say "the" delegates you know at least that a majority of those attending this Convention have signed the document. "These" does not convey to me the idea of a majority. It is a selective word rather than a general and all-encompassing word, and I think the word "the" -- well, we might have one or two or maybe more, but I don't think we will, who don't sign the document, but still it is signed by delegates to the Convention in sufficient number to indicate to the world that the decision was made by a majority.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: I didn't like the way Mrs. Hermann grasped that rolling pin when she sat down, and her words have sufficiently impressed me so that with the consent of my second I will withdraw my amendment.

PRESIDENT EGAN: Mr. Nerland has asked unanimous consent with consent of his second to withdraw his amendment. Hearing no objection, it is so ordered. Mr. Hinckel has been attempting to get the floor to offer an amendment.

HINCKEL: Preceding the words "agreed upon", I would like to have inserted these words "Done and". My reason is that it was first done and then it will be agreed upon. I didn't like the order of the words when it was offered the other way.

PRESIDENT EGAN: Mr. Hinckel moves the adoption of the amendment, placing the words "Done and" before the word "agreed".

R. RIVERS: I second it.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: For a point of information, I have here the U.S. Constitution and the way it was signed by the gentlemen back there in 1787 was that Article VI states "The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the same". Then it says "Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of Our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the Twelfth. In witness whereof We have hereunto subscribed our names". That's the way the federal constitution is signed.

PRESIDENT EGAN: Mr. Barr.

BARR: If you say here or will say that it is done on the 5th day of February, of course that word "done" could mean "finished" or "done for". That would be on the 5th. However, this was actually done over a period of 75 days. That is the way I look at it. Another reason I have against adopting the word "done" is that it is hackneyed legal phraseology which we have been trying to keep out of this constitution all the way along.

PRESIDENT EGAN: The question is: "Shall the proposed amendment to the motion as offered by Mr. Hinckel be adopted by the Convention?" All those in favor of adopting the proposed amendment to the motion signify by saying "aye"; all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption.

MCCUTCHEON: I move the previous question.

HELLENTHAL: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon moves the previous question, seconded by Mr. Buckalew. All those in favor of ordering the previous question signify by saying "aye"; all opposed by saying "no". The "noes" have it. Mr. Victor Rivers.

V. RIVERS: I am going to belabor this point a little but here we have agreed upon, by the delegates to the Alaska Constitutional Convention, and I will quote my old friend Anthony J. Dimond who always objected to being a delegate "to" Congress. He insisted he was a delegate "in" Congress. We are in constitutional convention assembled. When we are together here we are not delegate to this Convention, we are delegates in Convention. It would seem to me that it should be "agreed upon by the delegates in Constitutional Convention assembled at the University of Alaska, this fifth day of February, the year of our Lord" and so forth and I so move.

PRESIDENT EGAN: Mr. Victor Rivers, you are moving that this motion be amended to read that way? Did the Chief Clerk get the proposed amendment?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Mr. Victor Rivers moves the adoption of the amendment to the motion. Is there a second?

BARR: I second.

PRESIDENT EGAN: Seconded by Mr. Barr. The question is: "Shall the proposed amendment to the motion as offered by Mr. Victor Rivers be adopted by the Convention?" Would the Chief Clerk please read the motion as it would read if Mr. Rivers' proposed amendment were adopted?

CHIEF CLERK: "Agreed upon by the delegates in Constitutional Convention assembled at the University of Alaska", etc.

PRESIDENT EGAN: Is there a discussion? If not, the question is: "Shall the proposed amendment as offered by Mr. Victor Rivers be adopted by the Convention?" All those in favor of adopting the proposed amendment will signify by saying "aye"; all opposed by saying "no". The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 32 - Armstrong, Awes, Barr, Boswell, Coghill, Doogan, Emberg, Gray, Harris, Hinckel, Hurley, Johnson, Kilcher, Laws, McCutcheon, McNealy, McNees, Marston, Nerland, Nolan, Peratrovich, Poulsen, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 13 - Buckalew, Cooper, V. Fischer, Hellenthal, Hermann, Hilscher, Knight, Lee, McLaughlin, Metcalf, Nordale, Riley, Rosswog.

Absent: 10 - Collins, Cross, Davis, H. Fischer, King, Londbord, Reader, Robertson, Taylor, VanderLeest.)

CHIEF CLERK: 32 yeas, 13 nays, and 10 absent.

PRESIDENT EGAN: So the "yeas" have it and the amendment to the motion has been adopted. Would the Chief Clerk please read the motion now as it will be?

CHIEF CLERK: "Agreed upon by the delegates in Constitutional Convention assembled at the University of Alaska this fifth day of February in the year of our Lord one thousand nine hundred and fifty-six and of the Independence of the United States the one hundred and eightieth".

PRESIDENT EGAN: Mr. Barr.

BARR: I would like to direct a question to someone in Style and Drafting. Is it correct to say one thousand nine hundred and fifty-six. I know that in speaking of an amount of money you say one thousand nine hundred fifty-six, without the "and".

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: We adopted this from language of other constitutions. Here is the State of Washington's "one thousand eight hundred and eighty-nine"; Iowa, "one thousand seven hundred and eighty-seven", that is from the federal constitution. They all seem to use "and", I believe.

BARR: Of course I came from Iowa, and I might not be more intelligent than they are. What did the national constitution say?

SUNDBORG: They used the word "and".

BARR: Well I will go along with that.

PRESIDENT EGAN: The question is: "Shall the proposed motion as amended and offered by the Style and Drafting Committee be adopted by the Convention?" All those in favor of adopting the proposed motion will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the motion has been adopted. Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent that the Report of the Committee on Style and Drafting on the arrangement and final language of the Alaska State Constitution be accepted, and that the changes made in the document as it has been agreed upon -- as they have been agreed upon tonight, be adopted.

PRESIDENT EGAN: You have heard the unanimous consent request of the chairman of the Style and Drafting Committee. Is there objection? Hearing no objection it is so ordered.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, I have a matter of some importance for the record. Today some curiosity was exhibited as to how long it would take to read the constitution. I can now report for those who are interested that the Chief Clerk, reading "in a dignified manner", took exactly one hour and twenty-six minutes to read the constitution.

PRESIDENT EGAN: Mr. Riley.

RILEY: Just for the sake of compliance with Rule 50 under which we seem to be operating this evening, would a reference be in order?

PRESIDENT EGAN: It would be in order, Mr. Riley.

RILEY: Well, I ask simply that in view of the fact that we have accepted certain amendments offered by Style and Drafting that it be ordered, the document in its entirety, back to Style and Drafting at this time.

PRESIDENT EGAN: Mr. Riley, the Chair will have to admit that the Chair has had the wrong copy of the rules all the way through the Convention. We do not have the amended copy.... (Laughter) The Convention will come to order. Mr. Riley, the Chair just discovered that tonight, that the copy here is not the amended copy.

RILEY: May I observe that I have known right along that there must be some fundamental reason.... (Laughter)

PRESIDENT EGAN: The Convention will come to order. Does the rule say that we accept the report and then refer it back to Style and Drafting, Mr. Riley?

RILEY: Rule 50, Mr. President, says "Should the proposed document be amended it shall again be referred to the Committee on Style and Drafting." This refers to amendments in the process of the Style and Drafting report, and since it is patent that the Committee will be overseeing its conduct to the printer, I think that it's just a matter of showing it ordered on the record.

PRESIDENT EGAN: If there is no objection the report of the Constitution of the State of Alaska is referred to the Style and Drafting Committee. Now that will automatically come before us at convening time tomorrow, is that your understanding, Mr. Riley?

RILEY: I should say yes, Mr. President

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I note that it is eight minutes after one. However, I am good for many hours yet, and this might be an opportune time for me to start a filibuster on the question of boroughs. However, out of consideration for some of the rest of you, I will move that we adjourn until 1:30 tomorrow afternoon.

PRESIDENT EGAN: Mr. Barr, didn't we change the name of that to "Barr-os" the other day? (Laughter)

BARR: An error in the spelling....

KILCHER: Point of order. Aren't we going to meet any more today?

PRESIDENT EGAN: Mr. Barr moved that the Convention stand adjourned until 1:30 p.m. Did you say that you ask unanimous consent that we stand at recess until 2:30 p.m.?

BARR: Until 1:30 p.m. today.

PRESIDENT EGAN: If there is no objection the convention will be at recess for one minute right at the present time.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Ralph Rivers.

R. RIVERS: Mr. President, before the motion to adjourn is renewed, I wish to move in recognition of a very impressive performance that we have seen here that this Convention go on record as extending a vote of thanks to Style and Drafting for diligent, brilliant, timely, and valiant service.

UNIDENTIFIED DELEGATE: Under fire!

(Applause)

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. Ralph Rivers. If there is no objection, such a vote of appreciation will become a part of the record. Mr. Sundborg.

SUNDBORG: I was afraid for a minute that Mr. Ralph Rivers was going to end his unanimous consent request with some reference to commas, and I was happy when he didn't. I just would like to say for our Committee that I feel and I think all of its members feel that we haven't worked harder or done anything more than every committee has done, and the product is not any more our work, and probably not as much our work as it is that of each of the substantive committees, and all of the delegates who make up the Convention, but we appreciate your very kind thoughts, nevertheless.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, as far as I know I didn't get a second to my motion, so there is nothing before us, so now I will make a motion that we adjourn until 2:00 this afternoon.

KNIGHT: I second.

PRESIDENT EGAN: Mr. Barr moves, seconded by Mr. Knight, that the Convention stand adjourned until 2:00 p.m. Mr. Coghill.

COGHILL: Before you put the question, are there committee announcements? Your Committee on Administration will meet at 11:00 and transportation will be provided at the front of the Nordale at 10:30 for delegates to the Administration Committee. I might also mention that tomorrow morning at 9:00 your platform will be gone so when we meet at 2:30 you will be on the same level with the rest of the delegates.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I just wanted to be sure that the Administration Committee made the proper orders for the bus to bring the people out tomorrow.

PRESIDENT EGAN: Will you see that (to Mr. Coghill) that is taken care of at 1:30. Bus at the Nordale at 1:30. Are there other committee announcements? Mr. Hilscher.

HILSCHER: I might call attention to this, to the arrival tomorrow morning of two planes from Anchorage. Barrie, I think you know more about this than anyone else.

PRESIDENT EGAN: Mr. White, would you care to report on that?

WHITE: I should refer you to my wife in the gallery. She knows all about it. Mr. President, two planeloads, charter loads, of people from Anchorage under the auspices of Operation Statehood will arrive tomorrow morning, I believe at 11:00, on Alaska Airlines charter. Anyone who is interested in meeting them should check with Alaska Airlines to find out what time they are getting in. In view of the time of convening tomorrow at 2:00 p.m., I am not sure whether they will come here for lunch as previously planned. However, they might, and if any delegates plan to be here, I am sure they would be delighted to join them for lunch. All of the people arriving on those two flights, as far as I know, will be staying at the Traveler's Inn.

PRESIDENT EGAN: Are there other committee announcements? Mr. Barr.

BARR: Point of information - I'd like to ask Mr. White -- what airline did you say, Mr. White? (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: One other time that the Committee on Administration has been confronted with is that there will not be any reserved seats at the signing. It looks like we are going to have an overflow crowd, so we are going to provide for the immediate families of the delegates, and tomorrow afternoon we will have a show of hands or a count of how many delegates will have their families up here and how many that will consist of, and those will be seated right behind the delegates at the signing.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Point of inquiry. Does that mean the representative of the Governor of Louisiana will get to sit on the platform?

PRESIDENT EGAN: This means he will get to sit pretty close. If there are no further committee announcements the question is: "Shall the Convention stand adjourned until 2:00 p.m.? All those in favor will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

February 4, 1956

SEVENTY-FOURTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us today the Reverend Ralph Disch, minister of the Church of Christ. Reverend Disch will give us our daily invocation.

REVEREND DISCH: Our God and our Father of all mankind, at this, the close of the session that has been meeting for the framing of this great Constitution for the State of Alaska, we ask Thy good guidance as this group continually meets together. Our Father, we pray Thy richest blessings upon us at all times. May we ever have the freedom we now have enjoyed in worshipping Thee and not being afraid of any man. Grant us, our Father, that the privilege we have enjoyed may continue throughout the rest of our lives. Our Father we pray that we may at all times never be afraid to work together for the good of Alaska as we walk down the pathway of time. We ask Thee to guide, guard, and direct our steps and the future destiny of our endeavors here. In the name of Christ, we pray. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk then called the roll.)

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Mr. White.

WHITE: Mr. President, just prior to recess at 1:00 o'clock this morning, Mr. Barr addressed a question to me, and during the recess, Mr. President, I have been doing a little checking up and, Mr. Barr, on that charter flight from Anchorage, some airline, the name of which escapes me for the moment, arranged for the flight, but I think the information you wanted was this: the first flight came in on Cordova Airlines and the second flight on Reeve Aleutian Airways. (Laughter) Mr. President, I note the occupants of those two flights with us today in the gallery. They came here under the auspices of Operation Statehood and I would like to move and ask unanimous consent that Mr. Ancil Payne, President of Operation Statehood, be given the privilege of the floor to address us briefly.

PRESIDENT EGAN: If there is no objection, Mr. Payne, you may come forward and have the privilege of the floor.

ANCIL PAYNE: Mr. President and delegates, it is a great honor to appear here in behalf of Operation Statehood. Many members

of Operation Statehood who could not be here have watched closely every action that you have taken and regret that they cannot be in attendance with us. As this Convention draws to a close, it is perhaps singularly unlike any other Convention wherein the last few days, everyone comments about "the words that have been spoken here will soon be forgotten but we will carry the spirit forward". In this particular instance as you gentlemen are only too well aware, every word that has been spoken here will go into history for study in the future. Perhaps it has seemed difficult for you from time to time, to draw decisions that were free from political impact. Many of us have not been unaware of the fact that innumerable decisions that perhaps would prejudice people interested in their political futures, forever have been made at this point, fairly, unbiased, and unselfishly. I say many of us have been aware of this because thousands of people have watched the actions of this Convention, on a day in and day out procedure, those people who could not perhaps attend on a regular basis, but have watched closely every action that has been taken. And for the fact that we have here delegates who have been unselfish and honest, we can only thank God. As we landed today, and there were 56 of us coming in, we were greeted by the Fairbanks High School choir, which gave a rendition of the Alaska Flag. And I think it was extremely touching that these high school students were singing the Flag in the city where the constitution was being written. These are, after all, the students who will live under the laws which you have, in these past days, put into writing. They are the ones who will study the actions and the words of each of you through many years in the future as to what you have intended to do and what you have meant in the statements that you have made. Mr. President, some way, it is a touching thing to see those students as they actually stood there singing The Alaska Flag. Perhaps it is somewhat fitting to recognize that in the opening days of your session we presented you with a flag, and now in the closing days we have come back to see the completed document which you have written. We intend to stay over tomorrow for the final signing of it. We recognize that in between those two acts a tremendous amount has been accomplished, and now you are coming within 24 hours to the completion of your work. But it is recognition of all the things that have gone in between that we want to make today, because, after all, following the signing, then we move on to something else which means that this too is an in-between step. We recognize that it is perhaps another one of those steps that all through history men have fought for, way back in biblical times with the prophets down to modern times with the Jeffersons, and the Hamiltons and the Burkes. You fall into the same category of people who have untiringly given your time and your efforts so that you, too, might make a better government under which we might live. For this, then, is a stepping stone to our next step. This document must be ratified. It must be passed by the people. It is a complex thing. We, as members of Operation Statehood, assure each delegate and you, Mr. President, that we will give untiringly now of our time to be sure that this is ratified and

understood and that your actions might not just go to no good. For this is our objective as probably one of the very few pressure groups that have only one single pressure to offer, and that is the pressure for ever better government and for the ultimate end that we seek which is statehood. So we cannot thank you enough; we cannot thank you enough for your work and your time, and we only reassure you that we have been in spirit with you and we will continue with you up until the time your work is fully culminated, and we say only this thing and I speak for all our group: "Thank God we have men and women like you doing this splendid work."

PRESIDENT EGAN: Thank you, Mr. Payne, we are very pleased and proud to have you 56 Alaskans from the railbelt area here with us this afternoon. Mr. Johnson.

JOHNSON: Mr. President, I move the speech we have just heard be spread upon today's Journal as part of today's proceedings, and I ask unanimous consent.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the speech we have just heard be spread upon the pages of today's Journal. Is there objection? Hearing no objection it is so ordered. Are there any communications or petitions before us at this time? If so, the Chief Clerk may proceed with the reading of the communications.

CHIEF CLERK: A telegram from President Eisenhower as follows: "Thank you for your radiogram concerning the work of the Alaska Constitutional Convention. In the event that the proposed Alaska Constitution is ratified by the voters in April, I am certain that Congress will take due cognizance of it in connection with its consideration of any statehood legislation for the Territory. In the meantime, I can assure you that the ratified constitution will receive careful consideration by the Executive Branch. /s/ Dwight D. Eisenhower"

(Further communications read by the Chief Clerk were: letter of appreciation from the Fairbanks Women's Club; telegram of Governor George M. Leader of Pennsylvania expressing appreciation and regret at not being able to attend closing ceremonies; letter from the Governor of Massachusetts expressing appreciation and regret; letter from Governor Aronson of Montana expressing regret at not being able to attend closing ceremony.)

PRESIDENT EGAN: Are there other communications? Mr. Johnson.

JOHNSON: Mr. President, I move and ask unanimous consent that the telegram from President Eisenhower be spread upon today's Journal.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the telegram from President Eisenhower be spread upon the pages of today's journal. Is there objection?

McNEALY: I object.

ROSSWOG: I second the motion.

PRESIDENT EGAN: Mr. Johnson so moves, seconded by Mr. Rosswog, that the communication received from President Eisenhower be spread upon today's journal. The question is, "Shall the communication be spread upon today's journal?" All those in favor of spreading the communication upon today's journal will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the communication is ordered spread upon today's journal. Does the special Committee to read the journal have a report to make at this time? Mr. Doogan.

DOOGAN: I have the Journals for the 67th and 68th Convention days. In the journal for the 67th day, on page 20, paragraph 3, second line, starts out "Mr. Kilcher rose to a point of order". That should be "Mr. Hellenthal". For the 68th Convention day, page 4, paragraph 3, bottom line after "Mr. Sundborg", strike the word "and"; after "Mr. Smith" insert a comma and add "and Mr. Hurley period". Those are all of the corrections. Mr. President, and with that I move that the journals for the 67th and 68th days be approved as corrected.

PRESIDENT EGAN: Mr Doogan moves and asks unanimous consent that the Journals of the 67th and 68th days be approved as corrected by the special Committee to read the journal. Is there objection? Hearing no objection it is so ordered and the journals have been approved. Are there reports of standing committees? Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration has met and considered many of the things of the closing ceremony, and in accord with the wishes of the delegates, we are only reserving seats in the small gymnasium at the University for the delegates and their families, and this will include a guest of a person who should not have any of his immediate family here. These seats will be immediately behind the delegates' seats in the hall, and we would like to know how many seats we will have to reserve, so at this time I would ask unanimous consent that the delegates be instructed to come forward to the Chief Clerk's desk in alphabetical order and present the number of guests or members of family that they will have, and Mr. Knight will officiate by presenting them with a gift from a friend of the Convention.

PRESIDENT EGAN: Mr. Coghill, are you asking that the Convention be at recess during that time?

COGHILL: At ease.

WHITE: I may not have been listening carefully. Was that just immediate families only, Mr. Coghill?

COGHILL: Yes.

PRESIDENT EGAN: If there is no objection, the Convention is at ease.

(The Convention was at ease while the requested reservations were placed with the Committee on Administration and while the delegates were presented with souvenir pens donated by Mr. Charles R. Griffin.)

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, continuing with the committee report, your Committee on administration would like to inform the delegates that, although the gymnasium at the University is quite small, we are going to try to have 765 seats in the Convention, or in the gymnasium for the closing ceremony. Now how many of those will be taken up by the reserved section for the families or guests of the delegates and the delegates themselves will probably come to about 125. Your Committee on administration would also like to inform the delegates that we wish to have the delegates and their families or guests on the campus at the University at 1:30 tomorrow afternoon so that we have time to place you in alphabetical order in the seats, and also to be able to outline the program before the crowd starts assembling in the hall. It is the recommendation of the Administration Committee, also, that immediately following the official signing in the gymnasium that the 55 delegates will retire to this plenary room here, and we will immediately take up the task of signing the other 61 copies that we have to sign. This will be done by joining these tables that we have here together, and to have the delegates start out with "A", Mr. Armstrong, I believe, being the first one on the roll call, to start down the table where the documents will be laid, and signing the individual documents, which will take probably about an hour and a half. One other thing that the Committee on Administration would like to do, Mr. President, under committee reports, we would like to have a recess at this time for possibly a half hour, to meet with the Rules Committee and the President of the Convention. If that is in order, I would so move at this time, that the Administration Committee and the Rules Committee, along with the President of the Convention, meet in the large committee room, 108, upstairs.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent. Is there objection? Mr. Stewart.

STEWART: An inquiry, Mr. President. Will there be a bus at 1:00 tomorrow?

COGHILL: We can arrange that, Mr. President.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess until 3:25 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other reports of standing committees? Mr. Sundborg.

SUNDBORG: The Style and Drafting Committee would like to request that any delegates who have in mind the introduction of individual resolutions or any committees which may be planning to introduce resolutions do so, if possible, at this session today so that the Style and Drafting Committee may have an opportunity to have a look at them at meetings which we will hold this afternoon and tomorrow morning if necessary. The time it seems to us will be growing very short for any resolutions to be introduced after today if they are to go through the regular course and be scrutinized by our Committee.

PRESIDENT EGAN: Mr. Sundborg, didn't Mr. Coghill state that the Administration Committee has several resolutions? Are they going to be routed through the Style and Drafting Committee? It seemed to be in his statement that they felt that if everyone would first give their resolutions to the Administration Committee that they would all be in one place.

SUNDBORG: I'm not aware of that, Mr. President.

PRESIDENT EGAN: As the Administration Committee is not here -- if there is no objection the Convention will be at ease for a few minutes.

(The Convention was at ease for the time specified.)

PRESIDENT EGAN: The Convention will come to order. Are there other reports of standing committees? Mr. Coghill, do you have a further report to make at this time?

COGHILL: The only thing we have to report at this time is that the Style and Drafting Committee has requested that our resolutions be filtered through them first so that there will be only one presentation on the floor, so that all resolutions that we have will be forthcoming at a little later date of the day.

PRESIDENT EGAN: Are there other committee reports? If not, are there reports of select committees? Are there any motions or resolutions? Mr. Marston.

MARSTON: Mr. President, we have a resolution on "Friendly Relations with Canada" that has been pushed around for a long time, and I think it should come up now. It has passed the Style Committee and all of it. I think the Secretary has it. Could it be read now?

PRESIDENT EGAN: Mr. Riley, as Chairman of the Rules Committee --

RILEY: Mr. President, the matter hasn't been referred to the Rules Committee. I believe it went from the floor to the Style and Drafting Committee last week.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, it's still in the Style and Drafting Committee and it was being styled as recently as a minute ago. I know it is not ready to be reported to the Convention floor yet. We expect to have it out -- we could have it out later today if there would be a recess, or we could have it at tomorrow's session.

MARSTON: Mr. President, one more little piece of business I would like to get on its way and I have tried to put it through the Committee, but they tell me it is too late to go through the Committee of resolutions and asked me to present it direct to this body from me, as a representative of this body. It's a resolution which we took two hours on one night here and tried to put it into the Constitution and failed. I would like to have this read now and placed out. It came back to me from the Committee.

PRESIDENT EGAN: Are you asking that copies be passed out to each delegate?

MARSTON: Yes.

PRESIDENT EGAN: Would the Sergeant at Arms please distribute copies of the resolution?

COGHILL: While the Sergeant at Arms is passing that out, is there any special resolution of thanks that any of the delegates would wish the Committee on Administration to consider or write up, at our next recess if they would contact me, I have a list of the resolutions that we have prepared, and to assure that there is a complete list so submitted.

PRESIDENT EGAN: Mr. Marston, are you asking that the resolution be accepted by the Convention at this time?

MARSTON: Would the secretary read it? I would like to have just two minutes on it.

PRESIDENT EGAN: Would the Chief Clerk please read the resolution that would be offered by Mr. Marston?

(The Chief Clerk read the resolution introduced by Mr. Marston, entitled "Native Land Grants".)

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I tried to put this in the body of the Constitution and I failed, but I think we could do no less than we are doing here. Future historians --

PRESIDENT EGAN: Mr. Marston, do you ask unanimous consent that it be received by the Convention?

MARSTON: Mr. President, I ask unanimous consent that it be received by the Convention.

PRESIDENT EGAN: If there is no objection, the resolution will be considered before the Convention in first reading at this time. The Chief Clerk will read the "Resolve" clause.

(The Chief Clerk then read the "Resolve" clause.)

PRESIDENT EGAN: Mr. Marston, it would be in order now, if you so desire, to ask unanimous consent that the rules be suspended in order that the resolution be considered in second reading before us.

MARSTON: Mr. President, I ask that the rules be suspended and that this resolution be considered in second reading.

PRESIDENT EGAN: Mr. Marston moves and asks unanimous consent that the rules be suspended and that this resolution be considered in second reading. Now it is open for amendment if there are any proposed amendments to the resolution. Are there amendments to be proposed for the resolution? Mr. McCutcheon.

McCUTCHEON: If there are no amendments to the resolution, I will ask unanimous consent that the rules be suspended and that the resolution be advanced to third reading for final consideration.

PRESIDENT EGAN: Mr. McCutcheon moves and asks unanimous consent that the rules be suspended, that the resolution be placed before us in third reading for final consideration, and be read by title only by "Resolve" only, and placed in final passage. Is there objection? Hearing no objection, it is so ordered and the resolution is now before us in third reading and is open for debate. Mr. Marston.

MARSTON: Future historians and students who study this Constitution will never understand why we don't mention the great people who lived here before we came. Most lands are acquired by the clash of arms and a treaty was made. With outstretched hands they welcomed us here. We wouldn't be here now if it wasn't for those people who came ahead of us, and I think we must recognize those people some way in this Constitution. Otherwise, this Constitution will lack some of its soul and heart that it should have and I think we have this obligation and we might do it even this way through a resolution. Let us not draw about us a cloak of righteousness and stick our heads in the sand and do nothing about it. The fishermen who were in distress -- we did something about that, and I think this Constitution will live because we are doing some of the things that need to be done about people today, and not so much about the founding fathers, which were great fathers. But we bring it up to a living document. We recognized the fishermen in distress and did what we could about it. I hope we will do something about this resolution that we have in here now. I told you about George Lockwood who had good title but our new civilization that has rolled in here and destroyed his title, his squatter's rights. He had been pushed off the beach where he fished and his children played on the beach. His blueberry patch in the back of his fishing camp has been destroyed by big "cats" going through it, and I would like to restore George Lockwood on to his property, which he is entitled to, by giving him a new title under the new civilization. I want you to remember George Lockwood and that story we told you an hour and a half here one night. And that is all I have on this resolution just a salute to these people and a suggestion. And I think the Constitution will be shortcoming if we don't mention this.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: Mr. President, as Mr. Marston has pointed out, this resolution was belabored for a matter of a couple hours, not only once but twice, trying to have it adopted into the Constitution. We had other points that may or may not come up by resolution, that we have been trying to adopt into the Constitution, and some of us got some knots on our heads and didn't make it. My personal feeling is that any resolution of substance that we have tried to adopt into the Constitution and have failed in so doing, should not now come out as a resolution for the first Alaska State Legislature. I feel that we have a good Constitution, and I feel that any resolutions of this nature that we bring out now doesn't add to the work that we have done.

PRESIDENT EGAN: Is there further discussion? Mr. Kilcher

KILCHER: I would like to speak in favor of the resolution. If I remember correctly, a lot of us delegates who ultimately

decided when the matter was on the floor before that it should not be included in the Constitution, we understood that it was rather a matter of a resolution and a lot of us I think silently agreed to that, some of us openly. I think it is really a good mannered resolution and a good gesture towards our Native friends and I am very much in favor of it.

PRESIDENT EGAN: If there is no further discussion, the question is, "Shall the resolution introduced by Mr. Marston be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 44 - Armstrong, Awes Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Taylor, VanderLeest, White, Wien, Mr. President.

Nays: 9 - Cooper, Doogan, V. Fischer, Laws, Nerland, Poulsen, Reader, Sweeney, Walsh.

Absent: 2 - Robertson and Sundborg.)

CHIEF CLERK: 44 yeas, 9 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the resolution is ordered adopted. Mr. Hellenthal.

HELLENTHAL: Mr. President, with Mr. Marston's acquiescence (acquiescence) I ask that this matter be referred to Style and Drafting solely for the purpose of correcting minor errors in form. I note one in the resolving clause, and if that is agreeable with Mr. Marston, I would like to make that request a matter of unanimous consent.

PRESIDENT EGAN: Mr. Hellenthal asks unanimous consent that the resolution be referred to the Style and Drafting Committee for the purpose stated. Is there objection? Hearing no objection it is so ordered. We now have before us the Constitution, the proposed Constitution for the State of Alaska. We have the report of the Style and Drafting Committee with relation to the proposed Constitution. Mr. Davis.

DAVIS: Mr. President, Mr. Sundborg, the Chairman of the Style and Drafting Committee, is presently at the News-Miner working on the final format of the Constitution. In his absence, on

behalf of Style and Drafting, I would like to report orally that the changes and corrections and amendments made last night have all been made and are presently being incorporated into the printed draft. At this time Style and Drafting has completed its work on the Constitution and we request approval of the document approval of the form that we have made in styling the document. I ask unanimous consent at this time.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that the report of the Style and Drafting Committee be approved by the Convention. Is there objection? Hearing no objection, it is so ordered.

DAVIS: Now, Mr. President, are there other items of business to come before the Convention at this time?

PRESIDENT EGAN: The only thing, Mr. Davis, that the Chair knows of at this time is that there was a general agreement that, if there were to be any statements, they would be made at this time, relative to the Constitution, and then a motion for the previous question would be made and that we would call the roll at the ceremony tomorrow afternoon.

DAVIS: I am prepared now, Mr. President, to make the motion for the previous question, but I will hold it if there are any comments to be made.

PRESIDENT EGAN: Is there anyone who wishes to be heard at this time relative to the Constitution? Mr. Coghill.

COGHILL: Mr. President, would it be in order to revert to the business of the committee in order to pass out these pass cards for the delegates' families for the Convention tomorrow?

PRESIDENT EGAN: If there is no objection, we might hold up the move for the previous question.

HELLENTHAL: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Hellenthal.

HELLENTHAL: As far as I know, there is no question before the house at the present time.

PRESIDENT EGAN: Well there is none, but if there is no objection, Mr. Hellenthal, but before the question is put, we might take a recess in order to let the Administration Committee distribute their cards.

HELLENTHAL: Might I suggest that the question be put by the oldest member of the group.

PRESIDENT EGAN: The request asking that the previous question be ordered you mean, Mr. Hellenthal?

HELLENTHAL: No. I mean the question itself.

PRESIDENT EGAN: Oh. You mean tomorrow?

HELLENTHAL: No, I imagine it will have to be put today.

RILEY: May we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Armstrong.

ARMSTRONG: Mr. Egan -- Mr. President, from the very beginning of this Convention it had been my hope that there might be from this Convention a statement or pledge to Alaska's children. I believe that it is time at the close of this Convention to say to the children of Alaska, in light of this completed Constitution, that we do solemnly make a promise to them and with them in our future State, and so, sir, I would move that a committee be appointed to draw up a resolution that would be known as a pledge to Alaska's children, this pledge to be signed by you, sir, as the President of this Convention; a pledge that would be able to be placed in every school room; a pledge that would say to them that we call upon them for their cooperation as we move toward statehood, because they will be the future citizens. I would hope that this would say that we are providing for them a place where they may practice the faith of their choice; an opportunity for education to meet today's problems; a country filled with trees and streams, bounded by adequate laws to help them in the future; and the possibility of a future state that can be theirs where they can operate as the citizens of tomorrow. So I move, sir, for this committee.

PRESIDENT EGAN: Mr. Armstrong moves -- do you ask unanimous consent, Mr. Armstrong.

ARMSTRONG: I ask for unanimous consent.

PRESIDENT EGAN: That a special committee be appointed for that purpose. If there is no objection, the Chair will appoint Mr. Armstrong, Mr. Coghill, Mr. Walsh, and Mr. Victor Rivers as such committee. Mr. Ralph Rivers.

R. RIVERS: I would suggest that we call it a bequest instead of a pledge. We are bestowing something upon them; we are not

pledging something to them. They, in turn, are going to be pledging to us to carry out the framework which we have afforded them. Just a suggestion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would move for suspension of the rules and proceed to the consideration of the resolutions which the Administration Committee has in its possession, and that suspension of the rules would be that we bypass the Style and Drafting Committee with the reservation that they might look them over for any defects in phraseology, or grammar or punctuation. I think that would expedite the business of the Convention if we could dispose of that today.

PRESIDENT EGAN: You mean, Mr. Taylor, you are asking suspension of the rules and asking that the resolutions be placed before us at this time; then if they are adopted, referred to the Style and Drafting Committee for any phraseology changes?

TAYLOR: Any grammatical changes.

PRESIDENT EGAN: You have heard Mr. Taylor's unanimous consent request. Is there objection? Mr. Fischer.

V. FISCHER: Mr. President, I would like to know just how many resolutions will be before us; exactly what they contain, if they are to come up for adoption immediately. I think it would be more proper if we could see them, work them over, and then adopt them tomorrow afternoon or Monday morning. Therefore, I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Taylor?

TAYLOR: I so move.

PRESIDENT EGAN: Mr. Taylor so moves. Is there a second?

EMBERG: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Emberg, that the rules be suspended and that we consider the resolutions that are now in the Administration Committee at this time. Mr. White.

WHITE: Mr. President, may I address a question to Mr. Coghill? Can you let us know when it is your intention, should this motion not pass, to bring out such resolutions as may be in the possession of your Committee?

COGHILL: It was the feeling of the Committee on Administration that we should bring out these resolutions today, and it was

brought to the Committee's attention that it was desirable that they should first be looked over by the Style and Drafting Committee as to form. Now I have six resolutions here and we have at least four more, and I was hoping that the immediate statehood resolution would be on the floor, but it has not yet come out of the boiler room, and that is the one I would like to present first as our first resolution, requesting statehood at the earliest possible time. We have two mimeographed and four not mimeographed that we can work on right now if it is the body's wish.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, we have set a precedent already. We took prompt action on Major Marston's resolution and then by unanimous consent we just let Style and Drafting have a last look at it, I presume with more or less full power to act, and that would be the case here. And I think if we have a half hour to spend we ought to get to work on this stuff.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and the resolutions that are ready in the Administration Committee be placed before the Convention at this time." The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 47 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cooper, Cross, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratovich, R. Rivers, V. Rivers, Rosswog, Stewart, Smith, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 6 - Buckalew, Doogan, V. Fischer, Poulsen, Reader, Riley.

Absent: 2 - Robertson and Sundborg.)

CHIEF CLERK: 47 yeas, 6 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it and the resolutions may be placed before us at this time in first reading. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I now ask unanimous consent that we reserve Resolution No. 1 for the statehood resolution, and assign No. 2 and so on to these others which we are about to consider.

PRESIDENT EGAN: You have heard Mr. Ralph Rivers unanimous consent request. Hearing no objection it is so ordered. Mr. Rivers, we already have some other resolutions that have been numbered.

R. RIVERS: Mr. President, I would like to ask a question of Mr. Coghill. You spoke of having No. 1 for the statehood resolution. We have already adopted some resolutions. Was it your intention that we should renumber the others and assign No. 1 to the statehood resolution?

COGHILL: Mr. President, we didn't have any authority or jurisdiction over the other resolutions. We just thought that we would lead ours out with the statehood resolution.

R. RIVERS: Well, that wouldn't get yours at the top of the -- my way, would it? I withdraw my request.

PRESIDENT EGAN: Mr. Ralph Rivers withdraws his request. The Chair has just been informed that a bus is waiting for our friends from down along the railbelt. Would the Chief Clerk please read the first resolution for the first time by "Resolve" only?

(The Chief Clerk read the "Resolve" in the resolution pertaining to a memorial following the election of senators and a representative under the Tennessee Plan.)

COGHILL: Mr. President, I move and ask unanimous consent that this resolution be adopted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the rules be suspended, that the first reading be considered the second reading, that the first reading also will be considered the third reading, and that it be adopted by the Convention. Is there objection? Hearing no objection the resolution is ordered adopted. Will the Chief Clerk please read the next resolution in its entirety?

(The Chief Clerk read the next resolution by the Committee on Administration, entitled: "Recognition of the Services of Dr. Moberg.")

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that all rules be suspended and ask unanimous consent that this resolution be passed.

PRESIDENT EGAN: Mr. Coghill requests unanimous consent that the rules be suspended, that first reading be considered the second and third readings, and that the resolution be adopted

unanimously by the Convention. Is there objection? Mr. Ralph Rivers.

R. RIVERS: Mr. President, just one point. Should this not be the Convention "acknowledges" with deep appreciation, instead of "acknowledge". It's a point for the Style and Drafting Committee, no objection.

PRESIDENT EGAN: Is there objection to the adoption of the resolution? Hearing no objection it is so ordered and the resolution has been adopted. Will the Chief Clerk please read the third resolution?

(The Chief Clerk then read the resolution by the Committee on Administration, entitled: "Press, Radio and Television".)

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that all rules be suspended and ask unanimous consent that this resolution be adopted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the first reading be considered the second reading and that the resolution be adopted unanimously by the Convention. Is there objection? Hearing no objection the resolution is ordered adopted. The Chief Clerk will please read the fourth resolution.

(The Chief Clerk then read the resolution by the Committee on Administration entitled "Chaplains".)

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I move that all rules be suspended and ask unanimous consent that this resolution be adopted.

KILCHER: I object.

PRESIDENT EGAN: Mr. Coghill moves that all rules be suspended and that this resolution be adopted. Is there a second?

SWEENEY: I second the motion.

PRESIDENT EGAN: Seconded by Mrs. Sweeney. The question is, "Shall the rules be suspended that the first reading be considered the second and third readings, and the resolution adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 51 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis,

Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sweeney, Taylor, VanderLeest, Walsh, White, Wien and Mr. President.

Nays: Kilcher

Absent: 3 - Riley, Robertson, Sundborg.)

CHIEF CLERK: 51 yeas, 1 nay, and 3 absent.

PRESIDENT EGAN: So the rules have been suspended for the purpose stated and the resolution is ordered adopted. Are there other resolutions? The Chief Clerk will continue with the reading of the resolutions.

(The Chief Clerk read the resolution by the Committee on Administration entitled: "Students of the University".)

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I move that all rules be suspended and ask unanimous consent that this resolution be passed.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that all rules be suspended, that first reading be considered second and third reading, and that the resolution be adopted. Is there objection? Hearing no objection, the resolution is ordered adopted.

(The Chief Clerk then read the next resolution by Committee on Administration entitled, "Officials of the University".)

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President. I move that all rules be suspended and ask unanimous consent that this resolution be adopted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the rules be suspended, that first reading of the resolution be considered second and third readings, and that the resolution be adopted. Is there objection. Hearing no

objection the resolution is ordered adopted. Are there other resolutions?

COGHILL: Yes, I have one.

PRESIDENT EGAN: The Chief Clerk may proceed with the reading of the resolutions.

(The Chief Clerk then read a resolution introduced by John Coghill, Chairman of the Committee on Administration, for the orderly disposition of the property and records and other unfinished business of the Convention.)

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: May I ask for a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention is at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, I move and ask unanimous consent that the rules be suspended and that this resolution be placed in second reading, and ask unanimous consent.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the rules be suspended and we consider this resolution in second reading at this time. Is there objection? Mr. Nolan.

NOLAN: Mr. President, I haven't any objection, but it has come to my attention and I think it was brought up in the Administration Committee about the members being able to get copies of the transcript and sections of the tape, and I thought maybe there would be some statement made as to how they were going to get that at this time.

PRESIDENT EGAN: Mr. Nolan, as far as the Chair is concerned, the Chair feels there is nothing that prohibits it. If a member wants to pay for a certain portion of the tape and so long as he or she has the proper operators to do that recording for them, there is no prohibition against that at any time. But it might be a subject which it would be well to discuss.

NOLAN: That is why I brought the subject up because I thought that someone should be in charge so they could do that.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, we in the Statehood Committee have talked about that, and we feel that it is an obligation of the Convention in completing its business that we should have a transcript of the substance matter of the stenotype record. I see in here that it provides for two typed copies. That would be verbatim of all of the hassles, committee meetings, and floor procedures. We already have the formal journal which shows all final action taken on each article, each amendment, where it was adopted, as amended, and so forth. But in the State of New Jersey, they took the substance matter, and taking just substance, they amended out a great deal of the floor procedure. They then had the substance matter of the discussions to supplement their working Journal. It was the thought of myself and the other members of the Statehood Committee, and I have discussed it with the Administration Committee, that we would like to see that done, and perhaps have one hundred mimeographed copies made up and bound, one for distribution for each member of the Convention and perhaps to each court and a number to be placed in the files of the Secretary of the Territory, later of the State, for reference matter by the legislature. It is our conviction that there are funds available to do that and it is an obligation of the funds of this Convention. At some later date we might even be able to have it printed. I am going to move that this Section (d) be amended to cover that particular process so that such information will be made available. I do believe with the Committee that two identical typed copies or as many as could be run in one typing, say one original and four carbons, should be made up and placed on file as a record in the Secretary of State's office, verbatim down to the last period.

UNIDENTIFIED DELEGATE: Point of order. The resolution hasn't been advanced to second reading, has it?

PRESIDENT EGAN: It hasn't been advanced, but Mr. Nolan

V. RIVERS: Well, I think I have said all I have to say on it anyway.

PRESIDENT EGAN: The question is, "Shall the rules be suspended and the resolution be placed before us in second reading at this time?" Is there objection? Hearing no objection it is so ordered. Mr. White.

WHITE: Mr. President, I move that further consideration of this resolution be deferred at this time, and that it be continued in second reading until tomorrow.

RILEY: Second it.

PRESIDENT EGAN: We have the unanimous consent request before us -- oh, it is in second reading. The motion is that further

consideration of this resolution be deferred at this time, and that it be placed before the Convention tomorrow. Mr. Fischer.

V. FISCHER: I saw Mr. Coghill nodding his head so I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the resolution be deferred until tomorrow. Is there objection? Hearing no objection it is so ordered. The resolution is deferred until tomorrow. Are there other resolutions? Now with relation to that, Mr. White, do you have any suggestions as to when that would be taken up tomorrow?

WHITE: May I ask Mr. Coghill if those are all the resolutions he has?

COGHILL: Mr. President, those are all the resolutions that we have, if my memory serves me right, but I think we have three more coming down. However, Mr President, the schedule for tomorrow, and convening over at the gymnasium at 2:00 which will take approximately an hour and a half, we could recess and come back here. We have 55 more copies -- no, 60 more copies of the Constitution to sign here and at that time, if it is the pleasure of the Convention, we will have those other three, plus this, that we can consider.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, with resolutions still in the Administration Committee not ready for distribution at this time, I move that it be the policy of the Convention that at the close of the ceremonies tomorrow, the proper motion to adjourn or recess, that there be a motion that the Convention recess to the call of the Chair. That is the end of the motion -- with the purpose in mind that we can then come back here and when the signing is over, we can go back into session to consider further resolutions or any other business to come before the Convention, because I think it appears to most people that on Monday morning prior to 10:00 a.m. we probably won't have time to finish up all that needs finishing.

PRESIDENT EGAN: Now, Mr. White, before placing the motion, if the Chair may, when we come back here tomorrow afternoon, we will probably get back in here around 4:30. That would just be the guess of the Chair. Then we will have all the copies to sign which might take anywhere from an hour and a half to two hours. It's possible that it might take longer than that even. Then we are to be guests of the University upstairs at 6:30. Is that right? At 7:00 p.m. It might be necessary in order to accomplish what you have in mind that we have a night session, possibly real late tomorrow night. The

Chair just wanted to bring that to the attention of the delegates, that the time schedule might not work out in any other fashion other than we have a late night session on Sunday night. Did someone second your motion Mr. White, or did you ask unanimous consent?

WHITE: I heard no second; I will ask unanimous consent.

PRESIDENT EGAN: Miss Awes.

AWES: I want to raise a point of information. As I understood Mr. White, he said we would come over here and sign the documents and then if we had time that we could convene the Convention. Well, won't we convene and then sign the documents? It seems that that ought to be done while we are in session.

PRESIDENT EGAN: You are probably correct, Miss Awes, and we will undoubtedly be in session while the signing of these documents is taking place. Unanimous consent is asked that the motion of Mr. White be adopted as the policy of the Convention. Is there objection? Hearing no objection it is so ordered and that is the manner in which we will proceed. Mr. Coghill.

COGHILL: One other item that the Committee on Administration would like to convey to the delegates, that this evening upon adjourning we would like to have them clear their tables off so that we will have all of the papers and whatnot cleared off of the tables in order to expedite this signing procedure that we will have to go through tomorrow afternoon.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: It was brought forward earlier in the afternoon that we were to take some action now in regard to putting the question tomorrow. I think that ought to be brought up again.

PRESIDENT EGAN: Mr. Collins.

COLLINS: I move that this Convention now consider the adoption of the Constitution for the State of Alaska in its present form.

PRESIDENT EGAN: Mr. Walsh.

WALSH: I second the motion.

PRESIDENT EGAN: Mr. Collins moves, seconded by Mr. Walsh, that the Convention agree upon the Constitution for the State of Alaska in its final form at this time. The question is, "Shall the Convention agree upon the Constitution -- the proposed Constitution -- for the State of Alaska in its final form?"

UNIDENTIFIED DELEGATE: Roll Call.

PRESIDENT EGAN: Mr. Davis.

DAVIS: If there is no further debate on this matter at this time, I would move that we put the previous question and then, as we have previously agreed, adjourn, or recess the Convention until tomorrow.

PRESIDENT EGAN: Mr. Davis moves and asks unanimous consent that the previous question be ordered at this time. Is there objection? Hearing no objection it is so ordered, and the previous question is before us. Mr. White.

WHITE: I move the Convention stand at recess until 2:00 p.m. tomorrow.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that the Convention stand at recess until 2:00 p.m. tomorrow. Is there objection? Mr. Ralph Rivers.

R. RIVERS: Is there a question of recess or adjourning?

PRESIDENT EGAN: Mr. Ralph Rivers, there is no question in the mind of the Chair but that, with this agreement, you can adjourn and have the previous question, as has been set as a policy of the Convention, before us at that time.

R. RIVERS: We can adjourn as usual and not recess until tomorrow? Then that recess will carry us over until Monday morning?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: If this motion carries we will be adjourned until 2:00 p.m. tomorrow afternoon?

PRESIDENT EGAN: That is right.

COGHILL: We have several items on the Committee on Administration that we would like to bring before the body.

PRESIDENT EGAN: If there is no objection, before the question is put, Mr. Coghill, you may.

COGHILL: One of them is that we have the official pens for the signing of the documents and it is the request of the Committee on Administration, that upstairs in the message center room are the pen points for these pens, for the individual delegates to pick out the type of point they are used to writing with. That is number one. Number two is that if any of the delegates have

not got return travel orders to their homes, or they are going to go by a different route, they are to leave the information with the Chief Clerk or one of the designated people upstairs in the secretariat area. Number three is that they shall have to know how they are going to go home and when they are going to go home in order to make this out for the per diem, and this all should be taken care of this afternoon before the delegates go into town.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I think that nearly all of the delegates are in the same shape that I am, we all have excess baggage now. I wonder if the Administration Committee has done anything toward taking care of paying for the excess baggage which we may have over our allowance.

COGHILL: Your Committee on Administration will be meeting immediately upon adjournment and we shall take that subject up.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Before adjournment I would like to announce a very short meeting of the Style and Drafting Committee in the gallery.

PRESIDENT EGAN: Style and Drafting Committee in the gallery immediately upon adjournment. Mr. Fischer.

V. FISCHER: To get this point cleared up, I would like to ask exactly where and when we assemble tomorrow afternoon.

COGHILL: The Committee on Administration has recommended previously that all the delegates and their guests will assemble at the University gymnasium at 1:30 p.m.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: To clear up a point that was left dangling, I suggest that it be understood by the Convention that Style and Drafting has the usual authority to change the numbers on the resolutions and rearrange the resolutions as to style.

PRESIDENT EGAN: Is there objection to that? Hearing no objection, Style and Drafting is authorized to do that.

KILCHER: May I make a short statement for the record?

PRESIDENT EGAN: Is there objection to Mr. Kilcher making a short statement for the record?

BUCKALEW: I will object.

PRESIDENT EGAN: Objection is heard.

KILCHER: Then I will ask for a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Kilcher, you may have the floor.

(Mr. Kilcher then spoke for a few moments on a point of personal privilege.)

PRESIDENT EGAN: If there is nothing else to be announced now, at 6:30 this evening there will be -- at 6:30 at the Traveler's Inn, the guests can assemble. At 7:30 there will be a no-host dinner. Mr. Buckalew.

BUCKALEW: Mr. President, what is going to happen at 6:30?

PRESIDENT EGAN: They will assemble. (Laughter) The Convention will come to order. Mr. Metcalf.

METCALF: May I ask Mr. Coghill a question? The bus leaves the Nordale Hotel at what time tomorrow?

COGHILL: We will arrange for a special bus to leave the Nordale at noon -- excuse me -- at 1:00 p.m. for the delegates.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I was wondering if that dividend that Mr. Hilscher declared the other day would be the same today.

HILSCHER: Yea, verily, sir. (Laughter)

PRESIDENT EGAN: Mr. White.

WHITE: I made the motion to recess because of considerable discussion that had taken place about the effect of a motion to adjourn. Upon the ruling of the Chair that a motion to adjourn will not kill the action of the previous question, I ask that it be amended to read that we adjourn until 2:00 p.m. tomorrow.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that the Convention stand adjourned until 2:00 p.m. tomorrow. Is there objection? Hearing no objection, it is so ordered and the Convention stands adjourned.

ALASKA CONSTITUTIONAL CONVENTION

February 5, 1956

SEVENTY-FIFTH DAY

PRESIDENT EGAN: The Convention will come to order (2:00 p.m.). The Reverend John Stokes, would you come forward please and give the invocation.

REVEREND STOKES: Let us pray. Almighty God and Father of all mankind, Thou who doth sit upon the throne of righteousness and dost deal justly with all men, we invoke Thy divine blessing upon this, the signing of the Constitution of the State of Alaska. In doing so, with thanksgiving for those who have prepared it, it is our earnest plea that Thou wilt use it in the affairs of the citizens of this State in the years and ages to come; through Jesus Christ, our Lord. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

CHIEF CLERK: 1 absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. The Chief Clerk will please read the communications that are before us.

CHIEF CLERK: Telegram from Delegate E. L. Bartlett: "The seventy-five days which began on November 8 and conclude now will become as meaningful in Alaska's future chronicles as they are now to each of you personally. When the Convention began, it was with the best wishes of all Alaskans. As time passed, there was growing comprehension of the immensity of the task upon which you had started. Today, when you sign the document which you have fashioned, there is, I believe, general understanding not only that you have worked diligently, faithfully, and with civic virtue, but also successfully, in writing a Constitution dedicated to the best American principles and to the furtherance of the mighty state to be. I thank you for extending the invitation to be with you today as the Constitution is signed. For both Mrs. Bartlett and me, it is as hard as can be to be here when we want to be there. We congratulate you for a job well done. You have earned the grateful thanks of your fellow Alaskans. Our congratulations go likewise to the loyal members of your staff whose assistance I know has meant so much to you all during the Convention."

PRESIDENT EGAN: We are delighted that we have so many distinguished guests with us as spectators today. There is one though whom we know each individual present is extremely happy to welcome. Let me present to you Mr. Benny Benson, a Native

Alaskan, who as a young boy designed Alaska's Flag. Benny, would you stand, please.

(Mr. Benson stood, and audience stood and applauded.)

At this time I take great pleasure in asking that Mr. Buckalew, Mr. Johnson, Mr. King, and Mr. Reader escort the Governor of Alaska, the Honorable B. Frank Heintzleman, to the rostrum.

(The gentlemen escorted Governor Heintzleman to the rostrum at this time.) (Standing ovation)

PRESIDENT EGAN: Governor Heintzleman, we are extremely gratified that you are here with us today. We know that through your long years in Alaska you have, probably as well as any one in Alaska, comprehended what this day means to our future. Governor, we are again happy to present you to the people who are present today.

(The full text of the speech given by Governor Heintzleman will be found in the appendix.)

(Standing ovation)

PRESIDENT EGAN: The Convention will come to order. As you know, when we adjourned last night the previous question had been ordered. We now have before us the proposed Constitution for the State of Alaska in its final form. The question is: "Shall the proposed Constitution for the State of Alaska be agreed upon by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 54 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, and Mr. President.

Nays: 0 -

Absent: 1 - Robertson.)

CHIEF CLERK: 54 Yeas, and 1 absent.

PRESIDENT EGAN: The "Yeas" have it and the proposed Constitution for the State of Alaska has been agreed upon by the Convention. We will now have the signing of the Constitution. The Chief Clerk will call the roll and as each delegate's name is called, that delegate may come forward and affix his or her signature to the Constitution.

(The Chief Clerk called the roll and each delegate and the Secretary came forward and signed the Constitution as his or her name was called.)

PRESIDENT EGAN: So the proposed Constitution for the State of Alaska in its final form has been signed by the delegates and the Secretary. The Chair would like to at this time call on our own Reverend R. Rolland Armstrong to give our prayer of dedication. Reverend Armstrong.

REVEREND ARMSTRONG: Let us be thankful to Almighty God. Almighty Father, Lover of men, we thank Thee for creating us after Thine image. Thou hast breathed into us the breath of life. Our souls are Thine. We are wholly Thine. Thou has ordained that the delegates of this Convention should be assembled to write a charter of life for Alaska. We bow in humble reverence, for this task has been great, and we have constantly realized the importance of our actions before Thee. Nothing less than a miracle from Thee has kept us together in mind and spirit. We have, under Thy guidance, acted as many facets of thought and passion to mold this one document. The anvil has rung with the hammer of compromise, and there has come forth a statement of our belief. Today we place the work of our hands before Thee. We ask Thy blessing as we dedicate this Constitution. We set it apart from any other plan ever ordered in Alaska as the foundation of our State. We ask that it may speak our hearts, that it might find favor before Thee and the people of this "Great Land." The days and nights have been long. The strain has been at times almost too great to bear, but Thy sustaining power has given us strength. We thank Thee for Thy hand of love, the everlasting arms that have kept us within Thy will. Father, we dedicate this document, mindful of the one who has been given to us as our President. We thank Thee for him. We thank Thee for his wisdom; it has been wisdom from above. We cherish his undaunted courage, the courage he has displayed before us as delegates. We thank Thee for him. And now, O Father, Lord of all, within these pages of this Constitution, we pray that the weak might find strength, the name of justice might be upheld, the lands might be preserved, the governed might find liberty, the life of all might be made bearable and workable. We send this statement of faith unto our people, dedicated in Thy presence. Do Thou sanctify it by Thy grace. In the name of

the Father, and of the Son, and of the Holy Spirit, Amen.

RILEY: Mr. President, in order that the Convention and its guests may hear an address from the President at this time, I ask that the Chair be relinquished to one of the Vice Presidents. I ask unanimous consent.

PRESIDENT EGAN: If there is no objection. Mr. Peratrovich, will you take the chair, please?

(First Vice President Peratrovich took the chair at this time. The full text of the speech given by President Egan will be found in the appendix.)

PRESIDENT EGAN: "Alaska's Flag" will be sung by the Ladd Choral Group.

("Alaska's Flag" was sung at this time.)

PRESIDENT EGAN: The Chair would like to request that the Most Reverend Francis D. Gleeson come forward and deliver the benediction.

THE MOST REVEREND FRANCIS D. GLEESON, S.J.: Almighty God, our Father in Heaven, Master and Ruler of the universe, Who has planted deep in the spirit of man an abiding hunger for freedom and justice, we humbly pray that the long wished-for day may soon dawn when our beloved Northland may be recognized as an equal among the states of our Nation. Deign, this day, to bless with Thy divine approval the instrument of government devised by the long and dedicated labors of our chosen representatives. Grant to all who now dwell or shall ever dwell under its protecting mantle the generosity to spend themselves freely, the determination to work together harmoniously, the intelligence to promote wisely the peace and the prosperity and the glory of our State.

PRESIDENT EGAN: Mrs. Wien.

WIEN: I move and ask unanimous consent that the Convention recess to the call of the Chair.

PRESIDENT EGAN: Mrs. Wien moves and asks unanimous consent that the Convention stand at recess subject to the call of the Chair. Is there objection? Hearing no objection, it is so ordered and the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will call the roll.

(The Chief Clerk called the roll.)

CHIEF CLERK: Everybody is here.

PRESIDENT EGAN: The Chair has been informed that some lady left her purse back on the table where the photographs are. Mr. Johnson.

JOHNSON: Mr. President, I move that the invocation given by Reverend Stokes, the address by Governor Heintzleman, the prayer of dedication by Delegate Armstrong, the address by the President of the Convention, and the benediction by Bishop Gleason be spread upon the Journal of today's plenary session, and I ask unanimous consent.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, would you include Delegate Bartlett's wire in the motion?

JOHNSON: I would be very happy to.

PRESIDENT EGAN: You have heard the unanimous consent request of Mr. Johnson. Is there objection? Hearing no objection, it is so ordered. Mr. Marston.

MARSTON: Mr. President, where could I get the speech by our President today? I think it is delightful, very thoughtful.

PRESIDENT EGAN: It will be in the Journal. The Chair at this time would like to bring to the attention of the delegates the fact that this lamp that is on the Chief Clerk's desk at the present time is something really special. It is made of Alaska jade, gold, and silver. There is nothing like it in existence. Mr. Marston had that made for himself and his wife, and it is something really fine. Mr. Stewart, would you like to explain to the Convention how you believe we should proceed with the signing of these documents?

SECRETARY: I think the safest way to get the signatures on properly is to lay the documents out, one in each place, and then for the delegates to move along in the chairs, signing

exactly the same place as they did before. One caution -- there is a blotter like this for each document so after you sign it, it should be moved down to protect the sheet because if perspiration gets on this parchment, you can no longer write on it, so be careful not to put hands on the signatures or your hand on the document otherwise. If you pass them out, we can get it started. Number one would be where Mr. Kilcher is, and down the line that way, back this way, and then down this way to the end. Start alphabetically. There is one other piece of parchment which is the parchment for the handwritten copy that will be laid here, and you can sign it with the others.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: It seems that the proper way to do would be to have the Convention be at ease and to have all the delegates leave their seats and retire to the rear of the plenary hall, and as the roll is called, they will take their position, like "A", Armstrong will take position number one, and start signing, and then come on down.

PRESIDENT EGAN: If there is no objection, that is the manner in which we will proceed. The Convention will be at ease and the delegates will line up in accordance with the roll sheet.

(The Convention was at ease while the delegates signed the parchment copies of the Constitution.)

PRESIDENT EGAN: The Convention will come to order. The Chair would like to announce that it is the intention to keep the copies that you have just signed here and distribute them in the morning. The Convention will come to order. Mr. Doogan.

DOOGAN: Mr. President, I would like today's Journal to show that we had a representative of the Governor of the State of Louisiana present at the signing ceremony, Mr. Kimbrough Owen.

PRESIDENT EGAN: Mr. Doogan asks unanimous consent that the record show that Mr. Kimbrough Owen was present at the signing ceremonies and represented the Governor of Louisiana. If there is no objection, it is so ordered. Mr. Marston.

MARSTON: Mr. President, I think we should show the story of the man and his wife who came all the way from Grand Rapids, Michigan, to see Mr. VanderLeest sign this document. I think it is the farthest individual trip made.

PRESIDENT EGAN: What were the names? Mr. VanderLeest.

VANDERLEEST: I will go in and bring him out, and let him do his own talking.

PRESIDENT EGAN: If there is no objection, Mr. VanderLeest, you might get Mr. Middleton, and offer him the privilege of the floor for a moment or two. The Convention will come to order.

(Mr. Louis Middleton came into the Convention hall.)

PRESIDENT EGAN: Mr. Middleton, we are happy to have you with us and if you would like to make a few brief remarks, we would be happy to hear them.

MIDDLETON: I have had such a good time, Mr. President, I would like to. Mr. President, and members of the Constitutional Convention, it was quite an honor, I think, when I was invited to come up to this gathering just as an onlooker, not as a talker. Herman [VanderLeest] has been a friend of mine for over 50 years and he has never lost a chance to come and see me when he could, and he has sent me little souvenirs of this Convention and I appreciate it. When I got the card I didn't look at it as a common ordinary card. I looked at it as an invitation to come to a convention that we would never have the opportunity of witnessing again in America itself. We may have some island or group of islands adopt a constitution to become a state, but this is the last chance we have to have some territory on the mainland to aspire to becoming a state, and I know that it has got to go through. The reason it appeals to me -- I think that Michigan and Alaska follow the same trend in one way -- the State of Alaska has had this historical event of "54-40 or fight", and the State of Alaska has held the line. The State of Michigan also has the "Toledo War", and we lost out. The government -- or the powers that be at that time -- persuaded the State of Michigan to accept the upper peninsula in place of our valuable territory that was laying in the southern part, and it was a very poor trade at that time, but things have come up so it hasn't been so poor. Then we followed along an equal path the same as the State of Alaska. The State of Alaska was called "Seward's Icebox", and it was considered quite a place of wide open spaces and for big game hunting, and that was about all until the gold rush came. After the gold rush, the people that went to Alaska to get involved in that gold rush aspired to have nice homes, big farms, nice mercantile institutions and factories, and so they progressed to a wonderful degree. The State of Michigan had the same thing happen with our upper peninsula. Our upper peninsula was a place that God forgot, everybody thought, except when fall came and you could go up there deer hunting, until finally they found mineral deposits up there. The mineral deposits caused people to want to come to Michigan and to come to northern Michigan, and we have people aspiring to better things just like they have in Alaska, until now we are going to have the longest bridge in the world, reaching from northern Michigan to Michigan proper.

Michigan, you know, is the only state in the Union where a portion of the people had to go through three other states to attend the meetings of the legislature in the wintertime. They did it. The people from northern Michigan had to go through Wisconsin, Illinois, and Ohio to get to Lansing. Now, there is only one thing that I just hope about this analogy between Michigan and Alaska is that, Michigan had a sad experience when they applied for statehood. They were put off about two or three years. Now, I just hope that doesn't happen with the State of Alaska. I hope that it just goes through and parliamentary rules are suspended and the chairman invokes the entire vote of the assembly for the question on the floor. I have one good friend in Congress -- Jerry Ford [Gerald H. Ford, Jr.]. Jerry Ford is quite a businesslike man. He is practical in every sense of the word. He is hard as nails when anything comes up for finances, but he is a good honest Congressman; and I have another one there -- Senator Potter. Senator Potter and Jerry Ford helped me get these two stamps through, and I would be very glad if you like to mention this fine entertainment I have received up here, and at the same time, I am going to assure you that it isn't going to do you a bit of good because I think the fellows are for it anyway. (Applause) Thank you for allowing this time and I don't want to impose on you people any longer.

PRESIDENT EGAN: Thank you, Mr. Middleton. (Applause) The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, may we revert to the order of introduction of resolutions?

PRESIDENT EGAN: If there is no objection, Mr. Coghill, we will revert to the order of introduction of resolutions.

COGHILL: I have three resolutions on the Chief Clerk's desk.

PRESIDENT EGAN: Will the Chief Clerk please read the first resolution?

CHIEF CLERK: In full?

PRESIDENT EGAN: In full. It can be treated as a motion.

(The Chief Clerk then read the resolution by the Committee on Administration, entitled "Immediate Statehood".)

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I move and ask unanimous consent that the rules be suspended and that this resolution be adopted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the resolution be adopted. Is there objection? Mr. McNees.

McNEES: Mr. President, wouldn't it be possible to amend this so it would get a wider distribution than just to the two Speakers and the President? Perhaps every Congressman might receive one to good advantage.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I have no objection.

PRESIDENT EGAN: Do you have an amendment to offer, Mr. McNees, to the resolution?

McNEES: I would like to move that copies of this resolution go to each Congressman in both the Senate and House of Representatives.

PRESIDENT EGAN: First, if we are going to have a change by your motion - a resolution can be adopted as a regular motion, Mr. Coghill. So you move that the resolution be adopted?

McNEES: Yes, I so move.

PRESIDENT EGAN: Is there a second?

R. RIVERS: I second.

PRESIDENT EGAN: Seconded by Mr. Ralph Rivers. Now, Mr. McNees, you move that the resolution be amended in order that a copy might go to each Congressman and each Senator?

McNEES: That is correct, Mr. President.

PRESIDENT EGAN: Mr. McNees moves and asks unanimous consent that the proposed amendment to the motion be made. Is there objection? Hearing no objection it is so ordered, and the amendment to the motion has been made. The question is: "Shall the resolution be adopted?" Mr. Coghill had asked unanimous consent. Is there objection? Hearing no objection it is so ordered and the resolution has been adopted. Will the Chief Clerk please read the second resolution?

(The Chief Clerk then read the resolution by the Committee on Administration, entitled, "Alaska Statehood Committee.")

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I move and ask unanimous consent that the rules be suspended and this resolution be adopted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the resolution be adopted. Is there objection? Hearing no objection, it is so ordered. Will the Chief Clerk please read the third resolution?

(The Chief Clerk read the resolution by the Committee on Administration thanking Mr. Chalres R. Griffin for donating pens to the delegates.)

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I move and ask unanimous consent that the rules be suspended and this resolution be adopted.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the resolution be adopted. Is there objection?

R. RIVERS: I object for the moment.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: That resolution suggests that we did use the pencils to sign the constitution. They were never so used. May we hear it read again?

PRESIDENT EGAN: Would the Chief Clerk please read the resolution again?

(The Chief Clerk then read the resolution again.)

R. RIVERS: Why don't we just say "for use by the delegates"?

PRESIDENT EGAN: Aren't they talking about these. Mr. Ralph Rivers?

R. RIVERS: Oh, I was thinking about the others. I withdraw.

PRESIDENT EGAN: The Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Style and Drafting Committee are going to go over all of these resolutions that the Administration Committee has introduced and see if they can pick up any objections at that time on intent.

R. RIVERS: Mr. President, I apologize. I was referring to the ballpoint pens which Mr. Griffin also gave us, so I withdraw my objection.

PRESIDENT EGAN: Incidentally, that is what the resolution refers to, but Style and Drafting could make the necessary changes if it is satisfactory. If there is no objection, the resolution is ordered adopted. The Chief Clerk will please read the fourth resolution.

CHIEF CLERK: No, there were just the three. I have those telegrams though.

PRESIDENT EGAN: If there is no objection, the resolutions will be referred to the Style and Drafting Committee. The Chief Clerk may read the communications that are before us at this time.

(The Chief Clerk then read telegrams from the City of Seward, and from Bill and Anna May Vokacek, Kodiak.)

PRESIDENT EGAN: The communications will be filed. Is there anything else to come before the Convention at this time? Mr. Hilscher?

HILSCHER: Mr. Earl Wyman of Wyman Studios has presented this to the Convention, and we can substitute the signed photograph and this can be presented to the University from the Convention if the Convention so desires.

PRESIDENT EGAN: What is the pleasure of the Convention as to how this will be presented to the University? And another problem we might have, in case the Chair might forget it, is do you think we should have Dr. Patty in tomorrow morning, to be sure that he is here, and present this gavel to the University?

HILSCHER: That would be a good idea.

TAYLOR: He will be here tonight for the dinner.

PRESIDENT EGAN: Well, it might be that the morning session would be more proper. Mr. McCutcheon?

MCCUTCHEON: Mr. President, inasmuch as we have signed a copy of that same print for the University, it would appear to me that it might be advisable that this particular picture be presented to the Territorial Museum.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, Mr. Wyman knew that we were having one signed by all of them, and he is perfectly willing to transfer the two pictures so that we will have a signed copy to present to the University.

PRESIDENT EGAN: When do you wish to have this accomplished, tonight or at the morning session? What is the pleasure of the Convention as to how to present these items to the University? Miss Awes.

AWES: I think it will be better to do it in the morning and then the picture will be transferred. I don't think it will be a good idea to do it at the dinner tonight because then it won't be on the record.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I move and ask unanimous consent that we give Mr. Wyman a vote of thanks for his donation.

PRESIDENT EGAN: If there is no objection, it is so ordered. (Applause) Is there anything else to come before the Convention at this time? Mr. Coghill.

COGHILL: Mr. President, we do have another resolution that was introduced by the Committee on Administration yesterday, and it was left in second reading, and we could bring that up before the Convention at this time.

PRESIDENT EGAN: That is correct, Mr. Coghill, and we still have another hour before we would be obligated to go to the dinner, so if it is the pleasure of the Convention that we consider that resolution in second reading at this time, we can have it brought before us. Is there objection to bringing that administrative resolution before us at this time? The Convention will be at recess while the Chief Clerk has the copies placed on the desks.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Marston.

MARSTON: If we have a little time here, I have a souvenir I think everybody would like to have, and to fill in time I could tell the story of that jade lamp and give you a souvenir of it. I have 55 pieces here. If you have a little time I will tell you about that jade lamp?

PRESIDENT EGAN: If there is no objection, Mr. Marston, you may proceed to tell us about the lamp.

MARSTON: In 1941 I arrived in the Arctic, and I met Tom [last name inaudible]. He's been a trader for half a century in the Kobuk River valley, he had a long curly white hair down to his shoulders, a delightful character, he had an Eskimo family. He lived at Kotzebue then. He told me about an Eskimo who was going to make the finest jade lamp ever made. This Eskimo, according to legend -- the legend was 250 years old -- and it

was a real legend because they produced the lamp. This Eskimo said, "I'm going to make the finest lamp ever made," and he went away from his village about 75 miles -- I figure it was Kiana -- Jade Mountain is about 75 miles from Kiana -- and he got a 75-pound jade nugget and started back home. It was kind of awkward, and he went back and got another 75-pound piece, made a basket of willow roots and hung over his shoulder, one nugget in front and one behind so they swung freely, and he walked back to his village and he carved this jade lamp. Then when he died, as the custom was, the lamp went on his grave. It became a shrine, and the Eskimos, as they were going by in the wintertime would throw it a ptarmigan, those going by in the summer would throw it a fish, and this story persisted for 250 years, and Tom had heard this story over and over again. Then an Eskimo said, "I know he knew where the lamp is." Tom said "I'll give you 100 pounds of flour if you'll get it." In the course of months this Eskimo came in with that lamp, and Tom sent word to [name inaudible] of the Smithsonian Institute, and in a couple of years he showed up. He made the remark, "It's too young." Tom said, "I was a little discouraged and the man wanted a piece of jade and I just broke a piece off and gave it to him, and I gave away this piece, and in my big storehouse I'll find you a piece." I told him, "I don't want a piece. It was a great story, you shouldn't have done it, Tom." He said, "I know, I made a mistake, I should have kept it." Two hundred and fifty years that story lasted and lived and proved to be true, and I couldn't get a piece of jade from that lamp, so I said, "I'll make myself a jade lamp." This took 12 years and it was finished just yesterday. I didn't know where Jade Mountain was, a mythical mountain there, but Eskimos told me the general area and finally I went to Jade Mountain about the year '42, and I went up Jade Creek up to Jade Mountain and I found a piece of jade that looked like about 100 pounds. Now, I don't want to brag, but I broke all records -- Harvard and Yale records -- in the leg and back lift. I had a straight board packsack and I got in in and I could hardly get it up. I finally got it up on my back and hiked back down to Lloyd's place on Dall Creek -- old man Lloyd -- and I put this down on the old bench, and he had a fish cooked for me. Then I started on back to the village of Kobuk with this jade nugget in my packsack. Then the bridge broke down, the log bridge. I didn't yet know what was wrong. I knew I was getting along to where it was rather tough going, and I thought maybe I was beginning to lose a little of that strength I had, and it wasn't a very happy feeling. Then the screws on that straight board packsack pulled loose, and I had to let it down on the low flat tundra land, and I put it on a hump of ground. I reset the screws, and then I couldn't get that thing back. I began to suspect I was really losing my strength, and I wasn't happy, but I said, "Buddy, you and me is buddies and you go with me or I'll stay with you." I lay down in the late spring sunshine and took a sleep, and then said, "Come on, let's get the hell out of here," and I couldn't

get it up. It wouldn't come, so I was still stubborn, and I put the shoulder straps over a little on my back and then I fiddled it off the hummock and it pushed me down in the tundra. I couldn't hardly breathe. I said this is a blankety place to get into on your own doings, but I talked myself up, and I made tracks down over the frozen ground. I was discouraged and despondent, just like we get on statehood sometimes. I was pretty well washed up, and it is no fun to think that at that time of life your strength is gone. So I moved on and I rested by a tree -- I got down where the tree line began a little above timberline -- and I finally arrived discouraged and despondent and pretty well given up, whipped by strength at that time of life that was gone, I thought. I came into the Harry Brown's trading post at Kobuk Village, I put it on the scales, and it weighed 164 pounds. I've got good legs yet and a good back; I'm all right. So, be of good cheer, we will be a state not too long hence. I have a feeling we're going to make it within the next two years or less, and the man from Grand Rapids encouraged me very much. Now, I have a souvenir that took 12 years to make. It is made of pure silver and gold and jade, and it was finished just yesterday -- the man stayed up all night -- Ted [last name inaudible] that lives up in the Kobuk River country. He and [name inaudible] have been prospecting for 22 years. They're a couple of bachelors, too. Sid cut this out by a water-driven saw. When I brought that nugget out, the jade [business] boomed up there. Everybody knew where Jade Mountain was; it is a business nowadays. Half of those people up there are carving jade now -- some of those people are doing nothing but that. We have Eskimos and white men making a living out of carving jade, and it's very interesting how business was started. This jade nugget I brought out, a war correspondent wrote the story and the business started. It's still going on. I have this nugget here to give you each a souvenir. How shall we distribute this, Mr. President?

PRESIDENT EGAN: I've got mine.

MARSTON: You have got yours, have you? This is good jade and there are 50 or more pieces there. Take one apiece. I'm happy to have this lamp here. I think it makes the lamp really valuable that I could bring it here today.

PRESIDENT EGAN: The Convention will be at ease while these pieces of jade are being distributed.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us this resolution from the Committee on Administration. It has already been read. Its adoption has been moved. Are there amendments to be offered for the resolution? Mr. Victor Rivers, did you have an amendment to offer yesterday?

V. RIVERS: I relinquish to Mr. Burke Riley of the Rules Committee who has an amendment which will cover the point we talked about.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, this has nothing to do with the Rules Committee, but I'll be glad to make the suggestion. The amendment that a few of us have discussed is that Sections 1 and 2 be stricken and in lieu there be inserted: "The President of the Convention, with such assistance as he may require from among the delegates or the staff of the Convention be authorized to conclude the unfinished business of the Convention, and to expend such funds from the authorized appropriation as may be necessary to complete the work of and carry out the purposes of the Convention." We think that would give wider latitude to the President to meet a situation which will occur as the members start to disperse around the Territory, and that full coverage may be had without spelling the matter out so rigidly. It might be more conveniently and efficiently handled. Now, another suggestion while I'm putting these on the floor is that in paragraph (d), page 2 of Section 3, the third word, "two" be stricken, in other words, just an authorization to arrange for copies, such number of copies as may seem desirable. I regret that we haven't had this in time to have copies distributed. Oh yes, another one on page 2 of paragraph (d) would be the addition after the word "type" of the two words "and mimeographed", striking the semicolon after "type" and inserting it after "mimeographed." I ask unanimous consent. Mr. President, for the adoption of those amendments.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendments back to the Convention?

(The Chief Clerk then read the amendments as proposed by Mr. Riley.)

PRESIDENT EGAN: Does everyone have that proposed amendment? The Chief Clerk will please slowly read the proposed amendment.

(The Chief Clerk read the amendments again.)

PRESIDENT EGAN: Mr. Riley, what is your pleasure? Did you move the adoption of the amendment?

RILEY: I move the adoption and I ask unanimous consent, Mr. President.

PRESIDENT EGAN: Unanimous consent is asked. Is there objection?

LONDBORG: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

WHITE: I'll second the motion.

PRESIDENT EGAN: Seconded by Mr. White. The question is open for discussion. Mr. Coghill.

COGHILL: Could we have a one-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. It has been moved and seconded that -- Mr. Londborg said he removed his objection -- it has been moved and seconded that the amendment be adopted. The question is: "Shall the proposed amendment be adopted?" All those in favor of adopting the amendment will signify by saying "Aye". All opposed, by saying "No". The "Ayes have it and the amendment is adopted. Mr. Hilscher.

HILSCHER: Mr. President, I should like to rise for a point of information. Our work is now drawing to a close. We are going to scatter commencing tomorrow. We probably never will meet again as an entire body. We have a terrific job to do between now and April 24 --

BUCKALEW: Excuse me, Mr. President, point of order. He got the floor for information. Let him ask his question and sit down.

HILSCHER: If Mr. Buckalew will hold his breath for 30 seconds, I'll ask my question. My question is this, Mr. Buckalew, what is going to be done between now and April 24 to sell the Constitution and to get a large vote out for ratification? That is my question.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I believe this resolution has come before us in the amendment process?

PRESIDENT EGAN: That amendment was adopted. The resolution is still before us, that is correct, Mr. Riley.

RILEY: For other amendments I'll defer to Mr. Fischer at this point.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I move that Section old number 3 [new Section 2] be amended to read as follows, the first paragraph before the colon: "That the President of the Convention, or a person designated by him, shall carry out the following duties:". The purpose of the amendment is -- as everybody knows, our Secretary will be leaving shortly. Some of the items covered here will have to be carried on after his termination date, and the duties will have to be taken care of by someone else, and so we should not just state "secretary" here. I discussed this with Mr. Coghill previously. I ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent for the adoption of the amendment. Is there objection? Is there objection to the unanimous consent request? Hearing none the amendment is ordered adopted. Are there other amendments for the resolution? Mr. Riley.

RILEY: Mr. President, I had earlier indicated on page 2, subsection (d) that the third word of subsection (d) be deleted. That word is "two", and that on the following line the semicolon be stricken, the words "and mimeographed" inserted at that point, followed by a semicolon. I ask unanimous consent for the adoption of that amendment to subsection (d).

PRESIDENT EGAN: Mr. Riley moves and asks unanimous consent for the adoption of the amendment. Mr. Sundborg.

SUNDBORG: I object temporarily just to ask a question.

PRESIDENT EGAN: Objection is heard.

SUNDBORG: By the term "the proceedings," is it intended to mean the verbatim record of everything that was said here throughout the 75 days we have been meeting, Mr. Coghill? Excuse me, Mr. President, may I ask Mr. Coghill a question?

PRESIDENT EGAN: You may ask Mr. Coghill a question, Mr. Sundborg.

COGHILL: The arrangement for the two copies -- yes, it was -- for the verbatim copy of the stenotype and those two copies would be kept on file so that the Statehood Committee or the next legislature could make a revised verbatim journal if they so wished. That was the purpose of the two copies. Right now, under our rules, the stenotypist is making two copies.

SUNDBORG: Mr. President, may I ask Mr. Riley a question?

PRESIDENT EGAN: You may.

SUNDBORG: Mr. Riley, was it your understanding when you were suggesting that the copies be mimeographed that it was referring to the verbatim record which I think will run into thousands and thousands of pages?

RILEY: I should perhaps relay that question to the gentleman on my left. The thought was that if they were being typed perhaps they could be typed on stencils, but if the process is already well along on a two-copy basis -- this was simply referred to me to submit -- if she is well along already on two copies, speaking for myself, I would withdraw the amendment.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Riley.

RILEY: Mr. President, simply for the sake of putting the matter on the floor and objection having been heard, I will move the adoption of the amendment.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment. Is there a second to the motion?

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Seconded by Mr. Knight. Will the Chief Clerk read it?

CHIEF CLERK: "Subsection (d) of Section 2 on page 2: delete the word 'two' on the first line and insert the words 'and mimeographed' after the word 'typed' on the second line."

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, this part of the resolution was more or less for the orderly handling of the tape recording and of the journal kept by the stenotypist, or the verbatim record kept by the stenotypist, and in the rules we have two copies. She made -- in transposing her notes she had a carbon copy which she was to keep and the only thing that this section (d) brings out is that these two copies, and the tape recordings will be in the files of the Convention documents -- including the Journals -- will be deposited with the Secretary of Alaska to be turned over to the secretary of state when we become a state. There is nothing restrictive in this that the Statehood Committee or the legislature could take these records and have a revised journal made out of them and distributed to the delegates or to anyone that is interested. I believe that the

motive behind the amendment was so that there would be a full proceeding of the Convention in the hands of each one of the delegates, but it might turn into quite a large package of paper by the time it would be done. I don't think that section (d) restricts anything such as what is trying to be brought out by this amendment.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, it is up to me to close, after the matter is clarified for me, I could not support the amendment.

PRESIDENT EGAN: Do you ask then that the amendment be withdrawn. Mr. Riley?

RILEY: I'm simply going to vote against it, Mr. President, on the basis of cost.

PRESIDENT EGAN: The question is, "Shall the amendment be adopted?" All those in favor of adopting the amendment will signify by saying "Aye". All opposed by saying "No". The "Noes" have it and the amendment has failed of adoption. Are there other amendments? Mr. Johnson.

JOHNSON: Mr. President, I do not have an amendment, but in paragraph (c), it refers to the fact that 5,000 copies are to be printed and distributed. I should like to suggest that at least ten copies be sent to each delegate.

PRESIDENT EGAN: Mr. Johnson suggests that at least ten copies be sent to each delegate. Do you offer that as a unanimous consent request?

JOHNSON: If necessary, I'll offer it as a motion.

PRESIDENT EGAN: Is there objection if the President and those who are responsible for this send ten copies of the Constitution to each delegate, whether they request it or not? If there is no objection then, it will be the understanding that at least ten copies will be distributed. Are there other amendments to be proposed for the resolution? Mr. White.

WHITE: Mr. President, some delegates seem to feel that under section (c), 5,000 copies conceivably may turn out not to be enough, so I move and ask unanimous consent that just prior to the number "5,000" that the words "at least" be inserted.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that just before the figure "5,000" appears that the words "at least" be inserted. Mr. White asks unanimous consent for the adoption of the amendment. Is there objection? Mr. Hurley.

HURLEY: Just to ask a question. [Question inaudible] (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. White.

WHITE: Mr. President, I didn't see this extra sentence, so I'll withdraw my amendment.

PRESIDENT EGAN: Mr. White withdraws his unanimous consent request. Are there other proposed amendments for the resolution? It will be sent -- if it was adopted -- to the Style and Drafting Committee and if any other changes were needed they could be made there to comply with amendments that have been made. Mr. Sundborg.

SUNDBORG: May I address a question to Mr. Coghill?

PRESIDENT EGAN: You may, Mr. Sundborg.

SUNDBORG: Mr. Coghill, referring to section (b), it mentions that facsimile copies are to be distributed as directed by the Committee on Administration. Is that the 40 facsimile copies which are identical with the ones we signed except that the signatures have been printed in instead of signed?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Yes, that is correct.

SUNDBORG: Mr. Coghill, will your Committee indicate to the Convention what type of distribution it plans with those?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mrs. Sweeney has the notes on that.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: The notes of the meeting indicate that this was to be taken up by the President of the Convention, the Secretary of the Convention, and the Chairman of the Administration Committee, and the feeling was that before any actual distribution was made that word would reach these three as to where some of the delegates desired that they should go. It was mentioned on the floor that the judges should have them, that was considered, and some of the schools and things like that, but no final and actual disposition was made.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, if it will do any good, possibly we can get together this evening and we can bring it on the floor and report it out tomorrow morning.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would certainly appreciate that very much, Mr. President. For instance, I think we will find that 40 copies are not too many by any means. I want to be sure that Delegate Bartlett will get one, and Governor Heintzleman will get one, and some of the others, and that we don't overlook people.

PRESIDENT EGAN: Where does it call for 40 copies, Mr. Sundborg?

COGHILL: Mr. President, we have 100 copies of the large size ones.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, may I ask a question of Mr. Coghill?

PRESIDENT EGAN: If there is no objection, Mr. Smith.

SMITH: Mr. Coghill, in the second sentence in subparagraph (c) on page 2, the words "and of an explanatory summary thereof" -- what will that "explanatory summary" consist of and who will prepare this "explanatory summary"?

PRESIDENT EGAN: Mr. Coghill, can you explain that?

COGHILL: Mr. President, the experts are working on that now. They are working on a summary of the Constitution as written, and that should be ready by tomorrow and, if not, it will be mailed to each one of the delegates along with the rest of the Journals and papers that are being reproduced by the Convention after we are adjourned.

PRESIDENT EGAN: Are there other amendments to be proposed to the resolution? Mr. Fischer.

V. FISCHER: Mr. President, I have not as yet any amendment. I have a question in mind as to the propriety of the last part of subsection (c). I have nothing against the Chairman of the Committee on Administration; however, what we are doing here is making a broad delegation to the President. I just wonder whether the Chairman of the Committee could have a veto power on the President?

COGHILL: No, Mr. President, I think that Style and Drafting would take care of that, but it was set up as you know in the first part of the resolution that the powers would be delegated to the Chairman of Administration, the President, and under him would be the Chairman of Administration and the Secretary. Now, with those two sections knocked out, Style and Drafting would have to take that out, also.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, I rise to protest. This instruction is an interoffice memo, nothing else and they are prepared to send it in to Style and Drafting to be reworded. Frankly, if it is directive merely to the President of the Convention, I think if it is bad English, he should let it ride as it is, because the next thing we'll be doing, we will be requiring Style and Drafting to edit the speeches on the floor. This is an interoffice memo and I don't want to establish the unnecessary precedent that this be referred to Style and Drafting.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I do want to say that I am deeply touched with the great amount of confidence the Convention has suddenly developed in Style and Drafting. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Hinckel.

HINCKEL: In section (c) where it says "explanatory summary thereof" -- I question the wisdom of having somebody interpret the Constitution for us and to publish the interpretation for wide distribution. I am not too sure that that is a wise thing to do.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, some time ago I was trying to think through what the problem would be of selling the Constitution to the people of Alaska. In looking through some of the journals of other constitutions, particularly the one of New Jersey, I found that they had over a million copies of the constitution printed and 600,000 summaries. The summaries were used in discussion groups, in PTA's, and civic organizations. It was used as a handbook for an intelligent understanding of the constitution. You read the summary, then you could go to the constitution, and you were able to interpret the motives and the procedure. This is something that is done in almost every printing of a constitution, to have a supplemental handbook. I'm told by our friend from New Jersey, Mr. Bebout, that the summaries have almost disappeared from New Jersey because they were so popular, and they are on the fringe of having to have some reprints because it has become such an interesting and helpful tool in understanding the constitution. Now, that is just part of the history of it.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I'm not questioning the advisability of having the summary printed or of having something to go along with it,

but I think that we should delegate some group or check into it very thoroughly before we have it printed. I just don't like the idea of telling our advisory staff and just saying "you write up a summary and we'll send it out" and distribute it all over the country. Their interpretation might not be the exact interpretation of the body. They weren't here all the time and I think that somebody -- a committee of the membership -- should review it before they print it. That is just my personal opinion, but I just don't feel too sure that we should do this without knowing exactly what we are doing and with the consent of the body.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, this resolution gives the authority to the President and the Secretary to review this work as I visualize it. Also, this summary is a popular version of the contents of our constitution, and if we don't have such a summary, I can readily realize that there will be a great many such summaries made and there will be a lot of guesswork done by those who do not have such a summary available. I, for one, would much rather see us have prepared under the auspices of our officers such a summary for wide distribution so that everybody will be clearly informed as to what the contents cover and what they actually mean. This popular version I think would be one of the biggest assets we could have in helping sell the Constitution, through the schools and into the private residences of the private citizens. I think it would have a great deal, probably more readability and interest than would the bare document itself. I would very much favor our keeping this summary idea in this resolution.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would have to agree with Mr. McLaughlin that there is no need to move this resolution through Style and Drafting, and therefore, I move that in subsection (c) that a period be placed after the word "printed" and that the rest of the sentence be struck, and I ask unanimous consent.

UNIDENTIFIED DELEGATE: Let's have that again.

(Mr. Fischer repeated the amendment.)

PRESIDENT EGAN: Mr. Fischer asks unanimous consent for the adoption of the amendment. Is there objection? Hearing no objection it is so ordered. Are there other amendments to the resolution? Mr. Coghill.

COGHILL: Mr. President, if there are no further amendments, I move that this resolution be adopted and ask unanimous consent.

PRESIDENT EGAN: Mr. Coghill moves that this resolution be adopted. Is there objection? Hearing no objection, it is so ordered and the resolution is adopted. Mr. Marston.

MARSTON: Mr. President, I just received word from Dr. Patty that we should be upstairs in ten minutes.

PRESIDENT EGAN: The Chair will entertain a motion for recess. Mr. McNees.

McNEES: Prior to the motion for recess, Mr. President, may I call the following delegates' attention to the fact there is a note in their mailbox: Armstrong, Awes, Boswell, Buckalew, Cooper, Cross, Davis, Egan, Gray, Hellenthal, Hilscher, King, Laws, McLaughlin, McNealy, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, Rosswog, Sundborg, Taylor, and Walsh.

PRESIDENT EGAN: What was that, Mr. McNees? There is a note in the mailbox?

McNEES: There is a note in their mailbox that I would like to have them pick up.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, have any of the staff expressed a desire as to what time they wish the membership to return tomorrow morning or afternoon?

PRESIDENT EGAN: Mr. Hellenthal, it is the feeling of the Chair that we can't return tomorrow afternoon -- but it is the feeling of the Chair that we should attempt to convene at 8:00 a.m. in order to be sure, as the Chair understands it, the Chamber of Commerce has something they want to do out here and to be absolutely certain that we are finished by 10:00 a.m. That is just a suggestion. Mr. Johnson.

JOHNSON: Mr. President, in that event, I move that the Convention adjourn --

PRESIDENT EGAN: Recess.

JOHNSON: Recess until tomorrow morning at 8:00 o'clock.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent -- before we put the question, though, the question has been asked by the bus company as to what the desire of the delegates will be as to bus transportation this evening. Dr. Patty has informed Mr. Stewart that he felt that we might be through upstairs by 9:00. It might be that if the bus was here at 9:30 it might be about that time. In the morning there is a 7:30 regular bus, but that would not be big enough.

COGHILL: We will have a bus in front of the Nordale Hotel at 7:30 in the morning to pick up the delegates. I would like to announce that, if we are going to convene at 8:00 in the morning, I would like to have a Committee on Administration meeting at 7:00 in the morning.

PRESIDENT EGAN: The Convention will come to order.

COGHILL: There will be transportation to pick them up at the Nordale Hotel at that time.

PRESIDENT EGAN: Mr. Johnson moves and asks unanimous consent that the Convention stand at recess until 8:00 a.m. Mr. Fischer.

V. FISCHER: May I ask Mr. Johnson a question?

PRESIDENT EGAN: If there is no objection, Mr. Fischer.

V. FISCHER: Would you not think that it might be better to get together for an hour tonight and not get up at 6:00 in the morning?

JOHNSON: I'm following the suggestion of the President.

PRESIDENT EGAN: Mr. Fischer, the thing is that the Chamber of Commerce would like to come out here in the morning, and so, under those circumstances, the Chair felt that something might come up that might take time. Mr. Hellenthal.

HELLENTHAL: Mr. President, would they advise coming with a full or an empty stomach?

PRESIDENT EGAN: The question is: "Shall the Convention stand at recess until 8:00 a.m. tomorrow?" All those in favor will signify by saying "Aye". All opposed, by saying "No". The "Ayes" have it and the Convention stands at recess.

ALASKA CONSTITUTIONAL CONVENTION

February 6, 1956

SEVENTY-SIXTH DAY

PRESIDENT EGAN: The Convention will come to order. Reverend Londborg, would you give the invocation?

REVEREND LONDBORG: Our Heavenly Father, we would pause before Thee for a moment this morning as we begin this session. We pray that You would be with us as we conclude the business of this Convention this day. We thank You for Your leading and Your guiding hand throughout the past days and weeks, that You have brought us to the close of this Convention with what we believe to be a successful constitution. Heavenly Father, we pray that You will be with us now as we bring our deliberations to a close. Bless each of us as we go to our respective homes. We pray that we may look back upon this time together with thankfulness in our hearts for having learned to know one another, for having been privileged to work with one another. Bless us, we pray, as we continue in Thy name, Amen.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I move that the prayer we have just heard be spread upon the minutes of today's proceedings.

PRESIDENT EGAN: Mrs. Hermann moves and asks unanimous consent that the prayer we have just heard be spread upon the pages of today's journal. Hearing no objection it is so ordered. At this time does the chairman of the Committee on Administration have a report to make? Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration had its final meeting. The records of the Committee have been turned over to the officials of the Convention, and in our final report of expenditures we are happy to announce that \$33,818.76 will be turned over to the President for his disposition of the rest of the Convention. Out of this fund we have, as allocated on our estimated budget for salaries, we allocated \$61,325. We went in the hole \$406 on this amount. The delegates' per diem was \$88,620, and we have left in that fund \$1,488.28. The travel of the delegates was estimated at \$9,182.98. We have left in that fund \$1,796.88. Social Security for the delegates was allocated at \$1,247. We have a remainder of \$13.70 in that fund. The salaries for the secretariat we allocated \$31,739. We are returning \$5,403.10. Other staff expenses were \$3,532.12. We are returning \$2,841. Technical and consultant expenses were allocated at \$25,000. \$6,381.48 is being returned. Equipment for the Convention was

allocated at \$1,500. We went in the hole \$3.00. Supplies and postage was allocated at \$3,500. We went in the hole \$1,887.64. Recording of the plenary session allocated at \$12,000, and we have spent the full amount of that money. Other convention expenses -- the printing of the constitution was allocated at \$9,000. Not being in our jurisdiction to spend this, we are returning to you the full \$9,000. We had miscellaneous other expenses of \$17,978.90. We are returning to you \$12,412.07, a grand total of \$33,818.76. Mr. President, at this time we would like to also announce to the delegates as soon as we adjourn sine die that the delegates will please go upstairs and see Miss Goad in the message center room and be sure that all vouchers and per diem and travel are signed. Otherwise, they will not be able to fulfill their paper work. And the Committee on Administration has also agreed not to pay excess baggage home for the delegates. At this time, Mr. President, we would like to ask permission of the Chair to retire the Committee on Administration.

PRESIDENT EGAN: Mr. Coghill, before doing that, now the \$9,000. that you mentioned, is there any of that obligated at the present time?

COGHILL: Mr. President, there will probably be several hundred dollars of the \$33,000 obligated that will have to be taken care of after we adjourn sine die, but it is not in the jurisdiction of the Committee on Administration. There will be other staff expenses. However, on the secretariat this is projected through this week for you.

PRESIDENT EGAN: Through Saturday, is that right?

COGHILL: Through to Saturday of this week. However, there will be additional expenses for the stenotyping and there will be additional expenses as to the transportation and storage of materials, of the papers to the Secretary of Alaska, and the \$9,000 was a budget item for us on the printing and ratification of the Constitution. A portion of that is obligated by the printing of these one hundred copies. However, we felt that any amount of the \$33,000 that is left is now in your jurisdiction to dispose of.

PRESIDENT EGAN: Mr. Coghill, is there any amount -- or are there any of those funds that are obligated at this time to the Alaska Statehood Committee or have all those obligations been completely cleared up to this point?

COGHILL: As far as the Committee on Administration knows, all the obligations to date to the Statehood Committee have been taken care of.

PRESIDENT EGAN: The Chair would like to announce that, in order to keep the record straight here, that the vouchers for January have not yet come to the Statehood Committee and there will be at least \$6,000 of that that is already obligated. So that would be \$6,000 less than the figure that you mentioned, Mr. Coghill.

COGHILL: Mr. President, the Administration Committee is aware that there will be other obligations. However, we felt that it was not in our jurisdiction; that it was in yours, sir.

PRESIDENT EGAN: The Chair just wants to make it clear that there are many thousands of dollars of that already obligated and then the February obligations to PAS through the Alaska Statehood Committee will also entail considerable amount of those funds. Mr. Sundborg.

SUNDBORG: I wonder whether we may not have copies of this tentative report of the Committee on Administration as to expenditures mimeographed so that every delegate could have one.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: It is the plan that we will have them, that the bookkeeper worked last night to get this program setup for us, and we will also note on that that there are obligations to be incurred out of this, that this is not a clear fund.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, I believe the one thing that Chairman Coghill forgot to mention that the Committee went on record of approving the supplying of one large apportionment map to each delegate. They will have that for their work at home.

PRESIDENT EGAN: Show that as a matter for the record. Mr. Victor Rivers.

V. RIVERS: Mr. President, along this same line, it seems to me it would be very well if this Convention went on record authorizing the President to have a postaudit made before he closes his records so that he will have a complete record to his own satisfaction of all expenditures when the work of the entire Convention is completed and the balance reverts to the Territory.

PRESIDENT EGAN: Is there objection?

V. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent. Mr. Nolan.

NOLAN: Mr. President, I wonder if it would not be a good idea to contact the present legislative auditor that we have. He could probably do that.

V. RIVERS: It might be a very good idea.

PRESIDENT EGAN: Mr. Nolan, the President will certainly do that, and if it is possible to have the audit conducted through him, it will be done. Mr. Sundborg.

SUNDBORG: I feel this matter is sufficiently important that it should be in the form of a written resolution of the Convention that there should be an audit. I would like to suggest that the Committee on Administration prepare such a resolution now so that we can act on it before adjourning.

PRESIDENT EGAN: If there is no objection, it would be necessary to have a few minutes' recess at this time in order that such a resolution may be drawn. The Convention will be at recess for a brief time in order that that be done.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: Mr. President, in this request of Mr. Rivers on a resolution for an audit, we had talked about that and felt that the Territory would make an audit. I believe that it is in the act that a report will be made to the next legislature, and it was at that time thought that there would be an audit. However, we have prepared a short resolution that would read: "WHEREAS it is necessary to provide an adequate report on the expenditure of appropriated funds by the convention; NOW THEREFORE BE IT RESOLVED that the President is authorized and directed to secure, at the earliest possible time, an audit of the funds expended by the Convention. DONE at College, Alaska, this sixth day of February, 1956, by direction of the Convention." Mr. President, it might be well to state at this time that a lot of these funds that we are turning back to you, it was not the intent of the Committee to report out that we were in the clear \$33,818.76, that we knew there was the "Tennessee" plan, the election that will come in the fall, the ratification election, and the printing of the documents, the \$5,000 that was directed in a resolution yesterday or as much as might be needed, and that there will be additional expenses as to steno-type help and other help as well as the reimbursement of the Statehood Committee. Those things were not projected by the Administration Committee because we do not have the figures. It was felt that the interim committee or the committee after the Convention has adjourned that will be appointed by the President will be able to take care of that, and the funds will be of course published in a public report to the next legislature. I move that this resolution be adopted, Mr. President, and ask unanimous consent.

LAWS: I second the motion.

PRESIDENT EGAN: Mr. Coghill moves and asks unanimous consent that the resolution be adopted. Mr. Ralph Rivers.

R. RIVERS: Just for the moment, Mr. President, I wonder if we might not include in there that that audit be by a legislative auditor, suggest it or something like that. Now this legislative auditor is on the payroll anyway. We are the creature of the legislature. They have asked us to give a report. Let their auditor give us the postaudit; that might save a few dollars. If we would suggest that in this resolution, would that be helpful?

PRESIDENT EGAN: Mr. Ralph Rivers, that was brought up in a discussion here during the recess and we know it will definitely be done by the legislative auditor. By law he will have to do it anyway; he would have to make that audit; but if we mentioned it in there at this time, inasmuch as some of the cost won't be known until after the election, possibly until going into the fall, that if we implied that the audit should be made right at this time, there would be no real way that he could get the true picture, and if that was mentioned in there it might imply that we wanted the complete audit at the time, and under the circumstances where these costs will not be possible to project the true cost for several months.

R. RIVERS: I mean to say, nobody is going to do an audit until we have the job done anyway. What is this about the "earliest possible time" anyway?

PRESIDENT EGAN: It shouldn't be there.

COGHILL: "Earliest possible time" would probably be right after the costs of the Alaska-Tennessee Plan are known and projected for the fall election, but it would be at the earliest possible time after the President was sure there was not going to be any more expenses. You could not very well set a date on the audit, but it will be for the next legislature.

R. RIVERS: Why don't you say "in time for the next legislature" instead of "earliest possible time"?

COGHILL: That would be the earliest possible time.

PRESIDENT EGAN: Is there objection to the adoption of this resolution? Hearing no objection the resolution is ordered adopted.

COGHILL: Mr. President, in respect to the directive by the President that we should make the resolutions, the Committee on

Administration has three more resolutions. These are all, I promise you, that the Committee is going to bring out, and we would like to revert to that business at this time.

PRESIDENT EGAN: If there is no objection then we will revert to the business of introduction of resolutions at this time. The Chief Clerk will please read the resolution.

(The Chief Clerk read the resolution, by the Committee on Administration, entitled: "Operation Statehood.")

PRESIDENT EGAN: What was that word? Mr. Coghill.

COGHILL: I move and ask unanimous consent that this resolution be adopted.

BUCKALEW: Objection.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

MARSTON: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Marston. Could you explain what this word means and where it came from?

COGHILL: I will refer that to Mr. Marston.

PRESIDENT EGAN: Mr. Marston, will you explain the words?

MARSTON: That [kee-see-voot-mootichi] means "Operation Statehood". It has more punch than anything else in this deal.

PRESIDENT EGAN: Is it Eskimo?

MARSTON: I don't know, sir.

PRESIDENT EGAN: Objection was heard to the passage of the resolution. Mr. Buckalew.

BUCKALEW: I would like to speak on this. I am not going to vote for any of these resolutions. I am going to object to every one that comes up because I am afraid we are going to miss somebody along the line. We have included I don't know how many people; and we are liable to miss somebody and make somebody unhappy. We can go on and make resolutions by the barrel-full, and we'll have more resolutions than we have constitution. Those people in "Operation Statehood" were treated well up here. They were welcomed by all the delegates and this is a useless act, and I am going to vote against it.

PRESIDENT EGAN: The question is: "Shall the resolution be adopted by the Convention?" All those in favor will signify by saying "Aye"; all opposed, by saying "No". The "Ayes" have it and the resolution is ordered adopted. The Chief Clerk will please read the next resolution.

(The Chief Clerk read the resolution, by Committee on Administration, entitled: "Convention Consultants.")

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that the resolution be adopted.

PRESIDENT EGAN: Mr. Coghill moves that the resolution be adopted.

GRAY: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Gray. The question is, "Shall the resolution be adopted by the Convention? All those in favor of adopting the resolution will signify by saying "Aye"; all opposed, by saying "No". The "Ayes" have it and the resolution is ordered adopted. The Chief Clerk will please read the next resolution.

(The Chief Clerk read the resolution, by the Committee on Administration, entitled: "Staff of Convention Secretariat.")

COGHILL: Mr. President, I move and ask unanimous consent that this resolution be adopted.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent for the adoption of this resolution. Is there objection?

BUCKALEW: Objection.

PRESIDENT EGAN: Objection is heard. Is there a second?

H. FISCHER: I second the motion.

PRESIDENT EGAN: Mrs. Fischer seconds the motion. The question is: "Shall the resolution be adopted?" All those in favor of adopting the resolution will signify by saying "Aye"; all opposed, by saying "No". The "Ayes" have it and the resolution is ordered adopted. At this time the Chair would declare a one-minute recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

McCUTCHEON: Mr. President, I have just been lobbied again. Here some time earlier in the Convention Mrs. Hermann had some complaints to make about lobbying tactics around here. I want to report I have been lobbied again. I feel we might offer at least some commendation, however, in this respect. It seems like the faithful wives of the Convention feel that, inasmuch as there are so many resolutions going around here, that the Convention should offer a resolution to the faithful wives of the Convention. (Laughter)

PRESIDENT EGAN: Hearing no objection, it is so ordered. Mr. Sundborg.

SUNDBORG: I notice the presence in the gallery of the man who represents the institution which has been our host throughout this session of the Alaska Constitutional Convention. I ask unanimous consent at this time that we grant the privilege of the floor to Dr. Ernest Patty, and invite him to come forward to receive the thanks of the Convention for the services which the University has extended throughout the session.

PRESIDENT EGAN: Adhering to the unanimous consent request, Dr. Patty, would you please come forward at this time? (Applause)

(Dr. Patty shook hands with President Egan.)

PRESIDENT EGAN: Dr. Patty, we are extremely happy to have you with us at this time, and it is with great pleasure, and it will ever bring memories to each one of the delegates to this Convention of the kindness that you and your faculty and student body of the University have extended to us over the 75 days, and of the hard work and real effort that you have made each one of those days to help us make this Constitutional Convention a success. There is not enough that we could say to really express our appreciation to you and everyone else on campus for the fine job you have done for the Territory of Alaska in making your services available for all this long length of time, and I am very happy to present to you for the University a copy of the Constitution of the State of Alaska, one of the original copies; also to extend to you for the University the official gavel of the Convention.

DR. PATTY: President Egan and members of the Convention, in behalf of the University I am extremely pleased to accept these. Our labors have been a labor of love, and you can realize how much we have appreciated having you here, and how much we think of the fine efforts and the fine accomplishment you have made. It will be our plan to have a suitable glass case made so we can display this Constitution with the Preamble, and with your signatures, probably in the new library when it is built, and in the meantime in the museum, so that our young

Alaskans who are here will be inspired as all of us have been inspired when we have gone to the Library of Congress in Washington and stood before a copy of the Constitution of the United States. Thank you very, very much. (Applause)

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, may we revert to committee reports?

PRESIDENT EGAN: If there is no objection the Convention will revert to the order of business of committee reports.

SUNDBORG: Your Committee on Style and Drafting to whom was referred two resolutions prior to their passage, reports them back to the Convention at this time. One is the resolution dealing with friendly relations with Canada and the other, the resolution dealing with orderly transition from Territory status to statehood. Copies have been distributed to each of the delegates, and as I mentioned, these resolutions have not been officially adopted as yet by the Convention.

PRESIDENT EGAN: You ask unanimous consent that the report of the Committee adopted?

SUNDBORG: I ask that our report be accepted, Mr. President, and I move that first the resolution "Friendly Relations with Canada" be adopted by the Convention.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the report of the Style and Drafting Committee be accepted, and moves and asks unanimous consent that the resolution with respect to "Friendly Relations with Canada" be adopted by the Convention. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, I now ask unanimous consent that the resolution dealing with "Orderly Transition from Territorial Status to Statehood" be adopted by the Convention.

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that the resolution be adopted by the Convention.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Haven't these resolutions already been adopted by the Convention?

SUNDBORG: Mr. President, there were two that somehow in the process were not really adopted, and these are the two. I so move.

H. FISCHER: I second it.

PRESIDENT EGAN: Mr. Sundborg so moves, seconded by Mrs. Fischer, that the resolution dealing with transitory measures be adopted. The question is: "Shall the resolution be adopted by the Convention?"

RILEY: Mr. President, are we speaking of the first one proposed, or are we speaking of the "Orderly Transition"?

PRESIDENT EGAN: The "Orderly Transition".

RILEY: I would like to speak on this just a moment, if I may. The matter of orderly transition to statehood status, as it is entitled, is certainly a desirable objective, but I think that the language and the thought and the sponsorship of such a resolution is especially poor coming at this time from this Convention. I think it is politically unwise and psychologically poor, and I don't think that factually it is too good. I think it gives us a hat-in-hand position in going to the Congress at this time, and it undermines what dignity we have had up to now. I don't think the resolution will have any effect whatever, and I don't believe that it has discriminated particularly in the type of program to which it is directed, and I feel rather keenly that it should be defeated.

PRESIDENT EGAN: Mr. R. Rivers.

R. RIVERS: Mr. President, the enabling legislation with its grants-in-aid for highway construction and maintenance provides a long-range transition, and something that will enable the new state to make a go of it. There is this proposition, however, and it is reflected in the last paragraph of this resolution. Congress appropriates on a fiscal year from July 1 to July 1 for carrying out of Road Commission activities, the operation of the courts, the accounts with the recorders' offices, and perhaps in connection with the fisheries and resources. Now, if it could be argued that the moment that we become a state, or are declared a state, that the federal appropriations for that fiscal year might come to an end and not be available for further disbursement. Now, this paragraph to my mind makes sense and there is nothing in the present enabling law that says anything about it, and it reads this way: "...that the act to admit Alaska as a state of the Union be amended (we are flagging this for Congress) to provide for the continued use of federal appropriations for payment of the cost of the normal functions of government during the fiscal year in which admission of Alaska is accomplished, or until the operation of such functions is earlier assumed by the State." I don't like to see, just because of a void or a gap in there, an argument come up as to whether the money is appropriated for these Alaska functions might have a stop-order put on them by the Comptroller General or somebody else before that

particular fiscal year for which those funds were appropriated expires, and I think this does serve a useful purpose. Let's flag it.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: I would like to ask a question of Mr. Rivers through the Chair. Is it not true, Mr. Rivers, that in the previous admission of the states that Congress has always taken such precaution as to appropriate certain funds for transitional purposes, and that the states have not had to go on their knees asking for those funds? It has been a matter of natural function of Congress to make the transition? Is that not true?

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I have not looked into detailed appropriation procedures in connection with past constitutions. There has not been any since 1912, but I do know that Congress appropriating for a fiscal year is going to appropriate as though the Federal Government were going to continue those funds until the end of the fiscal year. If we get admitted during the middle of the year, we just want to be sure that the enabling law or some related legislation will say the appropriations are still available to be disbursed until the end of the fiscal year for which they were appropriated.

McCUTCHEON: Are you in a position, Mr. Rivers, that you wouldn't accept statehood unless the government did such a thing?

R. RIVERS: This is part of the orderly transition and we are pointing up something that would be important for the orderly transition. Your other question is argumentative.

McCUTCHEON: Mr. President, it is argumentative, and that is what I propose to argue about. I feel that under the circumstances that I must support Mr. Riley's remarks, and that I feel that at this time that Alaska should be able to stand on its own feet. Congress is not going to be so derelict in its duties that if they are going to give us statehood that they are going to overlook the proposition of providing the proper transitional funds. Under the circumstances, I think this particular document here that we are to consider is absolutely ill-advised. We have taken a bold step in setting forth the "Tennessee Plan". We want to become a state, and we want to become a state immediately if we possibly can, and that does not mean ten years from now, that means immediately, tomorrow, if they will grant it to us. And I don't think that our Territory at this time, in view of the action we have already taken, should hesitate for one second to accept statehood whether

or not the Federal Congress will give us the funds to make such a so-called orderly transition. If they won't do it, let us do it ourselves and take statehood now.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I mover the previous question and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the previous question be ordered. Is there objection?

KILCHER: Objection.

PRESIDENT EGAN: Objection is heard.

MCLAUGHLIN: I second the motion.

PRESIDENT EGAN: Seconded by Mr. McLaughlin. The question is: "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "Aye"; all opposed, by saying "No". The "Ayes" have it and the previous question is ordered. The question is: "Shall the resolution be adopted?" All those in favor of adopting the resolution will signify by saying "Aye"; all opposed, by saying "No". The "Noes" have it and the resolution has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, still under the heading of committee reports, your Committee on Style and Drafting reports to the Convention that it has redrafted, following their passage, resolutions on Certification under the Alaska Tennessee Plan; Alaska Native Lands; Press, Radio, and Television; Students of the University; and Recognition of the Services of Dr. Moberg. And copies have been distributed to the delegates. Mr. President, I don't know whether we were instructed to restyle or redraft the resolutions adopted last night and today, which we have not had a chance to work on. If that is the desire of the Convention we will be glad to go over them and put them in possibly a little better form.

PRESIDENT EGAN: Is there objection to the suggestion as made by the Chairman of the Style and Drafting Committee? Mr. Boswell.

BOSWELL: Mr. President, temporary objection. Can I direct a question to Mr. Sundborg?

PRESIDENT EGAN: If there is no objection.

BOSWELL: Would you read your first paragraph of the resolution on the students of the University?

SUNDBORG: "Students of the University. WHEREAS the Alaska Constitutional Convention has acquired the building." (Laughter) Obviously there is something wrong with that.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, the boiler room very valiantly tried to read the handwriting of one of our members, maybe our secretary, and has inserted the word "acquired" which should have been the word "occupied", so if I may be excused from reading the rest of that paragraph, we will make that correction, Mr. Boswell.

PRESIDENT EGAN: Without objection the change will be made in the resolution. Mr. Marston.

MARSTON: Mr. President, on this "Friendly Relations with Canada", you put an extra "A" in Alberta. Would you take that out? The last line.

NORDALE: We will take it out.

PRESIDENT EGAN: Are there other resolutions? Mr. White.

WHITE: Mr. President, as my wife keeps reminding me, the task of housekeeping is never an easy one, and when that house contains fifty-five hardheaded individuals, each of whom is sure he know how it should be done, it does not get any easier. I would lke (like) to move and ask unanimous consent that the Administration Committee and its Chairman, Mr. Coghill, receive the appreciation of the Convention for a difficult and detailed task well done.

PRESIDENT EGAN: Mr. White asks unanimous consent and hearing no objection the motion is orderd adopted. Mr. White.

WHITE: Mr. President, before my voice gives out, may we revert to committee reports?

PRESIDENT EGAN: If there is no objection, Mr. White.

WHITE: Mr. President, the Committee to read the journal would like to report the Journal of the 69th Convention day, Monday, January 30, with the following corrections: On page 19, third paragraph from the bottom, correct a typographical error in the word "Article". The journal for the 70th Convention day, on page 1, in the prayer, on the second line, capitalize the "t" in "Thee"; on the 6th line, same correction; and on the last line, capitalize the "t" in "Thy"; on page 1 still, third paragraph from the bottom, the last line, where it says "Rule Committee", add an "s" to "Rule"; and on page 7, in the first paragraph, after "3:30", insert "p.m.". The journal for the

71st Convention day, no corrections; the journal for the 72nd Convention day, likewise no corrections. Mr. President, we ask unanimous consent for the approval of the journal of the 69th, 70th, 71st, and 72nd days.

PRESIDENT EGAN: Mr. White moves and asks unanimous consent that the journals of the 69th, 70th, 71st, and 72nd Convention days be approved along with the suggested corrections as made by the special committee to read the Journal. Is there objection? Hearing no objection the journals are ordered approved. Mr. White.

WHITE: Mr. President, the Committee would like to announce that the journals for the last three days are not yet ready, that they will be mailed to the delegates, and the committee would like to move that the President with the assistance of Mr. Doogan be authorized to correct the Journals for the last three days prior to that mailing.

PRESIDENT EGAN: You have heard the motion as made by Mr. White. Is there objection? Hearing no objection it is so ordered. The Convention will come to order. Mrs. Hermann.

HERMANN: Mr. Chairman, since it seems to be in order to extend thanks to everybody today, I would like to extend the thanks of the Convention to the Committee that read the Journal day after day and did the correcting. (Applause)

PRESIDENT EGAN: Mrs. Hermann has asked unanimous consent that the thanks of the Convention be extended to the special Committee to read the Journal. Hearing no objection it is so ordered. Is there anything else to come before the Convention? Mr. Coghill.

COGHILL: One other thing that we discussed this morning before coming into session is the extra 40 copies that we have with the signatures printed by plate. Now, we had a 100 copies made for the Convention, 60 of which were signed yesterday by the delegates and 40 that had the printed signatures on them. Fifty-five of these went to the delegates, five were the official copies, and we have 40 left. Now, it is a big question as to where those 40 are going to go. It was referred to the Committee on Administration and the Committee on Administration referred it back to myself to get together with Mr. Egan, the President of the Convention, and the Secretary. We discussed it this morning and the five originals go to: one to the Secretary of Alaska to be transmitted to the Secretary of the new state; the second one to go to the Congress of the United States; the third to the University Museum as was presented this morning; the fourth to the Territorial Museum; and the fifth to the Department of Libraries. That is the disposition of the five

originals. Now, the other 40 it was felt by the group that this should be discussed thoroughly on the floor. We thought that perhaps four of them could go to the district courts, one to each District Court, to be filed with the Clerk of the Court so it could be referred to at any time. It was felt that one should be presented to the Governor, and one should be presented to Bob Bartlett, our Delegate in Congress. Now, that would take care of six of the 40, and there are 32 school districts in Alaska, but there are more high schools than 32 high schools, because of Wasilla and Bethel and there are several other high schools. So it was more or less left up in the air by the Committee on three to bring it out on the floor and find what the Convention delegates wished to do. It would be nice to have the schools each get one, and I planned this morning to try and find out how many libraries there are in Alaska and it was felt that maybe a few more copies could be made as the press is still set up in the News-Miner printing room. Mr. President, I place this on the floor for discussion with no alternative in mind.

BUCKALEW: Mr. President, it is getting late. I move and ask unanimous consent that the Convention delegate the authority to determine what we're going to do with the 40 copies to Mr. President and Mr. Coghill.

PRESIDENT EGAN: The Chair would like to say that Mr. Sundborg has informed us that the plates are still available and there could be enough additional copies made easily enough so that all the schools would have one and that the libraries, the judges, and those that have been mentioned, without any real difficulty. Mr. Marston.

MARSTON: Mr. President, the last year the Cook Inlet Historical Society has organized a live membership of about four hundred. They have a nice quarters at Anchorage, and the President of the Cook Inlet Historical Society is right here. We would like to have one for that society. We put a request in right now for it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to suggest that each of our consultants have one of these. I know Mr. Sheldon Elliott, for instance, would treasure it very highly and Mr. Bebout, and the various other consultants.

PRESIDENT EGAN: In reference to this motion made by Mr. Buckalew, now everyone would like to have one of these, we know, everywhere in Alaska and everywhere else, and it would seem to me that unless there is specific instruction to the contrary, that the schools and the libraries ought to be the ones; otherwise,

we will run into a very difficult problem, and the President or whoever is charged with the responsibility would probably have to move out of the new state. (Laughter) Mr. Harris.

HARRIS: I was wondering, Mr. President, if Mr. Buckalew would amend his motion to allow the President to have as many extra copies as he sees fit printed.

BUCKALEW: I trust the President's judgment. I will consent.

PRESIDENT EGAN: Is there objection? Mr. Fischer.

V. FISCHER: I do not object to Mr. Buckalew's request. I would like to further move, however, since we would be putting the President on the spot as to who gets copies and who doesn't, that each high school in Alaska and that each public library in Alaska and the Library of Congress receive a copy of the Constitution.

PRESIDENT EGAN: Mr. Buckalew, do you accept that amendment to your motion?

BUCKALEW: One question, Mr. Fischer, that will include the court libraries, won't it? Every library in Alaska; that will probably include the District Court library?

V. FISCHER: I meant primarily public libraries. I wasn't too concerned about the court libraries, they can get a regular printed copy. I think the public libraries should have the first priority. That is where the people at large go to look at things like this.

PRESIDENT EGAN: Is there objection to the amended motion? Hearing no objection then the amended motion is ordered adopted. Is there anything else to come before the Convention? Mr. Hurley.

HURLEY: Mr. President, I will ask for a five-minute recess.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for five minutes.

RECESS

FIRST VICE PRESIDENT: The Convention will come to order. All you delegates will please take your seats. Mr. Hurley.

HURLEY: Mr. President, I have been selected by the Convention to present our final respects of this Convention to our great beloved President, William Egan, for a job well done. It seemed a little strange that I should be chosen for this position, and yet when we think about it, I perhaps represent those

of us that are new in this field, and for that reason am perhaps best able to express the greatest appreciation which we have for the way in which our President has brought this Convention to a successful closing. He has maintained an academic atmosphere throughout the Convention, and yet has been always willing to accept the practical matters which must come before us. He has carried the whole Convention forward in a way that no one else could possibly have done. I think this occasion is somewhat similar to a group that has been through a major battle. We have earned a respect for our leader that can only come from having gone through all of the trials and tribulations of presenting to the future State of Alaska the document that they will live by for many years. And to Bill, we have arranged this present which Mrs. Wien will present in the form of a resolution.

WIEN: "WHEREAS for seventy-five Convention days, the Honorable William A. Egan has served as presiding officer; and WHEREAS in this capacity he has demonstrated to all, his parliamentary skill, his unwavering fairness, his personal friendliness, and his untiring devotion to duty; and WHEREAS the delegates and officers of this Convention desire to express their gratitude for his outstanding leadership, in a form that will endure along with their admiration, and in a form that will enable them to indicate their gratitude to his charming wife and son, as well as to all other Alaskans; NOW THEREFORE BE IT RESOLVED that the Honorable William A. Egan, President of the Alaska Constitutional Convention of 1955, be asked to accept, as a token of our thanks, admiration, and affection, a portrait of himself, painted by the distinguished artist Christian von Schneidau on commission from the delegates, and that a copy of this resolution properly inscribed be presented to our esteemed President Egan." (Standing ovation for President Egan)

FIRST VICE PRESIDENT: Since this is in the form of a resolution the Chair will ask what is the pleasure of the Convention. Mr. Hurley.

HURLEY: I ask unanimous consent for the adoption of the resolution.

BUCKALEW: This is one resolution that Buckalew is certainly not going to object to.

FIRST VICE PRESIDENT: Hearing no objection it is so ordered. The resolution is adopted unanimously.

PRESIDENT EGAN: All I can say is that I certainly appreciate it. I will never forget a single one of you. You have done a wonderful job. (Standing ovation)

FIRST VICE PRESIDENT: The Chair will declare a recess for the congratulations that are in order.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Londborg.

LONDBORG: I move and ask unanimous consent that the remarks of Mr. Hurley and the resolution be spread upon the pages of today's Journal.

PRESIDENT EGAN: Unanimous consent is asked that the remarks of Mr. Hurley be spread upon today's Journal. Mr. McNees.

MCNEES: At this time I think it is only fitting that the gentleman be introduced to this floor. He is the artist who painted this very fine portraiture of our President. I would like to introduce to you at this time, to those of you who have not met him, Christian von Schneidau, the artist who painted the portrait of our President. May I ask for the privilege of the floor, Mr. President?

PRESIDENT EGAN: If there is no objection. (Christian von Schneidau came on to the Convention floor at this time.) (Applause)

PRESIDENT EGAN: Mr. von Schneidau, would you like to come forward?

(Mr. von Schneidau came forward and shook hands with President Egan.)

VON SCHNEIDAU: I would like to add to this feeling too. I am very deeply touched myself with this wonderful man, Mr. Egan. I thank you all for the privilege of being here and seeing that I am being pictured with my wonderful model, Mr. Egan. Thank you very much. (Standing ovation)

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, I move and ask unanimous consent that President Patty be instructed to take a message over to the former President Bunnell and give him good greetings and the story of the Convention. He's over here on his sick-bed. I ask unanimous consent that that be done.

PRESIDENT EGAN: Mr. Marston asks unanimous consent that Dr. Patty be requested by the Convention to take that message to Dr. Bunnell, if he will. Is there objection to requesting Dr. Patty to convey the good wishes of the Convention to Dr.

Bunnell? Hearing no objection the request will be made of Dr. Patty. Mr. McNealy.

MCNEALY: At this time I would like to ask, Mr. President, that the delegates stand and give a bit of applause in honor of the Secretary of our Convention, Mr. Tom Stewart, for his untiring efforts toward making this Convention a success from its inception. (Standing ovation)

PRESIDENT EGAN: Reverend Armstrong.

ARMSTRONG: Mr. President, the committee you appointed a couple of days ago has tried to work in time to have some type of a charter for Alaska's children. It has been almost impossible under the pressure of our schedule to arrive at a final document, but we would like to present a tentative statement and ask that this continue to be referred to the committee where it will take final form, and that you be given the opportunity to distribute this to our school children throughout Alaska. The content of the final document would read something in this order: "You are Alaska's children. We bequeath to you a state that will be glorious in her achievements, a homeland filled with opportunities for living, a land where you can worship and pray, a country where ambitions will be bright and real, an Alaska that will grow with you as you grow. We trust you; you are our future. We ask you to take tomorrow and dream; we know that you will see visions we do not see. We are certain that in capturing today for you, you can plan and build. Take our constitution and study it, work with it in your classrooms, understand its meaning and the facts within it. Help others to love and appreciate it. You are Alaska's children. We bequeath to you the land, the mountains, the lakes, the skies. This is your land and we ask you to possess it." Signed by the President of the Alaska Constitutional Convention. I ask, sir, that this come in some final form that will be after this fashion. I move and ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked and if there is no objection the matter will be attended to by the President. Mr. Sundborg.

SUNDBORG: Mr. President, I ask unanimous consent that we now grant the privilege of the floor to one who has very faithfully attended I think every session of our Convention, in order that we may pay our respects to her and make a presentation. I make this for Mrs. Florence Douthit, of the Fairbanks Daily News Miner. I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked. Mrs. Douthit, would you please come forward. (Mrs. Douthit went forward and she was given a standing ovation. She shook hands with President Egan.)

SUNDBORG: Mrs. Douthit, on behalf of the delegates to the Convention, we are very happy to present this to you. I will tell you without your even opening it that it is a baby cup, and we intend to send it outside to be inscribed with the following message: -- do you want to read the message or shall I? -- "Bestowed by grateful delegates upon an unborn child named Douthit who abided quietly throughout the Alaska Constitutional Convention and never offered an amendment." (Applause)

PRESIDENT EGAN: After the final adjournment, the Chair would like to state that at that time, it might be best for everyone to go to the coffee shop and have coffee, but it is felt that we might meet here informally to discuss various matters before you might leave for your homes, say around 10:30 this morning, if it is satisfactory with the delegates, so if none of the delegates would leave the campus in order that we might all have this discussion here it would certainly be appreciated. Is there anything else to come before the Convention at this time. Mr. Armstrong.

ARMSTRONG: Mr. President, I would like to ask a question that the answer might be placed upon the record, and that is that the news report as it has come to us at the Convention is that a resignation was tendered by Mr. Robertson to the Convention. At this time have you received that resignation?

PRESIDENT EGAN: Nothing has been received, Mr. Armstrong; so far as the Chair knows, Mr. Robertson is here and just absent. There has not been one word of resignation or anything else received relative to that matter. Is there anything else to come before the Convention? Mr. McNealy.

MCNEALY: This is not meant to be facetious, and I believe it is entirely proper. I have sat here for seventy-five days of the Convention. There has been one member of this Convention who, to my knowledge, and I am sure that I am right, has never taken the floor to speak upon any subject or to utter a word into the tape recording. At this time if the gentleman I am about to name does not care to say a word or two, I do trust that he will rise and take a bow because we have appreciated his quietness as much as some people have appreciated my talking. I refer to you, Mr. Peter Reader of Nome. (Applause)

READER: I certainly enjoyed my knowledge which I gained from this Convention, and I don't think anyone could ever buy it. (Applause)

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I especially appreciate Mr. Reader's performance because I don't believe that he offered an amendment all during the Convention.

PRESIDENT EGAN: The Convention will come to order. Is there anything else to come before the Convention? Mr. Metcalf.

METCALF: May I make a brief remark? There has been some talk during the days of our Convention about selling this Constitution we have made, and I know for one, myself, I am going to try to get duplicate tapes of Governor Gruening's speech on American Colonialism as well as Senator Knowland's remarks on statehood and have them played on the local station. Whether that suggestion is good or bad it might be worth something to folks in other cities who might like to do likewise.

PRESIDENT EGAN: Is there anything else to come before the Convention? If not -- Mr. Collins.

COLLINS: Bear with me just a moment. I realize that this has been a great emotional scene. It brings back to my mind the organization of the First Territorial Legislature. We met there, as the members of this Convention have met here, to organize a First Session of the Legislature forty-three years ago; to bring back to my mind that there are only three surviving members of that legislature. We wound up our duties with the same emotional scene as I have experienced here today. In that legislature we formed a friendship that was enduring, and little did I think that forty-three years from that date that there would be only three surviving members of that legislature -- the Honorable Henry Roden of Juneau, the Honorable Charles E. Jones of Nome, and myself. In all those years that friendship has become stronger and closer between the three of us, and I can see here today that the association and the friendship and the existence that are here within this Convention is going to bind the personalities of each and everyone of you that will endure for time to come when we enjoy the statehood of Alaska. Little did I think at that time, forty-three years hence that I would be a member of a Convention that was drawn here by the people of the Territory of Alaska to draft a constitution for the first statehood, and I say to you, it has been a wonderful experience, and as years go by the younger members will remember the meeting of the individuals of this Convention, and it will be cemented in friendship that will endure to help carry on the workings of the future State of Alaska, and I think it befitting at this time that we have another member of this Convention, one who has taken part in many of the public affairs of this Territory, and I think it would be fitting for this Convention to give the privilege to Mrs. Hermann to make the motion for the final adjournment of this Convention. (Applause)

PRESIDENT EGAN: Before the motion is put, the girls in the boiler room have a few pictures they wish the delegates to sign. Those pictures are on the press table and if possible when the meeting adjourns if the delegates would do so, it would be very

much appreciated. Mrs. Hermann.

HERMANN: Mr. President, pursuant to a motion already made on this floor and carried, I move when we go forth from this assembly today, we do so in memory of two great Alaskans who pioneered the statehood movement -- Judge James Wickersham and Judge Anthony J. Dimond. Mr. President, I now move that we adjourn sine die.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I second that motion.

PRESIDENT EGAN: Mr. Harris seconds the motion. The question is: "Shall the Constitutional Convention of Alaska adjourn sine die?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 54 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 0

Absent: 1 - Robertson.)

CHIEF CLERK: 54 Yeas, 1 Absent.

PRESIDENT EGAN: And so the Convention has adjourned sine die.

(Applause)